A convoy of Federal Police vehicles passes through Morelia, the capital of Michoacán.

PHOTO CREDIT: ENRIQUE CASTRO SÁNCHEZ / PROCESO FOTO

Mexico's Police

Many Reforms, Little Progress

By Maureen Meyer

For more than two decades, successive Mexican administrations have taken steps to create more professional, modern, and well-equipped police forces. While these reforms have included some positive elements, they have failed to establish strong internal and external controls over police actions, enabling a widespread pattern of abuse and corruption to continue. Recognizing the need for stronger controls over Mexico's police, this report reviews Mexico's police reforms, with a specific focus on accountability mechanisms, and provides recommendations for strengthening existing police reform efforts in order to establish rights-respecting forces that citizens can trust.

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Introduction

"Forgive us, this isn't against you, it's just that those at the top are asking me for results."[1]

On August 11, 2010, Rogelio Amaya Martínez, along with four other young men, was outside the house of a friend in Ciudad Juárez when two trucks of Federal Police agents drove by. The officers looked at the young men, then drove back and got out. They threw Rogelio and his friends to the ground, handcuffed them, and forced them into the trucks. The five of them—Rogelio, Noé Fuentes Chavira, Víctor Manuel Martínez Rentería, Gustavo Martínez Rentería, and Ricardo Fernández Lomelí—were held in isolation for two days at the Federal Police station in Ciudad Juárez, where they were tortured.

Federal Police officers beat them, asphyxiated them with water, subjected them to simulated executions, and threatened to rape the men or their family members. The officers sexually assaulted two of the men and they forced them to hear the others being tortured. Then, the officers forced some of the men to record self-incriminating testimonies and obligated them to pose for photos with high-caliber weapons.

The Federal Police transferred Rogelio, Noé, Victor, Gustavo, and Ricardo to Mexico City, where they spent a night in the hospital, recovering from their injuries. Their families learned of their whereabouts only when the young men were presented to the media in the Federal Police hangar at the airport in Mexico City. Authorities accused them of being members of "*La Línea,*" the enforcer wing of the Juárez cartel, and that they had participated in a car bombing.[2]

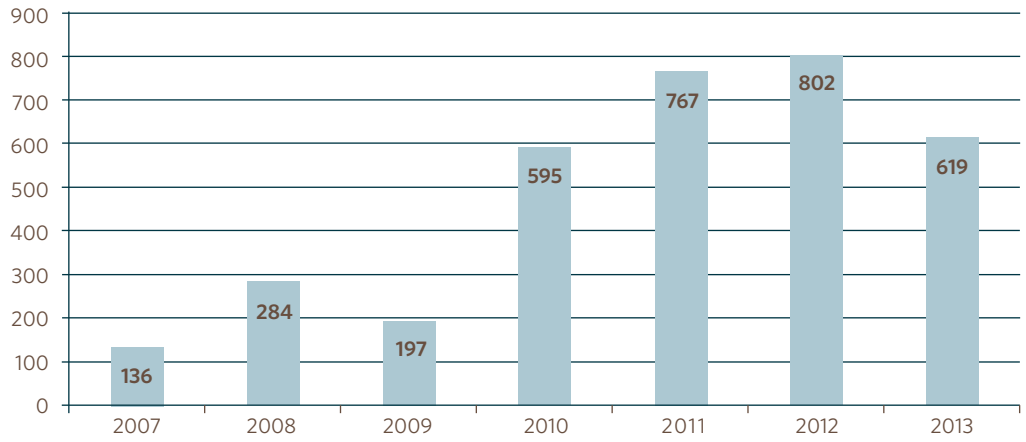
The men were charged with drug trafficking, illegal possession of firearms, and engaging in organized criminal activity. Curiously, they were not charged with participating in the car bombing. The only evidence presented against them was the accusation by the police and the confessions made under torture.

Rogelio, Noé, Víctor, Gustavo, and Ricardo have since been exonerated and freed. Human rights organizations, especially the Paso del Norte Human Rights Center (*Centro de Derechos Humanos Paso del Norte*) in Ciudad Juárez, took up the case and worked tirelessly to overturn the charges and to obtain justice for the men. In 2011, Mexico's National Human Rights Commission (*Comisión Nacional de los Derechos Humanos*, CNDH) issued a recommendation to the now-defunct Ministry of Public Security (*Secretaría de Seguridad Pública*, SSP). The CNDH recommendation certified that the men had been arbitrarily detained and tortured. In early 2014, the Federal Attorney General's Office (*Procuraduría General de la República*, PGR) used the international guidelines for the documentation of torture, known as the Istanbul Protocol, to examine all five men. Based on this assessment, the PGR also concluded that they had been tortured.[3] As a result, on March 7, 2014, the PGR finally dropped the charges against the men and they were released.[4] A criminal complaint against the agents who tortured the five men has been presented to the PGR by the family members of the victims, but little progress has been made in the investigation. Some of the agents implicated in the torture remain on the force.

The abuse and injustices these five men suffered are by no means unique. For decades, Mexican police forces at the federal, state, and municipal levels have been implicated in numerous cases of arbitrary detention, torture, unlawful killings, and other human rights violations. The failure to implement strong accountability mechanisms has meant that agents are seldom sanctioned for the abuses they commit, enabling human rights violations to continue unabated. This has been illustrated in the case of the Federal Police. Under former President Felipe Calderón (2006-2012), Mexico's Federal Police, who received training and assistance from the United States, played a central role in his aggressive approach to combat drug trafficking organizations. The Mexican government held up the Federal Police as a modern, professional, and well-trained force, and it grew significantly between 2006 and 2012. But with demands for "results" and an environment permissive of abuse, an increase in the size of the force also led to persistently high allegations of human rights violations. In 2006, when there were approximately 6,500 agents on the force, the CNDH received 146 complaints of human rights violations by the Federal Police; by 2012, this number had quintupled to 802 complaints, while the force had risen to almost 37,000 officials.

The widespread abuse of citizens is not the only problem that plagues Mexican police forces. Forces at all levels are riddled with corruption and are widely seen as being ineffective in enforcing the law or even as enabling crime. Mexican government officials themselves publicly acknowledge the endemic

FIGURE 1: Complaints of Human Rights Violations by Federal Police, 2007–2013



Source: National Human Rights Commission (*Comisión Nacional de Derechos Humanos,* CNDH)

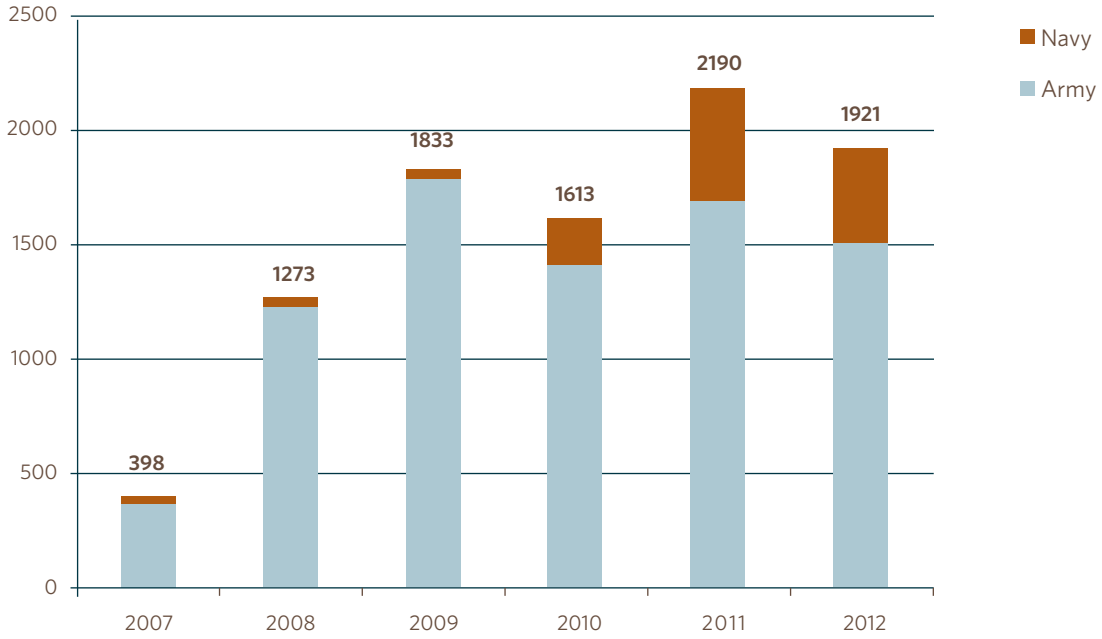
weaknesses of the country's police; after leaving office, Calderón stated in an interview that corruption was an "endemic evil" in Mexico and that there were "towns and cities where the police was totally consumed by corruption."[5] The 2013 National Victimization Survey, conducted by Mexico's National Institute for Statistics and Geography (*Instituto Nacional de Estadística y Geografía*, INEGI), estimated that only twelve percent of crimes are reported by Mexican citizens; almost 62 percent of victims said they did not report crimes because they did not trust the authorities and/or because they thought it was a waste of time. More than half of those surveyed considered Mexico's Federal Police to be corrupt; even more said that state and municipal police were corrupt.[6] INEGI's March 2014 survey on urban public security also found that 70.2 percent of the respondents considered the police to be ineffective or barely effective in preventing and combating crime.[7]

In recognition of the extensive problems facing the country's police forces, every Mexican president since José López Portillo (1976-1982) has promised that they would make police reform a priority in their efforts to strengthen the rule of law and combat crime in the country.[8] However, the same Mexican presidents also significantly expanded the role of the Mexican military in public security. In the absence of successful police reform, they argued that the military presence was needed until a federal police force could fully assume its public security role. This began a problematic trend of militarizing public security in Mexico that continues to this day.[9]

The role of the Mexican military in public security has expanded dramatically since December 2006, when, upon taking office President Felipe Calderón immediately announced a frontal assault on Mexico's drug cartels and deployed the Mexican military as the leading force in counter-drug operations in the country. His strategy failed to increase security: six years later, Mexico's homicide rate had tripled and kidnappings and extortion had risen significantly.[10] At least 26,000 people also disappeared during this period. Not only did Calderón's deployment of the Mexican military fail to make Mexico a safer place, it also led to a dramatic increase in human rights violations: the number of complaints of abuses by the Mexican Armed Forces increased six-fold between 2007 and 2012.[11]

Mexico's experience in recent years has shown that deploying the military cannot be a substitute for building police forces that fight crime with the trust and cooperation of ordinary Mexicans. Military training and tactics are often at odds with what is needed for effective policing; soldiers are trained to use the maximum force necessary to combat enemies, not to deter or investigate crimes and interact with the population.[12] When military training is applied in public security activities, abuses are likely to occur. Moreover, the use of the military to perform

FIGURE 2: Complaints of Human Rights Violations by Mexico's Armed Forces, 2007–2012



Source: National Human Rights Commission (*Comisión Nacional de los Derechos Humanos,* CNDH)

the functions of a weak police force leads to a vicious circle: handing over police functions to the military draws attention away from the need to fundamentally reform the police forces, which in turn all but guarantees the ongoing use of the military in the provision of public security.

In step with his predecessors, current President Enrique Peña Nieto has stated that "the public security problem requires a new comprehensive strategy that recovers citizen trust in the police forces."[13] Addressing the structural weaknesses in Mexico's police will be no small task, it is one that has eluded Peña Nieto's predecessors.[14] Reforming and strengthening Mexico's police forces so that they become honest and effective enough that the government is no longer tempted to use the military for public security functions is likely to take several years. It will require both political will and technical capacity. It will also require a multi-faceted approach that includes clear guidelines for recruitment, evaluation, management, and training, as well as effective mechanisms to control corruption and abuse. But it is an urgent task. It is clear that without effective civilian police forces, Mexico will continue to rely on the same militarized public security model that has been unable to effectively address the security crisis in the country and that has resulted in pervasive human rights violations.

This report will provide an overview of police reform efforts over the past two decades and examine why, in spite of multiple efforts, Mexican police forces continue to be abusive and corrupt. It will assess the sweeping changes made to the criminal justice system in recent years and evaluate federal initiatives to support state and municipal police reform, vet all police forces, and strengthen oversight mechanisms. Particular attention will be given to the issue of accountability within the Federal Police. This force is of special interest both because it is the law enforcement body that has seen the most dramatic increase in size in recent years and because a strong federal police force is needed if the military is to cease its public security functions. The report also offers a preliminary assessment of the Peña Nieto administration's implementation of police reform and the adjustments made to existing programs and initiatives, as well as a review of its modifications to Mexico's Federal Police.

The report will then analyze the shortcomings of these efforts in the area of accountability and discuss how the persistence of weak controls has resulted in ongoing corruption and human rights violations. This is followed by recommendations to strengthen police reform in Mexico, primarily on ways to support internal and external controls over the police. Because of the significant police assistance that the U.S. government has provided to Mexico, the report will also discuss aspects of U.S. assistance in recent years as well as potential areas for future U.S. cooperation directed at police accountability in Mexico.

Past Police Reform Efforts in Mexico

Mexico has a federal system of government, although many public security policies and guidelines are developed at the national level. Policing responsibilities are divided between federal, state, and municipal governments; the forces are organized both by jurisdiction and by function. It is estimated that there are approximately 544,000 police agents in Mexico. Federal, state, and municipal police are principally responsible for crime prevention and response, such as patrolling the streets, responding to citizen calls and crimes, and maintaining public order. In addition, federal and state investigative police serve under the corresponding attorney general's offices; these police are the principal agents responsible for investigating crimes and for carrying out judicial warrants. Federal crimes, such as drug and arms trafficking, fall within the jurisdiction of the federal investigative police; homicides are state crimes and are therefore investigated by the state investigative police.[15]

Since the 1980s, successive Mexican presidents have taken steps to address the multiple shortcomings of the police. Agencies have been created, disbanded, and rebranded; hundreds of thousands of agents have been trained and vetted; equipment has been upgraded and expanded. Yet Mexico's police forces are still riddled with corruption, abuse, and ineffectiveness.

Presidents Miguel de la Madrid (1982-1988) and Carlos Salinas de de Gotari (1988-1994) both took some steps to reform the police, including de la Madrid's dissolution of the notoriously corrupt Federal Security Directorate (*Dirección Federal de Seguridad*, DFS) in 1986. But it was not until the presidency of Ernesto Zedillo (1994-2000) that significant changes to Mexico's police and security institutions began to take shape. In 1995, the Zedillo administration oversaw the establishment of the National Public Security System (*Sistema Nacional de Seguridad Pública*, SNSP). The SNSP continues to this day and plays a key role in coordinating security efforts, determining national policy, aligning public policies, and establishing systems for strategic planning, evaluation, and transparency. It is overseen by the National Public Security Council (*Consejo Nacional de Seguridad Pública*, CNSP), which is directed by the president and includes the Ministry of the Interior, the Ministry of Defense (*Secretaría de la Defensa Nacional*, Sedena), the Ministry of the Navy (*Secretaría de la Marina*, Semar), the Attorney General, the governors of Mexico's 31 states, the mayor (*Jefe de Gobierno*) of the Federal District, and the Executive Secretariat of the SNSP (*Secretariado Ejecutivo del Sistema Nacional de Seguridad Pública*, SESNSP).[16]


PHOTO CREDIT: JESÚS VILLASECA PÉREZ

Federal Police officers wait to receive captured drug traffickers at an airport in Mexico City.

In order to support state-level public security efforts, during the Zedillo administration the Mexican Congress also approved a federal public security fund for state governments in 1998. The Public Security Support Fund (*Fondo de Aportaciones para la Seguridad Pública*, FASP) is still in place today. The amounts granted to each state are based on several criteria, including population and progress made by the states to fight crime and to vet their police forces. Portions of the funds are specifically designated for recruiting, training, evaluating, and vetting public security agencies; equipment purchases for preventative and investigative police; public

prosecutors' offices and the prison system; establishing and operating the telecommunications network for public security and emergency calls; and improving infrastructure.[17]

Faced with high levels of crime, the Zedillo administration also established the Federal Preventative Police (*Policía Federal Preventiva*, PFP). This new force combined existing elements of the Federal Highway Police, the Fiscal Police, and the Migration Police.[18] Nearly half of the roughly 10,000 members of the new force were military police. The participation of these members of the military in the PFP was presented as a temporary deployment that would last only until enough civilians could be selected and trained.[19] That never happened; military police continued to make up about half of the PFP for the entirety of its existence (until 2009). The PFP's objective was to work with local and state agents to maintain order, prevent crimes, and provide security in federal areas such as highways and ports. The PFP was also more active in intelligence and investigations than its predecessors. At the onset, the PFP was incorporated as an agency of Mexico's Ministry of the Interior (*Secretaría de Gobernación*, SEGOB).

President Vicente Fox (2000-2006) continued with efforts to strengthen Mexico's public security institutions. He maintained the PFP, but placed it under the control of a new federal ministry, the Ministry of Public Security (*Secretaría de Seguridad Pública*, SSP). Responsibility for public security at the federal level was transferred from SEGOB to the SSP. President Fox also created the Federal Investigative Agency (*Agencia Federal Investigativa*, AFI), which was part of the PGR. The AFI replaced the Federal Judicial Police (*Policía Federal Judicial*), who were widely viewed as corrupt and ineffective.

Reforms Enacted During the Calderón Administration

Military-led operations to combat organized criminal groups were the cornerstone of President Calderón's strategy, and they were certainly the most visible element of his efforts. However, the Calderón administration also implemented significant reforms to Mexico's criminal justice institutions and police forces. These reforms stemmed from recognition that strong institutions, and not just military force, were needed in order to deal effectively with the interrelated problems of crime and violence. Although the armed forces remained deployed in parts of the country throughout Calderón's administration, as early as April 2010 the president stated that the armed forces should gradually be transitioned out of their role in combating crime and that civilian authorities should assume this role.[20]

CRIMINAL JUSTICE REFORMS

Calderón-era police reform efforts, described in more detail below, took place alongside profound changes to Mexico's criminal justice system. In 2008, Mexico's Congress passed a series of constitutional and legislative reforms with the support of broad sectors of Mexican civil society.[21] The reforms aim to transform Mexico's legal system to an adversarial judicial model in which the prosecution and defense present competing evidence and arguments in open court. This contrasts with Mexico's current quasi-inquisitorial justice system in which most of the evidence is presented in written form to the judge and the proceedings take place largely outside of the public view. Once the new system is fully in place, it should function in a manner that is more efficient, effective, and transparent than the old system.

When Congress passed the reforms, it established an eight-year transition period for them to take effect, but the reforms have proceeded unevenly, and at a slower pace than anticipated. As of March 2014, the federal government had not begun to implement the reforms, and only three of Mexico's thirty-two states had fully transferred to the new justice system and were operating under new criminal procedure codes. This is partly due to the fact that some states have placed more priority on implementing the reforms than others. The slow and uneven implementation of the reforms is also the result of the federal government's failure to prioritize the reforms; during his presidency, Calderón placed much more emphasis on confronting organized criminal groups than on securing the transformation of Mexico's justice system. Calderón did not present a proposal to reform Mexico's Federal Criminal Procedure Code until September 2011, more than three years after the constitutional reforms were passed, and Congress never voted on his proposal.

When he took office, current President Enrique Peña Nieto supported creating a unified national criminal procedure code as a way to accelerate justice reform in Mexico and to harmonize differing norms that existed between states and at the federal level. In February 2014, after months of debate, the Mexican

Congress passed the National Code of Criminal Procedures, which will substitute the existing codes at the state and federal levels. The National Code will likely facilitate the implementation of the new justice system, particularly for those states that have not yet adopted legislation and for the federal government, and it will eliminate inconsistencies between states. However, because cases that began under a previous criminal procedural code will continue under that code, during the transition period there will be dozens of valid codes operating throughout the country, which may lead to some confusion.[22]

During its October 2013 review before the UN Human Rights Council and at a March 2014 hearing before the Inter-American Commission on Human Rights, the Mexican government reported that the judicial branch is carrying out a Master Plan for the Implementation of the Criminal Justice Reform (*Plan Maestro para la Implementación de la Reforma Penal*) in order to comply with the defined time frame for the enactment of the reforms. However, little information is available about this plan, and it not clear whether the federal and state governments will be able to meet the 2016 deadline for the full implementation of the reform.[23]

The criminal justice reforms that began in 2008 included important modifications to the roles of police forces in Mexico. Prior to the reforms, only investigative police, under the control of the Public Prosecutor's Office (*Ministerio Publico*) had investigative roles; the reforms modified Article 21 of the Constitution, granting all police investigative powers, while also preserving the investigative powers of the Public Prosecutor's Office. (This function was further specified in the 2009 law that created the Federal Police.) This new investigative capacity broke with the norm in Mexico, in which the role of the police under federal, state, and municipal public security ministries traditionally was to prevent and respond to crimes and preserve public order. Investigations were carried out exclusively by the investigative police (*Policía Ministerial*) of the Public Prosecutor's Office at the state level, and by the AFI within the PGR at the federal level. The push to grant more investigative powers to the police was particularly focused on the Federal Police, given the Calderón administration's priority to combat organized crime.[24]

With these reforms, the PGR continues to maintain a small number of ministerial police (*Policía Federal Ministerial*) and it oversees all federal investigations, but a significant amount of investigative capacity has been given to the Federal Police. The Federal Police now has the power to conduct intelligence operations and undercover operations, direct or participate in the investigations under the instructions of the Public Ministry, preserve evidence, interview people who may have information useful for an investigation, and intercept private communications (with a warrant), among other functions. [25] These expanded powers and the Federal Police's role in criminal investigations can help preserve evidence at the scene of a crime and provide more support to the Public Prosecutor's Office. However, the Federal Police's expanded investigative and intelligence capacities also underscore the need to ensure strong oversight over police actions so that they are carried out with respect for due process and the rights of the accused.

FEDERAL INITIATIVES TO SUPPORT POLICE REFORM

As described above, the Zedillo, Fox, and Calderón administrations took steps to consolidate a national public security system and to develop a framework for police reform. These included constitutional reforms, such as the 2008 changes in the judicial system; legislative reforms, such as the Law for the Coordination of the National Public Security System (1995), which was replaced by the General Law for the National Public Security System in 2009, and the law creating the Federal Police (2009); as well as national initiatives, such as the National Agreement for Security, Justice, and Legality. The latter was a 75-point agreement covering a wide range of public security reforms, signed in August 2008 by the federal and state executive branches, the Congress of the Union, the federal judicial branch, representatives of associations of municipal presidents, media outlets, civil society organizations, business representatives, unions, and religious bodies.[26]In March 2009, the National Conference of Public Security Secretaries also approved the content and strategy for implementing the Comprehensive Strategy for Police Development (*Sistema Integral de Desarrollo Policial*, SIDEPOL). This strategy has four principal components: creating a model program for the professionalization of the police; establishing a civil service career path for police (with clearly defined procedures for recruitment, selection, enrollment, training, certification, term

lengths, evaluation, and promotion and recognition, as well as clear procedures for dismissal); defining a disciplinary regime (such as internal affairs units and/or honor and justice commissions); and creating a complementary social security system (health care, pension, et cetera).[27]

The following section describes various federal programs implemented as result of these reforms, the majority of which are coordinated by the Executive Secretariat of the SNSP, who is tasked with carrying out and monitoring the agreements of the National Public Security Council. They include subsidies to support state and municipal police reform efforts, as well as national reforms to increase oversight over Mexico's police.

BOX 1: Overview of the National Public Security System[28]

The National Public Security System (*Sistema Nacional de Seguridad Pública,* SNSP) establishes the framework for the coordination and distribution of public security responsibilities between the federal government; the states and the Federal District; and the municipalities. It is directed by the National Public Security Council (*Consejo Nacional de Seguridad Pública,* CNSP), under the leadership of the president.

Its functions are to:

- Establish and evaluate public security policies and strategies.
- Propose and evaluate the National Justice Program, the National Public Security Program, and other related programmatic tools.
- Regulate the procedures for the selection, hiring, orientation, training, term requirements, evaluation, certification, and registration of public security officials.
- Determine uniform criteria for the organization, operation, and technical modernization of public security institutions.
- Determine the participation of community and academic institutions in the evaluation of policies related to crime prevention and public security institutions, amongst others.

The Executive Secretariat of the National Public Security System (*Secretariado Ejecutivo del Sistema Nacional de Seguridad Pública,* SESNSP) is an agency that operates within the Ministry of the Interior (*Secretario de Gobernación,* SEGOB), that is tasked with implementing and monitoring the agreements of the CNSP. It is the operational body of the National Public Security System in its role of coordinating the public security efforts of federal, state, and municipal governments. The National Center for Evaluation and Accreditation (*Centro Nacional de Certificación y Acreditación)*, which supervises the *control de confianza* system, operates as part of the SESNSP.

The following are the funds and programs within the SNSP related to policing:

- **ACCREDITED POLICE** through the Subsidy to States to Strengthen their Public Security Institutions in the Area of Police Command (*Subsidio a las Entidades Federativas para el Fortalecimiento de sus Instituciones de Seguridad Publica en Materia de Mando Policial,* SPA)
- **PUBLIC SECURITY SUPPORT FUND** (*Fondo de Aportaciones para la Seguridad Pública,* FASP)
- **MUNICIPAL SECURITY SUBSIDY** (*Subsidio para la Seguridad en los Municipios,* SUBSEMUN)

SUPPORT FOR STATES

While the Federal Police have had their fair share of accusations of corruption and human rights violations, state and municipal forces have long been viewed as particularly corrupt and abusive. In light of this and given state and municipal dependence on federal funds, the Calderón administration continued with existing public security subsidies to the state governments through the FASP (discussed above). In 2011, the Calderón administration also began promoting the Accredited State Police Model to strengthen police leadership and to lay the foundations for state police that are trustworthy and efficient.[29] This is done through the Subsidy to States to Strengthen their Public Security Institutions in the Area of Police Command (*Subsidio a las Entidades Federativas para*

el Fortalecimiento de sus Instituciones de Seguridad Pública en Materia de Mando Policial, SPA). As with the other subsidies, SPA is intended to assist states with police training and equipment and to strengthen public security institutions but it has an additional focus on creating, implementing, and strengthening accredited police units. Some analysts have raised concerns about the lack of measurable goals for police development carried out with the support this subsidy.[30]

With the SPA, the amount designated to each state depends on five factors: population, crime rate, size, police deployment, and progress in implementing the Accredited State Police model. As with other federal subsidies, the funds are for programs that are aligned with national public security priorities. The Peña Nieto administration has continued the SPA and it has prioritized the subsidy for the professionalization of public security institutions, strengthening evaluation capacity for the confidence control vetting system (*Sistema de Control de Confianza*) described in detail below, the national telecommunications network, and the national information system. For 2014, the budget for this subsidy is over US$242 million.

SUPPORT FOR MUNICIPALITIES

Municipal police make up the largest percentage of the police forces in Mexico, and at this level the Calderón administration began the Municipal Security Subsidy (*Subsidio para la Seguridad en los Municipios,* SUBSEMUN) in 2008. SUBSEMUN funds are provided to municipalities for the professionalization of public security forces, to improve police infrastructure, and to develop crime prevention policies. Municipalities are chosen based on population and crime rates. Tourist destinations, border cities, primarily urban municipalities, and municipalities that are affected by the high crime rates of adjacent municipalities are given special consideration.[31] The Executive Secretary of the SNSP determines the number of municipalities eligible each year. On average, the municipalities receiving support accounted for approximately 64 percent of Mexico's population.[32] For 2012, the last year Calderón was in office, the program's resources were distributed to 239 municipalities in Mexico (out of 2,457 municipalities in the country and 16 boroughs in Federal District). In 2013, 251 municipalities received the subsidy, while 268 municipalities will be receiving the subsidy in 2014.[33] SUBSEMUN provided more than US$390 million to municipalities in 2013 and 2014.

PHOTO CREDIT: SPOTREPORTING

Police presence during bicentennial celebration in Mexico City.

To receive the subsidy, municipalities are required to contribute 25 percent of the funds for the funded projects from their own coffers.

For 2014, the subsidy's stated national priorities were: violence prevention programs, strengthening evaluation capacity in the *control de confianza* system, professionalizing public security bodies, improving integration with SNSP's National Telecommunications Network, entering data into the National System of Public Security Information, and improving the 066 emergency phone system. Since 2012, the federal government has required municipalities to spend 20 percent of SUBSEMUN funds on violence prevention programs.[34] Apart from strengthening the *control de confianza* system, the subsidy does not call for any additional programs that would strengthen internal controls over the police.

Despite the increase in the number of municipalities that are now receiving the subsidy, the program has been criticized by human rights and public security organizations for excluding many municipalities that might need extra support but do not meet the established criteria or are unable to provide the required matching funds. Municipalities that do not receive SUBSEMUN are also excluded from the National Confederation for Municipal Public Security (*Confederación Nacional de Seguridad Pública Municipal*), which is the municipal representation in the National Public Security System.[35] This concern was also raised in a June 2013

PHOTO: JOSÉ LUIS DE LA CRUZ / PROCESO FOTO GRO.

Municipal police in Guerrero State protest, demanding that the results of *control de confianza* exams be made public.

audit by the government's federal auditing agency (*Auditoría Superior de la Federación*, ASF) as there is little clarity about how the federal government will support police development in the rest of Mexico's municipalities' and ensure their participation in the National Public Security System.

As part of its audit, the ASF also raised concerns about the lack of transparency in the manner in which the Executive Secretary of the SNSP determines the number of municipalities that are eligible for the subsidy each year and the amount of funds to allocate to the different municipalities. The ASF also expressed concerns about the lack of transparency in how the funds are spent by municipalities. In addition to calling for increased transparency, the audit recommended more robust citizen participation in the development of crime prevention strategies and all of the other programs supported by SUBSEMUN. It also requested an assessment of the subsidy's effectiveness, among other areas.[36]

Although there are concerns about the exclusion of many municipalities from receiving the subsidy, for those receiving this support, SUBSEMUN can be an important tool for local-level police reform, as it provides crime-ridden municipalities a significant boost in funds for the local police. SUBSEMUN also enables the SNSP to influence spending priorities at the local level and to ensure that police forces are being subjected to evaluation. Indeed, the municipalities must ensure that their requests for support in the areas of infrastructure, professionalization, and crime prevention are structured in accordance with the rather detailed "catalogue" of eligible goods and services issued by the SESNSP and SEGOB each year.[37]

National Mechanisms to Increase Accountability

The Calderón administration created the Evaluation and Confidence Control System and Centers (*Centros de Evaluación y Control de Confianza*) as the main mechanism to evaluate and vet Mexico's federal, state, and municipal police forces. The Peña Nieto administration continues to use this certification system as its primary vetting tool. These evaluations are meant to ensure that recruits for police forces have proper qualifications and a clean record in order to be part of the force. They are also meant to weed out corrupt officers and detect officers with substance abuse or psychological problems who need assistance. The centers were created as part of the 2008 National Agreement for Security, Justice, and Legality. The 2009 General Law of the National Public Security System required all three levels of government to apply the exams for all new recruits and to conduct regular evaluations of police forces. Exams are carried out every three years for state and federal public prosecutor's offices and their investigative police, and every two years for the federal, state, and municipal police forces.[38] The National Center for Certification and Accreditation (*Centro Nacional de Certificación y Acreditación*, CNCA) develops criteria for the exams and ensures that they are appropriately applied by the centers. The federal centers and state centers, which also evaluate municipal police, are required to send exam results to the CNCA.

The law originally stated that all public security forces would be evaluated within four years and that within two years all state-level confidence control centers would be in place. At the end of Calderón's term, the system was still not fully operational. Because of the slow pace of evaluations, the Mexican Congress has twice extended the deadline for screening, first until October 2013 and then again until October 2014. At the end of 2013, the SESNSP reported that all of the evaluation centers had been established at the state level and that there were also three centers

"Analysts have expressed concerns about the implementation of the control de confianza *system and the overreliance on this tool as a way to vet Mexico's police."*

operating at the federal level.[39] In February 2014, the SESNSP reported that all states and municipalities had evaluated at least 70 percent of their forces. Some states were more advanced in this process than others; 19 states had evaluated between 91 and 100 percent of their forces.[40]

It is important to note that it has taken over five years to evaluate all of these agents just once, yet the intention is for the forces to be evaluated on a regular basis. New modifications by the Peña Nieto administration mandate that in the case of the Federal Police, current agents must be screened every three years (originally it was every two years) and that supervisors and commanders must be evaluated every two years.[41] The pace of evaluations should improve now that all of the centers are now fully operational. But it is too early to know if the federal government plus the states and municipalities will be able to comply with this regular evaluation schedule.[42]

The confidence control exam consists of a four-part evaluation to determine if officers are fit for duty. The evaluation includes a polygraph test, a medical-toxicological examination, a psychological evaluation, and a background investigation.[43] Police officers have expressed various concerns about the confidence control exams. In a police survey conducted by the Mexican organization *Causa en Común,* of 950 police in 19 states, one in ten officers said that they had not been told that they were going to be evaluated, almost half reported that the information they had been given about the exam was not useful, and four out of five officers never learned the results of the exams.[44] After interviewing police officers and police chiefs across Mexico, researcher Daniel Sabet noted that "partially as a result of the opacity of the process, several interviewed officers viewed the tests as an excuse for the police chief and operational commanders to fire people they did not like. This claim is not so unbelievable when police chiefs themselves admit that they are firing police to appease federal officials."[45]

The General Law for the National Public Security System states that agents must pass the exams in order to stay on the force, leaving a somewhat grey area in terms of what happens to agents who fail the exams. If an agent is found to be "not suitable" (*no apto*) in the exam, the evaluators give the result to the internal affairs department of the police agency, which determines whether to keep the agent on the force or dismiss him/her. Information about agents who fail the exams is not made public. Officers who fail are often not told why they failed, and there are very few ways to appeal the results. As of November 2013, approximately 22 percent (88,062) of all examined agents (399,496) at the federal, state, and municipal level had not passed the exam.[46] Reasons for failing the exams included that the agents did not fulfill the age, physical, medical, or behavioral requirements; that they had unjustifiable assets; that they had problems with alcohol or drugs; and, in some cases, that there were indications that the agents had links to organized crime. While the SESNSP did not report on how many of the agents who failed the exam remained on the force, it had previously stated that around 80 percent of the agents at the state and municipal level who did not pass their exams were still working.[47] Affirmations made by municipal and state public security ministries further suggest that many agents remain on the force, although they may be reassigned to different areas or desk jobs. State governments have pointed to additional reasons for keeping agents on the force. One is a lack of funds to cover the severance pay for these agents. Another, perhaps more concerning, reason is a fear that if the agents are fired, they may end up working for criminal organizations.[48] There is no easy answer as to how to effectively deal with the latter, but it does illustrate the limits on the effectiveness of this vetting process.

While these evaluations can be an important tool to root out corruption, analysts have expressed concerns about the implementation of the *control de confianza* system and the overreliance on this tool as a way to vet Mexico's police. In general, particularly at the state level, the centers lack trained personnel to carry out the different aspects required in the evaluation. Mexican security experts Juan Salgado and Alejandro Hope have argued that the background check of the agents' socio-economic situation, which examines whether an agent's lifestyle corresponds to his/her income, is not

"Vetting and regular exams, even when conducted in the most effective, fair, and transparent manner possible, are no substitute for creating and strengthening internal control mechanisms."

done in the depth it deserves, and that most centers lack sufficient personnel with accounting experience to be able to do this analysis.[49]

The polygraph exams have also been problematic. Applying polygraph tests correctly requires years of experience and training, but hundreds of polygraphists were trained very rapidly to staff the new confidence control centers. As a result of operator error by under-trained polygraphists, some honest officers may fail their exams and corrupt officials may pass. There have been several cases in which police officials that had previously passed the confidence control exams have been implicated in crimes.[50] In May 2013, the governor of the state of Guanajuato, Miguel Márquez, announced he was planning on dropping the polygraph tests from the exam process for low-ranking officers. Márquez said he believed that the tests produced false positives because it made them "nervous."[51] The use of the polygraph exam has been so contested that the National Security Commission no longer considers failing the polygraph exam to be a reason to automatically fire an agent.[52]

The confidence control exams have a set of shortcomings that need to be addressed in order to guarantee respect for due process, avoid the firing of honest officers, and ensure that corrupt officers are properly identified and terminated. In addition to these shortcomings, there are limitations inherent in focusing exclusively on weeding out "bad apples" within the law enforcement bodies. This is necessary and important. But vetting and regular exams, even when conducted in the most effective, fair, and transparent manner possible, are no substitute for creating and strengthening internal control mechanisms, such as internal affairs units, that can investigate and sanction police misconduct on a regular basis. Nor are they a substitute for external controls over police forces.[53] While some internal and external controls are currently in place (and are described in subsequent sections of this report) they need to be strengthened and expanded. The recommendations section of this report describes proposals for doing so, including the establishment of new mechanisms for external control, such as an independent auditor or an institutional certification process that would examine the internal weaknesses within police forces that have allowed corruption and abuse to flourish.

Mexico's National Police Registry

In 2001, the Mexican government established a national police registry. This tool was meant to ensure that an agent implicated in criminal acts or human rights violations in one police force could not apply for a job in another force without these incidents appearing on his or her record. According to *Causa en Común's* police survey (mentioned above), one in five officers reported that they had previously worked in another police force. Such mobility underscores the need for a record of agents' past history in the hiring process.

During the Calderón administration, efforts were made to increase the use of the database, called the National Registry of Public Security Personnel (*Registro Nacional de Personal de las Instituciones de Seguridad Pública,* RNPSP) or "Kardex," and to expand the scope of information included. It currently contains employment history, as well as biographical and biometric information (such as fingerprints, photographs, and DNA). In 2009, the General Law for the National Public Security System required all police agents to be registered in the RNPSP. [54] The states and the federal government are also required to enter the results of the *control de confianza* exams for their respective agents in the RNPSP.

Former President Calderón's sixth and final annual report, issued in September 2012, stated that there were almost 1.5 million people in the Registry, with over 720,000 active agents.[55] In July 2012, the government announced that 90 percent of the state and federal public security agents were included in the registry. However, a 2013 assessment by *Causa en Común* concluded that many municipalities had not provided updated information to the RNPSP and that

the information obtained from the *control de confianza* exams is often not sent to the Registry. In practice, this means that while the National Certification and Accreditation Center may receive the results of evaluations from the states, the states do not always send them to the RNPSP, compromising the Registry's effectiveness as a vetting tool to assist in the hiring process of police agents.

While the LGSNSP requires all police to be included in the Registry, it is not clear whether this is a priority for the Peña Nieto administration. No mention is made of the Registry in Peña Nieto's first annual report. Nor does it appear in any reports or plans from either the Ministry of the Interior or the National Security Commission, which now oversees the Federal Police.

Citizen Oversight

The 2008 National Agreement for Security, Justice, and Legality stipulated that a Citizen Observatory should be established to monitor and supervise the fulfillment of the government's commitments. This included citizen participation in the creation of indicators to measure the performance of police and criminal justice institutions. Mechanisms for citizen observation were also to be established to strengthen the complaint system to denounce corruption and other abuses by federal public security servants and justice officials. The states also committed to create mechanisms of citizen participation as a way to inform the public about the programs, actions, results, and use of public funds on public security and criminal justice.

There have been several experiences in Mexico with citizen public security councils, whose functions are usually broadly defined and whose focus is often on increasing citizen reporting of crime, and they have had varying degrees of success. However, the "observatory" model detailed in the National Agreement was new and more focused, with the objective of identifying, developing, and tracking performance indicators for the police and criminal justice system. The observatory model received widespread support from civil society and security experts, given the difficulties in obtaining crime data systematically, particularly on the local level. Nonetheless, the lack of clarity about the observatories in the Agreement led to different interpretations of their precise role. For example, the Agreement called for mechanisms for citizen observation, while only specifying the creation of one observatory, under the responsibility of the Public Security Ministry. Different interpretations also arose regarding whether observatories should merely be for tracking crime data as opposed to tracking progress in certain reforms, and regarding their level of autonomy from government.[56]

The National Citizen Observatory was created after the signing of the Agreement as an entity that is independent from the government and funded by private donations. Its mission is to "contribute, from civil society, to the transformation of the security, justice, and lawfulness conditions in Mexico through coordination and independent and professional citizen observation."[57] Several of Mexico's leading public security think tanks and crime victims' organizations are members of the Observatory, as are a number of universities and business associations. The Observatory issues studies on complaints of high-impact crimes such as kidnapping and extortion, and it provides information on crime at the state level, as well as analysis on any limitations in the data.

Apart from this National Observatory, there are several state and municipal observatories operating with different levels of success in creating solid means of citizen-government cooperation.[58] These observatories also have different levels of autonomy from the government, and some experts have raised concerns regarding whether their closeness with the government will affect their ability to be effective in overseeing public security functions and in gathering accurate data.[59] Nonetheless, citizen councils can be important ways to increase citizen oversight over the police and to improve community and police relations.

As another possibility for oversight, the Institute for Security and Democracy (*Instituto para la Seguridad y la Democracia*, Insyde) a Mexican civil society organization, has developed a proposal for citizen certification of the police. In this process, citizens would be the ones to validate and regulate the operative policies and procedures of the police force that is being certified. Insyde is currently moving forward with this proposal for certification in one municipality in Mexico and, if successful, this experience could serve as a valuable example for other areas of Mexico.[60]

In 2010 and 2011, several Mexican organizations and public security experts participated in a series of dialogues on public security and human rights with members of Mexico's Chamber of Deputies (*Cámara de Diputados*, the lower house of Mexico's

Congress). One concrete proposal that emerged from these discussions was to include five members of civil society as counselors for the National Public Security Council (*Consejo Nacional de Seguridad Pública*, CNSP) in order to ensure citizen participation in the development and implementation of security policies. While the proposal did not move forward at the time, in July 2012 the Executive Secretary of the SNSP announced that five representatives of civil society would be invited to participate in the CNSP. The invitation was extended to five specific individuals with extensive experience in security issues.[61] In October 2013, Congress approved reforms to the General Law of the National Public Security System, which confirmed the participation of civil society in the CNSP. The reform stipulated that civil society representatives would serve on the council for two-year terms and would be nominated by the heads of Mexico's universities.[62]

In regards to the Peña Nieto administration, the Ministry of the Interior's 2013-2018 institutional planning document states that it will strengthen security councils, committees, and observatories so that they can participate in violence prevention efforts. However, it is too soon to assess the results of this commitment.[63]

Accountability within the Federal Police

As was referenced previously, the law to create the Federal Police was approved by the Mexican government in June 2009, replacing the Federal Preventative Police. The creation of a new federal force was a key element in the Calderón administration's proposal to develop a new public security model for Mexico "based on the scientific investigation of crime and intelligence generation for the prevention and combatting of crime."[64] The transformation of Mexico's Federal Police was led by then-Secretary of Public Security Genaro García Luna, who, along with others in the Calderón administration, argued that Mexico needed a federal police force that did more than respond to crimes. They said it should become professional, scientific, and preventative in its action, and that it should carry out intelligence activities to combat crime.[65] While the intention of creating more professional and better-trained and equipped forces is important, concerns were raised from the beginning of the Calderón administration that the government's public security priority was focused almost exclusively on confronting organized criminal groups at the expense of addressing common crime and crime prevention. As is seen throughout this report, public security actions were also carried out with little or no concern for human rights. Furthermore, the frontal assault on organized crime resulted in designating significant resources to the Federal Police, while, with the exception of SUBSEMUN, municipal governments were marginalized from national public security decisions, and there was less support for municipal police and their primary role in crime prevention.[66]

For the Federal Police, the Calderón-era reforms resulted in higher recruitment standards, a revamped police academy, and an integrated communication platform known as *Plataforma México*.[67] The force's increased size also enabled it to improve its response capacity and to play a greater role in security operations. In the first few years of the Calderón administration, officials implied that the Federal Police would eventually be able to relieve the Armed Forces of their public security role.[68] At the end of the Calderón administration, however, the Armed Forces remained deployed in several operations in regions of the country with high levels of organized crime-related violence.

When the Federal Police was created, a new disciplinary regime was put into place in order to address the challenges that had been faced previously within the Federal Preventative Police, including difficulties in dissuading improper conduct and in identifying and removing corrupt agents. With these changes, the Honor and Justice Commission that had addressed disciplinary cases was replaced by a new Federal Police Development Council (*Consejo Federal de Desarrollo Policial*). In addition, an Internal Affairs Unit (*Unidad de Asuntos Internos*) was established that had greater autonomy than its predecessor and the authority to carry out investigations, including undercover operations, of police officers suspected of wrongdoing.[69] A constitutional amendment approved by the Mexican Congress also made it easier to dismiss agents. The amendment to Article 123 of the Constitution establishes that an agent who has been dismissed from the force for whatever reason cannot be rehired, even if the courts find that the dismissal was unjustified.

As the primary governing body of the Federal Police, the new Federal Police Development Council is responsible for "regulating, hearing, and resolving all disputes related to disciplinary regime procedures."[70]

"The new Internal Affairs Unit needs to focus more time on investigating and processing serious offenses rather than minor disciplinary infractions."

The Council has created six technical committees to hear cases and carry out all administrative procedures before they are presented to the Council for the final resolution. These committees are intended to improve the speed of the dispute resolution process.

The Internal Affairs Unit is tasked with addressing complaints of disciplinary infractions committed by agents. It is also responsible for investigating cases and determining whether to transmit them to the appropriate authorities for disciplinary action. If an infraction is committed, the Unit can request that the Council move forward with procedures for dismissal or sanctions based on non-compliance with the established duties of the agent.

While agents can be administratively sanctioned for human rights violations or other wrongdoings, the Internal Control Office (*Órgano Interno de Control*) can also address cases. This office reports directly to the Ministry of Public Administration (*Secretaría de Función Pública,* SFP), the agency charged with monitoring federal public servants, ensuring that they adhere to the law when carrying out their duties, and penalizing those who fail to do so. If an agent is found guilty of committing an abuse, the Office is able to impose sanctions, such as reprimands, suspensions, or even removal, when merited. The PGR is also able to begin investigations and criminal prosecutions for human rights violations committed by Federal Police agents.[71] In several of its recommendations regarding human rights violations committed by the Federal Police, the CNDH presented a complaint before the Internal Control Office as well as a criminal complaint before the PGR.[72]

In an assessment of Calderón's discipline regime of the Federal Police, researchers Daniel Sabet and Eric Olson found that the new regime represents an improvement over the previous system. They argue that the new Internal Affairs Unit has more tools to investigate agents and a higher standing within the Federal Police. The new accusatory system of dispute resolution also has better administrative procedures, and there are more tools to vet agents. Nevertheless, Sabet and Olson also point to areas that need to be strengthened if the regime is to be effective. For instance, the new Internal Affairs Unit needs to focus more time on investigating and processing serious offenses rather than minor disciplinary infractions. Sabet and Olson found in 2011 that the vast majority of cases presented (80 percent) regarded absences, primarily when the agents had deserted the force. Even though the agents were effectively no longer part of the police force, the Internal Affairs Unit was still required to prepare a file of the case and present it to the Council. Meanwhile, only five percent of the cases that the Council heard in 2011 involved serious offenses such as extortion, physical violence, or insubordination. Even though it has been granted investigative powers, it would appear that the Internal Affairs Unit has yet to fully assert these new powers, and it continues to respond to cases that it is presented with, rather than actively investigating possible wrongdoing. Sabet and Olson argue that to be more effective at addressing serious abuses and corruption, the Internal Affairs Unit will need to become more proactive. Furthermore, the Unit should consolidate internal complaint mechanisms so that it will receive more and better information from police officers.[73]

Measures to Address Human Rights Concerns

The initiatives described above aimed to strengthen vetting and oversight in order to prevent or sanction corruption and other wrongdoing by police agents. Additional reforms have focused specifically on preventing human rights violations. In response to increasing reports of human rights violations by the Mexican military and Federal Police, the federal government announced in 2012 the "Collaboration Agreement in the Framework of Respect for Human Rights" (*Convenio de Colaboración en el Marco del Respeto a los Derechos Humanos*), which was signed by SEGOB, the Ministry of Defense, the Ministry of the Navy, the PGR, and the now-defunct Public Security Ministry.[74] The agreement committed all parties to adopt and abide by guidelines for the treatment of detainees, especially regarding the chain

"The agreement committed all parties to adopt and abide by guidelines for the treatment of detainees, especially regarding the chain of custody, detention, and presentation of detainees to legal authorities, as well as on the legitimate use of force."

Federal Police officers respond to the student protest in Ayotzinapa, Guerrero, in 2011.

of custody, detention, and presentation of detainees to legal authorities, as well as on the legitimate use of force. When the Mexican government presented its 2013 report to the UN Human Rights Council, it cited this agreement as an important human rights accomplishment.[75]

The Public Security Ministry developed guidelines for the Federal Police addressing all four areas. These guidelines represented a necessary and, in principle, laudable step toward preventing human rights abuses by federal forces. However, the guidelines contain troubling omissions and shortcomings, especially regarding the use of force and the chain of custody for detainees. The Mexican Institute of Human Rights and Democracy (*Instituto Mexicano de Derechos Humanos y Democracia*, IMDHD) has noted, for instance, that the guidelines do not conform to all of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, such as giving clear warning on the intent to use firearms. Strikingly, the guidelines established no rules for police responses to protests or unlawful assemblies. Such rules should include restricting the use of force during unlawful protests and limiting the use of firearms to disband violent protests when less lethal tools are not effective. The federal and state police response to the 2011 student protest in Ayotzinapa, Guerrero (see box 2) underscores the urgent need to establish guidelines for the use of lethal force during protests.

The guidelines for the Federal Police to detain and transfer people to legal authorities also have imprecisions which could lead to abuse. For example, the guidelines establish that once a suspect is detained, police must bring them to a health center to certify that they are free from injuries and assess their physical condition rather than immediately transferring the detainee to the Public Prosecutor's Office. While this may be necessary when someone has been injured, this is not specified in the guidelines. Prolonging the time that a detainee is in the hands of the Federal Police, particularly when the person does not require immediate medical attention, may result in them being held incommunicado and facilitate other abuses by the police, such as mistreatment or torture.[76]

Other initiatives to address human rights concerns are still pending. Upon assuming the presidency, Peña Nieto promised to secure passage of a federal law governing the use of force by public agents, including police and soldiers.[77] Nonetheless, more than a year into his administration, Peña Nieto has not presented a proposal for this law to the Mexican Congress. Such a law is clearly needed: there have been several incidents involving excessive use of force by Mexican police agencies since the day Peña Nieto took office on December 1, 2012.[78]

BOX 2: Police Repression of Social Protests: The Case of Ayotzinapa

The brutal repression of a student protest in the state of Guerrero is an example of Mexican police forces' tendency to use excessive force in protests and other situations. It also shows the weakness of both internal and external controls to effectively sanction agents found responsible for human rights violations.

On December 12, 2011, a group of more than 300 students from the Raúl Isidro Burgos Rural Teachers' School in Ayotzinapa, Guerrero set up a roadblock to close the Mexico-Acapulco highway and demanded a meeting with the governor to discuss the improvement of student living conditions and facilities. The governor had not appeared at four previously scheduled meetings with the students. The protest was quickly and brutally put down. Federal and state police arrived in full force, some wearing civilian clothes, to disperse the protestors. A total of 168 police officers were at the scene, 61 Federal Police agents, 73 state ministerial police agents, and 34 state police officers. They began firing shots toward the sky and firing tear gas into the crowd. The students responded by launching rocks and Molotov cocktails. Then the Federal Police, followed by Guerrero State Police, began to fire at the protestors, killing two students, Jorge Alexis Herrera Pino and Gabriel Echeverría de Jesús.[79] Three other students were also wounded by gunfire.[80]

In a special report on the incident, the National Human Rights Commission (*Comisión Nacional de los Derechos Humanos,* CNDH) found that during the protests, 42 people were arbitrarily detained by the different federal and state police forces. One student who was detained by the Federal Police narrated the following:

> We saw that the police began to spread out, and we also started to disperse because of the tear gas they were using .... I heard someone shout "let's go to the other gas station" because they were closing in on us ... those of us that were still around tried to climb over a fence and go into the hills, we wanted to escape .... I tried to climb up but the police arrived pointing [their guns] ... they had me cornered, there they grabbed me and then one with a hat arrived and he beat me ... they grabbed several of us students and they began to physically, psychologically torture us, they attacked me ... they also apprehended several other people ... the police made comments saying that they were going to screw us over ... they were kicking others and hitting them with their weapons .... We couldn't speak, we couldn't say anything ... several colleagues were unconscious. I couldn't recognize some of them because they were so bloody.[81]

The Federal Police arbitrarily detained at least 18 people, including 17 students, and with no legal justification took them to the Regional Federal Barracks of the Federal Police in Chilpancingo. There, several police agents mistreated and beat them; the detainees were then subsequently released. One student described his experience to the CNDH:

> They took the bus to their barracks, they brought us down one by one in line, but since our legs were numb we fell to the floor like rocks. They were pushing us and the police would pick up and hit anyone who fell .... They threw us on the floor and they hit and insulted all of us that were there in their barracks ... they asked us about the leaders, then they put us on the bus again and said that they would let us go because some people had been killed.[82]

Twenty-four other individuals were arbitrarily detained by state police forces and taken to the offices of the Guerrero State Attorney General (*Procuraduría General de Justicia del Estado de Guerrero,* PGJE). One student, Gerardo Torres Pérez, was taken from the PGJE offices by state ministerial police agents and forced to lie face down in the back of a pickup truck as he was transported to a house on the outskirts of Chilpancingo, where he was again beaten and threatened with a knife. Eventually, police forced him to shoot an AK-47-style rifle in an attempt to falsely implicate him in the deaths of his fellow students. The CNDH has confirmed that he was tortured by members of the PGJE. The day after his detention, Gerardo was released along with the other protestors.[83]

The CNDH report concluded that the episode revealed a fundamental lack of preparation on the part of federal, state, and local police to respond appropriately to peaceful protests, and a lack of coordination within the Federal Police and with their state and municipal counterparts. Furthermore, it noted a series of specific abuses, human rights violations, and improper conduct on the part of the

CONTINUED ON PAGE 18

BOX 2: Police Repression of Social Protests: The Case of Ayotzinapa (CONTINUED)

various police forces involved. In the case of the Federal Police, the CNDH indicated that they showed a lack of capacity to address social protests through dialogue and that a decision by one agent to fire tear gas into the crowd unleashed the violence that ensued. The Federal Police also made unnecessary and excessive use of firearms, arbitrarily detained and mistreated students, and failed to cooperate with the CNDH's investigation, originally providing false answers to the CNDH's inquiries regarding their involvement in the incident.

In response to the conflict in Ayotzinapa, state authorities placed 12 municipal police officers under house arrest while they investigated who had shot into the crowd of students. Both federal and state authorities were blamed for excessive use of force and homicide. Two state judicial police officers were arrested for the deaths of the two students. However, they were later released and exonerated. No further charges have been made regarding the deaths of the two students, and no official has been criminally investigated and sanctioned for any of the human rights violations that occurred in this case.[84]

U.S. Support for Police Reform

Highlighting the U.S. role in supporting police reform efforts in Mexico is important given the significant increase in U.S. funding in recent years and the role the United States has played in influencing the Mexican government's strategy to combat organized crime and drug trafficking. For the past two decades, this has included political and financial support for using the Mexican military in counter-drug operations. Since 2008, through the security cooperation package termed the Merida Initiative, U.S. security assistance to Mexico has been at historic levels, and Mexican police forces, particularly at the federal level, have received large amounts of this support.

Prior to 2008, the United States provided Mexico with an average of US$30 million per year through the International Narcotics and Law Enforcement (INCLE) account. Most of this assistance was delivered to Mexico's federal security forces for counter-drug activities, including upgrading the infrastructure of Mexican law enforcement agencies.[85] At the peak of the Merida Initiative, INCLE funds rose to US$406 million for that fiscal year, more than a ten-fold increase from the pre-2008 average.[86] Significant portions of this aid went to the Federal Police. This support has included equipment and hardware to facilitate mobility and to interdict drugs, weapons, and other illicit goods, including six Blackhawk

FIGURE 3: Merida Initiative Funds 2008-2015 (US$, in millions)[87]

	FY 2008 Supplemental	FY 2009	FY 2009 Supplemental	FY 2010	FY2010 Supplemental	FY 2011	FY 2012	FY 2013	FY 2014 Estimate	FY 2015 Request
ESF*	20.0	15.0	0.0	15.0	0.0	18.0	33.3	32.1	46.1	35.0
INCLE**	263.5	246.0	160.0	190.0	175.0	117.0	248.5	195.1	148.1	80.0
FMF***	116.5	39.0	260.0	5.3	0.0	8.0	N/A	N/A	N/A	N/A
Total	400.0	300.0	420.0	210.3	175.0	143.0	281.8	227.2	194.2	115.0

Source: U.S. Department of State: Congressional Budget Justification for Foreign Operations FY2008-FY2015.[88]
*Economic Support Fund.
**International Narcotics Control and Law Enforcement.
***Foreign Military Financing (Since FY2012, FMF funds have not been included as part of the Merida Initiative. For FY2012, FMF support was US$7 million; FY2013, US$6.6 million; FY2014, US$7 million, and FY15, US$5 million).

helicopters, 50 armored pick-up trucks, and other equipment.[89]

Lawmakers, non-governmental organizations (including WOLA), and other analysts in both the United States and Mexico criticized the aid package's initial focus on hardware and interdiction. (WOLA and other critics also raised concerns about the funding package's heavy emphasis on supporting Mexico's military, as US$442 million from the Foreign Military Financing account was allocated to Sedena and Semar between 2008 and 2013 .)[90] Many argued that the Merida Initiative should prioritize strengthening Mexico's law enforcement and criminal justice institutions, combatting corruption, and activities to support the rule of law. In recent years, the Merida Initiative has, in fact, shifted its emphasis from providing helicopters and other big-ticket items to focus on institutional strengthening of Mexico's law enforcement agencies, and increasing support for justice reform and violence prevention. However, providing equipment for interdiction and, increasingly, border infrastructure to Mexico continues to be part of the Initiative.

The Merida Initiative has provided assistance for many of the police reform initiatives described in this report. As of December 2013, the United States' government reported that it had provided "[US]$8 million of training and equipment support to the national vetting program at the state and federal levels" and characterized this system as "a major effort by the GOM [Government of Mexico] to stamp out corruption and build trustworthy institutions."[91] In an April 2010 report to Congress, the State Department expressed its intention to provide INCLE funds to increase Mexico's polygraph capability and internal controls, including providing Mexico with 300 polygraph units. Merida funds have also supported Mexico's Police Registry. Approximately US$8.8 million in INCLE funds have been designated to "expand and enhance the Registry and make it available nationwide." The support was primarily for equipment to capture biometric data, hardware to host the Registry, and training of officials in the capture, storage, and retrieval of biometric information.[92] As of 2013, the United States had provided training to over 4,500 Federal Police officers on investigative techniques, evidence collection, crime scene preservation, and ethics. State and municipal police have also received training through the Merida Initiative; 1,498 agents were trained between February 2013 and June 2013 alone.[93]

PHOTO CREDIT: JESUS ALLASECA PEREZ

Federal Police sent to reinforce security in Ciudad Juárez.

At the onset of the Merida Initiative, the U.S. Congress placed human rights requirements on 15 percent of select Merida funds, which stipulate that these funds cannot be allocated until the State Department reports to Congress that the requirements have been met. These requirements include: improving transparency and accountability in Mexico's police forces, investigating and prosecuting in civilian jurisdiction human rights violations committed by the Federal Police and military, and enforcing the prohibition on the use of testimony obtained through torture. In its three reports to Congress so far (2009, 2010, and 2012), the State Department has argued that progress has been made to meet the requirements, but the reports lack convincing evidence of such progress. They do not, for instance, include a single instance in which a Federal Police agent has effectively been sanctioned for a human rights violation. WOLA, along with several other international and Mexican human rights organizations, has repeatedly made clear that, based on our monitoring and documentation of cases of human rights violations in Mexico, we believe these requirements have still not been met.

Continuity and Change in the Peña Nieto Administration

When he took office in December 2012, President Peña Nieto affirmed that he would make the necessary

Federal Police officers getting ready to be sent to different communities.

adjustments to the security strategy in the country while keeping in place what was working.[94] Peña Nieto has emphasized that his security priorities are to reduce crime and violence in Mexico rather than combatting drug trafficking organizations and efforts have been made to increase coordination between federal, state, and municipal public security agencies. However, his administration has largely maintained the initiatives and police model that were put into place during the Calderón administration. He has also continued to rely heavily on the military to combat organized crime and provide public security, deploying the armed forces in new security operations in Michoacán, Guerrero, the State of Mexico, and elsewhere, and there are no announced plans to return the military to its barracks. In fact, the National Defense Plan for 2013-2018 explicitly states that the military will be involved in the provision of public security throughout Peña Nieto's *sexenio* (six-year term): "the current problems in our country require having more troops in national territory to continue carrying out diverse operations, to provide assistance to the civilian population in the case of disasters, and to continue to help civil authorities in public security roles."[95]

Peña Nieto's most significant change to Mexico's police structure was to eliminate the Public Security Ministry. He transferred responsibility for domestic security to the Ministry of the Interior and promised that this change would facilitate inter-agency coordination. The Federal Police are now under the control of the newly-created National Commission for Security (*Comisión Nacional de Seguridad,* CNS), within the Interior Ministry. Former Mexico City police chief Dr. Manuel Mondragón led the CNS until he resigned in March 2014; he was replaced by the former Executive Secretary of the SNSP, Monte Alejandro Rubido.

Because the Public Security Ministry had been established by President Fox in 2000, placing public security responsibilities once again under the direction of the Ministry of the Interior (*Secretaría de Gobernación,* SEGOB) represented a return to the centralized command structure utilized by previous PRI administrations, which concentrated nearly all of the country's internal affairs within this Ministry.[96] This change in command structures involved a significant overhaul of Mexico's federal public security apparatus, and, particularly during the first few months of Peña Nieto's presidency, some analysts expressed concerns about the amount of time and energy that the restructuring involved.[97]

Fulfilling his campaign promise, Peña Nieto also announced that his administration would establish a National Gendarmerie. The president and other administration officials presented the Gendarmerie as part of the solution to Mexico's security problems; it would be a military-trained police force of up to 50,000 members, including, at the onset, approximately 10,000 soldiers from Sedena and Semar. The Gendarmerie would complement, not replace, the Federal Police. In fact, the Peña Nieto administration envisioned a federal security force of over 100,000 agents between the Federal Police (increasing to 60,000) and the Gendarmerie (with between 40,000 and 50,000 agents).[98]

These plans quickly unraveled. In the first half of 2013, the Peña Nieto administration, especially Mondragón, transmitted mixed messages about the staffing and role of the Gendarmerie. It was not clear whether it would focus on preventing crime or on reacting to criminal incidents; nor was it clear how many, if any, soldiers had been recruited for the force.

The proposal received criticism from civil society organizations and security experts who expressed concerns that the Gendarmerie would further militarize public security. Critics cited the potential for additional

"The unified command is likely to improve coordination between municipal and state forces, but it is not a panacea for the complex set of challenges facing state and municipal police forces."

human rights violations by a force that was trained and partially staffed by soldiers and called for a more robust public debate before such a large security force was established.

On August 27, 2013, after months of uncertainty, Mondragón announced at a session of the National Public Security Council that the Gendarmerie would be a division of the Federal Police, composed of just 5,000 civilian, not military, officers under civilian command, and they would receive a combination of police and military training. Agents would be divided between units that would work in close contact with communities (*policía de proximidad*) and those who would be part of a response force. Mondragón described the Gendarmerie as an "an institution devoted to public safety, under civilian command" with the objective of "strengthening territorial governance in rural and semi-urban populations," primarily in areas with particularly weak institutions and a high presence of organized criminal groups. He went on to explain that the Gendarmerie would also be tasked with security in strategic areas, such as ports, airports, and borders. Recruitment began in September 2013; by December 2013, 2,600 cadets started working in cities such as Acapulco, Guerrero; Puebla, Puebla; and Monterrey, Nuevo Leon, and at the International Airport in Mexico City.[99] Peña Nieto administration officials have stated that the force will be fully operational by July 2014.[100]

The Peña Nieto administration has also encouraged states to adopt a Unified Police Command (*Mando Único*). The *Mando Único* would merge state and municipal police forces into a single chain of authority. Government officials have presented the *Mando Único* as a way to combat police corruption, particularly at the municipal level, and to improve coordination between the different police forces. Originally proposed during the Calderón administration, the initiative failed to get sufficient traction during his government. Whereas Calderón attempted to advance legislation that would obligate states to adopt the *Mando Único*, the Peña Nieto administration has opted for a state-by-state approach, facilitating coordination agreements between the governors and mayors of each state. This strategy appears to have been effective. As of February 2014, 26 states had established agreements. Interior Minister Manuel Ángel Osorio Chong has said that when all 31 states and the Federal District have established the *Mando Único*, the Peña Nieto administration will present a proposal to the Mexican Congress to formalize the structure through legislation.[101]

The unified command is likely to improve coordination between municipal and state forces, but it is not a panacea for the complex set of challenges facing state and municipal police forces. Changing the command structure will not increase the resources of state or local forces, nor will it prevent abuses or strengthen accountability. Security analyst Alejandro Hope and others have also argued that any police force under a state-level command will need to guarantee a steady police presence in Mexico's municipalities in order to prevent and address crime at the local level.[102] Because the command is centralized at the state level, decisions about public security could also become political, rather than based on the security concerns of citizens in an area, especially if municipalities are governed by an opposing party.[103]

Police Accountability in the Peña Nieto Administration

In the area of police accountability, the Peña Nieto administration has made some minor adjustments while maintaining the principle structures put in place in the Calderón administration that were described above.

As a new initiative, in his November 2013 report on the activities of the National Security Commission, Mondragón announced that an Inspector General's Office had been created within the CNS to "detect deficits, irregularities, or failings in the application of the procedures of the units and administrative offices of the National Commission." As part of its responsibilities, the Inspector General's Office is

responsible for verifying that agents are operating according to established norms and protocols, including respect for human rights and attention to victims; it is also responsible for assisting the Internal Affairs Unit of the Federal Police in their investigations.[104] If granted sufficient autonomy and resources, the Inspector General's Office could potentially serve as a valuable internal control over the police. It is, however, too early to assess the Office's effectiveness.

In regards to the *control de confianza* system, during an October 2013 forum organized by *Causa en Común*, President Peña Nieto admitted that the police certification models should be improved.[105] At this same forum, Minister Osorio Chong stated that the government believed that there needed to be internal controls and that *control de confianza* system should be seen as one tool amongst many. He also affirmed that "you cannot do the same studies, tests, and analysis for all police agents."[106]

Based on the growing recognition of the need to revise the system, the National Public Security Council approved on December 20, 2013 a new framework for the *control de confianza* system. The new guidelines affirm that the *control de confianza* exams should only be one element in determining how police are hired, fired, or promoted, and that these decisions should also incorporate results from internal controls, human resources, and other information about police performance. The new framework will also take into account the rank and responsibilities of the agents. This means that while the same exams will be used (although the drug test will now be done on a random basis), they will be done taking into account the risk factors in the agents' environment, whether they are working on sensitive issues, and the agent's rank, while placing a specific emphasis on background checks.[107] These changes are important, as they respond to some of the critiques previously made of the system. Further ways to improve this vetting, as well as proposals to establish more external controls over Mexico's police forces, are discussed below in the "Recommendations" section of this report.

In Spite of Reforms, Corruption and Abuses Persist

As is evidenced above, there have been some important legal changes to Mexico's public security and criminal justice systems in recent years. Police were given more investigative powers, an operational framework was established that was meant to enhance police professionalization and performance, a nation-wide vetting system was established, and federal support for state and municipal public security efforts has continued. Nevertheless, improved training and better equipment hasn't necessarily meant that this was put to good use. In addition, the focus on individual agents has weakened performance assessments of the institutions themselves, and no incentives have been established for the respect of civil rights, such as in the detention and processing of suspects.

Three episodes in recent years have raised serious questions about the integrity of the Federal Police and, by extension, the effectiveness of recent police reform efforts.

On June 25, 2012, three officers from the Federal Police's Investigative Unit carried out a sting operation at the Mexico City airport. During the operation, they were shot and killed by two other Federal Police agents. Press reports indicated that the slain officers were investigating a drug trafficking ring; the officers who killed them were working for the traffickers. After the shootout, the Federal Police replaced 348 agents working at the airport; a Federal Police official claimed that the new officers had received "double vetting and background checks."[108]

Only three months later, Federal Police officers opened fire on a U.S. diplomatic car outside of Mexico City. Two CIA agents and a marine were traveling inside; the two CIA agents suffered non-life threatening injuries. The 14 Federal Police officers, who were wearing civilian clothes and driving unmarked vehicles at the time of the shooting, were detained. They claimed that they were pursuing the perpetrators of a kidnapping that had occurred the previous day.[109] In October 2013, Federal Police led an operation to disband a criminal group in Guerrero. Among the 18 individuals detained were 13 Federal Police officers; the Mexican government's national security spokesman said that the group was responsible for at least seven homicides and four kidnappings.[110]

Ensuring accountability for police officers who engage in criminal acts or commit human rights violations will require the Mexican criminal justice system to successfully investigate and prosecute police officers. Under the Peña Nieto administration, authorities have investigated a small number of officials, such as those involved in the kidnapping

BOX 3: Federal Police Abuses Against Migrants in Transit

From January to October 2013 the staff at the migrant shelter in Saltillo, Coahuila (*Casa del Migrante de Saltillo, Frontera con Justicia, A.C.*) collected testimonies from Central American migrants who had suffered abuses during their journey through Mexico. Twenty of these testimonies involved migrants who were victims of abuse by Federal Police agents; 18 of these cases involved extortion. The incidents occurred primarily during searches of buses at checkpoints on highways in different parts of the country; in many cases it appears that the migrants were specifically targeted by the Federal Police as they searched the vehicle. In at least eight of the cases, Federal Police threatened to turn the migrants over to Mexico's National Institute for Migration (*Instituto Nacional de Migración,* INM). In other cases, the police officers used force or the threat of force to compel migrants to pay them. Although in many cases the police asked for relatively small amounts—less than US$100—in others the migrants were forced to give them all of the money they had (often hundreds of dollars).

The cases of extortion registered by the *Casa del Migrante* in Saltillo reflect a trend that has been observed by other shelters and human rights organizations in Mexico. A November 2013 report by the Documentation Network of Organizations that Defend Migrants *(Red de Documentación de las Organizaciones Defensoras de Migrantes)* in collaboration with the Jesuit Migration Service analyzed 931 testimonies of migrants gathered by seven shelters in Mexico, in the first six months of 2013.[111] Of these testimonies, 167 migrants reported suffering abuses at the hands of Mexican authorities. The Federal Police were responsible for the highest number of cases of abuse (59 cases, 35 percent of the total registered) with 31 of the incidents involving extortion and 16 involving theft.[112]

The following testimonies, registered by the shelter in Saltillo, are representative of this pattern of abuse against migrants:

SALVADORAN MIGRANT, 22 YEARS OLD

On a Friday at about 9:00 a.m. I was riding on a bus operated by *Grupo Senda.* The bus was number 9803 of the *Transportes del Norte* line. When I arrived in Saltillo, two Federal Police officers came on board and extorted us. The agent came directly to me and said, "give me your ID." I told him I didn't have one and he said, "then go to the bathroom."

In the bathroom, he frisked me and took $300 pesos [MXN$300] and $45 dollars [US$45] from me. He only left me with $20 pesos [MXN$20]. The Federal was a fairly tall man, dark-skinned and sturdy, with glasses. He said that I had girls with me—family members of mine—and he wanted me to give him 50 dollars [US$50] for each. I do not know who told him that the girls were with me, it's as if the bus company told him

HONDURAN MIGRANT, 31 YEARS OLD:

On the way from Mexico City to San Luis Potosi, a couple of Federal Police agents took me off the bus at a checkpoint. They kicked me and told me that I could not keep traveling, that it was a crime, and that they would call Migration [INM]. One of the policemen said "I can do whatever I want with you bastard. We want you to give us 800 pesos [MXN$800] for you and your friend, or else you're not going anywhere." We had to give them what we settled on at the time, 1,100 pesos [MXN$1,100], and they let us back on the bus. They were two policemen and they had the uniform of the PF [the Federal Police, *Policía Federal*].

HONDURAN MIGRANT, 28 YEARS OLD:

Two months ago, I entered Mexico through La Tecnica [a town on the Mexico-Guatemala border]. In Palenque, the *Mara 13* gang is charging a fee of $100 dollars [to ride the train], so I had to take a bus to Coatzacoalcos [Veracruz] to get on a train. I had to wait there a week before I got on the train, because the "Z" [Zetas] were charging a fee there too. I was able to ride as far as Huehuetoca [State of Mexico]. There, the Federal Police that were supposed to be guarding the rail line took us off the train and took all of my money. They threatened me and the others that were riding on the same train, saying that if we didn't give them everything we had, they would hand us over to Migration [INM].

ring in Guerrero, however, it remains to be seen how many of these officers will be prosecuted. Likewise, Mondragón reported that in 2013 internal control bodies presented 156 complaints to the Public Prosecutor's Office for alleged crimes committed by Federal Police officers or agents under the CNS, but did not provide the number of agents that had been criminally prosecuted.

ONGOING HUMAN RIGHTS CONCERNS WITH THE FEDERAL POLICE

If there has been some limited progress in the investigation and sanctioning of agents for corruption, there is little to suggest that agents are being prosecuted for human rights violations. Complaints of human rights abuses remain frequent. In 2013, the CNDH received 619 complaints of human rights violations by Federal Police agents. For that year, the CNDH issued 14 recommendations to the CNS regarding human rights violations committed by Federal Police agents. These recommendations involved documented cases of unlawful killings, arbitrary detentions, cruel and degrading treatment, and excessive use of force, among other abuses. The most recent recommendation issued for the Federal Police, from December 24, 2013, involved an incident in April 2013 in which Federal Police agents in civilian clothes shot at two university students who were driving in a vehicle on the outskirts of Mexico City, killing one of the students.[113]

The CNDH and victims have made multiple requests for investigations of human rights abuses. However, police are seldom sanctioned. In 2009 and 2010, the CNDH made eight recommendations regarding human rights violations by the Federal Police and requested that the Federal Police's Internal Control Office and/or the PGR investigate the officers responsible for the abuses. However, the CNDH's 2013 annual report made clear that in regards to compliance with these recommendations, although investigations had been opened, no agents had been administratively or criminally sanctioned for the abuses. In some of the cases, the files had even been closed.[114]

The CNDH is not alone in documenting human rights violations by the Federal Police or in highlighting concerns about the failure to sanction agents. In its 2013 report on disappearances in Mexico, Human Rights Watch stated that it had strong evidence to suggest that Federal Police agents were responsible in 13 of the 249 cases of disappearances that the organization had documented since 2006.[115] Based on their analysis of 170 cases of torture in five Mexican states in 2011, the organization also asserted that all Mexican security forces, including the Federal Police, continue to use torture.[116] They further stated that "[c]ivilian prosecutors have also failed to undertake basic steps —such as interviewing key witnesses or visiting crime scenes —to investigate allegations of human rights violations perpetrated by police and other civilian officials."[117] As the special sections of this report illustrate, Mexican human rights organizations and migrant shelters have also documented multiple cases of abuses by Federal Police agents in recent years.

HUMAN RIGHTS VIOLATIONS DURING DETENTION

The case described at the beginning of the report is illustrative of a disturbing pattern of behavior by the Federal Police when detaining suspects. In 2010, the *Proyecto Atalaya* at the Autonmous Technological Institute of Mexico (*Instituto Tecnológico Autónomo de México*, ITAM) analyzed 35 complaints submitted to the CNDH regarding human rights violations by Federal Police officers. The researchers at *Proyecto Atalaya* found a disturbing trend of irregularities in the actions of these officers. In many of the cases studied, police officers entered victims' homes violently and without warrant, detained victims without charges, and tortured or abused them. Seventeen of the complaints (nearly half) involved allegations of torture, being held incommunicado, unjustified delays in presenting the accused before legal authorities, or other mistreatment. Sixteen (46 percent) of the cases involved arbitrary detention, and 15 (43 percent) involved an arbitrary or a warrantless search of a home.

It would appear that the perpetrators were fully aware of the illegality of their actions. In some of the cases the victims reported that the identification number and license plate of the police vehicles were covered up and that the agents were wearing ski masks, which prevented the victim from identifying the perpetrator. Federal Police frequently justified the detentions by stating that they were carried out during an operation, that they were "preventative actions," that they were based on police intelligence or anonymous complaints, or even that the person looked suspicious or nervous.

As the report affirms:

> If the agents on their own decide which person should be detained and incriminated, then they now face the challenge of doing this in such a way that the detainee is not later released but rather charges are brought against them and, eventually, they are convicted, consequently, they take advantage of every resource at their disposal, legal or illegal, in order to justify the detention, pressing charges, and prosecution. The detainee will therefore be handed over to the prosecuting authority with the evidence that incriminates them, based on the premise that the legal system will grant evidentiary value to the confession made before an authority other than the legal authority, a confession "strengthened" by objects or instruments connected to the crime, for example prohibited weapons or packages of drugs, that, as illustrated in the way detentions take place, are easily introduced or "planted" by the agents taking advantage of the "blind" time already indicated [time between when a suspect is detained and handed over to the legal authorities], during which time they have the detainee under their complete control."[118]

The cases included in the Atalaya study represent a small sample, but the common elements in so many of these and other cases would indicate that at least some officers engage in such practices with regularity, practices which are clearly incompatible with respect for human rights and due process, and their existence raises serious questions about the Federal Police's methods.

BOX 4: Torture by Federal Police: The Case of a Taxi Driver in Monterrey

Citizens in Support of Human Rights (*Ciudadanos en Apoyo a los Derechos Humanos,* CADHAC) documented the extortion and abuse of a taxi driver in Monterrey, Nuevo Leon State, in 2011. This case illustrates a number of common elements in human rights violations by the Federal Police, including extortion, the use of torture to obtain confessions, and a failure to investigate and sanction the agents responsible.

In this case, the taxi driver was stopped by Federal Police agents, who accused him of robbery. They presented no evidence but said that they had received anonymous complaints. They took him to the station and demanded MXN$20,000 (approximately US$1,500) in payment, or they would take his car and put him in jail. Between the money he had in his taxi and what he could get from his brother and sister, he was able to pull together MXN$6,600 (US$500) and the police let him go.

Less than two weeks later, the taxi driver was a witness to an accident. When the Federal Police arrived, the officers recognized him and demanded MXN$600. He paid them the money and they let him go.

The next month, he again encountered the same Federal Police officers. This time, they brought him and a colleague he was with into the station. They did not demand money but instead told him that he had to admit that he was a member of the *Zetas* criminal organization and that he was carrying a gun. According to CADHAC's documentation:

[The agent said] "now you are going to speak, give me the board." He was hit with a board around twenty times...There was a door with a step they made him put his head on the step and continued to hit him... One federal police agent stood in front of him to hold his head in between his legs and said "hit him yourself commander, the commander is going to make you speak." They continued to hit him and they only stopped when they saw that he was going to faint. They took him outside of the police station and one agent was watching him while another continued to hit his colleague. They left him standing there a half an hour, they took him to his car, and they let him go.

The taxi driver has filed a formal complaint with the Federal Attorney General's Office and with the Human Rights Commission of the State of Nuevo Leon (*Comisión Estatal de Derechos Humanos de Nuevo León*), but none of the officers involved have been investigated or sanctioned.

Conclusions and Recommendations

As has been described in this report, past governments have taken steps to reform Mexico's police and develop a new model for policing as a way to establish more effective police forces. There have been some positive developments in the areas of vetting and training. However, police reform is still very much a work in progress. The most significant challenge ahead is ensuring that corrupt and abusive officers are held accountable for their actions. As researcher Daniel Sabet notes:

> It is far easier to develop training programs and improve selection criteria than to reverse a long history of extortion and bribery.... Addressing corruption prior to addressing the comparatively easier reforms is perhaps unlikely to succeed in the face of rank and file and organized crime opposition. Nonetheless, these easier reforms will be insufficient to achieve an honest, professional force capable of confronting organized crime.[119]

These "easier" reforms are also incapable of reversing the Mexican police's dismal human rights record. The creation of laws and guidelines or providing human rights training for security forces are only effective if the police officer knows that abuses will be investigated and sanctioned. It is clear that functional, fully-resourced internal and external controls are necessary to combat both corruption and human rights abuses. Many such institutions already exist in Mexico, but they need to be strengthened and expanded in order to hold abusers responsible for their actions and ensure that police forces are effective in enforcing the law.

Certainly, corruption and abuse affect all of Mexico's police forces. Indeed, these problems are often more acute at the state and municipal level. However, this report has highlighted human rights violations by the Federal Police both because of their rapid expansion in recent years, and because the Mexican government has presented the Federal Police as an alternative to continued military deployment. Indeed, recent developments illustrate the evolving role of the Federal Police in areas affected by high levels of violence and criminal activity. In March 2014, the Federal Police assumed control over all policing functions in Chilpancingo, the capital city of Guerrero, [120] and they have recently been deployed, along with the military, in parts of turbulent Michoacán and, more recently, the State of Mexico.[121]

The deployment of the Federal Police, whether to substitute local police who are believed to be corrupt, to take over the role currently being assumed by the Mexican military, or to complement the military's efforts, may be effective in addressing security concerns in the short-term. But, as this report has demonstrated, the Federal Police's record is far from spotless, and much still needs to be done in order to have an effective, rights-respecting institution.

The Peña Nieto administration has the opportunity to turn the page on human rights violations by Mexican police and focus on measures to hold Mexico's security forces accountable for their actions. The failure to do so will perpetuate a vicious pattern of police abuse and a climate of mistrust between the police and the population. If it can create strong, rights-respecting institutions that are able to prevent and combat crime with the trust of the citizenry, the Peña Nieto administration can also help reverse the pernicious trend of militarizing public security.

What follows is a series of recommendations for strengthening police reform in Mexico, particularly in the area of accountability. The recommendations address the Federal Police and programs established at the national level to support public security efforts in the states and municipalities.

1. **CERTIFY THE POLICE FORCES, NOT JUST POLICE OFFICERS.** It is not enough to certify individuals; corrupt and abusive practices are fomented within the police force itself. For example, Mexican researchers Elena Azaola and Miguel Ángel Ruiz conducted interviews with police officers from the Federal District who were imprisoned for the crime of kidnapping. Azaola and Ruiz found that many of the agents started to participate in these crimes because their superiors were also involved.[122] Evaluating police agencies through certification processes, such as the U.S.-based Commission on Accreditation for Law Enforcement Agencies (CALEA), would allow for the formal assessment of police institutions to ensure that they have adequate policing and operational procedures that are based on standards developed by law enforcement professionals.[123] CALEA has already certified Mexican municipal police forces, including Chihuahua City and Guadalajara. These forces met clear law enforcement standards in the areas of organization, management, administra-

"External controls are an important complement to Internal Affairs Units and other mechanisms for internal police discipline."

tion, law enforcement operations, and operational support. Such local experiences, among others, can serve as important examples for other police forces in Mexico.[124]

2. **CONTINUE TO REFORM THE CURRENT *CONTROL DE CONFIANZA* EVALUATION SYSTEM AND ENSURE THAT THIS EVALUATION COMPLEMENTS OTHER INTERNAL CONTROLS. ESTABLISH AND/OR STRENGTHEN INTERNAL AFFAIRS UNITS AND HONOR AND JUSTICE COMMISSIONS AT THE STATE AND MUNICIPAL LEVELS.** The new evaluation outline established by the National Evaluation and Certification Center, which focuses on the context in which an agent is operating and risk analysis, is one step to creating a more effective evaluation system. As it continues to review this vetting model, the government should also attend to other areas including increased training for evaluators; greater transparency in the process, both with officers, who are often not shown the results of their exam, and with civil society, which is not given reliable data about the evaluation process or its results; establishing clear guidelines for dismissing agents and monitoring them after they leave the force; and clearly defining specific areas within the police agencies in charge of deciding whether an agent is able to stay in their post or not.[125] Likewise, the government's efforts to vet agents during recruitment and at periodic intervals should be complemented by creating and strengthening Internal Affairs Units and Honor and Justice Commissions. The government should also make sure that these bodies have the human resources and budget necessary to carry out their ongoing work to investigate police misconduct and to sanction abusive and corrupt agents.

3. **ACCELERATE AND IMPROVE EFFORTS TO MAKE THE POLICE REGISTRY OPERATIONAL.** Evaluating individual police performance through the *control de confianza* exams and the work of Internal Affairs Units should help avoid the rehiring of unsuitable agents. However, this is only possible if the results of these evaluations and investigations are registered and made available to all police forces. The federal government should take steps to ensure that all police forces are entering police data, including the results of the *control de confianza* evaluation, into the Registry. Periodic audits of the Registry should also be carried out in order to assess whether the information is being updated and to ensure that all of the necessary information is included for each agent.[126]

4. **DRAW FROM SUCCESSFUL EXPERIENCES AT THE STATE AND LOCAL LEVELS.** There have been some important and innovative police reform initiatives at the state and municipal levels in Mexico. Such efforts are worth examining and adapting for other forces in Mexico. For instance, the Ministry of Citizen Security (*Secretaría de Seguridad Ciudadana*) in Querétaro has made significant advances in the area of police accountability. Apart from establishing clear guidelines for democratic police management, use of force, and internal discipline, the state created three complementary bodies for police accountability: the Commission for Police Standards (to review police protocols), the Honor and Justice Council, and the Commission of Police Careers. All three include participation of citizens from outside of the force. Another example worth examining is the Municipal Public Security Office of Chihuahua City (*Dirección de Seguridad Pública Municipal*), which between 1998 and 2009 developed effective external control mechanisms (particularly through a well-structured Citizen Participation Commission) and continues to receive CALEA certification.[127]

5. **CREATE STRONG EXTERNAL CONTROL MECHANISMS.** External controls are an important complement to Internal Affairs Units and other mechanisms for internal police discipline. Currently, the National Human Rights Commission is the principal external body with responsibility for oversight of the Federal Police. However, it does not have the authority to obligate police forces or other government agencies to fully comply with its recommendations. Moreover, it rarely makes full use of the tools currently at

its disposal, such as its power to investigate grave human rights violations. The CNDH should be strengthened and must become more adept at asserting its authority to the fullest extent. Additional mechanisms for external control of police forces also merit consideration. Drawing on examples from other countries, including cities in the United States, analysts at Insyde developed a proposal for an independent police auditor in Mexico. This auditor would serve as a third party that would analyze and verify that the investigations carried out by the Internal Affairs Unit are effective and fair. The auditor would have two key functions: audit the process of investigations carried out in areas such as use of force, misconduct, and deaths of detainees while in custody, and analyze specific cases of citizen complaints such as when a vehicle is crashed into during a police pursuit or retaliations by agents against an individual. In order to be successful, this auditor would need to be independent. It would also need to have a clearly defined role, sufficient funding, access to information, cooperation from police forces, and community participation, among other characteristics.[128]

In 2012, senators from across Mexico's political spectrum introduced a proposal for an auditor that drew heavily from proposals made by Insyde, but the proposal never reached a vote. In a meeting with civil society organizations in June 2013, Minister Osorio Chong stated that he supported the idea of creating an external auditor of the police. However, as was referenced previously, the National Security Commission opted for an internal Inspector General, rather than an independent oversight body. While such internal controls are of critical importance, they are not a substitute for an independent external body capable of reviewing police actions.[129]

In 2013, the city of Querétaro announced that it would partner with Insyde to create a police auditor. The implementation of this reform at the municipal level could provide a useful model for how the concept of a police auditor could best function in Mexico.[130]

6. **STRENGTHEN THE OVERSIGHT ROLE OF CITIZEN COUNCILS AND OBSERVATORIES.** Citizen participation can help improve the transparency and accountability of security forces. Effective citizen participation should go beyond presenting complaints and collaborating with the police to prevent crime to also include evaluation and monitoring of the police forces, such as in the development of police performance indicators.

7. **FULLY IMPLEMENT THE JUDICIAL REFORMS OF 2008.** Police forces do not function in isolation; they are part of a larger set of criminal justice institutions that also need to function well. A fully reformed criminal justice system would help ensure efficient investigations and adequate collection of evidence while respecting due process guarantees, increasing citizen trust, and leading to a greater willingness to report crimes and offer evidence.

8. **FULLY ESTABLISH A NATIONAL REGISTRY OF DETAINEES.** Many human rights abuses committed by police officers take place when individuals are first detained. Because of poor record-keeping, it is difficult to identify the officers who were responsible for the detainee at the moment of abuse. This lack of transparency is one factor that enables abuse during detentions. A national database to track detainees, with a protocol for immediately registering critical information such as the time and location of a detention and the names of the officers responsible for the detainee could help prevent abuses from occurring from the moment of detention. A fully operational database would also be important for family members who are looking for detained people and make clear the chain of custody over detained individuals.

Article 16 of the 2008 constitutional reforms to Mexico's judicial system called for the creation of a registry of detainees. More specifically, Articles 112-116 General Law of the National Public Security System, which went into effect in 2009, further specified this concept, establishing the Administrative Registry of Detentions (*Registro Administrativo de Detenciones*) and stating that the police agents who carry out detentions should report the detention to the National Information Center.[131] This administrative registry is in place, and in 2010 the PGR established its own Detainee Registration System (*Sistema de Registro de Detenidos*, SIRED) that specifically requires that federal investigative police immediately register into the system any individual that they detain.[132] In its November 2010 ruling against the Government of Mexico, in the case of the environmental activists Rodolfo Montiel

and Teodoro Cabrera, the Inter-American Court of Human Rights also determined that the Mexican government must adopt measures to strengthen the functioning and use of the Administrative Registry, including its constant updating, the interconnectivity of this database to other databases (so that it is easy to know the whereabouts of detainees regardless of which agency detained them), that it guarantee both the respect of public access to information as well as privacy, and that it implement a control mechanism to ensure that state agents comply with their duty to update the registry.[133] More than three years later, the Administrative Registry of Detentions still needs to be strengthened and connected to existing databases in the terms ordered by the Inter-American Court.

9. **PROVIDE MORE TRANSPARENCY AND OVERSIGHT OVER SUBSIDIES.** The federal government provides significant subsidies for police reform efforts at the municipal and state levels. However, these funds are often not allocated in a timely manner. As a result, states and municipalities are not always able to spend all of the funds provided. Indicators should be developed to ensure that the funds are being used as designated, that they are directed towards improving police accountability, and that they are leading to improvements in the program areas specified as priorities. The public should also have access to information regarding these subsidies, how the funds are being spent, and, in the case of SUBSEMUN, how municipalities are chosen to receive the funds.

10. **RESPECT THE RIGHTS OF THE POLICE OFFICERS.** Many police agents, especially at the state and municipal levels, have no job stability, few benefits, and little public recognition for their work. They often serve in institutions that lack clear guidelines for merit-based promotions. In its questionnaire of 950 Mexican state level police agents in 19 states, *Causa en Común* found that one in three agents reported earning less than US$500 dollars a month. In its monitoring of human rights violations by security forces in the Mountain region of Guerrero between 2007 and 2011, the Civilian Police Monitor found that eight percent of the complaints were by the police themselves, mostly for violations of labor rights. Just as police should be sanctioned for wrongdoings, so too should they be recognized for doing a good job. Police agents' morale and their cooperation are key elements to effective reform processes; police forces should ensure that officers are given an adequate salary, good benefits, and clear possibilities for promotion.

Recommendations for U.S. Policing Assistance to Mexico

From fiscal years 2008 to 2013, the United States appropriated over US$2.1 billion in security assistance for Mexico through the Merida Initiative. As of February 2014, over US$1.2 billion of these funds had been delivered to Mexico in the form of equipment, training, and technical assistance, primarily to combat organized crime, as well as funding for programs to support violence prevention, the rule of law, and human rights.[134] As of May 2013, the United States had provided training courses for over 19,000 Mexican law enforcement officials.[135] Some of this training has been in the area of human rights, such as a "master's program for Federal Police and a range of training videos and manuals focused on human rights, particularly during criminal investigation."[136] As was mentioned previously, the United States has provided US$8 million in training and equipment to support the *control de confianza* vetting program.

Because of the significant proportion of Merida Initiative funds that have been allocated to better train and equip Mexico's Federal Police, the United States has a vested interest in working with the Mexican government to ensure that this force, as well as other forces receiving U.S. support, is not undermined by corruption and a poor human rights record. Equipment and hardware may lead to more tactical victories, but they will do little to combat the weaknesses in Mexico's institutions that have allowed organized crime to flourish and that are also at the root of human rights violations. Providing more human rights training to Mexican police forces will also be of little use if the agents do not believe they will be investigated and sanctioned for wrongdoing.

As the United States works with the Mexican government to determine how to allocate the remaining US$900 million that have been appropriated for the Merida Initiative, as well as additional funds allocated for FY2014 and requested for FY2015, the following should be taken into account:

1. **PRIORITIZE STRENGTHENING ACCOUNTABILITY MECHANISMS FOR MEXICO'S POLICE AT ALL LEVELS.** As the United States develops programs with the Mexican government, addressing internal and external controls over Mexican police forces should be a priority. This could include additional support for internal affairs units, reforms to the vetting system, additional support for the Police Registry, and support to ensure that a national registry of detainees becomes fully operational.

2. **USE THE LEVERAGE PROVIDED BY THE HUMAN RIGHTS REQUIREMENTS IN THE MERIDA INITIATIVE.** In its 2013 Human Rights Report on Mexico, the State Department pointed to "significant human-rights related problems" which included "police and military involvement in serious abuses, including unlawful killings, physical abuse, torture, and disappearances." The report went on to say that "widespread impunity and corruption remained serious problems, particularly at the state and local levels, in the security forces, and in the judicial sector."[137] The State Department should reflect these same concerns in its next report to Congress assessing the human rights requirements in the Merida Initiative. The State Department should also withhold the conditioned funds if they determine that the conditions have not been met. In public statements and meetings with Mexican counterparts, U.S. officials should emphasize that addressing human rights abuses by Mexican police forces are a priority for the U.S. government. In particular, U.S. officials should request detailed information from Mexican government officials about the steps that the Mexican government is taking to investigate and prosecute Mexican police officers who have been implicated in human rights abuses.

Notes

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87 This table was revised in June 2014 to correct a typographical error (the title originally read "2105" rather than "2015") and to include updated numbers for FY2013 and FY2014, based on Clare Seelke and Kristin Finklea, *U.S.-Mexican Security Cooperation: The Mérida Initiative and Beyond, Congressional Research Service,* April 8, 2014, accessed June 20, 2014, http://www.fas.org/sgp/crs/row/R41349.pdf.

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111 This sentence was revised in June 2014 to correct an error. The sentence previously stated that the Saltillo shelter was part of the Documentation Network of Organizations that Defend Migrants. It is not a member of that network and the current text reflects that.

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