

As we will argue below, we are facing criminal violence of a bi-national character.

With the support of the National Security Archive, we are asking the DEA to provide access to the statements of protected witnesses.

C. THE STATE AND THE VICTIMS OF TWO TRAGEDIES

It is important to recall that the State has the obligation to prevent violations of human rights and, when these occur, to establish the facts in order to ensure that justice is done and reparations made. To fulfill these duties—and for the victims and society as a whole to see this done—a key aspect is a rigorous approach to truth.

There is a major obstacle to this: the Mexican institutional and judicial framework was not designed to seek truth, and it finds it very difficult to incorporate this approach. This is one of the most frequent causes for the tensions with those sectors of society that believe that access to information and to the truth is a right for victims, their families, and society in general.

For this research there were state agencies—including the PGR and the Foreign Ministry—that failed to deliver information. Those that did so—CEAV, CNDH and the Coahuila state government, among others—provided archives that present weaknesses, omissions and errors that we will incorporate into the analysis with a view to change the public policies used to aid the victims.

C.1. MUNICIPALITIES

It is essential to understand the role played by local governments, since this is the terrain where organized crime and the State are in daily contact. In this investigation we focused only on the municipal police forces of two municipalities. Our main conclusion was:

In 2010 and 2011, Los Zetas were in control of the 36 police officials in San Fernando and the 20 officials in Allende. However, agents were involved with the criminals in different ways. Some were enthusiastic accomplices; others established a distance, avoiding confrontation or combat with the criminals.

Below, we explain how this control was exercised, clarifying that there are differences in both the quantity and quality of information available in each case.

C.1.1. SAN FERNANDO, TAMAULIPAS

The CNDH undertook a three-year investigation into the massacre, but did not seek to understand the role played by the municipal police and government. Despite this,

there are a number of official Mexican and U.S. documents that confirm the complicity between criminals and police forces. The clearest evidence emerged when the army discovered, in April 2011, between 193 and 196 bodies in clandestine graves near San Fernando (the figure varies according to the source).

The U.S. consul in Matamoros took an interest in the clandestine graves because it was rumored there were two U.S. citizens among the dead. In its reports to the State Department it included a very important claim: 17 members of Los Zetas and 16 police officers were arrested in San Fernando. The latter were accused of “protecting the members of Los Zetas responsible for kidnapping and murdering bus passengers.”⁸ If we take the figure of 16 as indicative, this means at least 44% of the 36 agents were at the service of Los Zetas. It is likely that the others did not resist them.

Documentary evidence of similar importance is a brief informative note from the Deputy Attorney Specialized in Investigation of Organized Crime (SEIDO), part of the PGR, obtained by Michael Evans from the National Security Archive in Washington. This document paraphrases police statements made by members of Los Zetas and police officers. According to one of those involved, “police and traffic officers from San Fernando helped the Los Zetas organization.”

The same note mentions three of the functions carried out by the police in the service of organized crime:

- a) “Omission in their duty to observe crimes committed” by Los Zetas.
- b) “*Halconeo* [scouting] functions.”
- c) Detention of persons who were handed over to Los Zetas.⁹

The SEIDO informative note refers to the burial pits found in 2011, but among those involved mentions the police officer Álvaro Alva Terrazas, alias *El Junior*. According to statements made by Edgar Huerta Montiel, alias *El Wache*, reported by Marcela Turati, Álvaro Alva also took part in the massacre of August 2010. It may be inferred that the police officer was at the service of Los Zetas since at least 2010.

The SEIDO document also refers to the criminal organization making payments to the police, without specifying figures. When the low salaries of police officers are seen, the ease of corrupting or coopting them may be understood.

	Amount
Average monthly wage of municipal police officers in the region.*	MX\$5,187.00 (US\$269 as of 10/08/2016)

*This figure is based on data available for municipal police forces in Matamoros, Reynosa and Valle Hermoso in 2010.¹⁰

C.1.2. ALLENDE, COAHUILA

The file prepared by the Coahuila State Attorney for Allende reveals much more detail on the relationship between organized crime and the municipal police force.

One of the clearest statements in this file is that made by a fire officer. He remarks that, in mid-2009, he realized that the municipal police department in Allende was “already involved in organized crime.” Other testimonies affirm that by 2010 the control was total.

The testimonies of police who made statements confirmed that “we all received money from Los Zetas, some under duress and others freely.” If we cross-reference the available statements, 11 of the 20 municipal police officers actively collaborated with Los Zetas (including the chief and the commander) and the rest accepted without participating or complaining.

The police were expected to fulfill the following functions:

- a) Ignore “reports and complaints from residents.”
- b) The commander positioned “the police at different points in the city in order to pass on news, that is, they were expected to act as *halcones* [scouts].” They were instructed to inform when the Army, Marines or GATES (Grupo de Armas y Tácticas Especiales, created by governor Humberto Moreira in 2009) arrived or passed by. They also had to report the arrival of vehicles with plates from other states since, according to a municipal police officer, “Los Zetas feared the arrival of another criminal group to compete with them.”
- c) Allow members of Los Zetas to enter the local prison to take people away or beat them inside their cells. One former officer recalled that the plaza boss would visit the prison “as if he was in his own house, without anyone saying anything.”
- d) Collect protection money (*derecho de piso*) on behalf of Los Zetas. The police chief gave his subordinates a list of cantinas to shake down. They also collected the “prostitute’s quota.” Between them all they would collect 14,000 pesos (it is not stated whether this amount is daily, weekly, or monthly).
- e) Take active part in *levantones* (detentions) and in handing over people to the criminal group.

Part of the resources obtained by Los Zetas in Allende was spent on buying the complicity of the police force. It is surprising how cheap it is to have a police force at one’s disposal. Around three thousand dollars:

Monthly payments by Los Zetas to municipal police in Allende, 2011

Average monthly wage of a municipal police officer in the region*	MX\$6,324.33
Monthly payments by Los Zetas	Amount
Chief of police	MX\$20,000
Police commander	MX\$10,000
Four station chiefs, MX\$3,000 each	MX\$12,000
7 officers who were ready and willing, MX\$2,000 each	MX\$14,000
4 officers who were unwilling, MX\$1,000 each	MX\$4,000
3 officers who refused, MX\$500 each	MX\$1,500
Monthly expenditure by Los Zetas on police	MX\$61,500

* This figure is based on data available for municipal police forces in Acuña, Piedras Negras and San Pedro in 2011.¹¹

For the most part the municipal authorities were merely decorative figures. The individual who was mayor in March 2011 declared in writing to the State Attorney that “I was not witness to the events,” that “I heard about it from comments from people who had not been witness to the events either,” that “I never received any notification, complaint or allegation from persons or victims of the violent events.” The commander of the Department of Public Security revealed that he had not received any allegation or information from any person or other source and that, since the municipality is not empowered to open an investigation, he did nothing.

To repeat what has been stated above: these are considered cases of forced disappearance because the police file includes statements about detentions or executions without solid evidence being presented about the victims’ deaths. The Coahuila State Attorney has classified 26 of the disappearances as cases of kidnapping.

Taking these statements as a basis, it may be affirmed that:

- a) In these two municipalities, the criminal organization controlled the local security apparatus and some of the police officers were an integral part of Los Zetas.
- b) There are similarities in the methods used by Los Zetas to control the police.
- c) Municipal governments were ineffective and their officials violated multiple Mexican and international laws. For example, they failed to meet their obligation to “immediately” report cases of forced disappearance.

- d) If the prevailing situation in San Fernando and Allende also holds in other municipalities—and there is much evidence to suggest this is the case—local governments are the weakest flank of the Mexican State.
- e) Taking these points together, we may affirm that the two municipalities abandoned the victims.

A question remains to be addressed in the following sections: What role did the state and federal governments, and the autonomous human rights bodies, play?

C.2. THE STATE GOVERNMENTS OF TAMAULIPAS AND COAHUILA

The three state governors of Tamaulipas and Coahuila we shall analyze engaged in significantly different behaviors.

Egidio Torre Cantú, from Tamaulipas, and the interim governor of Coahuila, Jorge Juan Torres López (January-December 2011), did all they could to avoid any responsibility being imputed to their administrations, denying or minimizing the events in question.

Rubén Moreira, meanwhile, has changed language, laws, and public policies. These are steps in the right direction which do not, however, offer a comprehensive solution to the problems raised by the victims.

We will justify these assertions below.

C.2.1 TAMAULIPAS

The administration of Torre Cantú was distinguished by denials and ineffectiveness:

- a) *Denials.* In April 2011 between 193 and 196 bodies were discovered in pits in San Fernando. The U.S. consul in Matamoros described the reaction of the Tamaulipas government in a few words: “Officials from the Tamaulipas government are attempting to minimize the discoveries and the responsibility of the state.” He added that they excuse themselves saying that “organized crime is a federal issue and the state lacks the resources to confront it.”¹²

We encountered the same attitude when we requested information in 2016 from the Tamaulipas State Human Rights Commission (CODHET). Their response was brief and evasive. They excused themselves claiming that the CNDH had opened an investigation and issued a *Recommendation*. It is true that the federal body had taken over responsibility for the case, but the CODHET could clearly have done much more for the migrants.

- b) *Ineffectiveness.* Recommendation 80/2013 of the CNDH clearly documents the lack of professionalism on the part of the Tamaulipas State Justice De-

partment (PFJET). This is the case, for example, with the handling of the bodies of the 72 migrants. This aspect is discussed in depth in the Appendixes. What lies at the origin of the behavior of the Tamaulipas government? Is it incompetence or was there complicity with organized crime? If this is the case, what was the level and depth of the links between the government of Torre Cantú and Los Zetas or the Gulf Cartel? We cannot give a clear answer, in part because the CNDH did not assign responsibilities nor did it go into depth on the actions of the municipal and state governments, either in the *Recommendation* or the supporting dossier. It also did not explain the background and context, even when in the files there are elements that might contribute to understanding the events.¹³

C.2.2. COAHUILA

Neither the PGR nor the CNDH took over responsibility for the Allende case, which was left in the hands of the Coahuila state government. The way in which it was handled by two different governors reveals very differing attitudes.

The interim administration of Jorge Juan Torres López (January 4-December 1, 2011) was defined by denial. Evasion was possible because the victims and population were terrified and the matter was initially ignored by the media. The State Attorney only received one complaint and made a visit to Allende, which is characterized by its ambitious instructions and meager results. This explains a remark made by Governor Rubén Moreira (December 1, 2011-present) during a conversation for this investigation: on the issue of disappearances, in “Coahuila nothing had been done.”

The administration of Rubén Moreira did recognize the seriousness of the events and did take an interest in the tragedy without having achieved, to date, either a comprehensive response or adequate attention.

A) THE POSITIVES OF THE COAHUILA GOVERNMENT

Ever since his campaign Rubén Moreira acknowledged that Coahuila had a serious security and human rights problem. As governor, he has dedicated attention to disappearances. The most important activities include:

- Regular meetings with civil organizations that represent families of the disappeared. They acknowledge the gesture and the policies adopted, but point to the lack of concrete results and a number of unacceptable conditions.
- The creation in May 2014 of the Coahuila State Executive Commission for Attention to Victims (CEEAV).
- Reform to the State Attorney’s fundamental law to create the Search Unit specializing in disappearances.

- Inviting the International Red Cross to carry out a program of exhumations and identification of bodies in burial pits.
- Responding in writing—even if briefly—to the report *Undeniable Atrocities. Confronting Crimes Against Humanity in Mexico* by the Open Society Justice Initiative.
- More transparency, which is reflected in the access to the file given to the CEAV and the team of independent researchers that worked on this report.¹⁴

B) DEFICIENCIES AND OMISSIONS OF THE RUBÉN MOREIRA ADMINISTRATION

Michael Chamberlain, of the Fray Juan de Larios Diocesan Center for Human Rights, asserts that the “worst handicap of the Rubén Moreira Administration is that the investigation does not give priority to the right to truth.” He is right, and his diagnosis is confirmed by analysis of the judicial dossier and the work carried out by two public bodies in Coahuila state.

The file includes the statements of 61 people who identified 31 members of Los Zetas and five police officers as active participants in the operations of March 2011 and March 2012. The other members of the police force acted as *halcones* (scouts) or stayed in their stations.

Persons who made statements in the Coahuila State Attorney file

Family members of victims	11
Municipal police officers	18
Public officials	2
Fire officers	4
Local residents	16
Family members of perpetrators	4
Members of Los Zetas	6
Total	61

As may be seen in the following table, the type of activities and the dates on which they were carried out confirm:

- The disproportionate weight given to the statements. 56 witness declarations in contrast to four expert visits, including taking samples almost three years after the event.
- The extreme tardiness of an issue that, given its severity, should have received more attention. In fact, the case was ignored between 2011 and 2013.
- It received greater priority from January 2014, as the result of greater media attention. It was not until November 2014 that the State Attorney sent expert in-

investigators to the Los Garza ranch. Helped by two dogs 66 bone and 68 dental fragments were recovered. We do not know if DNA was extracted.

Actions by the Coahuila State Attorney between 2011 and 2016

Year	Actions							
	Accusations	Witness statements	Visual inspections	Interviews with local population	Visits by experts	Sampling for analysis	Detentions	Visits to implement legal actions
2011	1	1	1	1	-	-	-	-
2012	1	3	-	1	-	-	-	-
2013	-	-	1	2	-	-	-	-
2014	8	37	-	3	4	2	6	1
2015	1	15	-	-	-	-	1	1
2016	-	-	-	-	-	-	-	-
Total	11	56	2	7	4	2	7	2

Note. As of early August 2016 (when we consulted the file), no other judicial work had been carried out on this case, despite the fact that testimonies had been emerging from courts in Texas. More details are given in the Appendices on the actions undertaken by the State Attorney's Office.

The file gives the impression that Allende is an independent republic. There is almost no mention of other state or federal agencies and there is no analysis of the context in which disappearances occur, or systematic patterns. These are essential requirements for carrying out an investigation with due diligence.

They also do not show any interest in linking Allende with other municipalities. The file is focused on the reprisals against the Garza family without mentioning what Los Zetas undoubtedly did in neighboring municipalities to punish Cuéllar and Moreno.

This lack of interest in the truth and the desire to treat the matter as closed perhaps influence the insistence of the Coahuila state government to the families and their representatives—in this and other cases—that the disappeared are dead and the perpetrators are also either dead or in prison. One unresolved contradiction is that in the State Attorney's file they are given the status of "aggravated kidnapping."

An additional problem is the lack of work carried out by the CEEAV and the Coahuila Human Rights Commission. The work of both institutions is inadequate, given the scale of the problem. These criticisms are treated in greater detail in the Appendices.

The deep dissatisfaction of the families of the disappeared is thus understandable, who are denied a precise version of what happened, and who are also witness to the slowness and inefficiency of judicial processes.

As such, it may be concluded that the victims of San Fernando and, to a lesser degree, those of Allende, did not receive appropriate treatment from the state governments. To establish the possible responsibilities of the Tamaulipas government, we would need to have access to their archives, since the case was taken over by federal institutions. In Coahuila, Rubén Moreira has established the foundations for a better policy, and since he will remain in post until the end of 2017, he may have the time to accelerate the work and consolidate a better policy.

C.3. FEDERAL GOVERNMENT, THE NATIONAL HUMAN RIGHTS COMMISSION (CNDH) AND THE EXECUTIVE COMMISSION FOR ATTENTION TO VICTIMS (CEAV)

Municipal governments were complicit in serious human rights violations, the government of Tamaulipas was indifferent, and that of Coahuila was lacking. In this light, what did the federal agencies and autonomous bodies do or fail to do?

The information we have is insufficient to understand the actions and omissions of the Federal Executive and we hope to close this gap during Phase 2 of this research. It seems that the PGR took over some of the investigations into Allende, while the Army and/or Marines had bases close to the municipal centers of San Fernando and Allende. We may suppose that the National Investigation and Security Center (CISEN) had agents deployed in these areas, and that the National Migration Institute played a role in the issue of the migrants.

Thus, we know that they were aware of what was happening, but we don't know how they processed this knowledge, and above all, what was the reason for the passive response to the control wielded by Los Zetas over the two municipalities. In the case of Allende, a fire officer asserted that "the Army never intervened in any confrontation."

In any case, we will place the emphasis on the CNDH and the CEAV, the public bodies that allowed access to their archives.

C.3.1. THE NATIONAL HUMAN RIGHTS COMMISSION

The CNDH did not meet its obligation to prevent human rights violations and to investigate them to achieve justice and reparations. While it is true it immediately took an interest in the San Fernando massacre, it was almost three years before it issued *Recommendation* 80/2013. Access to the 12,182 numbered pages that supported this *Recommendation* enabled us to better understand its working methods and how it established its own limits.

This analysis focuses above all on the period Raúl Plascencia was president of the CNDH: November 2009 – November 2014. Analysis of the period in office of Luis Raúl González is incomplete.

a) *San Fernando*. The *Recommendation* has positive aspects. For example, it produces an accurate description of the errors committed by the Tamaulipas State Attorney. In addition, it assigns responsibility to the judicial agents for failing to properly carry out the identification, handling and preservation of the bodies, failing to comply with procedures for handling the chain of custody, preservation of the crime scene, and releasing remains without being sure of the identities (they sent the body of a Brazilian victim to Honduras).¹⁵

The positives are overshadowed by the lack of follow up and by omissions. This, together with the excessive length of time taken, made it irrelevant to the protection of the victims.

In fact, the greatest failing of the CNDH in San Fernando is the lack of empathy shown towards the victims. Independently of the declarations made to the media by the head of the Commission, examination of the dossier that supported the *Recommendation*—agreements, circumstantial records, medical reports, preliminary inquiries, press releases, news stories, etc.—make it clear that the CNDH did not enter into contact with the families of the 72 people who lost their lives.

The CNDH made a number of recommendations to the PGR and the government of Tamaulipas. These were public admonishments of no consequence whatsoever, but they reveal the distance between what the CNDH requested and what occurred. For example, the CNDH made seven recommendations to the governor of Tamaulipas. The first five of these begin in the same way: that such-and-such an authority “should be instructed to ...”; the sixth requests that “instructions be given to the Department of Public Security” and the seventh orders that it “extensively cooperate” with the CNDH.

It is notable how easily the CNDH considered its recommendations to have been met. It was enough for the governor of Tamaulipas to send an official letter “instructing” such-and-such a government body to do what the CNDH asked for it to receive a remark of partial or total “fulfillment.” There was no follow-up to verify if it was actually being done or if this improved the situation of victims. There are indications that in fact, all the government of Tamaulipas did was send letters, which, in Mexico, is the equivalent of doing nothing.

The CNDH also failed to investigate the role played by the municipal police and other state agencies. This is a notable omission given that in its *Special Report* for 2009 on the kidnapping of migrants, it asserted that “in some cases [there is] evidence to

suggest the participation or collusion of authorities from the three levels of government.”¹⁶ This lack of concern is such that the *Recommendation* does not even cite its own *Report*. Indeed, it set aside the witness statements at its disposal; our impression is that it censured itself.

The CNDH of Raúl Plascencia failed to intervene in the Allende case despite the fact that in September 2014 the agency head declared that they had been investigating it for months, had gathered witness statements and traveled to the crime scene.¹⁷ According to Juan Alberto Cedillo of the magazine *Proceso* (June 30, 2014), an official letter from the CNDH had answered a complaint about Allende stating that the case “had been turned over to the Coahuila State Human Rights Commission.”¹⁸ The *Proceso* reporter interviewed the mayor of Allende, Reynaldo Tapia, who contradicted Plascencia, saying that the CNDH had turned up in Allende just a few days before the press conference.¹⁹

During the leadership of Luis Raúl González, the CNDH carried on its investigation into Allende, but with little continuity. In fact, there was a period of inactivity between June 2015 and August 2016, when work began again. It is true that it faced obstacles to gaining access to information, but it could have taken other actions to continue its investigation.

The constitutional reform of 2011 granted the CNDH the capacity to describe a violation as “serious,” which allocates more resources to the victims and to society to demand the truth and secure reparations. During his term in office, Raúl Plascencia only defined two human rights violations as serious: Chilpancingo, Guerrero, and Ocoyucan, Puebla.²⁰ We do not believe it is correct to measure severity by counting the number of dead, but it seems illogical that neither Raúl Plascencia nor Luis Raúl González qualified San Fernando and Allende as “serious.” The acts of Los Zetas raised the bar for barbarity. The State neither prevented them nor acted with the speed demanded by both cases.

C.3.2. THE EXECUTIVE COMMISSION FOR ATTENTION TO VICTIMS

During the administration of President Felipe Calderón, the Movement for Peace with Justice and Dignity appeared, together with other organizations that demanded support for victims. They put the issue on the national and international stage. The State responded by approving laws, creating institutions and allocating budgets. However, the victims, the organizations that represent them, and observers of the issue agree that the results are unsatisfactory.

One of the first actions of President Enrique Peña Nieto was to introduce a General Law on Victims and establish a National System for Attention to Victims, which is the highest body for coordinating, formulating and evaluating public policies inten-

ded to provide protection, attention, support, assistance, access to justice, truth and comprehensive reparations for victims.

The CEAV is the operational agency of this National System. This research allowed us to state that the Commission has been unable to provide appropriate attention to the victims of San Fernando (it has no file open on the Allende case). In the Appendices we provide more detail on the CEAV and present specific recommendations. This document simply states the key ideas.

The CEAV's mandate provides it with a vast potential capacity to support, protect, and provide reparations to victims. However, it has distinguished itself more by what it has failed to do than by its achievements. To a great extent, this is due to the deficient original design and bureaucratic disorder caused in part by a fracture between the four commissioners (there should be seven), its timid interpretation of its capacities, the exaggerated emphasis on individual compensation while forgetting integral reparation, its distance from organizations that deal directly with victims, and the way in which it allocates resources from the victims' fund.

This damning diagnosis is shared by several public bodies and is even the opinion of members of the Commission itself. As we deliver this Report, an effort is underway on the part of the Federal Executive and the Congress to fully restructure this organization, key to victim support. We hope to have contributed to collective reflection with this investigation.

In summary, neither the CNDH nor the CEAV dealt adequately with the victims of San Fernando and of Allende. This view—shared by Mexican and international organizations and analysts alike—has given rise to a methodical and sometimes destructive criticism that should give way to a more fruitful discussion: how to strengthen public bodies? This is the subject of the following sections.

D. VICTIMS, CIVIL SOCIETY ORGANIZATIONS AND THE STATE

Despite the adverse conditions, victims have been able to defend their rights because they have enjoyed the support of civil organizations, the media, and academics from both Mexico and other countries. This is a web of interactions that we cannot at present reconstruct or describe in the necessary detail. We shall present an overview that is expanded on the Appendices, and which we shall complete in Phase 2 of this investigation.

Generally speaking, these actors cover complementary tasks. The media call attention to tragedies, often giving them a human face. As they gain visibility, the victims feel recognized and sometimes seek the support of civil organizations that, once involved, accompany them for the time they require. Simultaneously, academics gather information and interpret events to generate knowledge to support the work of acti-