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# EL SALVADOR FEASIBILITY STUDY

## Final Report

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## EXECUTIVE SUMMARY

The National Network for Safe Communities (NNSC) supports cities in implementing proven interventions to reduce violence and improve public safety. These interventions aim to minimize arrest and incarceration, strengthen communities, and cultivate stronger relationships between law enforcement and the community it serves. In “What Works in Reducing Community Violence,” a 2016 systematic review commissioned by the United States Agency for International Development (USAID), Thomas Abt and Christopher Winship identified NNSC’s focused deterrence approach as demonstrating the most significant impact on violence reduction and recommended that “...funders could launch a multi-site experiment of focused deterrence across the three countries in the [Northern Triangle] region.”<sup>1</sup> In 2018, USAID commissioned a feasibility study from the NNSC to determine whether its strategies could help lower violence and strengthen communities in El Salvador. This study was conducted in three municipalities across El Salvador.<sup>2</sup>

The dynamics of group violence in El Salvador are extreme. The level and scale of group organization combined with the social, political, and economic landscape makes disrupting group violence a complex task. In addition, group members and the general population have been exposed to serious levels of trauma. However, similar to other contexts of urban violence, fewer than 1% of the population in each municipality studied was found to be driving the majority of community violence. This core finding is crucial to thinking about the applicability of NNSC’s strategic violence interventions. It shifts the problem from one that feels overwhelming to one that is concrete and approachable.

NNSC’s strategies, commonly referred to as focused deterrence, emphasize advanced communication of legal consequences for engagement in violence, harness informal social control, and direct help and support to the highest risk people to encourage them away from violence. In El Salvador, while the violence dynamics are extreme, there is nothing inherent to the violence that would impede a deterrence-oriented approach. Rather, these violence dynamics would have to be accounted for in the design and implementation of any strategy.

Focused deterrence is not appropriate for application across El Salvador, nor would country-wide adaptation be the right starting point. Starting in one or two select cities would allow the time, attention and learning necessary to adapt the core principles to the specific context. Existing and previous investments vary across municipalities. Leveraging what works and altering what doesn’t takes nuance and precise action research, but can result in significant impact, elevating given investments across the prevention and intelligence arena.

NNSC’s first principle is Do No Harm. Engaging groups and working with law enforcement in El Salvador generates inherent risk. Any consideration to adapt focused deterrence would require significant design and strategy development. Space must be created for such work and taken seriously to avoid causing further harm through either the criminal justice system or sending the wrong signals to

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<sup>1</sup> Thomas Abt and Christopher Winship. 2016. "What works in reducing community violence: a meta-review and field study for the northern triangle." USAID. 31. <https://www.usaid.gov/sites/default/files/USAID-2016-What-Works-in-Reducing-Community-Violence-Final-Report.pdf>.

<sup>2</sup> Given the sensitivity of the issue area and to protect all study participants, the location of study has been redacted.

groups. At the same time, signaling a shift towards reducing violence while stimulating greater clarity in the law and reducing the potential for abuse would be hugely significant.

In El Salvador, citizens express both a low confidence in the effectiveness and legitimacy of law enforcement and a strong preference for the use of tough, “iron-fist” policies.<sup>3</sup> This combination of a lack of trust and a demand for quick, effective action represents a real opportunity and is not without precedent. Focused deterrence has demonstrated time and again effectiveness in addressing significant violence while simultaneously enhancing relationships between law enforcement and the communities they serve. The roll-out of a deterrence strategy can provide an opportunity for authorities to reset their relationship to communities through promising both effective diminishment of violence and legitimacy of effort. Taking advantage of recent declines in violence, the time is right to reinforce those gains through demonstrating a real commitment to advancement in the field.

The following report provides a background on focused deterrence, the NNSC and NNCS’s global concepts, and how they practically align into a methodological approach for a feasibility study. A context analysis is followed by a discussion of the possibility of implementing focused deterrence in El Salvador and specific recommendations that would enable a design process to move towards implementation.

## **BACKGROUND**

### **EL SALVADOR**

From 1979 until 1992, Salvadorans suffered through a devastating civil war that traumatized the entire country and left an estimated 50,000 civilians dead out of a population of roughly 5 million.<sup>4</sup> During the conflict, thousands of people fled to the United States. Among those were countless young men who resettled in Los Angeles where they were exposed to and joined LA-based gangs. Conflicts emerging from these gang and group associations escalated into violence. This prompted the U.S. Government to repatriate many of those involved, now with criminal records and high levels of trauma, back to El Salvador. This policy was carried out without fully acknowledging the potential consequences of sending young, violence-exposed men back to a country just struggling to rebuild after conflict.

Following the official end of civil war, El Salvador’s interpersonal violence replaced conflict violence—in some years reaching levels higher than during the war years.<sup>5</sup> Homicide rates peaked in 2015, at 103 per 100,000 inhabitants.<sup>6</sup> According to the Ministry of Justice and Public Security, in 2017 the rates

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<sup>3</sup> Ibid.

<sup>4</sup> Stanley, William. 1996. *The Protection Racket State: Elite Politics, Military Extortion, and Civil War in El Salvador*. Philadelphia, PA: Temple University Press

<sup>5</sup> Carcach, Carlos Alberto. 2008. *El Salvador. Mapa de violencia y su referencia histórica*. OSI/CRS. 20-21. The author notes "Data from the World Health Organization indicate that during the 1990s, El Salvador had the third highest rate of violent mortality in the world (42.3 per 100,000)." And on page 21: "For the period between the years 2002-2007, in the country an average rate of 48.9 homicides per 100,000 inhabitants was reached, which is high compared to any international standard."

<sup>6</sup> Salvador’s homicide rate in 2017 was 60 per 100,000 inhabitants, compared with 103 in 2015 and 81 in 2016 according to the Ministry of Justice and Public Security.

stood at 60 per 100,000 inhabitants. The country consistently ranks in the five countries with the highest homicide rates globally.<sup>7</sup>

Homicide rates across El Salvador have shown a general downward trend since 2015. The unprecedented 2015 numbers are often attributed to the collapse of the “Gang Truce,”<sup>8</sup> which was negotiated in 2012-2013. The ending of the Truce sparked a renewed confrontation between the gangs (groups) involved and the state, as evidenced by the death of 86 police officers in the year 2015.<sup>9</sup> In part as a reaction to this spike in violence, the Constitutional Chamber of the Supreme Court of Justice declared “negotiation” with gangs illegal and classified MS-13 and both 18<sup>th</sup> street groups (discussed below) as “terrorist organizations.”<sup>10</sup> The Truce and its aftermath are important to consider going forward and are addressed in more detail in the Discussion section of this paper.

## **FOCUSED DETERRENCE**

There exist several evidence-based solutions to reduce violence. In 2016 USAID published a meta-review authored by Thomas Abt and Christopher Winship of thirty strategies that were selected based on having rigorous evidence attached to them. The meta-review looked for causal evidence around what works to reduce violence and found that “[f]ocused deterrence...has the largest direct impact on crime and violence, by far, of any intervention in this report.”<sup>11</sup> This same report recommended testing focused deterrence in the countries of the Northern Triangle given its proven track record of effectiveness.<sup>12</sup>

Focused deterrence emphasizes advance communication of legal consequences for engagement in violence, harnesses informal social control, and directs help and support to the highest risk people to keep them safe and encourage them away from violence.<sup>13</sup> It is predicated on three pillars: strategic law enforcement, community-established norms around non-violence, and service providers that can offer highly targeted and tailored support to those caught up in violence.

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<sup>7</sup> McEvoy, Claire and Gergely Hideg. 2017. Global violent deaths 2017.

<sup>8</sup> The Gang Truce refers to an agreement in early 2012 that was facilitated by members of President Funes’ government, the Catholic Church and Organization of American States. This agreement, between representatives of Mara Salvatrucha 13 (MS-13) and 18th Street groups was to reduce violence generally and specifically homicides. The terms of this truce included incentives from the government such as transfer of some imprisoned gang members to lower security prisons and changes in their visitation privileges and allowing for communication with gang members outside of prison. For more detailed information on the gang truce see Katz, Charles M., Eric C. Hedberg, and Luis Enrique Amaya. “Gang truce for violence prevention, El Salvador.” *Bulletin of the World Health Organization* 94, no. 9 (2016): 660.

<sup>9</sup> “1998, 1999 y 2015 los años con más policías asesinados.” *ElSalvador.com*, August 12, 2017.

<https://www.elsalvador.com/noticias/nacional/384669/1998-1999-y-2015-los-anos-con-mas-policias-asesinados/>

<sup>10</sup> “Sala de lo Constitucional declara ilegal negociación con pandillas y las nombra grupos terroristas.” 2015. *El Faro*. <https://www.elfaro.net/es/201508/noticias/17307/Sala-de-lo-Constitucional-declara-ilegal-negociaci%C3%B3n-con-pandillas-y-las-nombra-grupos-terroristas.htm>

<sup>11</sup> Thomas Abt and Christopher Winship. 2016. “What works in reducing community violence: a meta-review and field study for the northern triangle.” USAID. 13. <https://www.usaid.gov/sites/default/files/USAID-2016-What-Works-in-Reducing-Community-Violence-Final-Report.pdf>.

<sup>12</sup> *Ibid.*

<sup>13</sup> Kennedy, David M. 2011. *Don't Shoot: One Man, a Street Fellowship, and the End of Violence in Inner-City America*. USA: Bloomsbury.

## THE NATIONAL NETWORK

The National Network for Safe Communities (NNSC) was founded by David Kennedy, the researcher behind the development of focused deterrence (Boston Ceasefire).<sup>14</sup> Since 2009, as a center at John Jay College of Criminal Justice, the NNSC has supported cities implementing focused deterrence to reduce violence and improve public safety, minimize arrest and incarceration, strengthen communities, and improve relationships between law enforcement and the community it serves. NNSC's strategies aim to use legal system capacity with precision and has applied its strategic framework to a range of serious violence problems.<sup>15</sup> Most frequently applied is the approach to group-driven violence, what is commonly referred to as "gang violence." Across the United States, cities that partner with NNSC in pursuing the application of this approach tend to reduce lethal violence in the range of 30% to 70%.<sup>16</sup>

Twenty years of experience in diverse settings within the United States, and an initial exploration in international contexts, suggests the feasibility and value of applying NNSC's strategies in even the most challenging conditions. The NNSC has established a set of concepts applicable to public safety contexts domestically and internationally. These global concepts, when applied with fidelity to the operating principles of focused deterrence, will contribute to reducing serious violence despite clear differences in resources, violence norms, and varying manifestations across countries and cities. As with everything on the global stage, they do require heavy adaptation in each context, but provide a strong guiding path from which to develop country- and city-specific, tailored interventions. These global concepts are:

- **Public safety is a crucial public good, without which all aspects of life are impeded.**<sup>17</sup> Communities alone *can* set standards of public safety, however these standards are not immune from the actions of the state or its institutions. Nor are they sufficient when communities are placed under stress. The interaction between communities and the state is paramount when it comes to thinking about public safety.
- **Reducing violence can make a meaningful and important impact on police and community relations.** Communities facing high levels of violence need public safety institutions to help address the problem. They need policing, but very often they need a different kind of policing than they have traditionally received.
- **Policing and state justice institutions can play an important role in preventing homicide.**<sup>18</sup> Embracing this concept necessitates policing that is preventative in nature and acts in

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<sup>14</sup> Boston Ceasefire was originally implemented in 1996 and was specifically aimed at youth gun violence.

<sup>15</sup> For more information, please see The National Network for Safe Communities website:

<https://nnscommunities.org/our-work/strategies>

<sup>16</sup> Braga, Weisburd, and Turchan. 2018. Focused Deterrence Strategies and Crime Control: An Updated Systematic Review and Meta-Analysis of the Empirical Evidence, in *Criminology and Public Policy*, Volume 17, Issue 1, 205-250. The authors present the findings of an updated Campbell Collaboration systematic review of 24 eligible program evaluations in which the effects of focused deterrence on crime are measured. The results of the review support the position that focused deterrence strategies do generate noteworthy crime control impacts. In 19 of the 24 eligible studies, researchers reported that the implementation of the evaluated program was associated with a statistically significant crime reduction effect on a targeted crime problem.

<sup>17</sup> The World Bank, *World Development Report 2011: Conflict, Security, and Development* (Washington, D.C.: The World Bank, 2011), [https://siteresources.worldbank.org/INTWDRS/Resources/WDR2011\\_Full\\_Text.pdf](https://siteresources.worldbank.org/INTWDRS/Resources/WDR2011_Full_Text.pdf)

<sup>18</sup> Chalfin, A., and McCrary, J, "Criminal Deterrence: A Review of the Literature," *Journal of Economic Literature* 55, no. 1 (2017): 5–48, <https://doi.org/10.1257/jel.20141147>. For a more in depth discussion of crime prevention



the interest of providing safety and protection for all population groups. To be most effective, policing must be legitimate. This acknowledges that, for some population groups, police and security actors do not evoke a sense of safety, but rather represent a force that has and/or is presently acting in an abusive, repressive, and discriminatory fashion.<sup>19</sup>

- **An extremely small number of people drive most violence.** Data consistently show that a small percentage of a city's population – typically less than 1% – is connected to more than half of the homicides in that city.<sup>20</sup> There may be variations in certain settings between different manifestations of violence,<sup>21</sup> but without reliable information about who is actually committing and suffering the most serious violence, the ability to implement precision law enforcement or good social prevention work that actually lowers violence in the short term is limited.
- **Violence is socially concentrated and replicated.** Social network analysis literature suggests that social connections are strongly linked to the risk of violent victimization.<sup>22</sup> The closer a person is to a perpetrator or a victim of serious violence, the greater their own risk. At the same time, violence is driven by group dynamics and interactions, meaning that resolving one incident of violence (i.e. making an arrest) is insufficient to interrupt overall trends. Rather, group dynamics need to be altered.
- **Victims are perpetrators and perpetrators are victims.** Both violence offending and violence victimization are concentrated in core groups and networks and within these concentrations are highly traumatized individuals.<sup>23</sup>
- **Micro-efforts can meaningfully reduce violence even within larger, often dysfunctional, systems.** Complete system reform is not required in order to make progress. This is an important point when thinking about contexts that face higher barriers to functionality and are at even greater need of reform. Evidence suggests that small-scale efforts can demonstrate a positive impact even within systems that are in need of substantial reform.<sup>24</sup>

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also see Weisburd, David, David P Farrington, and Charlotte Gill. 2016. *What Works in Crime Prevention and Rehabilitation: Lessons from Systematic Reviews*. New York: Springer Publishing Co.

<sup>19</sup> Desmond, Matthew, Andrew V Papachristos, and David S Kirk. 2016. "Police Violence and Citizen Crime Reporting in the Black Community." *American Sociological Review* 81 (5): 857-876. doi: 10.1177/0003122416663494.

<sup>20</sup> Lurie, Stephen. 2019. *Beyond Broken Windows: What Really Drives Urban Crime*. City Lab. <https://www.citylab.com/perspective/2019/02/broken-windows-theory-policing-urban-violence-crime-data/583030/>

<sup>21</sup> For example, violence against women in Papua New Guinea is so widespread as to make this statement inaccurate.

<sup>22</sup> Green, Ben, Thibaut Horel, and Andrew V Papachristos. 2017. "Modeling Contagion Through Social Networks to Explain and Predict Gunshot Violence in Chicago, 2006 to 2014." *JAMA Intern Med.* 177 (3): 326-333. doi:10.1001/jamainternmed.2016.8245.

<sup>23</sup> Papachristos, Andrew V, and Christopher Wildeman. 2014. "Network Exposure and Homicide Victimization in an African American Community." *American Journal of Public Health* 104 (1): 143-150; Papachristos, Andrew V., David M. Hureau, and Anthony A. Braga. 2013. "The Corner and the Crew: The Influence of Geography and Social Networks on Gang Violence." *American Sociological Review* 78 (3): 417-47. <https://doi.org/10.1177/0003122413486800>.

<sup>24</sup> Corsaro, N., & Engel, R. S. (2015). Most Challenging of Contexts: Assessing the Impact of Focused Deterrence on Serious Violence in New Orleans. *American Society of Criminology*, 14(3), 1-35.

## METHODOLOGY

This feasibility study was designed to be iterative and action research-oriented. It involved qualitative and quantitative data collection, through literature review and fieldwork, to assess the potential of NNSC's operational framework in the context of serious violence in El Salvador. Work was accomplished between January and July 2018.

## RESEARCH QUESTIONS

The primary research question was whether a focused deterrence orientated approach could have a meaningful impact on reducing violence in the context of El Salvador. In order to determine feasibility, NNSC's organizing principles and global concepts were adapted into the following set of guiding research questions:

- I. What is the concentration of violence in El Salvador? Is violence concentrated within groups and do group dynamics drive violence? If so, can deterrence be achieved against those groups driving serious violence? Specifically, can existing resources, capacity, and data be re-organized conceptually and practically around a deterrence-oriented approach? While deterrence comes from all three pillars of the strategic implementation, this question primarily refers to the role of law enforcement. This question was further broken down into:
  - a. Is there accurate and timely group information (e.g. group names, dynamics, and members' information) available and accessible?
  - b. Is there accurate and timely homicide data (e.g. victim identification and information, known offenders or suspects, location of the incident, and type of incident) available and accessible?
  - c. Are partners willing to make existing information available and consider re-organizing data to fit different needs?
  - d. Is there sufficient local capacity to execute strategic enforcement action? In other words, if there is accurate and timely information, can law enforcement actors put that information to use in delivering tailored and swift enforcement actions?
  - e. If the answer to any of these questions is "no," could these conditions be created?
2. Can the community be activated to establish norms around non-violence?
  - a. Are there community members who operate outside of the influence of group violence and coercion (e.g., people who run business without being threatened or blackmailed)?
  - b. Are there successful examples of community mobilization to effect pro-peace norms in these municipalities?
  - c. Are there channels for communication with group members (e.g. mechanism, messengers, and legality)?

- d. Is there existing capacity and willingness to engage with those at high risk of offending?
    - e. If the answer to any of these questions is “no,” could these conditions be created?
  3. Can services, support, and outreach be delivered to those at high risk of violent victimization and offending?
    - a. What types of services, support and outreach are currently offered in El Salvador generally, and in each of its municipalities?
    - b. Is there existing capacity and willingness to engage with those at high risk of offending? Can support be offered to those who choose to—or even wish to—stop offending?<sup>25</sup>?
    - c. If the answer to any of these questions is “no,” could these conditions be created?
  4. What would a conversation around police and law enforcement legitimacy look like in the context of El Salvador’s violence? Can a deterrence oriented approach help to achieve legitimacy among stakeholders, most importantly the community at highest risk of violence, but also the broader state, civil society, and the international community?

## **ETHICAL APPROVAL**

The NNSC was granted IRB exemption for this study by both the John Jay College of Criminal Justice and AIR due to the fact that it did not meet the definition of research.<sup>26</sup> Despite this decision, ethical considerations around informed consent, data collection, and privacy guidelines were strictly followed. Information detailing the study and a description of focused deterrence was provided to all experts prior to their interviews. Detailed field notes were kept separate from the interview subjects lists; both were secured in locked cabinets for the duration of the study, and information gleaned for the report was not attributed to specific individuals.

## **STUDY TEAM**

Rachel Locke, NNSC’s Director of International Initiatives, oversaw all aspects of the work. The study was co-led by Luis Enrique Amaya, a Salvadoran community policing and gang expert, and Adrienne Klein, a human security professional with extensive international research experience. A local logistician, Luis Navas, provided additional support in El Salvador.

## **DATA SOURCES**

NNSC’s methodological approach relies heavily on quantitative and qualitative data in order to assess the dynamics of ongoing violence and the feasibility of implementing focused deterrence in a given context. The study team applied a mixed methods approach to collecting, reviewing, and analyzing data on El Salvador. Data were collected in two stages.

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<sup>25</sup> Dudley, Steven. MS-13 in the Americas: How the World’s Most Notorious Gang Defies Logic, Resists Destruction. Washington, DC: InSight Crime and the Center for Latin American & Latino Studies, 2018. 27. <https://www.insightcrime.org/wp-content/uploads/2018/02/MS13-in-the-Americas-InSight-Crime-English-3.pdf>.

<sup>26</sup> IRB submission exemption for project LAC YOUTH VIOLENCE, Activity: Focus Deterrence Feasibility Study (project number D4253/B&P number 86641), received May 18th, 2017.

- Desk research on El Salvador, with a focus on violence, policing and the justice system, community anti-violence efforts, and social service support to those with violent histories, was conducted using a context analysis tool developed by the study team (available upon request).
- The team conducted key informant interviews with 62 individuals with expertise in law enforcement, governance, rule of law, and violence prevention. Interviews were conducted in a semi-structured manner, with open ended, expert-specific sets of questions. See Appendix I for a list of organizations interviewed.
- A significant amount of time was spent with police at the municipal level to better understand their data collection methods. Information was collected on case clearance, charges levied, prosecutions, prison time, and differences between juvenile sentencing and adult sentencing.
- The study team sat with partners in each jurisdiction and asked detailed hypothetical questions regarding data capture, recording, and sharing. Approximations and estimates provided by officials were recorded.
- Data were also obtained from the Information and Analysis Directorate within the Ministry of Justice and Public Security, the media, and academia.
- The majority of interviews (51) were conducted in Spanish, in El Salvador, with others (8) conducted in English and/or with translation. A few interviews (3) were also held in Washington, D.C. Handwritten notes were taken during all interviews, nothing was recorded, and the notes were revised communally and transcribed into English.

## FINDINGS

### CONCENTRATION AND GROUP DRIVEN VIOLENCE

The study team sought to determine whether the violence in El Salvador was driven by a small number of individuals, and whether it was socially concentrated and replicated within groups<sup>27</sup> as hypothesized. The estimates provided by the Salvadoran police for the municipalities studied in this report answered these questions in the affirmative. Across the areas of study, the percentage of overall city population driving group violence was between 0.34% and 0.9%.<sup>28</sup> This is on par with what NNSC has observed in other cities around the world. A very small number of people drive most of the violence. Present day violence in El Salvador is group driven and is spatially concentrated.

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<sup>27</sup> Green, Ben, Thibaut Horel, and Andrew V Papachristos. 2017. "Modeling Contagion Through Social Networks to Explain and Predict Gunshot Violence in Chicago, 2006 to 2014." *JAMA Intern Med.* 177 (3): 326-333. doi:10.1001/jamainternmed.2016.8245.

<sup>28</sup> It is important to note that information on individual cliques differs based on how many of their members are minors as police do not record information about minors in their databases. Thus, the information provided to NNSC was based solely upon non-juvenile group members. Including juvenile information would likely slightly increase the percentage of overall city population suspected to be involved in group violence.

Although the scope of the groups and the proportion and types of violence they perpetrate are not universally agreed upon, there is a general consensus among experts that group behavior and the adopted responses to this behavior drive community insecurity in the country.

There are three main groups in El Salvador that drive violence and that receive the majority of police and state security attention: Mara Salvatrucha 13 (MS-13), 18th Street Sureños (18-S), and 18th Street Revolucionarios (18-R). These groups tend to be hierarchical and organized into regional substructures and local units (called *cliques* in MS-13 and *canchas* for both 18th Street groups; local units of all groups will be referred to as *cliques* for facility throughout the report). In addition to the main groups there are several minor groups, including La Mirada Locos, Mao Mao and Máquina.

As distinct from many of the street gangs, crews, and groups in other countries, groups in El Salvador appear to have a high level of mobility. While it is not unusual for group members to appear to live in one location (“base areas”) and commit violent crimes in different locations (“zones of operation”), in El Salvador group members appear to be directed to move from one area to another for strategic purposes. The theory is that this is done at the command of national group leaders in order to avoid prosecution or to enhance or consolidate territorial control. Additionally, in El Salvador, experts interviewed alluded to group members moving out from urban to rural areas as a response to law enforcement efforts focused on city centers. This pattern of movement would require considered adaptation across the various aspects of focused deterrence, but do not constitute an insurmountable impediment to implementation.

## **GROUP BEHAVIOR**

The structure and hierarchy of violent groups in El Salvador has been studied extensively and thus will not be described in any more detail here.<sup>29</sup> However, one significant factor that will be crucial to determining the design of an adaptation of a focused deterrence approach is the existence of general codes of conduct governing groups, and a particular a process called “green lighting.”

Within MS-13 and both 18th Street groups, internal instructions or codes of conduct guide behavior across cliques. Some instructions may include the blanket permission to kill certain types of individuals, e.g. rival gang members. As Insight Crime has described in reference to MS13, “The gang has guidelines more than rules. These guidelines are subject to haphazard interpretations and application. In other words, this internal justice is not necessarily a strict system...”<sup>30</sup> Extensive and complex rules, unequal application of enforcement, punishment of members for breaches of these codes of conduct, and even the personality of leaders and leadership type are all understood to contribute to violence within groups.

There are some homicides committed by group members that require a “green light,” a more strict approval process that involves the input of the highest echelons of the organization. Examples of

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<sup>29</sup> For more information, see: Dudley, Steven. MS-13 in the Americas: How the World’s Most Notorious Gang Defies Logic, Resists Destruction. Washington, DC: InSight Crime and the Center for Latin American & Latino Studies, 2018. <https://www.insightcrime.org/wp-content/uploads/2018/02/MS13-in-the-Americas-InSight-Crime-English-3.pdf>. Cruz, Jose Miguel, Jonathan D. Rosen, Luis Enrique Amaya, and Yulia Vorobyeva. n.d. “The New Face of Street Gangs: The Gang Phenomenon in El Salvador.” Florida International University.

<sup>30</sup> Dudley, Steven. MS-13 in the Americas: How the World’s Most Notorious Gang Defies Logic, Resists Destruction. Washington, DC: InSight Crime and the Center for Latin American & Latino Studies, 2018. <https://www.insightcrime.org/wp-content/uploads/2018/02/MS13-in-the-Americas-InSight-Crime-English-3.pdf>, 4.

individuals who may require a “green light” include police officers, or members of the gang or their family members.<sup>31</sup> A “green light” is considered to be an order from leadership and, if not followed, can trigger serious consequences.<sup>32</sup> Delineating the difference between violence that is “green lighted” versus that which is less hierarchical would be an important diagnostic distinction.

Many of the higher-ranking individuals within groups are incarcerated, potentially isolated, and without external communications (partly as a result of the Extraordinary Security Measures discussed below). The study team learned that when individuals are released from prison they often carry with them orders and “green-lights,” which may lead to spikes in killings that are difficult to connect to other events or to retaliatory strings of violence. This likely means that fully intervening with group dynamics in El Salvador would require collaboration with the prison system to incorporate information and enforcement power. Such collaboration is eminently possible and would also be woven into the design work.

There is an important distinction to make regarding individuals’ roles and standing within groups. Even though many of those who are killed or incarcerated may not be considered to be fully jumped-in members by the gangs, they are considered gang members by law enforcement. Whether and to what extent this distinction is useful from an intervention perspective deserves greater thought and attention. An analysis of how the above-mentioned factors could impact the implementation of a focused deterrence approach is included in the [Discussion](#) section below.

## **NARRATIVES OF VIOLENCE**

There are widespread – and typically overly simplified – narratives regarding gang violence in El Salvador. The predominant narrative is that the gangs are causing all the violence in El Salvador. While they are certainly causing a significant amount, the NNSC was not able to determine what precise amount due to limited data access. Other forms of serious violence, including femicide and state-sponsored violence, in particular, do not get sufficient attention and cannot be solely attributed to gangs.

Additional narratives include: those being killed are part of internal purges and therefore no one innocent is being harmed; the groups are killing each other, and we should let them; collaborators and family members of rival groups are targeted; common criminals who commit crimes in the “zones of operations” are targeted and; people in the wrong place (a “bad neighborhood”) at the wrong time are victimized. It is likely, rather, that all of these situations are taking place at the same time and have more nuanced aspects than the simplified narratives indicate. Some of these narratives allow for highly punitive responses as they pre-emptively imply guilt or place the burden of avoidance of victimization on individuals for whom this may not be possible, while simultaneously removing any notion of abuse, trauma or victimization on the wider population.

There are also narratives about the best responses to the gangs. El Salvador’s civil war crystalized an insurgent mindset. Such a zero sum, winner take all view was proffered by many government officials with whom the study team met and is being applied in legislative agendas vis-à-vis the gangs. This is evident in the way these same representatives talk of military-style defeat as the only option. Indeed, this nomenclature is also heard within society and the broader population.

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<sup>31</sup> Ibid, 55.

<sup>32</sup> Ibid, 28.

This way of thinking has implications. It sets the stage for sweeping, zero-tolerance policies that can create space for abuses to be committed by the state in the name of violence and crime reduction. According to the U.S. State Department 2016 Human Rights Report, the principal human rights problems in El Salvador stemmed from widespread extortion and other forms of crime in poor communities across the country, including widespread corruption, weak rule of law, impunity, and unlawful killings by security forces.<sup>33</sup> Such abuses contribute to a loss of confidence in law enforcement, which can in turn limit law enforcement's effectiveness in addressing serious violence.

What the NNSC typically aims to do is move beyond any pre-existing narrative to focus on what is happening in one specific area and target interventions accordingly. While the delays and ultimate unavailability of incident data prevented a detailed statement at this time, the NNSC is certain that existing narratives are not giving a complete and accurate picture. In fact, these narratives may be counter-productive to developing effective violence reduction strategies.

## LEGAL FRAMEWORK

Group members arrested are typically charged with a range of crimes including illicit association, terrorism, murder, drug dealing, and illegal possession of a firearm. There have been extensive legislative changes that affect the types of charges brought; under the current legislation terrorism charges carry the highest sentences. Before going to the Discussion section, it is important to highlight three pieces of legislation given their impact on public policy and treatment of group-involved individuals: Plan El Salvador Seguro; the Law of Prohibition of Maras, Gangs, Associations, and Organizations of a Criminal Nature; and the Extraordinary Security Measures.

*Plan El Salvador Seguro* (PESS), rolled out in July 2015, is a comprehensive 10-year government policy aimed at addressing the root causes of violence and insecurity. For NNSC's feasibility study, the most relevant aspect of PESS is that it calls for legislative action to address social insertion for those group members who wish to leave violent groups. Specifically, it states that the government commits to, "[i]n partnership with churches, private enterprise, non-governmental organizations and universities and organized communities[,] review the Law of Prohibition of Maras, Gangs, Associations and Organizations of a Criminal Nature so that those members who want to leave these groups and insert themselves socially, can do it."<sup>34</sup>

As it stands, there is ambiguity about the legal restraints in the Law of Prohibition of Maras, Gangs, Associations, and Organizations of a Criminal Nature that block meaningful investment and discussion around reinsertion. Article 10 of the aforementioned law states "a special regulation will establish the conditions of withdrawal or desertion and rehabilitation of the members of the groups, associations and criminal organizations dealt with in this Law."<sup>35</sup> This regulation is not, of yet, forthcoming. This law,

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<sup>33</sup> U.S. Department of State. *El Salvador 2016 Human Rights Report*. 2016. Accessed July 5, 2018. <https://www.state.gov/documents/organization/265798.pdf>. According to a 2016 CID Gallup poll, more than one in five families in El Salvador claimed to have been victims of violent crime. By October of 2016, the Attorney General was investigating 53 possible cases of extrajudicial killings in El Salvador. In May of 2016, PNC Director Howard Cotto stated that since January of that same year, 80 police officers had been arrested for illicit activities, such as extortion, theft, and murder for hire.

<sup>34</sup> "Plan El Salvador Seguro." 2015. Consejo Nacional De Seguridad Ciudadana Y Convivencia. 7.

<sup>35</sup> "Decreto No 458. Ley de Proscripción de Maras, Pandillas, Agrupaciones, Asociaciones y Organizaciones de Naturaleza Criminal."

passed in 2010, criminalizes belonging to a group, allows for any property acquired as part of the groups to be confiscated and liquidated by the state, and acknowledges that there are juvenile members of these groups who must be dealt with separately.

Extraordinary Security Measures were adopted by the Legislative Assembly in April of 2016 which modified the existing penitentiary law and penitentiary infrastructure in the country. The legislation was designed to be temporary but was extended repeatedly then enacted into permanent law in August 2018. This came despite a report from the United Nations Special Rapporteur for Extrajudicial, Summary or Arbitrary Executions detailing inhuman conditions within prisons under these measures.<sup>36</sup> The measures allowed for the creation of temporary detention centers; special internment regimes such as 24-hour solitary confinement of prisoners to their cells; restriction on visitation rights for prisoners at the discretion of the penitentiary administration affecting both family visits but also meetings with legal representation; mandatory participation in re-educational activities and work training; prohibition on communication via telecommunication (i.e. blocking of cell phone, radio, and Wi-Fi signals) within and surrounding the prisons, and; restriction on the transportation of prisoners to court for judicial hearings.<sup>37</sup> While commenting on the validity or impact of these measures is not the purpose of this report, understanding the use, potential, and consequences of the measures is important to contextualization.

## DISCUSSION

The following section examines the four lines of inquiry presented in the Methodology section. Provided here are the components necessary to implement focused deterrence with fidelity, the current assets and current limitations that exist in El Salvador.

Group dynamics drive violence; that is true in El Salvador as it is in other contexts. The following characteristics are also true: violent actors are group-involved, small in numbers, and identifiable. These high-risk groups have their own codes of conduct, largely based on respect. And group-involved individuals are likely to be perpetrators of violence and also to have been victimized by violence.

NNSC's approaches facilitate direct, sustained engagement with the small number of group involved individuals through a partnership of community leaders, social service providers, and law enforcement standing and acting together to address homicides and other forms of serious violence. The partnership directly communicates core messages to group members: a credible law enforcement message about legal consequences for further violence; a credible community moral message against violence, and; a genuine offer of help and support for those who want it.

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<sup>36</sup> Callamard, Agnes. 2018. El Salvador End of Mission Statement. <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22634&LangID=E>.

<sup>37</sup> Ibid; Gomez, Renae. "Con 71 votos se aprueba que medidas extraordinarias en sistema penitenciario sean permanentes" laprensagrafica.com, August 16, 2018. <https://www.laprensagrafica.com/elsalvador/Con-71-votos-se-aprueba-que-medidas-extraordinarias-en-sistema-penitenciario-sean-permanentes-20180816-0080.html>; "Decreto No 321. Disposiciones Especiales Transitorias Y Extraordinarias Enlos Centros Penitenciarios, Granjas Penitenciarias, Centros Intermedios Y Centros Temporales De Reclusión." Accessed August 24, 2018. <http://www.acnur.org/fileadmin/Documentos/BDL/2017/11064.pdf>



While each component – law enforcement, community and service providers – require effort and attention unto themselves, there must also be clarity on the right type of partnership between them. Indeed, the reinforcement between these actors is inherent to the effectiveness of focused deterrence.

## **I. CAN DETERRENCE BE ACHIEVED AGAINST THE GROUPS DRIVING SERIOUS VIOLENCE?**

Focused deterrence communicates – in advance – clear messages of how law enforcement attention will be directed vis-à-vis acts of violence. This takes the uncertainty out of what can be an at-times opaque criminal justice system for potential perpetrators of violence. It also makes it clear to the broader community why and how law enforcement is bringing attention to specific actors and/or groups in advance and justifies community buy-in and support.

Focused deterrence also includes a component of group accountability. In most cities what this looks like is law enforcement communicating clearly that they will hold all members of a group accountable if their group crosses a particular, clearly stated threshold (typically that attention will be brought to bear on the most violent group or the first group to commit a homicide post-message delivery). This does not mean everyone in the group is arrested for a murder they were not involved in. It does mean that everyone in the group receives some law enforcement attention that is appropriate to their particular circumstances and criminal history. As groups learn that violence by one will lead to sanctions for all, internal peer incentive influences a shift in behavioral norms.

Feasibility depends, in part, on the capability of law enforcement actors to identify those individuals and groups most driving serious violence through gathering actionable intelligence, coordinating across departments and agencies, directly communicating the consequences of crossing the stated violence threshold to groups, and then enforcing sanctions against any violation with swiftness and certainty.

Violent groups in El Salvador already have strong internal social control, although primarily used for negative social outcomes. However, the Gang Truce demonstrated that gangs in El Salvador can desist from violence. Finding pathways to leverage this internal control and re-engineer it for positive social outcomes (or at least to halt the negative ones) is ultimately what a deterrence approach will aim to achieve.

As referenced in the [Findings](#) section, the study found that between 0.34% and 0.9% of the population comprises the most violent groups in the areas studied. NNSC would aim to support national actors in shifting from a mindset that they are facing out-of-control violence to thinking about bringing the capacities of law enforcement, community, and service providers to bear on the behavior of several-hundred people. This shift in mindset has tremendous power. What can perhaps seem like an insurmountable problem of runaway violence turns into a problem of orienting resources and capacities appropriately and effectively to a small number of highly traumatized and often highly violent individuals. El Salvador is not a country overrun by violent actors, it is home to a small number of people whose actions – and the response to them – are causing some of the highest violence levels in the world. Meanwhile, the vast majority of Salvadorans – even in the neighborhoods of highest violence – are trying to live their lives free from fear, a fundamental human right.

The study team is convinced that there are group involved individuals who are ready to desist, but who face significant obstacles to do so. In Cruz et al, 68.6% of group members in El Salvador asserted their

desire to leave the gangs.<sup>38</sup> What this could represent is a large number of group members who, with the right incentives, would be inclined towards a pathway out of violent group lifestyle, which is part of what the deterrence messaging will aim to achieve.

## INTELLIGENCE

Understanding specifically who is driving violence and for what reason, at a highly detailed level of analysis, is crucial to designing an effective intervention as is the ability to continue to collect and track group-based operational intelligence in real time. Typically, the NNSC begins new partnerships by pursuing this information through working with law enforcement partners to investigate prior violent incidents that occurred within a certain period of time. This provides a picture of the proportion of violence driven by groups, the nature of the groups, and the individuals involved in the groups. At the point where the partners are ready to begin direct communication with groups, it is necessary to have some level of detail regarding specific individuals within the groups. Whether there could be adaptation of the level of specificity in El Salvador remains a question to be filled in once the initial incident analysis can be completed. Either way, these actions require some level of law enforcement intelligence, although nearly always the existing intelligence requires rethinking and reorganization through a process facilitated by the NNSCS.

In El Salvador, quantitative information is currently collected on serious violence, for example on incidence. It is not, however, consistently attributed to groups. The PNC updates homicide numbers by municipality on a daily basis, which are compiled at the national level via a database managed by the PNC Central Operations and Services Center Unit (COS Central). However, information on the clearance rates for homicides, victim and suspect identity and affiliation with violent groups, and tracking of vendettas or chains of retaliation between and among groups are not readily available. This is not unusual. Helping police create new systems of tracking is a core task of NNSC partnerships.

Significant questions remain concerning juvenile data and how these data are maintained and shared across law enforcement agencies. This is particularly relevant given that, in some municipalities, it is estimated that over 50% of group members could be minors.

## COORDINATION

Coordination among law enforcement actors is essential to effective focused deterrence implementation for four reasons: First, different agencies often hold different information that, when shared, can be put to use for the broader public safety goals. Second, different agencies have varying jurisdictional responsibilities; strong cooperation allows them to bring to bear the right capacity at the right time for the right person (hence enabling the swiftness of a response action). Third, responses should be proportional to the individuals' engagement in crime and violence. Some behavior warrants the most severe penalty, while other warrants a warning or limited sanction only. Having a wide variety of agency capacity allows the law enforcement system to act in ways that are proportional and precise. Otherwise responses can appear to be (and sometimes are) arbitrary, illegitimate, and counter-productive. Finally, coordinated efforts demonstrate to group members that the system is united to address violence;

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<sup>38</sup> Cruz, Jose Miguel, Jonathan D. Rosen, Luis Enrique Amaya, and Yulia Vorobyeva. n.d. "The New Face of Street Gangs: The Gang Phenomenon in El Salvador." Florida International University. 52.

groups cannot avoid sanction by playing institutions against one another. This is important in a context like El Salvador whose institutions are being undermined by corruption.<sup>39</sup>

In an instance of a violent crime in El Salvador, local police are responsible for gathering evidence at the scene. They cannot conduct further investigation unless directed by the Attorney General's Office (FGR). The Institute of Legal Medicine (IML) collects evidence from the body of a homicide victim and that data along with crime scene data are given to the FGR's office to determine a motive. There are multiple mechanisms in El Salvador aimed to support coordination between the FGR, PNC, and IML. These mechanisms include protocols for data collection at crime scenes, crisis table set up to manage homicide cases, daily tallying of homicide data, as well as municipal and national coordination tables.

The existence of these information-sharing mechanisms is a positive sign. The core question here is whether the capacity exists to collaborate on a basic overall strategy. While presently meetings across agencies often do not always increase sharing of information, cooperation, or reliably build trust, this is a somewhat typical finding. Indeed, many cities that have applied focused deterrence attribute the strategy to having helped them achieve such a level of trust and effective cooperation. Strengthening cooperation is an inherent part of the work.

In El Salvador the FGR and the PNC are centralized institutions, meaning local representatives have limited autonomy in decision making. Because these are national agencies, the right fit of national and municipal level coordination would be required, although should not be so overly bureaucratic as to stifle maneuverability at the local level. Prison personnel, juvenile justice agencies and foreign entities such as U.S. federal task forces or United Nations entities should also be considered, although such partnerships should be driven by the design of the intervention. Time should not be spent setting up partnerships before designing the work, this will bog the process down in detail while preventing the work from getting off the ground.

## DIRECT COMMUNICATION

No criminal justice system can respond effectively to every breach of law, nor would that be ideal. Discretion in the system is important. At the same time, the application and intentionality of discretion is significant in informing individuals of what they are likely to “get away with” versus what type of criminal behavior is more certain to result in a sanction. These considerations get factored into the cost-benefit analysis of participation in criminal activity or engagement with/in violence.

Focused deterrence changes these calculations by telling people clearly and ahead of time what actions will prompt an enforcement response and precisely what the consequences of their criminal actions will be. This reduces uncertainty in the system and – once group members see that these promises are not arbitrary – can modify behavior. In this way, specific incidents are prevented, which saves lives, while state resources are not spent on incarceration, which saves money. The creative use of existing law enforcement capacity, combined with direct communication with high-risk people, can make deterrence work and head off both violence and actual enforcement. The group-based accountability compliments this communication by making clear the manner through which individuals will be held responsible for

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<sup>39</sup> At this time a former Salvadoran president, Antonio Saca is facing charges of embezzling more than \$300 million dollars and the previous Attorney General is currently imprisoned. For more information, see InSight crime's corruption in El Salvador: Politicians, Police and Transportistas series.

the behavior of others in their groups, not arbitrarily, but with precision and proportionality, and in a way that offers an opportunity to alter behavior.

Finding credible messengers who can deliver offers of help will be a challenge, although limited efforts already underway make clear that it is not impossible – examples were observed in all cities studied. In the El Salvador context, religious leaders and elders should be looked at for their role in delivering messages as these actors have been effective interlocutors already.

In El Salvador, there remain many questions on how exactly these messages would be crafted and delivered. Such discussion is a part of the design process for an intervention and always conducted in direct partnership with the institutions that will deliver the messages (i.e. law enforcement and relevant public institutions).

## DELIVERING CONSEQUENCES

Salvadoran law enforcement has sufficient capacity to conduct strategic enforcement action when directed. During *Operation Jaque*, which was aimed at taking out MS-13 leadership and which was implemented in 11 of 14 departments, 120 arrest warrants were issued against leaders and collaborators. These warrants were for crimes ranging from membership in terrorist organizations, illicit *aggragation*, homicide, and drug trafficking to femicide, arms trafficking, extortion, and money laundering.<sup>40</sup> This was one of at least four important operations carried out in coordination between the PNC and the FGR, whose shared objectives include dismantling the finances of the gangs. Three other operations were: *Tecana*, *Cuscatlán*, and *Libertad*. Throughout the course of these operations, different businesses managed by the MS-13 were targeted, including motels, brothels, breweries, bus, and taxi companies. Local authorities had evidence that, through those businesses, MS-13 generated thousands of dollars, most of which ended up in the hands of the group's leadership.

There are certain limitations in El Salvador that will require very thoughtful design and deliberation around allegations of widespread corruption, delays in court administration, and unlawful killings by security forces or other police violence. That said, there is real capacity on the ground, which should not be ignored or under-appreciated. It will be necessary to identify a small cohort of dedicated law enforcement actors willing and able to direct resources for these purposes. Wholesale system re-alignment is not necessary, although it is at times an outcome of an effective focused deterrence application.

## 2. CAN THE COMMUNITY BE ACTIVATED TO ESTABLISH NORMS AROUND NON-VIOLENCE?

Focused deterrence aims to establish and provide the space to engage directly with the few people at the highest risk for violent victimization or offending. While the enforcement of law, justice, and appropriate sanctions are essential to deterring violence, it is also true that communities that are able to set their own norms around violence tend to be less violent and require less formal law enforcement.

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<sup>40</sup> For more detailed information on these operations see: Lemus, Efren, Óscar Martínez and Carlos Martínez Jueves. 2016. "Fiscalía ataca las finanzas de la MS-13 por primera vez." El Faro. [https://elfaro.net/es/201607/el\\_salvador/19048/Fiscalía-ataca-las-finanzas-de-la-MS-13-por-primera-vez.htm](https://elfaro.net/es/201607/el_salvador/19048/Fiscalía-ataca-las-finanzas-de-la-MS-13-por-primera-vez.htm)

Simply put, communities play an important role in public safety. Ironically, it is often communities that are most in need of articulating their own public safety norms that are least able to claim them.

In many communities, behavioral norms around violence are established by the violent actors themselves, leaving local populations to live in fear and often caught between police and groups without safety offered by either. This is the situation generally described to the study team in El Salvador. For the community to establish norms around nonviolence, individuals within the community would need to have opportunities to represent clear collective standards. At a minimum, actors trying to articulate such messages should be backed up by the government, their message reinforced by a state sector also looking to lower violence.

There is opportunity to engage those voices more deliberately and directly through involving municipal leaders, such as mayors and *promotores* (community outreach workers). Reinforcing alternative solutions and doing so with individuals who have public trust would create space for new solutions to be piloted and new relationships to be built. According to surveys, the public placed trust and confidence in the Mayor's Office at the second highest level – after the Armed Forces – followed by the PNC, the FGR, and the Presidency.<sup>41</sup>

A deterrence approach would also create more space for community activists who are demonstrating effective engagement with former gang members. Several organizations and businesses are already active in this space. Continuing to invest in these efforts with careful and intentional expansion as possible would be really important to demonstrate that desistance from violence is possible. If the community takes a united stand with law enforcement to stop groups driving serious violence, this helps eliminate the faulty narrative that groups tell themselves – that they are protectors of the neighborhood.

The study team sought to identify individuals within communities who were delivering core messages of community standards of public safety. This proved a particular challenge given popular narratives geared towards a punishment oriented approach. There are, however, some individual actors and groups that are working to create new standards of peace within communities. These included religious leaders (mainly priests and mainly in the evangelical wing of the Christian Church), business leaders, coaches, former group members who have desisted, elders, and relatives.

In the municipalities studied, NNSC has every reason to believe that there are select community leaders who can speak out against violence and be respected by group members. Through survey work, gang members have expressed trust in churches, some NGOs, and articulated that they would listen to their mothers over any other authority figure.<sup>42</sup>

Even with these positive examples, legal questions remain a concern. Following the 2012 Gang Truce and the designation of MS-13 and the 18<sup>th</sup> street groups as “terrorists,” there remains a legal grey area in which direct communication to group members could fall victim. Several individuals interviewed by the study team (e.g. Legislative Assembly members, mayors, and civil servants) were under the impression that any type of communication with these groups could be considered a crime later,

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<sup>41</sup> Cruz, José Miguel, Jeannette Aguilar, and Yulia Vorobyeva. 2017. Legitimidad y confianza pública de la policía en El Salvador. Florida International University y Universidad Centroamericana “José Simeón Cañas”

<sup>42</sup> Cruz, Jose Miguel, Jonathan D. Rosen, Luis Enrique Amaya, and Yulia Vorobyeva. n.d. “The New Face of Street Gangs: The Gang Phenomenon in El Salvador.” Florida International University.

whereas a Supreme Court magistrate insisted that there was no legal restriction on conversation with group members. This could restrict actor willingness to engage, although NNSC believes there is space here to explore further.

Any future implementation will be contingent upon an informed legal determination as to the potential liability surrounding any messaging. In fact, while many organizations work with youth at risk, very few work directly with active gang members.

### **3. CAN SERVICES, SUPPORT, AND OUTREACH BE DELIVERED TO THOSE MOST AT RISK OF BEING VICTIMS AND PERPETRATORS OF VIOLENCE?**

Many of the people at highest risk for violent victimization or committing violence would prefer a different life. Offers of help, however, to a highly fearful, traumatized and very often violent group of individuals requires unique approaches as well as significant patience. This is perhaps the most difficult group to reach with offers of help and they will typically not accept help easily or immediately. At the same time, demonstrating that there are alternatives available, that there are people that can be trusted and that the system is willing to work for them can offer huge dividends in impacting individual decisions to desist from violence. Similar to the law enforcement message described above, these offers of support must be backed up with certainty.

The study team questioned the ability to communicate with group members, both from a personal safety and a legal perspective, given the designation of the groups as terrorist organizations. The team heard conflicting narratives around the legality of providing services, entering into conversations or even calling a meeting with members of groups. Although a Supreme Court magistrate assured the team that there was no legal restriction on providing services or outreach to this population, Legislative Assembly members, mayors' offices, police, and citizens expressed uncertainty. Additionally, examples of the detention and conviction of individuals involved in the 2012 Gang Truce, the current detention of a religious leader from the Ebenezer Church and the exclusion of group members from accessing victim services at the Local Victim Assistance Offices (OLAV)<sup>43</sup> demonstrate a pattern that could be interpreted as meaning no contact is the only safe contact.

Included below is a consideration of what meaningful offers of help could look like in the Salvadoran context, particularly given the vehement anti-gang attitude that permeates society.

#### **TYPES OF SERVICES SUPPORT AND OUTREACH**

The NNSC does not frame the objectives of support and outreach in the context of typical support agencies, which focus on livelihood productivity, living wage, etc. Instead, given the challenges inherent to the cohort of individuals focused deterrence is looking at, immediate goals are more proximate: keeping people away from violence, alive and out of prison. For some, this involves providing relocation assistance if they are in fear for their lives. For others, this might entail providing legal support for those who are caught in cycles of the criminal justice system that prevent them from taking advantage of other opportunities. The complexity of the criminal justice system in El Salvador and the limited resources invested in public defense leave the majority of group members and other justice-involved individuals

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<sup>43</sup> As explained to us by a staff person at the Victim Care Directorate.

without a clear understanding of their rights, their legal vulnerabilities, and, sometimes, even the details of the charges brought against them.

Other types of support may include offering protection from risk, support with reintegration, providing the things that may not be typically considered but that prove barriers to desistance such as tattoo removal, living space, affirmative outreach, and addressing trauma. Access to traditional services including work placement, job training, and education may also be necessary. For the purposes of focused deterrence, there are two questions: The first is the extent to which there are service providers that can retrofit their offerings for this particular population group. The second is a legal question given the particular restrictions in place concerning gangs discussed above.

Some provision for services specific to group members is indicated in PESS, but the Legislative Assembly has not yet delivered corresponding legislation. Without this legal framework, organizations may be hesitant to participate fully for fear of legal ramifications.

The comprehensive PESS calls for legislative action to address social insertion for those group members who wish to leave the groups. Specifically, it states that the government commits to, “[i]n partnership with churches, private enterprise, non-governmental organizations and universities and organized communities[,] review the Law of Prohibition of Maras, Gangs, Associations and Organizations of a Criminal Nature so that those members who want to leave these groups and insert themselves socially, can do it.”<sup>44</sup> The most tangible aspect of this is the government’s investment in *Yo Cambio*, a program run within the penitentiary system. This could be interpreted as implying that the only way for someone to rehabilitate or reintegrate is by passing through the prison system first, a sentiment which was expressed by Legislative Assembly members to the study team. State structures are currently aligned around the opinion that group members can never really “retire,”<sup>45</sup> a sentiment reiterated by members of the Legislative Assembly and the Ministry of Justice and Public Security.

#### **4. WHAT WOULD A CONVERSATION AROUND POLICE AND LAW ENFORCEMENT LEGITIMACY LOOK LIKE IN THE CONTEXT OF EL SALVADOR’S VIOLENCE?**

A premise of NNSC’s work is that communities need to see law enforcement, especially the police, as fair, respectful, and on their side. Low levels of legitimacy between public security institutions and communities results in higher levels of violence and vice-versa.<sup>46</sup> Even at the level of nation-states, USAID has elevated “legitimacy” (a core factor in a state’s fragility scale), to be on par with “effectiveness.”<sup>47</sup>

In El Salvador, citizens express both a low confidence in the effectiveness and legitimacy of law enforcement and a strong preference for the use of tough, “iron-fist” policies.<sup>48</sup> This combination of a

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<sup>44</sup> “Plan El Salvador Seguro.” 2015. Consejo Nacional De Seguridad Ciudadana Y Convivencia. 7.

<sup>45</sup> Dudley, Steven. MS-13 in the Americas: How the World’s Most Notorious Gang Defies Logic, Resists Destruction. Washington, DC: InSight Crime and the Center for Latin American & Latino Studies, 2018.27. <https://www.insightcrime.org/wp-content/uploads/2018/02/MS13-in-the-Americas-InSight-Crime-English-3.pdf>

<sup>46</sup> Dawson, Andrew. 2018. “Police Legitimacy and Homicide: A Macro-Comparative Analysis.” Social Forces. <https://doi.org/10.1093/sf/soy043>

<sup>47</sup> Lindborg, Nancy. “From Fragility to Resilience” in USAID Frontiers in Development. 2014. <https://www.usaid.gov/frontiers/2014/publication/section-4-from-fragility-to-resilience>

<sup>48</sup> Ibid.

lack of trust and a demand for quick, effective action represents a real opportunity and is not without precedent. Focused deterrence has demonstrated effectiveness in addressing significant violence while simultaneously enhancing relationships between law enforcement and the communities they serve. The roll-out of a deterrence strategy can provide an opportunity for authorities to reset their relationship to communities through promising both effective diminishment of violence and legitimacy of effort.

The effective diminishment of violence and simultaneous increase in legitimacy is not an accidental by-product, it is built into an approach that recognizes the ways in which policing and criminal justice systems can alienate communities and the often cyclical impact this has on violence. This is part of the reason community and service partners are embedded in the approach and why the approach incorporates advance notification that is specific and clear on how state enforcement action will be used. And this is part of why implementing cities consider a range of enforcement options, not always selecting the most severe, but rather the most swift, certain and fair.

While El Salvador's law enforcement capacity is strong, the focus to date has insufficiently prioritized the importance of legitimacy simultaneous to violence reduction. There are growing concerns regarding reports of extrajudicial executions, allegedly committed by security forces, and the impunity that characterizes these cases.<sup>49</sup> This finding is corroborated by the State Department's 2017 El Salvador Human Rights Report.<sup>50</sup> While El Salvador has invested significantly in community policing, units and officers continue to carry out policing tactics that terrorize entire communities and undermine faith in the rule of law. The 2009 OECD report on armed violence reduction suggests addressing violence in contexts such as El Salvador requires a broader framework of recovery that seeks to reinforce or establish state legitimacy and national resilience.<sup>51</sup>

The Extraordinary Security Measures adopted in April of 2016 to combat organized crime and the corresponding increased presence of the military in public security tasks present related concerns.<sup>52</sup> While such measures may have contributed to improvements in public safety – enhancing the state

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<sup>49</sup> As one example, the Human Rights Ombudsman's Office (PDDH) reported, in August of 2017, that it was investigating complaints of more than 40 extrajudicial executions allegedly perpetrated by security forces.

<sup>50</sup> U.S. Department of State. El Salvador 2017 Human Rights Report. 2017. Accessed July 3, 2018. <https://www.state.gov/documents/organization/277575.pdf>. "There were reports of security force involvement in unlawful killings. As of August 31, the Office of the Human Rights Ombudsman (PDDH) announced that it was investigating 13 complaints against police and four against the armed forces for unlawful killings. As of September 7, the PDDH announced it had received at least 20 complaints of alleged unlawful killings committed by 40 security or military officials. According to the National Civil Police (PNC), as of October 6, state security forces killed 337 gang members during armed confrontations, compared with 603 in 2016."

<sup>51</sup> Organization for Economic Cooperation and Development. 2009. Conflict and Fragility Armed Violence Reduction ENABLING DEVELOPMENT.

<https://www.oecd.org/dac/conflict-fragility-resilience/docs/armed%20violence%20reduction.pdf>.

<sup>52</sup> According to the conclusions and observations of the Inter-American Commission on Human Rights' (IACHR) Working Visit to El Salvador in November of 2017, 7,900 members of the military were participating in public security tasks in 2014, a figure that had reportedly doubled by 2016. The extraordinary security measures were adopted by the government in April of 2016 and extended until 2018, in August 2018 they became permanent law. For more information see "Decreto No 321. Disposiciones Especiales Transitorias Y Extraordinarias En los Centros Penitenciarios, Granjas Penitenciarias, Centros Intermedios Y Centros Temporales De Reclusión." Accessed August 24, 2018. <http://www.acnur.org/fileadmin/Documentos/BDL/2017/11064.pdf>



capacity to respond to high levels of serious violence<sup>53</sup> – these have also allowed for increased severity in the adopted responses to crime and violence.

In a Latin American Public Opinion Project (LAPOP) and UNDP 2012 poll on the public perception of police participation in criminal activities, more than 40% of Salvadorans believed the police were involved in crime. Over half of the citizens surveyed expressed little or no confidence in their court systems.<sup>54</sup> When seen as above the law, state security actors are given space to carry out their own operations or vendettas.

This places community members at the mercy of violent groups without recourse. This can lead to greater violence and set the stage for greater animosity between state and society as well as lower support for rule of law. Nearly 35% of respondents in the LAPOP survey cited above said they agreed with people taking the law into their own hands when the state does not punish criminals.<sup>55</sup>

## CONCLUSION

Focused deterrence holds promise in El Salvador. As extreme as it is, the violence in El Salvador is highly concentrated in a small number of individuals. These individuals are generally known to law enforcement. And their violent behavior is driven by group-dynamics. It is possible to influence the group dynamics, as has been demonstrated by the Gang Truce.

NNSC believes that focused deterrence could make a positive contribution to community safety in El Salvador and that the relevant actors at State and City level consider an initial piloting. For any adaptation to move forward, local partners would require significant technical capacity and peer support, ideally provided by NNSC and our networks of over 30 global cities currently applying focused deterrence.

As an initial step, NNSC would support a diagnostic exercise to examine violence dynamics at the incident level in one or two locations. An inter-institutional agreement between the PNC, FGR and other relevant agencies would be essential to access these data. Additionally, implementing partners would need to receive a legal determination as to the potential liability surrounding any messaging with group members, whether enforcement or support oriented.

Viewed through an asset-oriented lens, the fact is that the vast majority of Salvadorans, as traumatized by historic and present violence as they are, move through their lives as non-violent, productive members of society. There is an opportunity to reset expectations of what Salvadoran law enforcement can

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<sup>53</sup> The IACHR observed that while homicide rates in the country have declined in recent years, these figures are still among the highest in the region and worldwide. According to data from the National Civil Police (PNC), there were 5,278 violent deaths reported in 2016, a decrease of 1,378 homicides when compared with 2015. Moreover, the Minister of Justice and Public Security reported that from January to November 2017, there were 3,610 homicides in the country, or 1,337 fewer than in the same period the previous year. According to the same source, El Salvador's homicide rate in 2017 was 60 per 100,000 inhabitants, compared with 103 in 2015 and 81 in 2016.

<sup>54</sup> "Citizen Security with a Human Face: Evidence and Proposals for Latin America." Regional Human Development Report 2013-2014. United Nations Development Programme. <http://hdr.undp.org/en/content/citizen-security-human-face>

<sup>55</sup> Ibid.

accomplish, demonstrating both effectiveness in lowering violence and a corresponding improvement in trust and legitimacy. This will take time and effort, including re-imagining the analysis of groups, invigorating improved approaches to coordination, and integration of partners previously excluded from the conversation. Yet all of these are tasks that are typical of any city choosing to adapt a focused deterrence approach. Methodologies have been developed over the years to help cities make progress.

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## APPENDIX I: LIST OF EXPERT INTERVIEW SUBJECTS<sup>56</sup>

INTERVIEWED	
TITLE	ORGANIZATION
Coordinator of the Public Policy Center	Superior School of Economics and Business (ESEN)
Delegation Chief	PNC
Delegation Deputy Chief	PNC
Delegation Chief	PNC
Delegation Chief	PNC
Sub-delegation Chief	PNC
Sub-delegation Chief	PNC
Journalist	El Faro
Director	Information and Analysis Directorate / Ministry of Justice and Public Security
Research and Learning Director	Local NGO
Mediator in gangs' truce	Independent analyst
Director	Don Bosco Industrial Park
Subdirector of Investigations	National Civil Police
General Manager	League Central America
Community Relations Secretary	National Civil Police
General Director	National Civil Police
Minister	Ministry of Justice and Public Security
Vice Minister	Vice Ministry of Social Prevention
Director	Victim Care Directorate / Ministry of Justice and Public Security
Gang expert	Florida International University
Journalist	Factum
Advisor of Vice Minister	Vice Ministry of Social Prevention
Former Director of Prison System	Ministry of Justice and Public Security
Congressman	ARENA

<sup>56</sup> All city-based location designations have been removed.

## INTERVIEWED

Congressman	FMLN
Security and Justice Advisor	Checchi Consulting
Representative	Checchi Consulting
Representative	Checchi Consulting
Senior pastor	Local Church
Coordinator	CMPV
Sub-delegation Chief	PNC
Sub-delegation Chief	PNC
Officer of Intelligence	PNC
Officer of Investigations	PNC
Coordinator	CMPV
Coordinator	CMPV
Magistrate	Criminal Court / Supreme Court of Justice
Director	Institute of Legal Medicine
Senior pastor	Local Church
Chief of Intelligence	PNC
Chief of Investigations	PNC
Officer of Intelligence	PNC
Officer of Investigations	PNC
Police post Chief	PNC
Mayor	
Executive Director	National Foundation for Development (FUNDE)
Sub-delegation Chief	Sub-delegation of Historical Center
Officer for Prevention Infrastructure	Creative Associates International
Director	Proyecto de USAID: Prevención del Crimen y la Violencia/ Creative Associates International
Democratic Governance Team Leader	UNDP
Citizen Security Specialist	UNDP

## INTERVIEWED

Program Coordinator	Catholic Relief Services (CRS)
Sub-Director of Programs	Catholic Relief Services (CRS)
Coordinator of Citizen Security and Coexistence National Council	Secretariat of Governance
Director	Management, Analysis and Access to Information Directorate / General Prosecutor of the Republic
Journalist	InSight Crime
Advisor	US Embassy El Salvador, Department of State, INL
Legal Advisor	US Embassy El Salvador, Department of State, DOJ
Technical Director	Monitoring, Evaluation and Learning, Democracy International
Coordinator	Central America Regional Security Initiative (CARSI) Bureau for Latin America and the Caribbean, USAID
Deputy Director	US Embassy El Salvador, USAID, Democracy and Governance Office
Program Director	Local NGO