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GUIDE FOR PARLIAMENTARY CONTROL OF PUBLIC SECURITY SYSTEMS

WORKING DRAFT (ENGLISH)

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CHAPTER I.

PUBLIC SECURITY SYSTEMS: A CONCEPTUAL FRAMEWORK

1. CONCEPT OF PUBLIC AND DEMOCRATIC SECURITY

PUBLIC AND DEMOCRATIC SECURITY

Public and Democratic Security (PDS) is able to exist in contexts where social development is high or improving and the risks of violent conflict and other threats to public order such as crime are low. PDS is a precondition for the pursuit of personal freedom with in a rule of law where citizens know and are able to defend their fundamental rights in society.

THREATS TO PUBLIC SECURITY: VIOLENCE AND CRIME

Crime, conflicts and violence that challenge the rule of law and threaten civil rights are the key challenges for PDS.

Broadly speaking, crime consists of actions deemed undesirable by society and thus prohibited. In others words, crime consists of all of the actions that the laws have specified as illegal and against the judicial order of the State. Individuals who commit crimes are subject to punishment if it is determined unquestionably, by an independent court, that the action in question has violated the law.

There are many types of crimes: common, violent, organized, terrorism, etcetera. There are multiple causes behind the commission of crimes: socio-economic factors (lack of employment opportunities, increased inequality, out of control urbanization); institutional factors (corruption); cultural and other aggravating factors (alcohol, drugs, firearms) that trigger and facilitate violent interactions.

2. THE PUBLIC SECURITY SYSTEM

The PDS system consists of a mix of governmental and social institutions focused on preventing and controlling violent and criminal activities. In this way public security is a situation created and sustained by different societal and governmental institutions. In order to create the conditions of public security the PDS system intervenes in three key areas: prevention, criminal pursuit and investigation.

Prevention requires intervention before a crime is committed.

Criminal pursuit is the confrontation by authorities with criminal elements in the moment a crime is committed with the objective of stopping the crime, controlling the situation and avoiding the worst possible outcomes.

Investigation is carried out by specialized professionals, often detectives, in the context of a crime that has already occurred seeking to determine the nature and circumstances of the crime, the actors involved and bring them to justice for trial and sanction.

Each one of these three actions is carried out by one or more sub-systems within the PDS system.

2.1. OVERLAPS BETWEEN PUBLIC SECURITY, DEFENSE AND INTELLIGENCE SYSTEMS

The implementation of public security, defense and intelligence functions is characterized by the possibility for specialized officials to use legally mandated coercive means (force, firearms, etcetera) to achieve their goals as required. However, these three functions have substantially different institutional objectives.

Public security deals with resolving crime and conflicts that originate within the State, and between its citizenry. In contrast, the system of national defense seeks to protect that State and its inhabitants from threats caused by other States or external threats.

The intelligence function consists of activities designed to obtain, compile and analyze specific information regarding occurrences, threats and conflicts that could potentially destabilize the public security or national defense systems.

2.2. COMPONENTS OF PUBLIC SECURITY SYSTEMS: ACTORS AND FUNCTIONS

The public security system is composed of the following sub-systems: governance, social prevention of violence and crime, police, public prosecutor, community participation and private security.

SECURITY SYSTEM GOVERNANCE

Strictly speaking, the governance of the security system is exercised by a bureaucratic institution (e.g., Ministry, Department or Secretariat of Security) whose head is generally appointed by a democratically elected Executive. This institution directs the design, planning, management and evaluation of public security policies. More broadly speaking, the governance of the security system is also carried out by parliaments, local governments and local commissions.

SECURITY SYSTEM GOVERNANCE	
ACTORS	FUNCTIONS
Executive Branch	<ul style="list-style-type: none"> ✓ develop and update global analysis of violence and crime; ✓ develop combination of preventive and repressive policies as well as policies to reform and modernize security system and its institutions; ✓ direct and control administrative management of security system through budgeting, spending and human resources; ✓ coordinate public participation in public security affairs; ✓ control and coordinate private security.
Parliament	<ul style="list-style-type: none"> ✓ approve a package of laws and regulations related to PDS; ✓ analyze, approve and control budget destined to finance public security policies and programs; ✓ control and evaluate the policies, coordination and performance of public security system;
Local Governments	<ul style="list-style-type: none"> ✓ systematically record and analyze patterns of crime and violence in local jurisdictions; ✓ plan and manage local security strategies and policies, in particular as related to crime prevention; ✓ coordinate local police force and community policing programs; ✓ coordinate community participation; ✓ coordinated joint actions with other public security-related agencies.
Local Legislatures	<ul style="list-style-type: none"> ✓ approve local public security regulations and ordinances; ✓ approve municipal budgets and provide resources necessary to operate local public security institutions; ✓ oversee legality and efficiency of local public security system.

SUB-SYSTEM OF SOCIAL PREVENTION OF VIOLENCE AND CRIME

This sub-system is comprised of a mix of organizations whose functions are change the structural conditions that drive violence and crime. The principal strategies for prevention include: strengthening community cohesion; reduction of risk factors (firearms, drug addiction, domestic violence), development of mechanisms for nonviolent conflict resolution, preventive surveillance and strategies that pay specific attention to vulnerable and high risk zones and populations.

POLICING SUB-SYSTEM

This sub-system consists of public security forces, primarily the police. The principal functions of this sub-system are preventive tasks, pursuit of criminals and ex post facto criminal investigations.

SUB-SYSTEM OF CRIMINAL PROSECUTION

This sub-system is comprised of the various judicial, administrative and policing agencies that collaborate on judicial investigations (often the Public Prosecutor and the Judicial Police) The function of this sub-system is to reconstruct the facts and present evidence in relation to a crime with the purpose of identifying the responsible parties and support the accusatorial process of the judiciary.

SUB-SYSTEM OF COMMUNITY PARTICIPATION

This sub-system covers all sectors of the community – through associations, NGOs and public opinion – and intervenes in affairs related to public security.

Community participation is channeled through institutional mechanisms such as public forums, office of the ombudsman, etcetera, or it may be more ad hoc in nature through protests, lobbying, public declarations, etcetera.

Usually, community participation is oriented towards identifying public security problems, proposing potential solutions, supervising the performance of policies and institutions within the rule of law, demanding accountability within the system and looking for collaborative frameworks to engage government, police, parliamentarians or other relevant actors to public security.

SUB-SYSTEM OF PRIVATE SECURITY

This sub-system covers a variety of entities and private firms that provide services such as body guards and private patrolling in commercial centers as well as the government entities charged with authorizing and regulating their operations.

3. PUBLIC SECURITY POLICIES

3.1. PUBLIC SECURITY POLICIES FOR SUPRESSING VIOLENCE AND CRIME

Public security policies consist of a mix of interventions distributed over time and geographical space whose purpose is to control the risks presented by violent conflict and crime and protect the rights and freedoms of the citizenry. These polices are carried out by the different actors within government and society associated with the public security system.

Public security polices are characterized by:

- assumes the **possibility of the authorized use force** by specialized agencies and officials within the range of policy options and actions. This characteristic distinguishes public security policies from the majority of other public policies.
- They are **multi-dimensional** because they interface with a variety of different institutional and social contexts. Public security problems are generated and reproduced by a combination of social, political, cultural and economic factors and processes of varying scope and intensity whose effects and consequences spill over into different aspects of society.
- They are **multi-sectoral** because they require interventions from diverse governmental and social actors.
- They are **complex**, since crimes are often carried out clandestinely they are difficult for public security institutions to investigate.

3.2. BASIC STRATEGIES OF PUBLIC SECURITY POLICY: INSTRUMENTAL AND SUBSTANTIVE STRATEGIES

INSTRUMENTAL STRATEGIES

Instrumental strategies are those interventions designed to restructure and modernize the institutions of the public security systems. Its objective is to convert Latin American security systems – known for being out of date and poorly organized – into entities capable of developing and implementing more effective crime control and prevention policies.

KEY INSTRUMENTAL STRATEGIES	
TYPE	OBJECTIVE
Strengthening of security system governance	Strengthen governmental capacities to design, implement and evaluate public security policies, ensuring civilian control of security forces and external oversight.

police reform and modernization	Modernize and democratize police forces. The tendency is to reorient the organization towards a model of policing dedicated to dispute resolution; increased response capacity; more transparency and democratic control and the professionalization of human resources.
modernization of criminal prosecution	Development of actions that ensure an adequate institutional response to crimes with aim of reducing impunity.
decentralization and capacity building of local governments on public security affairs	Promote formulation and adoption of local security policies by municipal and provincial governments and strengthen their capacity for implementation and evaluation.
Strengthen controls over private security	Design actions that ensure that private security services are in line with the law and coordinated and overseen by public security agencies.

SUBSTANTIVE STRATEGIES

Substantive strategies are targeted directly at preventing and controlling crime, as part a direct intervention addressing a specific problem.

KEY SUBSTANTIVE STRATEGIES	
TYPE	OBJECTIVE
Social strategies to prevent violence and crime	Advocate for social polices that address the causes of violence and crime
institutional strategies to prevent violence and crime	Initiate policing strategies oriented towards preventive security and complex security situations focused on preventing and rigorously pursuing crimes and violence, as well as intervening in the specific locations where these crimes take place.

4. PUBLIC SECURITY IN LATIN AMERICA

4.1. EMERGENCE AND DEVELOPMENT OF PHENOMENON AND CHANGING DYNAMICS OF CRIME: A SITUATIONAL APPROACH

In recent years, the countries of Latin America and the Caribbean have experienced a marked increase in the levels of crime and violence. This is a trend that began in the 1970s though it accelerated exponentially in the 1990s. This trend applies equally to common and organized crime alike. At the same time, there has been a tendency towards the increasing complexity and severity of crime whereas the rise in the use of violent means to commit crimes has influenced public perceptions of insecurity.

Latin America's public security systems have collapsed in this context neither able to resolve nor curb the predominant trend.

4.2. Processes and structural challenges: an institutional approach

In Latin America violence appears to be on the rise at multiple levels as the social, economic and cultural conditions underlying these trends also continue to deteriorate. It is in this context that the democratic governments of the region are required to take action. However, the governments have not demonstrated the capacity to contain, curb or regulate the circumstances behind the growing levels of crime and violence. Lack of strategic vision, conjunctural modalities of intervention and weak management capacity are just a few of the factors that symbolize the failure of states to address the critical issue of security.

The box below lists the key problems facing public security institutions in Latin America today.

COMMON INSTITUTIONAL FACTORS FACING PUBLIC SECURITY IN LATIN AMERICA

- ✓ Government neglect of security sector, policing in particular
- ✓ Overemphasis on policing in relation to other preventive polices and institutions
- ✓ Exclusion of communities and local government from control and oversight of public security
- ✓ Inefficient judiciary and penal systems
- ✓ Lack of mechanisms to control and oversee public security functions

GOVERNMENT NEGLECT OF SECURITY SECTOR AND OVEREMPHASIS ON POLICING IN RELATION TO OTHER PREVENTIVE POLICIES AND INSTITUTIONS

Among the institutional factors enumerated above it is worth noting the traditional neglect of the State over public security policies in Latin America.

Democratization in Latin America has been characterized by the frequent neglect by elected governments to formulate robust public security policies. Governments have tended to delegate the entire function of public security to police forces leaving a de facto monopoly over the administration of public security. Consequently, policing institutions have enjoyed wide margins of autonomy to self-regulate the public security system. This autonomy has allowed police forces to define their own functions, missions, and institutional objectives independent of the governments under which they supposedly serve.

4.3. SECURITY, HUMAN DEVELOPMENT AND GOVERNANCE

Violent threats to the physical integrity, rights and freedoms of persons constitute the primary threat to human development. Insecurity limits the range of dignified life choices available to individuals.

At the same time, insecurity also becomes a factor that influences the overall democratic governability of a society. First, because the lack of adequate policy responses weakens the credibility of government institutions. Second, because insecurity also generates an environment where simple, reactive, anti-democratic and borderline illegal measures gain acceptance among the population. In the Latin American context even if this does not threaten outright democratic stability it damages the quality of public institutions.

CHAPTER II.

DEMOCRATIC CONTROL OF PUBLIC SECURITY SYSTEMS

1. CONTROL AND OVERSIGHT AS A FOUNDATION OF THE DEMOCRATIC SYSTEM

The republican and democratic system rests on the principle of the separation and balance of powers in government. Montesquieu's original idea was that power would be contained by those who wielded it. Such a system takes for granted the existence of checks and balances that prevent the concentration and abuse of power and permits the State to fulfill its role in guaranteeing its citizens their individual rights.

The proper functioning of a democratic system depends on an institutional framework that delineates not only roles and responsibilities for each branch of government, but also contemplates multiple and reciprocal controls over each other. In this way when one control fails there are others there to compensate for that and in this way help maintain the balance and functionality of the entire system.¹

What distinguishes democracies are the relationships between control and legitimacy since the existence of robust controls is one source of legitimacy for the democratic system.

2. MODALITIES OF CONTROL OF THE PUBLIC SECURITY SYSTEM

When democratic control is exercised over the public security system it is the State that designates one or more government agencies to define human rights and establish a regime that guarantees controls are in line with legal norms. (Quintana Benavides, p. 70.).

Democratic control over the use of force by public security agencies is one of the most important aspects of control within the rule of law. For this reason, virtually all democratic societies have multiple institutions and mechanisms designed to control the operation of the public security system. From country to country these controls sometimes vary in substance and procedure.

2.1 ADMINISTRATIVE CONTROLS

CHARACTERISTICS AND PURPOSE

Administrative controls serve as a mechanism that is both preventive and corrective in nature. It works through a series of actions whose purposes are to ensure proper use of resources, integrity of institutional procedures and the achievement of objectives by a given governmental agency. This control is carried out through the monitoring and evaluation of the Public Administration of public security looking at constitutional norms, legal norms and the policies set forth by the current executive administration.

There are two main types of administrative control: external and internal. External controls of public institutions are carried out by an 'external' party and generally ex post. In contrast, internal administrative control is carried out by a dependency of the same institution being analyzed.

There are two institutions that in most countries commonly carry out external administrative control: a) the auditing or accountability office or b) the Office of the Ombudsman.

AUDITING OR ACCOUNTABILITY OFFICE

The Auditing or Accountability Office in most countries is an institution with functional autonomy, which is often connected to the legislative branch, but there are also cases where it is linked to the executive or judicial branches. Its primary functions are to oversee and audit the expenditures of the Public Administration of public policies, ex post, whether it be from its own initiative or based on a request from parliament. In relation to the public security system it is responsible for monitoring and auditing all of the expenditures realized by each sub-system component.

What and how?

- *Financial auditing of expenditure:* observes whether or not all financial operations carried out by each agency are done so with respect for regulations on the use of public funds. This means auditing the performance of accountants and other public officials responsible for authorizing payments and expenditures. When abnormalities or blatant corruption is

¹ Sagues, Néstor: Aproximaciones a una teoría del control parlamentario sobre el Poder Ejecutivo. Revista El Derecho.

encountered it is the auditor's responsibility to pass their analysis on to the appropriate judicial authorities.

- *Monitoring legal compliance:* guarantees that all income and expenditures of relevant agencies are in compliance with budgetary laws and regulations (e.g., public bids for services).
- *Control over impact of spending:* verifies that expenditures have obtained the desired results in an efficient manner taking into account pre-established policy objectives.

OMBUDSMAN

The Ombudsman is an institution built around a single personality of integrity and prestige in society that can often fall under the legislative branch in terms of organizational structure. Its mandate can be very broad or limited. Under a broad mandate the Ombudsman is responsible for controlling and monitoring the decisions, procedures and actions of most government institutions. Under a limited mandate, for example, the Ombudsman may be specifically responsible for monitoring the decisions, procedures and actions of the public security system. Regardless of the breadth of its mandate the office of the Ombudsman is always supposed to act in the interest of the citizenry and/or the legislative branch.

The functions of the ombudsman are:

- *Receive public complaints and denunciations:* related to decisions and procedures that imply the abuse of power, mistakes or negligence.
- *Receive complaints from citizens and public security officials:* under a specific mandate scenario the Ombudsman can receive complaints from citizens and whistle blowers from inside the security forces.
- *Draft recommendations to eliminate administrative conduct that violates the:* the Ombudsman does not have the authority to impose decisions on the government, but can make strong recommendations.
- *Provide information to government and citizens:* whether it be in relation to specific cases or broader institutional performance the Ombudsman provides information directly to the government and/or other plaintiffs.
- *Verification of confidential reports:* when requested to carry out a confidential investigation the Ombudsman is required not to divulge information obtained to the public..

2.2 INTERNAL CONTROLS

INTERNAL CONTROL OF POLICING SUB-SYSTEM

CHARACTERISTICS AND PURPOSE

Internal administrative control is a modality of self-regulation exercised by the police. As with other forms of administrative control it implies both reactive monitoring as well as proactive or preventive monitoring.

The main function of internal controls is to ensure that disciplinary transgressions be recognized, investigated and judged internally and that any crimes committed by police officials during their employment be identified and denounced before the appropriate judicial authorities.

INTERNAL CONTROL INSTITUTIONS

1. **Internal Affairs:** is commonly an agency directly dependent on the Ministry or policing institution whose function is to identify and investigate evidence of or complaints of ethical violations or abuse of power committed by police officers. This work includes formally documenting the accusations, establishing administrative protocols for investigation and presenting evidence to judicial authorities in cases where a crime has been committed.
2. **Disciplinary Tribunal:** is the entity charged with taking administrative action for disciplinary transgressions, ethical violations or abuses committed by police officers in the context of their duties. The Disciplinary Tribunal has the power to apply sanctions while ensuring the right to a defense and due process.

The Public Defender of the police is a recent innovation in relation to internal controls. It is a special entity exclusively dedicated to guaranteeing the rights of police officials during their duties and promoting their rights within the public security system. This role is carried out in cases where one police has committed crimes, abuses or acts of corruption to the detriment of his or her colleagues. It seeks to defend the dignity and integrity of the policing institution.

2.3. COMMUNITY CONTROLS AND SAFEGUARDS

OVERSIGHT, PARTICIPATION AND GOOD GOVERNANCE

The modality of community control and oversight of government and its policies is a fundamental right of citizens in democratic societies and is intrinsically linked to the concepts of accountability and transparency in government.

Community oversight is an important component of good governance of the public security system and ensures better implementation of public policies. The justification for community oversight rests on the fact that the community is the primary affected group when the public security system does not work properly and for this reason reserves the right to participate actively in oversight as well as other aspects of policy formulation. It is a crucial role because the citizenry and specific communities influence one of the key pillars of governability, namely government legitimacy. Inefficient performance of public security policies and personnel erodes the legitimacy of the government in power and in particular weakens confidence in the institutions of the public security system causing negative effects that may eventually threaten the democratic system.

Community participation helps internalize public opinion and in particular assists the community in understanding the true state of security, the realities of public management of tasks and duties as well as possible alternatives and options to pursue. It can also increase the legitimacy of the system by strengthening the efficiency of police performance. Community participation enables the identification of weak points in policy and implementation, unaddressed needs, areas of high risk and in this way contributes to good governance.

REACH OF COMMUNITY OVERSIGHT

Community oversight can be exercised in various forms ranging from active participation in the formulation of budgets, control of expenditures, oversight of the performance of daily operations of public security agencies and officials, the baseline assessment of security and security capacities and development of longer-term strategic policies to improve public security.

This oversight requires not only the collaboration of neighbors in a community, but also civil society institutions, business owners and church groups to name a few. Oversight can be exercised from Neighborhood Councils, public hearings or semi-permanent public security commissions. In some cases these entities are more institutionalized than others and may even have formal obligations and rights.

CONDITIONS REQUIRED FOR COMMUNITY OVERSIGHT
<p>✓ <i>Information</i></p> <p>Community oversight requires, just as other modalities of control, the existence of and access to a wide range of information with exceptions for highly classified documentation. Community oversight cannot take place in the absence of an informed citizenry.</p>
<p>✓ <i>Access to public institutions</i></p> <p>In particular community oversight requires access to public agencies and the ability to dialog with public officials. The process of community oversight attempts to generate systematic mechanisms for collaboration and communication between the communities, authorities, public service providers, the media, the private sector and NGOs.</p>
<p><i>Decentralization</i></p> <p>Most community oversight models demand a substantial degree of decentralization in order to enable public institutions with the ability to approach citizens at the community level. It is better, to the degree possible, to focus oversight on local contexts with which common citizens can easily identify.</p>

CONSIDERATIONS FOR LEGISLATORS ON COMMUNITY OVERSIGHT

- Does the citizenry have access to public institutions and their representatives?
- Are citizens able to present their concerns to the authorities and/or participate in the assessment of the public security situation and formulation of public policies? Are citizens encouraged to become involved through campaigns and public awareness activities?
- Does the general environment encourage the establishment of neighborhood councils along with the participation of civil society associations and religious groups?
- Can complaints be brought before parliamentary commissions responsible for public security?
- Are there external control mechanisms such as an Ombudsman to take the cases presented by common citizens? If they exist do they fulfill their obligations regularly

2.4. MIXED CONTROLS: PUBLIC SECURITY COMMISSIONS AND COUNCILS

Mixed controls are most frequently exercised through public security commissions. They are referred to as mixed controls because they involve participation from representatives from multiple government agencies and branches and civil society representatives directly or indirectly linked to the issue of public security.

They are often chaired by a member of one branch of government, be it executive, legislative or judicial, and include authorities from areas of public security, social development, health, education, parliamentarians and community members.

These commissions generally have a consultative function that may or may not make decisions of obligatory implementation. They often advise and coordinate strategies for violence prevention and crime control.

Most countries in Latin America have a public security commission though they vary greatly in composition and quality. The platforms generated by public security commissions through extensive consultation on public security issues tend to advance the philosophy of good governance and government capacity building, but in general have had limited impact to date.

2.5. REGIONAL AND INTERNATIONAL CONTROLS

Regional or international controls originate in the ability of States to sign international treaties and monitor and control their implementation.

One of the clearest examples of this is the Inter-American Convention on Human Rights, under which States made commitments to meet specific obligations and submit themselves to independent verification of their implementation in some cases from an external international organization.

For example, when national laws restrict fundamental rights and an affected party has exhausted all internal mechanisms for due process they can present their case to the Inter-American Human Rights Commission which if accepted will then take the case forward rigorously.

The Commission is a regional entity that represents all member states of the Organization of American States and has the mandate to carry out missions to member states with the express purpose of ensuring obligations of the Convention are met. This type of control has been exercised on repeated occasions in relation to systematic use of arbitrary detentions by police officers and the Commission has made recommendations to those States implicated on how to adopt corrective measures.

2.6. PARLIAMENTARY CONTROL

A synthesized definition of parliamentary control is a voluntary, external control of a political nature where parliamentarians can carry out their oversight role as individuals or collectively with the objective of monitoring the actions of government, including public security policies and functions. Parliamentary control over the public security system is the primary focus of this document and its characteristics are described in detail in the following section.

3. PARLIAMENTS AND PUBLIC SECURITY SYSTEMS IN LATIN AMERICA

3.1 PAST AND PRESENT EXPERIENCES OF PARLIAMENTS RELATED TO PUBLIC SECURITY

As mentioned earlier the perpetual neglect by Latin American governments of oversight and participation in formulating public security has led to many police forces being autonomously self-directed and self-regulation. This led to the marginalization of other actors in relation to public security policy, including parliaments. Under such conditions, with limited opportunities to engage, parliaments have shown limited capacity to intervene in the public security policy, even through legislative actions.

This has also aggravated the asymmetries existing between the executive and legislative branches of government most notably the erosion of the latter's legitimacy through Presidentialist governance and crises within political parties. Worldwide there is a trend where the Executive Branch of government is often strengthened at the expense of legislatures. This is obliging parliaments to adapt and restructure internally in order to remain relevant. This has led many parliaments to emphasize their role as monitors of public policy over their traditional legislative duties. Building the capacity to monitor and control public policies is a pressing challenge for most parliaments. Beginning with the control and monitoring of the public security system is a compelling place to start to develop such capacity.

3.2 KEY CHALLENGES FOR PARLIAMENTARY CONTROL OF PUBLIC SECURITY SYSTEMS

PREDOMINANCE OF INFORMAL RULES AND PRACTICES

Informal parliamentary practices, such as quid pro quo horse-trading for votes or other forms of influence, are perhaps even greater threats to exercising parliamentary control than are the weakness of capacity and experience within the political system.

These informal practices obey informal traditions of party loyalty, corporativism among the political class, hardball politics by the party in power against those that have alternative proposals or look for accountability through the often-limited independence of parliamentary commissions. These informal rules when not followed can destroy the political careers and aspirations of legislators and may even be more difficult to challenge than the laws themselves.

These practices can be even more difficult to counter in countries with only two political parties through implicit agreements not to stir up controversy in determined areas. The specter of being opposition in the near future is often sufficient incentive to not demand accountability in government. In this context there are few individuals willing to exercise comprehensive control over government as it is more convenient not to take action.

REAL SITUATIONS: RESISTANCE TO CONTROL AND OVERSIGHT, WEAKNESS OF POLITICAL OPPOSITIONS AND POLITICAL HARDBALL

At the same time, there are other circumstances, which also affect the ability to exercise parliamentary controls. First, there is an almost instinctual resistance by many government actors to oppose any type of oversight that is reinforced by the lack of practice and understanding about it. Second, weak political parties and opposition are rarely able to practice robust oversight. Third, political actors may use the threat of control as a bargaining tool making control and oversight more a form of political extortion than a tool for accountability in public policy management. It is also worthwhile to note that excessive controls can potentially paralyze government activities

PROBLEMS SPECIFIC TO PARLIAMENTARY CONTROL OVER PUBLIC SECURITY

In specific regard to the field of public security the challenges for monitoring and oversight in the absence of specific mechanisms for doing so is immense. Control and oversight of the public security system need to be developed in ways that do not threaten the often-secretive character of police work in regards to criminal investigations.

GAPS IN THE AGENDA

Additionally, the lack of a systematic work plan that lays out priorities and timelines for exercising parliamentary control also weakens the ability to do so. If there is no work plan for regular programmed activities then it is difficult to imagine a parliament being able to establish itself as a credible and effective control entity. Particularly, when it only intervenes at times of extreme crisis and in an improvised fashion.

4. PARLIAMENTS AS PUBLIC SECURITY CONTROL ENTITIES

4.1 BASIC PARLIAMENTARY FUNCTIONS

The primary functions of parliaments are to legislate and carry out control and oversight.

The objective of the legislative function is to formulate and approve laws that guide and regulate society. In a democratic society this objective is achieved through debate, negotiation, consensus building and the forging of agreements.

Likewise, parliaments are control and oversight entities par excellence that provide an institutional balance and equilibrium vis a vis the Executive Branch (Caetano, 2004).

4.2 CHARACTERISTICS, PURPOSE AND IMPORTANCE OF PARLIAMENTARY CONTROL

CHARACTERISTICS OF PARLIAMENTARY CONTROL

The key characteristics of parliamentary control are²:

- *Includes all activities of the respective parliamentary chambers designated to be controlled and overseen:* this includes oversight mandated by law as well as that not mandated specifically in law.
- *Political control:* parliaments are fundamentally political entities and their objective is to have influence over government actions.
- *Subjective:* requires value judgments that depend upon the independent reflection of individual parliamentarians.
- *Voluntary:* depends upon the willingness of individual parliamentarians.
- *Preventive and investigative:* can focus on future and past activities.
- *Exercising control alone produces results:* provides public evidence that government actions and performance are being monitored and called to account for errors in performance and negligence.
- *Does not always result in sanctions:* control and oversight often has political implications rather than legal ones.

PURPOSE

Parliamentary control and oversight gives parliaments the possibility of intervening in the activities of other branches of government, in particular the Executive Branch, by monitoring its behavior and performance. The purpose of this arrangement is to prevent poor governance practices. However, parliamentary control is distinct to other forms of control. The mere exercise of parliamentary control or oversight has an impact beyond the imposition of concrete sanctions. Its most important impact is often found in 'diffuse political responsibility' because governments may lose political capital and support for their political projects because of the public and institutional criticism of their performance. Sanctions are often more political in nature, as opposed to legal, and their power lies more in the future threat of electoral change. This aspect of parliamentary control reveals the nature of this activity in the context of the political games played between parliamentary majorities and minorities. To a certain extent, control and oversight serve as instruments that define the relationship between a government and the legislature.

At the same time, control and oversight also plays a more positive role in that government officials practice good governance because they know there are negative consequences for not doing so. At the other extreme, the absence of control and oversight mechanisms enable poor governance practices and impunity for breaking the laws and other misdeeds.

IMPORTANCE

² See Mora Donatto, Cecilia: Instrumentos constitucionales para el control parlamentario. And Aragón, Manuel: Constitución y control del poder. Introducción a una teoría constitucional del control.

The importance of parliamentary control and oversight rests on two factors. First, it creates equilibrium between the different branches of government. Second, there is no entity other than Parliament that can carry out such a role in monitoring the Executive Branch.

4.3 REQUIRED CONDITIONS FOR PARLIAMENTARY CONTROL

For an effective parliamentary control of the public security system it is necessary that the following conditions be present:

- political will
- information
- technical capacity
- clear mandates and roles in the control of public security institutions

POLITICAL WILL

Political will is an essential for any type of oversight, particularly when one is dealing with a type of activity that can alter relations between different branches of government and the positions of different political groups. This political will is particularly important in relation to the discussion above that recognizes the existence of many informal rules that operate in parliament that may inhibit the exercise of robust controls and oversight.

INFORMATION

It is also necessary that parliaments have access to the institutions they are controlling and the information they generate in order to exercise control and oversight.

Usually, legislators are authorized to request information from the Executive Branch though this is sometimes easier said than done due to normal red tape and delays caused by officials' resistance to provide such information. Often times when information is provided to Parliament it is sent late, in a difficult to use format or with information that is not exactly what was originally requested. In the absence of enforceable, strict and concrete sanctions for failing to fulfill information requests it is difficult to demand information from the government. The Peruvian legislature, for example, sanctions those agencies and officials who fail to respond to information requests by publicly publishing the who and what in the official congressional bulletin.

Parliamentary commissions generally face the same problems as do individual parliamentarians, with the exceptions of commissions with special investigative powers that are only created for exceptional cases and that are followed closely by public opinion and the media.

Because of these factors it is important for societies that have laws guaranteeing the freedom of access to information for both parliamentarians and common citizens alike. It is crucial that these laws cover all branches and agencies of government and whenever possible for information to be made publicly available on the Internet. Fortunately, Latin American countries are increasingly passing such laws and are beginning to provide parliamentarians and the general population access to important statistical information and databases that are indispensable for the good governance of the public security system.

TECHNICAL CAPACITIES

The lack of information is frequently found alongside a shortage of qualified personnel capable of advising parliamentarians on public security matters. The fact that most parliamentarians, with a few exceptions, are not security experts and are only elected for short periods of time generally means they are not able to gather sufficient expertise and knowledge in order to be able to oversee the intricate, difficult, specialized, complex and often secretive world of public security.

Due to these shortcomings much of the work on public security is concentrated in specialized commissions and sub-commissions. This reinforces a common problem that there is an enormous asymmetry in knowledge and expertise between legislators and government officials making it difficult to exercise control, oversight and demand accountability. At the same time, the primary source of information (a specific public security institution) is also the object of control (Born y Leigh, 2006).

One possible way around this asymmetry is the creation of alliances with civil society and academic institutions that may have the technical expertise required along with its own vision of related problems and the ability to research public opinion on public security issues.

- What are the constitutional, legal and regulatory mandates for parliamentary control and oversight of the public security system?
- Is there sufficient access to public security institutions in order to be able to control the quality of service to the citizenry?
- Do individual legislators and parliamentary commissions have the ability to request information from government agencies? Is there any penalty or sanction for not complying with a parliamentary information request, including requirements that information be provided promptly, correctly and in a usable form?
- Is there a law for freedom of information? If so, is it sufficient to exercise control and oversight of the public security sector?
- Do the public security institutions publish up to date reports and statistics on crime and violence? Is it available on the internet
- Is there a list of civil society and academic experts who can support parliamentarians in generating the needed information and analysis in order to exercise control and oversight of the public security sector?

4.4 MODALITIES OF PARLIAMENTARY CONTROL

There are different modalities of parliamentary control. These can be distinguished by two key criteria:

1. those who exercise control and oversight
2. those who order or mandate control and oversight.

Based on these criteria we can differentiate between autonomous control, delegated control, joint control and several further sub-categories depending on the external actors that contribute to control and oversight duties such as civil society or government agencies.

MODALITIES OF PARLIAMENTARY CONTROL	
Autonomous control	Exclusively by Parliament
Delegated control	By Executive of Parliament
	By Parliament of other branches of government
Joint control	With other branches of government
	With civil society
	With other parliaments

AUTONOMOUS CONTROL

Autonomous control is the control carried out by Parliament on its own initiative without the participation of any other governmental or civil society actor. It is the most common modality of parliamentary control and oversight and can be carried out by individual legislators, commissions and entire chambers.

On their own initiative parliamentarians, in line with their elected responsibilities, can initiate their own investigations when suspicions or accusations require them to do so in order to guarantee the proper functioning of government. This type of control is essential as it is the primary foundation of parliamentary control.

Autonomous control can also be carried out through special commissions, advisory committees, parliamentary debate and defined parliamentary actions.

DELEGATED CONTROL

Delegated control is a modality of parliamentary control established by law. This type of control is possible in two forms: control delegated by an Executive Branch agency to Parliament or control delegated by Parliament to another branch of government.

- *Delegated by the Executive to Parliament*

The most common case of delegated controls is when the Executive branch requests the creation of a commission to investigate a matter of importance to public opinion and where the government wants to demonstrate the highest degree of transparency and objectivity possible.

- *Delegated by Parliament to another branch of government*

An example of this type of delegated control is when the Parliament requests an investigation by agencies such as the national office for audits or accountability.

Generally, Parliament through a specialized commission requests that the audit or accountability office initiate an investigation and issue a report ex post on a specific government agency, budget allocation or public policy. With this report the auditing agency then issues a report to the parliamentary commission. In this context, the content of the report are used to formulate recommendations that are then presented to the Executive.

PARLIAMENTARY CONTROL DELEGATED TO OTHER BRANCHES OF GOVERNMENT	
Advantages	Disadvantages
The advantage of delegated control is that Parliament is able to take advantage of institutional capacities in other branches of government that would otherwise be difficult to carry out on its own.	Delegation should not mean the passing on the responsibility of control and oversight by the legislature to another branch of government. To avoid this from occurring specific parliamentarians or parliamentary advisers should be designated to follow up and support the work from the presentation of a request to another government agency to monitoring governments actions based on recommendations made.

Argentina: a controversial case of delegated control

In Argentina, where the Auditor General is elected by members of the opposition, the parliamentary commission requested that the Auditor General not make public the reports and recommendations produced. The Auditor General saw the possibility of making his reports public via the internet as a way to provide public access to information and in this way promote civic participation in government and enabling the creation of alliances between the Auditor General, parliament, civil society and the media to create accountability for government actions. The Auditor General had to respect the wishes of the parliamentary commission to keep the information private as they represented the majority of the congress at that moment in time, but required that the institutional website state that the report was not made public by order of the parliamentary commission. Finally, the parliamentary commission allowed the public dissemination of the report so as to not be identified as against the freedom of access to information by the public.

JOINT CONTROL

Joint control applies to specific situations where the Parliament joins efforts with other actors. The possibilities for joint control include: joint control with other branches of government, with civil society or with regional organizations.

With other branches of government

The most common form of joint control between parliament and other government agencies are national security councils. Even if the primary function of these councils is to exchange opinions and make recommendations to those responsible for implementing government policy they can initiate control and oversight processes to be carried out by individual members of the council.

With civil society

Joint control with civil society contemplates situations where the Parliament and a civil society organization collaborate mutually in the exercise of control and oversight.

This cooperation is generally positive for both parties. For parliament it helps fill gaps in information and expertise necessary for effective control and for civil society it helps build alliances in the pursuit of their own institutional interests. Civil society participation in control and oversight of government is an important resource for creating transparency and improving the formulation and implementation of public security policies.

METHODS OF STRENGTHENING JOINT CONTROL WITH CIVIL SOCIETY
<p>✓ Broadening and strengthening channels of communication</p> <p>Broadening and opening new channels of communication with civil society and the general public allows parliaments to learn more about the demands of the electorate, know what they are thinking about security in their local communities, what they think of the performance of the police as well as what are the fundamental problems and possible solutions. Parliamentarians need to take into account the asymmetries in access to information between the Executive, Parliament and the citizenry. This asymmetry if not addressed in one way or another, particularly in the arena of public security, leads to an unaccountable bureaucracy.</p> <p>✓ Public hearings</p> <p>Commission proceedings should be open to the public and media in order to encourage citizen participation and public access to information related to public security. This point is crucial since in many countries parliamentary sessions are closed to the public. In Argentina, Brazil, Mexico, Uruguay and USA commission hearings are open to the public.</p> <p>✓ Systems for receiving questions and complaints</p> <p>Another option for dealing with public security concerns is creating mechanisms for citizens to present requests and complaints about public security directly to the commission where they can be done anonymously or in a way that allows for witness protection. Once a formal complaint is presented the Parliament can delegate the investigation to another government agency.</p>

Examples of civil society participation in parliamentary procedures
<p><u>Bolivia: Internal regulation of the chamber of deputies</u></p> <p>...each commission will designate a session on a weekly basis for public hearings where citizens and their institutions can present issues of concern related to legislative matters, control and oversight.</p> <p><u>Chile: Internal regulation of the chamber of deputies</u></p> <p>In article 218 parliamentary commissions are required to organize two thematic sessions per legislative period with the purpose of interacting with citizens and discussing issues of concern to them.</p> <p><u>Brazil: Internal regulation of the chamber of deputies</u></p> <p>Commissions are authorized to hold public hearings with members of civil society. (article 24).</p> <p>The Brazilian constitution requires that legislation in the areas of public health; social welfare and education require the participation and input of civil society through Deliberative Councils with representatives of both government and civil society.</p> <p><u>Peru: Internal regulation of congress:</u></p> <p>Requires that in the rulings and decisions of ordinary parliamentary commissions that a section be designated for compiling citizen input through consultation.</p>

With other parliaments

In Latin America there are various institutional platforms where parliamentarians from different countries can work together such as the Andean Parliament (Parlamento Andino) or the Latin American parliament (Parlatino).

These entities can be used to strengthen controls over public security policies though they have not been take full advantage of to date. These parliaments are useful in tackling cross-border security issues such as organized crime and illicit firearms trafficking.

PARLATINO

Among its objectives Parlatino was established to defend liberty and respect for human rights and has recently established a Citizen Security Commission for Combating and Preventing Narcotics Trafficking, Terrorism and Organized Crime that is empowered to carry out investigations and make recommendations to member parliaments. During the Commission’s fifth annual reunion in 2006 the issues of firearms proliferation and armed violence were debated and in consultation with civil society organizations a model law was drafted for the control of firearms and ammunition.

4.5 TYPES OF PARLIAMENTARY CONTROL

4.5.1 ROUTINE CONTROL

Parliamentary debate

Parliamentary debate is a routine component of legislative power that is used both for the purposes of legislating and control and oversight.

Santaolalia López distinguishes between actions of legal character and those that are not of legal character. Actions under the law indicate the application of a written law and any debate that revolves around such application. The debate and approval of a government budget is a common example of a parliamentary action under law.

Parliamentary actions not considered of legal character, would include more general parliamentary debates. Debates in the context of informative sessions, such as the presentation by Cabinet of their public policy plan for the year and questioning by parliamentarians of such plans.

Parliamentary commissions

Commissions are one of the most important tools of parliament in relation to control and oversight. In Latin America there are two basic types of commissions: permanent or standing commissions or ad hoc. There are also mixed or bicameral commissions in countries with two chambers of legislature. For the purpose of looking at the role of these commissions and oversight, here we are analyzing the controls carried out by permanent commissions.

Permanent parliamentary commissions have the advantage that they are organized along thematic lines on ongoing basis that enables a detailed and comprehensive approach to public affairs. The continuity of these commissions allows for its members to become specialized in specific areas and accumulate experience, which in turns improves capacity for control and oversight.

In most Latin American countries, legislatures have permanent commissions dedicated to public security issues. However, in many countries public security is still lumped together in commissions that also work on defense and intelligence matters. It is necessary for parliaments to have specific commissions for public security affairs in order to give this complex field the attention it deserves as well as to be able to exercise rigorous control and oversight.

The composition of commissions is a very important aspect for exercising control over public security. Commissions where representatives from multiple political parties participate are ideal since minority and opposition parties generally have the most incentive to control and oversee the Executive.

RECOMMENDATIONS FOR STRENGTHENING THE ABILITY OF PUBLIC SECURITY COMMISSIONS TO EXERCISE EXTERNAL CONTROL
<p>✓ <i>Establish an agenda:</i> So that commissions are able to regularly carry out its duties it is recommended that a work plan with control and oversight priorities be established at the</p>

beginning of the legislative year.

- ✓ *Mandate for investigation:* Commissions need a mandate to carry out investigations that include access to public government documents and allow them to subpoena government officials and citizens with the purpose of obtaining relevant information..
- ✓ *Ability to create ad hoc commissions:* Some situations require the ability to create temporary ad hoc commissions to deal with highly sensitive or difficult circumstances.

4.5.2 EXTRAORDINARY CONTROLS

Extraordinary controls, by definition, are exceptional controls but apply to more than just extreme circumstances and crises.

Special and/or ad hoc commissions are the most common form of extraordinary controls. These commissions are created by parliament to address specific questions and issues and once they complete their investigation, report and presentation are automatically disbanded. In some countries investigative commissions are considered special commissions and constitute a form of extraordinary control.

Other forms of extraordinary control include parliamentary requests of clarification or explanation by the Executive, public hearings and votes of censure.

4.5.3. INTER-PARLIAMENTARY CONTROL

Inter-parliamentary control is a form of self-control exercised by a parliament over its own activities and persons. In relation to public security it is only relevant to 'control over controls'. This in essence means that the legislature has the responsibility to make sure that the responsible entities within the Parliament are effectively carrying out their roles in controlling and overseeing the public security system.

Inter-parliamentary control can take three basic forms:

1. in session: occurs when an individual parliamentarian denounces or raises questions about the failure of parliament to comply with internal rules and procedures
2. within a commission: one peer presents concerns to his/her which can be for failure to fulfill responsibilities established within a commission or errors made.
3. by parliament of commissions: occurs when the entire chamber calls the attention of a commission when the commission fails to meet its obligations or is doing so unsatisfactorily.

4.6 METHODS OF PARLIAMENTARY CONTROL

The methods of parliamentary control are all of the tools and mechanisms the legislature has to obtain information and make exercising control more effective. They can be distinguished by the procedures required (timelines, joint or individual action, mandates) and the effects they may have over the Executive (recommendations, warnings, censure, denunciation, input for debate, etcetera)

METHOD	PURPOSED	REQUIRED PROCEDURES	CONDITIONS REQUIRED TO BE EFFECTIVE
Requests for information and clarification	<p>Questions of a general nature and broad political interest submitted to Executive. They are generally linked to a government policy or an event of substantial political and social interest.</p> <p>To be carried out in the sessions of Parliament. They usually begin with a debate that ends in a motion that defines the position of the Parliament about the issue of concern. Or it may approve or reject a decision taken by the Executive.</p>	<p>The request is formulated for presentation as a daily motion to be signed by a minimum number of parliamentarians. For acceptance, must be submitted to the parliament and voted on by the required number of members.</p> <p>The assembly sets a date and hour for the members to attend the corresponding session.</p>	<p>-obligation of those Executive branch agencies and officials to appear before parliament.</p> <p>-obligation of those under questioning to respond to all relevant questions asked.</p>
Interrogation	<p>Interrogations are specific, timely and concrete questions directed at government functionaries. It is a means of inspecting and controlling that any member of parliament can exercise. They can end in a request for the Executive to intervene in specific affairs, with a denunciation of abuses or request for reparations for damages related to a specific incident.</p> <p>Permits control of public security officials.</p> <p>In some countries this method is applicable to Ministers and Secretaries and their subordinates. In others, it only applies to the maximum authorities.</p>	<p>Generally, questions are presented in writing. The response can be oral, in full session or within a commission, or written. Oral responses include the possibility of paraphrasing back to the official or re-asking questions. Written responses tend to be more precise, but there is not opportunity for follow-up.</p>	<p>It is important that parliamentarians are able to reformulate their questions when they are not answered.</p> <p>It is also important that the public is able to observe the process in person through open, public sessions or via the mass media (e.g., television or radio).</p>
Request for report	<p>Legislators request specific reports from the Executive in order to help inform decisions taken in their role as parliamentarians.</p>	<p>Request is specific and in writing. There may be several mechanisms to ensure that officials respond in a timely and correct manner.</p>	<p>-obligation of officials to respond</p> <p>-establishment of clear deadlines</p>
Vote of censure	<p>Is a measure that is used to demand political responsibility of Executive officials. Censured officials are generally required to resign and the President should accept that resignation.</p>	<p>Can be proposed after a request for information, a legislative session or debate where a Minister intervenes voluntarily. The motion must be presented by a minimum number of legislators and approved by the entire Parliament.</p>	
Parliamentary investigations	<p>Is a mechanism that enables the detailed control and oversight of specific government decisions.</p>	<p>Commission investigations are generally presented to one or more chambers of</p>	<p>Control mandate:</p> <p>- Ability to use judicial branch to oblige witnesses</p>

	<p>Carried out through investigative commissions created to gather information and carry out investigations.</p> <p>Enables control over public security institutions and officials.</p>	<p>parliament in full session. The Chamber(s) draws its conclusions and takes corresponding decisions. Investigative commissions only investigate and briefs, but cannot take decisions.</p>	<p>to appear before legislature.</p> <ul style="list-style-type: none"> - Ability to prevent witnesses from leaving country while being investigated without prior authorization. - Ability to require all public and private entities to provide information deemed necessary for purposes of investigation. - Ability to receive complaints and denunciations - Ability to carry out inspections.. - Ability to carry out or request audits.
Political trial	<p>Is a procedure that calls the Executive to account.</p> <p>Is distinguished by its purpose that is not to sanction the judged, but to remove them from their public position..</p> <p>Political trials are generally carried out for poor performance or the commission of crimes.</p> <p>The punishment for those found guilty in a political trial is removal from position and the prohibition from holding public office in the future. The regular justice system may also decide to proceed independently with a legal process if crimes were committed.</p>	<p>Each country has different procedures and names for political trials but there are generally a few common features. In a bicameral system the lower house serves as the prosecutor and the upper house presides over the judgment.</p>	<p>It is important that there be concrete timelines for carrying out a political trial.</p>

CHAPTER III.

PARLIAMENTARY CONTROL OF PUBLIC SECURITY SYSTEMS

1. INTRODUCTION: WHAT AND HOW PARLIAMENTS NEED TO EXERCISE CONTROL OVER PUBLIC SECURITY SYSTEMS

The objective of this section is to integrate the definitions provided of the public security system with the methods and components of parliamentary control and oversight in order to identify concrete and practical ways of controlling and overseeing the government functions of public security.

In order to fulfill this objective, the final section of this guide for parliamentary control of the public security system is divided in four categories:

- public policy control and oversight
- institutional control and oversight
- performance control and oversight
- budgetary control and oversight

These distinctions are made for analytical clarity in the control and oversight of the public security system. Of course, in the exercise of duties these categories frequently overlap.

2. PUBLIC POLICY CONTROL AND OVERSIGHT

CHARACTERISTICS AND PURPOSE

Public policy control and oversight is a type of control exercised over the planned activities of the Executive, generally prior to their implementation. It is usually a control based on political and ideological grounds.

Because of the characteristics of public policy as defined by the Executive political judgments are made about the government priorities in terms of problems to be addressed and the means to be employed in addressing them. The Parliament then judges the priorities laid out by the Executive and evaluates them vis a vis other potential alternatives.

Due to its scope, this is perhaps one of the most important controls to be exercised by Parliament. There is no other institution that can play a similar role in questioning government priorities.

SEQUENCING PUBLIC POLICY CONTROL AND OVERSIGHT

The first question to be asked is whether or not the current government has explicitly defined a public security plan or policy. Often times, governments do not define a work plan for public security instead choosing to assume the priorities as defined by the public security institutions whether they be internal bureaucracy or external (social and economic sectors, media, public opinion, etcetera.)

It is highly possible that there is not one single plan that covers all of the policies and interventions designed for public security. In such a situation, precisely because there is not a single document that organizes all of these plans the role of parliamentarians may be labor-intensive, but that does not impede control and oversight over specific identifiable components.

When there is no plan or series of scattered plans the Parliament will have to call the attention of the Executive to begin the process of formulating a public security policy. (See Examples 2.3).

ATTRIBUTES OF A PUBLIC SECURITY PLAN	
✓	Strategic framing of plan for preventing and controlling violence and crime
✓	Formulation of a strategy for reforming and modernizing public security institutions
✓	Development of strategy for coordination among institutions linked to the public security
✓	Establishment of objectives
✓	Organization of actions, measures and interventions and their stages, timelines and terms.

OPPORTUNITIES AND FORUMS FOR PUBLIC POLICY CONTROL AND OVERSIGHT

The primary occasion for public policy control and oversight is when the Executive presents Parliament with a public security plan for approval by law. The specialized commissions relevant to public security policy support this process because they have the capacity and expertise to look at the plan in detail.

COMPONENTS OF PUBLIC POLICY CONTROL

Here we introduce the key areas of control and oversight:

- 1) control and oversight of baseline assessment;
- 2) control and oversight of political objectives and goals;
- 3) control and oversight over coherence and comprehensiveness of policies; and
- 4) control over legality of policies.

2.1. OVERSIGHT OF BASELINE ASSESSMENT: CONTEXTUAL AND INSTITUTIONAL ASSESSMENTS

BASELINE ASSESSMENT: PURPOSE AND IMPORTANCE OF EVALUATION

The baseline assessment is the definition of problems and the policies designed to resolve them. Obviously, the definition of the problem(s) has an impact on the choice of solutions. In this way, a key aspect of parliamentary control is the review of and scrutiny over the assessment used to formulate policy.

The ultimate purpose of parliamentary control over the baseline assessment is the validation of the basis for pursuing specific public security policies in order to ensure the relevance of the policies to the problem(s) identified.

EXPLICIT AND IMPLICIT ASSESSMENTS

An assessment for a public policy can be based on implicit assumptions or in best-case scenarios fruit of an explicit definition based on research and analysis. In any case, nearly all public policies also have underlying threads of logic.

Regardless, control over public security policies can and should be exercised whether or not a baseline assessment exists. Parliamentarians can try and trace the government assessment based on the policy proposal put forth. In a coherent public policy it is easy to identify the objectives.

TYPES OF ASSESSMENT

In the public security policy arena the assessments required to devise a strategy to control and prevent crime and violence on one hand and to reform and modernize institutions on the other are quite different.

CONTEXTUAL ASSESSMENT

Purpose

A contextual assessment is one that supports the design of policies for crime prevention and control. It looks at sources of public opinion about the state of security. It seeks to objectively determine the state of

Elements of contextual assessment	Source of information
<ul style="list-style-type: none">✓ Common crime✓ Incidence of violence✓ Conflicts affecting public order✓ Organized crime✓ Societal perceptions of crime, violence and security✓ Societal perceptions of government responses to problems and violence	<ul style="list-style-type: none">✓ Police reports and statistics✓ Judicial reports and statistics✓ Public health reports and statistics✓ Victim support agency reports and statistics✓ Victimization surveys✓ Public opinion polls✓ Case studies

public security based on available statistics and by subjectively

Value of contextual assessment

According to the results of a contextual assessment it can be determined:

- 1) if policies proposed by the government actually address the key public security challenges.
- 2) if the proposed interventions are the best available.

Difficulties inherent in contextual assessments. The role of Parliament.

Often times much of the information required for a contextual assessment is not available. Other times it exists but is not used for the design of public security policies. Under such conditions, parliamentary control can be essential, since Parliament can look to generate information and make it available to the public as a way of pressing for an informed public policy process.

INSTITUTIONAL ASSESSMENT

PURPOSE:

An institutional assessment serves as the foundation for the reform and modernization of the public security sector.

Objective:

The Institutional Assessment is designed to:

Dimensions:

- The normative and institutional aspects of the public security system within the State
- composition
- functions
- performance

Institutions:

- sub-system of security system governance,
- sub-system of crime and violence prevention,
- policing sub-system,
- penal sub-system,
- sub-system for community participation; and
- sub-system of private security

Difficulties inherent in institutional assessments.

Regular institutional assessments are not common practice in Latin American governments, and the area of public security is no exception. It is perhaps even less common among public security institutions where police authorities are often hegemonic in their control of the system.

Regardless, institutional assessments and analyses are the primary building blocks of strategies to reform and modernize institutions in Latin America and unfortunately are generally carried out during moments of crisis when the entire legitimacy of the public security system is in question.

CONTROL AND OVERSIGHT OF ASSESSMENTS

A correct evaluation of an assessment should start with analyzing the definition or identification of the problem(s) by the Executive. To do so the following needs to be taken into consideration:

- ✓ all aspects of the problem
- ✓ possible causes of the problem
- ✓ associated factors
- ✓ affected segments of society as well as other interests linked to the problem.
- ✓ Quality and reliability of information and sources
- ✓ Updatedness of information
- ✓ Situation in similar and/or neighboring societies

OTHER HELPFUL RESOURCES: PARTICIPATIVE CONTROL AND OVERSIGHT

Evaluating a comprehensive baseline assessment can be time-intensive and can be assisted by using advisory commissions that can devote time to searching for other assessments already carried out within and outside government. Depending on the specific issues at hand, the Parliament can request support from academics, civil society institutions and other government entities not directly involved in formulating public security policy. For example, public security agencies often do not look to public health data when developing public policy, which is a lost opportunity for drawing a more comprehensive analysis.

DIFFICULTIES IN ASSESSMENT CONTROL AND OVERSIGHT

Frequently, parliamentarians will find themselves looking at complementary and/or contradictory interpretations of public security problems. This can happen when an assessment goes beyond reporting on statistics for a given geographical area to also looking at the performance of public security institutions.

In this context, it may be useful to look at information from other geographical areas or the historical evolution of the data for the area of analysis. Comparative and time-based analysis can help in this regard. This can also bring to question the quality of the construction of databases on criminal statistics and when these databases are lacking how to improve them for the future.

There are two other important aspects of a baseline assessment to take into account: the updatedness of the information and the sources of information. Because the regular generation of information is not a practice of many Latin American bureaucracies it is always important to look at the months and years of the data presented by them and for this reason should be reviewed by Parliament when using such data for control purposes. This control can help get bureaucrats to increase efforts to permanently maintain up to date databases.

2.2. EVALUATION OF POLICY GOALS AND OBJECTIVES

PUBLIC POLICY GOALS AND OBJECTIVES

In theory, the goals and objectives of public policy should rest on the analysis provided by the baseline assessment. As mentioned earlier, the objectives should be defined by jointly analyzing the problems and potential solutions together. To give a simple example, if rate of citizens reporting crimes to local police precincts are low, the goals would be to improve police service to the public; and the specific objectives would be 1) to train officers to better attend to victim denunciations, 2) increase police efficiency in solving crimes and 3) increase public confidence in the police force. It is likely that each of these objectives would require a different mix of measures.

Most policies these days have a series of objectives and benchmarks for the long, medium and short terms with general and specific objectives. The establishment of objectives makes the exercise of parliamentary control and oversight much easier.

SPECIFIC OBJECTIVES: ESSENTIAL FOR PARLIAMENTARY CONTROL AND OVERSIGHT

Specific objectives are commonly the best indicator for measuring the results of a given policy. They can also provide insights into the obstacles and adjustment that must be overcome in the process of implementing policy.

When objectives are concrete and clear there it is easier to carry out effective control and oversight and in fact should be a prerequisite. However, such clarity is not always present in public policy processes and are often lofty and ambiguous making any effort to evaluate and control them a challenge.

OTHER CRITERIA FOR EVALUATING OBJECTIVES

In addition to those aspects mentioned in the section immediately above the evaluation of objectives and goals also requires looking at coherence and comprehensiveness and their relevance to measures taken.

a) Coherence and comprehensiveness of objectives:

Public policy objectives should be complementary and not contradictory. They should also cover the entire spectrum of measures and interventions required to have an impact.

b) Consistency of objectives and measures taken

Analyzing and ensuring consistency between objectives set out and measures taken is another type of control that should be exercised by Parliament. This is about making sure that the measures proposed by the Executive can feasibly reach their objectives. In this sense, we are talking about the technical feasibility as well as the practical and political. Parliament can make additional proposals for the range of measures available according to their technical, practical and political merits.

2.3. EVALUATING COHERENCE OF PUBLIC POLICIES

MEANING OF PUBLIC POLICY COHERENCE

Controlling for public policy coherence avoids the unnecessary implementation of duplicative policies within or among government agencies as well as promotes linkages, harmony and synergy among different policy interventions within government with similar objectives.

Frequently, there is not sufficient coordination among institutions of the public security system (policing, community participation, crime prevention, penal and private security) and often times each sub-system carries on autonomously without taking into consideration the way their own policy objectives and practice relate to or have an impact on other areas of the system.

COMMON PROBLEMS

Problems of policy coherence are particularly common when it comes to preventing crime through social policy. In almost all countries of Latin America there are multiple agencies involved in implementing policies among populations considered to be vulnerable to crime and violence. This is natural in that these sectors affected by crime and violence are also the same communities with problems of health, education, infrastructure, employment, etcetera. In practice this means that in a given community there may be parallel and overlapping interventions taking place and involving the ministries of health, social action, education, public works, security and justice. This often leads to the wasting of precious resources and compartmentalized baseline assessments. For example, many times social prevention policies are directed towards youth from poor, marginalized and conflictive neighborhoods. However, this does not alone help define why the population is vulnerable to crime and violence in the first place.

2.4. LEGAL CONTROLS

PURPOSE

Controlling for the legality, implies that parliamentarians or others in government are verifying that a planned or proposed policy is in line with the existing laws and jurisdictional mandates. Stated objectives and goals must respect national constitutions and laws, local ordinances and international treaties and agreements to which the country is party.

POTENTIAL OBSTACLES: A PARIDIGMATIC CASE

Parliamentary control of public security policies can be very difficult in cases where the government has not developed an official work plan that is public knowledge, at least to Parliament. Under such conditions, parliamentarians have to seek out diverse sources to identify what current policies are. One example of this is the case of the public security policy of the provincial government of Buenos Aires, Argentina in 2001. In this case, the government had not concretely defined a security policy. However, the provincial governor publicly declared, "thieves should be shot". Under such a situation it is important for parliamentarians to seek clarity on what was said, look more deeply into existing policies and their respect for the rule of law.

In regards to the case mentioned above, it is important that the Parliament and any specialized commissions ensure that policy is in line with the International Pact on Civil and Political Rights, the Inter-American Human rights Convention the Basic Principles for the Use of Force and Firearms by Law Enforcement Officials and constitutional articles, norms and regulations governing the use of force.

RECOMMENDATIONS

- Confirm that there is an actual security plan being carried out by the government that deals with the most important public security problems.
- Advocate that such a plan be debated and formally approved by the legislative branch.
- If there is no public security plan in place, the parliament should call in the Executive Branch to begin the development of such a plan

3. INSTITUTIONAL CONTROL

OBJECTIVES OF INSTITUTIONAL CONTROL

The purpose of institutional control is to guarantee that the organizational structure as well as the availability and use of human resources, infrastructure and technology for implementing public security policies are coordinated and efficient. In other words, it is the control over the institutionality and capacity necessary to intervene in favor of improving public security.

CHARACTERISTICS OF INSTITUTIONAL CONTROL

This is a permanent and regular type of control that goes above and beyond examining the organizational diagram and focuses on the systematic analysis and oversight of the institutions within the public security system.

These controls are exercised over those responsible for leading and coordinating the public security system including the bureaucracy. It is usually exercised over ministers, secretaries and other high level executive branch officials, in some cases even the President, because it is their responsibility to define the institutional framework for providing public security.

ELEMENTS OF INSTITUTIONAL CONTROL:

- 1) control of entities empowered by Parliament;
- 2) Control of organizational structure and its operations;
- 3) control of human resources;
- 4) control of resources; y
- 5) control of infrastructure and technical capacities.

3.1. CONTROL OF ENTITIES EMPOWERED BY PARLIAMENT

This control consists of the review of legislation passed by parliament related to the existence and operations of entities delegated to provide public security. There are times when institutions created by Parliament never come into being whether the reason be political, for lack of financial resources ore because specific administrative actions were never taken.

RECOMMENDATIONS

- Carry out a legislative review of the public security institutions created by law.
- When an established public security institution is lacking in implementation, request a report from the Executive as to the reason behind the delays and steps to be taken to resolve the situation.

3.2. CONTROL OF ORGANIZATIONAL STRUCTURE AND ITS OPERATIONS

CHARACTERISTICS

The control of organizational structure is primarily a control of the institutional design of the public security system. This of course implies the evaluation of the internal organizational diagram of the public security system. However, it also implies analyzing the relationship and linkages of the public security system within the overall institutionality of the State.

EVALUATING THE PUBLIC SECURITY SYSTEM WITHIN THE OVERALL STATE APPARATUS

Evaluating the public security system and its components within the overall State apparatus is central to guaranteeing a good functioning public security policy. In many countries there is no specialized ministry that covers all of the sub-systems of public security mentioned above. This does not mean that in all cases a ministry of public security is what is needed, but does imply there

may be a lack of coordination among the relevant ministries and their respective policies. This is most commonly observed in relation to social prevention policies carried out by multiple government agencies at once. However, it is also possible to observe in regards to intelligence gathering or criminal investigations where there are a variety of agencies involved such as the anti-narcotics, customs, border patrol, auditing and anti-money laundering entities.

Another common situation where multiple institutions may overlap in mandates and jurisdictions is internal security. In many countries of the region there is more than one armed institution, some not linked to the police but rather to other ministries such as the judiciary and the armed forces. These situations are not amenable to a coordinated public security system nor proper organizational controls without even going into the potential impacts on the civilian and democratic nature of such institutions. However, this is frequently the case.

EVALUATION OF INTERNAL PUBLIC SECURITY ORGANIZATIONAL DIAGRAM

The most basic form of this type of control is via the distribution and delineating of roles, functions and responsibilities. As with any type of organizational structure the correct distribution and delineation of roles, functions and responsibilities is a necessary pre-condition for a healthy institution. The first analysis should determine if the organizational structure is adequate and relevant to the broad public security objectives of creating a social environment free of violent conflict and crime where citizens are freely able to exercise their rights. In more practical terms, the institutional structure should be an effective channel for the planning and implementation of public security policies and interventions.

HOW TO PROMOTE A DEMOCRATIC SECURITY SYSTEM?
<p>In order to promote democratic governance of the security system the following questions should be asked:</p> <ul style="list-style-type: none"> ✓ Do civilians lead the government and public security institutions? ✓ Is there a civilian component to the leadership of policing institutions? ✓ Is there a civilian and technical framework for assessing the situation of violence, crime and insecurity. ✓ Is there an advisory entity, such as a National Public Security Commission? ✓ Are there mechanisms for public participation in public security matters? ✓ Are their internal and external control mechanisms of the public security system? ✓ Are internal controls coordinated by the police leadership or by another entity of the public security system? ✓ Is the police force autonomous in its administration or does it depend on another government entity?

COMPLEMENTARY CRITERIA

Functions and institutional hierarchy

In this stage of control it is important to look at the horizontal and vertical frames in the organizational structure. How these functions and roles are defined and organized has an impact on institutional dynamics. In addition to questions of hierarchy and subordination other issues to be taken into account include the distribution of resources among the organization and the autonomy to make decisions, spend money and allocate resources.

One good example of problems encountered here are when a control entity does not have the institutional rank and autonomy to exercise control over specific units or officials of the police.

Distribution of functions

Another important aspect of organizational control is the distribution of functions among agencies and departments to avoid duplication of efforts, maximize synergies and develop healthy lines of communication and coordination.

Organization, institutional practices and beliefs

Lastly, it is also necessary to undertake organizational controls over the institutional practices that define public security institutions. This type of control looks deeper than formal perspectives to include practices; routines, beliefs and values that are reproduced within the institution on a daily basis. This helps avoid naive thinking that making institutional formal changes is enough to produce changes in institutional behavior and dynamics.

RECOMMENDATIONS

- Evaluate the public security system beginning with the review of laws in order to define the formal structure of the public security system.
- Promote the development of a legal framework specific to the public security system.
- Formalize controls over the public system through laws and regulations.
- A good way to commence control is by analyzing institutional payrolls and salary scales as well as the distribution of roles and responsibilities.

Warning:

- Legislators should be aware that often times problems of organizational design are frequently confused with problems of performance and implementation.

3.3. CONTROL OF HUMAN RESOURCES

PURPOSE AND IMPORTANCE

The purpose of controlling the human resources of the public security system is to ensure that the people working for its related institutions act under the necessary ethical and legal considerations, which generate professionalism, efficiency and quality public services.

This area of control is fundamental because the Parliament has the ability to create or eliminate employment positions and regulate access to public employment. This becomes even more important when it involves employing people and giving them the right to use physical violence on behalf of the State and/or the public good.

HUMAN RESOURCES OF THE PUBLIC SECURITY SYSTEM: POLICE AND CIVILIANS

In order to analyze and control the human resources of the public security system it is important to distinguish between two groups: the personnel assigned to serve on the police forces and the civilian staff. Police personnel are those that carry out functions of prevention, control and investigation of crime while civilian functionaries make the public security system bureaucracy work through management of crime statistics, internal controls, planning and evaluation among other tasks.

Generally, all of the efforts to reform and modernize the public security sector focus on the police forces, leaving aside any effort to improve the working conditions and training of civilians with the system. Of course the democratization of the police forces requires much attention. However, civilian officials can better contribute to this process of democratization if their roles and capacities are also strengthened. It is worth noting that in much of Latin America there is no such thing as the civil service within the public security system.

When controlling the human resources of the public security system parliamentarians should take into consideration the different roles, functions and responsibilities between the two groups as these often correlate with the salary and promotion scales as well as the type of training and discipline received.

ELEMENTS OF HUMAN RESOURCE CONTROL

- 1) salary scales, career tracks and promotions;
- 2) system for hiring personnel;
- 3) training systems; and
- 4) disciplinary regime.

3.3.1. SALARY SCALES, CAREER TRACKS AND PROMOTIONS

SALARY SCALES AND CAREER TRACKS

The only way to guarantee professionalism from civilian functionaries and the police corps is through a rigorous salary scale based on merit and education, accompanied by a training program for those entering the profession.

CAREER TRACKS FOR POLICE OFFICIALS

Current trends include:

- The structuring of one single career track taking away the official and enlisted distinctions inherited from military institutions that are not that useful in practice for police forces.
- This single career track can still generally lead to careers in two key areas: preventive policing and complex policing.
- Establishment of specialized training programs for the two key areas mentioned above in the areas of crime control and prevention or in the prevention, investigation and control of complex crimes.

PROMOTIONS

In both cases (police and civilian), promotions should be based on merit and determined by post vacancy, skills evaluation, past performance and seniority. These criteria, unfortunately, are not the norm in many Latin American countries where promotions are based entirely on seniority determined by years of service, irrespective of past performance.

POSITIONS IN POLICE LEADERSHIP

Another important dimension of control of human resources is the system for placing personnel in positions of leadership in the police force. As in any other civilian leadership position, the designation of police chief or similar position should be based on merit and prior performance.

THE NEW PROFESSIONAL POLICE FORCES RESTS ON FIVE PILLARS

- ✓ Demilitarization of police functions, separation from ministries of defense.
- ✓ Brining policing institutions in line with democratic and legal frameworks and in this context subordinating police forces to civilian government authorities.
- ✓ Depoliticization of the police forces through the elimination of political manipulation of the police by government officials, parliamentarians, judges or other political party and social interests.
- ✓ Defining police functions based on the problems of crime and violence prevention, control and investigation.
- ✓ Differentiation of preventive security and complex security within the organizational structure.
- ✓ Decentralization of police functions in particular to the municipalities and their communities.

3.3.2. SYSTEM FOR HIRING PERSONNEL: REMUNERATION AND LABOR CONDITIONS

When controlling human resources in the public security system parliamentarians need to take into account the different functions and roles of police and civilian personnel and guarantee that their position, career track and salary are coherent with the organizational structure.

CIVILIAN OFFICIALS OF THE PUBLIC SECURITY SYSTEM

One important point to be made here is that it is crucial to have a permanent and stable civil service within the public security system. After a long period of bloated government payrolls in Latin America there has been a reverse trend in recent years to reduce personnel and hire temporary staff which is not altogether compatible with the goal of professionalization and creating a specializes staff.

3.3.4. Training systems

Control of systems for training personnel is an indirect way of making sure that the best-qualified professionals are hired in the public security system

TRAINING SYSTEMS FOR CIVIL SERVANTS

The training for civilian employees of the public security system should be based on and organized according to the roles and functions served. They can be according to specialized areas or rank within the system. The key elements to be addressed in civilian training are:

- ✓ Design, implementation and evaluation of public security policies and strategies in all of their diverse forms and variations.
- ✓ Development and updating of statistical databases and reports on crime and violence.
- ✓ Generation of knowledge for use by government in setting public security policies taking into account changing conditions and institutional dynamics.
- ✓ Resources and tools for managing the civilian leadership of the policing, prevention and private security sub-systems.
- ✓ Coordination of tasks and responsibilities among agencies within the public security system such as social action, immigration and border patrols, customs, tax collection and local governments.
- ✓ Public administration and management of the public security system..
- ✓ Comprehensive coordination with communities to ensure their participation in the formulation and oversight of public security policies.

TRAINING SYSTEMS FOR POLICE OFFICIALS

Police training and formation tend to includes the following strands:

- ✓ Basic instruction on the various policing functions (preventive and complex policing, specializations according to the type of crime, etcetera.)
- ✓ Introduction to human rights concepts, especially as relevant to principles and procedures of policing actions.
- ✓ Establishment of agreements with accredited universities and training institutions for the provision of qualified instructors and adequate training facilities when not done in house or when outside expertise is required.
- ✓ Creation of systems for continuing education and retraining for existing personnel.
- ✓ Establishment of system to certify reward and motivate instructors based on merit and seniority.

3.3.5. DISCIPLINARY REGIMES FOR POLICE FORCES AND OFFICIALS

MEANING AND IMPORTANCE OF DISCIPLINARY REGIMES

Control over the disciplinary regime of the public security system is another way of making sure that the best people are serving in the police force and the worst people are weeded out

Obviously, the disciplinary regime is the first alarm that the public security system has in dealing with misconduct by the police.

The disciplinary rules and regulations are the norms that regulate the conduct of police officials by setting forth ethical standards and establishing sanctions for conduct that fails to meet those standards, such as the abuse of authority. These rules and regulations are the foundation of the internal control system.

CURRENT TRANSFORMATION IN DISCIPLINARY REGIMES AND SYSTEMS

In Latin America public security system disciplinary regimes have typically followed models used by the military that have traditionally been authoritarian, rigid and hierarchical in nature. Newer frameworks for public security are integrating the principles of human rights and democracy. There are two transformations were mentioning in this regard. First, is the establishment of accusatory processes for dealing with irregularities committed by public security forces. These processes guarantee the right to defense by the accused. Second, is the internal police Ombudsman who prevents false accusations against individual police officers and prevents them from being used as scapegoats by superiors and colleagues.

Guatemala: community controls within a disciplinary regime

In Guatemala the organizations Anguished Mothers, Institute for Comparative Criminal Science and Families and Friends against Crime and Kidnapping have formed a consortium to work towards the improvement of the national police from the civil society perspective. This consortium focuses on developing civil society capacity and positions on public security policies from a localized perspective including the active and direct participation of civil society representatives in police disciplinary tribunals in five regions of the country. It also promotes integrating public security committees into local development councils already in existence throughout the country.

RECOMMENDATIONS

salary scales and career tracks:

- Verify the existence of salary scales and career tracks for police and civil service based on merit and experience and that similar criteria are used for promotions. If these issues are dealt with exclusively on the basis of seniority a process for transforming the system should be initiated
- Ensure through the law that high-level police appointees are vetted and confirmed by Parliament. If such a legal framework does not exist, promote its development.

disciplinary regime

- Work towards a system where the disciplinary regime is not controlled entirely by police leadership, but rather by the autonomous civilian leadership of the public security system
- Those who implement disciplinary measures and controls of police officers should not be police officers themselves. This allows for greater objectivity and transparency in the application of sanctions..
- Review the aspects of regime related to sanctions to guarantee that those controlling the performance and conduct of police officers are not excessive.
- Where it does not exist a system for presentation of oral accusations and the right to defense of the accused should be established.

3.4. CONTROL OF RESOURCES

3.4.1. PURCHASING AND ACQUISITIONS

Purchase of materials and equipment made by the public security system require complex administrative procedures where various government agencies need to be involved, including those responsible for auditing and accounting.

These purchases often involved weapons and technology in significant quantities and for this reason it is essential to guarantee transparency.

TWO-PHASED APPROACH TO CONTROL OF PURCHASES

Parliament can play an oversight role in two different phases of the purchasing process: decision-making and purchasing procedures.

CONTROL OF PURCHASES	
PHASE OF CONTROL	ACTIVITY
1st – purchase decision	Evaluation of convenience and feasibility of purchase
	Financial analysis of purchase and its importance vis a vis other purchase requirements
2nd purchase procedures	Verification of legality and adherence to procedures
	Ensure liquidation of accounts and transparency in all processes and procedures

PHASE 1: CONTROL AND OVERSIGHT OF PURCHASE DECISIONS

Evaluate convenience and feasibility of purchase

Before approving a purchase, the Parliament should ensure that the items contemplated are needed to fulfill the objectives of public security and their related interventions and measures as well as the necessary infrastructure and human resources to guarantee their safekeeping, maintenance and proper use.

Without a doubt the first conversation should revolve around the validity of purchasing given items. This is of particular importance when the items to be purchased are large in size and value and/or may be distributed to different agencies within the public security system.

Another element to consider, particularly in regards to routine and scheduled purchase, should be the status of existing inventories. It is very difficult to correctly evaluate the proposed acquisition of weaponry without information on existing stocks and their use.

The above example is also valid for the evaluation purchases and the infrastructure, human and technical resources required for their management. Many materials used by police forces require special storage facilities. Firearms and ammunition are obviously materials that require special care.

Financial analysis of purchases and importance vis a via other purchases to be made

Purchases need to be made in line with agency policy, purchasing policies as well as the overall budget planning process. This means each purchase needs to be justified taking into account these criteria. Resource limitations are always an issue and for this reason all purchases require their due diligence in this regard.

Parliaments need to analyze the impact and costs of purchases and their effect on government finances. Often times medium and long-term costs are not taken into consideration such as the costs of storage and maintenance. Some purchases are costly and need to be analyzed carefully, particularly in poorer, developing countries. Parliaments can help by making sure all of these factors mentioned here are analyzed.

PHASE 2: CONTROL AND OVERSIGHT OF PURCHASING PROCEDURES

Verification of legality of procedures followed

The main role of parliament in Phase 2 is ensuring that legal procedures are followed in the process of purchasing equipment, materials or services. Depending on the purchasing scheme involved purchases are generally made through direct purchases or a public bidding process.

A public bidding process provides greater transparency, but is not practical in all cases. When this type of process is utilized the Parliament should participate in the evaluation of offers and make recommendations on the final decision.

Direct purchases require taking more precautions. First, the Executive should inform in writing to Parliament as to why a purchase should be made directly instead of through a public bidding process. Parliament can always ask for the assistance from specialized accounting and auditing agencies when overseeing the purchase process.

Ensuring liquidation of accounts and

The participation of Parliament in controlling each of the steps in the purchasing process is essential in ensuring the liquidation of accounts and transparency. Even when a decision is made the Parliament can intervene by requiring that the vendor or service provider guarantee technical quality and monitoring the performance of the product or service purchased.

Parliament can oblige the Executive to report regularly on purchase procedures in order to ensure that control mechanisms are in place and in this way minimize the possibilities of fraud and unnecessary expenditures, particularly where information is sparsely available for evaluating the need or feasibility of a given purchase.

Evaluating purchases in Brazil

In 1996, the President of Brazil release a document entitled "National Defense Policy". This document identified drug trafficking and organized crime as the key challenges to national security. During this same period of time the Brazilian army purchased 178 tanks meant for war rather than fighting crime. These purchases contradicted the National Defense Policy set out by the Executive.

- RECOMMENDATIONS**
- Regulate through legislation the purchasing procedures and oversight mechanisms. Parliament's role in overseeing purchases should also be established through law.
 - Establish through law the requirement that the Executive report on purchases made for the public security system.
 - Develop and maintain permanent communication with specialized government agencies dealing with purchasing and public bids in general.
 - Consult with international, national and local NGOs, academics and other experts to help analyze the technical and economic needs and requirements for public security system purchases.
 - Promote the coherence of purchases within the framework and needs identified in the Security Plan.
 - Make sure parliamentarians are aware of international guidelines for purchasing weaponry and that these guidelines are used to guarantee transparency.

3.5. CONTROL OF INFRASTRUCTURE AND TECHNICAL CAPACITIES

OBJECTIVES OF CONTROLLING INFRASTRUCTURE AND TECHNICAL CAPACITIES

Unfortunately, control mechanisms do not usually pay sufficient attention to the infrastructure and technical resources required by government agencies to fulfill their mandates. This is not as complicated as it might sound, and at minimum should be discussed at the time of passing new budgets or authorizing new purchases. Parliamentarians need to integrate these considerations into the broader oversight and control process.

Guiding questions for parliamentary control of infrastructure and technical:

- How many vehicles and police officers are there per capital, per square kilometer or per jurisdiction?
- What is the geographic distribution of police stations and jurisdictions?
- What are the working hours at the police stations?
- How many and what type of firearms and ammunition to the police force have at their disposition for preventing and addressing crime?
- Are there sufficient computers and trained personnel for the generation of crime data? Do the police have geographic information system software in place?
- Are there efficient communication systems linking patrol officers, stations and central offices?

4. CONTROL OF PERFORMANCE

PURPOSE AND IMPORTANCE OF CONTROL OF PERFORMANCE

Control of performance helps determine if the results of a given government agency coincide with the objectives and plans set forth. It is the control over expected outcomes of a set of policies analyzing the relationship between actions and results and the validity of policies.

ELEMENTS OF CONTROL OF PERFORMANCE

Usually control of performance takes place after the fact, after policy implementation. However, internally within government agencies there is a trend is to monitor performance throughout the policy implementation cycle.

In practice, it is difficult for parliamentarians to control performance of a government agency throughout the policy implementation process. As a result, it is more effective to calendarize, annually for example, the formal act of controlling and overseeing performance.

CONTROL OF WHOSE PERFORMANCE?

Control and oversight of performance can be exercised over entire agencies, departments or public officials at the individual level.

AREAS FOR CONTROL OF PERFORMANCE

- 1) Oversight of transparency
- 2) Oversight of results and impacts
- 3) Procedural controls
- 4) Oversight of Legal Considerations

4.1. OVERSIGHT OF TRANSPARENCY IN PUBLIC SECURITY AGENCIES

TRANSPARENCY AND ACCOUNTABILITY

Transparency is directly linked to the concept of accountability. In the field of public security there are several forms of accountability: internal controls, administrative controls, political/parliamentary controls and civil society controls.

There cannot be accountability without a certain level of transparency in the management and administration of government. Otherwise there would be only limited information on government actions.

DIFFERENT ASPECTS OF TRANSPARENCY AND ACCOUNTABILITY IN PUBLIC SECURITY

Transparency in the performance of public security agencies should be monitored based on four indicators: freedom of access to quality information, access to public security institutions and officials, mechanisms of community participation and established systems for receiving complaints and denunciations from the public.

✓ *Access to public security institutions*

Citizens, organized civil society and other third parties should have access to the institutions of the public security system in one form or another. Access is granted in two ways. The first is the provision of appropriate and impartial services of public security to all sectors of society. The second is the opening of access to parliamentarians, ombudsman and other external actors of control and oversight to internal departments of the public security system such as jails, statistics, disciplinary regimes and the offices of the chief of individual stations and jurisdictions.

✓ *Freedom of access to quality information*

Transparency also implies the existence of a high level of access to information under the concept of freedom of information.³ Access to high quality information makes it possible to counter corruption as well as the overuse of confidentiality and discretionary powers. Freedom of information allows citizens to participate in government oversight.

The quality of information is crucial because most internal and external control agencies, including civil society, base their analyses on second hand information collected and processed by dependencies of the public security system. Paradoxically, effective controls require that this information be of high quality in order to inform decisions.

✓ *Mechanisms for community participation*

The mere existence of mechanisms for community participation within the public security system contributes to levels of transparency. This helps better articulate among different agents of internal and external control joint control and oversight strategies based on the sharing of information.

✓ *Established systems for receiving complaints and denunciations from public*

The existence of robust systems for receiving complaints and denunciations from the public is a good indicator of transparency in the public security system because it implies the possibility of exercising control and oversight independent of information provided by the public security institutions themselves

In order to establish an efficient system for receiving complaints and denunciations it is vital to activate the mechanisms for community participation and build their capacity to inform the citizenry of their rights and responsibilities Bogota, Colombia has relatively successful system for community participation and oversight.⁴

MEASURES FOR COMBATING CORRUPTION	
PREVENTIVE MEASURES	PUNITIVE MEASURES
1- Introduce strict police recruiting criteria.	11- Introduce of stiffer penalties for misconduct and corruption.
2- Develop and introduce Codes of Conduct.	12- Create an autonomous separate entity for dealing with police corruption.
3- Introduce obligatory training on legal issues for police officers.	13- Create an independent agency for monitoring police and Ministry activity
4- Constant monitoring of police officers and their activities.	14- Develop better techniques and frameworks for supervising and monitoring police activities.
5- Introduce a regular system for internal reporting of police misconduct.	15- Introduce corruption indicators and an early warning system.
	16- Introduce rewards and protections for whistleblowers.

³ This right is supported by the Universal Declaration of Human Rights (Art. 19), the Inter-American Convention on Human Rights (Art. 13) the International Agreement on Civil and Political Rights (Art. 19) and the Inter-American Convention Against Corruption.

⁴ Consult <http://www.policia.gov.co/inicio/portal/unidades/mebog.nsf/Paginas/Principal>

6- Introduce simpler and more transparent norms for regulating police activities.	17- Provide auditing and monitoring officials with secret identities.
7- Prohibit police officers in private security related businesses.	
8- Prohibit family members of police officers from participating in private security businesses.	18- Give greater powers to control and oversight entities (access to bank accounts of police officers, and their family members).

Table adapted from Transparency International (2001)

Transparency International suggests that the most successful policies are those that have been implemented as part of a comprehensive package of measures and combine sanctions with prevention. They have observed that countries that do not have preventive and punitive measures usually have the highest levels of police corruption. It was also determined that punitive measures are more efficient when there is a high quantity and level of sophistication of police corruption.

RECOMMENDATIONS FOR STRENGTHENING TRANSPARENCY IN THE PERFORMANCE OF PUBLIC SECURITY INSTITUTIONS

- Verify the existence of a law of freedom of access to information. If one does not exist, propose one.
- Verify the existence of updated information on public security through reports, statistics, databases and these sources are accessible. If they are not public it is important to promote that they be made public.
- Review the constitutional, legal and regulatory mandates in place to provide access to government entities in the public security system. Is it possible to visit these institutions accompanied by members of civil society? Can parliamentary commissions visit these institutions easily?
- Guarantee that commission hearings be public and that the public be notified in advance of the place, date, time and agenda to be discussed.
- Estipulate specific sanctions when the Executive or one of its dependencies resists providing requested information.
- Develop, preferably in the framework of the parliamentary public security commission, mechanisms for permanent dialog and information exchange with civil society as well as a system to receive queries and denunciations.
- Promote methods of parliamentary control that involve civil society.
- Encourage the public security system to train personnel to standardize and modernize the collection and processing of data and statistics to cover all jurisdictions. Do local precincts have the capacity to collect and analyze their own information?
- Promote the creation, where one does not exist, of an office for external control (complementary to internal control and oversight) that independently process all complaints and denunciations made by citizens of police performance that can also require information of public security institutions.
- Promote the adoption of preventive and punitive measures for dealing with police misconduct.

4.2. OVERSIGHT OF RESULTS AND IMPACTS

OBJECTIVES

Oversight of results and impacts consists of evaluating the achievement of objectives and goals established through public policy.

The best way of determining the level of achievement is looking at indicators based on the pre-established objectives. These indicators should be determined at the same time as the objectives in the planning phase. Without these indicators it is very difficult to determine whether or not given objectives have been met.

IMPEDIMENTS

Parliamentarians should be aware that often times those who formulate policies do not develop indicators for their measurement. Only recently in Latin America have governments begun to take this task seriously. There are some cases where objectives cannot be translated to simple indicators or ones that are easily measured. Public actions and their results are not always easy to follow and monitor and this should be taken into account at the moment to make criticism.

On the other hand, legislators should be aware that it is possible to confuse the direct results of policy with indirect results. For this reason, indicators are vital in evaluating policy.

Investigative Police in Chile:

An example of precise objectives and measurable indicators

Police objectives for the year 2005*

a) Prevention:

- * Elevate the efficiency in the prevention, detection and investigation of organized crime.
- * Improve analysis and management of information about domestic and transnational organized crime.

The success of these measured by the following indicators:

- * Number of persons captured, detained and convicted from organized crime bands involved in drug trafficking, the sex trade, money laundering and robbery.
- * The participation of the Chilean Investigative Police in these operations.
- * Participation of the Chilean Investigative Police in coordination meetings and operations with other police forces (e.g., from Mercosur, Interpol, etcetera..)

b) Strengthening police-community relations:

- * Raise awareness in society about the Chilean Investigative Police.
- * Increase work with community in preventing complex crimes.
- * Boost effective participation in community, provincial and regional councils for public security.
- * Publish an annual Public Report of activities for each jurisdiction.
- * Improve quality of attention to public in each unit station.

The success of these measured by the following indicators:

- * Public opinion polls stating the percentage of the population that thinks favorably of the Chilean Investigative Police Force performance.
- * Number of workshops held regarding organized crime and complex crime.
- * Percentage of denunciations received for complex crimes (homicide, sexual assault, theft, drug trafficking)
- * Level of knowledge of the general public and authorities of the Chilean Investigative Police.
- * Quality of Service Index from investigative bridges and other units directly serving the public.

c) Strengthening capacity for criminal investigation in reducing crime and recidivism

- * Transfer to the justice system the maximum number of criminals by increasing efficiency in detention and arrest without affecting the quality of investigations.

The success of these measured by the following indicators:

- * Number of orders of arrest and their results.
- * Number of detainees per arrest.
- * Number of arrests of suspects caught in the act of committing a crime.
- * Number of individuals detained for prior crimes and infractions, including foreigners..

d) Strengthening criminal investigation for enhancing criminal prosecution in the justice system:

- * Increase the percentage of crimes solved as a percentage of total investigations.
- * Improve the quality of police reports and forensic evidence.

The success of these measured by the following indicators:

- * Quantity of cases resolves as percentage of total investigations ordered.

- * Percentage of positive assessments by public prosecutors of police services.
- * Quantity and percentage of investigative and forensic evidence rejected as percentage of total.
- * Frequency and percentage of testimony provided by Chilean Investigative Police associated with convictions and sentencing..

e) Strengthening criminal investigation for international security and control of borders through optimal use of information and technology:

- * Facilitate access and intensive use of information systems for police analysis.
- * Improve recording of police statistics at all levels of data collection and input.
- * Pilot system for monitoring information and management in several jurisdictions.

The success of these measured by the following indicators:

- * Rate and percentage of police officers with computer work stations.
- * Rate and percentage of work teams connected online.
- * Percentage of brigades with functional information monitoring systems in place.
- * Number of queries in the police management information system
- * Number of queries in the geographical information system.
- * Number of queries in the national fingerprint database
- * Number of queries in the national ballistics registry

4.3. PROCEDURAL CONTROL

PURPOSE

Procedural control is designed to analyze the relationship between policies and actions taken by a government institution with their goals and objectives.

They key to procedural controls are:

- 1) that actions taken through policy be linked to the overall policy objectives.
- 2) That in the implementation of measures those responsible take into account the concepts of opportunity, proportionality and appropriateness.

CONTROL OF WHOM?

In contrast with most other forms of control discussed here procedural controls are applied to both creators and implementers of policy.

HOW TO MONITOR THE ACTIONS OF A GIVEN INSTITUTION

In order to evaluate which actions a given institution carries out one can look to ministerial decisions and resolutions. Orders given by maximum authorities should coincide with the objectives set out in policy.

HOW TO MONITOR THE CONTEXT AND CIRCUMSTANCES OF POLICY IMPLEMENTATION

Exercising control and oversight based on the context and circumstances within which policies are carried out requires looking at the discretion used by policy makers in the duties. However, this process cannot question every decision made rather it looks at systematic or extreme cases where policy led to violations or infringements of human or civil rights. It is not possible to control for every action and decision taken by a government agency, but it is feasible to deal with irregularities that are identifiable and punishable under internal controls or through external disciplinary actions. This mode of control is particularly important for public security institutions as the police must exercise discretion in their use of physical force.

PROCEDURAL CONTROL OVER POLICE ACTIVITIES

In order to evaluate the circumstances of a given case of police persecution of crime requires looking at the concept of opportunity. In other words, if the pursuit took place in the correct moment or if further investigation was still required to gather more evidence.

On the other hand, in order to holistically evaluate a given action the concepts of proportionality and appropriateness also need to be considered.

Appropriateness requires giving thought to whether or not a given action will result in the desired outcome. It is clearly an evaluation of means and ends. In order to illustrate....

Proportionality refers to the intensity of an action and its justification in pursuing a given outcome. In policing, this determines whether the force used was justified or if there was an abuse of power and authority.

All of these aspects of procedural control of police activities should be carried out through periodic reviews of cases reported in internal affairs offices, police and citizen ombudsman offices and formal mechanisms for community participation.

RECOMMENDATIONS

- Before exercising procedural control and oversight parliamentarians should compile a list of all governmental and non-governmental institutions that receive complaints and denunciations of police misconduct.
- Compare the lists of the entities identified to compare the quality of the records between organs of internal and external control.
- Make periodic requests for reports on denunciations made and cases pending as a way to identify systematic irregularities that should be prevented through oversight and control.
- Seek out reports made by civil society and human rights organizations related to police performance and misconduct. They can serve as a good resource to identify recurring problems.
- Parliamentarians should investigate higher-ranking officials when subordinates commit systematic abuses.
- Oversight and control of civilian functionaries of the public security system can take the form of public hearings, denunciations or judicial actions initiated in Parliament.
- Create specialized commissions and advisory groups to support parliamentary oversight of highly technical matters.

4.4. LEGAL CONTROL

OBJECTIVES

This type of control monitors the legal compliance of policy during or after implementation. Actions, results and means are controlled for their adherence to the rule of law.

WHEN IS LEGAL CONTROL CARRIED OUT?

Legal controls generally apply to specific cases when a government official violates the law and is held to account by the Judiciary. Sometimes the Judiciary is not able to detect irregularities and the Parliament must bring it to its attention. Legal controls are particularly important when there is a repetition of abuses within the public security system. Sometimes acts of illegality originate in procedures within the public security system and not directly because of police misconduct and it is essential that legislators identify these areas to correct through legislation.

LEGAL CONTROLS OVER WHOM?

Police officials are not the only individuals and institutions subject to legal controls carried out by parliament. For example, in the regulations of the Argentine law of internal security legal control can also be exerted over civilian officials of government with responsibilities and influence over

public security policy. Parliamentarians need to demand accountability of all of the institutions involved in formulating and implementing public security policy.

5. BUDGETARY CONTROL

PURPOSE

Parliamentary control of public security budgets is designed to analyze the budget planning process as well as the level of expenditures allocated to public security in relation to other government expenditures.

Budgetary control is a check on the Executive by Parliament as the legislature has to authorize and allocate funds for policy implementation. This also allows for an analysis of the allocation of funds to specific components of the public security system and time to make re-allocations if necessary.

PHASES OF BUDGETARY CONTROL AND OVERSIGHT

Parliamentary control over the public security system allows for more profound analysis over the distinct components of the system including how money is allocated and spent. This type of control has three key phases:

1. budget presented to Parliament by Executive.
2. budget approved, rejected or modified by Parliament.
3. budget implemented by Executive.

This way the Parliament can monitor effectively the use of funds by the Executive after approval. It also allows for resource allocation and use comparisons between sub-systems of the public security system and the government in general.

Recommendations

- Within the parliamentary commission responsible for public security affairs carry out the monitoring and oversight by influencing the development of the public security budget, overseeing the use of funds and maintaining an active role in calling to account the government officials in charge of public security budgets and spending.

In this context is useful to:

- Create auditing agencies or commissions with the technical expertise to examine the information provided by the Executive and verify the proper administration of funds.
 - Analyze specific programs and projects within the public security system to look for trends and patterns in spending over time.
 - Disaggregate budgetary allocations by jurisdiction.
 - Compare budgetary allocations with other similar programs in neighboring countries..
- In regards to the exercise of parliamentary control over public security budgets the Parliament has important tools at its disposition:
 - Parliamentary debates to bring to the fore cases of poor administration of public security budgets.
 - Public hearings to inform citizens about parliamentary action on public security budgets in order to encourage a public debate on the allocation of resources for the key components of the public security system.

5.1. CONTROL OF DISCRETIONARY FUNDS

In relation to the control funds allocated to the public security system it is necessary to take a special look at those funds deemed 'discretionary'. Parliamentarians should guarantee that at the end of each fiscal year the Executive provides accurate information and documentation on the use of discretionary funds including their amount, the program they were used for and their overall purpose.

RECOMMENDATIONS

The parliamentary commissions responsible for public security matters should have an unquestionable mandate to intervene in the budgets, and pass corresponding laws, when it comes to the issue of discretionary funds. It is recommended that:

- Require that the Executive present an annex to the budget specifying the amounts of discretionary funding allocated to each agency and jurisdiction
- The presentation of a confidential, annual report to Parliament evaluating the use and impact of discretionary spending in the public security system.