

# Rescuing Police Reform:

## A Challenge for the New Guatemalan Government

Written by:

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January 2000



**WOLA**

Washington Office on Latin America

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## EXECUTIVE SUMMARY

The creation of a new National Civilian Police (*Policía Nacional Civil*, or PNC) is a crucial component of Guatemala's effort to move from an era of exclusion, repression, and conflict to the consolidation of a functioning democratic society. In the three years since the December 1996 signing of the Guatemalan peace accords, important advances have been made in building a revamped, 20,000-strong, civilian-led police. Faced with widespread crime and violence, the Guatemalan government has placed a major emphasis on deploying the new force as quickly as possible. This approach, however, has given rise to problems that call into question the quality of the PNC and its supposedly "new" and reformed nature.

These efforts are taking place within an extremely difficult social, economic and political environment. Income distribution in Guatemala is highly skewed. The indigenous majority is largely marginalized. The country is emerging from decades of violent political repression carried out by the security forces of military-controlled governments. Organized and common crime have risen significantly over the last few years, increasing pressure on the government to move quickly to improve citizen security. The justice system is almost non-functional. This authoritarian legacy and a lack

of confidence in the police and courts is reflected in the popularity of private and punitive solutions to crime, including a recent wave of lynchings.

The government of President Alvaro Arzú moved quickly to restructure and strengthen the Guatemalan police, starting even before the peace accords were signed, and continuing after the "Accord on the Strengthening of Civil Power and the Role of the Army in a Democratic Society" took effect in December 1996. The government has passed new legislation, doubled police salaries, retrained previous National Police (*Policía Nacional*, or PN) and Treasury Guard (*Guardia de Hacienda*) members, recruited and trained new PNC agents, and purchased vehicles, weapons and communications equipment. With limited international financial support for this process, significant national resources have been invested. An expanded, better paid, and better trained National Civilian Police now has at least a minimal presence in every one of the country's 22 departments. By October 1999, a force of 17,339 members of the PNC had been deployed, of whom 36.53 percent were new recruits.<sup>1</sup> The gains made by the PNC are significant, especially when compared to the corruption and inefficiency of its predecessor, the National Police. The new force is imbued with a more service-oriented spirit and has been well re-

ceived by the general population. Furthermore, the PNC appears to be at least somewhat more effective than their predecessors; arrests are up, and violent deaths and kidnappings for ransom are down.

Despite these advances, police reform in Guatemala remains a deeply flawed process that will require much greater attention and political will from the incoming Guatemalan government and closer monitoring by the international community. The Arzú government, in its efforts to provide an immediate response to the country's serious security problems, took shortcuts that may contribute to long term problems with discipline, corruption, brutality, and criminality within the force. The reform process has been marked by serious deficiencies in recruitment, selection, training, leadership, and internal discipline. In short, rapid deployment has taken precedence over deeper measures needed to ensure the long-term quality, professionalism, and efficacy of the PNC. Problem areas, pointed out in previous WOLA reports, include:

**Composition of the police:** The first and most critical decision made by the Guatemalan government regarding police reform—and one accepted by the guerrillas at the negotiating table—was to incorporate most of the old National Police and Treasury Guard into the new PNC. This policy has facilitated a rapid increase in force numbers, and avoided the need for wholesale dismissals. On the other hand, it meant that all initial members of the PNC were

agents and officers from previous security forces infamous for their corruption, abuse and incompetence. Newly incorporated police will eventually make up a majority of the force, but the officer corps will consist of personnel drawn mainly from the old forces. Selection and screening of former police applying to recycling courses has been lax. Of PN members wishing to enter the new force, only those who fail twice to pass the entrance exam are excluded—and even then they may be able to apply to be prison guards or be given administrative positions.

**Recruitment and selection:** Recruitment of new civilians for the PNC, despite repeated urgings by the United Nations Verification Mission in Guatemala (*Misión de Verificación de las Naciones Unidas en Guatemala*, or MINUGUA), remains extremely weak, with little publicity given to Academy course openings. Without an adequate pool of applicants (international standards suggest at least five competitors for each opening), no meaningful selection process can take place. Indeed, when there have been few applicants, entry standards have been lowered to fill the available slots.

The government has not taken measures to ensure that the PNC reflects the country's diversity in terms of language and ethnicity, as required by the accords. In contrast to El Salvador, where deliberate efforts were made to ensure political balance through the incorporation of ex-guerrillas as well as recruitment campaigns targeted at students and other civilians, there is almost no systematic effort in Guate-

mala to recruit outside of traditional circles. Academy openings are advertised mainly in the PNC newsletter and through the offices of the departmental governors.

The selection process has now been decentralized and there have been limited improvements in logistics, but the Selection Board (*Junta Evaluadora*) remains understaffed and disorganized. Furthermore, entrance exams currently favor recruits with less education due to the use of separate examinations for those with different levels of education.

**Education and training:** The peace accord requirement that the members of the PNC be given six-months basic training in a Police Academy is a significant improvement over past practice, when police typically received almost no training whatsoever. Unfortunately, training requirements were pared back to speed up the deployment process. The Arzú government decided that “recycled” police from previous security forces would only be retrained for three months and some specialized units received even shorter periods of training. Three months retraining is patently insufficient to inculcate new values and adequate skills in police accustomed to operating within past corrupt and repressive forces.

The poor quality and teaching skills of Academy instructors is another concern. Members of the Spanish Civil Guard (*Guardia Civil Española*, or GCE) provided most initial instruction. National instructors have now largely

replaced them. But despite efforts to improve instruction, the overall quality and effectiveness of Academy training remains in doubt.

**Leadership:** Initially, the entire PNC officer corps consisted of recycled officers from the former National Police and Treasury Guard, who received just three months retraining. Poor quality leadership has been one of the principal complaints of all international donors interviewed for this report, and one of the major problems facing the “new” PNC. Old-guard leaders make it extremely difficult to forge a new doctrine and institutional culture and to weed out elements inappropriate to a professional, democratic police force.

The only solutions to this problem to date are measures to allow accelerated training for promotions, to allow new officers to move up more quickly through the ranks. There have also been two attempts to recruit civilians for courses for low-ranking officers, but the Interior Ministry’s failure to promote or publicize these offers has led to the canceling of both courses.

**Internal and external controls:** The PNC was created with a set of complex internal disciplinary regulations, which places all responsibility for controls with officers in the PNC chain of command. Few officers or agents know or understand the regulations.

Officers can call upon the Office of Professional Responsibility (*Oficina de*

*Responsibilidad Profesional*, or ORP) to investigate possible corruption, administrative irregularities, or crimes committed by subordinates. (If the preliminary investigations point to criminal conduct, the case is passed on to the Public Ministry, the body legally entrusted with directing all criminal investigations, but notoriously ineffective in this role.) The ORP is not structured to initiate its own investigations or to take complaints from the public. Furthermore, it has half the staff needed and is concentrated in the capital city. According to most observers, it has performed poorly.

There are almost no other controls over the PNC. There is no Inspector General, and although Guatemala does have a Human Rights Ombudsman (*Procurador para la Defensa de los Derechos Humanos*), the role of this office vis-à-vis police conduct has been negligible. MINUGUA verifies complaints of human rights abuses or other accord violations, but the government has frequently been unresponsive to its reports and recommendations. Moreover, the UN Mission is a temporary one. In short, a police force made up largely of recycled elements of dubious quality and ethics has a system of controls grossly inadequate to the task of preventing and punishing corrupt, abusive, and unlawful conduct.

**Conduct:** Early reports on the PNC focused on their positive reception in the communities and their new service-oriented spirit. In recent months, however, there has been growing con-

cern with police abuse. Members of the PNC riot police—known as Special Police Forces (*Fuerzas Especiales de Policía*, or FEP)—mutinied in April 1999 and the unit was dissolved. Also of grave concern, MINUGUA has verified six cases of torture by PNC members during 1999.

**Criminal investigations:** The Criminal Investigations Service (*Servicio de Investigación Criminal*, or SIC) has primary responsibility for criminal investigations, under the direction of prosecutors from the Public Ministry. The SIC currently includes some 500 investigators, roughly one-third of those needed. Of these, only about a hundred have previous investigative experience. So far, 150 have taken the new basic investigator course organized by the U.S. International Criminal Investigative Training Assistance Program (ICITAP). At the current rate, it will take seven years to field an adequately trained investigations unit. Moreover, the country's prosecutors are not prepared to adequately direct criminal investigations. Without an overhaul of the Public Ministry, there is little potential for the SIC to be an effective force.

The recruitment and selection problems that plague the police as a whole are especially serious in the SIC. Personnel have not been adequately screened, nor selected according to their analytical skills or investigative vocation. Recent denunciations of torture have focused on this unit.



**Building a multiethnic police force:** The peace accords commit the Guatemalan government to building a PNC that reflects the “multiethnic and pluricultural character of Guatemala in recruitment, selection, training, and deployment of police personnel.” With the sole exception of a MINUGUA-supported pilot project in the Ixil region, little effort has been made in this regard. Inappropriate selection tests, discriminatory height requirements, and high costs related to medical tests present difficult barriers to indigenous aspirants to the police profession. Within the Police Academy there is no special support for often-disadvantaged indigenous recruits, which leads to high dropout rates, and credit is not given for the mastery of indigenous languages.

**The role of the military in internal security:** The peace accords are specific in giving the civilian PNC authority for maintaining internal security, and limiting the role of the military to external defense. Nonetheless, in order to confront the country’s serious crime problem, the Arzú government made ample use of military personnel in ‘joint patrols’ with the police. More disturbingly, it has yet to set up a civilian intelligence capacity (as required under the accords), turning instead to the unregulated use of military intelligence to help investigate kidnappings and other high profile crimes. Former military members of an infamous presidential intelligence unit (the *Estado Mayor Presidencial*, or EMP) were also allowed to enroll in a course for junior officers at the Police Academy.

The Constitutional reforms that would have consolidated the separation of police and military functions were repeatedly delayed, then defeated in May 1999 in a nation-wide referendum held on 50 proposed reforms. Thus the Guatemalan military continues to have the Constitutional authority to be involved in internal security, and the future division of roles remains unclear. The ability of civilian authorities to investigate and prosecute members of the military for human rights abuse, drug trafficking or other illegal conduct remains extremely weak.

**International cooperation:** The international community is playing a limited role in supporting police reform in Guatemala. The central player is the Spanish Civil Guard which provided initial advice and training, and is now implementing a 4-year, \$32 million (at late 1999 rates) PNC development project funded by the European Union (EU). The only other significant donors are the US, which provides training—worth approximately \$11 million over four years—in criminal investigations and support in training instructors through the U.S. International Criminal Investigative Training Assistance Program (ICITAP); and MINUGUA, which verifies compliance with the peace accords, gives human rights courses at the Academy, and implements small institutional strengthening projects funded by bilateral donors. Most costs associated with force expansion and deployment, salary increases, the PNC Academy, and additional vehicles and equipment have come from Guatemalan government funds. (By way of comparison, the Guatema-

lan government's costs for the project carried out with the European Union amount to \$103 million.)

International oversight of the police reform process has been weak, and coordination between the donors poor. MINUGUA has brought important problems to the attention of the government and the international community, but the US and the European Union have not conditioned further assistance on the government's responsiveness to these concerns. They appear to believe that—given the dismal state of the Guatemalan police when the reform process began—it is too much to ask the country to conform to international standards of democratic policing or to fully comply with the peace accords. Moreover, without leadership by international policymakers, technical assistance programs such as those of ICITAP and the GCE tend to be wary of intervening in the more political aspects of police reform, leaving the political direction of the process in the hands of national authorities.

**Role of civil society:** Decades of militarization and repression have left a strong mark on Guatemala's social fabric. The military is feared, but it is also respected as a strong and effective institution. Given the traditional weakness and corruption of police, prosecutors and the courts, Guatemalan citizens are used to taking the law into their own hands. Many support strong-arm measures to control delinquency. The public call for stronger measures against crime has been an important factor in

the government's political decision to focus on rapid deployment at the expense of other police reform measures.

However, Guatemala has a small but vocal grouping of civil society organizations, which supports the creation of an independent, effective, professional PNC as vital for the country's future. These groups are concerned in particular with strengthening criminal investigations, controlling police abuse, and limiting the role of the military. Over the last few years, a handful of organizations have monitored the creation of the PNC and have attempted to speak out on issues of concern. However, the capacity of these groups to conduct effective research, advocacy and public education—as well as the willingness of public authorities to listen to and address their concerns—is still very limited, and their political weight less than that of organizations demanding more repressive responses.

## **Conclusions**

The peace accords provided a unique opportunity for Guatemala to fundamentally redefine its policing institutions. The Arzú government made advances in creating and deploying a unified National Civilian Police, far better trained and paid than its predecessors. But the government's approach, focusing on the numbers of police trained and rapid deployment rather than on what it will take to build a credible and respected force for the long haul, undermined the future prospects of the PNC and

sidestepped much of the intent of the accords. Continuing problems in selection, training, and controls are compromising the effectiveness, human rights performance, internal discipline, and accountability of the PNC. The Arzú government responded to criticisms on these grounds by pointing to its success in rapidly training a large number of new police and to their effectiveness in fighting crime. However, even on the government's own terms, the results are decidedly mixed. Government statistics show that crimes against persons are down; but robberies, burglaries, and crimes against property are up. Arrests have risen dramatically, but it is unclear whether these arrests are well founded and lead to successful prosecutions. Only time will tell if a more active and widely deployed force is successfully tackling crime while respecting the rights of citizens.

Overall, the Guatemalan government appears to have approached police reform more as a short-term political challenge—responding to the strong public concerns about violent crime—rather than as a long-term, institution-building effort that is crucial to the consolidation of democracy in Guatemala.

### **Recommendations**

The new Guatemalan government faces the major challenge of turning the PNC into an institution that is truly different from its predecessors, one that shows a real commitment to professionalism, efficacy, and respect for human rights.

### **The incoming government should:**

#### *General*

- Review closely and implement the recommendations of the Historical Clarification Commission (*Comisión para el Esclarecimiento Histórico*—CEH) regarding the role of the armed forces (V.2) and public security (V.3), noting particularly Art. 78:

“That, in case the [constitutional] reforms proposed in the Peace Accords are unsuccessful, Congress take the necessary legislative action to separate the functions of the Army and of the Police, limiting the participation of the Army in the field of public security to an absolute minimum.”<sup>2</sup>

#### *Recruitment and selection*

- Develop a massive police recruitment program, through the media and presentations in schools and communities, targeted in particular at qualified indigenous and women.
- Revise the selection process for new recruits to include 1) the use of just one examination for all applicants regardless of education levels, 2) the elimination of discriminatory height requirements, and 3) procedures to minimize application costs to the aspiring recruit.

- Remove all current agents and officers who entered recycling courses irregularly, permitting them to apply to the PNC as new recruits and receive the full six months training.
- Develop a plan for the recruitment and training of civilians for the PNC senior office corps, and make top-level positions accessible to highly qualified civilians.
- Establish retraining and retirement programs for members of the old security forces who are unable to meet requirements for the new PNC, and exclude their participation in public security functions.

### ***Training***

- Provide another three months of Academy training for those already recycled, and extend the length of all remaining recycling courses to six months.
  - Develop field training and continuing education programs for agents and officers.
  - Improve quality and training of Academy instructors, including through the use of international instructors; training or retraining of national instructors; and collaborative efforts with Guatemalan public and private universities.
- Reform curricula and educational materials used at the Police Academy to make them more accessible to students, and more adapted to the Guatemalan cultural reality.
  - Provide supplementary tutoring and support to indigenous students at the Academy.
  - Affirm the central importance of human rights training and practice, and ensure effective instruction in the use of the PNC disciplinary code.

### ***Internal and external controls***

- Revise the disciplinary regulations to make them easier to understand and use, create an effective internal affairs division, and establish easily accessible mechanisms to receive complaints from the public and from within the force.
- Maintain and publish detailed records on complaints and investigations of police conduct, the findings thereof, and administrative sanctions undertaken.
- Establish a PNC Inspector General with sufficient investigative resources to evaluate the performance of the new internal affairs unit, the conduct of the PNC officer corps, as well as routine disciplinary procedures conducted by the PNC command hierarchy.

***Removal of military from public security functions***

- Ensure that the role of the military is limited to external defense. Where exceptional circumstances necessitate military support for police, this should be for a limited and specified time, clearly under civilian control, and not involve investigations or intelligence gathering.
- Disband the Presidential General Staff (EMP) and any other military intelligence unit involved in investigating crime, and create a transparent civilian intelligence body within the Ministry of the Interior to conduct intelligence necessary for tracking and combating criminal activity, as laid down in the peace accords.

**The international community should:**

- Consider providing new or additional technical and financial support to the PNC, particularly in the areas outlined in this report.
- Play a more active role in monitoring and evaluating the Guatemalan police reform process, especially in relation to international standards for transparency, accountability, minimum use of force, effective internal controls, and respect for human rights.

- Contribute to public education efforts regarding the differences between police and military functions, and support civilians and government officials in learning about reform processes in other countries.
- Link continued funding to full compliance with the relevant provisions of the peace accords, particularly in relation to length of training, the “aptness” of those selected for the PNC, promotion of indigenous participation, the role of the military, and meeting minimum international standards.
- Donors should coordinate their programs closely with MINUGUA and use the Mission’s evaluation of progress in police reform as a basis for making funding determinations in this area.
- Donors should support accelerated training programs for PNC leadership—particularly civilian leaders—and Academy instructors (both current and newly recruited), including through offering international training opportunities.
- The US Department of State and the European Union should conduct evaluations of the effectiveness of their technical assistance programs for the PNC, especially given ongoing problems in recruitment, selection, and training.

## CHAPTER 1: INTRODUCTION

**P**olice reform is vitally important to the construction of democracy and the rule of law in Guatemala. It is a central component of the process of demilitarization, and is also necessary to ensure the effective investigation and prosecution of common and organized crime as well as human rights abuses. Internal security reform is needed to restore the faith of Guatemalans in their criminal justice system and in their government's commitment to defending their security and basic civil and political rights. A more effective and professional police is also urgently needed to help control the crime wave sweeping the country, and to ensure the arrest and conviction of those found to be involved in illegal activities.

The United Nations, the United States government and the European Union are playing key roles in the Guatemalan police reform process. As contributors to this effort, they will be identified with the results, and more importantly, their technical assistance and financial leverage can help to promote and deepen the still partial reform process. This report seeks to identify progress in Guatemala's police reform as well as flaws and problems so that the incoming Guatemalan government, international donors and other supporters can take the measures necessary to advance this crucial effort.

Chapter 2 places police reform in Guatemala in the context of the country's recent history and the current public security situation; and seeks to draw out lessons from similar police reform efforts in El Salvador, Nicaragua, and Haiti.

Chapter 3 highlights the commitments to police reform laid out in the peace accords—particularly the “Accord on Strengthening Civil Power and on the Role of the Army in a Democratic Society”—and describes and assesses the steps taken to date by the government to comply with those commitments.

Chapter 4 examines the creation and deployment of the PNC, including the decision to recycle members of the former forces; and assesses advances and obstacles in recruitment and selection, indigenous participation, the work of the Police Academy, and deployment of the PNC.

Chapter 5 assesses the conduct and effectiveness of the PNC with particular emphasis on internal control mechanisms, criminal investigations, the activities and behavior of the new force and their success in tackling crime.

Chapter 6 focuses on the critical issue of leadership in the creation of a professional civilian police force.

Chapter 7 looks at the role of the international community and Guatemalan civil so-

ciety in providing external support for police reform in Guatemala.

Finally, conclusions and recommendations for the incoming Guatemalan government and the international community are presented.

## CHAPTER 2: THE CONTEXT OF GUATEMALAN POLICE REFORM

Guatemala is emerging from a thirty-six-year-long armed conflict in which over 200,000 people were killed or disappeared as a result of political violence. The Commission for Historical Clarification (CEH) set up under the peace accords attributed 93 percent of rights violations to government forces and related paramilitary groups.<sup>3</sup> Guatemalan police forces played a significant role in state repression. The CEH report states that:

[T]he National Police and the Treasury [Guard], two important state security forces, also committed numerous and grave human rights violations during the armed confrontation. Beginning in the mid-1960s, these forces were subordinated to Army control, a situation that was maintained throughout the confrontation.<sup>4</sup>

In the ten months between the publication of the CEH report and the end of the Arzú government's term, the Guatemalan government did little to implement the Commission's recommendations. Almost all the human rights violations remain unpunished and the victims uncompensated. Those few cases that have been brought before the courts remain mired in long proceedings or have resulted in dubious acquittals. This tragic recent history contributes to the extremely low levels of public confidence in the

police and the justice system. It also puts the onus on the government to demonstrate that the new National Civilian Police (PNC) truly represents a break from the past and that the justice system has the will and capacity to confront the scourge of impunity.

When President Alvaro Arzú took office in January 1996 the National Police (*Policía Nacional*, or PN) numbered somewhat over 12,000 personnel and the Treasury Guard close to 3,000. The numbers of the Mobile Military Police (*Policía Militar Ambulante*, or PMA)—some of whose personnel were rented out to private businesses and landowners—were never made public. The PN was officially a civilian institution but with a high degree of military influence and infiltration. The force was infamous for its corruption, ineptness, and violations of human rights. Most members of the force had received little or no training; some agents were illiterate. Salaries were miserable. The number of administrative positions was inflated, and many of the agents were assigned to guard functionaries or particular buildings rather than patrolling or investigating crime. Many of the agents and officers had purchased their positions and were required to provide monthly kickbacks to their superiors, a practice that in effect obliged them to engage in extortion to raise the necessary resources. In the words of one foreign police officer with experience in Guatemala, "The National Police was



a total disaster. The population was terrified of them and with good reason.”<sup>5</sup>

By the time that President Arzú came into office, several attempts by previous civilian governments to reform the police had already failed. Particularly noteworthy was the removal of a reform-minded Minister of the Interior in early 1994, and his replacement by military intelligence officer Col. Mario Alfredo Merida, after the police began investigating and publicly arresting military officers for such crimes as car-stealing and drug trafficking.<sup>6</sup> On the other side of the equation was a very precarious public security situation.

### **The Public Security Situation in Guatemala**

The social context for police reform in Guatemala is not propitious. Income and land distribution are highly skewed, and eighty percent of Guatemala’s people live in poverty. The country’s indigenous people—who represent about half the population but 83 percent of the victims of the armed conflict—have long been excluded both politically and economically and lag far behind non-indigenous in all health, education, housing, and other social indicators. The provision of state social services is grossly deficient, in part due to the country having one of the lowest ratios of taxes raised (as a proportion of gross domestic product) in the hemisphere. Over 30 percent of the population are illiterate. Many indigenous persons speak no Spanish and cannot communicate with non-indigenous government employees.

The justice system is extremely weak, and nearly nonfunctional. Problems include widespread incompetence and corruption; insufficient planning and coordination; the poor professional quality of judges and prosecutors; the subversion of justice through bribery, threats, violence and intimidation; lack of access; poor investigations capacity; lack of coordination between the police and the Public Ministry; case overload; and insufficient resources.<sup>7</sup>

A decade of foreign donor involvement in justice reform has had many setbacks, but some important successes. The U.S. Agency for International Development (USAID) supported reforms to the Criminal Procedures Code that moved the country from an inquisitorial system to one based on open, oral trials, and moved control of criminal investigations from the hands of judges to the Public Ministry. The United Nations Verification Mission in Guatemala (MINUGUA) has helped to establish a public defense system. Most recently, in 1998-99, the World Bank and the Inter-American Development Bank have initiated major justice reform projects.<sup>8</sup> In mid-1998, the Commission on Strengthening the Justice System, created under the peace accords, made numerous recommendations for reforms and a follow-up commission is pressing for their implementation.<sup>9</sup> A coordinating body—the *Instancia Coordinadora para la Modernización del Sector Justicia*—is attempting to bring together the heads of the police, the Public Ministry and the Judiciary to develop strategies for coordination

and reform.<sup>10</sup> Nonetheless, there is general agreement that reform of Guatemala's justice system will be a difficult and drawn-out process.

One of the most difficult problems of justice reform in Guatemala is the abysmal state of criminal investigations. According to the 1992 Criminal Procedures Code, prosecutors from the Public Ministry direct the police in the conduct of all criminal investigations. To date, the Public Ministry has been singularly ineffective in this task. The vast majority of crimes are never investigated. In those few that are brought to trial, prosecutors are very frequently unable to put together an adequate case to convict, leading judges to order the release of the suspect. As a result, thousands of serious crimes go uninvestigated and unpunished. Slow and ineffective investigations also leave thousands of Guatemalans languishing in pre-trial detention, sometimes for years—74 percent of prisoners have not been convicted of a crime.<sup>11</sup>

Public confidence in the criminal justice system is understandably low. A wide-ranging 1997 survey found that 90 percent of those polled believed the Guatemalan justice system favored the rich and powerful. 80 percent had little or no confidence in the courts. In regards to the police, only 26 percent believed they defend the rights of Guatemalans while 40 percent felt they did only "sometimes."<sup>12</sup>

The public is increasingly frustrated at the state's inability to provide a minimal level

of public security. Crime rates are extremely high. Police statistics for 1998 show 3,282 homicides, as well as 25 cases of kidnapping for ransom, in a country of approximately 10 million people.<sup>13</sup> Guatemala's homicide rate of 33 per 100,000 people is five times the U.S. level.<sup>14</sup> In a poll on attitudes of Guatemalans toward democratic institutions, some 22 percent of respondents (47 percent in Guatemala City) revealed that they or a family member had been the victim of a violent crime in the previous twelve months.<sup>15</sup> Muggings on the street or in city buses, highway robbery, car theft, and residential burglary are common. Criminal gangs, many involving former police and military personnel, are organizing car thefts, drug trafficking and kidnappings. Crime control is the number one political issue for most Guatemalans. Some two million arms are in the hands of the civilian population, a situation that both reflects and contributes to the levels of violence.<sup>16</sup>

The combination of distrust in the justice system and uproar over crime has led to much finger-pointing over the state's failure to capture and convict lawbreakers. In many cases, this frustration has led to vigilante justice. The country's history of violent repression, in which those considered "suspicious" were simply killed or disappeared by anonymous death squads without any benefit of due process, has probably contributed to this phenomenon. The lack of police presence in large areas of the country and the reduction in military presence since the end of the armed conflict are also factors contributing to vigilantism. Many com-

munities have responded even to minor crimes by taking the law into their own hands and attacking and killing the alleged criminals. In recent years, this practice has reached alarming proportions. MINUGUA reports at least 167 lynchings, with 137 people killed and many more injured, between March 27, 1996 and December 31, 1998.<sup>17</sup>

However, Guatemala is not the first country to carry out a public security reform under such difficult conditions, and those leading this current effort are in the enviable position of being able to learn from the successes and failings of similar processes in Central America and the Caribbean.

### **Police Reform in Other Countries**

In Central America and Haiti, as in other post-conflict situations in recent years, police reform and redefining of the role of the armed forces have been critical components in the move from conflictive, repressive, and exclusive societies toward peace and reconciliation. Where police forces operated under military control, were implicated in serious human rights violations, and were viewed with mistrust and hostility by a significant part of the population, the creation of new professional, civilian police forces has been crucial to establishing social peace and consolidating democratic institutions. These transformations, however, have been complex, time-consuming, and often politically controversial.<sup>18</sup>

In El Salvador, a stalemated civil war laid the basis for a comprehensive peace accord that defined in detail agreements for restructuring and downsizing the armed forces and reframing its role and mission, dissolving repressive security forces, and creating a new National Civilian Police force. The Salvadoran PNC has confronted severe challenges including a massive crime wave that developed when the old security forces were partially demobilized and before the PNC was up to strength. Despite considerable efforts at screening and selection, some criminal and corrupt elements have entered the police. The government encountered particular difficulty in establishing adequate investigative capacity, as detective units have repeatedly been dismantled because of disciplinary problems. One lesson of that experience is to avoid at all cost the transfer of questionable units from old security forces into the new. The government was late to establish an internal control regime, and the system once in place proved cumbersome, but still has proved vital to keeping the force on track. While abuses have occurred, the force is more transparent than its predecessors, and police agents and officers have been prosecuted successfully for wrongdoing on a number of occasions.

In spite of the problems and obstacles in El Salvador, there have been important advances. A largely new police force was created with a distinct identity and organizational culture. Significant efforts were made to recruit broadly, and a large majority of the force is

made up of civilians with no prior involvement in the police, armed forces or guerrillas. All members of the force underwent the same training period—basic training was eight months—and have been treated roughly equally within the force, regardless of background. Civilians and former guerrillas were admitted directly to the most senior ranks of the police, along with former National Police, and all underwent a full year of training. Senior officials were required to have university degrees (or their equivalent), and mid-level officers needed at least three years of higher education. Admission to the “basic” ranks required a 9<sup>th</sup> grade education, later raised to 12<sup>th</sup> grade.

While not as effective in fighting crime as most Salvadorans would wish, the PNC has dealt courageously with an unprecedented wave of crime that would have overwhelmed its predecessors. And despite some efforts by individuals to politicize the force, the PNC has generally maintained its political neutrality. The future development of the PNC remains uncertain, but at a minimum, it has the potential to be more effective, accountable, and protective of individual rights than were its predecessors.

In Nicaragua, the absence of a comprehensive peace agreement meant that efforts to reform and depoliticize the army and police took place on an ad hoc basis and contributed to continued instability in the country during the 1990s. But international police specialists from the United Nations Development Programme (UNDP) and ICITAP, as well as western diplo-

mat, consistently observe that the Nicaraguan National Police (*Policia Nacional Nicaraguense*, or PNN) are remarkably efficient given their resource constraints. Violent crime rates are lower in Nicaragua than in either El Salvador or Guatemala, and the police have generally conducted themselves in a professional manner, despite their origins as a politically aligned revolutionary police. Strong leadership of the PNN, and an organizational culture of service to communities, help explain the relative effectiveness and limited corruption in the force. Also noteworthy is the strong participation of women in the Nicaraguan National Police.

In Haiti, following the U.S.-led intervention, a new police force, freshly recruited and trained, was formed ‘on the run’ and the armed forces dissolved. Police reform in Haiti has faced serious challenges arising from a wave of crime and drug trafficking, an abbreviated (four-month) period of training prior to deployment, significant abuses carried out by the new Haitian National Police, a still-dysfunctional judicial system and an overall political environment of deadlock and conflict. Nonetheless, Haiti’s police reform, supported substantially by the United States, is a relative success story within the country’s troubled restoration of democracy. In particular, good leadership by top police commanders, the early formation of a relatively effective internal affairs unit (*l’inspection générale*) and willingness by donors and Haitian authorities to revise training and provide ongoing remedial in-service train-

ing have been important components of Haiti's police reform.

A number of valuable lessons can be drawn from these experiences of carrying out far-reaching police reform efforts in post-conflict situations. Among the most important are: the need to recruit broadly to ensure the highest quality of new recruits; the crucial importance of bringing in new leadership with a commitment to democratic policing and not linked to

past abuses; the need for a sufficiently long and complete period of training to inculcate the necessary policing skills and values appropriate to a democratic force; the importance of strong internal control mechanisms to weed out 'bad apples' and prevent the development of corrupt and abusive practices; and the key role that the international community can play where there is close monitoring and support of the reform effort.

## CHAPTER 3: POLICE REFORM IN THE GUATEMALAN PEACE ACCORDS

The peace accords signed between the Arzú government and the *Unidad Revolucionaria Nacional Guatemalteca* (URNG) in December 1996 provided an important framework and window of opportunity

for bringing about long-overdue reforms to Guatemalan society. The accords laid the basis for ending the country's thirty-six year civil conflict and reincorporating the insurgents back into the political process. But they went sig-

### Public Security Reforms in the Guatemalan Peace Process

Specific measures in the peace accords address demilitarization, strengthening civilian policing, and increasing civil society involvement in the definition and oversight of security policies and practice. Among the most important commitments are :

#### *Commitments related to the Military:*

- A Constitutional reform to redefine the military role to defense of national territory and sovereignty, ending its current internal security function. (Art. 45)
- A one-third reduction in size and budget of the military. (Art. 63)
- Deployment of the armed forces in a manner consistent with their external defense mission. (Art. 35)
- Disbanding of the Mobile Military Police (*Policía Militar Ambulante, PMA*). (Art. 62)
- Limiting the role of military intelligence to those functions compatible with the new constitutional role of the armed forces. (Art. 47)

#### *Commitments related to internal security:*

- A Constitutional reform to establish the new National Civilian Police as the "only armed police entity with national jurisdiction," with responsibility for "guaranteeing personal rights and freedoms, preventing, investigating, and combating crime and maintaining public order and internal security." (Art. 23).
- The preparation of a new police organic law in accordance with the constitutional reforms and the commitments of the Accord (Art 24), and of a new Public Order Law in accordance with democratic principles and the strengthening of civil power. (Art 25)
- A plan for police and public security restructuring to be carried out with the aid of MINUGUA and the international community, taking into account international standards in this area. (Art 30). This would include, among other things:
  - An expansion in the number of police [from 12,000] to 20,000 and their deployment throughout the country by the end of 1999; (Art 30a)
  - A 50 percent increase in spending on public security as a percent of GNP, by the year 2000 over 1995 levels; (Art. 30f)

- The establishment of a police career path, in which the Academy will regulate entry, promotion, and specialization of police personnel in a way “that should guarantee objectivity in selection, equal opportunities among aspirants and the appropriateness of those selected to carry out their functions as professional police officers;” (Art. 28)
- The extensive professional preparation of the new police force at the Police Academy where they would be imbued with “a culture of peace, respect for human rights and democracy, and obedience to law.” (Art. 27) The Academy would be responsible for training new personnel at the level of agents, inspectors, subaltern officers, and senior officers, and for reeducating current personnel to be able to carry out their mission. Basic police training would be for a minimum of six months; (Arts. 28, 29) Measures to ensure that the PNC reflects the “multiethnic and pluricultural character of Guatemala in recruitment, selection, training, and deployment of police personnel;” (Art. 26c)
- The involvement of local communities in promoting the police career, proposing candidates, and supporting the agents posted to their towns; (Art. 30e)
- The creation of a Department of Civilian Intelligence and Analysis under the Ministry of Interior to combat organized and common crime; (Art. 48)
- The reform of presidential intelligence through the creation of a Presidential Secretariat of Strategic Analysis, which would be civilian and not be allowed to conduct its own covert investigations. (Art. 49)

*Oversight provisions:*

The accord also created new oversight mechanisms on state security functions to widen the involvement of civil society in the definition of security policy and to increase political oversight of the country’s intelligence apparatuses through:

- The formation of an Advisory Council on Security, selected by the president and representing the economic, social, professional, academic, ethnic, political, and cultural diversity of the country, to assess the priority risks confronting the country and make recommendations to the president. (Art. 20)
- The establishment of a Congressional committee to oversee the country’s three intelligence bodies, including the Directorate of Intelligence within the Ministry of Defense. (Arts. 52a, 49)

*Source: Accord on Strengthening Civil Power and on the Role of the Army in a Democratic Society.*

nificantly further in addressing key structural problems of the country: a pattern of pervasive human rights abuse committed by military and police forces, a failure to acknowledge or address the consequences of past rights abuse, discrimination against the country’s indigenous

majority, the low level of state spending on social services, and finally, the militarization of Guatemalan society and the very weak functioning of civilian institutions in the criminal justice system.

An initial human rights accord opened the door for the entry of a United Nations verification mission (MINUGUA) which has played a crucial role by providing immediate verification of the human rights situation in the country and, following the comprehensive peace agreement in December 1996, in monitoring overall compliance with the accords and contributing with technical assistance to their implementation. In addition, the parties agreed to the formation of an Historical Clarification Commission that issued its report in February 1999 on acts of violence committed by both sides during the conflict.

The socioeconomic agreement promised greater social spending on health, housing, education, and rural development, and the creation of a more equitable tax system. The "Accord on the Identity and Rights of Indigenous Peoples," pledged to recognize the multi-ethnic, multilingual, and pluricultural nature of the country, and bring about reforms that would end the discrimination against and exclusion of the country's indigenous majority. And finally, the "Accord on Strengthening Civil Power and on the Role of the Army in a Democratic Society," among many other measures, commits the government to the creation of a single National Civilian Police and the promotion of Constitutional amendments that would establish a clear separation between police and military roles.

The commitments of the civil-military accord are designed to strengthen democratic principles and the rule of law, and the restruc-

turing of public security policies and institutions plays a central role in this effort. The agreement also lays out a new security doctrine that moves beyond previous repressive approaches to consider the complex factors involved in public order. The section entitled "the Security Agenda" states:

[C]itizen security and state security are inseparable from the full exercise by citizens of their political, economic, social and cultural rights. Social and economic inequality, poverty and extreme poverty, social and political discrimination, and corruption, among other things, are risk factors for and a direct threat to democratic co-existence and social harmony, and thus also threaten constitutional democracy.

### **Police Reform Legislation Before and After the Peace Accords**

The process of legislating police reform in Guatemala has been and continues to be tortuous. The Arzú government actually initiated police reforms prior to the Peace Accords. In early 1996, Minister of the Interior Rodolfo Mendoza summarily dismissed 118 members of the police, including many commanders. He then invited the Spanish Civil Guard police (*Guardia Civil Española*, GCE) to provide advice and training, and announced that Guatemala would be adopting their policing model.



These steps were taken well before the "Accord on Civil-Military Power" was negotiated. Nevertheless, the December 1996 peace agreement gave a major impetus to police reform in Guatemala and continues to be a principal standard by which efforts to date must be judged.

Following the signing of the peace accords, the Arzú government moved forward with efforts to create the new PNC but with measures that had little connection with the recently signed accords. Less than two months after the December 1996 comprehensive peace agreement was signed, Congress passed the law creating the National Civilian Police (Decree 11-97 of February 8, 1997). The law had been drafted before the final negotiation and signing of the civil-military accord, and makes no reference to the provisions of that agreement. The law is problematic in a number of areas: it fails to specify the structure of the police; it does not clearly reflect the control that the Public Ministry legally has over police investigations; it makes no reference at all to the Police Academy (a key provision of the accord); and provisions on recruitment and selection criteria, and internal control mechanisms suffer serious deficiencies (these are dealt with in detail below). Given the Congressional majority held by the ruling *Partido de Avanzada Nacional* (PAN), Interior Minister Mendoza had little trouble pushing the law quickly through Congress. The Accompaniment Commission (a body set up under the accords to oversee and facilitate their implementation) only reviewed the law and

most of the regulations after human rights groups,<sup>19</sup> MINUGUA, and the URNG raised concerns. On July 24, 1997, the Commission recommended fourteen amendments to the President of Congress and the Ministry of the Interior to bring the law and regulations into compliance with the accord. The authorities have failed to implement these measures to date.

In addition to the police law, a number of regulations governing the police were issued very rapidly. By August 1997, the Executive had issued regulations covering PNC internal discipline, organization, postings, education, administrative situations, vacations, and the Police Academy. Despite its prompt action to establish the legal basis for forming and operating the PNC, the government frequently failed to follow the criteria and standards laid out in the peace accords.

The rest of the legislation called for in the accord has not moved forward. This includes the Public Order Law, which should regulate the temporary and exceptional use of the police and/or military in emergency situations. The Arzú government also failed to draft other key legislation including a law to establish the Department of Civilian Intelligence and Information Analysis within the Ministry of the Interior; secrecy legislation to regulate classification and declassification of sensitive information; and legislation to establish the congressional commission to oversee intelligence activities, including those of the Interior Ministry. Nor did the president issue the decree to

establish the Advisory Council on Security. Government officials explained the delay by the prior need for the Constitutional reforms, though in the case of the civilian intelligence and oversight organs, other political analysts believe these could move forward through ordinary legislation.

In contrast to this legislative limbo, presidential intelligence services—the Secretariat of Strategic Analysis (*Secretaría de Análisis Estratégico*, or SAE)—were legalized in reforms to the Executive Law passed in November, 1997.<sup>20</sup> The accords state that the presidential intelligence office will be “strictly civilian”, and “will have no authority to carry out its own undercover investigations.” However, the Executive Law has a different wording, stating that the SAE “will not have the authority to carry-out or participate in investigations for private parties, and will not act in any way to limit or obstruct the exercise of political rights and the free emission of thought.”<sup>21</sup> In practice, this has permitted the executive branch to continue to participate in criminal investigation and intelligence operations, with a total lack of transparency and oversight.

Despite the peace accords’ stipulations ending the military’s role in internal security, the Guatemalan armed forces have continued to perform interim policing functions during the process of the creation and deployment of the new PNC. Such transitional policing duties are frequently necessary in post-conflict settings to avoid an “interim security gap” between the

demobilization of military forces and deployment of a new civilian police force. In Guatemala, the Arzú government turned to the military in the face of public outcry over the country’s serious crime problem. The Guatemalan military is both conducting joint military-police patrols and has an ongoing role in criminal investigations. (These issues are discussed in more detail in Chapters 4 and 5.)

Finally, a major setback to police reform (and more broadly to the Guatemalan peace process) came in a national referendum on May 16, 1999, when voters rejected fifty proposed reforms to the Guatemalan Constitution. These included amendments to give constitutional stature to the PNC and to remove “internal security” functions from the hands of the military. Politically, those who wish to see a continuing role for the armed forces in internal security have been strengthened. Even prior to the constitutional referendum, some were proposing a broad interpretation of “defense of national sovereignty and territoriality” to include military involvement in combating contraband, fighting drug trafficking (a role pushed by the U.S. military), protection of the environment, and other police functions. Those who believe that Constitutional reform is necessary are challenged to find alternative routes to reform. For the moment, ordinary legislation, such as that which is supposed to establish the Department of Civilian Intelligence within the Interior Ministry, can continue to contribute to a functional separation of police and military roles.

### **Financing Public Security Reform**

The Guatemalan government has made significant investments in police reform. The Ministry of the Interior's share of the National Budget has more than doubled, rising from \$53.5 million (418 million Quetzales) in 1996, to \$71.4 million (Q557 million) in 1997, \$101.4 million (Q791 million) in 1998, and \$141 million (Q1,100 million) in 1999. Nevertheless, serious budgetary limitations remain. The doubling of police salaries, the expansion in numbers, costs of the Academy, infrastructure, vehicles, and other equipment associated with the deployment of large numbers of police are extremely expensive, both for start-up and ongoing fixed yearly costs. In the long-term, the peace accord commitment to raise public

security spending by 50 percent may not be sufficient to support the larger, better-equipped force. And significant advances in fiscal reform will be needed even to guarantee that the levels of spending agreed to in the accords can be honored.

Guatemala is also receiving international assistance at a significant level—though a far lower level than aid provided for police reform in El Salvador or Haiti. Original budget projections for a four-year period commencing in May 1998 reflected European Union assistance of US\$40.4 million, bilateral Spanish aid of US\$2.8 million, and Guatemala government expenditures of US\$103.5 million. (See Chapter 6 for further discussion of international assistance.)

## CHAPTER 4: THE CREATION AND DEPLOYMENT OF THE PNC

The challenge of police reform in Guatemala is to build a new force that is accepted and respected in the communities to which it is deployed, is effective in fighting crime, and carries out its work in a manner that respects and protects the rights of citizens. This institution must have well-selected and trained personnel, honest and effective leadership, and adequate mechanisms to remove abusive and corrupt personnel and prevent a return to the ways of the past. The Guatemalan government has made some progress—particularly in the number of police deployed—but in key respects the Arzú government's actions or omissions undermined long-term prospects for effectiveness and professionalism. This chapter examines the decision to build the new police on the back of the old by recycling personnel, serious deficiencies in recruitment and selection, training in the new police academy, and the deployment of the PNC.

### **Recycling Former Police**

The first and most important decision made by the Guatemalan government about the restructuring of the police—which was accepted by the URNG at the negotiating table—was to incorporate the bulk of the old National Police and Treasury Guard into the new PNC. This policy allowed a rapid increase in force numbers, and avoided the need for wholesale dismissals. On the other hand, it meant that the “new” PNC was initially composed entirely of agents and officers from old police forces infamous for their corruption, abuse and incompetence.

Selection and screening of former police applying to recycling courses has not been stringent. Human rights vetting of old police forces appears to have been minimal to non-existent. MINUGUA identified 13 human rights

### **Comparative Lessons in Police Reform**

Lessons from other nations that have undergone serious efforts at police reform point to the importance of (i) vetting to exclude corrupt or abusive persons from security forces; (ii) recruiting high quality civilian leadership for the new institutions and excluding (or at least limiting) the role of former military officers in command positions in the police; (iii) striking a balance between ensuring high educational standards to advance the professionalism of the new police while not excluding “minorities or indigenous people and aspiring candidates from poorer social strata with a strong commitment to the principle of democratic policing but with little formal education;” and (iv) the need to adapt recruitment standards to national realities.<sup>22</sup>

violators in the initial recycling course. There are also documented instances of the irregular entry of military personnel into recycling courses. Former military personnel who wish to join the PNC are free to do so, but as new recruits. Nevertheless, 180 ex-members of the Mobile Military Police entered a recycling course for basic agents (these individuals were first transferred into the Treasury Guard in an effort to justify their entry to the police). Even more serious, 40 ex-members of the military (including 22 ex-Sergeants of the notorious EMP), were incorporated into an officers course in 1998, and allowed to graduate and deploy despite vigorous MINUGUA protests. To date, both these groups remain in the PNC despite MINUGUA's protests over this clear violation of the peace accords.<sup>23</sup>

Another problem is the recycling of entire units, still largely intact, including the Criminal Investigations Service (SIC), Special Police Forces (FEP, which was originally recycled and later disbanded), and the Office of Professional Responsibility (ORP). Experience in both El Salvador and Haiti demonstrates that such transfers can result in units that continue to respond to their former authorities and operate outside the chain of command of the new police. Another risk is that they bring with them an institutional culture that is profoundly inimical to the principles of democratic and professional policing sought through reform processes.

The recycling process for PN agents to enter the new PNC raises serious concerns about

the lack of quality controls. Initial Spanish Civil Guard plans were for 90 percent of the previous police to be incorporated into the PNC. Even with modest selection requirements, including allowing all PN two attempts to pass entrance exams, this proved excessively optimistic. In October 1999, there were still 2,475 PN who had failed the exam or had not applied to the Academy. Many of these individuals may still be incorporated into public security forces. Among the options under consideration are giving them posts as prison guards or in administration.

International observers see improvements in the work of the evaluation/vetting body (*Junta Evaluadora*). The information it is now receiving may help prevent further admissions of inappropriate personnel. Problems with the scarce resources available to the nine-person body responsible for selection appear to be addressed through a MINUGUA support project that is aiding with information systems, more computers and equipment to correct psychological tests automatically.<sup>24</sup>

### **Civilian Recruitment and Selection**

In addition to recycling personnel from former police forces, the Guatemalan reform process is also undertaking significant recruitment from civilian sectors. Unfortunately, there have also been problems with this process that raise further concerns about the quality of police agents in the new PNC.

In post-conflict situations where pre-existing police have been corrupt, repressive, and feared by the population, recruitment for the new civilian, professional police must ensure that there is a sufficiently large pool of applicants from which to select, and that entry standards are adequate to guarantee quality recruits. In Haiti, following the restoration of President Aristide, 45,000 people applied to join the new force, 8,000 were tested, and only 750 recruits were accepted for the first two classes. While this high ratio of applicants to posts may be in part a reflection of the desperate lack of employment opportunities in Haiti, it also suggests the extent of efforts by the government and international donors to ensure that candidates selected for the police had relatively high levels of education and good skills. Similarly, in El Salvador the National Public Security Academy was successful enough in its recruiting efforts to be able to raise the minimum education required to 12<sup>th</sup> grade early in the creation of the new police.<sup>25</sup> Also in El Salvador, innovative methods of recruitment—such as ‘join a friend’ (*Acompaña al Amigo*) in the Academy, publicity at festivals and other events, and door-to-door publicity—have been used to broaden recruitment.

During 1997, the first year of operations of the PNC, there were serious problems with inadequate publicity for both recycling courses and basic training courses for new recruits, leading to a lack of quality applicants. With less than two applicants per slot on some courses or

too few applicants for the available slots, the government simply lowered entry standards to ensure that all slots were filled.

Two years later, recruitment efforts remain weak. The pay level (2,550 quetzales per month—about \$350—for basic agents) is respectable, so the main obstacle appears to be poor publicity about Police Academy openings. The Vice-Minister of the Interior told WOLA that the government has carried out “massive dissemination” of openings in the police through departmental governors, mayors, and police commissioners, the National Peace Fund (*Fondo Nacional para la Paz*, or FONAPAZ) and the Social Investment Fund (*Fondo de Inversión Social*, or FIS). He also stated that they are engaged in a public campaign of recruitment through “television spots and materials in five indigenous languages.” According to the Vice-Minister, these efforts led to 6,032 applications for the fourth basic course—four for each place.<sup>26</sup>

WOLA was unable to verify this information and international observers questioned its accuracy. Two locally based researchers who follow police issues cannot recall ever seeing Academy recruitment notices in the local press, except for one referring to the hiring of Academy instructors.<sup>27</sup> In early 1999, another civil society monitor stated that “to date [the government] has not made any call via the mass media, though in the report of activities of the [Interior] Ministry they indicate that they have

produced TV ads, radio spots and posters.”<sup>28</sup> Apparently, the Ministry of the Interior intended to place paid recruiting advertisements, but these efforts have collapsed due to disorganization and budgetary problems. One foreign police advisor noted, “Frankly, when push comes to shove, they would rather use the resources to buy vehicles than to pay the high costs of publicity.” MINUGUA reported in March 1999 that police recruitment had been affected by

“tardy, territorially incomplete, and weak dissemination of the call for the basic courses for new recruits. The processes of recruitment are not sufficiently planned, either in terms of time or in content, and the execution of recruitment announcements is inadequate.”<sup>29</sup>

Furthermore, the accord requirement that “through their representatives, communities will participate in the promotion of a police career and in suggesting candidates who meet the corresponding criteria” has been completely ignored (Art. 30, e.).

As far as WOLA could determine, almost all police recruitment is handled by posting notices in the police bulletin and through the departmental governors. The governors, in turn, to the extent that they give publicize the recruitment effort, largely depend on limited free airtime provided by community radio stations.<sup>30</sup> Moreover, since the president appoints

departmental governors, this approach brings risks of partisan influence and cronyism.

Government officials have explained the weak publicity and recruitment efforts as resulting from budgetary constraints, especially the high costs of media ads. Yet, as one international official pointed out, the international community would have been happy to assist with recruitment expenses had they been asked.<sup>31</sup>

### *Impediments to Applying to Join the Police*

A further impediment to large-scale police recruitment is the high cost of acquiring the necessary documentation and materials needed to apply for admission to the Academy. The basic requirements for admission are: to be a Guatemalan citizen, at least 1.60 meters in height for men and 1.55 meters for women, be in good health and without physical impediments, not be pregnant, and have completed 6<sup>th</sup> level of primary education (in 1999 this was raised to 9<sup>th</sup> grade).<sup>32</sup> In addition to meeting basic requirements, the applicant must pay to have lung, blood, urine, HIV and other tests taken, as well as for authenticated copies of police and crime records. A study by the *Instituto de Enseñanza para el Desarrollo Sostenible* (IEPADES) found that these costs came to 346 Quetzales (US\$60) for an applicant to the basic course and an additional 150 Quetzales (US\$25) for the officers’ course. The study concluded that these expenses “make ac-

cess more difficult for the population in the interior of the country” and “affect the multiethnic and pluricultural character of the PNC.”<sup>33</sup> Considering that US\$60 represents about 10 percent of annual per capita income in the poorest and largely indigenous departments,<sup>34</sup> the discriminatory and exclusionary nature of requiring applicants to pay for their own medical and other tests is clear, even if that is not the intention of government or police leaders.

In addition, the Police Academy (*Academia de la Policía Nacional Civil*, or APNC) is earning a reputation for cavalier treatment of applicants that may dissuade some qualified individuals from pursuing a career in the police. Under the new, decentralized system of entrance examinations, the APNC has sent as few as two representatives to examine hundreds of applicants at sites outside the capital, depending on local government officials and agencies to provide doctors to conduct medical examinations. In some cases, only one or two doctors have appeared, prepared to work only for a few hours, making it physically impossible to examine the 300 to 400 applicants who appear. The academy depends heavily on MINUGUA for assistance in conducting exams, and even with UN help, long delays are common.

Those applicants who pass the exam are instructed to appear at the APNC in Guatemala City at a particular date and time. In early 1999, applicants were told to appear on a Monday morning, requiring those coming from distant departments to arrive during the weekend and

incur the expense of lodging in the capital. When more people appeared than there were places available in the course, the APNC took the first to arrive, rather than attempting to choose the most qualified among the applicants. The rest—some of whom had quit jobs in order to appear at the APNC—were told to go home. This procedure reflects an attitude of indifference to the quality of candidates selected. It also discriminates against prospective recruits from departments located far from the capital.

### ***Selection Requirements and Processes***

Police, who must know and apply numerous laws, among other duties, need a relatively high educational level. In El Salvador, requirements for police recruits have been increased from a 9<sup>th</sup> to a 12<sup>th</sup> grade education; in Haiti, the minimum educational level is equivalent to 10<sup>th</sup> grade. New entrants to the PNC in Guatemala were initially required to have graduated from 6<sup>th</sup> grade. This low educational level may have made entry to the police easier for indigenous aspirants, given the typically low level of education of most of Guatemala’s indigenous peoples. Recycled police from the previous forces were not required to show any particular level of educational attainment.

After numerous problems with Police Academy students being unable to follow and pass academy courses, the minimum educational standard was raised to 9<sup>th</sup> grade in 1999. However, in Guatemala having the required educational certificate does not always mean much.



A large proportion of the applicants, while on paper having the required educational level, in practice lacked knowledge corresponding to their grade of education.<sup>35</sup>

There have been serious criticisms of the academic and psychological tests used in the selection of students for the Academy. The academic tests in Spanish, natural sciences, geography, history, and general culture have been criticized as testing only rote learning rather than the analytical and judgement skills called for in professional policing. Similarly, the psychological tests have been assessed as more appropriate to an urban reality rather than for people living in rural and largely indigenous areas.<sup>36</sup>

Another serious flaw in the selection process is that the APNC currently uses two examinations for entrance to the basic course—one for applicants with 6-9<sup>th</sup> grade education and another for those with 10-12<sup>th</sup> grade education. The head of the evaluation board of the APNC claims this procedure is fairer.<sup>37</sup> The result, unfortunately, is to bias the selection in favor of those with less education, who take a less stringent exam. Some candidates with more educational qualifications have been turned away even though they might have outperformed their less-educated competitors had they been allowed to take the easier examination.

### **Comparative Lessons for Education and Training**

The education and training of new recruits and the retraining of members of former security forces in the values and skills required for professional policing is key to building the new PNC in Guatemala. The Police Academy—the new doorway to entry, promotion and specialization within the police service—is central to this effort. Lessons from other recent efforts at police reform point to:

- the importance of academy training being relevant to the on-the-job experience of policing and for effective feedback mechanisms from the field to the academy;
- the need to train national trainers to replace international supporters of police reform and for instructors to have up-to-date knowledge;
- the need for human rights training to be an integral part of police instruction;
- the importance of more extensive and specialized training for police leadership and specialized units;
- the need for police training to be of an adequate length to ensure development of necessary skills;
- the importance of “field training” to provide guidance to inexperienced graduates of police academies—through mentoring or international accompaniment;
- the importance of such field training being consistent, human rights oriented, and apolitical; and
- the crucial role of civil society in monitoring and supporting the creation of the new police force.<sup>41</sup>

### **Indigenous Participation**

The peace accords explicitly call for the PNC to reflect the ethnic, cultural and linguistic character of the country. This commitment is important for a number of reasons. Many people, especially in rural areas, speak only indigenous languages and cannot communicate with the current police force. Many crimes and abuses are committed against indigenous Guatemalans who, due to illiteracy, poverty and monolingualism, are unable to seek adequate redress. Many Mayan communities still practice indigenous law, using community elders and spiritual leaders to help mediate disputes and impart traditional justice. Indigenous police are vital to construct an adequate interface and communication between indigenous peoples and the formal state system of justice. A multiethnic police force could also help forge a greater sense of nationhood among traditionally disenfranchised groups. It would also be an important step towards helping to heal some of the wounds left by the military's genocidal practices during the internal armed conflict. Finally, expanded involvement of indigenous people in the PNC might help overcome the legacy of extreme distrust left by the corruption of the National Police. In some communities, such as the indigenous towns of the Ixil region, extreme frustration led the inhabitants to force the PN out of the area altogether, preferring no police at all to one that preyed on the local population. In other cases, local populations have attacked police stations following accusations that police were taking bribes to release alleged criminals.

According to varying estimates, indigenous peoples represent between 40 to 60 percent of the overall Guatemalan population. Despite this however, only about one-fifth of new PNC recruits are indigenous. The government has done little to raise that proportion. With the sole exception of a MINUGUA-sponsored recruitment effort in the Ixil triangle, the government has created no special recruitment process directed at indigenous communities and has failed to involve Mayan organizations in recruitment efforts.

One contentious issue has been height requirements for recruitment. After significant struggle, a minimal concession was made to lower the height requirement by 2 centimeters, to 158 centimeters for men and 153 for women for the third round of recruitment in 1998 and to make a further incremental lowering of height requirements linked to educational levels in the fourth and fifth courses for basic agents.<sup>38</sup> However, given the extremely short stature of much of the indigenous population (due in part to endemic childhood malnutrition) these requirements would still exclude large sectors of the population—who might otherwise be well qualified—from a chance to participate in the police. The government has offered no compelling argument as to why physical height is a relevant and essential qualification for participating in the PNC.

The only other advance in making the PNC more representative of the country's people has been a decentralization of the recruit-

ment process—evaluations are now taking place in Zacapa, Quetzaltenango, Cobán, Flores, and Mazatenango—which, indirectly, has helped to increase the diversity of the indigenous groups represented, though not their overall proportion in the force.

In 1998 MINUGUA reported that the Police Academy does not give any positive value to indigenous identity, and that its training is inadequate and inappropriate for indigenous students due, among other reasons, to overly theoretical materials, unfamiliar terminology and lack of bilingual instructors. Of the 65 Ixil and Quiche candidates who entered the Academy at end of 1997, 13 dropped out voluntarily and another 17 proved unable to keep up with academic requirements.<sup>39</sup> MINUGUA commented that: “Simple equal treatment of all students, (without recognizing their ethnic origin), when the language, culture, and identity of indigenous peoples are discriminated against in practice, contributes to inequality and forced cultural assimilation.”<sup>40</sup>

As in other countries emerging from conflict, there are also historical and ideological impediments to indigenous or minority participation in new security forces. Mayan indigenous leaders who are actively promoting compliance with many aspects of the accords, have shown little or no interest in promoting a multiethnic police. A typical response of those queried is “why should we send our children to serve in the repressive instrument of a dominant culture?” The indigenous population as a

whole may or may not share these views, but even if they were interested in joining the PNC and had access to information about application opportunities, many would still face serious limitations in meeting height and educational requirements, completing costly application procedures, and successfully completing Academy courses. The onus is on the government to make a serious attempt to ensure that the PNC reflects Guatemala’s ethnic diversity, and to convince all inhabitants that this is truly a new institution at the service of the entire citizenry.

### **The Police Academy**

The establishment of the PNC Academy is a major achievement of the Arzú government. The Ministry of the Interior invested 1.5 mn Ecus (\$1.6mn) in improvement and rehabilitation of the buildings to enhance conditions for study, dormitory and service areas even prior to the signing of an assistance agreement with the European Union for this purpose. The Police Academy was expanded by remodeling the offices of the dissolved Mobile Military Police (PMA). During the first half of 1999, the Ministry of the Interior also set up a temporary training facility in a section of the Military Academy in San Juan Sacatepéquez. This was closed as the central Academy continued expanding its facilities during 1999.

One outstanding issue with the Police Academy is its legal status and budget. The police organic law makes no specific mention

of an Academy. The organizational regulations of the PNC place it under the PNC Educational Department (*Jefatura de Enseñanza*). In practice, the director of the Guatemalan Academy appears to answer to both the Minister of the Interior and the chief of police, and has no autonomous budget.

The Academy now has its own medical and psychological clinic and MINUGUA is helping establish a library. The first courses began in April 1997, and, as of December 1998, the Academy had 2,451 students studying in different courses. By mid-1999 some 11,300 officers and agents had passed through the Academy. While impressive, the large volume of students was achieved in part by numerous short cuts in recruitment, selection and training.

A particular concern is the abbreviated three-month retraining period for recycled police. This reduced training period violates the peace accord provision that requires a 6-month basic training for PNC members. The argument that three months is enough, given the previous training and experience these police have had, is patently false. With the possible exception of the anti-narcotics police (*Departamento de Operaciones Anti-Narcóticas*, or DOAN), who have received special training and support from the US Antinarcotics Assistance Program, it cannot be assumed that previous police agents and officers have received significant training at all. Furthermore they were forged as police in an institution rife with corruption and abuse. Interna-

tional personnel posted at the Academy report that the quality of the recycled police is in fact significantly inferior to that of the new recruits.

Retraining for many specialized units was even more abbreviated. The first and second course in "security for officials" (*Seguridad de Funcionarios*) lasted a month and a half and did not include human rights training. The anti-narcotics police (whom the US Embassy insisted were already well trained) received a recycling course of only nine days. The US Embassy also pushed hard for those 65 police assigned to protect the diplomatic service (for example patrolling the neighborhood where embassy personnel are concentrated) to skip the recycling course altogether.

The six-month course for new recruits is somewhat less problematic. This is on par with U.S. police training. If the candidates were well educated and well chosen, and if academy training were complemented with appropriate in-service training, six months would be sufficient.

For both civilian recruits and recycled police, continuing education and training is a pressing need. MINUGUA's March 1999 report emphasized the importance of continuing education and training for the PNC given the low general level of scholarship of police recruits, the short and excessively theoretical nature of the courses, the lack of qualified instructors, and the difficulty of changing the attitudes and institutional values of the past in such a short period of retraining. However, field training is

not currently incorporated into Guatemala's police reform program. Were such a program established, it would need safeguards to ensure that field trainers support a human rights orientation rather than teaching practices associated with the old security forces. Without a major effort to ensure remedial training/retraining of the police, especially recycled police, serious problems can be foreseen in the future.

### *Lack of Qualified Instructors*

The shortcomings of academy training are compounded by a shortage of qualified instructors. In contrast to El Salvador, where the international community provided most Academy instructors, nationals are handling most Guatemalan training. At the outset, the Spanish Civil Guard either worked with national instructors or provided training themselves but increasingly they are taking a back-seat role.

The U.S. International Criminal Investigative Training Assistance Program (ICITAP) has trained Guatemalan police instructors in five-week courses, and more recently has developed a more permanent 'instructor development unit' at the academy. Unfortunately, many of the individuals who first received ICITAP training were transferred to other non-teaching PNC posts. One PNC official estimated that only 40 percent remained on duty as teachers.<sup>42</sup> ICITAP officials confirmed that many of the first group of instructors trained were subsequently recycled into the PNC and assigned to posts outside the academy. In 1998 and 1999,

however, ICITAP trained 72 instructors through the instructor development unit, and all but ten of these remained as teachers at the school.<sup>43</sup>

Unfortunately, many police trainers who did not receive the more complete ICITAP courses have often not been up to the challenge of teaching large classes of poorly prepared students. Some have resorted to such poor pedagogy as reading lengthy passages from laws and regulations, refusing to explain the material and quashing questions from the students.<sup>44</sup> A contributing factor has been lack of follow-up by the Spanish Civil Guard, which gave instructors little in-class supervision prior to transferring to them full responsibility for teaching classes.<sup>45</sup>

Other concerns in current Academy training include continued reports of ill-treatment of students and arbitrary actions by instructors and officers responsible for applying discipline in the Academy; and a relatively high proportion of students (11.4 percent) who left the third basic course in the first two months of classes. However, in 1998 and 1999, according to international advisors and instructors posted at the Academy, the APNC modified some aspects of the curriculum, greatly improved administration, and has been more responsive to student complaints about abusive instructors.

## Deployment

By end of July 1999 the total number of police deployed was 13,206, distributed in 27 *comisarias* and a variety of specialized units and tasks, and plans were to reach 18,000 by the end of the year.<sup>46</sup> This falls short of the 20,000 originally scheduled to be in place by the end of 1999, but is still a huge quantity of people to train, equip, and deploy. (According to MINUGUA's latest verification report, 17,399 police had been deployed by the end of October 1999, 36.5 percent of whom were new recruits and only 6.5 percent were women.) In fact, the 20,000 figure is the one commitment of the peace accords that the authorities have taken most seriously, and which the Arzú government continually used to justify all the other short cuts in recruitment, indigenous participation, selection, and training. By August 6, 1999, the PNC had been deployed to each of the country's 22 departments.

The major initial problem with deployment of the PNC was the absence of adequate facilities, which continued to be an issue through 1999. New members of the PNC have frequently been posted to stations still under construction or that did not exist at all. Morale has suffered as the newly trained police have attempted to work without running water, sanitary facilities, garbage collection, or other basic services. Difficult conditions are due in part to the lack of infrastructure in rural areas. Phone services are often nonexistent or extremely limited, communities are widely dispersed, and the

road system very poor. Even in communities that have phone service, many stations lack phone lines. There is no budget for support staff, so police have to cook and clean for themselves. Holding cells for detainees are also often inadequate, presenting security risks for both detainees and police, and wasting police resources on guarding inadequately secured prisoners.<sup>47</sup>

The European Union's assistance program includes support for the construction of 325 police stations throughout Guatemala (36 in Guatemala City in 1997, 118 in 1998 in the first departmental deployments, 123 in 1999 and 48 for the year 2000). This is a very ambitious goal, given that large areas of the country have had virtually no police presence at all in the past. The EU's assistance for the purchase of more than 600 vehicles and nearly 300 motorcycles has also been very helpful. (However, maintenance may be an issue in rural areas where, due to their remoteness, police are allowed to have this work handled by local mechanics. This may produce inconsistent and unprofessional service, leading to a more rapid degradation of rolling stock.)

The Guatemalan government has also come up with an ingenious partial solution to the problems of police station construction and rehabilitation. The Interior Minister's wife, Laura de Mendoza—under the umbrella of a First Lady initiative called "Give to Receive," (*Dar para Recibir*)—led a massive campaign to establish "Pro-Construction Neighborhood Committees" (*Comites de Vecinos Pro-*

*Construccion*) in nearly every community to which the police are being deployed. Their purpose is to prepare adequate facilities for the new deployments. Local mayors and even private individuals (including private developers) have often provided buildings or land, and local residents and businesses have assisted in fundraising, building, repairing and furnishing the new stations. The Ministry of the Interior, with limited EU support, then provides the complementary funds needed, though often with many delays and deficiencies.

These community organization efforts benefit the police in two ways: they have augmented slim official resources with private contributions, and have helped forge closer and more cordial relations with the population. For example, the “Pro-Construction Committees” often organize special community events and celebrations to receive the new PNC into their communities, thus helping them overcome some of the stigma earned by the old PN. According to government officials, 168 of the municipalities and communities to which the PNC have been deployed have formed or are in the process of forming Pro-Construction Committees with a total of 1,618 committee members. A total of 117,337 people have attended meetings to receive the new PNC deployments.<sup>48</sup>

This initial organizing effort has proved so successful that the Ministry of the Interior is now expanding its organizing efforts into the creation of “local security committees” (*Juntas Locales de Seguridad*, or JLS) that should pro-

vide a forum for ongoing dialogue between the local police station and the population and continue to mobilize community support for the police. A study of these local security committees carried out by *Familiares y Amigos contra la Delincuencia y el Secuestro* (FADS) points to some improvement in the security situation where the committees and the PNC have operated and that the JLS model

“has shown some satisfactory results and presents an important potential to improve citizen security, promote participation and social monitoring (regarding discipline and the application of human rights) and to contribute to the professionalization of the PNC demanded in the peace accords.”<sup>49</sup>

But while these local committees appear to have provided important initial benefits in the deployment of the PNC, there are also dangers that these mechanisms could be used as a means of political control or be abused at the local level. The potential benefits and risks point to the importance of close monitoring of these entities in the period ahead.

### *Joint Military-Police Patrols*

The military has been used extensively in ‘joint patrols’ with the police in the capital city and throughout the country, especially in those departments where the PNC was not yet deployed. At first it was common to see a large

number of heavily armed soldiers accompanied by a single police officer, but increasingly one police person and one soldier patrol in pairs. Government officials say that the military support in patrolling is supplied only "at the request of civilian authorities," and that these patrols will end when the PNC get up to sufficient numbers. The March 1999 MINUGUA report states that:

"Despite the fact that, on numerous occasions, the Interior Ministry has stated its intention to suspend the combined patrols in areas where the new PNC has been deployed, this has still not happened . . . The Mission considers it essential, as indicated in the 8<sup>th</sup> report . . . to strengthen the control of civilian authorities over the combined patrols, and that the planning and operation of the patrols be completely in the hands of the PNC."

MINUGUA also recommends reforming Decree 90-96 which authorizes the joint patrols to establish its transitory character and to reaffirm the directive role of the Ministry of the Interior and the departmental governors.<sup>50</sup>

Military participation in internal security is not illegal under the current Constitution, and was given further sanction in Executive Decree 90-96 of March 7, 1996. However, using the military to substitute for weak civilian institutions sends a worrisome message and runs the risk of contributing to ongoing police weakness. More alarming, the long-term separation of police and military functions in Guatemala is made more difficult.

If the army continues to have a role in internal security, beyond a limited and carefully defined transitional responsibility, the potential for genuine police reform and establishment of the rule of law will be seriously jeopardized. It is clearly inappropriate in a democracy to give the armed forces an ongoing role in maintaining public order and guaranteeing personal rights and freedoms. In order for the rule of law to be strengthened and consolidated in Guatemala, the government that takes office in January 2000 must make a much stronger commitment to separate internal and external security functions and press for military leaders to accept civilian control.



## CHAPTER 5: THE CONDUCT AND EFFECTIVENESS OF THE PNC

While the PNC was greeted warmly by Guatemalans in many areas when it first deployed, there have been increasing reports in the Guatemalan press and in recent MINUGUA reports of abuses by the new police. These reinforce concerns about the difficulties of creating a “new” police force through recycling large numbers of police from old corrupt and repressive institutions, particularly at the officer level. It also calls for scrutiny of the mechanisms that are supposed to detect, investigate and discipline infractions and misconduct by members of the PNC. Another concern is the ongoing weakness of the PNC in confronting and reducing Guatemala’s high crime rate, particularly the serious problems in criminal investigations.

### Internal Controls

The legal basis for internal discipline of the PNC is provided by a “Disciplinary Regulation,” (*Reglamento Disciplinario de la Policía Nacional Civil*) modeled closely on that of the Spanish Civil Guard. It identifies three categories of infractions – minor, serious and very serious (*faltas leves, faltas graves, faltas muy graves*) – and specifies the procedures and range of penalties associated with each. For minor infractions, the *reglamento* allows an expedited procedure that gives police at all levels of the command hierarchy the power to charge and punish their immediate subordinates. Higher-

ranking officers are allowed to impose more severe punishments – longer periods of arrest or suspension, for example. For serious and very serious infractions, a more complex procedure is invoked. A senior officer (*sub-comisario* or higher) must initiate the process, appointing an officer as investigator (*instructor*) of the case to investigate, draw up the charges, and make a finding. At various stages in the process, the individual charged with infractions can present his or her side of the case, and can appeal to the Disciplinary Regime Section of the General Subdirectorate for Personnel, or, if the disciplinary decision was made at higher levels, to the Director General of the PNC or to the Minister of Interior. Time limits are established for each step in the process, and all steps involve written reports. Government figures show that 3,668 sanctions have been applied for minor infractions, 3,646 for serious, and 20 for very serious infractions. Sixteen police personnel have been sanctioned with removal from service for very serious breaches and 22 cases are pending.<sup>51</sup>

This framework suffers from several drawbacks that could be addressed through modification of the regulation as well as creation of additional institutions to implement it. The regulation depends entirely on officers (and in the case of substations, on inspectors or sub-inspectors) to discipline their subordinates, yet is too complex for most personnel to understand

and apply effectively. According to international observers, few PNC officers or agents understand the code.<sup>52</sup> The characterization of infractions is often so vague as to make it very difficult to assess the severity of any given infraction. Lacking confidence in their ability to interpret the code and apply it correctly, many officers and inspectors do not even try to do so.

Moreover, the regulation provides no institutional mechanisms for the investigation of police conduct by an independent office within the police. There is an "Office of Professional Responsibility" (ORP) that was carried over from the National Police, and is designed to provide PNC line officers with assistance in investigating cases of possible infractions by police personnel. Unfortunately, the ORP is not even mentioned in the Disciplinary Regulation, has no specific function within the procedures laid out in the Regulation, and has no autonomous investigative authority, no powers to initiate formal investigations on its own authority, and no power to bring formal charges or impose disciplinary sanctions. It is, in essence, a service bureau that supports line officers with investigations, and is therefore limited by the honesty and commitment to professionalism of the officer corps, rather than being a mechanism for ensuring that such qualities prevail. In sum, the institutional design of the ORP falls far short of the requirements of a genuine internal affairs, control, or disciplinary unit.

In practice, the ORP is virtually non-functional, according to multiple sources includ-

ing international police advisors, MINUGUA officials, and non-governmental organizations that have monitored the ORP. It is very short-staffed, with approximately 45 investigators, roughly half the number needed according to international advisors. Its personnel came out of the old PN, have had only a minimal re-training course, and have shown little willingness to investigate aggressively potential wrongdoing by colleagues. The ORP's management of information is so poor that it is impossible to obtain information on what percentage of its cases are resolved, or what percentage result in disciplinary or legal actions. From what MINUGUA has been able to ascertain through spot-checking, the ORP conducts cursory investigations and then, if there is any evidence of criminal wrongdoing, immediately passes the case to prosecutors in the Public Ministry. Since the caseloads of prosecutors run in the hundreds and even thousands, action on cases involving the police is slow to non-existent. If a prosecutor did take action on a case, he or she would have to call on the Criminal Investigations Service (SIC) of the PNC to do the investigation, since the Public Ministry lacks legal authority to conduct its own basic criminal investigations (see section on criminal investigations, below). As the SIC depends upon cooperation from the uniformed ranks to conduct routine investigations, it has strong disincentives to investigate fellow police personnel.

Meanwhile, the police agents in question remain on the job, since under the disciplinary regulation, no final disposition can be

made on disciplinary charges and no sanction can be imposed against police personnel until a court issues a judgement and sentence in a criminal case pending against them. (Article 3, *Reglamento Disciplinario*). Thus, a police agent accused of torture, rape, or murder would remain on the job until a court ruled on the resulting criminal charges, a process likely to take years.

In addition to these procedural problems, there are insufficient mechanisms for the receipt of complaints. The ORP has no published public access telephone numbers. Anonymous complaints can trigger an investigation, but no formal disciplinary procedure can be initiated on the basis of an anonymous complaint (Article 31, *Reglamento Disciplinario*). The same challenge faces subordinates within the PNC who are mistreated by superiors in violation of PNC regulations, or who observe infractions or criminal activities by their superiors. No formal mechanism exists for whistle blowing; subordinates can do little more than send an anonymous letter to the Director General or to the Interior Minister.

One consequence of the absence of mechanisms for such complaints is evident in the armed revolt of the Special Police Forces (FEP) in April 1999. According to press sources, the FEP had suffered under consistently abusive behavior by their commanding officer, who routinely disregarded regulations with respect to working hours, leaves, days off, and working conditions for his subordinates.<sup>53</sup>

Lacking the means to hold their superior accountable for these abuses, the rank and file carried out an armed demonstration. The government's response to the FEP crisis was to defend the commanding officer and fault the rebellious agents. While the FEP uprising was clearly unacceptable in any hierarchical, armed organization, the incident points to an institutional problem of abusive leadership and insufficient internal control mechanisms. If there were an independent internal affairs unit willing to act on complaints from the lower ranks, this problem might have been dealt with before it led to an armed uprising.

The lack of an effective internal affairs mechanism opens the door for organized criminal activity to take root within the police. One of the main roles of internal affairs units is to prevent criminal activities, such as pyramid payment schemes, from being established within the regular chain of command. Alarming reports have appeared in the press alleging that pyramid schemes are already functioning within the PNC, under which subordinates are expected to pay a fixed quota to their commander, forcing them to generate income through corrupt activities. Serious patterns of abuse have also emerged, with a growing number of incidents and complaints of torture, as well as very credible complaints of abusive and corrupt conduct by the SIC.<sup>54</sup>

International technical assistance donors are aware of these deficiencies, but the projects currently proposed will do relatively little to

address the roots of the problem. In mid-1998, ICITAP presented the public security ministry with a draft of an alternative, simpler disciplinary code that would be easier for police commanders to understand and apply. The ministry has not responded to this proposal, despite growing evidence that the current system is unworkable. MINUGUA will soon begin a program to strengthen the ORP's information management capabilities. This will be reinforced by a project supported by the European Union to evaluate current ORP personnel, retain only those who have shown themselves to be effective, and recruit new investigators mainly from the pool of newly trained PNC agents drawn from civilian life. While these measures may strengthen the ORP, they will not be sufficient to address the basic structural problems of the PNC's internal disciplinary regime.

Several approaches could be taken to address these institutional weaknesses. The Historical Clarification Commission recommended that the leadership of the PNC "create a new unit for internal control or inspection, which is accessible both to the public and the Human Rights Ombudsman, and which has autonomy to investigate and sanction both individual and institutional professional misconduct."<sup>55</sup> A minimal approach would be to revise the disciplinary regulation to establish a genuine internal affairs unit, with explicit and independent authority to receive complaints from the public and from within the police; to conduct investigations of the conduct, proce-

dures, and finances of police; to assist the Public Ministry in any criminal investigations involving police; and to recommend administrative sanctions. Personnel for such a unit would need to be carefully selected, identifying individuals who are highly motivated to do this difficult and dangerous work. Careful background checks would be needed, supplemented by polygraph checks. Revisions to the disciplinary regulations should attempt to simplify the regime so that it is more easily understood and applied.

Other approaches would include legislative changes empowering the Public Ministry to conduct criminal investigations, and specifically to investigate the police (see section below on criminal investigations); creation of a civilian review board; or creation of an inspector general's office outside the structure of the PNC but with powers, under the laws and regulations of the PNC to investigate internal police affairs. Whichever approach is taken, some very substantial reform and reinforcement of the internal affairs regime is essential to ensure that the PNC does not degenerate into a corrupt and abusive force.

### **Criminal Investigations**

The lack of competent criminal investigators in the old National Police contributed to the high rate of crime in Guatemala since the late 1980s, and to the general climate of impunity enjoyed by some organized criminal ele-

ments. The government is making efforts to form a new, larger, better-trained and better-equipped Criminal Investigations Service (SIC) within the PNC. Unfortunately, building an investigative agency is more time consuming than deploying uniformed street police. Investigative personnel require additional training in general investigative techniques, as well as in specializations related to particular types of crime. The SIC also needs equipment and related training for collecting physical evidence, and a crime laboratory for evaluating such evidence. A disjuncture has developed between the rapid deployment of the PNC throughout the country, and the comparatively slow development of the SIC. In most respects, the delays in development of the SIC were unavoidable; however, a few might have been prevented. For example, the government delayed several months in making a commitment to construct a building for the crime lab, and the U.S. ICITAP program has correctly refused to provide lab equipment until a suitable physical site is available for the delicate equipment.<sup>56</sup>

Advisors with international technical assistance agencies estimate that the PNC will need between 1500 and 2000 investigators.<sup>57</sup> The SIC currently includes some 500 investigators, but of these only 150 have taken ICITAP's new 14 week basic investigators' course. Roughly 20 percent (100 investigators) have prior experience as investigators in the National Police, and most of these have taken various short courses offered earlier by ICITAP.

At current rates of training, it will take at least seven years to field an adequately trained investigations unit.

Unfortunately, the recruitment and selection problems that plague the police as a whole are especially serious in the SIC. Personnel have not been consistently and adequately screened, nor selected according to their analytical skills or investigative vocation, although the situation is improving. In an effort to improve the quality of personnel participating in the basic investigator course, the U.S. ICITAP program developed an evaluation and screening procedure for entrants into its course. At the outset, however, it was unable to effectively apply this procedure because the government did not present its candidates until a few days before the course began. As a result, a number of individuals have taken the course and entered the SIC "who don't belong there," due to lack of analytical abilities, lack of work ethic, medical problems, ethical shortcomings, or lack of interest in investigative work.<sup>58</sup> This situation has gradually improved since the first course, as the government has selected candidates more in conformity with ICITAP's recommended profile. Timing remains a problem, as candidates continue to be presented too late to allow polygraph checks to be conducted before courses begin.<sup>59</sup> Overall, U.S. trainers point to the problems of trying to train police investigators in three months. This, they argue, is possible with college graduates, but not with students with a sixth-grade education.<sup>60</sup>

The problem of selection is a particularly important one for investigative police units. The work is demanding, and critical and analytical thinking skills are at a premium. Moreover, the ethical qualities of investigators are particularly important since they are especially likely to be targeted by criminal organizations with corrupt offers to look the other way in exchange for financial or other considerations. Recent experiences in El Salvador point to the importance of careful selection: the Salvadoran PNC has twice had to essentially dismantle their investigations division (DIC) and rebuild it from scratch. This was necessary because of extensive internal problems, including corruption and suspected involvement in criminal enterprises. The failure to select investigators carefully from the outset has contributed to a massive waste of international resources spent to train investigators who have now been transferred or dismissed. It has also cost the Salvadoran PNC several years during which they could have consolidated an effective detective corps, solved many crimes, and deterred many others. The lack of effective investigations is a crucial contributing factor to the serious crime problems affecting El Salvador. The Guatemalan public security leadership would do well to learn from the experiences of their neighbor, and attempt to screen investigative personnel more thoroughly.

In addition to the problems of training and selection, there are a number of operational problems, some of which can be solved fairly easily; others may require legislative changes. First, Guatemalan law treats traffic accidents

as crimes, and as a result, the SIC has been required to investigate traffic accidents, even though its personnel are not trained in techniques for doing so. This has placed a significant workload on already over-worked investigators. U.S. ICITAP advisors have suggested to the PNC leadership that this responsibility be shifted to the uniformed police, and the PNC Director General has agreed, in principle, to make this change.<sup>61</sup> Additional training for uniformed police will be needed to implement such a change, and this will require cooperation from the European Union project supporting the deployment of the uniformed police. Other problems for the SIC have included a tendency by senior police commanders to use the SIC in other roles that are outside their mandate, such as routine patrolling in the capital city.

***Police Relations with Prosecutors:  
The Public Ministry***

A more intractable problem is the SIC's difficult working relationship with the prosecutors from the Public Ministry (MP). Under Guatemalan law, all investigations must be initiated by the MP, unless the police observe a crime being committed or have reason to believe they must act immediately to avoid further injury or loss of life. Because the prosecutors of the MP are very overworked, however, they do not respond promptly to cases brought to their attention by the police, and in practice the police exercise more autonomy in investigations than the law permits. Police and inter-

national advisors interviewed expressed frustration with the slow response time and limited capacity of the MP.

The frustration is mutual: prosecutors and their international advisors report that the SIC of the PNC does not reliably conduct the requested investigations. The low level of education of SIC personnel, as well as outmoded reporting procedures predating the new Criminal Procedures Code (decreed in 1992 and implemented beginning in 1994) often impede successful prosecutions. The detectives who write up and sign reports are often not the detectives who participated directly in the actions described. As a result, official reports can be challenged in court. When the lower-ranking police agents who participated in particular events are questioned in court, they sometimes do not acquit themselves well.<sup>62</sup>

Because of frustration with the performance of the SIC, and in response to a desire to have greater in-house control over investigations, the MP formed its own group of investigators, drawn mainly from the ranks of the old National Police. This was not a successful experiment, as there were no internal controls on this group and criminal activities quickly took hold. The MP has since dismissed most of these individuals, and is beginning to train a new corps of 75 investigators. The new investigative staff is to be based on the highly successful Honduran model of recruiting civilians with at least two years of university education, offering them salaries nearly twice as high as those of basic-

level police investigators, and providing a six-month training course. This approach helped Honduras create an investigative corps that was independent of the old security forces, staffed by highly motivated individuals who were less likely to be compromised by existing criminal and corrupt networks.<sup>63</sup>

The MP has contracted trainers from Honduras and Costa Rica, but is not at this time receiving other international assistance for this project, in large part because the legal status of these investigators is highly questionable. Article 40 of the Organic Law of the Public Ministry allows the ministry to employ experts in the forensic sciences; the MP is using this article as the basis for their employment of criminal investigators. This interpretation is challenged by the leadership of the PNC, as well as by international observers and advisors.<sup>64</sup> The lack of legal standing is a major drawback of this initiative, notwithstanding the merits of the approach chosen by the Public Ministry. MP investigators may not be able to offer evidence in court, so their future usefulness in support of prosecutions may be limited. The fact that the MP felt it necessary to devote extensive resources to building a team of investigators, despite the legal questions, points to the depth of distrust toward the police.

### *Involvement of Military Intelligence in Criminal Investigations*

A pervasive problem for the effort to improve criminal investigations is the role

played by military intelligence in investigating kidnappings and organized crime. No one in the government or donor community would admit to concrete knowledge of how such support is actually organized, nevertheless a search of media reports over an 18-month period found several reports of such involvement.<sup>65</sup> Local journalists and human rights advocates believe that this intelligence and investigative support is being handled by the notorious Presidential General Staff (*Estado Mayor Presidencial* or EMP). The EMP is a military body officially responsible for ensuring the security of the president and vice-president and their families, but which in practice has a long history of illegal espionage and death squad activities, including the 1990 murder of Guatemalan anthropologist Myrna Mack Chang. (The sergeant-specialist who carried out the murder was finally convicted and is in jail, while the family's case against the former heads of the EMP as the "intellectual authors" of the assassination continues to languish in the courts.)

WOLA has heard repeated and credible allegations of military investigators employing illegal practices, such as wiretapping, and in some cases beating or killing kidnappers instead of turning them over to the courts. A particularly notorious case was the 1996 disappearance and apparent execution of a guerrilla kidnapper, Juan José Cabrera Rodas (also known as 'Mincho'). When this case finally came to light months later, MINUGUA issued a statement placing responsibility for this disappearance on the EMP. The Arzú government responded by

denying MINUGUA full access to those investigators responsible for this capture and Interior Minister Mendoza claimed that the investigators involved had been operating under his authority. However, the civilian authorities have never produced the body or brought anyone to trial for this serious human rights abuse.

There have also been repeated indications of some level of military or EMP involvement in the assassination of Bishop Juan Gerardi in April 1998, either in the murder itself and/or in what appear to be numerous cover-up and disinformation maneuvers related to this case, which still remains unsolved. At the very least the EMP conducted its own investigation into this murder, independently of the formal investigation conducted by the Public Ministry. Possible military or EMP involvement is now under investigation by the Public Ministry, and the prosecutor, Celvin Galindo, resigned from the case and fled the country after receiving death threats and being followed by cars with license plates traced to the EMP.

The old PN had a close relationship with the EMP and it was common for personnel to move from one to the other. The PN was heavily infiltrated by military intelligence and there was some *de facto* cooperation. Thus the irregular entry of a group of 40 military personnel—including 22 ex-sergeants from the EMP—into a March 1998 officer course at the PNC Academy,<sup>66</sup> causes particular concern, especially since MINUGUA protests of this incident found no echo with other donors or in the government.



The government clearly needs an intelligence function to track the operations of organized crime, including drug trafficking, death squad activity, car-stealing rings, etc. The problem is not the existence of intelligence units at the service of the criminal justice system, but the total lack of transparency with which this delicate area is being handled, including the lack of civilian control and oversight, and the apparent ongoing use of military intelligence officers in these functions. An additional problem is that as long as military intelligence itself operates without civilian oversight, these units can arbitrarily or even maliciously leak misleading information to prosecutors, police investigators, or the press, thus influencing the course of official investigations in a non-transparent fashion—a practice common in Guatemalan political circles.

Even more irregular activity is being carried out by a group of anti-kidnapping investigators led by a Venezuelan national, named Victor Rivera. Also known by the pseudonym “Zacarias,” he operates a team financed by private businesspeople which reportedly enjoys the support of the Ministry of Interior and has full access to police and ministry records. This team has been operating in Guatemala since early 1997. “Zacarias” formerly did the same type of work in El Salvador. A reliable source has linked Rivera to leading a death squad operation in a neighboring country in mid-1999, that resulted in the torture and murder of three Salvadoran delinquents and the Guatemalan head of a kidnapping ring, Ana Lucia Arana Obregon.

The unit led by “Zacarias” is not contributing to the legal prosecution of any cases: according to SIC sources, Rivera’s information has led to no arrests in Guatemala, and since his investigators lack legal standing, their information is of no direct value for criminal prosecutions.

### **Conduct of the PNC**

When the new PNC were first deployed in Guatemala City and in priority departments around the country, assessments were very positive overall. MINUGUA observed that the deployment of the PNC was viewed with enthusiasm by the public and “has had a positive impact on the population.” Compared with the old National Police, the new PNC in general demonstrated a better sense of mission. The number of complaints of police corruption appeared to have decreased, and complaints of human rights violations seemed to have diminished. However, the positive public response, in a climate of crime and insecurity, was perhaps not surprising. (The same type of response was seen in Haiti and El Salvador when new forces were deployed.) And there were not objective studies available to compare either crime rates or complaints of abuse prior to and following deployment of the PNC.

In its March 1999 human rights report, MINUGUA pointed to factors that had contributed to the more positive perception of the PNC on the part of the population. These included the greater visibility and presence of the new force; the existence of new patterns of conduct

that may inspire greater confidence on the part of the population; and the creation of offices to provide attention to citizen concerns (*oficinas de atención al ciudadano*). But the UN Mission went on to warn that it is fundamental from the first stage of deployment that the “population perceives that the police are providing an adequate level of security, accompanied by a scrupulous respect for human rights.” Even one case of abuse, they argue, is “absolutely unacceptable and merits a very strong reaction from the authorities.”<sup>67</sup>

The MINUGUA report points to the disproportionate use of deadly force by a senior PNC official; violations by the PNC (as well as the National Police, army, and executive) of the right to integrity and security of the person; involvement by members of the PNC’s Criminal Investigation Service in acts of torture in Escuintla; arbitrary arrests by PNC agents; denial of the right to due process by PNC members; and violations of the State’s commitment against impunity involving PNC members. The Mission’s report concludes that “there has been no progress in the development and implementation of effective measures to prevent or punish abuses and excesses committed by police officers. This fact, added to the many violations committed by members of both the National Police and the PNC, makes it difficult for them to gain the population’s trust and cooperation. While the increase in numbers of the new National Civil Police and the extension of its area of operation make it possible to say that the incidence of violations is relatively

low in the new police force, the resurgence of cases of torture, some of them involving members of the new police force, is extremely serious; for that reason, the Mission considers it urgent that steps be taken to eradicate this practice.”<sup>68</sup>

Press reports and observations by members of human rights and other civil society groups reinforce the concerns raised by MINUGUA. The Guatemalan press reported that during January 1999, there were 27 complaints made against agents of the PNC to the Public Ministry involving accusations of extortion, threats, illegal detention and bribery, as well as abuse of authority. Complaints increased during the months of November and December of 1998 and in January 1999.<sup>69</sup> Human rights workers personally experienced an attempt to solicit bribes by PNC agents in the department of Petén.<sup>70</sup> WOLA received first-hand reports of PNC harassment of homosexuals in Zone 1 of Guatemala City that were brought to the attention of MINUGUA. While these reports raise very serious concerns about the behavior of the new PNC, it is still difficult to make a definitive judgement about changes in the overall public security situation or the behavior of the PNC until more complete data are available both on crimes and on complaints against the PNC.

### ***Problems with the Special Police Forces (FEP)***

The major problems to date have arisen with the FEP which was formed from the *Quinto Cuerpo de la Policía Nacional* and the *Fuerzas*

*de Reacción Inmediata* (FRI). The role of the FEP is to help other police units to maintain or restore public order, to protect public figures, monitor public places when exceptional circumstances arise, and to collaborate with other government institutions in situations of grave risk, catastrophe, or calamity.<sup>71</sup> Some 337 FEP members went through retraining courses in 1996, prior to the creation of the PNC. MINUGUA's 9<sup>th</sup> human rights report stated that "Up to this time, their actions have not demonstrated significant advances in control and proportionality in the use of force."<sup>72</sup>

On April 5, 1999, the Guatemalan government dissolved the FEP after elements seized control of their own headquarters in Guatemala City to protest what they claimed were management abuses. Interior Minister Mendoza called the six-hour action "a clear act of sedition" after more than 300 agents, wearing ski masks over their faces seized their offices and fired AK-47 rifles and tear gas in the air. The protesters were demanding removal of two top officers for alleged abuse of power, and also complained about working conditions, asked for back payment of special bonuses, better equipment, and more holidays. About 40 members of the DOAN counter-narcotics unit also took part in the protest.<sup>73</sup>

A new FEP is being formed—to be 1,000-strong by the year 2000 and drawn exclusively from PNC agents recruited from civilian life. The first contingent of 180 has been trained and will be based in Guatemala City.

But there have been problems in recruiting the next batch of trainees—given the unhappy recent history of the FEP, there were only 80 volunteers for the 200 places in the upcoming training.<sup>74</sup> In future months, the government intends to train additional tactical units which will be organizationally part of the FEP, but will respond only to orders from the Director General of the police, or from the Minister of Interior.

The FEP mutiny has some important lessons for police reform in Guatemala. It is clear that the grievances of the FEP agents were real and shared by many other police agents. But the response to those grievances—breaking the law and threatening public safety—was obviously unacceptable. In view of the problems experienced in El Salvador and Haiti with special police units that had strong corporate identities, transferred as units from the old police, and underwent minimal training, this type of concerted action should perhaps not come as a surprise. The illegal actions of the FEP should send a message to Guatemalan authorities of the urgency of addressing police working conditions and leadership weaknesses, as well as the need to ensure retraining and reconfiguration of special units that were incorporated intact into the PNC with limited or inadequate training.

The Guatemalan government should also consider whether it is wise to combine riot control and tactical police into the same force—an approach that is at odds with accepted practice in the U.S. and most Western European countries. Riot police train to use minimal force

to control potentially violent crowds; tactical police train to use overwhelming force in situations where the clear threat to civilian lives mandates the isolated application of military weapons and methods. Combining these functions in one force increases the risk of excessive use of force.

### ***Effectiveness in Controlling Crime***

Government statistics on major crimes, published in January 1999, claimed a significant decline in homicides, kidnappings, and carjackings, leading government officials to assert that their public security policy is working: "We believe that all the efforts to combat crime produced the desired results during the past year," said Interior Minister Rodolfo Mendoza, "which allows us to say with certainty that we are on the right track." According to Mendoza, "Much of the credit for the reduction in crime must go to . . . PNC agents, . . . as well as to the remaining elements of the National Police and Treasury Guard who are still participating in joint operations."<sup>75</sup> The govern-

ment figures were immediately disputed by opposition politicians and by officials of the Voluntary Fire Service who claimed that there had in fact been a 10 to 15 percent increase in crime between 1997 and 1998.<sup>76</sup>

The Arzú government's response to criticism of the kind detailed in this report was to point to what has been achieved—in numbers of police trained or retrained, and particularly to the success of the new police in fighting crime as the 'proof of the pudding.' Recent government crime figures, however, paint a decidedly mixed picture of success to date. Homicides committed with firearms fell from 1,600 to 1,340 (or by 16.25 percent) between the first semester of 1998 and the same period of 1999 while woundings with a firearm were down 3 percent—from 2,282 to 2,208. At the same time, crimes against property rose by 38 percent (from 1,913 to 2,636) and vehicles and arms stolen rose by 9 percent (from 4,238 to 4,623) between the first half of 1998 and the first half of 1999. There was a decline in the number of people kidnapped, according to PNC

#### **Composition of the PNC in 1999**

As of July 1999 the composition of the PNC officer corps was as follows: The superior ranks were composed of seven commissioner generals, 51 commissioners, and 138 sub-commissioners. The lower (subaltern) ranks were made up of 312 first officers, 321 second officers, and 675 third officers. By this time, 200 new junior officers will have been trained, but the vast bulk of the officer corps and the entire senior leadership is still made up of recycled elements. These were in turn directing the police rank and file, made up of inspectors, subinspectors, and agents.

figures (13 compared with 17 a year earlier) and a 10 percent increase in vehicles recovered and arms confiscated, but sexual crimes reported rose from 93 to 135.<sup>77</sup>

A major difference between 1998 and 1999 is in the much greater number of people arrested in the latter year. Almost twice the number of people were arrested nationwide in the first half of 1999 compared to a year earlier (32,407 persons vs. 17,077). The increase in arrests was much more dramatic in the departments outside of the capital (which tripled in number from 5,454 to 16,963) than in Guatemala City (where arrests rose from 11,623 to 14,134.) Figures for a slighter longer time period (September 1997 to August 1998 vs. September 1998 to August 1999) show arrests almost doubled from 34,389 to 64,919.<sup>78</sup>

These figures on arrests show a much more active police force with a much broader reach throughout the country—with the recent deployments of the PNC. But arrests in themselves are not proof of success in fighting crime (and if many arrests are arbitrary they may undermine the credibility and effectiveness of the police) though an increase in arrests may have the political effect of showing that the government and police are ‘doing something’ about crime and violence. For now, government figures show a more active police force that has had mixed results in fighting crime. Until more information is available—for example, victimization surveys showing real crime levels versus reported crimes and comparative data on crimes successfully resolved—the jury remains out on the ‘effectiveness’ of the Arzú government’s strategy (even putting aside long-term problems that may be created by the government’s approach.)

## CHAPTER 6: THE PROBLEM OF LEADERSHIP

Efforts at police reform in other nations emerging from internal conflicts demonstrate the crucial importance of ensuring high-quality, professional and committed civilian leadership to the new or reformed force. In Guatemala, the lack of new, quality leadership is one of the most serious problems facing the National Civilian Police. Initially, all officials of the police were former officers of the National Police or the Treasury Guard, who went through a 3-month recycling course at the APNC. The previous head of the National Police, Angel Conte Cojulun, simply changed uniforms when he assumed directorship of the PNC. One recycling course is clearly insufficient to change the norms, attitudes, practices, and institutional identity of officers who previously led institutions infamous for their corruption, abusiveness, ineffectiveness and lack of professionalism. It also does little to demonstrate a significant change from the old to the new police both with the police rank-and-file and the population at large.

Every donor interviewed for this report pointed to the poor quality of police leadership as one of the most serious problems of the Minister of the Interior and the PNC. In particular, WOLA heard complaints of arbitrary behavior, unwillingness to follow institutional plans and policies, lack of knowledge of basic norms and legislation, and even more serious, lack of interest in acquiring the needed skills and knowl-

edge required to direct a truly professional police force. This is particularly alarming as current disciplinary regulations place all responsibility for controls and oversight in the chain of command.

In addition, an “old-guard” officer corps makes any process of cleaning up the current ranks almost impossible. In the words of one international observer interviewed for this report, “bad does not throw out bad.” Several informants mentioned that poorly performing or problematic officers are not generally removed from the force, but simply transferred to another post. Procedures for removal have been designed but not implemented. Currently, the main screening mechanisms for the officer corps are the police academy exams, which should prevent those who fail them from rising further in the force, and the application of disciplinary measures by a superior officer in those cases where an officer is derelict in his duties or engages in illegal activities. [As reported at the beginning of Chapter Five, sixteen police personnel have been sanctioned with removal from service for very serious breaches and 22 cases are pending.]

The problem of police leadership could have been addressed, at least partially, through more extensive re-training, or by introducing a substantial number of newly recruited, well-educated civilians through lateral entry into se-

nior positions. Currently, there are no plans to provide additional training for current officers, and the government has not wanted to bring civilians straight into senior officer ranks, fearing problems with internal discipline and morale.

The Ministry of the Interior has sought other solutions to the problem. One is a decree that allows new officials to be trained and promoted more quickly than the official police law allows. Promotions within ranks are achieved by examination; promotions to more senior ranks (for example, to move from first officer to subcommissioner) require an exam followed by additional training, as well as service periods included between these different steps. Currently, however, it is possible to move straight from agent to officer through taking a series of back-to-back courses and exams. In theory, a person could move from being a police agent to commissioner in approximately a year-and-half. However, while this approach might speed up the process of developing new leadership, it is unclear whether this proposal addresses issues of developing more effective leadership any better than the options outlined above given that they would have no hands-on leadership experience or proven capabilities.

The government is also allowing civilians to apply for a 10-month Academy course that would allow them to come into the low-end of the officer ranks (as third officers). In December 1998, the government tried to recruit civilians for this "subaltern officer course." The recruitment announcements were poorly dis-

seminated and only nine individuals (about half of whom were from the PNC itself) presented themselves for a course that was intended to number sixty. As a result, the planned training was suspended. A second recruitment notice was issued in late-June, 1999, for an application process that was to take place September 6-10. On this occasion, besides posting the notice in the PNC newsletter, the Ministry of the Interior passed the recruitment posting to a non-governmental organization (NGO) that had been active in police reform debates and asked for their assistance in disseminating notice of this opportunity. This appears to have been the full scope of the outreach and publicity effort. The NGO did not prove particularly useful to this effort. As of September 9, as far as WOLA was able to determine, only one civilian had applied for the course.

Civilians cannot apply for job opportunities when they are unaware of their existence. In addition, the negative image of police still in the minds of most of the Guatemalan population is unlikely to help matters. In particular, those sectors committed to human rights and the rule of law might be particularly hesitant to sign onto a force they do not believe to be truly reform minded. Furthermore, for the civilian recruits to have a positive impact on the PNC, they would need to be highly qualified and capable individuals, with the professional and personal skills needed to make their way in what could well be a difficult institutional environment. It is thus crucial that the government broadly publicize and promote the opportunity

for civilians to join the PNC as officials, in order to obtain a strong pool of applicants from which to choose.

It is worth noting that in contrast to the PNC's failure to recruit new officers, the Public Ministry (MP) has recruited 75 investigators, all of whom have at least two years of university education or equivalent. The MP directed their recruitment efforts at universities. So the effort to recruit civilian officers for the PNC might well be viable, if the Interior Ministry were able to mount a true recruitment campaign.

Even if the PNC does succeed in recruiting civilians as subaltern officers, however, the decision to let them come in only at the bottom means it will still be some time before these could reach the superior ranks. Normally this would be three to four years, although with the accelerated process it could perhaps be done in less than two. A better method would be a program to train highly educated civilians for

lateral entry to senior ranks which could reinforce the civilian character of the PNC and introduce new skills and values. Such an approach was used in El Salvador with considerable success. It is to be hoped that the new government coming into office in January 2000 will give serious consideration of this option.

The importance of high-quality leadership to building a credible, professional police force cannot be overstressed. In the Guatemalan case, professional, democratic leadership is doubly important to imprint a new institutional culture and practice on a force made up largely of recycled elements. In other countries, where progressive leadership has been present, significant advances have been seen in a relatively short period. The negative impact of poor leadership, particularly at the mid-level, has also been clear in El Salvador and Haiti. For police reform in Guatemala to have a chance at success, a more aggressive solution to the officer problem is imperative.



## CHAPTER 7: EXTERNAL SUPPORT FOR THE PNC

The Guatemalan government and other actors have clear commitments to fulfill related to police reform under the 1996 peace accords. Their compliance with the agreement is monitored by MINUGUA, which is the body with overall responsibility for monitoring implementation of the accords. International donors to the police reform effort also have important leverage to encourage the implementation of commitments. And Guatemalan domestic actors, particularly civil society organizations, have a significant potential to press the government to carry out its commitments fully. Yet, in the three years since the signing of the peace accords, the impact of these domestic and international actors has been limited in moving the government towards a more effective and comprehensive effort to build a truly new civilian police force.

### **Role of the International Community**

The international community is playing a limited but potentially important role in police reform in Guatemala. In mid-1996, before the civil-military accord was signed, the Ministry of the Interior announced that Guatemala would be adopting the Spanish Civil Guard model. While it is unclear why the government chose the GCE to be the primary donor to Guatemala's police reform, Guatemalan government leaders claimed they wanted to avoid the Salvadoran model of multiple donors and

the mixed messages they said came from this approach. In Guatemala, there has been relatively little public and international debate about police reform and this preemptive measure appears to have had the unfortunate impact of limiting the technical and financial involvement of other potential donors. A number of observers have also questioned whether the militarized policing model of the *Guardia Civil* is the most appropriate to Guatemala's effort to move from militarized to civilian policing.

The Spanish Civil Guard assisted in the establishment of the Academy and helped with initial training, through a \$0.9 million technical assistance program running from September 1, 1996 to December 31, 1997. Starting in May 1998, the Spanish Civil Guard is the designated technical assistance component of a major PNC development project funded by the European Union. The EU project will provide some 31.73 million ECUS (approximately \$32 million at late-1999 rates) between 1998 and 2003 for training, administration, vehicles, construction or rehabilitation of Academy or police station installations, and other needs. (Purchases must be made in countries of the European Union or in Guatemala.) This package makes the Spanish Civil Guard the most influential external actor in the process of Guatemalan police reform.

The only other ongoing bilateral donor is the US Department of Justice program, ICITAP, which provides training in criminal investigation, and technical assistance in areas such as computerization of police and court records. The ICITAP program received \$3 million per year in fiscal years 1997 and 1998, \$2.4 million for fiscal 1999, and will request \$2.5 million for FY 2000, bringing its four-year total to approximately US\$11 million.

Other bilateral programs include U.S. DEA/NAS programs to develop the Department of Antinarcotics Operations (DOAN), the size of which could not be determined for this report; and a donation of around \$3 million by the Taiwanese government to purchase a radio communications system for the PNC.<sup>79</sup>

MINUGUA provides overall verification of the peace accords, conducts human rights training, and implements small institutional strengthening projects funded by bilateral donors. MINUGUA's institutional development projects have included a \$1,069,300 institutional development project funded by Sweden and Norway for the PNC (1997-1999); a \$398,839 project in the Police Academy funded by Sweden and Norway; a project to promote multiculturalism (\$306,880 for 1999-2000) funded by Sweden and Norway; and a small project in criminal investigations funded by Norway (\$668,933 for 1999-2000).<sup>80</sup>

These donations are relatively small in the context of overall post-war assistance to

Guatemala. But they address an area of priority concern to the government, and thus represent an important opportunity to influence government policies on such issues as recruitment, selection, quality of training and internal controls.

Unfortunately, the key donors and implementers, especially the EU/GCE, have largely accepted and supported the government's priorities even when these conflict with the peace accords. This is the case with the government's failure to actively promote indigenous participation in the police and the irregular admission of a number of military personnel into the police, two serious accord violations that have repeatedly been raised by MINUGUA. International donors should support the UN mission on such issues and condition assistance programs on compliance with the accords.

While it is the government of Guatemala that has the primary responsibility for implementing the peace accords, the international donors could do more to promote international standards and a deeper reform process. In particular, they could serve more effectively as a counterweight to expedient choices on such issues as personnel selection. ICITAP, for instance, has provided investigative training to personnel in the SIC who have not been selected according to appropriate standards. While it is understandable that ICITAP went ahead with the courses, given that personnel had already been contracted to provide the training, it may have missed an opportunity to insist on appro-

priate selection criteria from the outset. Past experience in El Salvador and elsewhere suggests that providing technical training to inappropriate and poorly screened personnel leads, at best, to poor performance, and at worst to more insidious problems such as corruption or organized criminality within the police. However difficult it might be to insist on a proper selection process for applicants to special units such as the SIC, failure to do so is a waste of resources and a disservice to the long-term development of the PNC. Similarly, the GCE at several points has acceded to training personnel who did not meet the standards originally envisioned.

European Union authorities appear to have created only very limited oversight mechanisms. The Guatemalan and Spanish Civil Guard co-directors are required to prepare a Global Operational Plan, trimestral implementation reports, and an internal reporting and evaluation system. In addition, the Project Agreement states, “the [European] Commission foresees carrying out external, detailed supervision-evaluation missions of the Project, its methods and results. . . . The Commission reserves the right to modify the project based on these results.”<sup>81</sup> There is also an Interinstitutional Consultative Committee, presided over by a Guatemalan authority, which is to include the President of the Group of the Ambassadors of the Union, interested member states, and a representative of the Commission office in Guatemala. However, beyond technical and financial supervision, there appears to be little over-

sight of the overall direction of the project and its contribution to police reform in Guatemala.<sup>82</sup>

In practice, the project agreement delegates all responsibility for project implementation to two co-directors: a Guatemalan co-director, Jorge Paiz Prem, and a Spanish Civil Guard colonel. The agreement does allow other EU member nations to participate in a temporary technical assistance team, but stipulates that the composition of this team “must reflect the principle of ‘homogeneity’ of the intervention”—a clause that makes it more difficult to exercise effective oversight of the project.<sup>83</sup>

The absence of conditionality associated with this project contrasts sharply with the EU’s very stringent use of conditionality on projects in other areas, such as judicial reform. Greater political attention to this project, and greater willingness to apply more rigorous conditions to the delivery of aid, could produce significant improvements in the development of the PNC, especially given the relatively large size of the EU project and resulting leverage.

Coordination among the international actors has also been poor. Despite occasional meetings between ICITAP and the GCE, differences of opinion frequently arise on issues such as the proper role of police investigators and the number of investigators who should be deployed to different police stations. In separate interviews with GCE, ICITAP, and MINUGUA officials, WOLA found that the agencies were not well informed regarding the activities of the

others. The result has often been conflicting advice delivered to the government, and contradictory positions that make it difficult for international actors to serve as a counterweight to the domestic political pressures on the government. Neither ICITAP nor the GCE have consistently coordinated their positions with MINUGUA. ICITAP and MINUGUA got into an ugly dispute over the presence of two MINUGUA trainers in the SIC. The GCE has consistently favored expediency in selection and rapid training of recycled personnel, while MINUGUA has taken principled and largely ineffective stands in support of high admissions standards, exclusion of military personnel, and recruitment of indigenous applicants. As a result of this lack of coordination, the government has felt little pressure to respond when MINUGUA has identified and objected to clear violations of the accords involving the police.

### **Role of Civil Society Organizations**

Decades of militarization and repression have left a strong mark on Guatemala's social fabric. The military is feared, but it is also respected as a strong and effective institution. Given the traditional weakness and corruption of police, public prosecutors and the courts, the rule of law is still largely an abstract concept. In this context, it is all too easy for citizens to take the law into their own hands, or to call for strong-arm measures to control delinquency. Widespread lynchings and the public outcry about crime, have been important contributors

to the Arzú government's decision to focus on rapid deployment.

Another key aspect of police reform in Guatemala is the growing involvement of civil society organizations (CSOs) in monitoring progress of public security reforms, and providing input to attempt to influence the direction of reforms in this area. When the peace accords were signed, Guatemalan CSOs had little interest or capacity to become involved in police reform. Over the past three years, this situation has changed in important respects. There are a small number of groups increasingly involved in and knowledgeable about police reform though their influence with the government is counter-balanced and probably outweighed by demands of conservative groups wanting more repressive responses.

To date, civil society organizations have made most progress in deepening their understanding of progress in police reform, identifying major problems, and proposing possible solutions. Their capacity to bring about changes to laws or directly affect government actions in the area of police reform is as yet limited for a number of reasons. First, it has taken significant time and resources for groups to develop a broad understanding of a complex—and until quite recently unfamiliar—area. For a handful of groups a significant level of expertise has now been developed. Second, differences of focus and priorities as well as a degree of competition have made it difficult to coalesce around

specific, achievable advocacy objectives. Third, and perhaps most important, the Guatemalan government has demonstrated little openness to including CSOs in discussions of objectives and priorities in internal security policies. As an example, the government has not yet formed the Advisory Council on Security which is to

be made up of a range of individuals from different sectors of society to advise the president on public security issues. This body could (given appropriate political will on the part of the president and government) play a crucial role in broadening discussions about priorities and challenges in the area of public security.

## CHAPTER 8: CONCLUSIONS AND RECOMMENDATIONS

The extent, importance and consistency of the problems discussed in this report lead to the conclusions that the government of President Alvaro Arzú did not take police reform seriously as a long-term institutional challenge. Instead, it focused on quantitative and largely tactical measures of success—laws passed, number of police trained and deployed and, of course, impact on crime (which is still unclear). As a result, there is a grave danger that the new PNC will reproduce the problems that long existed in Guatemala's previous police forces—ineffectiveness, lack of accountability, poor human rights performance, corruption, and lack of internal controls, among others.

It is clear that the Guatemalan government has operated under extremely difficult conditions and felt considerable political pressure to quickly increase police or other security force presence to address public concerns and fears of violent crime. To respond to these pressures for quick action to increase public security, the government pursued two simultaneous options: (1) the extensive use of the military in joint patrols and the case-by-case use of military intelligence officers in the investigation of high-profile crimes, (2) shortcuts in developing the PNC such as extensive recycling of former personnel, minimal screening, lowered educational standards (to increase numbers of

existing personnel retained), and foreshortened training periods (to accelerate recycling and deployment). Unfortunately, both of these approaches risk undercutting the central goals of the civilian power accord to limit the role of the military to external defense and create a professional civilian police force that is protective of individual rights. As WOLA noted in an earlier report,<sup>84</sup> deploying the military in a transitional role might be considered the lesser of these two evils, since hopefully this support will be temporary. Taking shortcuts in constructing the new PNC is more likely to have lasting, negative effects. If the new police become institutionalized along lines all too similar to those of the old National Police, it will be more difficult to reform in the future.

The 1996 peace accords are explicit in giving the PNC the responsibility for internal security and public order within the country; in establishing that the PNC be a new kind of force in Guatemala—respectful of human rights and democracy, and obedient to the law; in defining the Police Academy as the institution responsible for education and training of the new force; and in requiring that the PNC reflect the multilingual and pluricultural character of the country. The Guatemalan government has fulfilled many of its formal requirements under the peace accords, but has fallen short in major respects in ensuring the quality and diversity of

candidates needed to build a truly new and credible force, and in providing them the education and training needed to exercise their responsibilities effectively.

The peace accords provided a unique opportunity for Guatemala to redefine fundamentally its policing institutions. The Arzú government made advances in creating and deploying a unified National Civilian Police, far better trained and paid than its predecessors. But the government's approach, focusing on quantity of police trained and rapid deployment rather than on what it will take to build a credible and respected force for the long haul, undermined the future prospects of the PNC and sidestepped much of the intent of the accords. Continuing problems in selection, training, and controls are compromising the effectiveness, human rights performance, internal discipline, and accountability of the PNC. Overall, the Guatemalan government appears to have approached police reform more as a short-term political challenge—responding to the strong public concerns about violent crime—rather than as a long-term, institution-building effort that has a crucial connection to the consolidation of democracy in Guatemala.

### **Recommendations**

The new Guatemalan government faces the major challenge of turning the PNC into an institution that is truly different from its predecessors, one that shows a real commitment to professionalism, efficacy, and respect for human rights.

### **The incoming government should:**

#### **General**

- Review closely and implement the recommendations of the Historical Clarification Commission (*Comisión para el Esclarecimiento Histórico*—CEH) regarding the role of the armed forces (V.2) and public security (V.3), noting particularly Art. 78:

“That, in case the [constitutional] reforms proposed in the Peace Accords are unsuccessful, Congress take the necessary legislative action to separate the functions of the Army and of the Police, limiting the participation of the Army in the field of public security to an absolute minimum.”<sup>85</sup>

#### **Recruitment and selection**

- Develop a massive police recruitment program, through the media and presentations in schools and communities, targeted in particular at qualified indigenous and women.
- Revise the selection process for new recruits to include 1) the use of just one examination for all applicants regardless of education levels, 2) the elimination of discriminatory height requirements, and 3) procedures to minimize application costs to the aspiring recruit.

- Remove all current agents and officers who entered recycling courses irregularly, permitting them to apply to the PNC as new recruits and receive the full six months training.
- Develop a plan for the recruitment and training of civilians for the PNC senior office corps, and make top-level positions accessible to highly qualified civilians.
- Establish retraining and retirement programs for members of the old security forces who are unable to meet requirements for the new PNC, and exclude their participation in public security functions.

### *Training*

- Provide another three months of Academy training for those already recycled, and extend the length of all remaining recycling courses to six months.
- Develop field training and continuing education programs for agents and officers.
- Improve quality and training of Academy instructors, including through the use of international instructors; training or retraining of national instructors; and collaborative efforts with Guatemalan public and private universities.
- Reform curricula and educational materials used at the Police Academy to make them more accessible to students, and more adapted to the Guatemalan cultural reality.
- Provide supplementary tutoring and support to indigenous students at the Academy.
- Affirm the central importance of human rights training and practice, and ensure effective instruction in the use of the PNC disciplinary code.

### *Internal and external controls*

- Revise the disciplinary regulations to make them easier to understand and use, create an effective internal affairs division, and establish easily accessible mechanisms to receive complaints from the public and from within the force.
- Maintain and publish detailed records on complaints and investigations of police conduct, the findings thereof, and administrative sanctions undertaken.
- Establish a PNC Inspector General with sufficient investigative resources to evaluate the performance of the new internal affairs unit, the conduct of the PNC officer corps, as well as routine disciplinary procedures conducted by the PNC command hierarchy.



***Removal of military from public security functions***

- Ensure that the role of the military is limited to external defense. Where exceptional circumstances necessitate military support for police, this should be for a limited and specified time, clearly under civilian control, and not involve investigations or intelligence gathering.
- Disband the Presidential General Staff (*Estado Mayor Presidencial*) and any other military intelligence unit involved in investigating crime, and create a transparent civilian intelligence body within the Ministry of the Interior to conduct intelligence necessary for tracking and combating criminal activity, as laid down in the peace accords.

**The international community should:**

- Consider providing new or additional technical and financial support to the PNC, particularly in the areas outlined in this report.
  - Play a more active role in monitoring and evaluating the Guatemalan police reform process, especially in relation to international standards for transparency, accountability, minimum use of force, effective internal controls, and respect for human rights.
- Contribute to public education efforts regarding the differences between police and military functions, and support civilians and government officials in learning about reform processes in other countries.
  - Link continued funding to full compliance with the relevant provisions of the peace accords, particularly in relation to length of training, the “aptness” of those selected for the PNC, promotion of indigenous participation, the role of the military, and meeting minimum international standards.
  - Donors should coordinate their programs closely with MINUGUA and use the Mission’s evaluation of progress in police reform as a basis for making funding determinations in this area.
  - Donors should support accelerated training programs for PNC leadership—particularly civilian leaders—and Academy instructors (both current and newly recruited), including through offering international training opportunities.
  - The US Department of State and the European Union should conduct evaluations of the effectiveness of their technical assistance programs for the PNC, especially given ongoing problems in recruitment, selection, and training.

## ENDNOTES

<sup>1</sup> United Nations General Assembly. "Report of the Secretary-General, United Nations Verification Mission in Guatemala (MINUGUA): Fourth Report on Verification of the Guatemalan Peace Accords (August 1, 1998 to October 31, 1999)". Guatemala: United Nations System in Guatemala, November 1999 (hereinafter, MINUGUA, "Fourth Verification Report"), para. 67.

<sup>2</sup> Commission for Historical Clarification (CEH). Guatemala: Memory of Silence, Tz'inil Na'tab'al: Conclusions and Recommendations. Guatemala: Commission for Historical Clarification, February 1999, p. 62-67.

<sup>3</sup> Ibid, p. 20.

<sup>4</sup> Ibid, p. 26.

<sup>5</sup> Interview with international aid official, October 1999.

<sup>6</sup> Human Rights Watch/Americas. Human Rights in Guatemala during President De León Carpio's First Year. New York: Human Rights Watch, 1994, p. 4-5.

<sup>7</sup> Washington Office on Latin America (WOLA). "*La reforma judicial en Guatemala, 1997-1998: Una guía básica sobre los problemas, procesos y actores.*" Guatemala: Central America Advocacy Training Program, May 1998.

<sup>8</sup> Ibid, p. 32-34.

<sup>9</sup> Comisión de Fortalecimiento de la Justicia. Una nueva justicia para la paz. Informe Final. Guatemala: Magna Terra Editores, April 1998.

<sup>10</sup> See, for example, *Instancia Coordinadora para la Modernización del Sector Justicia*, "Plan de política del estado contra el crimen." Guatemala: July 1998, photocopy; and "Plan estratégico sectorial: 1998-2002," Guatemala: no date, photocopy. But officials of international organizations, civil society leaders, and even government officials view the ICMSJ as little more than a 'talking shop' that is not taken seriously by the main actors involved in justice sector reform.

<sup>11</sup> United Nations Development Programme (UNDP). Guatemala: Los contrastes del desarrollo humano (Edición 1998). United Nations System in Guatemala: Guatemala, 1998, p. 161.

<sup>12</sup> Development Associates, University of Pittsburgh, and *Asociación de Investigación y Estudios Sociales (ASIES)*, *La cultura democrática de los guatemaltecos: Tercer estudio*. Guatemala, January 1998, p. 3, 78, and 87.

<sup>13</sup> *Policía Nacional Civil (PNC)*. “*Observaciones al Informe de Desarrollo Humano del PNUD, 1998*,” photocopy, 1999; and “*Cuadro Estadístico Comparativo de Hechos Delictivos Registrados a Nivel República, Años 1998 y 1999*,” photocopy, 1999.

<sup>14</sup> FBI crime figures reported 6.3 homicides per 100,000 residents in the U.S. for 1998, CNN Nightly News, 17 October 1999.

<sup>15</sup> Development Associates, et al, *La cultura democrática de los guatemaltecos*, p. 10.

<sup>16</sup> UNDP, *Guatemala: Los contrastes del desarrollo humano*, p. 148.

<sup>17</sup> For the lynchings between 27 March 1996 and 1 April 1998, see, United Nations General Assembly. “Report of the Human Rights Area of the United Nations Verification Mission in Guatemala (MINUGUA) (covering the period 1 July 1997 to 31 March 1998)” Guatemala: United Nations System in Guatemala, 15 June 1998. (hereinafter, MINUGUA, “Eighth Human Rights report”) para. 21-22; and for 1998 figures, MINUGUA, “Suplemento al noveno informe sobre derechos humanos de la Misión de Verificación de las Naciones Unidas en Guatemala: Despliegue de la Policía Nacional Civil”. Guatemala: United Nations System in Guatemala, March 1999, para. 66. [For MINUGUA reports and information, also see [www.minugua.guate.net](http://www.minugua.guate.net)]

<sup>18</sup> Because of the high level of international engagement, these processes are well documented. See, for example, the following reports of the Washington Office on Latin America: *Demilitarising Public Order; the International Community, Police Reform and Human Rights in Central America and Haiti* (1995), *Policing Haiti: Preliminary Assessment of the New Civilian Security Force* (1995); *The Human Rights Record of the Haitian National Police*, (a joint report of WOLA, Human Rights Watch/Americas and the National Coalition for Haitian Rights, 1997); *Can Haiti's Police Reforms Be Sustained?* (a joint report of WOLA and National Coalition for Haitian Rights, 1998); *Themes and Debates in Public Security Reform: A Manual for Civil Society* (1998); *Risking Failure: The Problems and Promises of the New Civilian Police in El Salvador* (1993); *Protectors or Perpetrators? The Institutional Crisis of the Salvadoran Civilian Police* (a joint report of WOLA and Hemisphere Initiatives, 1996). Please refer to the complete listing of WOLA publications on police reform processes in Latin America at the end of this report; also George R. Vickers “Renegotiating Internal Security: The Lessons of Central America,” in *Comparative Peace Processes in Latin America*. Ed. Cynthia J. Arnson. Washington, D.C.: Woodrow Wilson Center Press, 1999; and Chuck Call “Police Reform, Human Rights, and Democratization in Post-Conflict Settings: Lessons from El Salvador”, in *After the War is Over ... What Comes Next; Promoting Democracy, Human Rights and Reintegration in*

*Post-Conflict Societies*, (U.S. Agency for International Development Conference, October 30-31, 1997). See also reports of United Nations peacekeeping and human rights missions in El Salvador, Haiti and Guatemala, many of these can be found on the UN's web page, at [www.un.org](http://www.un.org).

<sup>19</sup> “*Propuesta de reformas a la Ley de la Policia Nacional Civil.*” Unpublished document prepared and promoted by IEPADES, Fundación Myrna Mack, IECCP, and others, 14 April 1997.

<sup>20</sup> Since 1994, the Executive has made three attempts to legalize this body, twice through proposed legislation and once by Executive decree. These were strongly questioned by WOLA and the Myrna Mack Foundation for lack of adequate guarantees, civilian control, and transparency. The previous Executive Decree was declared unconstitutional.

<sup>21</sup> Government of Guatemala. *Decreto Numero 114-97, Ley del Organismo Ejecutivo, Articulo 13.*

<sup>22</sup> See Rachel Neild. “Themes and Debates in Public Security Reform: A Manual for civil society—1. Police Recruitment.” Washington, DC: Washington Office on Latin America, November 1998, p. 12-15.

<sup>23</sup> See United Nations General Assembly. “Report of the Secretary-General, United Nations Verification Mission in Guatemala (MINUGUA): First Report on Verification of the Guatemalan Peace Accords (15 January 1997 to 15 April 1997).” Guatemala: United Nations System in Guatemala, 30 June 1997 (hereinafter, MINUGUA, “First Verification Report”), para. 46; and, United Nations General Assembly. “Report of the Secretary-General, United Nations Verification Mission in Guatemala (MINUGUA): Third Report on Verification of the Guatemalan Peace Accords (January to July 1998).” Guatemala: United Nations System in Guatemala, 28 September 1998 (hereinafter, MINUGUA, “Third Verification Report”), para. 79.

<sup>24</sup> Interview with civil society monitor of police reform process, December 1999.

<sup>25</sup> For a discussion of comparative approaches to recruitment and selection in post-conflict societies, see Neild, “Themes and Debates in Public Security Reform: A Manual for civil society—1. Police Recruitment.”

<sup>26</sup> Interview with Deputy Interior Minister Salvador Gandara Gaitán, 2 February 1999.

<sup>27</sup> Interview with Margarita Castillo and Monserrat Garcia, 2 October 1999; another civil society monitor of police reform efforts reported having seen ‘a few’ advertisements on television, Interview, December 1999.

<sup>28</sup> Rodolfo Zelada. "Restringido acceso a la Academia de la Policía Nacional Civil," *El Periódico*, citing Carmen Rosa de León of IEPADES, 5 February 1999.

<sup>29</sup> MINUGUA, "Suplemento al noveno informe: Despliegue de la Policía Nacional Civil," p. 9.

<sup>30</sup> Interview with PNC official, May 1999.

<sup>31</sup> Interview with international aid official, May 1999.

<sup>32</sup> While the requirement was raised to the equivalent of 9<sup>th</sup> grade in 1999, entrants during that year were only required to have a sixth grade education.

<sup>33</sup> *Instituto de Enseñanza para el Desarrollo Sostenible (IEPADES)*, "Informe sobre costos de acceso a exámen de ingreso a la APNC," p. 1, photocopy, February 10, 1999.

<sup>34</sup> UNDP, *Guatemala: Los contrastes del desarrollo humano*, p. 209.

<sup>35</sup> MINUGUA. Equipo de Seguridad Pública, Academia de la Policía Nacional Civil. "Informe de Verificación, Febrero-Abril de 1998." Guatemala: United Nations System in Guatemala, May 1998, p. 9.

<sup>36</sup> *Ibid.*

<sup>37</sup> Interview with Claudia Rodríguez, May 1999.

<sup>38</sup> In the call for recruits for the fourth and fifth courses for basic agents in December 1998 and January 1999 exceptions to the general height requirement for the western departments and Petén permitted entry to male applicants of 1.58 meters and female applicants of 1.53 meters, and with a higher education (4<sup>th</sup> grade diversified, *4 grado diversificado*) to males of 1.56 meters and females of 1.52 meters. In the rest of the country, men with a 4<sup>th</sup> fourth level education had the height requirement lowered to 1.57 meters and women to 1.53 meters.

<sup>39</sup> MINUGUA, "Informe de Verificación, Febrero-Abril de 1998," p. 23.

<sup>40</sup> *Ibid.*, p. 21.

<sup>41</sup> For a discussion of key comparative issues in police training in post-conflict societies, see Rachel Neild, "Themes and Debates in Public Security Reform: A Manual for civil society—2. Police Training," Washington, DC: Washington Office on Latin America, November 1998.

<sup>42</sup> Interview with PNC official, May 1999.

<sup>43</sup> Interview with ICITAP officials, August 1999.

<sup>44</sup> Interviews with PNC officials, MINUGUA officials, May 1999.

<sup>45</sup> The members of the Spanish Civil Guard (GCE), known also as the Technical Support Team of the European Union (*Equipo de Asesoría Técnica de la Unión Europea*) say they are providing supervision of instructors and bringing complaints to the Director of the APNC where they detect anomalies. Interview with international police aid official, December 1999.

<sup>46</sup> PNC, "Estado de fuerza general de la Policía Nacional Civil por comisarias, dependencias, especialidades y servicios especiales," Photocopy, 1999, p. 12-16.

<sup>47</sup> See, MINUGUA, "Suplemento al noveno informe: Despliegue de la Policía Nacional Civil," p. 4-5; and interviews with international aid officials, May and June 1999.

<sup>48</sup> "El Despliegue de la Policía Nacional Civil en Cumplimiento al Acuerdo de Paz, 'Fortalecimiento del Poder Civil y Funcion del Ejército en una Sociedad Democrática.'" sponsored by the United Nations Development Program (UNDP), Project GUA-98-027-UNDP. Presented in the National Encounter for Peace, Guatemala, October 12, 1999.

<sup>49</sup> *Familiares y Amigos contra la Delincuencia y el Secuestro* (FADS). Draft document on National Civilian Police. Photocopy, 1999.

<sup>50</sup> MINUGUA, "Suplemento al noveno informe: Despliegue de la Policía Nacional Civil," para. 9.

<sup>51</sup> Internal PNC document.

<sup>52</sup> Interviews with ICITAP, UN, and GCE officials, May 1999.

<sup>53</sup> Donald González Díaz and Julie López, "Disuelvan las FEP," *Siglo Veintiuno*, 6 April 1999. See side bar entitled "Las peticiones que murieron recién nacidas."

<sup>54</sup> See United Nations General Assembly, "Ninth Report of the Human Rights Area of the United Nations Verification Mission in Guatemala (MINUGUA) (covering period from 1 April to 31 December 1998). Guatemala: United Nations System in Guatemala, 10 March 1999. (hereinafter, MINUGUA, "Ninth report on human rights"); also "Carta Abierta" by José Vitalino González Godoy to President Arzú, published as a paid aid in *Prensa Libre*, April 21, 1999.

<sup>55</sup> Commission for Historical Clarification. *Guatemala: Memory of Silence*, p. 64-65.

<sup>56</sup> Interview with Ray Campos and German Zuñiga, ICITAP, May 1999.

<sup>57</sup> Interviews with ICITAP and GCE advisors, May 1999.

<sup>58</sup> Interview with international aid official, May 1999.

<sup>59</sup> As of August 1999, ICITAP was teaching its seventh group of investigators. With each successive class, the government has done better in selecting personnel according to the standards proposed by ICITAP. Because of delays in screening and polygraph checks, however, ICITAP continues to experience some attrition from classes once these checks are completed. Interviews with Joe Gannon and Ray Campos, August 1999.

<sup>60</sup> Interviews with ICITAP Ray Campos and Germán Zuñiga, May 1999.

<sup>61</sup> Interviews with Ray Campos of ICITAP and PNC Director General Angel Conte Cojulun, May 1999.

<sup>62</sup> Interview with prosecutor, May 1999.

<sup>63</sup> In the Honduran model, the criminal investigation unit was first attached to the Public Ministry and later—in 1998—transferred to the Ministry of Public Security, which helped cooperation between the Public Ministry and police investigators.

<sup>64</sup> Interview with PNC Director General, Angel Conte Cojulun, May 1999; interviews with UN and US officials, May 1999.

<sup>65</sup> Between January 1998 and May 1999 there were 153 media reports dealing with the involvement of military intelligence in criminal investigations. These included references to the murder of Bishop Gerardi, reports of military intelligence involvement in telephone surveillance, and involvement in operations against suspected kidnappers. (Survey of thirteen Guatemalan radio, television and print media outlets between January 1998 and May 1999 carried out for WOLA by *Centro de Análisis Político: Guatemala*, 1999.)

<sup>66</sup> MINUGUA, "Third Verification Report," para. 79.

<sup>67</sup> MINUGUA, "Suplemento al noveno informe: Despliegue de la Policía Nacional Civil," p. 5.

<sup>68</sup> MINUGUA, "Ninth report on human rights", pp. 5-8, and 20.

<sup>69</sup> *Siglo Veintiuno*, 3 February 1999, p.6.

<sup>70</sup> Interview with leader of human rights organization, February 1999.

<sup>71</sup> "Reglamento de Organización de la Policía Nacional Civil." *Acuerdo Gubernativo Número 585-97*, Art. 19.

<sup>72</sup> MINUGUA, "Suplemento al noveno informe: Despliegue de la Policía Nacional Civil," p. 5.

<sup>73</sup> "Guatemala disbands its crack police unit," *Washington Times*, 7 April 1999.

<sup>74</sup> Interview with international aid official, June 1999.

<sup>75</sup> *Siglo Veintiuno*, 13 January 1999.

<sup>76</sup> *Siglo Vientiuno*, 15 January 1999, p.10.

<sup>77</sup> PNC, "Cuadro estadístico comparativo de hechos delictivos registrados a nivel Republica durante el primer semestre de los años 1998 y 1999," p. 1-12. While the numbers used here are taken from this PNC report, the percentages in the text of this report differ from those of the PNC since the PNC figures contain a consistent error (both for increases and decreases in crime rates) in computing the percentages.

<sup>78</sup> PNC, "Resumen por mes de detenidos y comparación con el año anterior, período 1997-98/1998-99." Photocopy.

<sup>79</sup> ICITAP Interview, August 1999

<sup>80</sup> UNDP, "Programas de cooperación internacional para el fortalecimiento del sector justicia". Printed tables. Guatemala, May 1999.

<sup>81</sup> Convenio de Financiación entre la Comunidad Europea y la República de Guatemala. Convenio No. GTM/B7-310/IB/97/421, "Programa de apoyo a la política nacional de seguridad ciudadana," Article 17 and Annex 2, section 6.9.



<sup>82</sup> Ibid, p. 21. Project oversight and supervision includes trimestral reports delivered to the EU delegation in Guatemala; a financial audit once a year by an independent company; periodic discussions with the EU delegation in Guatemala; and visits from the project director in Brussels (three in sixteen months.) A formal evaluation by the EU is planned for the mid-point of the program in August 2000. As argued in this report, there is no evidence that these mechanisms have led to any serious political questioning of the EU project and its overall relationship to a seriously flawed police reform process in Guatemala.

<sup>83</sup> Ibid, p. 20.

<sup>84</sup> Rachel Garst. "The New Guatemalan National Civilian Police: A Problematic Beginning," in WOLA, *Briefing Series: The Guatemalan Peace Process*. Washington, D.C.: WOLA, November 1997, p. 1.

<sup>85</sup> Commission for Historical Clarification. Guatemala: Memory of Silence, p. 62-67.

## Abbreviations

APNC	<i>Academia de la Policía Nacional Civil</i> National Civilian Police Academy
CEH	<i>Comisión para el Esclarecimiento Histórico</i> Historical Clarification Commission
DOAN	<i>Departamento de Operaciones Anti-Narcóticas</i> Department of Anti-Narcotic Operations
GCE	<i>Guardia Español Civil</i> Spanish Civil Guard
EMP	<i>Estado Mayor Presidencial</i> Presidential General Staff
FADS	<i>Familiares y Amigos Contra la Delincuencia y el Secuestro</i> Family Members and Friends Against Crime and Kidnapping
FEP	<i>Fuerzas Especiales de Policía</i> Special Police Forces
FIS	<i>Fondo de Inversión Social</i> Social Investment Fund
FONAPAZ	<i>Fondo Nacional para la Paz</i> National Peace Fund
FRI	<i>Fuerzas de Reacción Inmediata</i> Forces of Immediate Reaction
ICITAP	US International Criminal Investigative Training Assistance Program
IEPADES	<i>Instituto de Enseñaza para el Desarrollo Sostenible</i> Institute for the Study of Sustainable Development
JLS	<i>Juntas Locales de Seguridad</i> Local Security Committees
MINUGUA	<i>Misión de las Naciones Unidas en Guatemala</i> United Nations Verification Mission in Guatemala

MP	<i>Ministerio Público</i> Public Ministry
ORP	<i>Oficina de Responsabilidad Profesional</i> Office of Professional Responsibility
PAN	<i>Partido de Avanzada Nacional</i> National Advancement Party
PMA	<i>Policía Militar Ambulante</i> Mobile Military Police
PN	<i>Policía Nacional</i> National Police
PNC	<i>Policía Nacional Civil</i> National Civilian Police
PNN	<i>Policía Nacional Nicaraguense</i> Nicaraguan National Police
SAE	<i>Secretaría de Análisis Estratégico</i> Secretary of Strategic Analysis
SIC	<i>Servicio de Investigación Criminal</i> Criminal Investigations Service
UNDP	United Nations Development Programme
URNG	<i>Unidad Revolucionaria Nacional Guatemalteca</i> Guatemalan National Revolutionary Unity
USAID	US Agency for International Development

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