

**House Foreign Affairs Committee  
Tom Lantos Human Rights Commission**

**Briefing  
on  
Enforced Disappearance in Mexico**

**October 5, 2017 – 10:00 a.m.  
2255 Rayburn Office Building**

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**Members of Congress,**

It is my honor and pleasure to moderate this briefing today on the problem of enforced disappearances in Mexico. I am speaking on behalf of the Observatory on Disappearances and Impunity in Mexico, an investigative project carried out by researchers at the University of Minnesota, FLACSO-Mexico (Latin American Faculty of Social Sciences) and the Latin American Centre at University of Oxford. Researchers in the Observatory also partner with human rights organizations across Mexico, including networks of families who are searching for the fate of their disappeared loved ones.

The purpose of the Observatory is to help understand the phenomenon of disappearances, and especially to find and organize data that will help us to learn more about the perpetrators and the victims. One of the most significant problems we face in trying to address the crisis of disappearances is the lack of reliable information. The Observatory is working to help fill some of those information gaps by gathering data from as many sources of information as possible. Thus far we have compiled databases from the files of NGOs who are working against disappearances in the Border States of Coahuila, Nuevo Leon and Tamaulipas, as well as from media reports and social media in those states. In the next phase of its research the Observatory will analyze disappearances in the States of Guerrero, Jalisco and Veracruz.

In past ten years, according to the Mexican government's own figures, there have been more than 30,000 persons missing or disappeared. The Mexican Government, in its National Registry of Missing or Disappeared Persons, acknowledges that in the past decade an average of 3,012 persons a year have disappeared. We suspect the figure is actually much higher, based on the files we have reviewed regarding many persons whose disappearance does not even show up in the Registry.

**Definitions**

Enforced disappearance is considered to be one of the most serious violations of international human rights law; in certain circumstances it is a crime against humanity. The legal definition of an "enforced disappearance" can be found in Article 2 of the International Convention for the Protection of all Persons from Enforced Disappearances, to which Mexico became a State Party in 2008:

"enforced disappearance" is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.

The use of the term "enforced disappearance" is restricted to cases that evidence a direct or indirect state role in the disappearance. Whether a disappearance is considered to be a human rights violation, or just an isolated crime, turns on whether there is proof of "acquiescence" by the state, in any form. International human rights organizations point out, and the news articles that we have reviewed confirm, that government agents are regularly involved in disappearances in Mexico, serving as perpetrators, as accomplices or consenting to the violence carried out by armed drug cartels. Yet, in many cases, because the proof itself has disappeared along with the victim, this threshold question of acquiescence of state actors becomes more difficult to prove. When only circumstantial evidence exists, the government can always place the blame on the drug cartels.

The culture of impunity in Mexico provides the context for the pattern of disappearances, where there is little or no risk of legal consequences for even blatant criminal actions. State or federal investigations of reported disappearances in Mexico run the gamut from non-existent to incompetent. In its 2013 report to the UN Committee on Enforced Disappearances, the Mexican Government admitted that in the face of tens of thousands of disappearances, there were 99 preliminary inquiries at the federal level into cases of enforced disappearance between 2006 and 2013, and 192 preliminary inquiries at the state level during the same period.

### **Myths about disappearances**

The Government's narrative, which is often repeated in mainstream media sources, puts forward several myths about the crimes of enforced disappearance in Mexico:

Myth #1: The perpetrators are members of organized crime, and not State actors.

Myth #2: If any State actors are involved, it is only those at the lowest levels of government who get taken in by corruption and fear of the cartels.

Myth #3: The victims themselves are involved in organized crime, "they must have done something."

Myth #4: Most of the victims are missing of their own accord, perhaps traveling north for work or to get out of family obligations.

The Observatory set out to investigate the myths that have been perpetuated by the Mexico Government about enforced disappearances. Our researchers reviewed 548 case files on disappeared persons reported in the years 2005-15 obtained from Citizens in Support of Human Rights (CADHAC, for its Spanish acronym), an NGO based in the State of Nuevo Leon. Students at the University of Minnesota also reviewed media articles from the main newspaper in Nuevo Leon, *El Norte*.

With regard to the myths about perpetrators, our investigation revealed the following:

1. State agents were involved in nearly half the reported disappearances in Nuevo Leon: 46.76 percent were carried out by State agents, 46.04 percent by organized crime and 7.19 by private persons.
2. Among the disappearances carried out by State agents, 49.25 percent were attributed to municipal police, but more than half involved higher level government officials, including 24.63 by state-level security officials and 26.12 by federal security forces.

With regard to the myths about victims, our investigation showed that, in the records of CADHAC,

3. 91.55% of those disappeared had no discernable connection to organized crime. Indeed, the NGO reports and media reports showed a wide array of victims targeted for disappearance including business employees or owners, construction and machine workers, car salespeople, freight loaders, lawyers, software engineers, students and ranchers. Drivers and taxi drivers appeared to be disproportionately targeted.
4. Finally, there seemed to be little evidence to suggest that the “disappeared” in Mexico were missing of their own accord. Our analysis of available press and NGO information in Nuevo Leon showed that only 12.41% had been found alive, while 11.68% were found dead and 75.91% of victims were still missing.

### **The right to an investigation: The Minnesota Protocol**

Families in Mexico have taken courageous steps to locate their loved ones, despite a lack of trust in the Government’s ability to assist them in these cases. The Observatory found that family members contacted public officials about the disappearances at higher rates than usual, reached out to the press and organized themselves through family groups to advocate for their rights. A review of press reports showed that, in a country where only 7% of crimes are reported to the authorities, family members and friends contacted officials in 30% of the disappearance cases in Nuevo Leon and 52% of the cases in Coahuila.

A review of CADHAC’s files showed even higher rates of reporting than those in media articles. In 300 of 548 CADHAC cases (54%), family members reported the disappearance to a state official, including the local office of the Public Ministry, the Army, the human rights commission of Nuevo Leon, the Federal Attorney General and the State Police. When family members sought help from public officials, 54.7% made one contact, 20.7% made two contacts and 10.3% made at least three contacts.

Despite the efforts of family members, the Government of Mexico is failing drastically in its responsibility to investigate. The recently revised *Minnesota Protocol on the Investigation of Potentially Unlawful Death* (2016) sets forth the internationally-recognized responsibilities of governments to investigate enforced disappearances. The Protocol makes clear that “The duty to investigate is an essential part of upholding the right to life.” (Section II.A.c.) The Protocol emphasizes “the duty of any individual involved in an investigation to observe the highest standards of professional ethics” (Section III). It also provides guidance and best practices for those responsible for the investigative process, including police, medical and legal professionals and members of fact-finding teams (Section IV). The Minnesota Protocol, first published in 1991 and recently updated, can be found at:

<http://www.ohchr.org/Documents/Issues/Executions/MinnesotaProtocolInvestigationPotentiallyUnlawfulDeath2016.pdf>.

The Minnesota Protocol also restates the rights of family members under international law, including the right to information about the disappearance which may be held in a state's records, even if those records are held by state security agencies. These rights are regularly ignored by the Mexican Government, who fail to assist family members in searching for their loved ones.

Based on these findings, we urge members of U.S. Congress to review regularly the efforts of the Mexican Government to investigate all disappearances in a prompt and thorough manner, to respect the rights of family members, and to ensure that identified perpetrators are prosecuted.

Thank you for your attention.