

**MEXICO – MERIDA INITIATIVE REPORT
("15 PERCENT REPORT")**

Table of Contents

- I. Legislative Context and Scope of Report
- II. Background
- III. Section 7045(g) Report Criteria
 - 1. The Government of Mexico is investigating and prosecuting violations of human rights in civilian courts
 - 2. The Government of Mexico is enforcing prohibitions against torture and the use of testimony obtained through torture
 - 3. The Mexican army and police are promptly transferring detainees to the custody of civilian judicial authorities, in accordance with Mexican law, and are cooperating with such authorities in such cases
 - 4. The Government of Mexico is searching for the victims of forced disappearances and is investigating and prosecuting those responsible for such crimes
- IV. Continuing Challenges – Key Human Rights Cases
- V. Assessment

I. Legislative Context and Scope of Report

This report responds to the requirements of section 7045(g) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2015 (Div. J, P.L. 113-235) (SFOAA). Pursuant to this section, 15 percent of International Narcotics Control and Law Enforcement (INCLE) and Foreign Military Financing funds appropriated by the SFOAA for assistance for the Mexican army and police cannot be obligated until the Secretary of State reports in writing to the Committees on Appropriations that the Government of Mexico is meeting the criteria regarding human rights, rule of law, and accountability specified in the Explanatory Statement accompanying the SFOAA.

The 15 percent report identifies a number of significant ongoing issues in the areas identified in the explanatory statement. In accordance with the SFOAA, this report describes how the Government of Mexico is meeting the criteria outlined in the above noted provisions, in light of the specific steps or actions detailed in the report.

This report contains information available as of August 1, 2016 (unless otherwise noted).

This report should be read in conjunction with the State Department's 2015 Human Rights Report for Mexico and the four previous "15 Percent" reports – submitted in August 2009, September 2010, August 2012, and August 2014 – which provide additional details regarding the overall human rights situation in Mexico.

II. Background

President Enrique Peña Nieto announced his National Human Rights Program (2014-2018) in June 2014, which outlined his high-level priorities in this area. A range of Mexico's federal agencies maintain a role in human rights policy. The Human Rights office in the Ministry of the Interior (SEGOB) oversees implementation of the National Human Rights Program; it also administers the National Protection Mechanism designed to protect human rights defenders and journalists. The Human Rights Office within the Office of the Attorney General (PGR) oversees a Unit for the Search for Disappeared Persons (UEBPD); the PGR also has special units for crimes against journalists, migrants, and women. Mexico's Army (SEDENA) and Navy (SEMAR) each maintain human rights offices.

The Human Rights Office at the Foreign Ministry (SRE) represents Mexico within international organizations, where the Mexican government pursues an active role in promoting human rights. Mexico holds a seat on the United Nations Human Rights Council (2013-2016). As part of the review of the human rights records of all UN Member States, Mexico completed its last Universal Periodic Review in 2013, accepting 176 recommendations. Mexico is an active participant in the Inter-American Commission on Human Rights (IACHR).

The National Human Rights Commission (CNDH), created in 1999, is an autonomous Mexican agency funded by the federal budget. In addition, Mexico's 32 states have state-level human rights commissions. The CNDH has a mandate to investigate, report, and issue recommendations on human rights concerns. With USAID support, 263 CNDH officials were trained on how to investigate torture in 2015. USAID offered similar training to state-level human rights commissions in the states of Chiapas, Quintana Roo, and Veracruz.

The 2015 Human Rights Report notes: "The most significant human rights-related problems included law enforcement and military involvement in serious abuses, such as unlawful killings, torture, and disappearances. Impunity and corruption in the law enforcement and justice system remained serious problems. Organized criminal groups killed, kidnapped, and intimidated citizens, migrants, journalists, and human rights defenders....Impunity for human rights abuses remained a problem throughout the country with extremely low rates of prosecution for all forms of crime. Neither general information about government investigations of human rights allegations nor information about specific cases was easily available to the public."

To address some of these issues and improve the transparency, effectiveness, fairness, and efficiency of the criminal justice system, Mexico's courts are transitioning from an inquisitorial-style legal system based primarily upon judicial review of written documents to an adversarial trial system based upon oral testimony presented in open court. A constitutional amendment enacted in 2008 mandated that, by June 2016, the federal and state governments establish this new system. While the new system will take at least a decade to fully implement, the federal government and all of the states have begun to adopt the new criminal justice system. In some states, alternative justice centers employ mechanisms such as mediation, negotiation, and restorative justice to resolve minor offenses outside the court system.

Under the new criminal justice system, all hearings and trials will be conducted by a judge and follow the principles of public access, cross-examination, and other elements of the adversarial system. Defendants will be afforded a presumption of innocence and judges will render judgments directly without the participation of a jury. Defendants will have the right to attend the hearings and to challenge the evidence or testimony presented. Defendants will have access to government-held evidence, although the law allows the government to keep elements of an investigation confidential until the presentation of evidence in court. The law also provides the rights of appeal and the opportunity to post bail for many categories of crimes. The new system is at different stages of implementation in different states and will need sustained institutional and financial support to achieve these aims across all jurisdictions.

There is an expectation that the reforms to the criminal justice system will help protect against the use of mistreatment or torture by authorities to extract testimony, and may help reduce the number of pretrial detentions. The closer and more comprehensive judicial oversight of this process, including confessions, would serve as a deterrent to the use of coercive tactics, because charges can be dismissed and perpetrators of torture can be investigated and prosecuted or punished as appropriate. In May 2016, National Security Commissioner Renato Sales, who oversees the federal police, warned police members that the new criminal justice system would require them to abandon sole reliance on confessions, voluntary or forced, to solve cases. Mexican officials, think tanks, and NGOs have expressed concerns that continued training of police and prosecutors is necessary to assure the success of the new system. The World Justice Project, a Bureau of International Narcotics and Law Enforcement Affairs (INL) grantee, notes preliminary data showing the state of Baja California has seen a large decline in the use of illegal coercion that could be correlated to the introduction of the new system.

Under revisions to Article 57 of the Code of Military Justice enacted in 2014, crimes committed by military personnel – including crimes involving human rights violations – shall be tried under civilian jurisdiction if the victim is a civilian. However, the armed forces retain the ability to investigate and try alleged military offenders in military courts on charges related to their military duties at the same time as they are investigated and prosecuted by civilian authorities on distinct charges. In human rights cases where the victim is a member of the military, the alleged military perpetrators will continue to be subject to the military justice system.

In May 2016, the Code of Military Justice was further reformed to establish procedures for the conduct of military oral trials, in accordance with the transition to the new adversarial justice system underway throughout Mexico. On June 15, 2016, CNDH published and submitted to the Mexican Supreme Court a "Report of Unconstitutionality" in which it claimed 12 articles of the recently revised Code of Military Justice and Military Code of Criminal Procedures (Military Code or CMPP) violated constitutional guarantees, including against unreasonable searches and seizures.

After the Military Code was passed, the president of the Senate Human Rights Commission said that she would introduce amendments to address these concerns.

The Mexican Attorney General of Military Justice stated in April 2016, that the military has transferred to civilian authority 558 criminal cases involving 1,273 military personnel dating back to 2007. Of that number, 257 cases included charges of alleged homicides, 229 cases included charges of alleged torture, and 72 cases included charges of forced disappearances. As of June, the Secretariat of National Defense (SEDENA) reports there are no cases before military courts which involve a civilian victim. All such cases are under the jurisdiction of civilian courts.

The following information responds to the reporting requirements identified in the Explanatory Statement accompanying the SFOAA and incorporated by reference into section 7045(g) of the SFOAA.

III. Section 7045(g) Report Criteria

1) The Government of Mexico is investigating and prosecuting violations of human rights in civilian courts

Human rights-related cases are being investigated and prosecuted under the civilian justice system at both the federal and state levels. However deep concerns remain over the failure to investigate and prosecute a majority of cases involving alleged serious human rights violations by members of the police and military.

The changes to the Military Code of Justice have resulted in members of the military accused of crimes against civilians, including allegations of human rights violations, being tried in civilian courts; some military members have been prosecuted and convicted. Notably, in 2015 a federal court in the state of Nuevo Leon issued the first conviction for a forced disappearance by a military officer.

Between 2013-2015, the CNDH received 2,539 complaints of torture and ill treatment or an average of 846 complaints per year. In comparison, complaints of torture and ill treatment averaged 1,176 per year for the period 2007-2012. The Mexican government reported that as of January 2015, 313 officials have been indicted for forced disappearances and 13 have been convicted. Reports from NGOs and the media suggest extra-judicial killings of civilians by government security forces remain an issue. During shootouts with the military between 2007 and 2014, 3,967 civilians and 209 soldiers were reportedly killed, a ratio of 19 civilians for every soldier.

According to information from the SEDENA, as of June 24, 2016, there are no cases in a military court where there is a civilian victim involved. All such cases are under the jurisdiction of civilian courts.

The following developments were reported from the **federal level**:

- On August 18, 2015, a federal judge in the state of Nuevo Leon issued Mexico's first civilian conviction of a military officer for the disappearance of a civilian. The court stripped Second Lieutenant Danny Hernandez Sanchez of his rank and sentenced him to 31 years and three months in prison for the forced disappearance in 2012 of an unnamed victim in the municipality of Los Herreras, Nuevo Leon.
- On July 20, 2015, the Fourth Federal Judicial Circuit found SEDENA Corporal Juan Ortiz Bermudez guilty of intentional homicide for the 2010 murders of Juan Carlos Peña Chavarria and Rocio Romeli Elias Garza in Anahuac, Nuevo Leon; he was sentenced to 18 years in prison. The sentence was the first civilian judgment in Nuevo Leon against a member of the Mexican military for the killing of civilians. SEDENA voluntarily transferred jurisdiction for the prosecution of the case to civilian authorities in May 2012 following initial investigations by SEDENA, CNDH, and PGR. Subsequently, the 2015 conviction was overturned on technical grounds because the judge failed to call forensic experts to ratify their opinions; however, it appears the judge will issue a new conviction.
- On March 2, 2015, a federal judge in Sinaloa sentenced four soldiers to nine years and four months in prison for intentional homicide in the 2008 killing of unarmed civilians.

UNCLASSIFIED

- 6 -

- Four Tabasco state security officers (SSP) were indicted and are pending trial for the killing of Victor Manuel Chan Javier and Ramon Perez Roman at a checkpoint in Tabasco in November 2010. A joint operations group from PGR, the Navy, Army, and state police was manning the checkpoint that evening when the car in which Chan Javier and Perez Roman were traveling approached them, allegedly at high speed and without stopping, leading to a shootout. The Navy (SEMAR) and the Army (SEDENA) claimed its officers had not fired shots during the incident. Still, they placed all 17 soldiers (10 from SEDENA and seven from SEMAR) at the disposal of the Attorney General for questioning. The CNDH concluded on October 23, 2015, that Mexican authorities had complied with its recommendations. The case is pending in the civilian judicial system.

The following developments were reported from the **state level**:

- On July 5, 2015, Chihuahua state authorities arrested two Ciudad Juarez Municipal Police officers, Hector Jose Holguin Aragon and Josue Cerecero Mondragon, for the murder of Carlos Efrain Jariz Cruz, a prominent member of the local Tarahumara indigenous community in Ciudad Juarez. The police officers were charged with murder and abuse of authority. The case was ready for trial in December 2015, but the defendants have filed numerous pre-trial challenges that have delayed the scheduling of the case; both remain in custody pending trial.
- A case remains pending against state police accused of mistreatment and sexual torture during the May 2006 detention of 47 women in Atenco, in the state of Mexico. The state prosecutor argued torture was not subject to the statute of limitations, allowing him to bring the charges before a judge. In 2012, the state of Mexico charged two policemen (a third suspect died in 2011) and in 2014, charged an additional eight – along with 11 medical forensic specialists and a prosecutor – with a number of crimes, including torture. Their trials are ongoing, some of which have been delayed due to challenges (“*amparos*”) filed by the defendants.

In addition, Mexican law mandates the transfer of prosecutorial jurisdiction from military court to civilian court in the case of a military member accused of a human rights violation. According to the Office of the Attorney General of Military Justice, as of April 18, 2016, the Mexican military has transferred to the civilian Attorney General’s Office prosecutorial jurisdiction for 1,273 military personnel

UNCLASSIFIED

accused of crimes involving human rights violations in 558 cases: 257 homicide cases, 229 torture cases, and 72 forced disappearance cases.

2) **The Government of Mexico is enforcing prohibitions against torture and the use of testimony obtained through torture**

Mexico has signed and ratified both the UN Convention Against Torture and its Optional Protocol. It is also a party to the Inter-American Convention to Prevent and Punish Torture. While Mexico has both federal and state laws that prohibit torture and other cruel, inhuman, or degrading treatment, there are considerable variations among the laws.

In July 2015, the Mexican Congress reformed the Constitution to give lawmakers the authority to pass General Laws against torture and forced disappearances. The General Law on Torture was approved by the Senate in April 2016 and is expected to be passed in the Chamber of Deputies during the fall legislative session, which opens September 1. As drafted the law on torture will reconcile differences in how torture is addressed across Mexico's 32 sub-federal jurisdictions and create a new registry of torture crimes drawn from databases at both the federal and state levels, giving security and human rights actors more control over, and transparency into, investigations. Human rights groups noted some positive aspects of the draft law, in particular provisions that drop the statute of limitations for bringing charges for torture, but criticized other parts, including the failure to hold superiors in the chain of command accountable for abuses.

The existing law prohibits torture and other cruel, inhuman, and degrading treatment, but in 2015 the CNDH received 628 complaints of cruel, inhuman or degrading treatment and 49 complaints of torture by government officials. In its report on Mexico released in March 2016, the IACHR affirmed that the Mexican government had provided information that the PGR had 2,420 torture-related investigations underway and there had been 15 convictions since 1999 for torture at the federal level.

The Government of Mexico has sought to improve mechanisms for addressing allegations of torture. On August 19, 2015, the Mexican National Conference of Prosecutors approved a discretionary protocol to standardize investigations of allegations of torture nationwide. On October 5, 2015, PGR published institutional guidelines for the treatment of victims, including the application of medical and psychological assistance. PGR also created in October 2015 a Special Unit to Investigate Torture. Mexican government entities are also coordinating and

UNCLASSIFIED

- 8 -

developing training to address concerns related to torture and mistreatment. In June 2016, the Executive Commission for the Assistance of Victims (CEAV) and the Commission of Human Rights in Mexico City signed an agreement to strengthen the institutional capacity and coordination among the organizations that will in turn allow for better attention to victims of torture and will provide training on investigation and documentation of allegations of torture.

Mexico has also taken steps to improve the implementation of preventive measures against the practice of torture. In late June 2016, the CNDH conducted a national-level Workshop on the Implementation of the Istanbul Protocol, which contains guidance on investigating and documenting allegations of torture and other abuses. According to the Embassy of Mexico, the PGR provided 315 hours of training in the prevention of torture to over 2,300 government personnel in the period 2015-2016 (including 486 employees of the PGR and 557 agents of the Federal Police).

All military personnel are issued and trained on a pocket-sized "Human Rights Handbook," which describes their responsibilities when detaining civilian suspects, including requirements that they respect the life, physical, and moral integrity of those detained and not inflict physical or psychological torture.

Mexico does not have a national registry of alleged torture cases, and there is a lack of specific data on allegations of torture at the state level.

The following developments were reported from the **federal level**:

- On January 20, 2016, the Fourth District Judge of the Seventeenth Federal Judicial Circuit (located in Ciudad Juarez, Chihuahua) sentenced Army Colonel Elfego Jose Lujan Rui (the former Commander of the 35th Infantry Battalion in Nuevo Casas Grandes) to 33 years in prison for the October 2009 torture, murder, and clandestine burial of Jesus Alberto Campos Moreno and Jorge Alejandro Yanez Moreno. Three other former soldiers of the 35th Infantry Battalion were also each sentenced to 33 years in prison for the same crimes, while two additional former soldiers of the 35th Infantry Battalion were each sentenced to three years and three months in prison for torture.
- On March 18, 2015, the first Chamber of the Supreme Court ordered, by majority vote, the immediate release of Alfonso Martin del Campo Dodd, on the basis of a finding that torture was used to obtain his confession. In 1993, Alfonso Martin del Campo Dodd had been declared guilty and sentenced to

UNCLASSIFIED

UNCLASSIFIED

- 9 -

50 years in prison for the murder of his sister Juana Patricia Martín del Campo Dodd and her husband Gerardo Zamudio Aldaba.

- On August 12, 2015, the Supreme Court requested certification that the district judge acted in accordance with existing laws concerning torture during his review of the 2012 case involving Yecenia Armenta Graciano, her sister, and her sister-in-law. That review led to the release of Armenta from prison on June 7, 2016. In 2012, the three women were allegedly arrested, subjected to 15 hours of physical, sexual, and psychological torture, and then forced to confess to the murder of Armenta's husband. The Supreme Court also required a review of the constitutional protections against acts of torture, the development of standards required for an *amparo* in cases involving allegations of torture, and judicial guidelines for such cases.
- On April 14, 2016, a video was posted on social media showing a 21 year-old woman being abused by two soldiers and members of the Federal Police. Less than 48 hours later, the Secretary of Defense, General Salvador Cienfuegos, made an unprecedented public apology. Speaking before 30,000 soldiers at a military base in Mexico City – and broadcasting to another 130,000 military members – Cienfuegos apologized, calling the soldiers shown on the video “criminals” not fit for military service. National Security Commissioner Renato Sales also offered a public apology and reported that members of the Federal Police had been suspended for their involvement. SEDENA said the incident took place in February 2015 in the town of Ajuchitlan del Progreso (state of Guerrero), but reportedly senior officials only learned of it in December 2015. Two soldiers were detained in January 2016 and they face civilian charges of torture and as well as military charges of disobeying orders. General Cienfuegos' immediate, forceful, and very public admonishment of the incident is without precedent in Mexico and demonstrates the government's attention to its human rights record.

The following developments were reported from the **state level**:

- On December 2, 2015, a Chihuahua state judge dismissed charges against Cristel Fabiola Pina Jasso, Leonardo Gilberto de la O Ramos, and Jose Eduardo Estrada, wrongly accused of extortion, and ordered an investigation into allegations that state police officers tortured the accused to secure confessions.

UNCLASSIFIED

UNCLASSIFIED

- 10 -

- On December 2, 2015, Adrian Vasquez was freed from prison near Tijuana, more than three years after he was arrested for drug trafficking, following a court order for his release in response to evidence that he had been tortured by state police.
- On August 6, 2015, four public officials from the Jalisco police and the state attorney general's office were removed from their positions for committing torture. This was the first time that the Jalisco state authorities took action to address concerns about torture. On September 25, 2015, a judge issued Jalisco's first-ever conviction and sentence for torture to two local police officers found guilty of torturing a man to death while he was under arrest. On March 26, 2015, Jalisco passed a new state anti-torture law, which increased sentences for those found guilty of torture.
- The government of the then-Federal District (now called Mexico City) acknowledged on November 12, 2015, that state-level police had committed "acts of torture and cruel and inhuman treatment" against 90 citizens who participated in three demonstrations in Mexico's capital during 2013 and 2014. In September 2015, the Human Rights Commission of Mexico City (CDHDF) issued three recommendations that found police had violated federal and state law. The Federal District accepted all of the commission's recommendations (which contained 36 sub-recommendations directed to five city government entities). CDHDF is monitoring the city's implementation of the recommendations.
- In June 2013, Ciudad Juarez police inspector Omar Rivera Vela and three other municipal police officers were accused of torturing a domestic worker to extort a confession. On June 11, 2015, a Chihuahua state judge sentenced Omar Rivera Vela to four and a half years in prison for torture.
- In 2015, the state of Coahuila established a new unit under the state attorney general's office to investigate allegations of torture.

3) **The Mexican army and police are promptly transferring detainees to the custody of civilian judicial authorities, in accordance with Mexican law, and are cooperating with such authorities in such cases**

UNCLASSIFIED

The Mexican government does not collect or aggregate data on the time between the detention of an individual by the military or police and the transfer to civilian judicial authorities. Government officials stated it is usual for the military to turn over to civilian authorities those individuals caught committing crimes involving civilians. The Human Rights Report in 2015 noted, however, that “some detainees complained about lack of access to family members and counsel after police held persons incommunicado for several days....” Mexican law and the Military Code of Justice prohibit arbitrary detention and in 2015 the government has launched a detainee database to improve transparency.

The Mexican military only has judicial jurisdiction over cases involving violations of military discipline. The Military Code of Justice requires the military to surrender "immediately" to civilian authorities all cases that are not within the scope of military discipline, including civilians detained during the commission of a crime (Art. 37). The military is enjoined from trying civilians (Art. 57), or carrying out any investigation or further action in a case that does not involve military discipline (Art. 37).

Military personnel on policing duties are only allowed to detain civilians: (1) pursuant to an arrest warrant issued by a civilian court, or (2) during the commission of a crime.

Moreover, the 2015 “Human Rights Handbook” issued to all military personnel assigned to policing functions details military roles and responsibilities regarding the “detention of individuals” (Chapter 1, Section 4): Military personnel who detain an individual committing a crime during an operation are instructed to:

- respect his/her life, physical and moral integrity;
- not inflict physical or psychological torture;
- provide the sick and wounded immediate medical care;
- immediately transfer detainees to a civilian prosecutor;
- immediately transfer foreign nationals to the National Migration Institute (INM), an agency of the Secretariat of the Interior (SEGOB);
- immediately hand over to the prosecutor every personal property object, or the instruments of crime that were seized (weapons money, jewelry, drugs, vehicles, and others);
- impede detainees from intentionally harming themselves; and
- immediately inform commanders on the conditions in which the detention took place.

Additionally, Chapter 1 Section 5 of the handbook details the constitutional rights of those detained:

- All members participating in a detention must identify themselves. Unless a suspect is in flagrant commission of a criminal act, the corresponding arrest warrant must be shown.
- A detainee must immediately be transferred to a civilian prosecutor and must not be taken to an unofficial location.
- The detainee has the right to remain silent.
- A detainee must never be beaten, unfed, threatened, or in any way be forced to declare against him/herself.

In July 2015, Mexico created a detainee inquiry system to enhance transparency and improve coordination of criminal detentions among federal law enforcement authorities. The system provides increased transparency for those seeking to locate an individual detained by the federal authorities. The system also offers relatives and advocates searching for detainees contact information for appropriate officials in each of Mexico's 32 states, but does not include information about detainees arrested under organized crime charges.

The military can request a civilian court to allow that military personnel tried in civilian courts be held at military detention facilities prior to and during their civilian trial, as well as to serve their sentences in military prisons.

4) The Government of Mexico is searching for the victims of forced disappearances and is investigating and prosecuting those responsible for such crimes

Mexico is a party to the UN Convention for the Protection of All Persons from Enforced Disappearance (CED), as well as the Inter-American Convention on the Forced Disappearance of Persons. Mexico has a federal law that prohibits forced disappearances, but laws banning forced disappearance vary widely across Mexico's 32 states. Some states prohibit the practice within their criminal codes; others address the crime through special laws; and six states lack specific measures. Nonetheless, there were numerous reports of forced disappearances by security forces as well as numerous cases of disappearances committed by organized criminal groups over the last two years. In addition, there are concerns about deficiencies in searches for victims, as well as a lack of investigations and prosecutions of those responsible.

In September 2015, Mexican government agencies reported that 25,230 persons were recorded as missing or disappeared as of December 31, 2014. According to the National Data Registry of Missing and Disappeared Persons (RNPED), 24,812 of the cases came under state jurisdiction, while 418 cases were under federal jurisdiction. NGOs have questioned the accuracy and completeness of the RNPED, affirming that most cases of forced disappearance are not reflected in the registry. In addition, the Mexican government notes the number of disappearances includes voluntary absence, migration, death, and unlawful imprisonment, which inflates the given figure. The lack of consistency in the data available complicates the picture. The PGR also reported 74 persons had been located as of December 2014, 70 of whom were Mexican nationals. The CNDH received 51 complaints of “forced or involuntary disappearances” in 2015.

Several initiatives regarding forced disappearances are under discussion in the Mexican Congress, including a draft General Law on Forced Disappearances that President Peña Nieto sent to the Congress on December 14, 2015. The Forced Disappearances Law was extensively debated in the 2016 regular session of Congress, with little opposition to the bill, which will be considered during the 2016 fall session. A delay in passage was reportedly partly due to an impasse over other unrelated legislation and concern as to how to manage record keeping in the current, highly decentralized system. The proposed law would create an improved nationwide registry of disappeared and missing persons, a new forensic registry, and a civil society advisory council.

At April 2016 meetings with U.S. representatives from the Department of Justice, Mexican officials from the Attorney General's Office (PGR), the Interior (SEGOB) and Foreign (SRE) ministries learned how the U.S. National Missing and Unidentified Persons System (NamUs) works with federal and state authorities on managing records. A site visit to NamUs headquarters in Fort Worth by Mexican officials to study the U.S. system took place in August 2016 and provided further insight for Mexican officials on managing records in a federal system.

The PGR revamped its Special Unit for Disappeared Persons in 2015, establishing expanded authorities and transferring open cases from the former PGR unit that had existed since 2013. The Special Unit for Disappeared Persons employs roughly 30 prosecutors and, as of May 2016, is investigating 794 cases involving 1,050 missing or disappeared persons. NGOs have expressed concerns about the unit's budget and heavy caseload for each prosecutor.

The PGR's human rights training includes courses on investigating disappearances. According to the PGR, the General Directorate on the Promotion of a Human Rights Culture of the Attorney General's Office conducted six training courses (85 hours) on "Human Rights and Forced Disappearances" between 2015-2016, instructing 425 participants from the PGR, Federal Police, SEDENA, and the Navy. In addition, a separate course on the new standardized protocol for the search for missing persons and/or those who have disappeared reached 152 participants from the PGR and state attorney generals' offices.

The PGR worked with the National Conference of Attorneys General to promote the use of an ante mortem/post mortem (AM/PM) information system donated to Mexico by the International Committee of the Red Cross (ICRC) to search for and locate missing persons. In connection with the AM/PM database, the PGR has deployed 95 mobile laboratories to support the states with their investigations. In addition, the National Conference of Attorneys General approved standardized protocols for the investigation of torture and forced disappearances nationwide.

PGR launched in December 2015 a new portal called, "¿Has Visto A?" (Spanish for "have you seen [this person]"). PGR developed the site to support families of missing persons by providing resources to create identification cards, posters, and videos. On the site, individuals can review the records of missing persons by state, age, sex, and name. As of late May 2016, the site contains the records of approximately 800 persons. The program can be accessed after an individual files a complaint under the National Data Registry of Missing and Disappeared Persons, and at <https://app.cedac.pgr.gob.mx/HASVISTOA/index.jsp>.

The PGR established a new unit for crimes against migrants in December 2015. The unit is designed to support migrants or their families located abroad who require direct access to the Mexican legal system, but will primarily focus on the investigations into missing migrants in coordination with PGR's Office of International Affairs and consulates. The Special Prosecutor for the Crimes of Violence against Women and Trafficking in Persons (FEVIMTRA) holds information sessions intended to inform the relatives of the victims regarding investigations.

According to the Ministry of the Interior, the government undertook actions between September 1, 2013, and May 31, 2016, that contributed to the location of 202 persons who had been reported missing (of whom 51 were deceased).

The following developments were reported from the **federal level**:

UNCLASSIFIED

- 15 -

- On May 9, 2015, army colonel Martin Perez Resendiz, commander of the 97th Infantry Battalion, was charged with ordering and participating in the illegal detention, and subsequent extrajudicial killing, of seven suspected members of an organized criminal group in Calera, Zacatecas. On July 31, 2015, a federal judge in Zacatecas ordered the arrest of Perez Resendiz and three other military officers on charges of forced disappearance and premeditated aggravated homicide, and the National Defense Ministry (SEDENA) placed the accused in pretrial confinement at the military prison in Mazatlan, Sinaloa. SEDENA provided forensic and judicial assistance to the civilian-led investigation, transmitted its findings to the federal Attorney General's Office (PGR), and paid reparations to the victims' families. On July 6, the head of the PGR in Zacatecas told the press that the legal process against the defendants was in an "intermediate phase" and that a trial date had not been set. He noted both the defense and prosecution had requested additional time to resolve pre-trial motions on the admissibility of certain evidence.

The following developments were reported from the **state level**:

- On July 31, Michoacan state authorities arrested the Mayor of Alvaro Obregon and four municipal policemen for the disappearance and murder of 10 people rounded up at a bar in a neighboring town by Alvaro Obregon police. Their bodies were found July 29 in the neighboring municipality of Cuitzeo.
- Thirteen people, including eight state policemen, are under arrest and facing charges for the disappearance of five young people from Tierra Blanca, in the state of Veracruz, on January 11, 2016. After one of the policemen admitted to the abduction, federal authorities located February 8 the remains of two of the youths, Bernardo Benitez Arroniz and Alfredo Gonzalez Diaz, at El Limon ranch, a property reportedly used by drug traffickers to make people disappear. Several containers were found there that contained charred and crushed human remains estimated to belong to hundreds of victims killed over several years. DNA testing on some of the discovered bodies found may not be possible as the remains are badly burned.
- On January 12, 2016, the Jalisco Attorney General's office announced the creation of a state-level specialized unit to investigate cases of disappeared and missing persons.

UNCLASSIFIED

- As a result of recommendations from human rights groups, the Coahuila state attorney general restructured its office to establish a unit to search for missing and disappeared persons.

IV. Continuing Challenges – Key Human Rights Cases

Iguala/Ayotzinapa Case

In September 2014, municipal police working with criminals seized 43 college students in Iguala (state of Guerrero). The Mexican government, families of the victims, and the Inter-American Commission on Human Rights (IACHR) agreed that a team of independent experts (GIEI), under the auspices of the IACHR, would assist authorities with the investigation of the disappearances. The experts began their work in Mexico in March 2015 and concluded their initial mandate in September 2015. Following the first report issued by the experts in September, Mexican authorities affirmed they would seek to incorporate the findings of the experts in their investigation and agreed to establish a new team of prosecutors working under the Human Rights division of the PGR. The Mexican government agreed to extend the mandate of the experts group until April 30, 2016.

The experts concluded their mandate in April 2016, releasing a final report. The report recommended Mexico overhaul its criminal investigation procedures to reduce the emphasis on confessions, and establish stricter protocols for the intervention of federal forces, including military, when they witness human rights abuses. At the same time, the experts alleged that Mexican authorities lost, ignored, and fabricated evidence; obstructed the work of the experts; and failed to follow investigatory leads. Their report also noted allegations that the authorities tortured some suspects. Medical reports from the PGR reveal that almost 80 percent of the detainees in the case had injuries suggestive of torture or mistreatment.

The Attorney General's Office (PGR) continues to investigate the case, including into the whereabouts of the missing students or their remains. The investigation of the case is divided between the Human Rights Division, which is looking into the attacks on the students, and the Organized Crime Division, which is investigating the links between Iguala (and other) public officials with organized crime.

As of June 2016, 168 suspects had been detained in the case. Of those, 122 are undergoing trial (under the old, inquisitorial judicial system) on federal charges that include kidnapping. These include 54 Iguala municipal police, 19 Cocula

municipal police and 49 alleged members of the Guerrero-based drug trafficking organization, "Guerreros Unidos." In May, the presiding judge ruled that all evidence indicated the 43 missing students had been murdered and that the defendants would be tried for murder. In addition, Guerrero state has charged dozens of the same defendants with state murder charges.

In response to a citizen's petition through the Transparency Commission (INAI), the army in June 2016 turned over photos and evidence from its records. INAI instructed the army to search all of its dependencies for additional documentation on the case.

Attorney General Arely Gomez said on July 12 that the Iguala case is "the most important case for the PGR, and the reason I remain here." "The top priority for this office is the investigation of the events that took place in Iguala," she added. PGR continues to implement the GIEI experts' recommendations as well as those of Mexico's National Commission on Human Rights (CNDH). The PGR affirmed that "the end of the GIEI mandate did not mean the end of the work pursuant to their requests, which will continue to be addressed."

The PGR, the Foreign Ministry, and the Interior Ministry meet regularly with the families of the victims to update them on the progress being made in the case. In a significant development, in July the Mexican government and the families of the 43 students who disappeared in Iguala in September 2014 held negotiations at the Inter-American Commission on Human Rights (IACHR) about a new mechanism to follow up on the recommendations and the work performed by the IACHR-affiliated group of independent experts who supported the Mexican government's investigation of the disappearances and assisted the families of the victims from March 2015 to April 30, 2016. On July 29, the IACHR issued a resolution establishing the follow-up mechanism and defining its mandate. The mechanism will review the IACHR's precautionary measures, which consist of specific actions the IACHR has requested the Mexican government take to discover the facts behind the massacre. The IACHR will name at least two technical experts who may travel to Mexico to gather information about the case. In addition, the resolution provides that an IACHR Commissioner may visit Mexico three to four times, including to follow up on Mexico's observance of the precautionary measures. Mexico will provide funding to the IACHR to finance this follow-up mechanism.

Tlatlaya

In June 2014, 22 civilians were killed in what was initially described as a shoot-out between suspected criminals and soldiers in Tlatlaya (state of Mexico). The media suggested the military had executed some of the civilians. Subsequently, the CNDH held the initial statements by the witnesses were obtained through torture, mistreatment, and intimidation. The Attorney General's Office for the state of Mexico and the PGR asserted 11 of the 22 individuals were executed, at least half of whom had surrendered before they were killed. In September 2014, the army arrested one officer and seven soldiers in connection with the case, who now face various charges, including homicide, in both civilian and military courts.

In March 2016, the media revealed that the previous October, the military tribunal had dropped charges against six soldiers, and sentenced a seventh to time already served. In May 2016, a federal court acquitted three soldiers who had been charged with the murder of eight of the 22 Tlatlaya victims, ruling that the witness testimony against them was contradictory and insufficient to sustain a conviction. A statement from the PGR suggested that authorities are considering reinstating charges against the three soldiers.

In addition, seven state policemen were indicted in July 2015 on charges of torturing three women who witnessed the killings of the suspected criminals by the army, allegedly to force the witnesses to provide exculpatory testimony. The attorney general for the state of Mexico continues to investigate the case and has summoned 40 public officials as part of its investigation, including police, prosecutors, and experts.

In July 2016, authorities of the state of Mexico said they would fire nine investigators and suspend 21 others for misconduct related to the case. The media quoted Israel Montoya, head of the internal affairs division for the prosecutor's office for the state of Mexico, asserting the 52 employees investigated included detectives, supervisors, and crime scene experts. Montoya said 30 found to be involved received some form of punishment.

V. Assessment

As noted in the State Department's annual human rights reports, there continue to be serious, ongoing challenges in Mexico, including reports of law enforcement and military involvement in forced disappearances and extrajudicial killings, the reported use of torture, impunity, and violence and threats against journalists and

human rights defenders. These challenges exist against a backdrop of violence and criminality generated by powerful transnational criminal organizations confronting weak justice sector institutions.

The Government of Mexico, however, has taken important steps over the last 10 years to enhance the protection of human rights, including a major, ongoing transformation of its justice and law enforcement system that is crucial to improving the rule of law and protecting human rights. The challenges and solutions are long term and will require sustained commitments by successive Mexican governments. The transition to the accusatorial system reached a milestone in 2016 with the new system available in some courts in all 32 states and at the federal level. Additional steps have included constitutional amendments establishing the primacy of human rights, as well as legislation relating to transparency and access to public information, corruption, and a new National Code on Criminal Procedures. In 2014, Mexico enacted historic reforms to the Military Justice Code to ensure the jurisdiction of civilian courts in cases where members of the military were accused of crimes, including human rights violations, against civilians. Over the last 18 months, there are three separate cases in which federal courts have convicted military personnel on charges of homicide or forced disappearance. The Government of Mexico has sought to improve its ability to respond to allegations of forced disappearance and torture by establishing special units within the PGR to investigate and prosecute such cases. In addition, new federal laws addressing both torture and forced disappearances are pending before the Mexican legislature and are expected to be approved this year.

The Department of State regularly engages with Mexican authorities at every opportunity and at the highest levels on human rights issues. We also discuss human rights issues at our annual Bilateral Human Rights Dialogue, led by assistant secretaries, and with the participation of Mexican civilian and military authorities. We continue to use our assistance programs under the Merida Initiative to support Mexico's efforts to strengthen its justice institutions, promote the rule of law, and advance the protection of human rights.

This report notes specific examples where Mexican authorities have addressed the issues identified in the Explanatory Statement accompanying the SFOAA. Many steps in addressing human rights concerns are ongoing and will take time to be fully implemented and to achieve the desired results in terms of protecting human rights and seeking accountability. This task is made more complicated by the Mexican federal system, which devolves significant responsibilities to justice sector actors at the municipal and state levels who lack adequate training and

resources. Developments in some key, emblematic human rights cases – such as Iguala/Ayotzinapa and Tlatlaya – underscore the continuing challenges and the need for further action to protect human rights and the rule of law. The Government of Mexico has acknowledged the need for further action and is taking the measures noted in this report, including some efforts to investigate and prosecute those responsible for some cases of forced disappearance or torture.

For the reasons outlined in this report, we assess Mexico is meeting the criteria in the SFOAA for the 15 percent withholding requirement. With these funds, we plan to work with Mexican authorities to develop programs and activities to address the areas of concern identified in the SFOAA, which may include efforts such as enhancing citizen oversight of law enforcement activities relating to the investigation and prosecution of human rights cases; strengthening mechanisms to ensure the enforcement of the prohibition on torture; and exploring ways to increase capabilities to address issues related to searching for missing and disappeared persons and investigating and prosecuting those responsible for forced disappearances.