



WILLIAM J. PERRY CENTER FOR HEMISPHERIC DEFENSE STUDIES

Regional Insights

2018 EDITION, NO. 2 (MARCH)



The Evolving Role of the Security Forces to Counter Transnational Organized Crime in the Americas

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Summary:

As transnational organized crime increasingly presents a national security threat throughout Latin America, governments must re-examine the roles and responsibilities of their security forces, both military and police, to ensure the welfare, security, prosperity and sovereignty of their countries. To reduce drug-related violence perpetrated by the Mexican cartels, President Felipe Calderon deployed the military to complement police efforts across Mexico in 2006; after 10 years of the armed forces countering the cartels, there is a heated debate over how the military and police should be engaged in internal security as homicides are on the rise. In 2011, the U.S. issued a national strategy to combat transnational organized crime recognizing the seriousness of the threats from transnational criminal organizations (TCOs) to the Americas. As Colombia transitions from fighting the decades-long FARC armed insurgency to implementing the peace accord in the “post-conflict” era, counter-

ing transnational organized crime has become a top priority and will entail an evolving role of the police and military to fight TCOs. Governments will need a strong legal framework, clearly defined missions for the military and police, specialized training, and talent recruitment and retention to realize security sector reform to counter transnational organized crime effectively across the Americas.

The Evolving Threat from Transnational Organized Crime:

Transnational criminal organizations (TCOs) threaten the security and prosperity of countries throughout the Western Hemisphere at an estimated cost of 3.5% of GDP to the region, according to the Inter-American Development Bank. Since the end of the Cold War, illicit networks, comprised of terrorists, criminals and proliferators, have increasingly capitalized on globalization to expand their criminal agendas. Leading U.S. Southern Command, Admiral Kurt Tidd explained before Congress in April 2017, “transregional and transnational threat networks are now the principal threat to regional security and stability [in Latin America]. These networks operate unconstrained by legal and geographic boundaries, unimpeded by morality, and fueled by enormous profits. They prey on weak institutions and exploit the interconnected nature of our modern financial, transportation and communication systems and the seams in our organizational boundaries.”¹

While terrorist groups are driven by political or religious ideology, transnational criminal organizations are motivated by maximizing profits. They exploit global supply chains across the land, air, sea and cyber domains to move goods, people, services,

money and data. While crime is not a new phenomenon, the magnitude, velocity, wealth and violence of illicit activities are empowering transnational criminal organizations that undermine sovereignty, economy and citizen security in Latin America. Criminal networks like the Mexican cartels, Central American gangs and the Russian mafia do not respect the rule of law and challenge state authority.



Photo caption: U.S. Coast Guard personnel from Cutter Steadfast detain members from a Low Profile Vessel in the Eastern Pacific Ocean. The vessel was transporting over 3,200 pounds of cocaine when it was intercepted in November 2017. Photo credit: U.S. Coast Guard.

In recent years, TCOs have transformed from local, specialized criminal mafias into powerful transregional-transnational criminal organizations that have diversified their activities across the world. In many cases, international drug cartels, mafias, and gangs are better armed, funded, and trained than the government security forces charged with confronting them. In the face of these powerful and violent TCOs, governments are struggling to fulfill their basic mission to provide security, promote prosperity, guarantee the rule of law, and respect and represent the political will of their people. They must reassess and reorganize the efforts of their security forces to better confront TCOs and promote citizen security.

¹ Posture Statement of Admiral Kurt W. Tidd, Commander, United States Southern Command before the 115th Congress, Senate Armed Services Committee, 6 April 2017, http://www.southcom.mil/Portals/7/Documents/Posture%20Statements/SOUTHCOM_2017_posture_statement_FINAL.pdf?ver=2017-04-06-105819-923

The United States

After a comprehensive assessment in 2010, the U.S. government concluded that transnational organized crime should be considered a national security threat requiring a distinct national security strategy. It determined that TCOs are increasingly able to penetrate and/or co-opt state structures in some countries. Transnational organized crime threatens global economic interests and international markets by distorting prices, demand and supply. Moreover, terror and insurgent groups, like Al Qaeda and Hezbollah, are increasingly relying on TCOs for funding and logistical support, with particularly dangerous implications for the potential movement of operatives and weapons of mass destruction.² In July 2011, the White House issued the U.S. Strategy to Combat Transnational Organized Crime (CTOC) to focus U.S. efforts to detect, degrade, dismantle and prosecute transnational criminal networks through interagency and international cooperation. The strategy considers the Western Hemisphere as an area where illicit trafficking in drugs, people, and weapons [by TCOs] fuel increased instability and threaten the prosperity of some Central American states.” The strategy has five main objectives:

1. Protect Americans and our partners from the harm, violence, and exploitation of transnational criminal networks.
2. Help partner countries strengthen governance and transparency, break the corruptive power of transnational criminal networks, and sever state-crime alliances.
3. Break the economic power of transnational criminal networks and protect strategic markets and the U.S. financial system from

TOC penetration and abuse.

4. Defeat transnational criminal networks that pose the greatest threat to national security by targeting their infrastructures, depriving them of their enabling means, and preventing the criminal facilitation of terrorist activities.
5. Build international consensus, multilateral cooperation, and public-private partnerships to defeat transnational organized crime.³



Photo caption: Belizean security forces onboard a U.S. Army CH-47 Chinook helicopter during a drug eradication operation in Belize in 2015. Photo credit: Westin Warburton, Joint Task Force Bravo.

More recently, on February 9, 2017, the White House issued Presidential Executive Order (E.O.) 13773 on Enforcing Federal Law with Respect to Transnational Criminal Organizations and Preventing International Trafficking, demonstrating the new Administration’s commitment to combat transnational organized crime to promote domestic and international security. The E.O. recognizes that TCOs and subsidiary organizations, including transnational drug cartels, have spread throughout the nation,

² White House, Office of the Press Secretary, “Fact Sheet: Strategy to Combat Transnational Organized Crime,” July 25, 2011, <https://obamawhitehouse.archives.gov/the-press-office/2011/07/25/fact-sheet-strategy-combat-transnational-organized-crime>

³ U.S. CTOC Strategy, https://obamawhitehouse.archives.gov/sites/default/files/Strategy_to_Combat_Transnational_Organized_Crime_July_2011.pdf

threatening the safety of the U.S. and its citizens.⁴ It strengthens the enforcement of federal law to thwart TCOs that threaten public safety and national security and that are related to: (i) the illegal smuggling and trafficking of humans, drugs or other substances, wildlife, and weapons; (ii) corruption, cybercrime, fraud, financial crimes, and intellectual-property theft; or (iii) the illegal concealment or transfer of proceeds derived from such illicit activities.⁵

In the United States, there are clear roles and responsibilities for law enforcement and the military to counter TCOs. U.S. law enforcement, like the FBI and DEA, leads the CTOC campaign, with the support of the Department of Defense and the armed services. Under Title X authority, U.S. Southern Command (SOUTHCOM) supports U.S. law enforcement and other countries' CTOC efforts through detection and monitoring, network analysis, information sharing and partner nation capacity building. The Department of Defense is the lead federal agency in efforts to detect and monitor aerial and maritime transit of illegal drugs towards the United States. Joint Inter-agency Task Force South (JIATF-South), based in Key West, Florida serves as the National Task Force that conducts integrated and synchronized interagency counter-illicit trafficking operations in the Caribbean Sea, Gulf of Mexico, and the eastern Pacific. It also collects, processes, and disseminates counter drug information for interagency and partner nation operations.

Using information gathered by JIATF-South coordinated operations, U.S. law enforcement agencies and partner nations take the lead in interdicting drug traffickers. Any U.S. military interdiction in-

volvement is “in support” of those law enforcement agencies. Typically, U.S. military personnel are involved in supporting an interdiction during maritime operations in international waters, where U.S. Navy ships and aircraft patrol and intercept suspected traffickers. The actual interdictions – boarding, search, seizures and arrests – are led and conducted by embarked U.S. Coast Guard Law Enforcement Detachments or partner nation drug law enforcement agencies.⁶ The collaborative partnership between law enforcement and the military is the cornerstone of an effective U.S. CTOC strategy.

Mexico

Threatened by formidable non-state actors like the Mexican cartels and Central American gangs, Latin American governments are redefining “national security” and reorganizing their security forces to meet the evolving challenges from transnational criminal organizations. Since police forces have been infiltrated or overwhelmed by TCOs in some countries, the military once charged with the defense of their country's sovereignty from external enemies are now engaged in internal security and deployed in law enforcement missions against TCOs. In 2006, Mexican President Felipe Calderon adopted the “kingpin strategy” to pursue TCO leaders and deployed the Mexican military to the streets to combat the cartels head-on in an attempt to reduce the drug-related violence that left an estimated 60,000 dead between 2006-2012.

⁴ Presidential Executive Order on Enforcing Federal Law with Respect to Transnational Criminal Organizations and Preventing International Trafficking, February 9, 2017 <https://www.whitehouse.gov/the-press-office/2017/02/09/presidential-executive-order-enforcing-federal-law-respect-transnational>

⁵ Ibid.

⁶ U.S. Southern Command website, <http://www.southcom.mil/Focus-Areas/Transregional-Threat-Networks/Countering-Transnational-Organized-Crime/>



Photo caption: Since 2006, the Mexican Army has played a direct role in counter narcotics operations throughout the country. In this photo, a Mexican Army soldier participates in the 2013 Independence Day celebration in Leon, Mexico. Photo credit: Tomas Castelazo, 2013.

President Enrique Peña Nieto took office in 2012 and criticized Calderon's kingpin strategy for splintering the organizations, creating between sixty and eighty new, smaller drug trafficking gangs, and spreading violence. He vowed to focus more on reducing violence against civilians and businesses rather than removing the leaders of cartels. Despite these pledges, Peña Nieto has continued to rely heavily on the Mexican military in combination with the federal police to address violence.⁷ Under his leadership, the Mexican military, with U.S. assistance, has captured or killed twenty-five of the top thirty-seven most wanted drug kingpins in Mexico, but TCOs are becoming increasingly powerful and violent. One such group in ascendance is New Generation Jalisco Cartel that demonstrated their firepower in a military-style campaign in western Jalisco by using a rocket propelled grenade to blow a Cougar attack helicopter out of the sky, killing eight soldiers and a member of the federal police in May 2015.

After ten years of the Mexican military deployed in law enforcement missions, continued violence and allegations of human rights abuses, there is a very public debate over the appropriate role of the military and police in the continued fight against TCOs.

In December 2016, Mexican Defense Minister Salvador Cienfuegos expressed weariness with the continued use of the military in law enforcement missions against the cartels stating: "We [the military] didn't ask to be here. We don't like it. We didn't study how to chase criminals. We are doing things that don't correspond to our training because there's no one else to do them. At the same time, federal prosecutors that are not very happy [because] the military are not trained investigators, and they go and trample evidence and crime scenes inadvertently."⁸

Acknowledging that Mexico's armed forces have become "the main resource" in confronting organized crime and national security issues, PRI congresswoman Martha Sofía Tamayo Morales stated that the military's efficiency has been limited due to the lack of an adequate legal framework, particularly during its peacetime role. Therefore, PRI congressmen have introduced a draft Internal Security Act (ISA) in the lower house that would expand and regulate the role of the military to counter the TCOs. The bill recommends that the Mexican military provide intelligence to the Mexican government and its internal security branches. It suggests the formation of a new internal group, comprised of representatives from different parts of government, to decide on when to implement new special measures that the president could set in motion to restore "internal

⁷ Council on Foreign Relations Mexico's Drug War Backgrounder, <https://www.cfr.org/backgrounder/mexicos-drug-war>

⁸ Christopher Woody, "After a decade fighting the cartels, Mexico may be looking for a way to get its military off the front line," Business Insider, February 13, 2017, <http://www.businessinsider.com/mexican-military-role-in-fighting-drug-war-and-cartels-2017-2>

order” within an institution or geographical area of the country. The new initiative proposes making the armed forces the last, not first, resort in security matters once all other branches of law enforcement -- the municipal, state and federal police as well as the new gendarmerie -- have proven to be “insufficient in confronting the threat.” It would also mandate more accountability by requiring that the federal government be informed of all of the actions taken by the armed forces in its internal security role, as well as the publication of a regular report on the issue.⁹ As of this writing, the ISA has not been approved by Congress. The continued high levels of violence, evolving role of the military and police to counter the cartels, and reinforcing judicial institutions and the rule of law will surely be leading issues in the presidential elections in Mexico scheduled for July 1, 2018.

Colombia

Colombia has faced serious security challenges from armed groups including the FARC, ELN and criminal mafias for decades. On August 24, 2016, the Colombian government and the FARC (Revolutionary Armed Forces of Colombia) reached an historic peace accord to end the 53-year old armed conflict that has left as many as 220,000 dead, 25,000 disappeared, and 5.7 million displaced.¹⁰ The key elements of the peace agreement include the future political participation of FARC members, their reintegration into civilian life, illegal crop eradication, transitional justice and reparations, and rebel disarmament. With the country’s largest TCO demobilized, Colombia has now entered the period known as the “post-conflict.” It will focus on implementing the peace accord including the disarmament, demobilization and rein-

tegration (DDR) of some 7000 FARC guerrillas and on countering the emerging security threats posed by the remaining powerful TCOs that dominate the illicit economy.

For decades, the FARC sustained its armed insurgency with lucrative illicit activities including drug trafficking, illegal mining and extortion across Colombia. With FARC DDR process underway, other armed or criminal groups, including the National Liberation Army (ELN) and Clan de Golfo, already engaged in organized crime are poised to replace the FARC, integrate FARC dissidents, and control the lucrative illicit economy in Colombia. With an increase in coca cultivation by 39 percent in 2015 in Colombia, according to the U.N. Office of Drugs and Crime, cocaine production and trafficking is on the rise. Since the FARC controlled 70 percent of those crops in the past, fierce competition among TCOs to replace the FARC in the cocaine trafficking business is expected.¹¹



Photo caption: A Colombian Army soldier stands guard over workers eradicating coca plants. Photo credit: Jose Gomez, Reuters.

⁹ Deborah Bondello, Proposed Law in Mexico Could Expand Military Role in Drug War,” InsightCrime.org, November 25, 2016, <http://www.insightcrime.org/news-analysis/proposed-law-in-mexico-could-expand-and-regulate-military-in-drug-war>

¹⁰ Council on Foreign Relations, “Colombia’s Civil Conflict,” <https://www.cfr.org/background/colombias-civil-conflict>

¹¹ Elizabeth Dickenson, “Colombia’s War Just Ended. A New Wave of Violence Is Beginning,” Foreign Policy, August 25, 2016, <http://foreignpolicy.com/2016/08/25/colombias-war-just-ended-a-new-wave-of-violence-is-beginning/>

To address this evolving security environment, Colombia is refining the national security mission and transforming its military and police to tackle organized armed groups (GAOs-Grupos Armados Organizados) and organized crime groups (GDOs-Grupos Delictivos Organizados,) formerly referred to as the BACRIM or criminal gangs. According to President Santos, “disbanding organized crime is a priority to give Colombians more security and we are not going to drop our guard.” In addition, Minister of Defense Villegas stated in May 2016, “in Colombia there are mafias and organized crime that we are going to confront with the full force of the State.” Aggressive military and police operations against these TCOs since 2016 illustrate the Santos Administration’s commitment to improving citizen security. The Colombian military will focus on three lines of effort: (1) Sword of Honor: a campaign to permit the army to fight against criminal threats; (2) Transition to Peace: focus on supporting the disarmament, demobilization, and reintegration of guerrillas; and (3) Transformation: the creation of a Command for the Transformation of the Army, which will develop the military’s strategy for change through 2030.¹²

Since 2011, the national police have been responsible for the fight against so-called criminal bands under the assertion that military force could only be legally used against groups that held territory or promoted a political ideology,¹³ but these criminal groups have since evolved into powerful criminal organizations across Colombia. On April 22, 2016, the Ministry of Defense issued Directive 15, which defines the largest criminal organizations as legal targets for military strikes under a new classification as

“organized armed groups” or GAO and “organized delinquent groups” or GDO. The GDOs will be persecuted by the national police, with the support of the armed forces in certain cases. GAO describes those groups that have an organized structure and leadership, commit violent acts against civilian society and armed forces, and control sizable territory. The GAO will be prosecuted by the national police and the armed forces alike, and against this type of organization, Directive 15 authorizes all use of necessary force. At least three organizations that meet those standards, Clan Úsuga, Los Puntilleros and Los Pelusos that will be considered legal targets of military strikes. Directive 15 establishes clear concepts for the use of force and the definition of threats, in accordance with international standards and guarantees the legal parameters for members of the military and police in the exercise of their functions.¹⁴ In Colombia, the Ministry of Defense directs the armed forces and national police, in contrast to other Latin American countries that have defense and interior ministries. They have worked hand in hand to combat TCOs, most notably against the FARC, but now must adapt to an evolving security environment in the “post-conflict” period.

According to General Alberto José Mejía, Commander of the National Army, the evolution of Colombia’s security forces is underway. He explained in June 2017 that the Army’s Transformation Command for the Future (COTEF) has embarked on the task of designing a new architecture for the armed forces with two specific missions. First, the military will examine the emerging security challenges in different regions of the country, such as the behavior of criminal gangs, the Clan del Golfo or the new drug

¹² Michael Lohmuller, “Colombia Military Envisions Future Crime Fighting Role,” InsightCrime.org, April 7, 2017, <http://www.insightcrime.org/news-analysis/colombia-military-envisions-future-crime-fighting-role>

¹³ Ed Buckley, “Colombia’s Next Front: Organized Armed Groups,” The City Paper Bogota, May 18, 2016, <https://thecitypaperbogota.com/news/colombias-next-front-organized-crime-groups/12851>

¹⁴ “Colombia aplicará toda la capacidad de sus FF.AA. contra bandas criminales,” Noticias RCN, May 5, 2016, <http://www.noticiasrcn.com/nacional-pais/colombia-aplicara-toda-capacidad-sus-ffaa-contra-bandas-criminales>

trafficking groups, some of which can dominate areas where the FARC used to be and seize illicit businesses such as illegal mining. Second, the military will engage more actively with civilians, improve the treatment and communication with indigenous communities and vulnerable populations, and respond to their needs. The military will also seek to strengthen ties with other sectors of civil society such as businessmen, academics and other institutions. Both missions seeks to demonstrate that the Army is not only as a combat force but as a multi-mission institution that has the capacity to build roads, deal with tragedies caused by natural disasters and care for the environment.¹⁵

Conclusion

As described above, the U.S., Mexico and Colombia consider the threat from transnational criminal organization a vital security concern at the national and regional levels for the Western Hemisphere. While each country has its own legal authorities and organization of its military and police forces, all countries realize that interagency and international cooperation is critical to counter TCOs and promote prosperity and citizen security in the region. In the face of emerging security threats from TCOs, governments will need a reinforced legal framework, clearly defined missions for the military and police, specialized training, and talent recruitment and retention to realize security sector reform to counter transnational organized crime effectively across the Americas.

¹⁵ ¿Hacia dónde van las fuerzas armadas?, Semana, June 30, 2017, <http://www.semana.com/nacion/articulo/la-transformacion-del-ejercito-nacional-en-el-posconflicto/530569>