



# **NAVAL POSTGRADUATE SCHOOL**

**MONTEREY, CALIFORNIA**

## **THESIS**

**DIPLOMACY ON TRIAL: JUSTICE, U.S. FOREIGN  
POLICY, AND THE PURSUIT OF PROSECUTION  
AGAINST LATIN AMERICAN OFFICIALS**

by

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December 2021

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**DIPLOMACY ON TRIAL: JUSTICE, U.S. FOREIGN POLICY, AND THE  
PURSUIT OF PROSECUTION AGAINST LATIN AMERICAN OFFICIALS**

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requirements for the degree of

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## **ABSTRACT**

Since the inception of the U.S. War on Drugs in the 1970s, the United States has faced the challenge of balancing the interests of justice and diplomacy when dealing with Latin American government officials corrupted by the illicit drug trade. This thesis identifies, categorizes, and assesses examples of U.S. responses to this challenge into a range of options that the United States can take to pursue prosecution against wanted Latin American officials. These options, which range from the least forceful option of foreign prosecution to the most forceful option of using military intervention, each contain different tradeoffs between the reward of prosecuting a high-level actor and the risk of damaging bilateral cooperation. This thesis finds that the United States commonly conducts and should continue to conduct “arrests of opportunity,” which refers to when U.S. law enforcement officials arrest wanted Latin American officials after they enter a U.S. jurisdiction, because it balances legal pragmatism with respecting foreign sovereignty. Additionally, the United States also has an option to “turn a blind eye,” or take no prosecutorial option at all, but this option is a decision best made behind closed doors with serious consideration given to potential political consequences.

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## **LIST OF ACRONYMS AND ABBREVIATIONS**

|        |                                                            |
|--------|------------------------------------------------------------|
| CICIG  | International Commission against Impunity in Guatemala     |
| DEA    | U.S. Drug Enforcement Agency                               |
| DOJ    | U.S. Department of Justice                                 |
| DOS    | U.S. Department of State                                   |
| FBI    | U.S. Federal Bureau of Investigation                       |
| JLP    | Jamaica Labour Party                                       |
| NSS    | U.S. National Security Strategy                            |
| OAS    | Organization of American States                            |
| OIA    | U.S. Department of Justice Office of International Affairs |
| PDF    | Panama Defense Forces                                      |
| PNH    | National Party of Honduras                                 |
| POE    | Political Offense Exception                                |
| SEDENA | Mexican Secretariat of National Defense                    |
| UN     | United Nations                                             |
| WOLA   | Washington Office on Latin America                         |

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I start by breaking the taboo of recycling an old speech. In 2017, after I graduated from college, I thanked those who have had a profound and positive influence on my life with an African proverb: “It takes a village to raise a child.” In 2021, I do so again. Thank you to my village: Daniel Beatty, Martha Beatty, Jackie Cai, Adanto D’Amore, Kevin Fox, William Glidewell, Jack Orswell, Janet Orswell, David Ptacek, and Rita Wilkins.

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# **I. INTRODUCTION**

## **A. RESEARCH QUESTION**

This thesis answers the question: How can the United States balance justice and diplomacy when pursuing prosecution against corrupt Latin American government officials?

## **B. PROBLEM STATEMENT**

This question was exposed to the public in October 2020 when the U.S. Drug Enforcement Agency (DEA) arrested General Salvador Cienfuegos in Los Angeles on drug trafficking and money laundering charges.<sup>1</sup> Cienfuegos was Mexico's former National Defense Secretary and played a major role in the Mexican war on drugs. U.S. authorities did not coordinate with or inform the Mexican government of his arrest, resulting in major disruption in U.S.-Mexico relations.<sup>2</sup>

After Mexico mounted diplomatic pressure to have Cienfuegos face trial in Mexico rather than the United States by threatening to expel all DEA agents stationed in Mexico, the U.S. Department of Justice (DOJ) relented in November 2020, dropped all charges against Cienfuegos, and extradited him back to Mexico.<sup>3</sup> However, in January 2021, Mexico exonerated Cienfuegos and labeled U.S. charges against him as politically motivated.<sup>4</sup> Ultimately, the United States saw neither justice served nor diplomacy strengthened through the Cienfuegos investigation.

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<sup>1</sup> Azam Ahmed and Alan Feuer, "Who Was 'El Padrino,' Godfather to Drug Cartel? Mexico's Defense Chief, U.S. Says," *New York Times*, October 16, 2020, <https://www.nytimes.com/2020/10/16/world/americas/mexico-salvador-cienfuegos-arrested.html>.

<sup>2</sup> Will Grant, "Salvador Cienfuegos: From 'Godfather' on Trial to Free Man," BBC, November 21, 2020, <https://www.bbc.com/news/world-latin-america-55015207>.

<sup>3</sup> Alan Feuer and Natalie Kitroeff, "Mexico, Outraged at Arrest of Ex-Official, Threatened to Toss U.S. Agents," *New York Times*, November 18, 2020, <https://www.nytimes.com/2020/11/18/world/americas/mexico-cienfuegos-barr.html>.

<sup>4</sup> Oscar Lopez, "Mexico Exonerates Ex-Defense Chief Who Was Freed by the U.S.," *New York Times*, January 14, 2021, <https://www.nytimes.com/2021/01/15/world/americas/mexico-defense-minister-cienfuegos.html>.

The case of Cienfuegos is a microcosm of the tensions that often exist between the interests of justice and diplomacy in U.S.-Latin American relations. On the one hand, the United States wants to maintain amicable relations with Latin American states to protect its interests in the Western Hemisphere. On the other hand, the United States faces the expectation to uphold the rule of law and the reality that Latin American officials on the other side of the table have often been compromised by the same criminal organizations that both have agreed to fight.

The political fallout resulting from the Cienfuegos case introduces a range of questions to consider. What is U.S. foreign policy toward corrupt states where it holds interests? How can the imperative of maintaining foreign relations coexist with the tradition of divorcing politics from criminal proceedings? When is international politics a consideration to prosecuting foreign actors? When is absolving foreign actors of crimes justified? Who gets to decide, and how do they measure the risks? These questions provide the basis of this thesis, which seeks to demystify the balancing act between justice and diplomacy that the United States faces when prosecuting corruption at the highest levels in Latin America.

The fact that U.S. prosecutors target Latin American government officials reflects two broader realities in U.S.-Latin American relations. First, the United States holds significant national security interests in the region. Since the inception of the War on Drugs in the 1970s, one of the United States' prevailing security interests in the Western Hemisphere has been to decrease the flow of illicit narcotics from Latin America into the United States.<sup>5</sup> To do so effectively, the United States needs the cooperation of the states where drugs are produced and exported.

However, cooperation can clash with the second reality, which is that corruption is rampant in Latin America: the majority of Latin American states are declining in rule of law, the majority of Latin American citizens believe their governments are corrupt, and

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<sup>5</sup> “Organized Crime Drug Enforcement Task Force (OCDETF),” U.S. Drug Enforcement Agency, accessed April 22, 2021, <https://www.dea.gov/organized-crime-drug-enforcement-task-force-ocdetf>.

cases involving high-level officials are abundant.<sup>6</sup> These two realities manifest in a conundrum: Latin American officials crucial to the advancement of U.S. interests are often also conspiring with the drug trafficking organizations that detract from U.S. interests.

These circumstances have not only manifested in the arrest of Cienfuegos, but also other instances where the United States has taken steps to prosecute corrupt Latin American officials. In the past three years, U.S. prosecutors have undertaken high-profile cases against former Mexican Public Security Secretary Genaro Garcia Luna, former Guatemalan Economics Minister Acisclo Valladares Urruela, current Honduran President Juan Orlando Hernandez, and current Venezuelan President Nicolas Maduro on narcotrafficking-related charges.

These cases demonstrate that the United States responds to crimes committed by foreign officials inconsistently. In some cases, the United States works through bilateral or multilateral arrangements to bring an official before U.S. courts. In other cases, the United States bypasses cooperation altogether and makes a unilateral arrest within U.S. jurisdiction. There have also been cases where the United States broadcasts the indictments of foreign officials without pursuing any true legal action. Inconsistency can come at the risk of unintended outcomes, as it did in the case of Cienfuegos. This begs the question of whether there is, can, or should be a coherent approach to pursuing justice against Latin American officials.

The gap in U.S. foreign policy concerning the prosecution of Latin American officials suggests that the balancing act between the institutional interests of seeking due process and maintaining foreign relations is as not as well-studied regarding the prosecutions of high-level foreign officials as it is in the broader arenas of corruption and counternarcotics. Examining how U.S. officials can balance justice and diplomacy when handling criminal behavior by their Latin American counterparts will not only benefit in

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<sup>6</sup> Juan Carlos Botero et al., *WJP Rule of Law Index 2020* (Washington, DC: World Justice Project, 2020), <https://worldjusticeproject.org/our-work/research-and-data/wjp-rule-law-index-2020>; Transparency International, *Corruption Perceptions Index 2020*, (Berlin: Transparency International, 2020), <https://www.transparency.org/en/cpi/2020/index/nzl>; and June S. Beittel et al., *Combating Corruption in Latin America*, CRS report No. R45733 (Washington, DC: Congressional Research Service, 2019), 5, <https://fas.org/sgp/crs/row/R45733.pdf>.

more effective operations of U.S. law enforcement and diplomacy abroad, but also better management of broader U.S. interests such as national security and international stability.

### C. LITERATURE REVIEW

In the international community, states have an obligation to uphold the principle of *aut dedere aut judicare*, which translates to “prosecute or extradite.”<sup>7</sup> This maxim, which applies to states where perpetrators of transnational crime are located, forms the basis for tradeoffs between justice and diplomacy because extradition engages bilateral relationships between states. However, states can also skirt the extradition process by excusing the crime, pursuing foreign prosecution, or exercising unilaterality.<sup>8</sup> In the context of U.S.-Latin American relations, the United States often seeks prosecution against Latin American actors for narcotics-related crimes as part of the War on Drugs.

The balance between justice and diplomacy gets more complicated when the actor is a government official, because acting on the principle of justice may come at the cost of the cooperation needed to maintain U.S. interests. Although there is sparse literature specially addressing the tradeoff between justice and diplomacy when pursuing of prosecution against Latin American officials, there is robust literature covering the broader related themes of transnational criminal law, extraterritorial law enforcement, institutional interests, responses to corruption, and international norms. Examining the literature on these related themes will help not only to contextualize the landscape of challenges that U.S. officials face when considering legal action against Latin American counterparts, but also in identifying the gaps in literature that research on prosecuting Latin American officials can fill.

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<sup>7</sup> Michael Plachta, “Aut Dedere Aut Judicare: An Overview of Modes of Implementation and Approaches,” *Maastricht Journal of European and Comparative Law* 6, no. 4 (December 1999): 331–332, SAGE.

<sup>8</sup> Jonathan Masters, “What is Extradition?” Council on Foreign Relations, last updated January 8, 2020, <https://www.cfr.org/background/what-extradition>.

## 1. Transnational Criminal Law

The prosecution of foreign citizens for crimes that travel across national boundaries is fundamentally a part of the broader subject of transnational criminal law. Textbooks on transnational criminal law offer the legal framework behind the options that a state has to pursue prosecution against officials from another state for transnational crimes such as international drug trafficking.

Joanna Harrington's chapter on the extradition of transnational criminals in the *Routledge Handbook of Transnational Criminal Law* provides insight on the dynamics that drive the extradition of transnational criminals in the Western Hemisphere. Harrington provides that extradition is a "bilateral act of mutual legal assistance" typically codified through treaties.<sup>9</sup> However, whereas extradition cooperation in Europe is marked by regional conventions that supersede all bilateral arrangements, extradition cooperation in the Americas adopts the opposite approach. The 1981 Inter-American Convention on Extradition only supplements bilateral arrangements and has only been ratified by six states.<sup>10</sup> This reflects that extradition and other transnational criminal affairs in Latin America are largely defined by bilateral, rather than multilateral, efforts.

Tom Obokata's chapter on the obligation of states under international law in *Transnational Organised Crime in International Law* discusses the key principles of extradition and legal challenges to transnational criminal law. Obokata discusses three key principles of extradition, the first of which is reciprocity, or the idea that a state will extradite when it expects another to do the same for it.<sup>11</sup> Second, double criminality poses that both states involved in extradition must view the offense as a crime. Third, the political offense exception deems that offenses political in nature are non-extraditable. Furthermore, one of the key legal challenges to enforcing transnational criminal law is that government

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<sup>9</sup> Joanna Harrington, "Extradition of Transnational Criminals," in *Routledge Handbook of Transnational Crime*, ed. Neil Boister and Robert J. Currie, (London: Routledge, 2014), 153–154, 161–163.

<sup>10</sup> Harrington, 161–163.

<sup>11</sup> Tom Obokata, *Transnational Organised Crime in International Law* (Oxford: Hart Publishing), 57–59, Proquest.

officials involved in organized crime are often immune from the domestic laws of another state if they are in office or acting in an official capacity.<sup>12</sup> This is significant because it creates the potential for officials from states without the capacity to prosecute domestically to get away with transnational crimes.

Though neither specifically focuses on the diplomatic consequences of prosecuting a foreign official, synthesizing Harrington and Obokata's legal insights do provide some political implications. For example, if extradition in the Americas is largely defined on a bilateral basis, then perhaps the feasibility of extraditing a Latin American official is significantly influenced by the United States' relationship with each individual state. However, if international law offers certain protections to Latin American officials, then perhaps it would be preferable to exercise unilateral options.

## **2. Extraterritorial Law Enforcement**

Since the height of the War on Drugs in the 1970s, the United States has maintained arrangements for extraterritorial law enforcement operations in the Western Hemisphere. The debate on the merits of U.S. extraterritoriality in Latin America is still contested within the academic community. However, prosecuting corrupt Latin American officials is just one aspect of the larger U.S. counternarcotics campaign.

On the one hand, some scholars view the U.S. law enforcement presence in Latin America as a breach of foreign state sovereignty. Maria Celia Toro looks at the DEA's consolidation of influence and authority in Mexico as problematic because policing is supposed to be a sovereign function of a state in its own territory; however, the DEA is enforcing the laws of its state in the jurisdiction of another sovereignty.<sup>13</sup> Moreover, the DEA sometimes has more liberty to act overseas than at home. The U.S. Supreme Court has ruled that the U.S. Constitution's Fourth Amendment limits to government searches and seizures do not apply outside of U.S. borders and that U.S. courts can rule on criminals

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<sup>12</sup> Obokata, 69–74.

<sup>13</sup> Maria Celia Toro, "The Internationalization of Police: The DEA in Mexico" *The Journal of American History* 86 No. 2, (September 1999): 623–627, JSTOR.

even if they are abducted from other countries.<sup>14</sup> Both practices were the source of diplomatic disputes in the 1980s and 1990s and have since been limited.<sup>15</sup> Nonetheless, the capacity of DEA to operate overseas, extradite foreign actors or circumvent extradition altogether, and bring forth prosecution in U.S. courts represents the United States' imposition of power over Mexico.<sup>16</sup> This exemplifies power dynamics common between the United States and Latin American states, considering that the U.S. counternarcotics mission has hemispheric reach.

On the other hand, other scholars assert that the internationalization of U.S. law enforcement is not driven by the desire for extraterritorial law enforcement, but rather it is a response to the rise of transnational crime. For example, Ethan Nadelmann offers that the internationalization of law enforcement, akin to the internationalization of commerce, is a response to an increasingly globalized world.<sup>17</sup> Likewise, Amanda Sieves emphasizes that transnational crime poses a higher threat to state sovereignty than overseas U.S. law enforcement operations does.<sup>18</sup> Sieves highlights the example of Jamaica, where drug lords empowered by international drug trafficking serve as de facto political leaders and often have more power and influence than elected officials or the state bureaucracy.<sup>19</sup> Organized crime also degrades the sovereignty of a state by corrupting its law enforcement, wielding influence over its citizens, and spurring informal economies.<sup>20</sup> For these reasons, pressure on the Jamaican government to extradite high-level narcotraffickers comes not only from the United States, but also from domestic civil society groups in Jamaica.<sup>21</sup>

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<sup>14</sup> Celia Toro, 626.

<sup>15</sup> Celia Toro, 626.

<sup>16</sup> Celia Toro, 640–641.

<sup>17</sup> Ethan A. Nadelmann, *Cops across Borders: The Internationalization of U.S. Criminal Law Enforcement* (University Park: Pennsylvania State University Press, 1994), 111.

<sup>18</sup> Amanda Sieves, "A Calculated Assault on the Authority of the State? Crime, Politics and Extradition in 21st Century Jamaica," *Crime, Law & Social Change* 58, no. 4, (November 2012): 424, EBSCOhost.

<sup>19</sup> Sieves, 419–421.

<sup>20</sup> Sieves, 423–426.

<sup>21</sup> Sieves, 421–423.

Separately, some scholars specifically focus on the relationship between extradition and U.S. foreign policy. Emily Edmonds-Poli and David Shirk claim that extradition statistics indicate the quality of a bilateral relationship between two states.<sup>22</sup> They explain that extradition is an important tool for international cooperation because criminals are not confined to jurisdictional boundaries in the same way that law enforcement agents are.<sup>23</sup> As such, the U.S.-Mexico relationship exemplifies the link between extradition and cooperation because extraditions between the two states increased when they were cooperating on issues such as free trade and security but decreased when the relationship worsened due to government disagreements.<sup>24</sup>

Though J. Richard Barnett concurs with the benefits of extradition, he highlights that extradition treaties are often narrow, outdated, or non-existent. Barnett argues that the United States should prioritize implementing extradition treaties where they do not already exist and revise outdated treaties where they do already exist.<sup>25</sup> Successful counternarcotics programs not only require cooperation between the United States and the drugs' state of origin but also robust extradition treaties.<sup>26</sup> As such, Barnett asserts that the United States should update existing extraditing treaties to broaden the scope of the crimes covered, deconflict statute of limitations differences, and streamline extradition procedures to enhance international law enforcement efforts.<sup>27</sup>

Furthermore, Charles Brockett argues that extradition can be problematic because robust extradition programs do not address the underlying issues of the illicit drug trade. For instance, although Guatemalan authorities have found successes in arresting narcotrafficking leaders in Guatemala and extraditing them to the United States for

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<sup>22</sup> Edmonds-Poli and Shirk, 229–241.

<sup>23</sup> Emily Edmonds-Poli and David A. Shirk, “Extradition as a Tool for International Cooperation: Lessons from the U.S.-Mexico Relationship,” *Maryland Journal of International Law* 33, no. 1, (2018): 215–216, DigitalCommons.

<sup>24</sup> Edmonds-Poli and Shirk, 229–241.

<sup>25</sup> J. Richard Barnett, “Extradition Treaty Improvements to Combat Drug Trafficking,” *Georgia Journal of International and Comparative Law* 15, no. 2, (Summer 1985): 295, 315, Nexis Uni.

<sup>26</sup> Barnett, 315.

<sup>27</sup> Barnett, 315.

prosecution and incarceration, this effectively outsourced justice to the United States when it was needed in Guatemala.<sup>28</sup> This neither addressed the need to strengthen Guatemala's weak criminal justice system nor reduced drug flows.<sup>29</sup>

Examining competing viewpoints on extraterritoriality and extradition reveals how the core dynamics of the War on Drugs can affect U.S. attempts to prosecute Latin American officials. Such action can be controversial because whereas the United States might rationalize its actions as a response to transnational crime, a Latin American state might view foreign law enforcement action against one of its officials as a direct breach of sovereignty. Competing viewpoints also offer a glimpse into the potential benefits and detriments of imposing the U.S. justice system on Latin American criminals. Although extradition can make up for gaps in Latin American justice systems, it does not resolve the underlying issue of weak Latin American judicial institutions.

### **3. Institutional Interests**

Tradeoffs between diplomacy and justice when attempting to prosecute Latin American officials also manifests within the U.S. bureaucracy. When confronted with the issue of corrupt foreign officials, some U.S. agencies might view it as an opportunity to apply U.S. laws, whereas other agencies might view it as an unnecessary cost to U.S. foreign relations.

Nadelmann's coverage of the DEA in Latin America reveals that the agency holds a pragmatic view of the U.S. counternarcotics mission. The DEA's primary objective in Latin America is to reduce drug flows, not prosecute corruption.<sup>30</sup> As such, the DEA has accepted corruption as a reality in the region and views it as an obstacle to overcome rather than an issue to be resolved.<sup>31</sup> When dealing with corrupt officials, the DEA has found ways to work around the issue and even leverages corrupt counterparts as an instrument to

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<sup>28</sup> Charles Brockett, "The Drug Kingpin Decapitation Strategy in Guatemala: Successes and Shortcomings," *Latin America Politics and Society* 61, no. 4, (November 2019): 58–65, Cambridge Core.

<sup>29</sup> Brockett, 58–65.

<sup>30</sup> Ethan A. Nadelmann, "The DEA in Latin America: Dealing with Institutionalized Corruption," *Journal of Interamerican Studies and World Affairs* 29, no. 4 (Winter 1987–1988): 1–8, JSTOR.

<sup>31</sup> Nadelmann, 1–8.

achieving its objective of decreasing drug flows.<sup>32</sup> In interviews with Nadelmann, DEA agents have expressed their preference of working with lower-level corrupt Latin American law enforcement officials because they are better at soliciting useful intelligence.<sup>33</sup>

However, Nadelmann also reveals that the institutional interests of the U.S. Department of State may at times collide with that of the DEA. The State Department also plays a lead role in the War on Drugs by funding parts of the counternarcotics mission, training foreign agencies, and negotiating extradition treaties, but it holds an aversion to portraying foreign officials as criminals because doing so goes against its institutional interest in building bilateral goodwill.<sup>34</sup> This can come at odds with the DEA's desire to target criminals in the public eye as a symbolic deterrent.<sup>35</sup>

Additionally, interviews between the Wilson Center think tank and former prosecutors from the U.S. Department of Justice—the DEA's parent agency that prosecutes crimes that the DEA investigates—reveal that federal prosecutors only intervene on foreign crimes conducted by foreign criminals when there is an impact within the United States.<sup>36</sup> Additionally, the Justice Department strives to insulate prosecutions from political influence; however, there are limited circumstances in which political interests can override the principle of justice, such as when pursuing prosecution negatively affects national security.<sup>37</sup>

Diverging institutional interests within the U.S. bureaucracy demonstrate that even the United States' internal stance on how to deal with corrupt Latin American officials is contentious. Different institutional interests yield different benefits and detriments for different national interests. Further research on the options available to the United States

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<sup>32</sup> Nadelmann, 1–8.

<sup>33</sup> Nadelmann, 8–15.

<sup>34</sup> Nadelmann, 18.

<sup>35</sup> Nadelmann, 18.

<sup>36</sup> Daniel Alonso et al., “DOJ's Role in Fighting Corruption, Drug Trafficking and Money Laundering in Latin America,” Wilson Center, November 23, 2020, <https://www.wilsoncenter.org/event/dojs-role-fighting-corruption-drug-trafficking-and-money-laundering-latin-america>.

<sup>37</sup> Alonso et al.

to confront corrupt Latin American officials can clarify which avenues are best suited for which situations.

#### **4. Responses to Corruption**

U.S.-based think tanks and non-governmental organizations have also been engaged in the dialogue on how the United States should handle corrupt Latin American officials. Though their opinions on the United States' reputation on anti-corruption vary, the majority of these organizations hold that the United States should be an exemplar of the rule of law and be resolute in combating corruption in Latin America.

Non-governmental organizations such as the Washington Office on Latin America (WOLA) contend that the United States' credibility in global leadership depends on its consistency in upholding the rule of law.<sup>38</sup> WOLA argues that the United States' credibility was damaged by former U.S. President Donald Trump's willingness to overlook human rights and due process violations in favor of maintaining transactional relationships with Latin American states to deter migration. Instead, it argues the United States should lead by example, leverage U.S. anti-corruption laws and sanctions, and support Latin American civil society sectors fighting corruption.<sup>39</sup>

Global Americans, an international think tank, has a more optimistic view of the United States' anti-corruption legacy, citing successes under anti-corruption laws such as the Foreign Corrupt Practices Act and the Global Magnitsky Act.<sup>40</sup> However, it concurs that the United States should continue to abide by its commitment against corruption and proposes that the United States should focus on increasing regional cooperation on anti-corruption and judicial development as a solution.

U.S. think tanks have also weighed in on anti-corruption in response to the failed prosecution of Cienfuegos; however, they underscore the responsibility of the Latin

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<sup>38</sup> "Taking Stock of Trump's Legacy in Latin America," Washington Office on Latin America, October 26, 2020, <https://www.wola.org/analysis/taking-stock-trump-legacy-latin-america>.

<sup>39</sup> Washington Office on Latin America.

<sup>40</sup> "Addressing Corruption in Latin America and the Caribbean Furthers U.S. National Interests," Global Americans, accessed April 22, 2021, <https://theglobalamericans.org/reports/addressing-corruption-latin-america-caribbean-furthers-u-s-national-interests>.

American states as opposed to that of the United States. Vanda Felbab-Brown of the Brookings Institution emphasizes Mexico's role as a failed security partner to the United States and argues that current Mexican President Andres Manuel Lopez Obrador has been indifferent toward the spread of corruption and protective of high-level offenders under his administration.<sup>41</sup> In response, the United States should withdraw security aid to Mexico and handle all prosecutions unilaterally until Mexico demonstrates a serious commitment to anti-corruption.<sup>42</sup> Ryan Berg of the American Enterprise Institute echoes a similar sentiment—Mexico has failed to root out corruption and the United States should cease extraditing any officials back to Mexico.<sup>43</sup> Berg adds that Mexico's inaction on Cienfuegos empowers a sense of impunity among corrupt Mexican elites and further threatens the viability of U.S.-Mexico security cooperation, an issue that current U.S. President Joe Biden will have to act on quickly.<sup>44</sup>

How U.S. foreign policy should approach Latin American corruption directly reflects attitudes on how the U.S. government should prosecute corrupt Latin American officials. Whereas some U.S. institutions may undertake a more pragmatic approach based on national interests, observers of the U.S. government tend to side with the ideal of justice and believe that the United States should adopt a strong anti-corruption stance and prosecute accordingly.

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<sup>41</sup> Vanda Felbab-Brown, "The US-Mexico Security Relationship in 2021," Brookings Institution, January 19, 2021, <https://www.brookings.edu/blog/order-from-chaos/2021/01/19/the-us-mexico-security-relationship-in-2021>.

<sup>42</sup> Felbab-Brown.

<sup>43</sup> Ryan C. Berg, "What Does the Arrest of General Cienfuegos Mean for the Future of US-Mexico Security Cooperation?" American Enterprise Institute, October 28, 2020, <https://www.aei.org/foreign-and-defense-policy/what-does-the-arrest-of-general-cienfuegos-mean-for-the-future-of-us-mexico-security-cooperation>; and Ryan C. Berg, "The US-Mexico Security Relationship Enters a Deep Freeze," American Enterprise Institute, January 19, 2021, <https://www.aei.org/foreign-and-defense-policy/after-cienfuegos-release-the-us-mexico-security-relationship-enters-a-deep-freeze>.

<sup>44</sup> Berg, "What Does the Arrest of General Cienfuegos Mean for the Future of US-Mexico Security Cooperation?"

## **D. RESEARCH DESIGN**

This thesis is a policy analysis of the prosecutorial options available to the U.S. foreign policy apparatus. The United States has three major prosecutorial options: request extradition, circumvent extradition, or turn a blind eye.<sup>45</sup>

### **1. Case Selection**

This thesis identifies and categorizes the disparate examples in which the United States pursued each prosecutorial option against government officials in the Western Hemisphere. However, due to limited examples of some options, I expand the scope, when necessary, to include examples where the United States pursued a similar prosecutorial option against a non-official or non-Latin American to shed light on why the United States does not pursue that option against Latin American officials and the potential outcomes if it did.

Because the United States rarely exercises the first option of requesting extradition against Latin American officials, I expand the scope to examine when the United States requested extradition on drug lords with de-facto political powers such as Jamaica's Christopher Coke and Colombia's Pablo Escobar.

Within the second option of circumventing extradition, the United States commonly arrests Latin American officials on U.S. jurisdiction. For this reason, I examine the arrests and prosecutions of officials such as Juan Antonio Hernandez, the former Honduran legislator arrested in Dallas, or Genaro Garcia Luna, the former Mexican Public Security Secretary arrested in Miami.

However, the United States has a range of other sub-options to circumvent extradition including leaving prosecution up to foreign courts, conducting irregular rendition, and using military force. To examine these sub-options, I expand the scope of examples to include when the United States exercised these sub-options on non-governmental Latin Americans such as Manuel Noriega.

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<sup>45</sup> Masters, "What is Extradition?"

For the third option of turning a blind eye, I examine instances in which the United States elects not to prosecute in the name of an overriding interest. The most apparent example of this is that of Salvador Cienfuegos, the former National Defense Secretary of Mexico who was arrested in Los Angeles but ultimately exonerated in the name of the overriding interest of foreign relations.

## **2. Analysis**

The second objective of this thesis is to provide an overview and analyze each option. To do so, I first provide an overview of the institutional processes that the United States has to engage to pursue each option. Second, I examine the context in which the United States decides to pursue each option in terms of the background of each criminal case and the relationships between the targeted individual, their country of origin, and the United States. Third, I measure the costs and benefits by examining the outcomes within each option in terms of impacts on individual's prosecution, U.S. diplomatic relations with the individual's country, and broader related U.S. interests.

To achieve this, I refer to primary sources such as transcripts, press releases, and court documents when available. Because the availability of these resources depends on the recency and classification of events, I supplement them with secondary sources such as news coverage and think tank publications. Furthermore, when the body of literature exists with more historical or higher visibility events, I look at scholarly articles and university press books. When reviewing these resources, I am looking for the context of each example, the political implications of each example, and the intended versus actual outcomes from the U.S. perspective.

## II. EXTRADITION

The first option that the United States can take to confront criminal behavior by Latin American government officials is to engage the extradition process with the country where the official is located. In the context of this thesis, criminal behavior or conduct is extraditable violations of U.S. law that are often transnational crimes also prosecutable in the official's state. Furthermore, the U.S. Department of Justice defines international extradition as "the formal process by which a person found in one country is surrendered to another country for trial or punishment."<sup>46</sup> International law does not require states to participate in extradition; rather, it is an act of reciprocity that can be facilitated by bilateral treaties or international conventions.<sup>47</sup>

Extradition is considered the safest diplomatic option to pursue prosecution against a foreign citizen because it respects a foreign state's sovereignty by abiding to an agreed-upon bilateral process, notifying the foreign state of an extradition request, and affording it the opportunity to approve or deny the request. However, the United States does not commonly pursue extradition against foreign officials due to its vulnerabilities in operational security and lengthy and bureaucratic process.

In other words, extradition is legally unsavory but diplomatically appealing. To explain why, I provide an overview of extradition treaties and processes, the legal challenges to extraditing government officials, and examine several cases to demonstrate the detriments and benefits of pursuing extradition as an option to prosecute foreign officials.

### A. OVERVIEW OF EXTRADITION TREATIES

The cornerstone of extraditions is a ratified extradition treaty between two states. The most straightforward way for one country (the requesting state) to request the extradition of a wanted individual from another country (the requested state) is through an

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<sup>46</sup> "9-15.000 – International Extradition and Related Matters," U.S. Department of Justice, last updated June 2018, <https://www.justice.gov/jm/jm-9-15000-international-extradition-and-related-matters>.

<sup>47</sup> Julia Jansson, *Terrorism, Criminal Law, and Politics* (Abingdon: Routledge, 2020), 40–41.

extradition treaty. As with other types of treaties, the ratification and execution of an extradition treaty first depends on its approval within the domestic regimes of both states.

In the U.S. foreign policy apparatus, extradition treaty negotiations begin with dialogue between the U.S. Department of State (DOS) and its foreign counterpart, under the guidance of their chief executives, to agree upon the basic features of their extradition treaty.<sup>48</sup> The basic features of a typical extradition treaty include a list of extraditable crimes, a list of non-extraditable crimes, and the limits, rules, and procedures for extradition.<sup>49</sup>

Extraditable crimes usually abide by the requesting state's statute of limitations and follow the principle of double-criminality, which posits that both states have to see the offense as a crime and have codified it as such under domestic law.<sup>50</sup> Before the late-19th century, extraditable crimes were specifically listed, but they have since been generalized to include, for example, crimes punishable by imprisonment for over one year by both states.<sup>51</sup>

Non-extraditable crimes are those that fall outside the scope of what an extraditable crime is defined as within the treaty. Crimes that would subject the individual to double jeopardy; ex post facto punishment; or punishment due to race, religion, nationality, or political opinion are also usually considered non-extraditable.<sup>52</sup> Additionally, the principle of specialty posits that the requesting state cannot prosecute an extradited individual for a crime that it did not request extradition for.<sup>53</sup>

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<sup>48</sup> "Treaty Procedures," U.S. Department of State, November 26, 2018, <https://www.state.gov/treaty-procedures>.

<sup>49</sup> Edmonds-Poli and Shirk, "Extradition as a Tool for International Cooperation: Lessons from the U.S.-Mexico Relationship," 218.

<sup>50</sup> Barnett, "Extradition Treaty Improvements to Combat Drug Trafficking," 307–308; and Steven A. Bernholz, Martin J. Bernholz, and G. Nicholas Herman, "International Extradition in Drug Cases," *North Carolina Journal of International Law and Commercial Regulation* 10, no. 2 (Spring 1985), 355–364.

<sup>51</sup> Barnett, 304–306.

<sup>52</sup> David P. Stewart, "Internationalizing the War on Drugs: The UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances," *Denver Journal of International Law & Policy* 18, no. 5 (May 2020), 397; and S. Bernholz, M. Bernholz, and Herman, "International Extradition in Drug Cases," 354.

<sup>53</sup> S. Bernholz, M. Bernholz, and Herman, 364–370.

Once both states reach an agreement on what their extradition treaty entails, the U.S. Senate and its foreign counterpart will ratify the treaty and U.S. federal courts and its foreign counterpart will resolved domestic legal challenges.<sup>54</sup> Once the treaty is ratified, it is up to the ministry of foreign affairs and justice equivalents of both states to request, receive, and execute extraditions under the guidance of their respective chief executives.

International Conventions can help facilitate extraditions where treaties do not exist. Examples include the United Nations (UN) Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the UN Convention Against Transnational Organized Crime, and the Organization of American States (OAS) Inter-American Convention on Extradition. However, just like bilateral extradition treaties, these conventions must also be ratified and executed by the domestic regimes of individual states.

The United States is engaged in over 100 extradition treaties worldwide and is a signatory to most international conventions covering extradition; however, these agreements, which are upheld by domestic institutions that government officials have direct influence over, only lay the framework for states to request extradition and does not promise for extradition itself to occur.<sup>55</sup>

## **B. OVERVIEW OF THE EXTRADITION PROCESS**

To understand the costs and benefits of seeking extradition against a foreign official, I will explain the extradition process itself. To seek the extradition of a wanted individual, the requesting state must submit an “extradition package” to the requested state. This package typically flows from the requesting state’s ministry of justice, to the

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<sup>54</sup> “Advice & Consent: Treaties,” U.S. Senate, accessed September 30, 2021, [https://www.senate.gov/general/Features/Treaties\\_display.htm](https://www.senate.gov/general/Features/Treaties_display.htm).

<sup>55</sup> Michael John Garcia and Charles Doyle, *Extradition To and From the United States: Overview of the Law and Recent Treaties*, CRS Report No. 98–958, (Washington, DC: Congressional Research Service, 2021), 35–42, <https://sgp.fas.org/crs/misc/98-958.pdf>.

requesting state's ministry of foreign affairs, to the requested state's ministry of foreign affairs, and then to the requested state's ministry of justice.<sup>56</sup>

In the United States, this process first begins with a meeting between U.S. prosecutors and U.S. law enforcement officers to determine if the crime committed has sufficient nexus to a violation of U.S. law, if it is an extraditable offense, and if the time and resources devoted to pursuing extradition would be worth the outcome of the case.<sup>57</sup> If U.S. prosecutors decide to pursue the case, they will compile an extradition package, which consists of two affidavits: one from the prosecutor demonstrating that U.S. laws were broken, extraditable, and within the statute of limitations and another from investigators that demonstrates sufficient evidence linking the wanted individual to the crime.<sup>58</sup>

The extradition package is sent to the DOJ's Office of International Affairs (OIA) for review and approval, and if approved, the OIA sends the package to the U.S. State Department for its review and approval.<sup>59</sup> If approved, the State Department sends the package to the U.S. Embassy in the requested state, where U.S. officials then send the package to the requested state's ministry of foreign affairs as a diplomatic note.<sup>60</sup>

Once the package is turned over to the requested state, it goes through another series of reviews and approvals. First, the requested state's ministry of foreign affairs will validate the compliance of the extradition request to the state's bilateral extradition treaty with the United States.<sup>61</sup> If approved, the ministry of foreign affairs will forward the package to its attorney general, who will decide whether or not to present the request to a national

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<sup>56</sup> Edmonds-Poli and Shirk, "Extradition as a Tool for International Cooperation: Lessons from the U.S.-Mexico Relationship," 220–221.

<sup>57</sup> Edmonds-Poli and Shirk, 220.

<sup>58</sup> Edmonds-Poli and Shirk, 220.

<sup>59</sup> Edmonds-Poli and Shirk, 220–221.

<sup>60</sup> Edmonds-Poli and Shirk, 221.

<sup>61</sup> Edmonds-Poli and Shirk, 221.

judge.<sup>62</sup> The judge will then decide whether or not to issue a detention order for law enforcement officials to execute.<sup>63</sup>

Once the wanted individual is in custody, most Western countries offer him/her the opportunity to challenge the extradition through an extradition hearing or an appeal process.<sup>64</sup> International extraditions can generally take anywhere from six months to several years to complete and do not guarantee a handover of the wanted individual because it can be challenged or rejected at multiple stages within the process.<sup>65</sup> This process can be particularly vulnerable if the wanted individual is a government official due to the risk of undue influence or tampering from within.

### **C. LEGAL CHALLENGES TO EXTRADITING GOVERNMENT OFFICIALS**

In addition to the extradition process being lengthy and bureaucratic, several legal obstacles preclude foreign courts from prosecuting government officials. First, the Vienna Convention on Diplomatic Relations grants officials with two types of immunity that may protect officials from prosecution for violating foreign laws.<sup>66</sup>

Immunity *ratione materiae*, otherwise known as functional immunity, is granted to both high and low-ranking government officials when acting in an official capacity.<sup>67</sup> This type of immunity can also apply to former officials acting in an official capacity and can be waived by the official's state.<sup>68</sup> However, immunity *ratione materiae* does not pose an

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<sup>62</sup> Edmonds-Poli and Shirk, 221.

<sup>63</sup> Edmonds-Poli and Shirk, 221.

<sup>64</sup> Edmonds-Poli and Shirk, 221; and Rishi Hingoraney, "International Extradition of Mexican Narcotics Traffickers: Prospects and Pitfalls for the New Millennium," *Georgia Journal of International and Comparative Law* 30, no. 2 (2002): 339.

<sup>65</sup> Edmonds-Poli and Shirk, 221–222; and "Frequently Asked Questions Regarding Extradition," U.S. Department of Justice, updated November 27, 2020, <https://www.justice.gov/criminal-oia/frequently-asked-questions-regarding-extradition>.

<sup>66</sup> Obokata, *Transnational Organised Crime in International Law*, 70–71.

<sup>67</sup> Obokata, 70–71.

<sup>68</sup> Obokata, 70–71.

obstacle to extradition and prosecution if both states involved do not regard the crime as an act of official capacity.<sup>69</sup>

Immunity *ratione personae*, otherwise known as personal or diplomatic immunity, is the other type of immunity and is only granted to high-level government officials.<sup>70</sup> This type of immunity covers crimes committed in both official and personal capacities; however, it only applies while the official is still in office and can also be waived by the official's state.<sup>71</sup>

Second, government officials may also be protected from extradition by safeguards and exceptions built into bilateral extradition treaties. Since the 19th century, it has been customary for extradition treaties to include political offense exceptions (POE), which exclude the extradition of individuals for offenses deemed political in nature.<sup>72</sup> POE has not only been an accepted norm amongst signatories of the UN Convention against Transnational Organized Crime, but also explicitly written into major bilateral extradition treaties such as Article 5 of the U.S.-Mexico Extradition Treaty.<sup>73</sup> However, the definition of "political" is often vaguely defined and subject to disagreement.<sup>74</sup> POE would almost certainly be brought up in the conversation of extraditing officials considering that their roles are inherently political.

Another common exception in U.S.-Latin American extradition treaties is the nationality exception, which permits, but not obligates, a state to extradite its own citizens at the head of government's discretion.<sup>75</sup> Whereas common-law countries such as the United States are more willing to extradite nationals, civil-law countries such as most of

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<sup>69</sup> Obokata, 70–71.

<sup>70</sup> Obokata, 71–72.

<sup>71</sup> Obokata, 71–72.

<sup>72</sup> Jansson, *Terrorism, Criminal Law, and Politics*, 75.

<sup>73</sup> Obokata, *Transnational Organised Crime in International Law*, 58–59; and Hingoraney, "International Extradition of Mexican Narcotics Traffickers: Prospects and Pitfalls for the New Millennium," 337.

<sup>74</sup> Obokata, 58–59; and Hingoraney, 337.

<sup>75</sup> Harrington, "Extradition of Transnational Criminals," 161–163.

Latin America are more hesitant.<sup>76</sup> Some Latin American states have refused to extradite nationals at all, whereas others adopted nationality exceptions in the late-20th century under U.S. pressure to cooperate with the War on Drugs.<sup>77</sup> Although extraditing nationals from states such as Mexico, Guatemala, and Colombia to the United States is more common in the 21st century, extraditing a head of government or someone associated with him/her remains dicey when the final deciding authority *is* the head of government.<sup>78</sup>

#### **D. DETRIMENTS OF EXTRADITION**

The myriad of procedural and legal barriers involved with using extradition to pursue prosecution against a foreign official contributes to why it is a legally unsavory option. If the objective is to secure prosecution, the U.S. government rarely pursues extradition against Latin American officials. Instead, it opts to circumvent the process altogether. Options to circumvent extradition will be covered in Chapter III.

However, there are a couple of cases in which the United States pursued extradition against highly-visible, highly-connected, *de facto* political leaders in Latin America. Examining the cases of Jamaica's Christopher Coke and Colombia's Pablo Escobar reveal possible drawbacks that could manifest if the United States did pursue extradition against an official. Namely, the lengthy and bureaucratic process involved with extradition coupled with corruption issues in Latin America create an operational security nightmare for U.S. law enforcement officials.

##### **1. Christopher Coke**

Jamaican drug lord Christopher Coke is worth examining because he displays many characteristics of a political leader. In 1992, after his father died awaiting extradition to the United States for narcotrafficking, Coke not only inherited leadership of the Shower Posse

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<sup>76</sup> Edward M. Morgan, "Traffic Circles: The Legal Logic of Drug Extraditions," *University of Pennsylvania Journal of International Law* 31, no. 2 (2009): 397–399; and Hingoraney, "International Extradition of Mexican Narcotics Traffickers: Prospects and Pitfalls for the New Millennium," 340.

<sup>77</sup> Morgan, 340.

<sup>78</sup> "Extradition in Latin America: How to Handle a Drug Gang," *The Economist*, November 21, 2015, <https://www.economist.com/the-americas/2015/11/21/how-to-handle-a-drug-gang>.

drug cartel, but also de facto leadership of the Tivoli Gardens neighborhood of Kingston.<sup>79</sup> Coke's influence over Tivoli Gardens was so strong that he garnered a loyal following, was affectionately known as "the president," initiated development projects in the neighborhood, and administered his own system of law enforcement independent of the Jamaican police.<sup>80</sup>

Coke also inherited deep connections to one of Jamaica's two major political parties, the Jamaica Labour Party (JLP), from his father. Prominent JLP politicians including members of parliament and a former prime minister of Jamaica attended and even spoke at the elder Coke's funeral in 1992.<sup>81</sup> When the U.S. government requested Coke's extradition for narcotics and firearms trafficking in 2009, the then-prime minister of Jamaica Bruce Golding was a JLP member whose constituency included Tivoli Gardens.<sup>82</sup>

Operational security issues began to arise as soon as U.S. prosecutors filed an indictment and requested Coke's extradition in August 2009. When the extradition request reached Jamaica, Golding refused to extradite Coke and hired U.S. law firm Manatt, Phelps & Phillips to dispute the legality of the extradition according to the U.S.-Jamaican extradition treaty.<sup>83</sup> Manatt's payout was made by an anonymous JLP donor, and rumors circulated that Golding was criminally linked to Coke and that his administration tipped off Coke about the extradition request when they received it.<sup>84</sup>

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<sup>79</sup> Sieves, "A Calculated Assault on the Authority of the State? Crime, Politics and Extradition in 21st Century Jamaica," 419.

<sup>80</sup> Matthias Schwartz, "A Massacre in Jamaica," *The New Yorker*, December 4, 2011, <https://www.newyorker.com/magazine/2011/12/12/a-massacre-in-jamaica>.

<sup>81</sup> Sieves, "A Calculated Assault on the Authority of the State? Crime, Politics and Extradition in 21st Century Jamaica," 419–421.

<sup>82</sup> Sieves, 419–421.

<sup>83</sup> Sieves, 421–423.

<sup>84</sup> Richard Esposito, Mark Schone, and Luis Martinez, "U.S. Report: Jamaican Prime Minister is 'Known Criminal Affiliate' Of Hunted Drug Lord," ABC News, May 24, 2010, <https://abcnews.go.com/Blotter/jamaica-christopher-dudus-coke-escaped-security-forces-assault/story?id=10737428>; and Matthias Schwartz, "Jamaica's Former P.M. Opens Up About Coke Arrest, Extradition," *The New Yorker*, August 3, 2012, <https://www.newyorker.com/news/news-desk/jamaicas-former-p-m-opens-up-about-coke-arrest-extradition>.

After several months of U.S. diplomatic and domestic political pressure, Golding relented in May 2010 and authorized the Jamaican Attorney General to execute Coke's extradition.<sup>85</sup> However, by the time Jamaican police descended on Tivoli Gardens, Coke had already fled and the neighborhood was converted into an armed fortress guarded by Coke loyalists.<sup>86</sup> A month-long gun battle ensued between Jamaican security forces and the Shower Posse gang, resulting in a national state-of-emergency, 74 deaths, and grounded commercial flights in and out of Jamaica.<sup>87</sup> In June 2010, Jamaican police caught Coke at a security checkpoint disguised as a woman and extradited him to the United States, where he was tried, convicted, and sentenced by the U.S. District Court in the Southern District of New York to 23 years in federal prison.<sup>88</sup>

## **2. Pablo Escobar**

Moreover, requesting extradition does not guarantee extradition itself. This leads to the case of Pablo Escobar, a Colombian drug lord who founded and led the Medellin Cartel. Escobar rose to prominence in the 1970s by profiteering off the illicit cocaine trade into the United States. By the 1980s, Escobar was shipping an estimated 15 tons of cocaine into the United States daily, was responsible for 80% of the world's cocaine supply, and made Forbes' list of richest men in the world for seven years between 1987 to 1993.<sup>89</sup>

Escobar held deep political influence in Colombia. He amassed a constituency in the city of Medellin by funding public construction projects, housing low-income families,

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<sup>85</sup> Howard Campbell, "That extradition of 'Dudus' Coke 10 years ago," *Jamaica Observer*, May 24, 2020, [https://www.jamaicaobserver.com/news/that-extradition-of-dudus-coke-10-years-ago\\_194809](https://www.jamaicaobserver.com/news/that-extradition-of-dudus-coke-10-years-ago_194809).

<sup>86</sup> Schwartz, "A Massacre in Jamaica."

<sup>87</sup> Schwartz; and Esposito, Schone, and Martinez, "U.S. Report: Jamaican Prime Minister is 'Known Criminal Affiliate' Of Hunted Drug Lord."

<sup>88</sup> Schwartz; and Ed Pilkington, "Christopher 'Dudus' Coke Handed 23-year U.S. Jail Term for Drug Trafficking," *The Guardian*, June 8, 2012, <https://www.theguardian.com/world/2012/jun/08/christopher-dudus-coke-jail-term>.

<sup>89</sup> Amanda Macias, "10 Facts Reveal the Absurdity of Pablo Escobar's Wealth," *The Independent*, December 29, 2017, <https://www.independent.co.uk/news/people/pablo-escobar-worth-wealth-money-how-much-a8133141.html>; and "Pablo Escobar In Forbes' Billionaire Issues," *Forbes*, September 15, 2015, <https://www.forbes.com/pictures/eehd45ekgj/1987/?sh=7655a0d89d7d>.

and providing jobs.<sup>90</sup> Escobar penetrated the Liberal Party and had his own brief stint in formal politics when he founded the Civismo en Marcha movement, campaigned for Congress, and became elected as a deputy representative in 1982.<sup>91</sup>

However, Escobar's main political target was extradition. The ratification of the U.S.-Colombia extradition treaty in 1981 became the cartels' greatest threat because they could no longer use bribery and corruption to escape punishment from the domestic justice system. Escobar and a group of other high-level Colombian narcotraffickers became known as "Los Extraditables," declaring that they would rather die in Colombia than go to jail in the United States.<sup>92</sup> In the following two years, Colombian courts signed warrants to arrest Escobar for the murder of four police officers and U.S. prosecutors indicted Escobar for narcotrafficking, forcing him to evade law enforcement for the rest of his life.<sup>93</sup>

Escobar launched a repressive campaign to outlaw extradition by casting the threat of narcoterrorism against Colombia's political and legal institutions. He conspired to place bounties on Colombian legal officials, kill hundreds of police officers, kidnap journalists, and threaten U.S. officials.<sup>94</sup> In 1984, Escobar ordered the assassination of Colombian Justice Minister Rodrigo Lara Bonilla for his willingness to extradite Escobar, and then the assassination of the judge that indicted Escobar for murdering Lara.<sup>95</sup> The following year,

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<sup>90</sup> Jon Lee Anderson, "The Afterlife of Pablo Escobar," *The New Yorker*, February 26, 2018, <https://www.newyorker.com/magazine/2018/03/05/the-afterlife-of-pablo-escobar>; and Paul H. Robinson and Sarah M. Robinson, *Pirates, Prisoners, and Lepers: Lessons from Life Outside the Law* (Lincoln: University of Nebraska Press, 2015), 220, ProQuest.

<sup>91</sup> Nazith Rachiani, "The Narcobourgeoisie and State Making in Colombia," in *The Hidden History of Crime, Corruption, and States*, ed. Renate Bridenthal (New York: Berghahn, 2017), 203, ProQuest.

<sup>92</sup> "Comparing Prisons: Breaking Out is Hard To Do," *The Economist*, July 18, 2015, <https://www.economist.com/the-americas/2015/07/16/breaking-out-is-hard-to-do>.

<sup>93</sup> David P. Thompson, "Pablo Escobar, Drug Baron: His Surrender, Imprisonment, and Escape," *Studies in Conflict and Terrorism* 19, no. 1 (January-March 1996): 56-57; and Leslie Maitland Werner, "11 Indicted by U.S. as Drug Smugglers," *New York Times*, July 28, 1984, <https://www.nytimes.com/1984/07/28/us/11-indicted-by-us-as-drug-smugglers.html>.

<sup>94</sup> Anderson, "The Afterlife of Pablo Escobar."

<sup>95</sup> "Thirty Years of America's Drug War: a Chronology," PBS Frontline, accessed September 27, 2021, <https://www.pbs.org/wgbh/pages/frontline/shows/drugs/cron>.

left-wing guerillas associated with the Medellin Cartel sieged the Colombian Supreme Court, killed 11 justices, and burned all pending extradition requests.<sup>96</sup>

After years of judicial terrorization, Escobar negotiated a plea bargain with the Colombian government to surrender under the promise that he would not be extradited. In 1991, Congress declared extradition unconstitutional and Escobar was sentenced to five years in prison.<sup>97</sup> However, Escobar was confined “La Catedral” (Spanish for “the cathedral”), a facility built to his specifications that resembled a mansion more than a prison.<sup>98</sup> He was accompanied by his brother, 11 Medellin Cartel leaders, and armed guards of his choosing.<sup>99</sup>

When the Colombian government attempted to move Escobar to a military prison after reports surfaced that he continued to run narcotrafficking operations out of La Catedral, a gunfight and hostage crisis ensued and Escobar escaped.<sup>100</sup> Colombian police conducted a sixteen-month manhunt that ended with a shootout and Escobar’s death in 1993.

### **3. The Operational Security Nightmare**

The unfolding of the Coke and Escobar extraditions demonstrate several operational security challenges that U.S. law enforcement officials face in Latin America. First, the United States has limited control over dissemination of information once an extradition request reaches the requested state. In Jamaica, though Golding’s rumored affiliation to Coke was never confirmed, it would not have been inconceivable given the Coke family’s deep ties to the JLP and Golding’s ties to Tivoli Gardens. Regardless, Coke’s knowledge of the extradition enabled him to build up arms and escape arrest. In Colombia, the DEA discovered that Escobar possessed all of the agency’s files on him that

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<sup>96</sup> PBS Frontline, “Thirty Years of America’s Drug War: a Chronology.”

<sup>97</sup> Thompson, “Pablo Escobar, Drug Baron: His Surrender, Imprisonment, and Escape,” 58–64.

<sup>98</sup> Thompson, 58–64.

<sup>99</sup> Thompson, 58–64.

<sup>100</sup> Thompson, 70–82; and Timothy Ross, “Escobar Escape Humiliates Colombian Leaders,” *The Guardian*, July 24, 1992, <https://www.theguardian.com/world/1992/jul/24/colombia.fromthearchive>.

could have only come from official channels.<sup>101</sup> In other words, Escobar knew more about the DEA operations than the DEA knew about his operations, enabling his evasion from law enforcement for years.

These developments contradict the principle of keeping information closely held to those with a need-to-know basis. Sharing information requires U.S. law enforcement officials to have a high degree of trust and confidence in their partners. This presents a major challenge in Latin America due to corruption issues and the potential that the officials receiving criminal information may be affiliated with the criminal himself. In fact, U.S. law enforcement officials in Latin America have garnered a reputation for their reluctance to share information with Latin American partners due to fear that their operations would be exposed.<sup>102</sup>

Second, the United States also has limited control over the amount of time it takes to make an arrest and gain custody of the subject after an arrest warrant is issued. Ideally, the subject of a case is arrested shortly after the arrest warrant is issued and only learns that they are under investigation when they are arrested.<sup>103</sup> This is done to protect the likelihood of prosecution and prevent the subject from taking measures that could compromise the case such as fleeing, resisting arrest, destroying evidence, or building a defense.<sup>104</sup> However, international extraditions commonly take at least a year to complete. Nearly ten months elapsed before Jamaican authorities approved Coke's extradition. By that time, Coke fled the scene, a violent conflict emerged, and it took another month to secure his arrest. In sum, it took nearly a year for the United States to gain custody of Coke.<sup>105</sup>

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<sup>101</sup> Ben Wallace-Wells, "How America Lost the War on Drugs," *Rolling Stone*, March 24, 2011, <https://www.rollingstone.com/politics/politics-news/how-america-lost-the-war-on-drugs-170965>.

<sup>102</sup> Nadelmann, "The DEA in Latin America: Dealing with Institutionalized Corruption," 16–17.

<sup>103</sup> Edmonds-Poli and Shirk, "Extradition as a Tool for International Cooperation: Lessons from the U.S.-Mexico Relationship," 221–222; and U.S. Department of Justice, "Frequently Asked Questions Regarding Extradition."

<sup>104</sup> Gleaned from personal training and experience at the U.S. Department of Homeland Security's Federal Law Enforcement Training Center and in service as a U.S. Federal Agent.

<sup>105</sup> Sieves, "A Calculated Assault on the Authority of the State? Crime, Politics and Extradition in 21st Century Jamaica," 419.

Third, the United States has limited control over whether or not extradition will materialize at all. Though the United States successfully extradited and sentenced Coke, the same cannot be said for his father, whose extradition request ended after four years due to his death and never reached U.S. custody.<sup>106</sup> Moreover, Escobar evaded extradition altogether and leveraged his control over Colombian political and legal institutions to effectively nullify the U.S.-Colombia extradition treaty by rendering extradition unconstitutional in Colombia. At around the same time, the United States mobilized to circumvent extradition to gain custody of Escobar. This is covered in Chapter III's section on irregular rendition. Ultimately, neither the senior Coke nor Escobar saw their day in U.S. courts, reflecting the realistic possibility that extradition fails and the potential that high-profile criminals in Latin America have more capacity to avoid extradition than the state does to complete it.

Drug lords with political pull provide insights on the prospect of seeking extradition against corrupt Latin American government officials through two shared characteristics. First, officials are inherently politically connected, making it realistic that they learn of their own extradition request when the requested state receives it, which threatens the principle of preventing leakage on law enforcement operations. Second, officials are inherently politically influential, making it possible for them to use their status to influence, both formally and informally, and affect the outcome of the extradition request.

Though the United States has been able to extradite other Jamaican and Colombian narco-traffickers, Coke and Escobar's political connections and influence threatened the prospects of U.S. extradition. Considering that attempts to extradite politically-connected drug traffickers were mired with lapses in operational security, it would be difficult to imagine a scenario in which extraditing drug-connected Latin American government officials goes smoothly.

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<sup>106</sup> Sieves, 419.

## E. BENEFITS OF EXTRADITION

The arduous process and vulnerabilities involved with extradition begs the question of why and under what circumstances the United States would pursue this option. Though extradition bears heavy costs in law enforcement operations several benefits that render it the most diplomatically appealing option. This section will cover each benefit.

### 1. Adherence to Norms

While no international law requires states to participate in extradition, extradition itself is an act of diplomacy built on three major diplomatic principles. The first of which is *aut dedere aut judicare*, which refers to a principle first developed in 1625 that claims a state has the duty to either prosecute an offender within its jurisdiction or extradite him/her to the proper jurisdiction.<sup>107</sup>

*Aut dedere aut judicare* has been codified as international law through UN and OAS conventions. Signatory states to each convention are obligated to establish jurisdiction, adopt convention offenses as domestic law, investigate crimes related to each convention, and either prosecute or extradite.<sup>108</sup> However, convention coverage is limited to crimes enumerated in each convention, and it is still each individual state's discretion to ratify, implement, and execute the terms of the convention with limited mechanisms for penalty from the international community.<sup>109</sup>

The second principle is reciprocity, which refers to the concept that benefits or penalties granted from one state to another should be returned. This means that the requested state grants extradition under the expectation that the requesting state would do the same in return.<sup>110</sup> However, reciprocity may be challenging for the United States because

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<sup>107</sup> Plachta, "Aut Dedere Aut Judicare: An Overview of Modes of Implementation and Approaches," 331–332.

<sup>108</sup> United Nations, *The Obligation to Extradite or Prosecute (aut dedere aut judicare)* (New York: United Nations, 2014), 4–12, [https://legal.un.org/ilc/texts/instruments/english/reports/7\\_6\\_2014.pdf](https://legal.un.org/ilc/texts/instruments/english/reports/7_6_2014.pdf).

<sup>109</sup> Plachta, "Aut Dedere Aut Judicare: An Overview of Modes of Implementation and Approaches," 341–342; and Obokata, *Transnational Organised Crime in International Law*, 51–52.

<sup>110</sup> Obokata, 58.

it is typically unwilling to extradite U.S. officials, military members, and government contractors in favor of stateside prosecution.<sup>111</sup>

The third principle is comity, which refers to the concept that states should act to foster goodwill amongst one another.<sup>112</sup> Since extradition is a process that involves bilateral action, it could provide a domain for cooperation between the requesting and requested state. Requesting extradition, especially under politically sensitive circumstances such as criminal conduct by an official, would be the option that most adheres to these norms.

## **2. Respects State Sovereignty**

Compared to other options, extradition ranks highly in terms of respecting the sovereignty of another state. Sovereignty, or the legal independence of states from one another, means that no state has the right to dictate the actions of another state.<sup>113</sup> Pursuing extradition reflects the requesting state's recognition of the requested state's sovereignty for several reasons.

At a broad level, extradition is a complex legal process that engages the domestic institutions of another state and requires agreement between both states.<sup>114</sup> That is, both states' supreme courts must not deem extradition unconstitutional; both states' legislatures must not outlaw it; both states' justice and foreign affairs ministries must not disapprove it; and both states' heads of government must not decide against carrying out the process. Pursuing extradition accepts the risk and respects the fact that whether it materializes is in the hands of the requested state.

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<sup>111</sup> John R. Cook, "Contemporary Practice of the United States Relating to International Law," *The American Journal of International Law* 101, no. 4 (October 2007): 890–893. JSTOR.

<sup>112</sup> Hingoraney, "International Extradition of Mexican Narcotics Traffickers: Prospects and Pitfalls for the New Millennium," 334–335.

<sup>113</sup> Untalimile Crystal Mokeona and Emma Charlene Lubaale, "Extradition in the Absence of State Agreements: Provisions in International Treaties on Extradition," *South African Crime Quarterly*, no. 67 (March 2019): 33.

<sup>114</sup> Hingoraney, "International Extradition of Mexican Narcotics Traffickers: Prospects and Pitfalls for the New Millennium," 334.

At a more granular level, extradition recognizes the notion that law enforcement is a sovereign function within the jurisdiction of one state that lacks the ability to enforce laws extraterritorially.<sup>115</sup> This is an element missing in some of the other options to pursue prosecution against foreign nationals. Furthermore, the extradition process affirms that the requesting state bears the burden of proof and the responsibility to articulate to the requested state that extradition is warranted.

Steps taken by the United States to respect sovereignty in Latin America are significant due to the legacy of U.S. political interventionism ranging from the colonial era to the Cold War. Requesting extradition would be a significant step forward for the U.S. to respect Latin American sovereignty considering the political sensitivities involved in taking legal action against Latin American officials.

### **3. International Cooperation**

Transnational crimes such as organized crime, narcotrafficking, and money laundering pose a major threat to states in a globalized world. Successful programs to suppress transnational crime require the cooperation of all states affected. Extradition can be an instrument of international cooperation to address the common threat of transnational crime by preventing the possibility that one state may serve as a safe haven for criminals fleeing prosecution in another state.<sup>116</sup>

The willingness between two states to extradite to one another can reflect the robustness of their bilateral relationship because the extradition process requires equivalent institutions of multiple states to communicate and coordinate with each other. For example, extraditions between the United States and Mexico substantially increased from 2006 to 2012 when the administration of Mexican President Felipe Calderon took steps, such as the establishment of the High-Level Contact Group for Drug Control and the Merida Initiative, to advance U.S.-Mexico security cooperation.<sup>117</sup> However, extraditions sharply

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<sup>115</sup> Jansson, *Terrorism, Criminal Law, and Politics*, 41.

<sup>116</sup> Morgan, "Traffic Circles: The Legal Logic of Drug Extraditions," 395.

<sup>117</sup> Edmonds-Poli and Shirk, "Extradition as a Tool for International Cooperation: Lessons from the U.S.-Mexico Relationship," 236–241.

decreased to pre-2006 levels when Calderon’s successor, Enrique Peña Nieto, deprioritized U.S.-Mexico security cooperation.<sup>118</sup>

Cooperation between the United States and Latin America is particularly significant considering the frayed history of law enforcement relations between the two. After the 1980s, the DEA largely abandoned the cooperative model of information sharing, joint operations, and acceptance of host government restrictions in Latin America due to corruption issues in the Latin American criminal justice systems.<sup>119</sup> This set the stage for U.S. attempts to circumvent extradition, Latin American accusations of U.S. violations of sovereignty, and the erosion of trust and confidence between partner agencies. Seeking extradition, rather than circumventing it, can contribute to rebuilding trust.

#### **4. Compensates for Institutional Weakness**

Extradition can also serve as a tool between the United States and Latin American states to make up for weak criminal justice systems in Latin America. In other words, if the United States and a Latin American state are willing to cooperate on systematic extradition, the Latin American state can essentially outsource parts of its criminal justice system to U.S. prosecution.

Prosecuting organized crime and narcotrafficking can provide a common interest between the United States and Latin America. The Justice Department and DEA’s primary objective in Latin America to reduce inbound narcotrafficking flows into the United States is congruent to the vested interest of Latin American states to prevent crime and corruption from degrading domestic state capacity.<sup>120</sup> Outsourcing Latin American justice to the United States has the advantage of prosecuting major drug traffickers that Latin American

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<sup>118</sup> Edmonds-Poli and Shirk, 236–241; and Rafael Fernández de Castro et al., *U.S.-Mexico Security Cooperation 2018–2024* (San Diego: UC San Diego, 2018), 5, [https://usmex.ucsd.edu/\\_files/Whitepaper\\_Security\\_Taskforce\\_March\\_26\\_Covers.pdf](https://usmex.ucsd.edu/_files/Whitepaper_Security_Taskforce_March_26_Covers.pdf).

<sup>119</sup> Celia Toro, “The Internationalization of Police: The DEA in Mexico,” 633–634.

<sup>120</sup> “Organized Crime Drug Enforcement Task Force (OCDETF),” U.S. Drug Enforcement Agency, accessed April 22, 2021, <https://www.dea.gov/operations/ocdetf>.

states would otherwise lack the capacity to prosecute, otherwise known as the kingpin decapitation strategy.<sup>121</sup>

Successes in extraditing and prosecuting high-level narcotrafficking leaders could be applied to corrupt Latin American officials. After 2011, Guatemala targeted violence related to the drug trade by arresting and extraditing leaders and top associates of the Los Zetas, Lorenzanas, Sarceno, and Sinaloa cartels.<sup>122</sup> Between 2002–2014, Colombia tackled gang violence by extraditing over 2,000 drug and war lords to the United States.<sup>123</sup> Because corrupt Latin American government officials are high-level leaders often co-opted by the same drug trafficking organizations, extraditing and prosecuting them can serve similar shared interests between the United States and Latin American states.

However, it is worth mentioning that using the U.S. justice system redresses violations of U.S. law, usually related to narcotrafficking or financial crimes, not Latin American laws related to violence. Furthermore, while extradition can make up for weaknesses in Latin American criminal justice systems, it can create dependency on U.S. institutions and undermine judicial development efforts in Latin America. This will be covered in Chapter III's section on foreign prosecution.

## **5. Mount Political Pressure**

The fact that extradition leaves the final decision in the hands of the requested state can also serve to benefit the United States. If the general public becomes aware of an extradition request, the spotlight on the decision of whether to extradite may shift to the requested state and how it handles high-level criminal conduct. In these circumstances, extradition can be an avenue for the United States to leverage political pressure on the requested state.

This was exemplified in Coke's extradition request, which was ultimately approved by the Jamaican government not only due to U.S. diplomatic pressure but also international

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<sup>121</sup> Brockett, "The Drug Kingpin Decapitation Strategy in Guatemala: Successes and Shortcomings," 47–48.

<sup>122</sup> Brockett, 53–58.

<sup>123</sup> "Extradition in Latin America: How to Handle a Drug Gang."

pressure from countries where the Shower Posse had affiliates and national pressure from the Jamaican public. Ordinary citizens, church groups, and 19 civil society organizations denounced the Golding administration for protecting Coke and condoning crime and corruption.<sup>124</sup> In June 2010, parliament motioned a vote of no confidence and Golding resigned the following year.<sup>125</sup>

If securing prosecution swiftly is not a top priority, then the United States can use extradition to spotlight the requested country and corrupt official, mounting political pressure in favor of extradition. In this instance, diplomacy does not come at the cost of justice; rather, justice is an instrument of diplomacy. However, doing so must be intentional and well-informed because extradition requests also bear the risk of fomenting opposition against extradition.

## **6. Symbolic Extradition**

Another situation in which diplomacy and justice are not mutually exclusive is when extradition is used symbolically. In these instances, the intent of extradition may not actually be to secure extradition itself, but rather to send a broader foreign policy message to the requested state.

One example of this is when the Justice Department charged Venezuelan President Nicolas Maduro and 14 other Venezuelan officials for narco-terrorism, narcotrafficking, money laundering, and corruption in March 2020.<sup>126</sup> The State Department also publicly offered a \$15 million-dollar reward for information leading to Maduro's arrest and conviction.<sup>127</sup> However, Maduro's indictment was filed in the context of the U.S. policy

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<sup>124</sup> Sieves, "A Calculated Assault on the Authority of the State? Crime, Politics and Extradition in 21st Century Jamaica," 422–423.

<sup>125</sup> "Golding Survives No-Confidence Motion," *The Gleaner*, June 2, 2010, <https://jamaica-gleaner.com/power/19791>; and Campbell, "That Extradition of 'Dudus' Coke 10 Years Ago."

<sup>126</sup> "Nicolás Maduro Moros and 14 Current and Former Venezuelan Officials Charged with Narco-Terrorism, Corruption, Drug Trafficking and Other Criminal Chargers," U.S. Department of Justice, March 26, 2020, <https://www.justice.gov/opa/pr/nicol-s-maduro-moros-and-14-current-and-former-venezuelan-officials-charged-narco-terrorism>.

<sup>127</sup> "Nicolás Maduro Moros – New Target," U.S. Department of State, March 26, 2020, <https://www.state.gov/nicolas-maduro-moros-new-target>.

of pressure maximization against Venezuela following the Venezuelan presidential crisis. After Maduro refused to cede the presidency despite declarations by international observers that the 2018 Venezuelan election flawed, the United States recognized Maduro's opponent—Juan Guaidó—as the rightful president, imposed approximately 166 sanctions, and revoked over 1,000 visas in Venezuela.<sup>128</sup>

By public announcing its desire to arrest a public figure who was not in hiding and offering a reward for information it likely did not need or already had, the United States signaled that its intention was not actually to secure Maduro's arrest. It would be unrealistic for Maduro to waive his own immunity, approve his own extradition, or turn himself in for voluntary extradition. Rather, once the United States recognized Guaidó as president, it did not treat Maduro as a sitting official at all. By broadcasting Maduro's indictment, the United States delegitimized Maduro as a corrupt criminal incompetent to rule on his own immunity or extradition because he was not the rightful president.

Symbolic extradition is another instance in which a function of justice serves as an instrument of diplomacy, and one does not come at the cost of the other. It functions under the premise that actually accomplishing extradition would be unrealistic, and is an option that the United States can exercise against corrupt Latin American government officials to delegitimize the individual or his/her state by portraying them as criminal.

## **F. CONCLUSION**

The United States does not commonly pursue extradition against Latin American officials because the legal costs outweigh the diplomatic benefits. If the U.S.'s intended outcome is to actually secure the prosecution of a foreign official, extradition is a challenging option due to its vulnerabilities in operational security and lengthy and bureaucratic process. These issues are accentuated when attempting to extradite Latin American officials because state officials are afforded certain legal protections from prosecution abroad, and Latin American government corruption enables high-level actors with political influence to evade the extradition process. For these reasons, the United

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<sup>128</sup> Clare Ribando Seelke, *Venezuela: Overview of U.S. Sanctions*, CRS Report No. IF10715, (Washington, DC: Congressional Research Service, 2021), 1, <https://fas.org/sgp/crs/row/IF10715.pdf>.

States is more likely to circumvent, rather than request, extradition against Latin American officials.

However, extradition can yield diplomatic benefits depending on the U.S.'s intended outcome. On the one hand, if diplomatic relations with the requested state is a higher priority than expeditious prosecution, extradition can be favorable because it adheres to international norms and respects the requested state's sovereignty. On the other hand, if the United States wants exert diplomatic pressure on the requested state, it can use extradition to spotlight and mount political pressure on the requested state, or it can use extradition symbolically to delegitimize the requested individual or state.

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### **III. CIRCUMVENT EXTRADITION**

Since requesting extradition of corrupt Latin American government officials is an unrealistic option in many situations, the United States often opts to circumvent the extradition process altogether to obtain custody of the subject of an investigation. There are four ways in which the United States can circumvent extradition: leave prosecution up to foreign courts, make an arrest of opportunity in U.S. jurisdiction, conduct irregular rendition, or use military force. This chapter examines the pros and cons of each circumvention option in terms of diplomacy and justice and finds that the United States routinely conducts arrests of opportunity on wanted Latin American officials because the legal benefits outweigh the diplomatic risks. Moreover, foreign prosecution is unreliable, and the forcefulness of irregular rendition or military force is likely to result in diplomatic blowback.

#### **A. FOREIGN PROSECUTION**

One option to circumvent extradition is to have prosecution occur in a foreign court rather than a U.S. court. This is a possibility for transnational crimes in which an individual commits a crime that violates the laws of multiple countries. For example, a narcotrafficker may run operations from his/her home state in Latin America to transport narcotics into the United States without having set foot there. In similar circumstances, the suspect still violated the laws of both countries and either the Latin American state or the United States can prosecute him/her.

There are several reasons why the United States may forgo seeking custody of an individual and instead leave them accountable to a foreign criminal justice system. Allowing prosecution to occur where the individual is a citizen and initiated the crime is diplomatically appealing because it respects state sovereignty and does not use force. Whereas extradition entails a process between the United States and a foreign counterpart to coordinate the custody transfer and prosecution of a criminal, foreign prosecution leaves everything up to the counterpart.

This option is also the most congruent to supporting anti-corruption and criminal justice reforms in Latin America. For nearly three decades, the United States has backed hemispheric efforts, such as the OAS Inter-American Convention Against Corruption, to eliminate corrupt practices and promote the rule of law.<sup>129</sup> The United States has also directly provided financial aid, training, assistance, and protection to develop criminal justice institutions in Latin America.<sup>130</sup> Utilizing foreign prosecution corresponds with the end goal of these efforts because it would reflect U.S. trust in Latin American institutions and Latin American state capacity to enforce its own laws and deter transnational crime.

However, the idealism of foreign prosecution seldom matches the reality of state capacity and corruption in Latin America, especially when it comes to those who wield political influence. There are three major hurdles to clear to achieve successful foreign prosecution: arrest, conviction, and incarceration; however, all three are adversely affected by the influence of organized crime. As demonstrated by the cases of Escobar and Coke, arresting suspects operating at high-levels of organized crime can result in armed conflict and prolonged manhunts. This is because criminal organizations in Latin America often have quasi-military capabilities and are as well-equipped as, if not more equipped than, state security forces.<sup>131</sup>

Law enforcement and judicial officials are also vulnerable to corrupt influences. In Mexico, for example, the average salary of a police officer, around \$350 a month, is so low that officers often have to seek outside income and are susceptible to payments from the cartels.<sup>132</sup> Prosecutors and judges are also bribed or intimidated by the cartels, rendering arrest and conviction inviable.<sup>133</sup> Corruption is so endemic that drug cartels spend more on bribes in a given year than the Mexican government does on the annual budget for the

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<sup>129</sup> Beittel et al., *Combatting Corruption in Latin America*, 6.

<sup>130</sup> Beittel et al., 6.

<sup>131</sup> Jeremy McDermott, "GameChangers 2019: Latin America's Top 10 Criminal Groups," *InSight Crime*, January 22, 2020, <https://insightcrime.org/news/analysis/gamechangers-2019-top-10-criminal-groups>.

<sup>132</sup> "Under the Volcano," *The Economist*, October 14, 2010, [https://www.economist.com/briefing/2010/10/14/under-the-volcano?story\\_id=17249102](https://www.economist.com/briefing/2010/10/14/under-the-volcano?story_id=17249102).

<sup>133</sup> Celia Toro, "The Internationalization of Police: The DEA in Mexico," 683.

Attorney General's Office.<sup>134</sup> However, this is not limited to Mexico. Throughout Latin America, cartels hold a demand known as *plata o plomo* (Spanish for "silver or lead"), which signifies the ultimatum that public officials have between taking a bribe or being killed.<sup>135</sup>

Even if the conviction hurdle is cleared, incarceration is often unsuccessful. Prison officials are also subject to the cartels' bribery and intimidation tactics.<sup>136</sup> Imprisoned narcotraffickers regularly access luxurious amenities, personal goods, and cellphones, enabling them to continue their drug operations behind bars.<sup>137</sup> Even when imprisoning high-level offenders is a national priority, incarceration can fail. For example, after Colombian President Cesar Gaviria targeted Escobar's imprisonment, Escobar was confined to a personally built mansion and arguably more protected than ever because the Colombian armed forces were now protecting, rather than hunting, him.<sup>138</sup> Additionally, Mexican President Enrique Peña Nieto's refusal to extradite Sinaloa Cartel leader "El Chapo" Guzman in favor of domestic imprisonment ended with El Chapo's second escape from Mexican prisons in 2015 and Peña Nieto's approval of extradition to the United States in 2017.<sup>139</sup>

The lack of state capacity in many parts of Latin America to arrest, prosecute, or incarcerate criminals contributes to the United States' preference to seek custody and prosecution for itself.<sup>140</sup> Additionally, the most successful anti-corruption programs—such as the Foreign Corrupt Practices Act, the Global Magnitsky Act, and the International

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<sup>134</sup> Hingorany, "International Extradition of Mexican Narcotics Traffickers: Prospects and Pitfalls for the New Millennium," 349–351.

<sup>135</sup> William Ratliff and Edgardo Buscaglia, "Judicial Reform: The Neglected Priority in Latin America," *The Annals of the American Academy of Political and Social Science* 550, (March 1997): 65, JSTOR.

<sup>136</sup> Celia Toro, "The Internationalization of Police: The DEA in Mexico" Mexico," 683.

<sup>137</sup> Hingorany, "International Extradition of Mexican Narcotics Traffickers: Prospects and Pitfalls for the New Millennium," 343.

<sup>138</sup> Thompson, "Pablo Escobar, Drug Baron: His Surrender, Imprisonment, and Escape," 58–64.

<sup>139</sup> "Extradition in Latin America: How to Handle a Drug Gang."

<sup>140</sup> Alonso et al., "DOJ's Role in Fighting Corruption, Drug Trafficking and Money Laundering in Latin America."

Commission against Impunity in Guatemala (CICIG)—still include extradition, prosecution, and incarceration in the United States to make up for where Latin American criminal justice systems lack and deliver the desired outcomes of both states.

However, even the most successful anti-corruption programs can be vulnerable to corrupt influence. When CICIG began investigating then-president Jimmy Morales and members of his family and party, Morales dismantled CICIG by banning the CICIG director from Guatemala and revoking the visas of top investigators.<sup>141</sup> This demonstrates the limitations of foreign prosecution when it comes to Latin American officials. Even the most robust programs bypass foreign prosecution, and even those programs can be stymied when charges touch too closely to those in power. These circumstances contribute to the United States' motivation to preclude Latin American involvement and exploit opportunities to arrest and prosecute on its own terms.

## **B. ARREST OF OPPORTUNITY**

Because the first substantive step toward prosecution is arrest, one of the most common ways the United States circumvents extradition is to conduct an “arrest of opportunity,” which I define as U.S. law enforcement officials arresting a wanted individual in a jurisdiction where they are authorized to make that arrest. Though this jurisdiction can include international waters and international airspace, the United States most commonly exercises arrests of opportunity within U.S. borders or U.S.-controlled territories.<sup>142</sup>

Arrests of opportunity can be conducted in two ways: lure or none-lure. Lure refers to a ruse developed by U.S. officials to entice the wanted individual into a U.S. jurisdiction.<sup>143</sup> An example of this can be inviting an individual to an event in the U.S.

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<sup>141</sup> Brockett, “The Drug Kingpin Decapitation Strategy in Guatemala: Successes and Shortcomings,” 65; and “Fact Sheet: The CICIG’s Legacy in Fighting Corruption in Guatemala,” Washington Office on Latin America, August 27, 2019, <https://www.wola.org/analysis/cicigs-legacy-fighting-corruption-Guatemala>.

<sup>142</sup> U.S. Department of Justice, “9-15.000 – International Extradition and Related Matters.”

<sup>143</sup> U.S. Department of Justice.

with the intent of arresting them.<sup>144</sup> None-lure refers to an arrest conducted in the United States without a ruse but based on intelligence that the individual will be present on their own volition.<sup>145</sup> For example, U.S. officials can arrest an individual while they are on a previously planned vacation in the United States.

Whereas other options to pursue prosecution are generally used against criminals but not government officials, arrests of opportunity stand out as a commonly used tactic against both since the 1970s.<sup>146</sup> In 1971, U.S. officials arrested Panama's corrupt chief of air traffic control, Joaquin Him Gonzalez by luring him into attending a softball game in the Canal Zone, which at the time was under U.S. jurisdiction.<sup>147</sup> In 1985, the DEA arrested three ministers from the Turks and Caicos, including prime minister Norman Saunders, by luring them into a meeting in Miami with undercover DEA agents posing as narcotraffickers.<sup>148</sup> The DEA employed the same ruse to arrest Surinamese military leader Etienne Boerenveen the following year.<sup>149</sup>

Because arrests of opportunity remain a commonly used tactic against corrupt foreign officials, there are more examples to assess the direct consequences of this option. In this section, I will examine two high-visibility cases of the 21st century: former Honduran congressman Juan Antonio Hernandez former Mexican Public Security Secretary Genaro Garcia Luna, both of whom were arrested in the United States on narcotrafficking-related charges. Examining these cases will shed light on why arrests of opportunity are a legally pragmatic but diplomatically dicey option to pursue prosecution against corrupt foreign officials.

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<sup>144</sup> U.S. Department of Justice.

<sup>145</sup> Gleaned from personal training and experience at the U.S. Department of Homeland Security's Federal Law Enforcement Training Center and in service as a U.S. Federal Agent.

<sup>146</sup> Nadelmann, "The DEA in Latin America: Dealing with Institutionalized Corruption," 29–32.

<sup>147</sup> Nadelmann, 32.

<sup>148</sup> Nadelmann, 32; and Mary Thornton, "Caribbean Prime Minister Arrested in Miami on Drug Charges," *Washington Post*, March 6, 1985, <https://www.washingtonpost.com/archive/politics/1985/03/06/caribbean-prime-minister-arrested-in-miami-on-drug-charges/bd4c5b15-45cd-41ad-aa49-7f12cb71bc20>.

<sup>149</sup> Nadelmann, 32; and Janet Braunstein, "South American Official Jailed in Miami on Conspiracy Charges," *Associated Press*, March 25, 1986, <https://apnews.com/article/8c67642423f846d808e01555e9c283d2>.

## 1. Juan Antonio Hernandez

In 2018, former Honduran congressman Juan Antonio Hernandez boarded a flight bound for Miami, and upon landing, was arrested by DEA agents.<sup>150</sup> Following the arrest, the DEA announced that Antonio Hernandez had been involved in the illicit cocaine trade since 2004 and was charged with narcotrafficking, weapons, and false statements.<sup>151</sup> He started by providing narcotraffickers with information to evade law enforcement and the military, but by 2008, Antonio Hernandez began manufacturing his own cocaine and stamped products with his initials, “TH” (Tony Hernandez).<sup>152</sup>

After 2008, Antonio Hernandez began mediating between drug kingpins and Honduran officials to protect traffickers and facilitate drug flows in exchange for political and financial support for his party, the National Party of Honduras (PNH).<sup>153</sup> A year later, the PNH rose to power after a coup d’état deposed the previous president, congressman Porfirio Lobo Sosa won the presidency, and Orlando Hernandez—Antonio’s brother—secured a seat in Congress. In 2013, Antonio Hernandez accepted a \$1 million-dollar bribe from Mexico’s “El Chapo” Guzman to support the presidential campaign of his brother, Orlando Hernandez in exchange for protection in cocaine routes through Honduras.<sup>154</sup>

When Lobo’s term expired in 2014, the Hernandez brothers saw political ascent: Orlando was inaugurated as the president and Antonio took a seat in Congress. However, Antonio Hernandez also partook in a meeting arranged by a corrupt Honduran police officer that included Honduran drug lord Devis Leonel Rivera Maradiaga, who—

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<sup>150</sup> United States v. Juan Antonio Hernandez Alvarado, 15 CR 397 (PKC), 527–531 (SDNY, 2019), <http://cespad.org.hn/wp-content/uploads/2021/02/Declaraciones-de-Alexander-Ard%C3%B3n.pdf>.

<sup>151</sup> “DEA announces arrest of former Honduran congressman and brother of current President of Honduras for drug trafficking and weapons charges,” U.S. Drug Enforcement Agency, November 26, 2018, <https://www.dea.gov/press-releases/2018/11/26/dea-announces-arrest-former-honduran-congressman-and-brother-current>.

<sup>152</sup> United States v. Juan Antonio Hernandez Alvarado, S2 15 CR 397 (PKC), 2 (SDNY, 2019) <https://www.justice.gov/usao-sdny/press-release/file/1113821/download>.

<sup>153</sup> *Hernandez Alvarado*, S2 15 CR 397 (PKC) at 2; and “Juan Antonio ‘Tony’ Hernández Alvarado,” InSight Crime, last updated September 3, 2020, <https://insightcrime.org/honduras-organized-crime-news/tony-hernandez>.

<sup>154</sup> *Hernández Alvarado*, 15 CR 397 (PKC) at 448–449.

unbeknownst to Antonio Hernandez—was an informant for the DEA.<sup>155</sup> This meeting yielded key evidence for the DEA to act, leading to Antonio Hernandez’s arrest in 2018, his trial and guilty verdict in 2019, and his sentence to life in prison in 2021 by the Southern District of New York.<sup>156</sup>

## **2. Genaro Garcia Luna**

In 2019, U.S. federal agents arrested Mexico’s former Secretary of Public Security, Genaro Garcia Luna, in Dallas for accepting bribes in exchange for aiding the shipment of more than 50,000 kilos of cocaine into the United States.<sup>157</sup> This came after El Chapo’s 2018 trial in the Eastern District of New York, where one of the Sinaloa Cartel’s top conspirators testified that that Garcia Luna took at least \$6 million in bribes from the cartel.<sup>158</sup>

Paradoxically, Garcia Luna led Mexico’s aggressive response in the Mexican war on drugs between 2006 and 2012. Garcia Luna was a career security professional and former director of Mexico’s Federal Investigative Agency (Mexico’s FBI equivalent) when President Felipe Calderon appointed him in 2006 to serve as Mexico’s Public Security Secretary.<sup>159</sup> As Mexico’s top cop, Garcia Luna was at the forefront of Mexico’s war on drugs and implemented Calderon’s militarized stance against the drug cartels.

After Mexico and the United States signed the Merida Initiative in 2007, Calderon and Garcia Luna leveraged more than \$1.6 billion in U.S. foreign aid and \$100 billion in

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<sup>155</sup> *Hernández Alvarado*, 15 CR 397 (PKC) at 448–449; and Vanessa Romo, “Honduran President’s Brother Arrested in Miami on Drug Trafficking Charges,” NPR, November 27, 2018, <https://www.npr.org/2018/11/27/671339362/honduran-presidents-brother-arrested-in-miami-on-drug-trafficking-charges>.

<sup>156</sup> “Former Honduran Congressman Tony Hernández Sentenced to Life in Prison and Ordered to Forfeit \$138.5 Million for Distributing 185 Tons of Cocaine and Related Firearms and False Statement Offenses,” U.S. Department of Justice, March 30, 2021, <https://www.justice.gov/usao-sdny/pr/former-honduran-congressman-tony-hernandez-sentenced-life-prison-and-ordered-forfeit>.

<sup>157</sup> “Former Mexican Secretary of Public Security Genaro Garcia Luna Charged with Engaging in a Continuing Criminal Enterprise,” U.S. Department of Justice, July 30, 2020, <https://www.justice.gov/usao-edny/pr/former-mexican-secretary-public-security-genaro-garcia-luna-charged-engaging-continuing>.

<sup>158</sup> Alan Feuer, “The Public Trial of El Chapo, Held Partially in Secret,” *New York Times*, November 21, 2018, <https://www.nytimes.com/2018/11/21/nyregion/el-chapo-trial.html>.

<sup>159</sup> Daniel Kurtz-Phelan, “The Long War of Genaro García Luna,” *New York Times*, July 13, 2008, <https://www.nytimes.com/2008/07/13/magazine/13officer-t.html>.

Mexican domestic investment on security to deploy military troops and federal forces to directly battle the drug cartels.<sup>160</sup> Furthermore, U.S.-Mexico extradition cooperation peaked with Mexico's adoption of the kingpin decapitation strategy, which prioritized the prompt extradition of drug criminals arrested in Mexico.<sup>161</sup>

Garcia Luna moved to Miami after Calderon's term in office ended in 2012.<sup>162</sup> Though he receded from the public eye, Garcia Luna caught the attention of U.S. federal law enforcement. In 2013, *Forbes* magazine named him as one of the most corrupt Mexicans due to lavish spending and alleged links to the Sinaloa Cartel.<sup>163</sup> Despite only amassing \$683,050 from his government payroll from 2001 to 2012, Garcia Luna purchased over \$8 million in Miami properties from 2012 to 2018.<sup>164</sup> Garcia Luna's disproportionate assets in the United States in addition to key testimony in El Chapo's 2018 trial provided U.S. federal agents with the impetus to arrest in 2019.<sup>165</sup> He is still awaiting trial in the Eastern District of New York as of October 2021.

### 3. Legally Pragmatic

Arrests of opportunity are a common tactic to pursue prosecution against corrupt Latin American officials because they satisfy all the legal requirements to secure custody of someone in an efficient manner. It is legally sound for U.S. authorities to conduct an arrest in their own jurisdiction for violations of U.S. laws.

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<sup>160</sup> Clare Ribando Seelke and Kristen Finklea, *U.S.-Mexican Security Cooperation: The Mérida Initiative and Beyond*, CRS Report No. R41349 (Washington, DC: Congressional Research Service, 2017), 1, <https://fas.org/sgp/crs/row/R41349.pdf>; and Nina Lakhani, "Mexico's War on Drugs: What Has It Achieved and How Is the U.S. Involved?" *The Guardian*, December 8, 2016, <https://www.theguardian.com/news/2016/dec/08/mexico-war-on-drugs-cost-achievements-us-billions>.

<sup>161</sup> Edmonds-Poli and Shirk, "Extradition as a Tool for International Cooperation: Lessons from the U.S.-Mexico Relationship," 238–239

<sup>162</sup> Dolia Estevez, "The 10 Most Corrupt Mexicans Of 2013," *Forbes*, December 16, 2013, <https://www.forbes.com/sites/doliaestevez/2013/12/16/the-10-most-corrupt-mexicans-of-2013/?sh=a709f2f5720d#2715e4857a0b798dfe167a8c>.

<sup>163</sup> Estevez.

<sup>164</sup> Paz Gómez, "The Tip of the Iceberg for Mexican Cartel Corruption," *Impunity Observer*, June 2, 2020, <https://impunityobserver.com/2020/06/02/the-tip-of-the-iceberg-for-mexican-cartel-corruption>.

<sup>165</sup> John Burnett, "Arrest Of Genaro Garcia Luna Shocks Mexico," *NPR*, December 15, 2019, <https://www.npr.org/2019/12/15/788261140/arrest-of-genaro-garcia-luna-shocks-Mexico>.

Compared to extradition, arrests of opportunity are more forceful but have two key advantages. First, arrests of opportunity are more operationally secure because they do not require the United States to share information with or depend on multiple foreign counterpart agencies. Instead, the United States wields control of the entire process. Moreover, evidence collected by unilateral methods such as U.S. undercover surveillance of the meeting between Antonio Hernandez and Rivera Maradiaga abroad, can still be admissible in U.S. courts. Such evidence could be controversial—or outright banned by some states such as Mexico—and inadmissible in foreign courts due to concerns of entrapment by foreign powers.<sup>166</sup>

Second, this option can be completed relatively quickly because it bypasses the lengthy and bureaucratic process involved with extradition. Whereas extradition can take up to years to complete, U.S. authorities can conduct an arrest as soon as an arrest warrant is issued, also bolstering the operational security of a case.<sup>167</sup> This is significant in the case of Antonio Hernandez and Garcia Luna because the former is the brother of the President of Honduras, who has ultimate authority over extradition of nationals, and the latter is connected to the Mexican security apparatus through which extradition requests flow.

Compared to the more forceful options of rendition and use of military force, arrests of opportunity are less vulnerable to sovereignty and extraterritoriality criticisms. These are some of the key sources of controversy concerning the prosecution of foreign officials. However, arrests of opportunity delicately walk this tightrope because U.S. domestic arrests are just as legitimately sovereign as domestic arrests conducted by a foreign country.<sup>168</sup> Nonetheless, a foreign country can still provide a range of responses if the United States arrests one of its citizens.

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<sup>166</sup> Stanley Meisler, “Albright Urges Mexico to Drop Threat in Drug Sting,” *Los Angeles Times*, June 12, 1998, <https://www.latimes.com/archives/la-xpm-1998-jun-12-mn-59260-story.html>.

<sup>167</sup> “Frequently Asked Questions Regarding Extradition”; and Nadelmann, “The DEA in Latin America: Dealing with Institutionalized Corruption,” 31–32.

<sup>168</sup> Jansson, *Terrorism, Criminal Law, and Politics*, 41.

#### 4. Diplomatically Dicey

How a foreign country reacts to the arrest of one of its officials is why arrests of opportunity can be diplomatically dicey. Though domestic arrests are a pragmatic and legitimate exercise of sovereignty, it entails one state acting unilaterally against a foreign political figure. Assuming an arrest is made without coordinating with that individual's state, it sends a message of mistrust that the United States would rather pursue a unilateral option as opposed to bilateral options such as extradition or foreign prosecution. This opens the door for diplomatic fallout because it goes against the diplomatic principle of comity.<sup>169</sup>

On the one hand, after Antonio Hernandez's arrest, there was no immediate diplomatic damage with Honduras. President Orlando Hernandez maintained support for U.S. counternarcotics efforts.<sup>170</sup> While Antonio Hernandez was on trial in U.S. courts, Orlando Hernandez partook in photo ops with U.S. President Donald Trump and accepted praise from U.S. Homeland Security Secretary Kevin McAleenan for being a "strong partner" in law enforcement.<sup>171</sup>

On the other hand, after Garcia Luna's arrest, the Mexican government started to show signs of pushback. President Andres Manuel Lopez Obrador challenged the U.S. government to investigate its own officials that worked with Garcia Luna, suggesting that U.S. officials are just as corrupt as Mexican officials, and minimized the significance of U.S. prosecutions by announcing his willingness to extradite former presidential campaign rival Felipe Calderon to the United States despite no request.<sup>172</sup> These statements

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<sup>169</sup> Hingorany, "International Extradition of Mexican Narcotics Traffickers: Prospects and Pitfalls for the New Millennium," 334–335.

<sup>170</sup> Benjamin Weiser and Elisabeth Malkin, "Silent Presence in a U.S. Drug Conspiracy Case: The President of Honduras," *New York Times*, September 27, 2019, ProQuest.

<sup>171</sup> Weiser and Malkin, "Silent Presence in a U.S. Drug Conspiracy Case: The President of Honduras."

<sup>172</sup> "Mexican President: U.S. Should Probe Its Ties to Ex Top Cop," *Associated Press*, May 4, 2020, <https://apnews.com/article/987c623294c1d949c2e8256a8d07d346>; and "Mexican President Says Would Extradite Predecessor Calderon to U.S.," *Reuters*, September 8, 2020, <https://www.reuters.com/article/us-mexico-politics/mexican-president-says-would-extradite-predecessor-calderon-to-u-s-idUSKBN25Z2QW>.

foreshadow the diplomatic fallout of 2020 when the United States' arrest of Salvador Cienfuegos pushed Mexico too far.

The varied responses between Honduras and Mexico demonstrate a key reflection of the costs and benefits of arresting foreign officials in U.S. jurisdiction: context matters. The power disparity between the United States and Honduras is wider than it is between the United States and Mexico. Honduras receives more than \$70 million in U.S. foreign assistance yearly and more than half of Honduras's exports are to the U.S, whereas the United States has limited direct interests in Honduras outside of counternarcotics and migration, reflecting that Honduras is more dependent on the United States than the United States is on Honduras.<sup>173</sup>

Whereas the United States does not necessarily *need* Honduras, it does have a constant need for Mexico. The United States and Mexico are bound by geography and will, share a nearly 2,000-mile border that is a key source for commerce and national security, as well as participate in various bilateral economic and security agreements such as the United States-Mexico-Canada Agreement and the Merida Initiative.<sup>174</sup> This enables Mexico to have more leverage and influence over the United States than Honduras does and can contribute to different outcomes.

Not only are Honduras and Mexico in different positions as states, but Orlando Hernandez and Lopez Obrador are also in different positions as leaders. One of Orlando Hernandez's key sources of authority is his reputation as a U.S.-backed, tough-on-crime politician.<sup>175</sup> When his brother, Antonio Hernandez, was arrested in 2018 and undergoing trial in 2019, the Trump administration was threatening to cut aid and impose tariffs on

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<sup>173</sup> "U.S. Foreign Assistance to Honduras," U.S. Agency for International Development, accessed October 5, 2021, <https://foreignassistance.gov/cd/Honduras>; and "Honduras Product Trade," The Observatory of Economic Complexity, accessed October 5, 2021, <https://oec.world/en/profile/country/hnd>.

<sup>174</sup> "U.S. Relations with Mexico," U.S. Department of State, September 16, 2021, <https://www.state.gov/u-s-relations-with-Mexico>.

<sup>175</sup> Claudia Mendoza and Mary Beth Sheridan, "Honduras Pushed to Take Migrants," *Washington Post*, September 13, 2019, ProQuest.

Honduras over migration cooperation.<sup>176</sup> Orlando Hernandez was also facing domestic budget cuts and corruption allegations; therefore, circumstances dictated that it was in his best interest to maintain his image as U.S.-aligned leader rather than repudiate U.S. counternarcotics efforts.<sup>177</sup>

This is contrasted by Lopez Obrador, who derives his political strength from a personal style focused inward on domestic policy with little regard for foreign policy. Prior to his election in 2018, Lopez Obrador campaigned on asserting Mexican state sovereignty and repudiating U.S. intervention in Mexican affairs.<sup>178</sup> However, Lopez Obrador's response to Garcia Luna's arrest was complicated by two facts. First, Lopez Obrador also campaigned on anti-corruption, particularly corruption under his predecessors such as Calderon.<sup>179</sup> Second, the Trump administration also threatened aid cuts and tariffs on Mexico in 2019 in exchange for migration cooperation.<sup>180</sup> These circumstances contribute to Lopez Obrador's seeming displeasure with Garcia Luna's arrest but lack of outright repudiation.

Examining the arrests of Antonio Hernandez and Garcia Luna in the broader context of bilateral relations and individual leadership characteristics sheds light on how the costs and benefits of exercising arrests of opportunity can vary. If used under the wrong circumstances, it could result in a pushback response from another state or result in diplomatic fallout. This was the case with Salvador Cienfuegos, which will be covered in the Chapter IV. For arrests of opportunity to be executed successfully, this option has to be

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<sup>176</sup> Mary Beth Sheridan and Kevin Sieff, "Trump to Cut Aid to 3 Countries in Central America; He Assails El Salvador, Guatemala, Honduras over Immigration," *Los Angeles Times*, March 31, 2019, ProQuest; and Elisabeth Malkin, "Trump Threatens Guatemala with Tariffs Over Migrants," *New York Times*, July 24, 2019, ProQuest.

<sup>177</sup> Nina Lakhani, "Honduras Deploys Security Forces as Doctors and Teachers Demand President's Resignation," *The Guardian*, Jun 05, 2019, <https://www.theguardian.com/world/2019/jun/05/honduras-protests-teachers-doctors-president>; and The Observatory of Economic Complexity, "Honduras Product Trade."

<sup>178</sup> Andrés Manuel López Obrador, *A New Hope for Mexico*, (New York: OR Books, 2018), 53–58, 86.

<sup>179</sup> López Obrador, 29–33.

<sup>180</sup> Dominic Rushe, Lauren Gambino, and David Agren, "Donald Trump Defends Tariffs on Mexico as Stock Markets Reel," *The Guardian*, May 31, 2019, ProQuest; and David Nakamura, John Wagner, and Nick Miroff, "U.S. and Mexico Sign Agreement, Avoid Tariffs," *Washington Post*, Jun 08, 2019, ProQuest.

pursued with political circumstances in mind to minimize the odds of a sour response, which can compromise prosecution.

### C. IRREGULAR RENDITION

Whereas domestic arrests occur in U.S. jurisdictions, U.S. law enforcement agents conduct irregular renditions in foreign jurisdictions. Irregular rendition is when one country unilaterally abducts a wanted individual within the territorial jurisdiction of another country, often without the latter's knowledge or consent.<sup>181</sup> Though U.S. courts have upheld the constitutionality of irregular rendition as an option to bring wanted individuals before U.S. courts to stand trial, the mired legacy of irregular rendition in Latin America renders it an unlikely and costly option to pursue on Latin American officials.

The United States' use of irregular rendition in Latin America and its gradual legalization can be traced through four U.S. court cases. After the United States arranged for the abduction of an Italian citizen residing in Uruguay for narcotrafficking violations, the U.S. Court of Appeals held in *United States v. Toscanino* in 1974 that irregular renditions are illegal if the defendant was subject to reprehensible conduct, suggesting the legality of irregular renditions without reprehensible conduct.<sup>182</sup> One year later, the U.S. Court of Appeals suggested in *United States ex rel. Lujan v. Gengler* that forcible abductions do not violate international law if the state in which the abduction occurred does not object.<sup>183</sup>

Most significantly, the murder of DEA Agent Enrique Camarena by members of the Guadalajara Drug Cartel in Mexico resulted in U.S. Supreme Court decisions that affirmed U.S. extraterritorial powers. In 1990, the Supreme Court ruled in *United States v. Verdugo-Urquidez* that the U.S. Constitution's Fourth Amendment does not apply in searches conducted by U.S. agents in foreign jurisdictions.<sup>184</sup> In 1992, after bounty hunters

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<sup>181</sup> Hingorany, "International Extradition of Mexican Narcotics Traffickers: Prospects and Pitfalls for the New Millennium," 352.

<sup>182</sup> Barnett, "Extradition Treaty Improvements to Combat Drug Trafficking," 302.

<sup>183</sup> Barnett, 303–304.

<sup>184</sup> Celia Toro, "The Internationalization of Police: The DEA in Mexico," 626.

kidnapped a conspirator of the Camarena murder and transported him into the United States for arrest, the Supreme Court upheld the doctrine of *male captus bene detentus* (Latin for “wrongly captured, properly detained”) in *United States v. Alvarez-Machain* that U.S. courts still have jurisdiction over accused criminals irrespective of how they entered U.S. territory.<sup>185</sup>

Though *Alvarez-Machain* effectively legalized irregular rendition, diplomatic backlash degraded its future viability in Latin America. U.S.-Mexico security cooperation worsened as the Mexican government suspended cooperation with the DEA and outlawed irregular rendition as a punishable crime for any foreign national or Mexican citizen involved.<sup>186</sup> Mexican President Carlos Salinas publicly rejected the decision in a 1992 meeting with U.S. President George H.W. Bush.<sup>187</sup> The international community expressed outrage and the OAS rebuked the decision as a violation of sovereignty and international law.<sup>188</sup> In 1994, the United States and Mexico signed the Transborder Abduction Treaty, in which the United States agreed to end irregular rendition in exchange for resumed counternarcotics cooperation.<sup>189</sup>

Although irregular rendition is still used by the United States in other parts of the world, particularly as part of the Global War on Terrorism, its mired history in Latin America renders it an option no longer worth pursuing in the Western Hemisphere.<sup>190</sup> Expanding U.S. law enforcement capabilities beyond U.S. borders presents a real threat to offenders involved in narcotrafficking and organized crime. The *Alvarez-Machain* decision in 1992 contributed to Escobar’s escape from La Catedral because at the time, extradition

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<sup>185</sup> Obokata, *Transnational Organised Crime in International Law*, 60.

<sup>186</sup> Celia Toro, “The Internationalization of Police: The DEA in Mexico,” 636–637; and Hingoraney, “International Extradition of Mexican Narcotics Traffickers: Prospects and Pitfalls for the New Millennium,” 352.

<sup>187</sup> Celia Toro, “The Internationalization of Police: The DEA in Mexico,” 636–637.

<sup>188</sup> Hingoraney, “International Extradition of Mexican Narcotics Traffickers: Prospects and Pitfalls for the New Millennium,” 352.

<sup>189</sup> Hingoraney, 358.

<sup>190</sup> Obokata, *Transnational Organised Crime in International Law*, 60.

was already outlawed in Colombia.<sup>191</sup> However, arresting abroad comes at the cost of high vulnerability to extraterritoriality criticisms and a high likelihood of diplomatic blowback compared to arresting at home. Although the United States has not conducted irregular rendition on a Latin American official, it would be reasonable to assume that abducting a foreign official would result in diplomatic catastrophe not only because Latin America has already rebuked irregular rendition, but also because such a move could be perceived as an act of war if it is a sitting official in his/her own sovereign territory.

#### **D. USE OF MILITARY FORCE**

Lastly, the most unilateral and forceful option for the United States to seize custody of a foreign official for prosecution purposes is to use military force.<sup>192</sup> Whereas irregular rendition is conducted covertly either directly by U.S. law enforcement agents or indirectly through their proxies, military force is overtly waged by uniformed troops of the U.S. armed forces. Use of military force tends to violate and circumvent diplomatic norms, bilateral agreements, and international processes in the name of one country's stated objective against another country. The most notable example of the United States using armed conflict to pursue prosecution against a corrupt Latin American official is the 1989 Invasion of Panama, which was justified in part to go after its *de facto* leader, General Manuel Noriega.

##### **1. Manuel Noriega**

Prior to 1988, the United States maintained a transactional working relationship with Noriega. On the one hand, Noriega enabled U.S. security interests by providing intelligence about the communist-linked Sandinista regime in Nicaragua and permitting the U.S. military to use Panama as a staging ground for operations in Nicaragua.<sup>193</sup> On the other hand, the United States allowed Noriega to consolidate power and influence in

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<sup>191</sup> Thompson, "Pablo Escobar, Drug Baron: His Surrender, Imprisonment, and Escape," 71–72.

<sup>192</sup> Celia Toro, "The Internationalization of Police: The DEA in Mexico," 634.

<sup>193</sup> Peter H. Smith, *Talons of the Eagle*, 4th ed. (New York: Oxford University Press, 2013), 315–316.

Panama by looking the other way when it came to his tainted record on democracy, human rights, and corruption.<sup>194</sup>

However, the relationship between the United States and Noriega reached an inflection point in 1988 with two key events. Noriega, who had been using Panama to move drugs and launder money on behalf of the Medellin Cartel in neighboring Colombia, was indicted by two federal grand juries in Florida.<sup>195</sup> Subsequently, George H.W. Bush won the U.S. presidential election after vowing to fight the war on drugs in his campaign and labeled drugs as the United States' "gravest domestic threat" in a televised White House address not long after taking office.<sup>196</sup>

By 1989, the U.S.-Noriega relationship fell apart. Despite both internal and external pressures, Noriega refused to relinquish command of the Panama Defense Forces (PDF) and leave public office. When the President of Panama, Eric Arturo Delvalle, attempted to relieve Noriega, Noriega leveraged his followers in the legislature to replace Delvalle with the Education Minister as president.<sup>197</sup> When Guillermo Endara won the presidential election, Noriega invalidated the election results and installed a high school classmate as provisional president.<sup>198</sup> Furthermore, multiple attempts by the Reagan and Bush administrations to remove Noriega from office, ranging from diplomatic incentives to covert intelligence operations, all failed.<sup>199</sup> The United States' counternarcotics campaign and interventions in Panama pushed Noriega to declare a "state of war" against the United States and use the PDF to harass, and eventually kill, U.S. troops.<sup>200</sup>

Though Noriega was not the only driving force behind the Invasion of Panama, it was one of four justifications that Bush presented when he announced the invasion in

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<sup>194</sup> Eytan Gilboa, "The Panama Invasion Revisited: Lessons for the Use of Force in the Post Cold War Era," *Political Science Quarterly* 110, no. 4 (Winter 1995–1996): 541–542, JSTOR.

<sup>195</sup> Gilboa, 546–547; and Smith, *Talons of the Eagle*, 315–316.

<sup>196</sup> Gilboa, 552–554, 557.

<sup>197</sup> Gilboa, 547.

<sup>198</sup> Gilboa, 553.

<sup>199</sup> Gilboa, 549–551, 553–554.

<sup>200</sup> Smith, *Talons of the Eagle*, 315–316.

December 1989. First, the United States was there to safeguard U.S. personnel from attacks by the PDF.<sup>201</sup> Second, the United States would restore democracy in Panama.<sup>202</sup> Third, it would ensure the transfer of authority of the Panama Canal to Panama's democratically elected government.<sup>203</sup> Fourth, U.S. troops would intervene to "combat drug trafficking" and "bring General Noriega to justice."<sup>204</sup> The State Department elaborated on Bush's fourth justification when it reported to the OAS that Panama became a "haven for drug traffickers" under Noriega and Secretary of State James Baker revealed that one of the objectives of the invasion was to "seize and arrest an indicted drug trafficker."<sup>205</sup>

Within two weeks, the U.S. military secured control of Panama and custody of Noriega, who was promptly handed over to U.S. law enforcement agents and flown to Miami for trial in the Southern District of Florida.<sup>206</sup> The United States tried, convicted, and sentenced Noriega to 40 years in prison; but he was also tried, convicted, and sentenced *in absentia* (without the suspect's presence) in France for money laundering and in Panama for murder.<sup>207</sup> After Noriega was incarcerated for 20 years in Miami and had his sentence reduced for good behavior, he was extradited to serve prison time in France in 2010, then Panama in 2011.<sup>208</sup>

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<sup>201</sup> "A Transcript of Bush's Address on the Decision to Use Force in Panama," *New York Times*, December 21, 1989, ProQuest.

<sup>202</sup> "A Transcript of Bush's Address on the Decision to Use Force in Panama."

<sup>203</sup> "A Transcript of Bush's Address on the Decision to Use Force in Panama."

<sup>204</sup> "A Transcript of Bush's Address on the Decision to Use Force in Panama."

<sup>205</sup> John Quigly, "The Legality of the United States Invasion of Panama," *Yale Journal of International Law* 15, no. 276 (1990): 306–307, eYLS.

<sup>206</sup> Smith, *Talons of the Eagle*, 315–316; and Myles H. Malman, "United States v. Manuel Noriega: Never Before, Never Again," *Litigation* 28, no. 2 (Winter 2002): 14, JSTOR.

<sup>207</sup> Geoffrey S. Corn and Sharon G. Finegan, "America's Longest Held Prisoner of War," *Louisiana Law Review* 71, no. 4 (Summer 2011): 1137–1139, Nexis Uni; and "Manuel Noriega Extradited to Panama to Serve Jail Terms," BBC, December 21, 2011, <https://www.bbc.com/news/world-latin-america-16129630>.

<sup>208</sup> BBC, "Manuel Noriega Extradited to Panama to Serve Jail Terms."

## 2. The Unilaterality of Military Force

The Noriega case stands out as an extreme scenario in which the United States used its armed forces to invade another country in part to extraterritorially enforce its drug laws and serve a federal warrant. Using the military for law enforcement purposes is normally outlawed within the United States by the Posse Comitatus Act. However, leading up to the Invasion of Panama, the Justice Department issued a ruling that Posse Comitatus did not apply abroad, thus opening the door for the U.S. military to be used as a police force outside of U.S. borders.<sup>209</sup> Enforcing justice can be part of the justification for the U.S. to wage war; but regardless of the justification, the outcome of armed conflict ultimately depends on the capacity of one military against that of another. For these reasons, using military force is the most unilateral option available to arrest an individual.

The unilaterality of military force provides several principal benefits. First, military force benefits operational security and operational competency because it leaves securing custody of an individual as an operation of the U.S. armed forces, which has higher operational capacity and less legal limitations than U.S. law enforcement, foreign law enforcement, or their proxies. The Invasion of Panama and capture of Noriega were operations planned by the U.S. Navy SEALs and the U.S. Army's 75th Ranger Regiment, two of the most capable special operations forces in the world.<sup>210</sup> Noriega was located within a day and captured within a couple weeks.<sup>211</sup>

Second, authorizing the use of military force is dependent on domestic institutions and faces far fewer external setbacks compared to other options. Considering that use of military force is fundamentally an attack on the sovereignty of another state, this option is not concerned about the stance of counterpart foreign institutions like extradition or foreign prosecution are, nor is this option concerned about operational limitations agreed upon with

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<sup>209</sup> Ronald J. Ostrow, "Ruling Backs U.S. Forces' Police Role: Law Enforcement: Legal Opinion Supports Overseas Arrests. Drug Traffickers, Terrorists Would Be Targets," *Los Angeles Times*, December 17, 1989, <https://www.latimes.com/archives/la-xpm-1989-12-17-mn-1652-story.html>.

<sup>210</sup> Lawrence A. Yates, *The U.S. Military Intervention in Panama* (Washington, DC: United States Army Center of Military History, 2014), 393–401.

<sup>211</sup> Yates, 393–401.

the opposing state like irregular rendition is. Because Bush launched the Invasion of Panama with bipartisan support from the U.S. Congress and 77% support in U.S. public opinion, he faced no other setbacks.<sup>212</sup> Because military force is not only used against the wanted individual but also against his/her government, the opposing government's ability to challenge U.S. objectives against the wanted individual is severely undercut.

Third and lastly, under the right circumstances, use of military force does have the potential to garner international support. France and the United Kingdom expressed support for the U.S. Invasion of Panama when a resolution was drafted in the UN Security Council to criticize the invasion, citing the illegitimacy of Noriega's regime.<sup>213</sup> The invasion also enjoyed 87% support from Panamanian public opinion.<sup>214</sup> Both France and Panama took advantage of Noriega's capture by trying and convicting him in their domestic courts.<sup>215</sup>

However, the unilaterality of military force is also its key detriment. Though the Invasion of Panama did attract select support, it largely drew outrage from the international community. Two days after Bush announced the invasion, the OAS voted 20–1 to censure U.S. military intervention (the United States cast the only dissenting vote).<sup>216</sup> Though a similar measure failed in the Security Council, the UN General Assembly voted 75–20 to rebuke the invasion and call for the withdrawal of U.S. troops.<sup>217</sup> Though resolutions by intergovernmental organizations are not legally binding, they do erode the legitimacy of unilateral actions. The most substantive blowback came from the President of Peru, who

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<sup>212</sup> Jane Kellett Cramer, "Just Cause" or Just Politics?" *Armed Forces & Society* 32, no. 2 (January 2006): 194–196, SAGE; and George Skelton, "Americans Strongly Back Bush on Panama Invasion," *Los Angeles Times*, December 22, 1989, ProQuest.

<sup>213</sup> Paul Lewis, "Fighting in Panama: United Nations; Security Council Condemnation of Invasion Vetoed," *New York Times*, December 24, 1989, ProQuest.

<sup>214</sup> Michael R. Kagay, "The Noriega Case: Public Opinion; Panamanians Strongly Back U.S. Move," *New York Times*, January 6, 1990, ProQuest.

<sup>215</sup> Finegan, "America's Longest Held Prisoner of War," 1137–1139; and BBC, "Manuel Noriega Extradited to Panama to Serve Jail Terms."

<sup>216</sup> Amy Moleon, "OAS Calls for U.S. Withdrawal From Panama," *Associated Press*, December 22, 1989, <https://apnews.com/article/856aa8b4693cee30fd511a7fecf7068>.

<sup>217</sup> Victoria Graham, "Urgent: General Assembly Condemns Panama Invasion 75–20," *Associated Press*, <https://apnews.com/article/f968dc18cc41ccc76a33b43baf4018b4>.

suspended counternarcotics cooperation with the United States and recalled Peru's Ambassador from Washington.<sup>218</sup>

Use of military force provokes negative responses not only because it is an attack on the sovereignty of one state, but also because it represents the United States' ability and potential willingness to do the same against other states. The more unilateral an action is, the more fear it provokes amongst other states and the more potential there is for it to come at the cost of bilateral cooperation. Since military force is the most unilateral action, it must be used selectively by weighing the benefit of maximizing capability against one state with the cost of potential lost cooperation with other states.

## **E. CONCLUSION**

In order from the least unilateral option to the most, the United States has four options to circumvent extradition in pursuit of prosecution against foreign officials: foreign prosecution, arrest of opportunity, irregular rendition, and use of military force. The United States avoids foreign prosecution in Latin America for the same reason it circumvents extradition: high corruption and low state capacity in many parts of the region. As such, the United States most commonly exercises arrests of opportunity—arrests made by U.S. officials on suspects entering a U.S. jurisdiction—against Latin American officials because it is legally sound, pragmatic, and expedient. Though arrests of opportunity carry the risk of diplomatic blowback, the legal benefits often outweigh these risks.

Exercising the more forceful options will almost guarantee diplomatic blowback. The United States' controversial history of irregular rendition in Latin America has already resulted in its illegal label by the OAS and individual Latin American states, making it an unrealistic and imprudent option. Furthermore, although use of military force maximizes U.S. capacity to capture a wanted individual, it is an outright attack on the sovereignty of another state that provokes mistrust in the United States and damages the prospect of international cooperation.

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<sup>218</sup> "The Invasion of Panama: Peru's Brash President Defies Bush on Panama," *Los Angeles Times*, December 27, 1989, ProQuest.

## **IV. TURNING A BLIND EYE**

The final option that the United States can take to balance justice and diplomacy when it comes to confronting corrupt Latin American officials is not to pursue prosecution at all. The media commonly refers to the United States' intentional ignorance of issues in other countries that contradict its espoused ideals as "turning a blind eye." In this thesis, this term refers to instances in which the United States condones high-level corruption in Latin America by purposely overlooking it. Turning a blind eye is an option that the United States reserves in its foreign policy throughout the world and often exercises for the overriding interest of national security. Because the War on Drugs remains a significant security interest for U.S. law enforcement agencies in Latin America, the United States has demonstrated a willingness to turn a blind eye if prosecuting high-level corruption detracts from the broader objective of combating illicit drug flows.

Choosing not to prosecute allows the United States to maintain arrangements for U.S. law enforcement presence abroad and extraterritorial powers, whereas prosecuting a government official could create the impression that the U.S. counternarcotics mission is targeting a foreign state and come at the cost of the cooperation needed to keep offices open and the mission running. Although prosecuting selectively enables the United States to act based on outcomes that best serve U.S. security interests, the United States uphold the principle of justice by pursuing prosecution in most cases. Decisions made not to prosecute should only be made under extraordinary circumstances and behind closed doors.

### **A. THE BLIND EYE IN U.S. FOREIGN POLICY**

Understanding the tradeoffs involved with U.S. foreign policy in other conflicts provides insight on why the United States would opt for inaction on corrupt officials in Latin America. Overlooking certain injustices to support the War on Drugs is comparable to similar actions during the Cold War and War on Terror. As a preeminent liberal democracy, the United States faces an expectation to uphold ideals such as democracy, human rights, and the rule of law; however, upholding these ideals comes with tradeoffs.

When these tradeoffs encroach on the U.S. national security interest, the United States often chooses to turn a blind eye.

During the Cold War, the United States tolerated human rights and democracy violations throughout Latin America for the broader interest of containing communism. Actions such as Operation Condor of the 1970s demonstrated the United States' willingness to support right-wing military dictatorships as long as it prevented left-wing communist sympathizers from gaining power, even if they were elected democratically.<sup>219</sup> Likewise, during the War on Terror, the United States maintained alliances with countries such as Saudi Arabia and Pakistan, despite fundamental differences on a range of issues including human rights and passive sponsorship of terrorism, as long as they met U.S. geostrategic and logistical needs for the War on Terror.<sup>220</sup>

In both the Cold War and War on Terror, the United States also acted against its value in the rule of law and dropped prosecutions of high crimes in favor of broader security interests. During the Cold War, the United States dropped espionage charges against U.S.-held Soviet spies to exchange them for Soviet-held U.S. agents through a series of "spy exchanges."<sup>221</sup> Recuperating personnel on both sides contributed to the larger interest of de-escalation to help prevent the outbreak of armed conflict. Likewise, during the War on Terror, the United States waived the prosecutions of five high-level Taliban detainees and released them in exchange for a Taliban-held U.S. soldier. This not only recuperated personnel, but was also intended to facilitate peace negotiations with the Taliban so the United States could withdraw its forces from Afghanistan.<sup>222</sup>

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<sup>219</sup> Peter Kornbluh, *The Pinochet File: A Declassified Dossier on Atrocity and Accountability* (New York: The New Press, 2013), 331–333.

<sup>220</sup> "Turning a Blind Eye: Passive Sponsorship of Terrorism," Wilson Center, October 28, 2004, <https://www.wilsoncenter.org/event/turning-blind-eye-passive-sponsorship-terrorism>.

<sup>221</sup> Bernard Schwartz, "U.S. Releases 4 and East Bloc 25 in Spy Exchange on Berlin Bridge," *New York Times*, June 12, 1985, <https://www.nytimes.com/1985/06/12/world/us-releases-4-and-east-bloc-25-in-spy-exchange-on-berlin-bridge.html>.

<sup>222</sup> Missy Ryan, "Family Pleads for U.S. Prisoner at Heart of Afghan Peace Push," *Reuters*, May 9, 2012, <https://www.reuters.com/article/us-usa-afghanistan-prisoner-idUSBRE8481BI20120510>.

Turning a blind eye in other areas of U.S. foreign policy is relevant because decisions *not* to act are often made behind closed doors, manifest in no observable action, and are only unveiled following the passage of time or declassification of events. Examples from the Cold War and the War on Terror provide parallels to the War on Drugs to demonstrate national security is typically the justification or threshold at which the United States acts against its espoused ideals.

## **B. TOLERATING CORRUPTION IN LATIN AMERICA**

In Latin America, turning a blind eye reflects the tradeoff between punishing corruption and maintaining the bilateral cooperation needed to fight the War on Drugs. Whereas options mentioned in previous chapters balance justice and diplomacy by punishing corruption at the potential expense of damaging cooperation, turning a blind eye undertakes the opposite approach: it forgoes punishment at the benefit of maintaining the cooperation needed to keep arrangements in place to disrupt narcotrafficking flows and prosecute other narcotraffickers. At its height, the War on Drugs largely defined U.S. national security interests in Latin America during 20th century. Although the focus of U.S. national security has shifted elsewhere since then, the War on Drugs continues to be a security priority in Latin America for U.S. law enforcement agencies. As such, United States has looked the other way on corruption when doing so benefitted broader counternarcotics objectives.

Combating the threat of international drug trafficking has been a part of the U.S. National Security Strategy (NSS) since its inception in 1987.<sup>223</sup> The NSS allows for U.S. President to outline his or her top national security priorities. In every NSS published, the threat of narcotrafficking has been explicitly tied to U.S. security interests in the Western Hemisphere and Latin America.<sup>224</sup> Moreover, the primary objective of U.S. law

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<sup>223</sup> “National Security Strategy,” Office of the Secretary of Defense, accessed October 26, 2021, <https://history.defense.gov/Historical-Sources/National-Security-Strategy>.

<sup>224</sup> Office of the Secretary of Defense, “National Security Strategy.”

enforcement in Latin America is to reduce the flow of drugs from the region into the United States.

Due to the importance of the counternarcotics mission to U.S. national security interests in Latin America, turning a blind eye is an option that the United States exercises as part of the War on Drugs on a wide range. At the tactical level, DEA agents accept that corruption is endemic in the region and regularly overlook low-level corruption by their Latin American counterparts.<sup>225</sup> In countries where corruption is an accepted norm, DEA agents prefer to work with corrupt officials over non-corrupt officials because they are more capable counternarcotics operators.<sup>226</sup> This reflects decisions made at lower levels to overlook, and even leverage, corruption in favor of impeding drug flows.

At the strategic level, the United States even ignores its own laws governing foreign aid if it hinders security objectives. In 1986, the U.S. Congress introduced the Drug Certification process in Section 490(b) of the Foreign Assistance Act, requiring the U.S. President to “certify” that recipient countries of U.S. counternarcotics aid are doing their fair share to combat drug trafficking.<sup>227</sup> In 1997, Congress also passed the Leahy Law, which denies U.S. security assistance to countries with human rights violations.<sup>228</sup> Despite this, Mexico has never been decertified despite multiple instances of drug-related, high-level corruption in the 1980s and 1990s and being a key source of cocaine, heroin, and marijuana.<sup>229</sup> Additionally, President Bill Clinton waived five of Colombia’s six human rights conditions to certify Colombia in 2000 and keep the flow of U.S. aid to Colombia

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<sup>225</sup> Nadelmann, “The DEA in Latin America: Dealing with Institutionalized Corruption,” 8–11.

<sup>226</sup> Nadelmann, 8–11.

<sup>227</sup> K. Larry Storrs, *Mexican Drug Certification Issues: U.S. Congressional Action, 1986–2002*, CRS Report No. 98–174 F (Washington, DC: Congressional Research Service, 2002), 1, [https://digital.library.unt.edu/ark:/67531/metacrs2554/m1/1/high\\_res\\_d/98-174f\\_2002Oct22.pdf](https://digital.library.unt.edu/ark:/67531/metacrs2554/m1/1/high_res_d/98-174f_2002Oct22.pdf).

<sup>228</sup> U.S. Department of State, *Introduction to Leahy Vetting Policy* (Washington, DC: U.S. Department of State, 2019), 8, [https://www.state.gov/wp-content/uploads/2020/06/PP410\\_INVEST\\_v2.1.pdf](https://www.state.gov/wp-content/uploads/2020/06/PP410_INVEST_v2.1.pdf).

<sup>229</sup> Peter Reuter, “A Certifiable Drug Policy,” *Washington Post*, August 23, 2000, <https://www.washingtonpost.com/archive/opinions/2000/08/23/a-certifiable-drug-policy/18448995-7004-488a-b2f4-41b1ba68083b>.

going as part of Plan Colombia.<sup>230</sup> Clinton explicitly stated that this was necessary in the name of the “national security interest.”<sup>231</sup> Even efforts to codifying ideals into law can be vulnerable to overriding interests.

The most precise example of favoring diplomacy over justice with corrupt Latin American officials is when the United States sacrifices the opportunity to prosecute them. In 1983, the Federal Bureau of Investigation and the DEA were planning to lure Bahamian cabinet minister Kendal Nottage into international waters to arrest him for narcotrafficking and money laundering.<sup>232</sup> However, the U.S. Ambassador to the Bahamas, Lev Dobriansky, terminated the operation out of fear that the Bahamas would retaliate by ending U.S. Navy submarine testing in the country.<sup>233</sup>

Cases where the United States chooses not to prosecute a foreign official are rarely disclosed due to diplomatic implications. The termination of the Nottage operation was only disclosed by Dobriansky after he left office and it became more publicly known that Nottage was corrupt.<sup>234</sup> Nottage was indicted for narcotrafficking and money laundering by the District of Massachusetts in 1989.<sup>235</sup> Because instances where the United States turns a blind eye by forgoing the prosecution of foreign officials rarely manifests publicly, the 2020 case of Salvador Cienfuegos is striking because his dismissal unfolded in the public eye as it was occurring.

## **1. Salvador Cienfuegos**

The narrative of Salvador Cienfuegos’s vindication started when U.S. law enforcement officials were conducting electronic surveillance on Mexican drug cartels and

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<sup>230</sup> Justin Delacour, “Plan Colombia: Rhetoric, Reality, and the Press,” *Social Justice* 27, no. 4 (Winter 2000): 63, JSTOR.

<sup>231</sup> Delacour, 63.

<sup>232</sup> Nadelmann, “The DEA in Latin America: Dealing with Institutionalized Corruption,” 32.

<sup>233</sup> U.S. Senate Committee on Foreign Relations, *Drugs, Law Enforcement, and Foreign Policy* (Washington, DC: U.S. Senate, 1988), 25, <https://nsarchive2.gwu.edu/NSAEBB/NSAEBB113/north06.pdf>.

<sup>234</sup> U.S. Senate Committee on Foreign Relations, *Drugs, Law Enforcement, and Foreign Policy*, 25.

<sup>235</sup> Sonni Efron, “Seven People Indicted with Alleged Drug, Money Laundering Scheme with PM,” *Associated Press*, March 30, 1989, <https://apnews.com/article/40a6c67eae74fa04a5483b0db743a0ff>.

learned of an unknown high-level cartel leader with the alias “El Padrino.”<sup>236</sup> Further investigation revealed this character to be Salvador Cienfuegos, a retired Mexican Army General who served as Mexico’s former Secretary of National Defense from 2012 to 2018. In October 2020, the DEA arrested Cienfuegos when he and his family arrived at Los Angeles International Airport for vacation.<sup>237</sup> This marked one of the highest-ranking Mexican officials ever arrested by U.S. law enforcement.<sup>238</sup>

The Justice Department charged Cienfuegos with exploiting his position as the National Defense Secretary to assist H-2, a Mexican drug cartel, in money laundering and trafficking “thousands of kilograms of cocaine, heroin, methamphetamine, and marijuana” into the United States.<sup>239</sup> In the interest of operational security, the DOJ and DEA investigated and arrested Cienfuegos without notifying or coordinating with the Mexican government.<sup>240</sup>

The response of the Mexican government was initially agnostic but quickly turned incendiary. The day after Cienfuegos’s arrest, Mexican President Andres Manuel Lopez Obrador acknowledged the U.S. case and stated that Mexico would suspend any other Mexican official corruptly involved with Cienfuegos.<sup>241</sup> However, a few weeks later, Lopez Obrador began mounting diplomatic pressure against the United States to extradite Cienfuegos back to Mexico for foreign prosecution and reportedly threatened to expel all DEA agents stationed in Mexico over the issue.<sup>242</sup>

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<sup>236</sup> Ahmed and Feuer, “Who Was ‘El Padrino,’ Godfather to Drug Cartel? Mexico’s Defense Chief, U.S. Says.”

<sup>237</sup> Ahmed and Feuer.

<sup>238</sup> Grant, “Salvador Cienfuegos: From ‘Godfather’ on Trial to Free Man.”

<sup>239</sup> United States v. Salvador Cienfuegos Zepeda (Detention Memo), 19–366 (CBA), 1–7, (EDNY, 2020), [https://www.courthousenews.com/wp-content/uploads/2020/10/Cienfuegos.Detention.Memo\\_.pdf](https://www.courthousenews.com/wp-content/uploads/2020/10/Cienfuegos.Detention.Memo_.pdf).

<sup>240</sup> Cienfuegos Zepeda, 19–366 (CBA) at 1–7; and Grant, “Salvador Cienfuegos: From ‘Godfather’ on Trial to Free Man.”

<sup>241</sup> “Confidencia de Prensa del Presidente Andrés Manuel López Obrador del 16 de Octubre de 2020,” Gobierno de México, October 22, 2020, <https://www.gob.mx/presidencia/articulos/version-estenografica-conferencia-de-prensa-del-presidente-andres-manuel-lopez-obrador-del-16-de-octubre-de-2020?idiom=es>.

<sup>242</sup> Feuer and Kitroeff, “Mexico, Outraged at Arrest of Ex-Official, Threatened to Toss U.S. Agents.”

The Justice Department backtracked in November 2020. U.S. Attorney General Bill Barr and Mexican Attorney General Alejandro Gertz Manero released a joint statement announcing that the Justice Department would dismiss all charges against Cienfuegos and hand over evidence to support an investigation by Mexican authorities.<sup>243</sup> The U.S. prosecutor of the case invoked the rarely used Rule 48(a), which allows the government to dismiss a case for any reason as long as it has the defendant's consent, to dismiss all charges against Cienfuegos due to "sensitive and important foreign policy considerations."<sup>244</sup>

Diplomatic fallout ensued. Within the following two months, Manero cleared Cienfuegos of all charges, Mexico's Congress passed a law limiting the operations and immunity of U.S. law enforcement agents in Mexico, and Lopez Obrador labeled U.S. evidence and charges against Cienfuegos as "fabricated" and politically motivated.<sup>245</sup> Lopez Obrador also publicly released an unredacted version of a 751-page evidence file that the United States shared with Mexico but only released a heavily censored version of the Mexican case file exonerating Cienfuegos.<sup>246</sup>

The United States expressed disappointment in Mexico's decision to absolve Cienfuegos and accused Mexico of violating the Treaty on Mutual Legal Assistance by releasing shared evidence.<sup>247</sup> Additionally, the United States emphasized that Cienfuegos

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<sup>243</sup> "Joint Statement by Attorney General of the United States William P. Barr and Fiscalía General of Mexico Alejandro Gertz Manero," U.S. Department of Justice, November 17, 2020, <https://www.justice.gov/opa/pr/joint-statement-attorney-general-united-states-william-p-barr-and-fiscal-general-mexico>.

<sup>244</sup> *United States v. Salvador Cienfuegos Zepeda* (Motion to Dismiss), 19–366 (CBA), 1–4, (EDNY, 2020), <https://www.courthousenews.com/wp-content/uploads/2020/11/Cienfuegos-motion-to-dismiss.pdf>

<sup>245</sup> Mark Stevenson "Mexico's Congress Approves Law Limited Foreign Agents," *Associated Press*, December 15, 2020, <https://apnews.com/article/mexico-legislation-william-barr-bills-drug-cartels-d43a3baf81b2ebef6d4f46cf4b0f534d>; and Christopher Sherman and Mark Stevenson, "Mexico Says U.S. 'Fabricated' Charges, Releases Evidence," *Associated Press*, January 15, 2021, <https://apnews.com/article/mexico-elections-crime-arrests-drug-trafficking-a54eb46084fd31fa06f5a840eafafa86>.

<sup>246</sup> "Mexico Publishes Heavily Edited Probe of Exonerated General," *Associated Press*, January 17, 2021, <https://apnews.com/article/international-news-mexico-city-mexico-154ead13f5d9addde5ef266434b36e5>.

<sup>247</sup> Mark Katkov, "Mexico Will Not Charge Former Defense Chief with Drug Trafficking," NPR, January 15, 2021, <https://www.npr.org/2021/01/15/957192690/mexico-will-not-charge-former-defense-chief-with-drug-trafficking>; and Kate Linthicum, "U.S. Rebukes Mexico for Releasing Evidence in Drug Case Against Former Defense Minister," *Los Angeles Times*, January 16, 2021, <https://www.latimes.com/world-nation/story/2021-01-16/u-s-rebukes-mexico-evidence-drug-case-former-defense-minister>.

was dismissed without prejudice in the United States, meaning that the Justice Department reserves the right to re-open prosecution against him at a later date.<sup>248</sup> As of October 2021, the United States has not mentioned or re-visited the Cienfuegos case.

*a. The Impact of Political Circumstances*

The Cienfuegos case is remarkable because it diverged into an example of turning a blind eye due to overwhelming political circumstances. As with many other cases involving foreign officials, the Cienfuegos case began as an arrest of opportunity in the interest of operational security and legal pragmatism. In a Justice Department memo, the case's prosecutor justified Cienfuegos's arrest in Los Angeles and requested his detention in the United States on three grounds: first, he rarely visited the United States; second, extradition could take years to complete; and third, he posed a flight risk due to deep connections to the H-2 cartel and Mexican government.<sup>249</sup> These grounds explicitly state the United States' preference for arrests of opportunity over extradition and reflect the United States' mistrust in Latin American governments' ability to arrest and detain politically influential figures.

However, any gains made from Cienfuegos's arrest were negated when the United States was pressured into exonerating him due to diplomatic blowback, which derived from political circumstances in two domains: bilateral relations between the United States and Mexico and Mexican domestic politics. Within U.S.-Mexico bilateral relations, the most immediate factor affecting Cienfuegos's outcome was the relationship between Lopez Obrador and both the outgoing and incoming U.S. presidents.

Concurrent to the Cienfuegos case in late 2020, the United States underwent presidential elections that resulted in the loss of incumbent Donald Trump and the victory of former Vice President Joe Biden. Although Lopez Obrador and Trump both campaigned on antagonistic rhetoric against each other's states, the two developed a positive working

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<sup>248</sup> Katkov; and Linthicum.

<sup>249</sup> *Cienfuegos Zepeda* (Motion to Dismiss), 19–366 (CBA) at 1–4.

relationship while in office based on not intervening in each other's domestic affairs and their shared preference of nationalism and sovereignty.<sup>250</sup>

However, the incoming Biden administration had announced the United States' return to the world stage and was perceived as more likely to adopt foreign policies involving engagement and intervention with Mexico.<sup>251</sup> As such, Lopez Obrador was one of the last world leaders to acknowledge Biden's victory and reminded him of Mexico's appreciation of the Trump administration.<sup>252</sup> This fueled speculation that Ciefuegos's dropped charges were a way for Lopez Obrador to set a tone of non-intervention with the incoming Biden administration or even a quid pro quo between Lopez Obrador and Trump.<sup>253</sup>

Within Mexican domestic politics, the most significant factor was Lopez Obrador's relationship with the Mexican Army and Air Force, also known by its Spanish acronym as SEDENA. Lopez Obrador became reliant on SEDENA while in office because it was one of the few capable organizations in the Mexican government. Under Lopez Obrador, SEDENA saw its budget increase by nearly ten times; took over many civilian government leadership positions; and became responsible for many of Lopez Obrador's civil construction, domestic development, and public security projects.<sup>254</sup> Lopez Obrador's

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<sup>250</sup> Sabrina Rodriguez, "Why Mexico's President is Buddies with Trump Despite Years of Insults," *Politico*, July 7, 2020, <https://www.politico.com/news/2020/07/07/mexico-president-andres-manuel-lopez-obrador-friends-trump-350974>.

<sup>251</sup> Natalie Kitroeff "Once a Trump-Basher, Mexico's Leader Misses Him Already," *New York Times*, January 18, 2021, <https://www.nytimes.com/2021/01/18/world/americas/mexico-trump-amlo.html>.

<sup>252</sup> Kitroeff.

<sup>253</sup> "Mexico's President Sends Letter Congratulating Biden," *Los Angeles Times*, December 15, 2020, <https://www.latimes.com/world-nation/story/2020-12-15/andres-manuel-lopez-obrador-congratulates-biden>; and Joy Díaz and Laura Rice, "Trump, the General and the Mexican President: The Politics of AMLO's Resistance to Recognizing Biden," *Texas Standard*, November 24, 2020, <https://www.texasstandard.org/stories/trump-the-general-and-the-mexican-president-the-politics-of-amlos-resistance-to-recognizing-president-elect-biden>.

<sup>254</sup> "Crece 'Guardadito' de Sedena ¡1000%!" *Reforma*, February 7, 2021, <https://www.reforma.com/crece-guardadito-de-sedena-1000/ar2120375>; and Isabella Cota, "El Poder del Ejército como Agente Económico Lastra el Crecimiento de Uno de Los Motores de México," *El País*, July 4, 2020, <https://elpais.com/mexico/economia/2020-07-05/el-poder-del-ejercito-como-agente-economico-lastra-el-crecimiento-de-uno-de-los-motores-de-mexico.html>.

relationship with SEDENA made it necessary for him to maintain a good relationship with its leadership.

Although Lopez Obrador campaigned on anti-corruption and frequently pointed at his predecessors as archetypes of corruption, his reliance on SEDENA made it preferable to protect Cienfuegos rather than punish him. Cienfuegos—whose career began at age 15, spanned multiple Mexican presidencies, and culminated in a cabinet membership under Peña Nieto—was still a revered figure in SEDENA and served as an advisor to the Lopez Obrador administration.<sup>255</sup> After learning of Cienfuegos’s arrest, SEDENA leaders were reportedly outraged and urged the Lopez Obrador administration to retaliate against the United States.<sup>256</sup> Allowing the United States to go through with Cienfuegos’s prosecution would have counteracted Lopez Obrador’s interest in maintaining military support.

Ultimately, political circumstances forced U.S. law enforcement’s hand in turning a highly visible arrest of opportunity into a public manifestation of turning a blind eye. Lopez Obrador’s reliance on SEDENA provided him with the motivation to retaliate, and his amicable relationship with Trump provided him with the means to leverage the Trump administration to overrule the DOJ and DEA’s institutional interest in prosecuting Cienfuegos. This provides a key distinction between the United States’ arrest of Cienfuegos and that of other former Mexican officials such as Garcia Luna. Whereas Garcia Luna’s arrest resulted in minimal diplomatic backlash, the multitude of political circumstances surrounding Cienfuegos’s arrest enabled Lopez Obrador to successfully retaliate against the United States. Lopez Obrador could have endorsed the U.S. prosecution of Cienfuegos as an example of corruption under predecessor administrations and a victory on his anti-corruption platform; however, external political factors made it more favorable for him to act on denouncing Cienfuegos’s arrest rather than praising it.

Because turning a blind eye is a decision best made behind closed doors, evaluating political circumstances should be a critical factor in how the United States considers

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<sup>255</sup> “Cienfuegos is Advisor to Sedena in AMLO’s Administration,” *Yucatan Times*, January 21, 2021, <https://www.theyucatanimes.com/2021/01/cienfuegos-is-advisor-to-sedena-in-amlos-administration>.

<sup>256</sup> Grant, “Salvador Cienfuegos: From ‘Godfather’ on Trial to Free Man.”

options to pursue prosecution against foreign officials. In retrospect, evaluating the political implications of arresting Cienfuegos could have offered that there was high potential for diplomatic fallout. In turn, this insight could have offered further options and contingencies such as arranging to arrest Cienfuegos after the U.S. presidential transition, pressuring Mexico to accept counternarcotics cooperation in exchange for Cienfuegos's extradition back to Mexico, or spotlighting Mexico's exoneration of Cienfuegos as contradictory to Lopez Obrador's anti-corruption platform.

### **C. PRESERVING OVERRIDING INTERESTS**

Turning a blind eye on prosecutions is that it allows the United States to take a utilitarian approach towards maximizing outcomes based on national interests. As was the case in Cold War and War on Terror, the United States often looks the other way when it benefits national security. Since it largely defines national security in Latin America as the War on Drugs and commonly faces the issue of Latin American officials involved in narcotrafficking, the United States can avoid prosecuting officials when doing so detracts from broader counternarcotics objectives.

Because prosecuting narcotraffickers and maintaining bilateral cooperation are both necessary elements of the War on Drugs, the United States may have to choose between one or the other when confronting Latin American officials corrupted by the drug trade. This tradeoff also exists in competing institutional interests within the U.S. bureaucracy. Whereas the State Department has a vested interest in fostering cooperation and an aversion to embarrassing foreign partners, the Justice Department has an expectation to insulate criminal prosecutions from political influence.<sup>257</sup>

Turning a blind eye manages these tradeoffs by favoring diplomacy over justice and avoiding prosecution and the potential diplomatic retaliation that comes with it altogether. There are limited circumstances in which the Justice Department can support this by effectively excusing a crime in the name of an overriding interest. Daniel Alonso,

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<sup>257</sup> Nadelmann, "The DEA in Latin America: Dealing with Institutionalized Corruption," 18; and Alonso et al., "DOJ's Role in Fighting Corruption, Drug Trafficking and Money Laundering in Latin America."

a former U.S. prosecutor for the DOJ's Eastern District of New York—one of the most heavily involved offices in transnational narcotics trafficking cases—revealed that not prosecuting in favor of national security concerns is an option on the table, albeit it should only be used in extraordinary circumstances to prevent judicial degradation.<sup>258</sup>

In the case of Cienfuegos, his release from the United States marked the point at which the United States chose to turn a blind eye. Although U.S. authorities would have preferred that their Mexican counterparts followed through with prosecution in Mexico, the fact that they conducted an arrest of opportunity and took extensive security measures to insulate information from Mexico to begin with demonstrated its awareness of the potential for Cienfuegos's exoneration under Mexican authorities.

The U.S. decision to drop the Cienfuegos case reflects that the War on Drugs itself trumps the prosecution of a single actor. When Mexico presented the United States with a tradeoff between convicting one of its top officials or maintaining its cooperation with U.S. law enforcement, the United States chose the latter. It did so because maintaining a DEA presence in Mexico is imperative to the objective of decreasing drug flows, and the ability to disrupt narcotics trafficking operations beyond U.S. borders outweighed the opportunity to incarcerate one of Mexico's former top officials.

Notwithstanding the external political circumstances involved with the Cienfuegos case, the tradeoff between prosecuting a high-level corrupt actor or maintaining the status quo to continue prosecuting multiple lower-level traffickers is a reality for DEA operations in Latin America. Since the height of its counternarcotics mission in the 1980s, the DEA has had to accept that high-level corruption is common in the region and that there would always be a handful of "untouchable" officials in order to maintain bilateral cooperation.<sup>259</sup> In other words, keeping overseas offices open and limiting the scope of the drug mission was preferable to no office or mission at all.

Ultimately, turning a blind eye can be a beneficial option if prosecuting a corrupt Latin American official is likely to provoke substantial diplomatic retaliation from a state

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<sup>258</sup> Alonso et al.

<sup>259</sup> Nadelmann, "The DEA in Latin America: Dealing with Institutionalized Corruption," 18–20.

where the United States holds significant security interests. Having this option on the table enables the United States to act selectively based on what outcomes best serve U.S. national security.

#### **D. DAMAGED OPTICS**

However, picking and choosing when to prosecute based on ulterior motives other than the principle of justice bears the perception that the United States is willing to tolerate high crimes depending on who you are. Excusing corrupt Latin American officials undermines the expectation that Latin America should enforce its own laws, U.S. judicial reform and good governance efforts in Latin America, and the credibility of the United States to intervene on principles in the future.

The U.S. decision to clear Cienfuegos drew widespread criticism from U.S. observers. Vanda Felbab-Brown of the Brookings Institution offered that letting Cienfuegos go enables Mexico to continue to be an untrustworthy security partner and insisted that the Department of Justice should continue circumventing extradition to target high-level criminals.<sup>260</sup> Ryan Berg of the American Enterprise Institute warned that the United States' decision demonstrates a lack of commitment to anti-corruption and urged the United States to retaliate against Mexico's exoneration of Cienfuegos.<sup>261</sup> Likewise, regional experts and former DEA officials highlight that the outcome of the Cienfuegos case has been counterproductive to the rule of law.<sup>262</sup>

Although the Mexican government rejected Cienfuegos's arrest in the United States, parts of Mexican society saw it as a moment of accountability. When Cienfuegos served as National Defense Secretary, he gained a reputation for shielding SEDENA from

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<sup>260</sup> Felbab-Brown, "The US-Mexico Security Relationship in 2021."

<sup>261</sup> Berg, "What Does the Arrest of General Cienfuegos Mean for the Future of US-Mexico Security Cooperation?"; and Berg, "The US-Mexico Security Relationship Enters a Deep Freeze."

<sup>262</sup> Jonathan Stempel and Diana Beth Solomon, "U.S. Drug Charges Against Former Mexican Defense Minister are Dropped," *Reuters*, November 18, 2020, <https://www.reuters.com/article/us-usa-mexico-corruption/u-s-drug-charges-against-former-mexican-defense-minister-are-dropped-idUSKBN27Y20C>; and "Arrest of Top Mexico Defense Official Highlights Urgent Need to Fight Corruption," Washington Office on Latin America, October 16, 2020, <https://www.wola.org/2020/10/top-mexico-defense-official-arrest-corruption-fight>.

accountability for corruption and human rights violations.<sup>263</sup> In 2014, Cienfuegos refused to allow investigations into SEDENA's alleged involvement in the forced disappearance of 43 teachers in Iguala and extrajudicial killings of 22 drug suspects in Tlatlaya.<sup>264</sup> Despite the fact that Cienfuegos was arrested for narcotrafficking crimes against the United States, Mexicans gathered outside of the Eastern District of New York courthouse—where Cienfuegos's hearings took place—to protest the U.S. decision to drop his charges and stressed that the Mexican government could not be trusted with prosecution.<sup>265</sup>

Reactions to the Cienfuegos case only manifested because the United States turned a blind eye in public, which reflects the importance of turning a blind eye only under exceptional circumstances and behind closed doors. If the United States turns a blind eye on justice too openly or too often, then it sets a precedent that wanted individuals can escape the U.S. justice system if they are important or privileged. This not only degrades the strength of the U.S. justice system but also weakens U.S. credibility in the international community as an exemplar of justice, thus diminishing U.S. foreign policy options because future attempts to intervene internationally based on justice could be met with criticism of hypocrisy.

## **E. CONCLUSION**

In this thesis, turning a blind eye refers to when the United States opts not to pursue prosecution against a corrupt Latin American official in favor of an overriding national security interest. Because Latin American states are less likely to cooperate with U.S. counternarcotics efforts when those efforts target their state officials, there may be instances in which the United States has to choose between pursuing prosecution and

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<sup>263</sup> Washington Office on Latin America, "Arrest of Top Mexico Defense Official Highlights Urgent Need to Fight Corruption."

<sup>264</sup> Dave Agren, "Former Mexico Defence Minister Arrested on Drug Charges in Los Angeles," *The Guardian*, October 16, 2020, <https://www.theguardian.com/world/2020/oct/16/mexico-former-defence-minister-salvador-cienfuegos-arrested-drug-charges>; and Sonia Corona, "Mexico's Defense Chief Rejects Wrongdoing in Civilian Massacre," *El Pais*, February 20, 2015, [https://english.elpais.com/elpais/2015/02/20/inenglish/1424442625\\_945153.html](https://english.elpais.com/elpais/2015/02/20/inenglish/1424442625_945153.html).

<sup>265</sup> Nina Pullano, "NY Judge Agrees to Kick High-Profile Drug Prosecution to Mexico," Courthouse News Service, November 18, 2020, <https://www.courthousenews.com/ny-judge-agrees-to-kick-high-profile-drug-prosecution-to-mexico>.

maintaining cooperation when confronting the issue of Latin American officials corrupted by the drug trade. Having the available option of legal inaction allows the United States to act based on whichever outcome is more favorable to the broader security objective of decreasing U.S.-Latin American drug flows.

However, careful consideration must be given to political circumstances when determining which option to take. The 2020 case of Salvador Cienfuegos began as an attempt by U.S. authorities to prosecute by making an arrest of opportunity, but external political factors led Mexico to exercise diplomatic retaliation by threatening to expel all DEA agents in Mexico. The United States' lack of political foresight forced it to turn a blind eye by exonerating Cienfuegos and drew tremendous criticism that it was tolerating corruption. This underscores that turning a blind eye is an option best taken behind closed doors and only under extraordinary circumstances because turning a blind eye too openly or too often diminishes U.S. credibility in the ideal of justice.

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## **V. KEY FINDINGS AND RECOMMENDATIONS**

This thesis was driven by the question of how the United States can balance justice and diplomacy when pursuing prosecution against corrupt Latin American government officials. This question is relevant to the U.S. counternarcotics mission because combating drug flows requires both bringing narcotraffickers to justice and maintaining diplomatic cooperation with the Latin American states where drugs originate from or flow through. When those states' officials are corrupted by the influence of drug cartels, diplomacy and justice may be mutually exclusive interests because prosecuting a foreign official may alienate his/her government and come at the cost of its cooperation.

Assessing this question revealed that the United States has five options to pursue prosecution against foreign officials. In order from the least to the most forceful option, these options are foreign prosecution, request extradition, arrest of opportunity, irregular rendition, and use of military force. These options can essentially be divided between the option to request extradition, which is covered in Chapter II, and the options to circumvent extradition, which is covered in Chapter III. There is also an additional sixth option of not pursuing prosecution at all, which is covered in Chapter IV. Comparing these options underscores the importance of having the United States deliver a consistent message against corruption in Latin America, which can be done by reserving less forceful options for reliable partners, exercising more forceful options on unreliable partners, and only ignoring prosecution under extreme circumstances.

### **A. EXTRADITION**

Although extraditing other narcotraffickers to the United States for prosecution is a major element of the War on Drugs, this is an unrealistic option to prosecute Latin American officials due to heightened vulnerabilities in operational security. Extradition—which is the process to surrender an individual from one country to another for trial or punishment—is a lengthy and bureaucratic process comprising multiple layers of bilateral

coordination and approval.<sup>266</sup> This, coupled with the fact that government officials are inherently politically influential and connected to the bureaucracy, enables the potential for officials to become aware of their extradition requests before they are arrested and leverage their positions to compromise the extradition process or evade arrest. Additionally, extradition requests commonly take more than a year to complete and do not guarantee extradition itself.<sup>267</sup>

Due to the lack of examples in which the United States requested extradition on Latin American officials, examining cases of high-level drug lords with de facto political powers offers what could manifest if the United States did attempt to extradite Latin American officials. Major operational security concerns manifested in both the cases of Jamaica's Christopher Coke and Colombia's Pablo Escobar. The U.S. extradition request on Coke resulted in a ten-month-long delay and another month-long gun battle and manhunt before Coke was extradited. U.S. attempts to extradite Escobar resulted in his successful campaign to outlaw extradition in Colombia, his house arrest to a personally built mansion, and his escape from Colombian authorities and death before the United States could gain his custody. Both cases were supported by strong suspicions and evidence that Coke and Escobar had access to inside information from their respective governments.<sup>268</sup>

Extradition can be an instrument of diplomacy if the United States' primary intended outcome is not prosecution. On the one hand, requesting extradition can demonstrate the United States' respect for another state's sovereignty and adherence to international norms since extradition is codified through bilateral treaties and international conventions. This is relevant due to the United States' legacy of political interventionism

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<sup>266</sup> U.S. Department of Justice, "9-15.000 – International Extradition and Related Matters."

<sup>267</sup> Edmonds-Poli and Shirk, "Extradition as a Tool for International Cooperation: Lessons from the U.S.-Mexico Relationship," 221–222; and U.S. Department of Justice, "Frequently Asked Questions Regarding Extradition."

<sup>268</sup> Esposito, Schone, and Martinez, "U.S. Report: Jamaican Prime Minister is 'Known Criminal Affiliate' Of Hunted Drug Lord"; Schwartz, "Jamaica's Former P.M. Opens Up About Coke Arrest, Extradition"; and Wallace-Wells, "How America Lost the War on Drugs."

in Latin America. On the other hand, extradition requests can be part of a larger campaign to maximize political pressure against another state by delegitimizing its officials as criminals and its government as corrupt. Nevertheless, the United States often avoids extraditing Latin American officials because the legal risks overshadow any diplomatic benefits.

## **B. CIRCUMVENTING EXTRADITION**

The United States commonly circumvents extradition altogether and takes securing the custody of wanted officials into its own hands by conducting arrests of opportunity. This refers to when U.S. law enforcement officials arrest wanted individuals after they have entered a U.S. jurisdiction. Arrests of opportunity are beneficial because they are operationally secure due to no requirement for bilateral coordination, and arresting someone within your own jurisdiction is legally sound, pragmatic, and expedient. Nevertheless, this option bears the risk of diplomatic retaliation because the United States often sends signals of mistrust by conducting domestic arrests without notifying the wanted officials' state. However, arrests of opportunity remain a preferred option for the United States because the legal benefits outweigh the diplomatic risks.

The United States has a history of conducting successful arrests of opportunity on Latin American officials. It was a commonly used tactic during the late-20th century at the height of the War on Drugs, and it remains a commonly used tactic in the early 21st century. For example, in 2018, the DEA arrested former Honduran congressman Juan Antonio Hernandez on narcotrafficking charges in Miami. He was tried, convicted, and sentenced to life in prison by U.S. courts by 2021. Additionally, in 2019, U.S. federal agents arrested former Mexican Secretary of Public Security Genaro Garcia Luna on narcotrafficking charges in Dallas. He is awaiting trial as of October 2021. Both examples resulted in minimal diplomatic backlash from Honduras or Mexico and relative expedience through the U.S. court systems, demonstrating the usefulness of this option.

There are three additional options for the United States to circumvent extradition, but these options are rarely worth pursuing. First, foreign prosecution is unrealistic due to high corruption and low state capacity in many parts of Latin America, which is why the

United States seeks prosecution for itself to begin with. Second, irregular rendition is too diplomatically costly and explicitly outlawed in some states due to the United States' mired history of forcible abductions in Latin America between the 1970s and 1990s. Third and lastly, the United States can use military force to bring a wanted official to justice. Although this was part of the reason for the U.S. Invasion of Panama in 1989, it has never been the sole justification, and warfare is sure to provoke international outrage.

### **C. TURN A BLIND EYE**

There is also a sixth option to balance justice and diplomacy, which is to not pursue prosecution at all. Whereas previous options prioritize prosecuting Latin American officials at the potential expense of damaging bilateral cooperation, the option of turning a blind eye intentionally overlooks high-level corruption when an interest needed to support the War on Drugs—such as bilateral cooperation—is on the line. Having this option available allows the United States to act based on favorable outcomes rather than on the principle of justice.

The 2020 case of former Mexican Secretary of National Defense Salvador Cienfuegos provides one of the few public manifestations of the United States turning a blind eye. After the DEA arrested Cienfuegos in Los Angeles on narcotrafficking charges, the Mexican government retaliated by threatening to expel all DEA agents in Mexico if the United States did not release Cienfuegos. After months of pressure, the United States returned Cienfuegos back to Mexico, where he was cleared of all charges. Notwithstanding the complexity of political circumstances behind the Cienfuegos case, the United States' decision to release Cienfuegos when the cooperation needed to sustain its overseas law enforcement presence was threatened demonstrates that the War on Drugs itself overrides the prosecution of any single actor.

However, turning a blind eye comes at the cost of U.S. credibility. Excusing high-level level corruption in the name of another interest undermines the goal of having Latin America enforce its own laws and anti-corruption and criminal justice reforms in the region. Turning a blind eye too often can also detriment U.S. foreign policy options because future attempts to intervene based on the rule of law can draw accusations of hypocrisy.

Furthermore, allowing political circumstances to dictate when to prosecute degrades the integrity of the U.S. justice system and sets a dangerous precedent that privileged or important people are above the law.

#### **D. RECOMMENDATIONS**

The United States must be consistent in its messaging on anti-corruption and counternarcotics in Latin America. Though these can be competing interests when confronting the issue of Latin American officials corrupted by the illicit drug trade, the United States can deliver a consistent message by exercising the more forceful options on unreliable partners, reserving the more diplomatic options for reliable partners, and only turning a blind eye in rare circumstances.

##### **1. Circumvent Extradition on Untrustworthy Partners**

The United States should continue to circumvent extradition and conduct arrests of opportunity on officials from Latin American states that have been untrustworthy collaborators on U.S.-Latin America anti-corruption and counternarcotics efforts. U.S. law enforcement officials should continue conducting arrests of opportunity when feasible because it is the most pragmatic option for the reasons detailed in Chapter III. Even if no opportunity to arrest is immediately available, U.S. law enforcement officials should explore potential options to lure wanted officials into U.S. jurisdiction, and the U.S. Department of Justice should continue to investigate and indict. If gaining custody of the wanted official is unrealistic, then the United States can broadcast indictments on the international stage to highlight corruption in that official's state. However, the options of irregular rendition and use of military force should be avoided because they are too controversial and diplomatically costly.

##### **2. Extradite from Trustworthy Partners**

The less forceful option of requesting extradition should only be reserved for partner states that have made substantial reforms in their domestic criminal justice systems and have been steadfast in their commitments on anti-corruption and counternarcotics with the United States. Though it may be difficult for the United States to stomach the

operational security concerns associated with extradition, there must be incentives in how the United States engages with partner states when they make meaningful improvements. In this context, extradition can also be used to augment a Latin American state's justice system by having the United States shoulder the more burdensome tasks between trial and incarceration; while the Latin American state builds its institutional capacity to process requests, arrest wanted individuals, and hold extradition hearings. Continued improvements should then open the door to the prospect of foreign prosecution, which is congruent to the ideal of trustworthy and capable Latin American judicial institutions.

The United States can implement incremental justice reforms in Latin American states by supporting programs modeled after the International Commission Against Impunity in Guatemala (CICIG). Although CICIG and its U.S. support ended under the administrations of Guatemalan President Morales and U.S. President Trump in 2019, it was considered one of the most successful anti-corruption programs in Latin America that included—at times—extradition to the United States. CICIG enabled the successful prosecutions of high-level criminals by training judges and prosecutors and providing them with security and protection from organized crime.<sup>269</sup> This in turn strengthened Guatemala's justice system by diminishing the influence of its primary threat, which was the corrupt influence of organized crime. Before it was dismantled, the United States provided 40% of CICIG's funding, and CICIG enjoyed international support from the United Nations and European Union, bipartisan support from previous U.S. presidents and legislators, and popular support from approximately 70% of Guatemala's population.<sup>270</sup> Although CICIG was a UN initiative, the United States can use CICIG as a blueprint to implement or support similar programs on a bilateral basis in the Western Hemisphere.

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<sup>269</sup> Washington Office on Latin America, "Fact Sheet: The CICIG's Legacy in Fighting Corruption in Guatemala."

<sup>270</sup> Francisco Goldman, "Why is Trump Tacitly Supporting Corruption in Guatemala?" *New York Times*, September 21, 2018, <https://www.nytimes.com/2018/09/21/opinion/trump-corruption-guatemala.html>; "Engel, Ros-Lehtinen Host CICIG Commissioner Ivan Velásquez," U.S. House of Representatives Foreign Affairs Committee, November 9, 2017, <https://foreignaffairs.house.gov/2017/11/engel-ros-lehtinen-host-cicig-commissioner-ivan-vel-squez>; and Luisa Parades, "Comisión Internacional Contra la Impunidad, la Más Confiable Institución en el 2017: Latinobarómetro," *El Periódico*, April 20, 2018, <https://elperiodico.com.gt/nacionales/2018/04/20/comision-internacional-contra-la-impunidad-la-mas-confiable-institucion-en-el-2017-latinobarometro>.

### **3. Justice and State Department Coordination**

Every measure should be made to insulate political considerations from the prosecutorial process to uphold the integrity of the U.S. criminal justice system; however, decisions made on *how* to pursue prosecution against foreign officials should not be made in the vacuum of law enforcement operations. External political circumstances ought to be a key consideration because operations that are too diplomatically costly can provoke backlash that in turn comes at the cost of justice. For example, if delaying an arrest or pursuing a similar but different option bypasses diplomatic concerns at an acceptable cost to operational security, then the United States should consider it.

These discussions ought to be mandated through a system of deconfliction between the Justice and State departments over politically sensitive cases. Because arrests of opportunity bypass the bureaucratic coordination mandated by the extradition process, which is expounded on in Chapter II, there is the potential for U.S. law enforcement officials to treat politically sensitive arrests of opportunity as a domestic operation when there may be international implications. Creating a structure akin to the U.S.-half of the extradition process for politically sensitive arrests can bring forth overriding concerns, forecast potential backlash, and build a unified response to that backlash if needed. There should be a key difference from extradition coordination in that diplomats should not be able to overrule stateside law enforcement operations as they could with extraterritorial operations; however, they should have input if the United States is going to unilaterally arrest a foreign official.

### **4. Turning a Blind Eye in Rare Circumstances**

Although turning a blind eye should be an option on the table, the United States should have a strong presumption against doing so. This option should only be exercised under extraordinary circumstances with the potential to pose a significant security threat. If the United States opts to turn a blind eye, then it must be a decision made behind closed doors that results in inaction rather than reversing previous actions. In the case of Cienfuegos, the United States should not have released him. Rather, it should have either not pursued prosecution at all or stayed the course with prosecution regardless of Mexican

retaliation. Turning a blind eye too openly or too often comes at the cost of not only U.S. credibility abroad, but also the integrity of the criminal justice system at home.

Since turning a blind eye has both interagency and foreign policy implications, this ought to be a power that merits a decision from the President of the United States because the issue rises above the level of any single U.S. department. In other instances where the United States dropped prosecution in favor of an overriding interest, such as those during the Cold War and War on Terror covered in Chapter VI, the White House played a lead role. If coordination between the Justice and State departments reveals that pursuing prosecution against a foreign official bears the realistic prospect of foreign retaliation affecting U.S. national security interests, then the U.S. President should make the decision to either continue pursuing prosecution or turn a blind eye in private with the advice of all affected U.S. departments and agencies. This would result in greater unity of effort behind a single effort and result in either a commitment to prosecution or no observable action.

#### **E. CONCLUSION**

This thesis surveys the United States' available options to balance the potential competing interests of diplomacy and justice when pursuing prosecution against corrupt Latin American officials. It assesses each option by looking at the tradeoffs incurred in real cases where politically influential Latin American figures that have been targeted for involvement in drug trafficking. If the United States exercises these options inconsistently, it runs the risk of delivering mixed messaging. However, the United States can deliver a consistent message on anti-corruption and counternarcotics if it respects the extradition process with reliable partners, circumvents extradition on unreliable counterparts, and only turns a blind eye under extraordinary circumstances.

## LIST OF REFERENCES

- Alonso, Daniel R., Benjamin Gedan, Michael Nadler, and Walter Norkin. “DOJ’s Role in Fighting Corruption, Drug Trafficking and Money Laundering in Latin America.” Wilson Center. November 23, 2020. <https://www.wilsoncenter.org/event/dojs-role-fighting-corruption-drug-trafficking-and-money-laundering-latin-america>.
- Agren, Dave. “Former Mexico Defence Minister Arrested on Drug Charges in Los Angeles.” *The Guardian*. October 16, 2020. <https://www.theguardian.com/world/2020/oct/16/mexico-former-defence-minister-salvador-cienfuegos-arrested-drug-charges>.
- Ahmed, Azam and Alan Feuer. “Who Was ‘El Padrino,’ Godfather to Drug Cartel? Mexico’s Defense Chief, U.S. Says.” *New York Times*, October 16, 2020. <https://www.nytimes.com/2020/10/16/world/americas/mexico-salvador-cienfuegos-arrested.html>.
- Anderson, Jon Lee. “The Afterlife of Pablo Escobar.” *The New Yorker*. February 26, 2018. <https://www.newyorker.com/magazine/2018/03/05/the-afterlife-of-pablo-escobar>.
- Associated Press*. “Mexican President: U.S. Should Probe Its Ties to Ex Top Cop.” May 4, 2020. <https://apnews.com/article/987c623294c1d949c2e8256a8d07d346>.
- Associated Press*. “Mexico Publishes Heavily Edited Probe of Exonerated General.” January 17, 2021. <https://apnews.com/article/international-news-mexico-city-mexico-154ead13f5d9addde5ef266434b36e5>.
- Barnett, J. Richard. “Extradition Treaty Improvements to Combat Drug Trafficking.” *Georgia Journal of International and Comparative Law* 15, no. 2, (Summer 1985): 285–315. Nexis Uni.
- BBC. “Manuel Noriega Extradited to Panama to Serve Jail Terms.” December 21, 2011. <https://www.bbc.com/news/world-latin-america-16129630>.
- Beittel June S., Peter J. Meyer, Clare Ribando Seelke, Maureen Taft-Morales, and Edward Y. Gracia. *Combatting Corruption in Latin America*. CRS report No. R45733. Washington, DC: Congressional Research Service, 2019. <https://fas.org/sgp/crs/row/R45733.pdf>.
- Berg, Ryan C. “The US-Mexico Security Relationship Enters a Deep Freeze.” American Enterprise Institute. January 19, 2021. <https://www.aei.org/foreign-and-defense-policy/after-cienfuegos-release-the-us-mexico-security-relationship-enters-a-deep-freeze>.

- Berg, Ryan C. "What Does the Arrest of General Cienfuegos Mean for the Future of US-Mexico Security Cooperation?" American Enterprise Institute. October 28, 2020. <https://www.aei.org/foreign-and-defense-policy/what-does-the-arrest-of-general-cienfuegos-mean-for-the-future-of-us-mexico-security-cooperation>.
- Bernholz, Steven A., Martin J. Bernholz, and G. Nicholas Herman. "International Extradition in Drug Cases." *North Carolina Journal of International Law and Commercial Regulation* 10, no. 2 (Spring 1985), 355–364.
- Botero, Juan Carlos, Mark David Agrast, and Alejandro Ponce. *WJP Rule of Law Index 2020*. Washington, DC: World Justice Project, 2020. <https://worldjusticeproject.org/our-work/research-and-data/wjp-rule-law-index-2020>.
- Braunstein, Janet. "South American Official Jailed in Miami on Conspiracy Charges." *Associated Press*. March 25, 1986. <https://apnews.com/article/8c67642423f846d808e01555e9c283d2>.
- Brockett, Charles. "The Drug Kingpin Decapitation Strategy in Guatemala: Successes and Shortcomings." *Latin America Politics and Society* 61, no. 4, (November 2019): 47–71. Cambridge Core.
- Burnett, John. "Arrest Of Genaro Garcia Luna Shocks Mexico." NPR. December 15, 2019. <https://www.npr.org/2019/12/15/788261140/arrest-of-genaro-garcia-luna-shocks-Mexico>.
- Campbell, Howard. "That Extradition of 'Dudus' Coke 10 Years Ago." *Jamaica Observer*. May 24, 2020. [https://www.jamaicaobserver.com/news/that-extradition-of-dudus-coke-10-years-ago\\_194809](https://www.jamaicaobserver.com/news/that-extradition-of-dudus-coke-10-years-ago_194809).
- Celia Toro, Maria. "The Internationalization of Police: The DEA in Mexico." *The Journal of American History* 86 No. 2, (September 1999): 623–640. JSTOR.
- Cook, John R. "Contemporary Practice of the United States Relating to International Law." *The American Journal of International Law* 101, no. 4 (October 2007): 866–900. JSTOR.
- Corn, Geoffrey S., and Sharon G. Finegan. "America's Longest Held Prisoner of War." *Louisiana Law Review* 71, no. 4 (Summer 2011): 1111–1146. Nexis Uni.
- Corona, Sonia. "Mexico's Defense Chief Rejects Wrongdoing in Civilian Massacre." *El País*. February 20, 2015. [https://english.elpais.com/elpais/2015/02/20/inenglish/1424442625\\_945153.html](https://english.elpais.com/elpais/2015/02/20/inenglish/1424442625_945153.html)

- Cota, Isabella. “El Poder del Ejército como Agente Económico Lastra el Crecimiento de Uno de Los Motores de México.” *El País*. July 4, 2020. <https://elpais.com/mexico/economia/2020-07-05/el-poder-del-ejercito-como-agente-economico-lastra-el-crecimiento-de-uno-de-los-motores-de-mexico.html>.
- Cramer, Jane Kellett. “Just Cause” or Just Politics?” *Armed Forces & Society* 32, no. 2 (January 2006): 178–201. SAGE.
- David P. Thompson. “Pablo Escobar, Drug Baron: His Surrender, Imprisonment, and Escape.” *Studies in Conflict and Terrorism* 19, no. 1 (January-March 1996): 55–91.
- de Castro, Rafael Fernández et al. *U.S.-Mexico Security Cooperation 2018–2024*. San Diego: UC San Diego, 2018. [https://usmex.ucsd.edu/\\_files/Whitepaper\\_Security\\_Taskforce\\_March\\_26\\_Covers.pdf](https://usmex.ucsd.edu/_files/Whitepaper_Security_Taskforce_March_26_Covers.pdf).
- Díaz, Joy and Laura Rice. “Trump, the General and the Mexican President: The Politics of AMLO’s Resistance to Recognizing Biden.” *Texas Standard*. November 24, 2020. <https://www.texasstandard.org/stories/trump-the-general-and-the-mexican-president-the-politics-of-amlos-resistance-to-recognizing-president-elect-biden>.
- Delacour, Justin. “Plan Colombia: Rhetoric, Reality, and the Press.” *Social Justice* 27, no. 4 (Winter 2000): 63–75. JSTOR.
- Edmonds-Poli, Emily and David A. Shirk. “Extradition as a Tool for International Cooperation: Lessons from the U.S.-Mexico Relationship.” *Maryland Journal of International Law* 33, no. 1, (2018): 215–243. DigitalCommons.
- Efron, Sonni. “Seven People Indicted with Alleged Drug, Money Laundering Scheme with PM.” *Associated Press*. March 30, 1989. <https://apnews.com/article/40a6c67eae74fa04a5483b0db743a0ff>.
- Esposito, Richard, Mark Schone, and Luis Martinez. “U.S. Report: Jamaican Prime Minister is ‘Known Criminal Affiliate’ Of Hunted Drug Lord.” *ABC News*. May 24, 2010. <https://abcnews.go.com/Blotter/jamaica-christopher-dudus-coke-escaped-security-forces-assault/story?id=10737428>.
- Estevez, Dolia. “The 10 Most Corrupt Mexicans Of 2013.” *Forbes*. December 16, 2013. <https://www.forbes.com/sites/doliaestevez/2013/12/16/the-10-most-corrupt-mexicans-of-2013/?sh=a709f2f5720d#2715e4857a0b798dfe167a8c>.
- Felbab-Brown, Vanda. “The US-Mexico Security Relationship in 2021.” *Brookings Institution*. January 19, 2021. <https://www.brookings.edu/blog/order-from-chaos/2021/01/19/the-us-mexico-security-relationship-in-2021>.

- Feuer, Alan and Natalie Kitroeff. "Mexico, Outraged at Arrest of Ex-Official, Threatened to Toss U.S. Agents." *New York Times*, November 18, 2020. <https://www.nytimes.com/2020/11/18/world/americas/mexico-cienfuegos-barr.html>.
- Feuer, Alan. "The Public Trial of El Chapo, Held Partially in Secret." *New York Times*. November 21, 2018, <https://www.nytimes.com/2018/11/21/nyregion/el-chapo-trial.html>.
- Forbes*. "Pablo Escobar In Forbes' Billionaire Issues." September 15, 2015. <https://www.forbes.com/pictures/eehd45ekgj/1987/?sh=7655a0d89d7d>.
- Garcia, Michael John and Charles Doyle. *Extradition To and From the United States: Overview of the Law and Recent Treaties*. CRS Report No. 98–958. Washington, DC: Congressional Research Service, 2021. <https://sgp.fas.org/crs/misc/98-958.pdf>.
- Gilboa, Eytan. "The Panama Invasion Revisited: Lessons for the Use of Force in the Post Cold War Era." *Political Science Quarterly* 110, no. 4 (Winter 1995–1996): 539–562. JSTOR.
- Global Americans. "Addressing Corruption in Latin America and the Caribbean Furthers U.S. National Interests." Accessed April 22, 2021. <https://theglobalamericans.org/reports/addressing-corruption-latin-america-caribbean-furthers-u-s-national-interests>.
- Gobierno de México. "Confrecia de Prensa del Presidente Andrés Manuel López Obrador del 16 de Octubre de 2020." October 22, 2020. <https://www.gob.mx/presidencia/articulos/version-estenografica-conferencia-de-prensa-del-presidente-andres-manuel-lopez-obrador-del-16-de-octubre-de-2020?idiom=es>.
- Goldman, Francisco, "Why is Trump Tacitly Supporting Corruption in Guatemala?" *New York Times*, September 21, 2018, <https://www.nytimes.com/2018/09/21/opinion/trump-corruption-guatemala.html>,
- Gómez, Paz. "The Tip of the Iceberg for Mexican Cartel Corruption." *Impunity Observer*. June 2, 2020. <https://impunityobserver.com/2020/06/02/the-tip-of-the-iceberg-for-mexican-cartel-corruption>.
- Graham, Victoria. "Urgent: General Assembly Condemns Panama Invasion 75–20." *Associated Press*. <https://apnews.com/article/f968dc18cc41ccc76a33b43baf4018b4>.
- Grant, Will. "Salvador Cienfuegos: From 'Godfather' on Trial to Free Man." *BBC*. November 21, 2020. <https://www.bbc.com/news/world-latin-america-55015207>.

- Harrington, Joanna. "Extradition of Transnational Criminals." In *Routledge Handbook of Transnational Crime*, edited by Neil Boister and Robert J. Currie, 153–166. London: Routledge, 2014.
- Hingoraney, Rishi. "International Extradition of Mexican Narcotics Traffickers: Prospects and Pitfalls for the New Millennium." *Georgia Journal of International and Comparative Law* 30, no. 2 (2002): 331–363.
- Jansson, Julia. *Terrorism, Criminal Law, and Politics*. Abingdon: Routledge, 2020.
- Kagay, Michael R. "The Noriega Case: Public Opinion; Panamanians Strongly Back U.S. Move." *New York Times*, January 6, 1990. ProQuest.
- Katkov, Mark. "Mexico Will Not Charge Former Defense Chief with Drug Trafficking." NPR, January 15, 2021. <https://www.npr.org/2021/01/15/957192690/mexico-will-not-charge-former-defense-chief-with-drug-trafficking>.
- Kitroeff, Natalie. "Once a Trump-Basher, Mexico's Leader Misses Him Already." *New York Times*. January 18, 2021. <https://www.nytimes.com/2021/01/18/world/americas/mexico-trump-amlo.html>
- Kornbluh, Peter. *The Pinochet File: A Declassified Dossier on Atrocity and Accountability*. New York: The New Press, 2013.
- Kurtz-Phelan, Daniel. "The Long War of Genaro García Luna." *New York Times*. July 13, 2008. <https://www.nytimes.com/2008/07/13/magazine/13officer-t.html>.
- Lakhani, Nina. "Honduras Deploys Security Forces as Doctors and Teachers Demand President's Resignation." *The Guardian*. Jun 05, 2019. <https://www.theguardian.com/world/2019/jun/05/honduras-protests-teachers-doctors-president>.
- Lakhani, Nina. "Mexico's War on Drugs: What Has It Achieved and How Is the U.S. Involved?" *The Guardian*. December 8, 2016. <https://www.theguardian.com/news/2016/dec/08/mexico-war-on-drugs-cost-achievements-us-billions>.
- Lewis, Paul. "Fighting in Panama: United Nations; Security Council Condemnation of Invasion Vetoed." *New York Times*. December 24, 1989. ProQuest.
- Linthicum, Kate. "U.S. Rebukes Mexico for Releasing Evidence in Drug Case Against Former Defense Minister." *Los Angeles Times*. January 16, 2021. <https://www.latimes.com/world-nation/story/2021-01-16/u-s-rebukes-mexico-evidence-drug-case-former-defense-minister>.
- López Obrador, Andrés Manuel. *A New Hope for Mexico*. New York: OR Books, 2018.

- Lopez, Oscar. "Mexico Exonerates Ex-Defense Chief Who Was Freed by the U.S." *New York Times*, January 14, 2021. <https://www.nytimes.com/2021/01/15/world/americas/mexico-defense-minister-cienfuegos.html>.
- Los Angeles Times*. "Mexico's President Sends Letter Congratulating Biden." December 15, 2020. <https://www.latimes.com/world-nation/story/2020-12-15/andres-manuel-lopez-obrador-congratulates-biden>.
- Los Angeles Times*. "The Invasion of Panama: Peru's Brash President Defies Bush on Panama." December 27, 1989. ProQuest.
- Macias, Amanda. "10 Facts Reveal the Absurdity of Pablo Escobar's Wealth." *The Independent*. December 29, 2017. <https://www.independent.co.uk/news/people/pablo-escobar-worth-wealth-money-how-much-a8133141.html>.
- Malkin, Elisabeth. "Trump Threatens Guatemala with Tariffs Over Migrants." *New York Times*. July 24, 2019. ProQuest.
- Malman, Myles H. "United States v. Manuel Noriega: Never Before, Never Again." *Litigation* 28, no. 2 (Winter 2002): 13–20. JSTOR.
- Masters, Jonathan. "What is Extradition?" Council on Foreign Relations. Last updated January 8, 2020. <https://www.cfr.org/background/what-extradition>.
- McDermott, Jeremy. "GameChangers 2019: Latin America's Top 10 Criminal Groups," InSight Crime. January 22, 2020. <https://insightcrime.org/news/analysis/gamechangers-2019-top-10-criminal-groups>.
- Meisler, Stanley. "Albright Urges Mexico to Drop Threat in Drug Sting." *Los Angeles Times*. June 12, 1998. <https://www.latimes.com/archives/la-xpm-1998-jun-12-mn-59260-story.html>.
- Mendoza, Claudia and Mary Beth Sheridan. "Honduras Pushed to Take Migrants." *Washington Post*. September 13, 2019, ProQuest.
- Mokeona, Untalimile Crystal and Emma Charlene Lubaale. "Extradition in the Absence of State Agreements: Provisions in International Treaties on Extradition." *South African Crime Quarterly*, no. 67 (March 2019): 31–42.
- Moleon, Amy. "OAS Calls for U.S. Withdrawal From Panama." *Associated Press*. December 22, 1989. <https://apnews.com/article/856aa8b4693cee30f0d511a7fecf7068>.
- Morgan, Edward M. "Traffic Circles: The Legal Logic of Drug Extraditions." *University of Pennsylvania Journal of International Law* 31, no. 2 (2009): 373–425.

- Nadelmann, Ethan A. *Cops across Borders: The Internationalization of U.S. Criminal Law Enforcement*. University Park: Pennsylvania State University Press, 1994.
- Nadelmann, Ethan A. "The DEA in Latin America: Dealing with Institutionalized Corruption." *Journal of Interamerican Studies and World Affairs* 29, no. 4 (Winter 1987–1988): 1–39. JSTOR.
- Nakamura, David, John Wagner, and Nick Miroff. "U.S. and Mexico Sign Agreement, Avoid Tariffs." *Washington Post*. Jun 08, 2019. ProQuest.
- New York Times*. "A Transcript of Bush's Address on the Decision to Use Force in Panama." December 21, 1989. ProQuest.
- Obokata, Tom. *Transnational Organised Crime in International Law*. Oxford: Hart Publishing. ProQuest.
- Ostrow, Ronald J. "Ruling Backs U.S. Forces' Police Role: Law Enforcement: Legal Opinion Supports Overseas Arrests. Drug Traffickers, Terrorists Would Be Targets." *Los Angeles Times*. December 17, 1989. <https://www.latimes.com/archives/la-xpm-1989-12-17-mn-1652-story.html>.
- Parades, Luisa. "Comisión Internacional Contra la Impunidad, la Más Confiable Institución en el 2017: Latinobarómetro." *El Periódico*. April 20, 2018. <https://elperiodico.com.gt/nacionales/2018/04/20/comision-internacional-contr-la-impunidad-la-mas-confiable-institucion-en-el-2017-latinobarometro>.
- PBS Frontline. "Thirty Years of America's Drug War: a Chronology." Accessed September 27, 2021. <https://www.pbs.org/wgbh/pages/frontline/shows/drugs/cron>.
- Pilkington, Ed. "Christopher 'Dudus' Coke Handed 23-year U.S. Jail Term for Drug Trafficking." *The Guardian*. June 8, 2012. <https://www.theguardian.com/world/2012/jun/08/christopher-dudus-coke-jail-term>.
- Plachta, Michael. "Aut Dedere Aut Judicare: An Overview of Modes of Implementation and Approaches." *Maastricht Journal of European and Comparative Law* 6, no. 4 (December 1999): 331–365. SAGE.
- Pullano, Nina. "NY Judge Agrees to Kick High-Profile Drug Prosecution to Mexico." Courthouse News Service. November 18, 2020. <https://www.courthousenews.com/ny-judge-agrees-to-kick-high-profile-drug-prosecution-to-mexico>.
- Quigly, John. "The Legality of the United States Invasion of Panama." *Yale Journal of International Law* 15, no. 276 (1990): 276–315, eYLS.

- Rachiani, Nazith. "The Narcobourgeoisie and State Making in Colombia." In *The Hidden History of Crime, Corruption, and States*, edited by Renate Bridenthal, 196–205. New York: Berghahn, 2017. ProQuest.
- Ratliff, William and Edgardo Buscaglia. "Judicial Reform: The Neglected Priority in Latin America." *The Annals of the American Academy of Political and Social Science* 550, (March 1997): 59–71. JSTOR.
- Reforma*. "Crece 'Guardadito' de Sedena ¡1000%!" February 7, 2021. <https://www.reforma.com/crece-guardadito-de-sedena-1000/ar2120375>.
- Reuter, Peter. "A Certifiable Drug Policy." *Washington Post*. August 23, 2000. <https://www.washingtonpost.com/archive/opinions/2000/08/23/a-certifiable-drug-policy/18448995-7004-488a-b2f4-41b1ba68083b>.
- Reuters*. "Mexican President Says Would Extradite Predecessor Calderon to U.S." September 8, 2020. <https://www.reuters.com/article/us-mexico-politics/mexican-president-says-would-extradite-predecessor-calderon-to-u-s-idUSKBN25Z2QW>.
- Robinson, Paul H., and Sarah M. Robinson. *Pirates, Prisoners, and Lepers: Lessons from Life Outside the Law*. Lincoln: University of Nebraska Press, 2015. ProQuest.
- Rodriguez, Sabrina. "Why Mexico's President is Buddies with Trump Despite Years of Insults." *Politico*. July 7, 2020. <https://www.politico.com/news/2020/07/07/mexico-president-andres-manuel-lopez-obrador-friends-trump-350974>.
- Romo, Vanessa. "Honduran President's Brother Arrested in Miami on Drug Trafficking Charges." *NPR*. November 27, 2018. <https://www.npr.org/2018/11/27/671339362/honduran-presidents-brother-arrested-in-miami-on-drug-trafficking-charges>.
- Ross, Timothy. "Escobar Escape Humiliates Colombian Leaders." *The Guardian*. July 24, 1992. <https://www.theguardian.com/world/1992/jul/24/colombia.fromthearchive>.
- Rushe, Dominic, Lauren Gambino, and David Agren. "Donald Trump Defends Tariffs on Mexico as Stock Markets Reel." *The Guardian*. May 31, 2019. ProQuest.
- Ryan, Missy. "Family Pleads for U.S. Prisoner at Heart of Afghan Peace Push." *Reuters*. May 9, 2012. <https://www.reuters.com/article/us-usa-afghanistan-prisoner-idUSBRE8481BI20120510>.
- Schwartz, Bernard. "U.S. Releases 4 and East Bloc 25 in Spy Exchange on Berlin Bridge." *New York Times*. June 12, 1985. <https://www.nytimes.com/1985/06/12/world/us-releases-4-and-east-bloc-25-in-spy-exchange-on-berlin-bridge.html>.

- Schwartz, Matthias. "A Massacre in Jamaica." *The New Yorker*. December 4, 2011. <https://www.newyorker.com/magazine/2011/12/12/a-massacre-in-jamaica>.
- Schwartz, Matthias. "Jamaica's Former P.M. Opens Up About Coke Arrest, Extradition," *The New Yorker*. August 3, 2012. <https://www.newyorker.com/news/news-desk/jamaicas-former-p-m-opens-up-about-coke-arrest-extradition>.
- Seelke, Clare Ribando, and Kristen Finklea. *U.S.-Mexican Security Cooperation: The Mérida Initiative and Beyond*. CRS Report No. R41349. Washington, DC: Congressional Research Service, 2017. <https://fas.org/sgp/crs/row/R41349.pdf>.
- Seelke, Clare Ribando. *Venezuela: Overview of U.S. Sanctions*. CRS Report No. IF10715. Washington, DC: Congressional Research Service, 2021. <https://fas.org/sgp/crs/row/IF10715.pdf>.
- Sheridan, Mary Beth and Kevin Sieff. "Trump to Cut Aid to 3 Countries in Central America; He Assails El Salvador, Guatemala, Honduras over Immigration." *Los Angeles Times*. March 31, 2019. ProQuest.
- Sherman, Christopher and Mark Stevenson. "Mexico Says U.S. 'Fabricated' Charges, Releases Evidence." *Associated Press*. January 15, 2021. <https://apnews.com/article/mexico-elections-crime-arrests-drug-trafficking-a54eb46084fd31fa06f5a840eafafa86>.
- Sieves, Amanda. "A Calculated Assault on the Authority of the State? Crime, Politics and Extradition in 21st Century Jamaica." *Crime, Law & Social Change* 58, no. 4, (November 2012): 415–435. EBSCOhost.
- Skelton, George. "Americans Strongly Back Bush on Panama Invasion." *Los Angeles Times*. December 22, 1989. ProQuest.
- Smith, Peter H. *Talons of the Eagle*, 4th ed. New York: Oxford University Press, 2013.
- Stempel, Jonathan and Diana Beth Solomon. "U.S. Drug Charges Against Former Mexican Defense Minister are Dropped." *Reuters*. November 18, 2020, <https://www.reuters.com/article/us-usa-mexico-corruption/u-s-drug-charges-against-former-mexican-defense-minister-are-dropped-idUSKBN27Y20C>.
- Stevenson, Mark. "Mexico's Congress Approves Law Limited Foreign Agents." *Associated Press*. December 15, 2020. <https://apnews.com/article/mexico-legislation-william-barr-bills-drug-cartels-d43a3baf81b2ebef6d4f46cf4b0f534d>.
- Stewart, David P. "Internationalizing the War on Drugs: The UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances." *Denver Journal of International Law & Policy* 18, no. 5 (May 2020), 387–404.

- Storrs, K. Larry. *Mexican Drug Certification Issues: U.S. Congressional Action, 1986–2002*. CRS Report No. 98–174 F. Washington, DC: Congressional Research Service, 2002. [https://digital.library.unt.edu/ark:/67531/metacrs2554/m1/1/high\\_res\\_d/98-174f\\_2002Oct22.pdf](https://digital.library.unt.edu/ark:/67531/metacrs2554/m1/1/high_res_d/98-174f_2002Oct22.pdf).
- The Economist*. “Comparing Prisons: Breaking Out is Hard To Do.” July 18, 2015. <https://www.economist.com/the-americas/2015/07/16/breaking-out-is-hard-to-do>.
- The Economist*. “Extradition in Latin America: How to Handle a Drug Gang.” November 21, 2015. <https://www.economist.com/the-americas/2015/11/21/how-to-handle-a-drug-gang>.
- The Economist*. “Under the Volcano.” October 14, 2010. [https://www.economist.com/briefing/2010/10/14/under-the-volcano?story\\_id=17249102](https://www.economist.com/briefing/2010/10/14/under-the-volcano?story_id=17249102).
- The Gleaner*. “Golding Survives No-Confidence Motion.” June 2, 2010. <https://jamaica-gleaner.com/power/19791>.
- The Observatory of Economic Complexity. “Honduras Product Trade.” Accessed October 5, 2021. <https://oec.world/en/profile/country/hnd>.
- Thornton, Mary. “Caribbean Prime Minister Arrested in Miami on Drug Charges.” *Washington Post*. March 6, 1985. <https://www.washingtonpost.com/archive/politics/1985/03/06/caribbean-primeminister-arrested-in-miami-on-drug-charges/bd4c5b15-45cd-41ad-aa49-7f12cb71bc20>.
- Transparency International. *Corruption Perceptions Index 2020*. Berlin: Transparency International, 2020. <https://www.transparency.org/en/cpi/2020/index/nzl>.
- U.S. Agency for International Development. “U.S. Foreign Assistance to Honduras.” Accessed October 5, 2021. <https://foreignassistance.gov/cd/Honduras>.
- U.S. Department of Justice. “9-15.000 – International Extradition and Related Matters.” Last updated June 2018. <https://www.justice.gov/jm/jm-9-15000-international-extradition-and-related-matters>.
- U.S. Department of Justice. “Former Honduran Congressman Tony Hernández Sentenced to Life in Prison and Ordered to Forfeit \$138.5 Million for Distributing 185 Tons of Cocaine and Related Firearms and False Statement Offenses.” March 30, 2021. <https://www.justice.gov/usao-sdny/pr/former-honduran-congressman-tony-hernandez-sentenced-life-prison-and-ordered-forfeit>.
- U.S. Department of Justice. “Former Mexican Secretary of Public Security Genaro García Luna Charged with Engaging in a Continuing Criminal Enterprise.” July 30, 2020. <https://www.justice.gov/usao-edny/pr/former-mexican-secretary-public-security-genaro-garcia-luna-charged-engaging-continuing>.

- U.S. Department of Justice. “Frequently Asked Questions Regarding Extradition” Updated November 27, 2020. <https://www.justice.gov/criminal-oia/frequently-asked-questions-regarding-extradition>.
- U.S. Department of Justice. “Joint Statement by Attorney General of the United States William P. Barr and Fiscalía General of Mexico Alejandro Gertz Manero.” November 17, 2020. <https://www.justice.gov/opa/pr/joint-statement-attorney-general-united-states-william-p-barr-and-fiscal-general-mexico>.
- U.S. Department of Justice. “Nicolás Maduro Moros and 14 Current and Former Venezuelan Officials Charged with Narco-Terrorism, Corruption, Drug Trafficking and Other Criminal Chargers.” March 26, 2020. <https://www.justice.gov/opa/pr/nicol-s-maduro-moros-and-14-current-and-former-venezuelan-officials-charged-narco-terrorism>.
- U.S. Department of State. *Introduction to Leahy Vetting Policy*. Washington, DC: U.S. Department of State, 2019. [https://www.state.gov/wp-content/uploads/2020/06/PP410\\_INVEST\\_v2.1.pdf](https://www.state.gov/wp-content/uploads/2020/06/PP410_INVEST_v2.1.pdf).
- U.S. Department of State. “Treaty Procedures.” November 26, 2018. <https://www.state.gov/treaty-procedures>.
- U.S. Department of State. “U.S. Relations with Mexico.” September 16, 2021. <https://www.state.gov/u-s-relations-with-Mexico>.
- U.S. Drug Enforcement Agency. “Organized Crime Drug Enforcement Task Force (OCDETF).” Accessed April 22, 2021. <https://www.dea.gov/organized-crime-drug-enforcement-task-force-ocdetf>.
- U.S. House of Representatives Foreign Affairs Committee. “Engel, Ros-Lehtinen Host CICIG Commissioner Ivan Velásquez.” November 9, 2017. <https://foreignaffairs.house.gov/2017/11/engel-ros-lehtinen-host-cicig-commissioner-ivan-vel-squez>.
- U.S. Office of the Secretary of Defense. “National Security Strategy.” Accessed October 26, 2021. <https://history.defense.gov/Historical-Sources/National-Security-Strategy>.
- U.S. Senate. “Advice & Consent: Treaties.” accessed September 30, 2021. [https://www.senate.gov/general/Features/Treaties\\_display.htm](https://www.senate.gov/general/Features/Treaties_display.htm).
- U.S. Senate Committee on Foreign Relations. *Drugs, Law Enforcement, and Foreign Policy*. Washington, DC: U.S. Senate, 1988. <https://nsarchive2.gwu.edu/NSAEBB/NSAEBB113/north06.pdf>.

- United Nations. *The Obligation to Extradite or Prosecute (aut dedere aut judicare)*. New York: United Nations, 2014. [https://legal.un.org/ilc/texts/instruments/english/reports/7\\_6\\_2014.pdf](https://legal.un.org/ilc/texts/instruments/english/reports/7_6_2014.pdf).
- Wallace-Wells, Ben. "How America Lost the War on Drugs." *Rolling Stone*. March 24, 2011. <https://www.rollingstone.com/politics/politics-news/how-america-lost-the-war-on-drugs-170965>.
- Washington Office on Latin America. "Arrest of Top Mexico Defense Official Highlights Urgent Need to Fight Corruption." October 16, 2020. <https://www.wola.org/2020/10/top-mexico-defense-official-arrest-corruption-fight>.
- Washington Office on Latin America. "Fact Sheet: The CICIG's Legacy in Fighting Corruption in Guatemala." August 27, 2019. <https://www.wola.org/analysis/cicigs-legacy-fighting-corruption-Guatemala>.
- Washington Office on Latin America. "Taking Stock of Trump's Legacy in Latin America." October 26, 2020. <https://www.wola.org/analysis/taking-stock-trump-legacy-latin-america>.
- Weiser, Benjamin, and Elisabeth Malkin. "Silent Presence in a U.S. Drug Conspiracy Case: The President of Honduras." *New York Times*. September 27, 2019. ProQuest.
- Werner, Leslie Maitland. "11 Indicted by U.S. as Drug Smugglers." *New York Times*. July 28, 1984. <https://www.nytimes.com/1984/07/28/us/11-indicted-by-us-as-drug-smugglers.html>.
- Wilson Center. "Turning a Blind Eye: Passive Sponsorship of Terrorism." October 28, 2004. <https://www.wilsoncenter.org/event/turning-blind-eye-passive-sponsorship-terrorism>.
- Yates, Lawrence A. *The U.S. Military Intervention in Panama*. Washington, DC: United States Army Center of Military History, 2014.
- Yucatan Times*. "Cienfuegos is Advisor to Sedena in AMLO's Administration." January 21, 2021. <https://www.theyucantimes.com/2021/01/cienfuegos-is-advisor-to-sedena-in-amlos-administration>.

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