Police reform and security strategies in Mexico in the context of the war on drugs and U.S. support for these efforts[i]

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More than a decade after former Mexican president Felipe Calderón launched the war on drugs, Mexico is still a primary source and transit country for illicit drugs. As a result, Mexican citizens continue to grapple with record levels of violence and insecurity.

To address drug trafficking and contain organized criminal violence, perpetrators must be identified, prosecuted, punished, and prevented from carrying out their illegal activities from behind bars. Effective police, prosecutors, and judiciaries, free from corruption, are essential in achieving that end. The Mexican government has undertaken important efforts to strengthen the country's justice prosecutorial and law enforcement sectors, efforts that the United States has supported to varying degrees. But stronger institutions aren't built overnight, and the country is far from having the strong institutions it needs.

Likewise, Mexico's reform efforts should be viewed as part of a longer-term strategy that aims to mitigate, rather than eliminate, drug trafficking in the country, as even strong and effective institutions will not be able to stop the drug trade. In 2020, WOLA was commissioned by the Western Hemisphere Drug Policy Commission - a bipartisan, independent commission created by the U.S. Congress in 2017 to evaluate U.S. drug policies and programs in the region and provide recommendations for improvement - to submit a white paper on police reform in Mexico and Central America and U.S. support for these efforts. The findings and recommendations in the paper are WOLA's and not the Commission's.[ii] The following is an edited version of the Mexico section of this paper that addresses police reform as a priority element not only for drug control strategies, but for creating rights-respecting police forces that are able to prevent and combat crime and violence with the trust of the citizenry.

Context of insecurity and violence in Mexico

Since 2006, Mexico's security strategy has consisted largely of going after the leaders of criminal organizations. This U.S.-backed strategy has succeeded in capturing or killing dozens of cartel leaders, but it has also played a key role in fragmenting Mexico's organized crime organizations: there are now an estimated nine predominant organizations and some 200 smaller, local-based organizations, resulting in renewed competition between groups for routes and "plazas."

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Mexican criminal organizations have also expanded their activities well beyond drug trafficking to include extortion, pirated goods, kidnapping, oil theft, vehicle theft, natural resource extraction, human trafficking, and human smuggling, amongst other activities.[iii]

The fragmentation of criminal groups, combined with Mexican federal security forces' frontal assault against them, has caused violence to explode in several parts of the country. In 2019, Mexico registered 35,588 homicides nationwide, an average of 97 killings a day. This tally surpassed 2018's record of 33,341 killings, which had already represented a 33 percent increase over 2017.[iv] Violence has continued at alarming levels in 2020, with March 2020 registering the highest number of homicides during López Obrador's term so far.[v] Analyses of crime data suggest that between a third and a half of homicides in Mexico can be attributed to organized crime groups.[vi]

The current state of Mexico's police reflects decades of neglect and partial policy solutions

Multiple Mexican presidents have recognized the extensive problems facing the country's police forces, but they have failed to invest the resources needed for promising reform efforts to fully take hold. Forces at all levels are riddled with corruption, and citizens widely view police as ineffective in enforcing the law or even believe they enable crime.

According to Mexico's 2019 National Survey on Victimization and Perceptions of Insecurity, the country's police forces continue to have lower levels of citizen trust and are viewed as more corrupt than Mexico's armed forces. Less than 60 percent of those surveyed trusted Mexico's state or municipal police forces, while more than 64 percent viewed them as corrupt.[vii] Mexican police forces also have a long history of perpetrating human rights violations. The use of torture among police forces is widespread, and police have participated in several documented cases of extrajudicial killings, arbitrary detentions, and forced disappearances.[viii]

While promising renewed efforts to strengthen the country's police forces, Mexican presidents dating back to José López Portillo (1976-1982) also began to make use of the armed forces for public security tasks. While the militarization of public security was first presented as a temporary measure, this practice has been treated as a permanent fixture in Mexico's efforts to combat organized crime and guarantee public security, often at the expense of strengthening civilian policing.

In November 2018, Mexico's Supreme Court overturned the Internal Security Law, which had been enacted almost a year earlier with the support of President Enrique Peña and which formalized the role of the armed forces in domestic law enforcement.[ix] However, when President Andrés Manuel López Obrador came to power in December 2018, he implemented a security strategy that, in its own way, solidified the military's role in public security, as will be described below.

Recognizing the importance of having effective law enforcement agencies, both to increase citizen security and as a bulwark against organized crime and drug trafficking, the United States has provided

funding for Mexico's efforts to reform and professionalize its police forces. At the same time, the United States has supported the military's role in combating organized criminal groups and the drug trade.[x]

U.S. engagement with Mexico's security forces increased dramatically through the Merida Initiative, a multi-year aid package that has provided over USD$3.1 billion in assistance to Mexico since FY 2008. Mexico's federal security forces have been the main recipients of equipment and hardware to facilitate their efforts to interdict drugs, weapons, and other illicit goods. Between 2014 and 2018, the U.S. government provided approximately USD$144 million to Mexico through the International Narcotics and Law Enforcement (INL) account to help professionalize Mexico's police.[xi]

Although Mexico's police continue to face significant obstacles, the groundwork has been laid to establish more professional and rights-respecting forces. What has been lacking is the political will, resources, and commitment to further implement reforms. This section describes police reform efforts that were initiated by Felipe Calderón's administration (2006-2012), the changes made during the Enrique Peña Nieto administration (2012-2018), and the state of reforms in the present government of Andrés Manuel López Obrador (2018-2024).

The section then examines U.S. support for these efforts and provides recommendations for how the United States can better tailor future assistance to Mexico to address both countries' security priorities as they relate to combating organized crime and the drug trade.

Mexico's Federal Police, from Calderón and beyond

While his predecessors took steps to consolidate a national public security system and develop a framework for police reform, the efforts undertaken during President Calderón's administration were more comprehensive and laid the groundwork for many of the structures and programs that remain in place today.

This includes the 2009 General Law for the National Public Security System, which established the framework for the coordination and distribution of public security responsibilities between federal, state, and municipal governments. It also includes the law that established the Federal Police (2009), which aimed to create a professional, scientific, and preventative police force with enhanced investigative and intelligence powers. This same year, the National Conference of Public Security Secretaries, a coordination mechanism among the federal- and state- level public security ministries created through the National Public Security Law, approved the Comprehensive System for Police Development (*Sistema Integral de Desarrollo Policial*, SIDEPOL) with four main components: creating a model program for police professionalization; establishing a civil service career path for police; defining a disciplinary regime; and creating a complementary social security system (health care, pension, etc.).[xii] The Peña Nieto administration maintained this police development system as part of its National Development Plan (2013-2018).[xiii]

Under Calderón, the Federal Police grew from around 6,500 agents in 2006 (former Federal Preventive Police agents) to over 38,000 by the end of his term.[xiv] While his government is credited with laying the

groundwork for federal public institutions, the effort has been viewed as flawed and incomplete. As the Mexican government quickly recruited new agents for the force, speed sacrificed the quality of vetting and training. As the force grew, cases of agents implicated in human rights violations and acts of corruption spiked.

Peña Nieto took office in December 2012 promising renewed police reform efforts. Returning to the centralized command structure utilized by previous Institutional Revolutionary Party (PRI) administrations, which concentrated nearly all of the country's internal affairs operations within the Ministry of the Interior (*Secretaría de Gobernación*, SEGOB), Peña Nieto dismantled the separate Public Security Ministry (*Secretaría de la Seguridad Pública*, SSP) that had been created by President Vicente Fox in 2000 and placed public security responsibilities within the National Security Commission (*Comisión Nacional de Seguridad*), under the direction of SEGOB.[xv]

Peña Nieto's most significant effort on federal public security was the creation of a new body, the Gendarmerie. This force was originally presented to complement, not replace, the Federal Police, and take the lead in combating organized criminal organizations. It was supposed to be a military-trained police force of up to 50,000 members, including, at the onset, approximately 10,000 soldiers from the Ministry of Defense (*Secretaría de la Defensa Nacional*, SEDENA) and the Ministry of the Navy (*Secretaría de la Marina,* SEMAR).

However, the Gendarmerie faced significant challenges in hiring agents as well as a lack of clarity about its primary mission. In August 2013, the government announced that the Gendarmerie would be a division of the Federal Police, composed of just 5,000 civilian—not military—officers under civilian command, and that they would receive a combination of police and military training.[xvi]

Although Peña Nieto's administration purged the Federal Police of some 4,000 agents linked to possible acts of corruption, it did little to hire new agents. By the end of his term, Peña Nieto had left the Federal Police with around 1,000 agents fewer than at the start of his administration.[xvii]

Evaluations and vetting

The Calderón administration created the Evaluation and Confidence Control System (*Centros de Evaluación y Control de Confianza*) as the main mechanism to evaluate and vet Mexico's federal, state, and municipal police forces as well as officials within the public prosecutors' offices and the National Migration Institute (*Instituto Nacional de Migración,* INM).

The Peña Nieto administration continued to use this certification system as its primary vetting tool and it has remained in place under López Obrador. These evaluations are meant to ensure that new recruits have proper qualifications and a clean record. Since they are conducted on a regular basis for active agents, they also aim to weed out corrupt agents and detect officers with substance abuse or psychological problems who need assistance.

While these evaluations can serve as an important tool to root out corruption, analysts have expressed concerns about the implementation of the confidence control system and the overreliance on this tool to vet Mexico's police. After more than a decade of exams, Mexico's police forces are still riddled with accusations of corruption and accounts of entire police forces that have been disbanded because they were completely penetrated by criminal groups.[xviii]

In the Mexican think tank *Causa en Común*'s 2018 report on how Mexican state police forces were performing to meet numerous police development indicators, the area of certification continued to fare poorly, with all forces having at least some agents who had not gone through the exams and 12 states lacking all of the necessary equipment and infrastructure to conduct the exams.[xix] In other studies, *Causa en Común* found that many police officers view the confidence control system as a way to control them. Exam evaluators affirmed in interviews with *Causa en Común* that while they viewed the assessment as useful, there were many ways to improve the tests. They recommended developing dissemination campaigns within police forces themselves to better explain the purpose of the assessments as well as hiring additional evaluators to make the process more efficient in order to guarantee sufficient time to conduct the assessments.[xx]

If the confidence control system continues, these shortcomings should be addressed. At the same time, efforts that focus exclusively on weeding out "bad apples" within law enforcement bodies have inherent limitations. Vetting and regular exams, even when conducted in the most effective, fair, and transparent manner possible, are no substitute for creating and strengthening internal control mechanisms, such as internal affairs units, that can investigate and sanction police misconduct on a regular basis. Nor are they a substitute for external controls over police forces.

Internal affairs units and external controls over the police

The Calderón administration established an internal affairs unit within the Federal Police with greater autonomy than its predecessor and the authority to carry out investigations, including undercover operations, of police officers suspected of wrongdoing.[xxi] Agents can also be administratively sanctioned for human rights violations or other wrongdoings through the Internal Control Office (*Órgano Interno de Control*) which reports directly to the Ministry of Public Administration (*Secretaría de Función Pública,* SFP), the agency charged with monitoring federal public servants and penalizing those who violate the law while carrying out their duties.[xxii]

While the Federal Police's internal affairs unit developed improved capabilities, several areas needed to be strengthened to become more effective and to prioritize investigating grave irregularities and allegations of abuse over minor infractions. [xxiii]

External controls, such as the national- and state- level human rights commissions, lack the authority to ensure that government agencies abide by their recommendations, and these bodies often fail to make full use of the oversight tools they have at their disposal. These commissions should be strengthened and become more adept at asserting their authority.

The creation of additional external controls should also be considered. While civil society organizations have presented models for independent police monitors or auditors, the federal government has not adopted any of these initiatives. In a positive development, the municipality of Puebla, in Puebla state, announced in November 2019 that it would take the important step of establishing the country's first external police monitor.[xxiv]

The failure of current mechanisms to hold Mexico's police agents accountable for their actions is clear in the high number of human rights violations involving Mexico's police, as has been highlighted in numerous reports by UN bodies, the Inter-American Commission on Human Rights, and the U.S. Department of State's reports on Mexico's human rights practices.[xxv]

For example, in May 2006, police repression of a protest resulted in the arbitrary detention, sexual torture, and other human rights violations committed by state and Federal Police against at least 11 women from the town of San Salvador Atenco, State of Mexico. Based on the lack of progress in the Mexican government's investigation into the case, it was reviewed by the Inter-American Court, which in November 2018 ruled in favor of the victims and held the Mexican government responsible for the human rights violations against the women.[xxvi]

In the case of the armed confrontation between Federal Police agents and civilians on a ranch in Tanhuato, Michoacan in May 2015 that resulted in the killing of 43 individuals (42 civilians and one Federal Police agent), Mexico's National Human Rights Commission (CNDH) found that 22 individuals were arbitrarily executed and four were killed because of excessive use of force. It also found that two detainees were tortured and that Federal Police had altered the crime scene and planted weapons on 16 of the victims.[xxvii]

Current controls have also been unable to effectively root out corruption within Mexico's security forces. In the emblematic case of the 43 forcefully disappeared Ayotzinapa students, the local police officers that arrested the students were working on behalf of *Guerreros Unidos*, an organized criminal group involved in trafficking heroin and other drugs to the United States.[xxviii]

A report by the Human Rights Clinic at the University of Texas School of Law documents the scores of kidnappings, killings, and disappearances carried out by the Zetas cartel in the border state of Coahuila from 2006 until the arrest of their last key leader in 2015. Based on an analysis of first-hand testimonies of former Zeta Cartel members in U.S. federal trials, the report exposes the nature and degree to which these crimes were purportedly allowed to take place with the consent, and sometimes direct assistance, of government officials and police officers at the municipal, state, and even federal level. [xxix]

Perhaps the most alarming example of the failure to impose effective controls and monitoring over security forces was the U.S. Department of Justice' indictment of Genaro García Luna, the former secretary of public security in Mexico (2006-2012), for allegedly colluding with the Sinaloa Cartel. García Luna was the top official for the majority of the Calderón administration's public security initiatives. The indictment includes three counts of cocaine trafficking conspiracy and one count of making false

statements. As the DOJ states, “in exchange for multimillion-dollar bribes, the defendant allegedly permitted the Sinaloa Cartel to operate with impunity in Mexico.”[xxx]

State and municipal police forces

Through federal subsidies to state and municipal governments and the Executive Secretariat of the National Public Security System (*Secretariado Ejecutivo del Sistema Nacional de Seguridad Pública*, SESNSP), the Calderón, Peña Nieto, and López Obrador administrations have also worked to shape and support police reform efforts at the state and municipal level. Subsidies provided to the states through the Public Security Support Fund (*Fondo de Aportaciones para la Seguridad Pública*, FASP) and to municipalities through the Program to Strengthen Public Security Measures (*Programa de Fortalecimiento en materia de Seguridad Pública*, FORTASEG, which replaced the *Subsidio para Seguridad en los Municipios*, SUBSEMUN in 2016) are designed to support national-level public security goals through funding in areas such as police professionalization, violence prevention, equipment purchases, infrastructure improvements, and public security databases.[xxxi]

In 2011, the Calderón administration also began promoting the Accredited State Police Model to strengthen police leadership and to lay the foundations for state police that are trustworthy and efficient. As a part of this new model, states received a subsidy (*Subsidio para Policia Acreditable*) to assist with police training and equipment, with an additional focus on creating, implementing, and strengthening accredited police units.

Before it came to an end in 2015, this subsidy was later used to promote the Unified Police Command Model (*Mando Único*).[xxxii] Originally proposed during the Calderón administration, this model aimed to merge state and municipal police forces into a single chain of authority. While the initiative failed to get enough traction during his government, it was taken up by the Peña Nieto administration, which began facilitating coordination agreements between the governors and mayors of each state. As a part of some of these agreements, the armed forces were put in charge of public security.

By the end of 2017, around 82 percent of Mexico’s municipalities were operating under the Unified Police Command Model. While this strategy was promoted as a way to combat police corruption, particularly at the municipal level, and to improve coordination between the different police forces, the structure failed to reduce violence, improve public security, or reduce allegations of abuse and human rights violations.[xxxiii] Municipalities operating under this model versus those operating independently did not show a reduction in crime. While improving coordination between municipal and state police forces is important, Mexico’s experience with a unified police command model has shown that this is not a panacea for the complex set of challenges facing state and local police forces. Changing the command structure will not add resources to the forces, nor will it prevent abuses or strengthen accountability. Analysts have also critiqued this command structure given the risk that centralized decisions about public security may overlook the role of municipal police in crime prevention, responding to domestic disputes, and addressing misdemeanors like petty theft or vandalism. [xxxiv]

Apart from the abovementioned federal reform efforts, many states and municipalities have developed promising initiatives of their own. Experts have consistently mentioned the state of Queretaro as having a more effective state police force. In addition, successful efforts include the municipal police in Chihuahua City, Chihuahua and General Escobedo, Nuevo León; both of which have continued through several government administrations and been able to develop solid models. Chihuahua City has improved technology, a police civil service, and improved police training and skills, while General Escobedo has developed an approach to ensure that all agents are first trained as local community police (*policia de proximidad*) regardless of their final specialty.[xxxv]

Another promising experience is in Zapopan, Jalisco, which has developed important information systems including geolocation and crime mapping.[xxxvi] While other municipalities have implemented successful community policing models that have been able to reduce violence and increase public trust in the police, such as the experience in Morelia, Morelos, from 2015 to 2018, they also illustrate the risks of promising initiatives failing to fully succeed based on a change of leadership and government administrations.[xxxvii]

More investigative powers for police in the adversarial criminal justice system

An additional element of reform efforts since 2008 came with Mexico's justice reform and the adoption of an adversarial system, which has involved major shifts in the roles of justice and law enforcement personnel. The 2008 reforms expanded police powers so that officers could also act as first responders, secure crime scenes, and collect and preserve evidence. Mexico's federal and state governments were given an eight-year transition period to implement the reforms and were supposed to be fully operating under the new system by June 2016. However, one consequence of the slow and uneven implementation was the failure to place emphasis on training the police in their new roles until only recently.

A report by Mexican think-tank Causa en Común found that by 2017, nearly two-thirds of police had yet to even receive their "first responder kit"—the materials needed to conduct investigative tasks at crime scenes. In 2018, the SESNSP announced that it would implement annual, 30-hour training workshops for police forces on how to carry out their new functions under the adversarial system.[xxxviii] However, as of September 2020, , less than half of Mexico's police forces had taken the course on their role as a first responder, with even fewer taking courses on their role in the first states of an investigation or in joint criminal investigations. .[xxxix] The failure to focus on equipping Mexico's police forces in their new role is evident in the high number of cases that continue to fall apart in court because of failures in the chain of custody or the loss or contamination of evidence.[xl]

Role of the military in counter-narcotics and public security

While Calderón took important steps to increase the size and capacities of the Federal Police, military-led operations to combat organized criminal groups were the cornerstone of his strategy. Although SEDENA had the largest deployment of manpower and operations, SEMAR also greatly expanded its

capabilities, creating 32 marine infantry battalions in 2007. As a result, SEMAR became the lead force in operations against high-value targets and a primary partner of the United States.

Peña Nieto continued to rely on Mexico's armed forces during his term, neglecting the Federal Police and attempting to create a broader legal framework for the use of the military in public security tasks through the Internal Security Law. The law gave the military greater responsibility in the design and implementation of security policies, including a role in responding to civilian protests, gathering intelligence, and investigating crimes. The law, which went into force on December 22, 2017, faced significant criticism from Mexican organizations and security experts, the UN, regional human rights bodies, and international human rights organizations.[xli] It also faced multiple legal challenges of its constitutionality.[xlii] In November 2019, Mexico's Supreme Court resolved these legal challenges and deemed the law unconstitutional.[xliii]

During Peña Nieto's administration, the armed forces also took steps to position themselves as leaders in the fight against organized criminal groups in future administrations. In 2014, SEDENA reorganized its Military Police Corps to be able to provide additional public security support beyond the operations of the Army. This included quickly training regular units so that they could become military police, providing courses on law enforcement functions under the adversarial criminal justice system, the use of force, human rights, chain-of-custody procedures for handling evidence, and crime scene preservation.[xliv] By the time López Obrador took office in December 2018, SEDENA planned on having 36,000 military police agents. SEMAR also created a smaller Naval Police battalion meant to primarily provide security to naval installations. SEMAR also took the lead on securing Mexico's ports and continued to expand its partnership with the U.S. military.[xlv]

Despite the Mexican government's increasing dependence on the armed forces, the deployment of Mexican soldiers across the country to patrol streets and crack down on organized crime has failed to reduce crime and violence. In fact, research has shown that the decision to deploy the military to confront organized criminal groups is a primary factor behind the increase in violence in Mexico since 2007.[xlvi] An analysis of Mexican government data also demonstrated an alarmingly high lethality index - the number of people killed versus those injured in confrontations - for Mexico's military.[xlvii] These apparent "shoot to kill" directives were also exposed in the investigation into the Tlatlaya massacre, where at least 12 of the 22 civilians who were killed were extrajudicially executed by Mexican soldiers, as the investigation showed that the soldiers were operating under order to "take out" (abatir) criminals.[xlviii] These high rates of violence associated with military-led operations also underscore the different roles of the civilian police and the military. Civilian police forces are trained to address threats to public security through gaining the trust and cooperation of the people, with as little force as possible. In contrast, soldiers are trained to use force to overwhelm an enemy in combat situations, making them unfit to be in close contact with civilians.

Militarization has also come at a high cost for human rights in Mexico. Between January 2007 and September 2019, Mexico's National Human Rights Commission issued 159 recommendations for human rights violations perpetrated by members of the Mexican Army (118 recommendations) and Navy (41

recommendations). The recommendations are in response to cases of arbitrary killings, illegal use of force, torture, and forced disappearances.[xlix] A former member of SEMAR was arrested in March 2020 in relation to the case of the 43 disappeared students from Ayotzinapa on charges of torture, obstruction of justice, and abuse of authority.[l] Documentation by the UN High Commissioner for Human Rights also found evidence of another suspect detained in the case who died as a result of torture at the hands of Mexican marines.[li]

The arrest in the Ayotzinapa case, as well as the recent conviction of a naval captain and four marines for the forced disappearance of Armando Humberto del Bosque Villareal in Nuevo Laredo, Tamaulipas, in August 2013, are welcome developments. As past experience shows, the military has largely committed human rights violations with near total impunity. [lii] A November 2017 WOLA report found that 97 percent of the crimes and human rights violations committed by soldiers against civilians that were investigated by the federal Attorney General's Office between 2012 and 2016 had yet to be punished by the time of issuing the report. Of the 505 criminal investigations that were launched, only 16 convictions had been secured. [liii]

Police reform under López Obrador

López Obrador's security strategy

Before taking office, López Obrador presented his National Plan for Peace and Security.[liv] The Plan includes general and ambitious goals such as eradicating corruption, guaranteeing employment, access to education, healthcare and overall wellbeing and respect for human rights, while also putting forward the need to rethink Mexico's "war on drugs", the decriminalization of certain illicit drugs, adopting transitional justice models that guarantee victims' rights as well as amnesty for certain crimes. Additionally, the Plan called for the creation of the National Guard, which will be described below. The goals of this plan were included in the National Public Security Strategy, published on May 16, 2019.[lv] This document lays out several specific security strategies in areas such as a new police model, violence prevention, and combating oil theft, financial crimes, and arms trafficking.

López Obrador's military-led security strategy is a clear departure from his "hugs not bullets" campaign slogan. However, his government does continue to emphasize addressing the socio-economic factors that they believe are driving factors for violence and insecurity in the country. The violence prevention section of the National Public Security Strategy includes subsections on alternative development, special crime and violence prevention (focused on addressing recidivism and promoting social reinsertion), targeted deterrence programs, regulatory compliance to address the use of legal businesses or government agencies for illicit purposes, procedural justice and attention to victims.

The most visible socio-economic programs of his administration are *Sembrando Vida* (Planting Lives), which provides subsidies to families to purchase plants, fertilizer, and other agricultural products, and *Jovenes Construyendo el Futuro* (Young People Building the Future), which connects young people between the ages of 18 to 29, who do not study or work, with companies, workshops, institutions or businesses where they develop or strengthen work habits and technical skills to increase their chances

of future employability. This latter program specifically fits within López Obrador's violence prevention strategies.

Both programs have been criticized for possible misuse of funds and corruption.[lvi] While it is too soon to measure their full impact, some farmers have stated that *Sembrando Vida* has not provided them with the plants and trees they need, or provided them in the wrong season.[lvii] In the case of *Jóvenes Construyendo el Futuro*, a review conducted by *Mexicanos Contra la Corrupción y la Impunidad* (Mexicans Against Corruption and Impunity) found that the program was marred by a lack of transparency and clear information that makes it difficult to measure the program's impact, as well as several irregularities in its implementation. However, government information indicates over 1.3 million beneficiaries with promising results.[lviii]

Other social programs, which the administration pushed to be included as constitutional guarantees in the federal budget, involve access to healthcare, pensions for the elderly, scholarships for students, and subsidies for the disabled.[lix]

The National Guard moves Mexico further away from civilian policing

Although López Obrador made a campaign promise to shift the country's public security strategy away from militarization, his initiative to create the National Guard as the country's primary federal security force has solidified the armed force's role in law enforcement tasks. On February 28, 2019, Mexico's Congress passed the constitutional reforms that created the National Guard, while setting a five-year limit on the use of the military in public security tasks.[lx] The National Guard officially assumed all federal policing functions on December 31, 2019.

While the Federal Police had been unable to fully assume control over federal public security tasks, and the federal government continued to rely on the armed forces for many operations to combat organized criminal activity, there were multiple critiques about López Obrador's decision to dismantle the force entirely. Although the past decade illustrated that there were serious cases of corruption and abuse by Federal Police agents, this should not be generalized for the entire force. Experts argued that rather than eliminating the Federal Police, it would have been better to build on its achievements and correct its flaws.[lxi] López Obrador also mistakenly believed that the majority of Federal Police agents would join the National Guard but this has not happened; only about half of the agents joined this new force. Officers who did not wish to form part of the National Guard due to a loss of benefits and limited opportunities to occupy leadership positions are demanding compensation from the government.[lxii]

Although the constitutional reforms creating the National Guard established that it would be a civilian force under civilian direction, it is only civilian on paper. Most of the force's funding and equipment comes from the armed forces, the recruitment centers are all at army bases, and SEDENA is tasked with recruitment.[lxiii] The force's first chief, Luis Rodríguez Bucio, is a recently retired Army general and the National Guard commanders also come from the armed forces.[lxiv] As of April 24, 2020, 76 percent of the 76,773 deployed National Guard members came from the Army or Navy (50,553 military or navy police

plus 5,980 soldiers from SEDENA that are on loan to the National Guard).[lxv] The remaining 18,240 are former Federal Police agents.

The National Guard is faced with similar recruitment challenges experienced by the Federal Police and the Gendarmerie in the past. It is difficult and expensive to hire new agents because of the time it takes for recruitment, vetting, and hiring. Given the salaries offered and risks associated with the job, there are fewer applicants than what would be needed to reach López Obrador's ambitious goal of having more than 140,000 National Guard members.[lxvi] In April 2020, the Mexican government reported that it had recruited 21,170 members of the National Guard in 2019 and expected to recruit the same number for this year, with 6,373 recruits by April. A modest 7,660 recruits are projected for 2021.[lxvii] Recruitment challenges explain why the government continues to rely on SEDENA and SEMAR to provide short term transfers of soldiers to the National Guard and to assist in public security tasks until 2024. As most of the force is coming from existing members of the military or the Federal Police, the creation of the National Guard has yet to substantially increase the size and capacity of Mexico's federal security forces.

The National Guard's tasks and security priorities

Government documents indicate that the Guard's responsibilities are primarily in the areas of crime prevention and responding to criminal acts, serving as a first responder, police and intelligence work, securing Mexico's highways, immigration enforcement, customs, and responding to natural disasters and other emergencies such as the COVID 19 pandemic.[lxviii] This means that members of the National Guard can be involved in activities ranging from revising backpacks on the metro in Mexico City to working on dismantling criminal groups. Guard members also share the same responsibilities as traditional police forces, such as detaining suspects and collaborating with public prosecutors' offices to investigate crimes.

In addition to federal crimes, the National Guard has the power to investigate common crimes such as homicide and robbery if the Guard director has signed an agreement with state or local authorities. This presents troubling concerns for criminal investigations given the frequency in which soldiers and Federal Police agents have been implicated in obstructing justice in criminal investigations in the past.[lxix]

A report by the Citizen Security Program at the Iberoamericana University in Mexico City affirmed that based on their own monitoring of the National Guard, the force works closely with civilian police forces, carrying out their tasks alongside municipal or state authorities, or with Mexico's National Migration Institute in the case of immigration enforcement.[lxx] In the context of the pandemic, an additional 2,000 soldiers and members of the National Guard have been deployed in Mexico City to cover the work of hundreds of police agents who needed to quarantine based on their risk for COVID-19.[lxxi] In states like Tamaulipas, the National Guard as well as state and municipal police are coordinating their actions to work on the prevention of the spread of the pandemic.[lxxii]

Monthly security reports presented by government officials provide insight into the main areas where the federal government is deploying the National Guard, Army, and Navy. For May 2020, apart from the over 27,000 federal security agents tasked with COVID emergency response, approximately 64 percent

of the remaining agents (79,687) were deployed under the umbrella category of peacebuilding activities. These ranged from citizen security activities in the states of Nuevo León, Tamaulipas, Jalisco, Guanajuato, Michoacán, Oaxaca, Coahuila, Durango and Guerrero to air and land inspections to arms seizures. Another 10,459 agents were involved in migration enforcement and humanitarian assistance to migrants at Mexico's southern and northern borders. An additional 9,551 National Guardsmen and soldiers were deployed in drug crop eradication efforts, the destruction of clandestine labs, and other interdiction efforts.[lxxiii] The National Guard's press release on its first-year anniversary on June 30, 2020 lists as achievements activities ranging from drug seizures, detentions of suspect, gaining control over clandestine oil taps, as well as work in the areas of cybercrime and human trafficking.[lxxiv]

While drug interdiction at sea and other maritime security efforts are clearly under the mandate of SEMAR, the division of labor between the National Guard, Army and Navy for other security operations is less clear. Experts have affirmed that the federal government's security strategy still operates as it did in the past, with soldiers from SEDENA and SEMAR deployed in different operations, and at times deployed alongside the National Guard (instead of the Federal Police).

What is clear is that while launched with great fanfare, the creation of the National Guard has yet to result in a measurable reduction in crime and violence. March and April 2020 registered the second and third highest homicide rates on record in Mexico.[lxxv] Although the government reports on the different security tasks where they are deploying guardsmen, the deployment itself does not seem to be based on any clear security strategy to address hot spots for crime and organized criminal activity.[lxxvi] For example, a report from a civil society observatory on the National Guard found that Mexican states with the highest homicide rates were not the states with the largest deployment of guardsmen.[lxxvii] Additionally, by 2021, the Mexican government plans on having 236 barracks for the National Guard throughout the country. As with the locations of their deployments, the logic behind the location of the Guard's barracks is not always clear.[lxxviii] In 2019, 29 barracks in Jalisco were constructed whereas only 5 will be built in Guerrero in 2020 and another 5 in 2010, in spite of also being one of the most insecure states in the country.[lxxix]

Lastly, the reforms establishing the National Guard provided a legal framework for the armed forces to continue participating in public security tasks for up to five years while the National Guard becomes fully operational. According to information provided in an April 24 press conference about Mexico's security situation, there were 48,759 soldiers from SEDENA and 15,594 from SEMAR deployed in actions to combat organized crime, accounting for almost 50 percent of the federal security forces currently in use in the country. Between this deployment and the 58,533 members of the National Guard who originally belonged to the armed forces, 92 percent of Mexico's operational force deployed in April was from the military.[lxxx]

Additionally, on May 11 López Obrador issued an executive decree that expands and formalizes the power of Mexico's armed forces to participate in public security tasks.[lxxxi] The move grants soldiers many of the same responsibilities as members of civilian police forces, such as detaining suspects, securing crime scenes, and carrying out arrest warrants but without playing a "subordinate" role to civilian

institutions. The Mexico office of the UN Office of the High Commissioner for Human Rights, the CNDH, and several human rights organizations and security experts have expressed concerns about the decree, which faces several legal challenges.[lxxxii] Security experts and opposition parties have also argued that this decree indicates a recognition of the failure of the National Guard to address Mexico's security crisis.[lxxxiii]

The confidence control system under López Obrador

The López Obrador administration continues to use the confidence control system for state and municipal police forces as well as members of the INM and public prosecutors' offices. On April 24, 2020, the SESNSP established the National Certification and Accreditation Center (*Centro Nacional de Certificación y Acreditación*), a body responsible for providing the legal framework, regulation, and certification and accreditation of the Centros de Evaluación y Control de Confianza to ensure that all centers are operating based on the same evaluation criteria and to work to strengthen the centers. As of March 2020, there were 36 accredited state-level centers and four federal centers. The SESNSP reported that of the 345,541 state and municipal police agents, 99 percent had been evaluated and 90 percent had passed their exams. All 54,373 federal agents in the National Prosecutor's Office, INM, and Ministry for Security and Citizen Protection had been evaluated and 96 percent had passed their exams.[lxxxiv]

A separate system was set up for the National Guard. The armed forces are responsible for recruiting candidates and conducting psychological and toxicology screenings of the candidates. The evaluation centers are then responsible for complementing these screenings with an investigation into their socioeconomic background and polygraph tests.[lxxxv] The goal of the screening partitions is to result in a same-day comprehensive evaluation for all recruits. Although the government reports on how many members of this new force have gone through basic training, it has not reported on how many guardsmen have been evaluated.[lxxxvi]

Accountability and human rights concerns

As a civilian force, the members of the National Guard should answer to civilian courts and authorities for human rights violations and other crimes. However, although there have been news reports regarding certain cases of misconduct, there is almost no data or information regarding the number of National Guard members that have been investigated, terminated, suspended, or sanctioned.[lxxxvii] The law establishing the National Guard includes an internal affairs unit for the force. The guidelines published on September 30, 2019 for the transfer of human, material, and financial resources from the Federal Police to the National Guard stipulate that the Federal Police's internal affairs unit would be transferred to the National Guard, along with any of its open cases.[lxxxviii] As discussed above, the Federal Police had a functioning internal affairs unit that could be strengthened to improve its performance. However, it is not clear how the unit is currently operating within the National Guard.

The National Human Rights Commission has issued a few statements criticizing the National Guard's response to migrant caravans and incursions into migrant shelters.[lxxxix] However, under the leadership of Rosario Piedra de Ibarra, who was elected Commissioner in November 2019 in a contested process and

who is close to López Obrador, the CNDH has been criticized for its tepid response to the National Guard and other human rights violations.[xc] In June, the CNDH responded to an information request reporting that from February 2019 to March 2020 it received 111 complaints against the National Guard: 27 for arbitrary arrests, 25 for violating the rights of migrants, 17 for torture or inhumane treatment and 15 for arbitrary use of force as well as a handful of cases for unlawful killings and enforced disappearance.[xci]

The Commission's monthly updates of complaints of human rights violations from January and February 2020 include a few cases involving the National Guard, while maintaining the Federal Police as an agency, complicating the ability to assess the number of complaints.[xcii] Mexican civil society organizations have launched their own observatory on the National Guard as a way to gather more information about the force and its impact.[xciii]

Support for state and municipal police

In August 2017, the National Public Security Council adopted the Optimal Model of Police Functions, which seeks to regularly assess the state of preventive police forces in each state and provide recommendations to improve the security situation. All states were required to adopt this model. The SESNSP carries out an assessment every three months that looks at state-level progress on 10 areas, including the size of the force, police certification, and the state of police academies and honor and justice commissions.

The López Obrador administration has continued with this model. In the September 2019 assessment, the Mexican government reported that it still lacked the number of police the country needs, that less than half of the country's police officers had passed the necessary certification evaluations, and only 16 of Mexico's 45 police academies had met the minimum standards.[xciv]

In addition, the constitutional reforms that established the National Guard included a transitory article that called for conducting an assessment and developing a program to strengthen police forces and their institutional capacities at the state and municipal level.[xcv] The SSCP and the SESNSP have also developed a national model for police and civic justice that looks to strengthen state and municipal police forces and facilitate coordination with the National Guard and public prosecutors' offices.

While these are important efforts, experts have expressed concern about a lack of resources to ensure their full implementation.[xcvi] For the 2020 budget, the subsidies for states (FASP) saw only a 0.4 percent budget increase while the FORTASEG, which supports the municipalities, got cut by 3 percent over 2019 levels. This, in spite of the growing security crisis in parts of the country and the fact that assessments have demonstrated that past subsidies have provided insufficient support to the states and municipalities.[xcvii]

U.S. assistance for police reform efforts in Mexico

Transnational criminal activities, including drug trafficking, jeopardize the wellbeing of communities on both sides of our shared border with Mexico. In turn, resolving these challenges requires coordination

and commitment from both the U.S. and Mexican governments. For over a decade, the Merida Initiative has served as the central point of this cooperation. Since 2008, the Merida Initiative has provided Mexico with over USD$3.1 billion in assistance to strengthen security and the rule of law. Although these funds make up only 2 percent of Mexico's estimated total security budget of USD$10 billion per year, the aid package has become the centerpiece of bilateral security cooperation between the two countries.

During the first few years of the Merida Initiative, most assistance was directed at the purchase of equipment and hardware. From 2008 to 2010, the United States provided approximately USD$591 million for aircraft and helicopters for Mexico's federal security forces, both the military and the Federal Police.[xcviii] WOLA was critical of this focus: while helicopters and scanners may contribute to tactical victories, they will do little to bring the accountability, transparency, and reform that Mexican security forces need to fight criminal groups over the long haul.

In 2011, the Obama and Calderón administrations broadened the scope of the Merida Initiative. Officials from both governments recognized the need to increase support for institutions at the state and local level, rather than providing assistance primarily to the federal government.[xcix] The two administrations also agreed to shift Merida Initiative priorities beyond equipment and technology transfers and to increase support for institutional reforms, especially in the criminal justice and law enforcement sectors.[c]

This new phase of the Merida Initiative centered on a four-pillar strategy: I) Disrupting the operational capacity of organized crime; II) Institutionalizing the rule of law while protecting human rights; III) Creating a "21st-Century Border"; and IV) Building strong and resilient communities.

Under the Peña Nieto administration, the U.S. and Mexican governments continued this four-pillar structure. By mid-2013, the two governments agreed to prioritize tackling money laundering (Pillar I); institutionalizing justice, police, and corrections reforms, and providing institutions with forensic equipment and training (Pillar II); increasing security along both of Mexico's borders and strengthening migration enforcement within Mexico (Pillar III); and reducing drug demand and addressing the root causes of crime and violence through community-based programs (Pillar IV).[ci]

Under the Trump administration, the focus of the Merida Initiative has shifted. Current priority areas include combating drug production, improving border interdiction and port security, and combating money laundering.[cii] The Trump administration has also pressured Mexico to dramatically increase migration enforcement, and migration flows have become a center part of bilateral discussions.

For its part, the López Obrador administration has taken another approach to Mexico's security challenges, prioritizing efforts to address the socioeconomic factors driving violence and expressing criticism of the U.S.-Mexico partnership under the Merida Initiative. López Obrador moved away from a focus on policing, including by dismantling the Federal Police, a primary recipient of U.S. assistance, in favor of the creation of the National Guard.

In August 2019, the U.S. and Mexican governments established a High-Level Security Group, with eight working groups on areas such as drug smuggling, border security, financial crime, arms trafficking, and justice reform. In December 2019, both governments met and agreed to strengthen the working group to combat cross-border organized crime.[ciii] Meetings between both governments in recent months suggest improved collaboration to address organized criminal activities, which will likely shape the future of bilateral cooperation under the Merida Initiative.[civ]

The following section examines U.S. cooperation and support for police reform efforts in Mexico. According to U.S. Government Accountability Office (GAO)'s September 2019 report on U.S. assistance to Mexico, Merida Initiative projects designed to "improve Mexico's civilian law enforcement capability while ensuring respect for human rights and enhancing public trust" have fallen under the State Department's category of "rule of law and human rights".[cv] The section provides a general assessment of U.S. police assistance since the onset of the Merida Initiative, followed by recommendations for future assistance.

Equipment and training to Mexico's police forces

Mexico's police forces, especially the Federal Police, have been primary recipients of U.S. equipment through the Merida Initiative. This assistance has provided the Federal Police with six Blackhawks, a surveillance aircraft, non-intrusive inspection equipment, and canine units.

In addition to equipment for the Federal police, the Merida Initiative has provided some support to a number of the police reform initiatives described in this report. At least USD$24 million has gone toward training and equipment support to the program related to the confidence control system, internal affairs units, and police registry programs. The U.S. has also provided a broad range of training to Mexico's federal, state, and municipal police, including basic skills, specialized investigative skills, investigative techniques, evidence collection, crime scene preservation, and ethics.[cvi] Some of this training has been in the area of human rights, such as a master's program for the Federal Police, as well as training videos and manuals focused on human rights.[cvii]

U.S. Marshals have also provided specialized training to Mexican law enforcement in areas such as fugitive investigations, protection of high-value targets, and the development of special operations units. Support has also focused on the institutionalization of performance and evaluation standards for Mexico's law enforcement institutions.[cviii] Additionally, at least USD$5 million in infrastructure improvements and equipment transfers have been invested in federal, state, and municipal law enforcement academies in five states.[cix]

Because of the amount of Merida Initiative funds that have been allocated to better train and equip Mexico's police forces, and their role in any effective security strategy, the United States has a vested interest in working with the Mexican government to ensure that police forces are not undermined by corruption and a poor human rights record. To date, results have been mixed. Support for establishing Mexico's vetting system was an important step to weed out "bad apples" within a force or for new hires. However, many experts feel that the system is being relied upon too heavily. As discussed above, almost

all of Mexico's security forces have undergone the evaluations and passed, yet police forces throughout the country remain plagued by allegations of corruption and abuse. Past gains in building the internal affairs unit of the Federal Police, with U.S. support, will be important as the National Guard assumes this unit and looks to establish internal controls over this new security force.

Overall, while the United States has contributed to Mexico's national vetting system, the standardization of various curricula, as well as basic and specialized training courses for police forces of all levels, experts note that U.S. cooperation has focused much more on drug interdictions and eradications, as well as the detention and extradition of high value targets, than on the broader tasks of professionalizing Mexico's police. Of the Merida Initiative's active projects between FY 2014 and FY2018, which amounted to USD$858 million dollars, less than 17 percent of the funds (USD$144 million) were designated for professionalizing the police.[cx] With this level of investment, the impact of U.S. efforts will be limited, particularly given the size and number of Mexico's police forces at the federal, state, and municipal level.

The use of Sensitive Investigative Units (SIUs)

Experts interviewed for this report commented on the added value of U.S. intelligence in combating organized criminal networks. While recognizing that they can function well, the experts pointed to the challenges of using Sensitive Investigative Units (SIUs) in Mexico because of the widespread corruption within law enforcement agencies. Under the SIUs program, the Drug Enforcement Administration (DEA) has vetted and trained Mexican Federal Police agents to carry out operations. Unfortunately, at least two operations have resulted in significant and unintended acts of violence raising serious oversight concerns about the use of the program in Mexico, echoing concerns about the implementation of a similar DEA program using vetted units in Honduras, where according to a joint report by the Departments of Justice and State, at least three incidents resulted in deaths and injuries, including of innocent civilians.[cxi]

In Mexico, the most dramatic case involves the kidnapping and killing of dozens—perhaps hundreds—of men, women, and children in Allende, a Mexican ranching town in Coahuila, by gunmen from the Zetas drug cartel who were seeking vengeance against an alleged informant. In this case from March 2011, a DEA agent obtained information on trackable cell phone numbers for two Zeta kingpins and passed this information on to a Mexican Federal Police unit even though it had a history of leaking information. The cartel leaders quickly found out about the leak and attacked the town of Allende in retaliation against the presumed snitches, their families, and anyone they thought could be remotely connected to them.[cxii]

In another case, on April 21, 2020, the Zetas cartel attacked a Holiday Inn in Monterrey, Nuevo León, questioning all of the guests and taking four of them in addition to a hotel employee; they have not been seen since. Up until a day before the attack, an SIU had been conducting an undercover surveillance operation out of the hotel. The SIU officials had been evacuated prior to the attack after finding out that the Zetas had discovered their activities.[cxiii]

During the time of these events, the Mexican government had refused to allow U.S. vetting of the commanders of these SIUs. In November 2018, a former Federal Police commander, Ivan Reyes Arzarte, was sentenced in the United States for leaking information to the Beltran Leyva drug cartel about U.S.-led drug investigations in the country. Prior to his arrest in the United States in April 2017, Reyes Arzate was the highest-ranking member of Mexico's SIU.[cxiv]

When information about the consequences of these SIU operations began to receive coverage in the U.S. press, members of Congress urged the Department of Justice to investigate these operations and to develop greater accountability mechanisms.[cxv] In September 2018, the DOJ's Inspector General announced that it was launching an investigation into the DEA's SIU program in Mexico, as an internal review had flagged the program as "high risk". [cxvi] A redacted version of the DEA's program manual for the use of SIUs was obtained by VICE News in March 2018. It showed that up until at least mid-2017, the DEA was still working to address major concerns about the program that had been flagged in an OIG report from a decade earlier, including many instances of "lack of accountability and oversight."[cxvii]

Recommendations for future U.S. cooperation with Mexico.

Building professional police forces with strong internal and external controls over their actions is a key element to tackling organized crime and drug trafficking in Mexico. The U.S. should continue to support Mexico in these efforts while also recognizing that recent events involving racism, police brutality, and repression have shown that there is still much to do domestically on public security and police reform. Specific recommendations regarding U.S. cooperation on these issues are discussed below.[cxviii]

While it is beyond the scope of this paper, we wish to note that strong criminal justice institutions are also paramount, as police do not operate in isolation. Increasing the number of detained drug traffickers or corrupt officials will be ineffective unless Mexican has prosecutors that can effectively prosecute them (while guaranteeing due process) and judges that are honest and free of corruption.[cxix] Because of this, U.S. assistance and cooperation should also continue to focus on strengthening the capacity of prosecutors and judicial authorities to properly investigate, prosecute, and sanction crimes.

WOLA has been critical of the military assistance provided to Mexico through the Merida Initiative, as this supports a troubling and open-ended role for the Mexican armed forces in combating drug trafficking and organized crime and provides backing to a military that has a record of committing widespread human rights violations with impunity. We have argued that strong, effective, rights-respecting civilian police and justice institutions have the best chance of addressing the problems of insecurity, violence, and corruption in Mexico.

There are multiple other areas to consider for future U.S. assistance. For example, the collusion of government officials and security agents with criminal networks presents an additional challenge in cracking down on violence, impunity, and drug trafficking in Mexico. The DOJ's indictment against Genaro García Luna, a former secretary of public security in Mexico (2006-2012), for allegedly colluding with the Sinaloa Cartel, is just the latest example of how government corruption has allowed criminal groups to freely operate in several parts of the country.[cxx]

López Obrador has prioritized combating corruption during his term, although he has sent mixed signals regarding strengthening the very institutions tasked with the prevention, investigation, and sanction of acts of corruption.[cxxi] Given the importance of addressing this issue in Mexico, future U.S. cooperation should continue with USAID programming to support state-level anti-corruption systems, and civil society organizations' role in oversight, investigations, and reporting. Providing technical support to the special prosecutor for corruption within the National Prosecutor's Office, as well as to the state-level anti-corruption prosecutors, should also be considered.

Cooperation should also continue in the area of illicit finance. Experts noted to WOLA that drug interdictions do not make a significant dent in the operations of transnational criminal organizations, and that going after their laundering networks is a more effective strategy. Between 2014 and 2018, an estimated $17 million was allocated through the Merida Initiative to support Mexico's efforts to address money laundering and other illicit financial activities linked to transnational criminal organizations.[cxxii] Combating illicit finance is a priority area in López Obrador's National Public Security Strategy. Under the direction of Santiago Nieto, the Financial Crimes Unit of Mexico's Ministry of the Treasury has been involved in high-profile investigations regarding corruption, money laundering, and organized crime.[cxxiii]

Experts interviewed for this paper largely viewed U.S. cooperation favorably, but they provided several suggestions about how to make it more effective. They shared the general sense that the money invested in Mexico through the Merida Initiative is minimal compared to the security challenges at hand in the country. Given that the funds are limited, the aid's dispersion among so many program areas lessens its impact. Recently, this has been seen in an increased focus on "migration management" in Mexico, which further broadens the areas of cooperation.[cxxiv]

At the same time, concerns have been raised about the Mexican government's failure to designate sufficient levels of its own funds to address the country's security crisis, while directing a significant amount of funds to support the armed forces' role in public security tasks.[cxxv] In a context in which the López Obrador administration is focused on austerity measures in order to designate more funds to social programs and special projects (a problem that has been made more acute as a result of the COVID pandemic), the Mexican government may be more receptive to U.S. assistance as a way to enhance its security efforts. As the United States determines future amounts of funding for security cooperation with Mexico, it should consider partnering with Mexico only in those areas where the Mexican government makes a stronger commitment to investing its own funds to strengthen its security forces.

Some experts interviewed for this paper also raised concerns about U.S. agents advising on security issues in Mexico. Primarily, the critique was that some U.S. agencies, particularly the DEA, have a traditional view about what is needed in Mexico to address drug trafficking and organized crime. This view, which has been framed as a "war on drugs" has a primary focus of arresting high value targets and interdicting drugs, rather than a broader approach of strengthening the security and criminal justice institutions needed to address violence and insecurity.

Another perception was that some U.S. agents are only interested in U.S. priorities, with little regard for Mexico's own priorities or the impact that pursuing certain strategies might have on Mexican citizens.

This is particularly the case in terms of U.S. efforts to pursue the extradition of high value targets. Multiple cases have demonstrated that the arrest of cartel leaders often results in destabilization and violence in select regions, as well as the violent fragmentation of criminal groups. Experts have indicated that rather than going after the leadership of criminal organizations, targeting mid-level operators, particularly in the area of finance, may be more effective. If both governments determine the importance of detaining a high valued target, the secondary impacts need to be incorporated into the bilateral planning process as a way to counter the violence that might ensue after the arrest.[cxxvi]

Lastly, as was discussed above, tragic incidents in Mexico have underscored concerns about oversight of SIU operations and their use in Mexico. While these units may be better at carrying out effective investigations than regular police and have a history of producing valuable intelligence, weak accountability over their actions must be addressed. Moreover, the use of SIUs does not resolve the broader issue of creating effective policing and national investigative capacity. If SIU operations are to continue in Mexico, a first step must include fully addressing the concerns that were laid out in the DOJ Inspector General's 2007 report regarding deficiencies in oversight and accountability with the program as well as the results of the investigation launched by the Inspector General in September 2018.[cxxvii]

More specific recommendations for future U.S. cooperation on policing include:

Increase assistance to state and municipal police forces

In light of the ongoing need for more clarity about the Mexican federal government's security strategy, and the tepid response so far to U.S. offers to cooperate with the National Guard, future engagement should consider additional support for state and municipal police reform efforts in areas where leaders have expressed interest and commitment to reforms. This is also important as the majority crimes in Mexico are classified as state-level crimes. If citizens have increased trust in their state and municipal police forces, and these forces are better equipped and trained to address crime, it is likely that they will better be able to assist in tackling major crimes like drug trafficking as well. [cxxviii] One expert also commented to WOLA that state police forces are assuming greater roles in their cooperation agreements with the National Guard, including on investigations related to organized criminal activities. In order to do this well, they will need more training and support.

In 2019, the Mexican think tank *Causa en Común* surveyed over 4,400 police in 28 states to gather insight into what police believe is standing in the way of their work. The police officers interviewed for the survey cited two primary factors that could improve policing in their state: 1) the need for more training, and 2) the need for improved police salaries. They cited the greatest need for improved training in the area of participating in hearings before a judge.[cxxix]

More than a decade after the Mexican government passed landmark criminal justice reforms, many police agents have not received adequate training on their new functions. In December 2019, the Mexican government reported that 70 percent of the country's police had taken at least one of the three required training workshops on how to carry out their new role in the justice system. Only 53

percent had taken the course on the police's role in preliminary investigative acts and less than 23 percent had taken the course on joint criminal investigations.[cxxx]

Poor training can lead to the contamination of the crime scene and the improper processing or loss of evidence, without which, cases may fall apart in court. In this context, the United States should consider additional support for the training and professionalization of Mexican police forces on the skills needed to assume their roles in the adversarial criminal justice system. Current projects supported through the Merida Initiative focus on training Mexican municipal police forces as first responders based on their new responsibilities in the criminal justice system. This support could be expanded to also include state-level police as merited.[cxxxi]

As was discussed above, there are important success stories in police professionalization and reform efforts at the municipal level as well as some promising practices at the state level in Mexico.[cxxxii] The United States—through the State Department's Bureau of International Narcotics and Law Enforcement (INL) and/or the U.S. Agency for International Development (USAID)—has supported many of these experiences, which could be built upon for the future.

One particularly successful example of police reform in Mexico involves the decades-long process in the municipality of General Escobedo, Nuevo Leon. This force has developed an innovative management structure, maintained stability in its command and public policies, and achieved improved relationships with the community. It also established an evidence-based crime prevention strategy.[cxxxiii] USAID in particular supported this force in the development of the community policing model (*policia de proximidad*) and on civic justice. Moving forward, the United States should consider ways to further this force and think of ways to use the experience in General Escobedo as a model for other municipal and state police forces in Mexico.[cxxxiv]

Beyond building capacities, future support should go toward establishing strong police formation models, such as a professional civil service, which was one of 10 indicators developed by the SESNSP for the optimal functioning of police forces. As of December 2019, 30 states were in different stages of developing the work for the state commissions for a professional civil service (having a catalogue of positions, organizational and procedural manuals, clear regulations, etc.) The need for more clarity about a policing career is evident in *Causa en Común*'s police survey referenced above, where 69 percent of the respondents said they had never received a promotion. In the same survey, some officers affirmed that they had received orders to carry out tasks that are not within their responsibility, including illegal acts such as torture.[cxxxv]

The U.S. government should also consider additional peer-to-peer exchanges, especially at the state level or with large municipalities. One expert proposed that retired U.S. police chiefs who have experience combating the drug trade and criminal networks could provide training to high-level police chiefs about their experience. As a first step in considering additional exchanges, the State Department should provide an outcomes-based assessment of the impact of the police professionalization exchange program implemented by Global Ties in Mexico between 2016 and 2019. This program had four components: 1) online learning, 2) on-site training at various U.S. police academies, 3) professional

study tour experiences in the U.S., and 4) hands-on training in Mexico by U.S. or regional experts. Global Ties reports that participants have improved skills such as "incorporating technology into their work, increasing transparency and accountability to their communities, 'managing up' to advocate for institutional change, and developing new contacts in the United States and Mexico."[cxxxvi]

Engagement with the Mexican government on the National Guard

If the U.S. considers any assistance to the National Guard as Mexico's primary federal security force it should be based on a thorough assessment of the needs of the force; efforts will not be effective without this baseline information. U.S. support for the National Guard should be conditioned upon the Mexican government's efforts to establish strong internal and external control mechanisms that effectively respond to allegations of wrongdoing and foster institutional accountability (see following recommendation). It should also be conditioned upon the prosecution and investigation of allegations of human rights violations committed by National Guard members. Lastly, the United States should only promote the civilian aspects of the National Guard: any U.S. training of recruits, in particular, should be based solely on a civilian police curriculum and should not have any focus on training a soldier to later become a police officer.

Support internal and external control mechanisms

Given the limitations of Mexico's vetting system, and ongoing cases of police forces working on behalf of organized criminal groups or committing abuse, future U.S. assistance should continue to support efforts to increase internal controls over Mexico's police forces, including through supporting the strengthening of internal affairs units and/or honor and justice commissions for state and municipal forces.

In the Inter-American Court on Human Rights ruling against Mexico for the San Salvador Atenco case (discussed previously), the Court ordered the Mexican government to create an independent observatory, with civil society participation, for the Federal Police and the police of the State of Mexico. The observatory will be responsible for monitoring and evaluating government efforts to increase accountability for cases of excessive use of force and other abuses within these police forces. Since the National Guard has assumed the Federal Police's role, this observatory should now apply to the National Guard. The United States may consider ways to support the government, civil society organizations, and victims in their efforts to develop and implement this independent observatory.[cxxxvii]

Develop clearer impact evaluation indicators

In 2014, the State Department hired a contractor to work with the U.S. and Mexican governments to develop indicators to evaluate the progress and results of the Merida Initiative. However, as the Congressional Research Service (CRS) has noted, there is little public information available regarding the metrics used by the U.S. and Mexican governments to assess the Merida Initiative's effectiveness. The CRS report "U.S.-Mexican Security Cooperation: The Merida Initiative and Beyond," from June 2017, includes a specific section on the different efforts to develop metrics for Merida programming.[cxxxviii]

More recently, in May 2020, the Government Accountability Office (GAO) issued a study titled, "The State Department Could Improve its Monitoring of Merida Initiative Projects." [cxxxix] This followed its 2010 report where the GAO recommended that the State Department develop better performance indicators, particularly on the need to adopt outcome-based measures and not just output measures. These may include baseline indicators, performance measurements, and clear benchmarks.[cxl] In 2019, the GAO released a study that outlines 14 leading practices for monitoring foreign assistance. These best practices could be applied to efforts to monitor the Merida Initiative's effectiveness.

As the GAO noted in its September 2019 report on U.S. assistance to Mexico, there were 445 State/INL and USAID Merida Initiative projects active from 2014 through 2018. USD$723 million had been allocated for the Merida Initiative during this period.[cxli] With so many programs, there is a clear need to have specific impact indicators for the projects. INL and USAID have taken steps in recent years to improve project monitoring.

In its review of 15 projects implemented by State/INL, the GAO found that key monitoring practices were followed only about half of the time. The GAO determined that State/INL "did not generally follow the key practices for developing monitoring plans that identify project goals and objectives and address risks to achieving them" or to consistently track project performance data.[cxlii]

In the two police professionalization projects reviewed by the GAO, performance data was not tracked against the established performance measures included in the project narrative. These projects focused more on making sure the trainings were being held and tracking the number of participants. They did not prioritize tracking progress against established performance measures.

The report also affirmed that State/INL-Mexico is implementing DevResults, a new cloud-based monitoring database. This database "will consolidate and track data on activity, output, and outcome indicators for all Merida Initiative projects." As of February 2020, DevResults had data for 84 projects.

In the case of USAID, the GAO found that the agency followed key practices for monitoring project implementation only two-thirds of the time. While USAID identified risks to implementing projects, those risks were not addressed in its monitoring plans. According to the GAO, doing so would allow them to achieve the level of oversight needed for each of their projects.

State/INL reported that the Mexican government provides them with information to help monitor the impact of Merida Initiative assistance. This data has around 170 indicators related to the following areas of U.S. assistance: Counternarcotics/Special Investigations, Criminal Prosecutions, Border Security and Ports of Entry, and Security and Law Enforcement. The examples included in the GAO report are not detailed, given that some of the information is considered classified, as well as the fact that the Mexican government does not report on indicators involving police professionalization or training. The data provided appears to mostly focus on numerical data, such as the number of Mexican states that have accredited forensic labs, or the percentage of people with a high or medium-level of trust in federal investigative agencies. According to State/INL, data provided by the Mexican government assists them in

assessing the effectiveness of assistance, "including which best practices can be replicated across Mexico."

The GAO recommended that State/INL "establish procedures to verify monitoring staff follow key practices, and that USAID ensure that monitoring plans address risks." Both agencies agreed with these recommendations.[cxliii] As noted above, the lack of publicly available data makes it difficult for the State Department to assess whether U.S. security assistance is reaching its goals. It also makes it difficult for Congress to determine the appropriate allocation of funds. As both agencies work to implement the GAO recommendations, this information should be provided to relevant congressional offices who are also focusing on the monitoring and evaluation of Merida Initiative programs. Both agencies should also provide the interested stakeholders in the United States and Mexico with information on the indicators they are using to measure the effectiveness of U.S. assistance.

Cooperate with Mexico on the implementation of the new Use of Force Law

A national law on the use of force was required under the constitutional reforms that created the National Guard, providing a basic legal framework for this key issue. This was an important step forward since Mexican soldiers, the Federal Police, and state police forces have been implicated in multiple cases of excessive use of force.[cxliv]

Future U.S. cooperation may consider supporting the implementation of this law, particularly for state and municipal police forces. This might include addressing the law's weak system of sanctions as well as developing protocols, training manuals, and other guidelines, to ensure that they also address shortcomings in the law regarding the vague language used to determine a "lethal imminent threat." This language classifies weapons that have led to killings in the past, such as electric shock devices, as "least lethal weapons."[cxlv]

Increase support for Mexican civil society organizations

While U.S. security assistance has supported a select number of Mexican civil society organizations, this support should be expanded given the growing number of highly skilled Mexican organizations and experts in the area of police and security. The U.S. model of supporting U.S.-based contractors or experts has in some cases not resulted in significant support to Mexican organizations or the hiring of Mexican experts, particularly due to these institutions' high overhead. Given the on-the-ground knowledge and relationships that Mexican organizations have, including with Mexican officials, additional support for them might produce more results and could help generate increased in-country expertise in Mexico. Support for Mexican civil society organizations has become increasingly important as they face increased attacks for their critique of the López Obrador administration's security policies.

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[i] As part of the research for this paper, WOLA staff interviewed the following experts in Mexico: Juan Salgado, Senior Police Reform Researcher, World Justice Project; Maria Elena Morera, President, Causa en Común; Eduardo Guerrero Gutiérrez,

Director, Lantia Consultores; Fernando Rivas, General Director, Observatorio Nacional Ciudadano; Ernesto Lopez Portillo, Coordinator of the Citizen Security Program at the Iberoamericana University; and current Mexican government officials.

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