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### Extended Response to Information Request

MEX36222.EX

22 December 2000

**Mexico:** The justice system, including reforms of the judiciary and reorganization of security forces (January to November 2000)

Research Directorate, Immigration and Refugee Board, Ottawa

This Extended Response updates information in the Issue Paper entitled *Mexico: Police of September 1999*.

#### The Judiciary

The justice system in Mexico encompasses the police, prosecutors and courts (HRW 1999). In its 2001 report, Human Rights Watch (HRW) describes deficiencies in the administration of justice in Mexico as follows:

Prosecutors frequently ignored abuses by police and also directly fabricated evidence, and judicial oversight of their work was seriously inadequate. Police carried out arbitrary arrests and they and prosecutors often falsified evidence. Courts accepted evidence obtained through human rights violations, including illegal searches, and judges cited legal precedents that vitiated human rights guarantees (2000).

In March 2000, *The New York Times* reported that the Mexican Supreme Court was overwhelmed by cases, which it described as one sign of its "archaic state" (10 Mar. 2000). According to the report, Supreme Court Chief Justice Genaro Gongora Pimentel was working diligently to modernize the federal judiciary and had lobbied to streamline the workload of the Supreme Court and to enhance its role as a "referee" between the legislative and executive powers (ibid.). Six weeks after being appointed to the Supreme Court in January 1999, Justice Gongora introduced constitutional amendments, which were approved in June 1999, that relieved the Court of ruling on "hundreds of arcane jurisdictional disputes" that only served to overload it (ibid.). Although some legal scholars said that several Court rulings had moved it away somewhat from the president's influence, they have not been significant in circumscribing presidential power (ibid.).

Former president Zedillo proposed new legal reforms in December 1999 that would create special courts with "faceless judges" which had been requested by the judiciary to ensure protection while deliberating over dangerous crimes, such as drug trafficking (INCSR 2000). No

reports indicating whether these reforms were adopted could be found among the sources consulted.

## **The Police**

Public confidence in police remains low (Copley News Service 10 Oct. 2000; *The Economist* 24 June 2000) and residents in Mexico City consistently report incidents of police abuse in Mexico City (IPS 13 Sept. 2000).

In an editorial note to a study on the Mexico police, Andrew Reding, director of the Americas Project at the World Policy Institute in New York, commented that "corruption in Mexico is by now thoroughly institutionalized and operates at the local and state as well as federal levels" and added that the study by the two authors, sociologist Nelson Arteaga and sociology student Adrián López Rivera, "offers a graphic portrait of a situation in which corruption is the norm and honest performance of one's nominal duty is treated as deviant behaviour" (*World Policy Journal Fall 2000*). According to the study, which was originally published in a Mexico City magazine in April and August 1998, the primary motivations for pursuing a career in the police force are the following: "to accumulate capital to start a business; to recover a loss (home, savings, land); to make easy money; and, in only a very few cases, a genuine interest in law enforcement" (ibid.). The study further states:

The life of those who aspire to become police officers is unquestionably difficult. Most have had a personal history involving law breaking, violence, bitterness and resentment, and drug consumption, and few have gone beyond a primary or secondary education.

A large number of applicants are immigrants from other Mexican states who are in search of a better life or have legal problems that lead them to leave their place of origin. In the city, they find work in the informal or semi-informal sectors. A few of them have a skill-carpentry, metalworking, radio and television repair, chauffeuring-which affords them an opportunity to find employment. Others with ties to narcotics or stolen-goods distribution rings see police work as a chance to expand their distribution and sales networks. There are also persons who have been police officers most of their lives, and have gone from one police force to another, after being discharged for violent behavior, corruption, or links to drug trafficking and consumption (ibid.).

The complete study is published on the World Policy Institute Website at <<http://www.worldpolicy.org/americas/mexindex.html>>.

A September 2000 IPS report claims that between 50 and 60 per cent of active police officers in Mexico City, including those from the banking, preventative and judicial police forces, lack the adequate skills to carry out their work; the wage for low-ranking officers is about US\$300 monthly (13 Sept. 2000). In 1999, 4,400 judicial police officers of a total of 27,000 "were forced to resign" from their posts because they lacked "basic knowledge of the principles of their professions, consumed drugs, suffered psychological imbalance or were severely overweight" (ibid.). Between January and September 2000, police officers in Mexico City had protested at least twice a month for better equipment and wage increases, and to denounce their superiors for extortion and for withholding benefits (ibid.).

More than 1,400 of 3,500 federal police officers have been fired for corruption since 1997 (*The Dallas Morning News* 29 Feb. 2000; INCSR 2000) and 357 were prosecuted (ibid.). However, many were rehired by other police forces (*The Dallas Morning News* 29 Feb. 2000), even though the National Public Safety System had put in place a national registry to prohibit

corrupt police officers from being hired by other law enforcement agencies (INCSR 2000). *La Jornada* reported that the Office of the Attorney General (Procuraduría General de la República, PGR), which includes agents of the Public Ministry (Ministerio Público de la Federación) and the Federal Judicial Police (Policía Judicial Federal, PJF) and other public servants, had taken punitive actions against more than 3,000 of its employees between December 1996 and March 2000 for corruption (8 Aug. 2000). Among them, almost 15 per cent were removed from their jobs because of involvement in illegal activities, especially those with links to drug trafficking (ibid.). The PGR's internal spending control bureau (Contraloría Interna), the authority that imposed the sanctions, also reported that 158 arrest warrants were outstanding against agents and former agents of the PJF (ibid.).

The Federal Preventative Police (Policía Federal Preventativa, PFP), a new federal police force that began its operations in the summer of 1999, has been criticized because of the large percentage of military personnel in its ranks, which some consider unconstitutional (Limeddh 22 Nov. 2000; MSN 7 May 2000). According to the Mexican League for the Defence of Human Rights (Liga Mexicana para la Defensa de los Derechos Humanos, Limeddh), the use of military staff in a police force violates Article 129 of the Mexican Constitution (22 Nov. 2000). The Mexico Solidarity Network (MSN) claims that the military officers often remain on active military duty while carrying out their police duties (7 May 2000). Although the PFP was created to bring the various federal police units together to combat organized crime, its first action was to end the student strike at the National Autonomous University of Mexico (Universidad Nacional Autónoma de México, UNAM) in February 2000 when it arrested a total of 998 students in a non-violent police sweep (ibid.; *Weekly News Update on the Americas* 13 Feb. 2000). Among its 7,000 agents in February 2000, 4,899 were officers from the Military Police Third Brigade and 800 were from the Investigations and National Security Centre (Centro de Investigación y Seguridad Nacional, CISEN), Mexico's intelligence agency (ibid.).

### **Government reforms and proposed reforms under President Fox**

In July 1999, the National Conference for Justice (Conferencia Nacional de Procuración de Justicia) announced that it would establish a National Criminal Identification Service (Servicio Nacional de Identificación Criminal) and equalize the salaries of judicial agents, public ministry officials and other experts (*peritos*) (*El Universal* 10 July 1999). Another stated objective of this Service was to create a database that would contain individual files of detained persons, fugitives and persons with criminal records; the database would be available for consultation by all security and judicial officials in the country (ibid.). *The Economist* reported in June 2000 that a national database was created to allow police forces to share information on alleged criminals and corrupt police (24 June 2000).

The Metropolitan Commission on Public Security (Comisión Metropolitana de Seguridad Pública y Procuración de Justicia), created in 1994, was reformed in 2000 to allow the PFP to participate in joint operations against crime in conjunction with Preventative Police officers in the Federal District and security forces of Mexico State (*La Jornada* 10 Sept. 2000).

Under the local PRD government of Mexico City, the pay for new judicial police has doubled to about \$1,000 per month, considered to be a middle-class salary in Mexico (*LA Times* 30 Nov. 2000). José Luis Pérez Canchola, director of the training academy for Mexico City's judicial police, states that recruits must meet strict admission requirements to join the force: two years of college, a background check and no prior police experience (ibid.). Nearly half of the Federal District's judicial police have been trained under this new system (ibid.). New recruits may also obtain scholarships to train abroad (ibid.).

In August 2000, Mexico City passed legislation criminalizing "disappearances" (AI 23 Aug. 2000; HRW 2001). While the Legislative Assembly modified its Penal Code to allow sentences of

between 15 and 40 years for the crime of "disappearance" [those who have disappeared and whose fate is unknown] committed by public servants in the Federal District (AI 23 Aug. 2000), there were no efforts at the federal level to introduce similar legislation (HRW 2001).

According to reports, President Fox will attempt to reform the justice system and the national security apparatus during his presidency (*The Economist* 8 July 2000; *La Jornada* 1 Aug. 2000; *LA Times* 29 Nov. 2000). Fox wants to remove all law-enforcement functions from the Ministry of the Interior, replace the federal anti-drug police force with one that resembles the FBI in the US and implement a national system of better-trained local police officers (ibid. 30 Nov. 2000). However, the responsibilities of the various security forces are outlined in Mexico's constitution and laws, and these might be difficult to amend given that the PAN has a minority in both the Senate and Chamber of Deputies (*The Arizona Republic* 22 Sept. 2000).

Fox has vowed to maintain the intelligence operations of CISEN with new recruits who will undergo training in 2001 (*La Jornada* 12 Dec. 2000a). He asked the Chamber of Deputies to approve a budget of a thousand million Mexican pesos (US\$110 million) for CISEN operations in 2001 (ibid.). In other security reforms in December 2000, the government of the Federal District sent a proposal to decentralize the preventative police force to the Legislative Assembly (*Excélsior* 12 Dec. 2000; *La Jornada* 12 Dec. 2000b). If approved by the Assembly, the proposal will reform Statutes of the Government (Estatuto de Gobierno) and the Law on Public Security (Ley de Seguridad Pública); it will eventually be sent to the Federal Congress (Congreso de la Unión) for final approval (ibid.), a process that will take about three months, according to Mexico City Mayor Andrés Manuel López Obrador (*Excélsior* 12 Dec. 2000). The decentralization proposal would strip the Public Security Secretariat (Secretaría de Seguridad Pública) of its operational functions, which would be transferred to the 16 municipalities (*delegaciones*) of the Federal District, leaving it with only administrative functions (*aspecto normativo*) (ibid.; *La Jornada* 12 Dec. 2000b). The reason for the decentralization is to curb crime in Mexico City, as well as to rejuvenate the preventative police force, to bring it closer to society and to place it under 16 elected and accountable municipal authorities (*Excélsior* 12 Dec. 2000).

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

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