

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

No. 13-2141

R.R.D.,

Petitioner,

v.

ERIC H. HOLDER, JR., Attorney General of the United States,

Respondent,

**BRIEF OF *AMICUS CURIAE*
EVERARD MEADE**

IN SUPPORT OF PETITIONER, URGING REVERSAL

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CIRCUIT RULE 26.1 DISCLOSURE STATEMENT

Appellate Court No: 13-2141

Short Caption: R.R.D. v. Eric Holder, Jr., Attorney General of the United States

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Statement of Interest of *Amicus Curiae*

Dr. Everard Meade is an historian of Modern Mexico and an expert on its “drug war” and related issues of human rights. He is currently working on a project documenting the lives of ordinary survivors of the drug war in Mexico and Central America. More generally, his research focuses on human rights issues in modern Mexico and Central America, and he has written extensively on the Mexican justice system. Dr. Meade co-founded the Human Rights Minor Program at the University of California, San Diego, where he has worked as a professor for almost a decade. He has also served on the advisory board of the University of Chicago Human Rights Program and as coordinator for the Mexico-U.S. Advocates Network.

Because this case relates to his research and expertise, Dr. Meade believes he can assist the Court in its consideration of several important issues. In particular, he offers this brief to explain both current country conditions in Mexico, including drug cartel violence and the systematic corruption by drug cartels of Mexican police officers, and how those conditions have been misunderstood in the decisions below.

Amicus submits this brief together with a motion for leave to file under Fed. R. App. P. 29. Pursuant to Rule 29(a)(5), *amicus* states that no party’s counsel has authored this brief in whole or in part, and no party or other person, other than *amicus* and counsel for *amicus*, has contributed money that was intended to fund preparing or submitting the brief.

Summary of Argument of *Amicus Curiae*

The petitioner is a former police officer targeted by Mexican drug cartels for his incorruptible status: his decision to stand with other police officers who risk “bullets” rather than accept bribes. Despite significant evidence of violence and threats directed against the petitioner for his refusal to collaborate with various drug cartels, and despite general evidence of the pervasive corruption, infiltration, and intimidation of law enforcement agencies by cartels throughout Mexico, the Board of Immigration Appeals rejected the petitioner’s claim that he was persecuted “on account of” his membership in the social group of incorruptible police officers. That decision is wrong.

First and foremost, the Board improperly treated retaliation and persecution as mutually exclusive. This view does not merely disregard the law of this circuit, which required (at minimum) a mixed-motive analysis. But as this brief will further explain, it fundamentally misunderstands the interplay of motives in cartel violence against honest police officers throughout Mexico. Under “silver or lead” policies commonly adopted by cartels, the violence (“lead”) functions not merely to punish particular acts, but more generally to intimidate as many officers as possible into collaboration (“silver” or bribes). And more broadly still, it enforces a system of police corruption that underpins the business model of an entire industry of Mexican cartels. Nor could the Board reasonably conclude that “silver or lead” policies played no role here. The threats and violence that followed the petitioner from department to department and through almost one third of the Mexican states are not just characteristic of

these nationally-entrenched policies; they are susceptible to no other plausible explanation.

The Board also erred when it rejected petitioner's claim as based on nothing more than risks ordinarily associated with police work. Those risks and the persecution of incorruptible police officers could not—as this brief will further show—be more different. That drug cartels subject incorruptible police officers to a regime of targeted assassinations has been well-documented by journalists (as well as this record). And the more gruesome the better: this is message-violence, designed to enforce cartel power, discourage defection, and intimidate other members of the police. The Board erred again by concluding, without analysis, that threats and violence end with the departure of incorruptible police officers from their jobs. This view also misapprehends the nature of cartel violence. Cartels with national reach and access to a loose network of “freelance” assassins need not *and do not* allow their targets to walk free. And while little decreasing their value as targets, the separation of incorruptible officers sharply from their employers increases their vulnerability—all of which is borne out by the petitioner's own experience.

In sum, the Board's view of the law is contrary precedent in this court and elsewhere; its view of the facts cannot be reconciled with the well-documented nature of drug-related violence in Mexico or this record; and for many if not all members of a well-defined and widely persecuted social group in Mexico, its conclusion would unjustifiably place asylum out of reach. Its decision should be reversed.

ARGUMENT

I. Violence and Threats against the Petitioner Reflect *Both* Retaliation and Persecution by Mexican Drug Cartels.

The Board's finding that the petitioner offered insufficient evidence to support his asylum claim rests on an unstated assumption: retaliation and persecution on account of a protected ground are mutually exclusive courses of action. That assumption is wrong as a matter of law; but as importantly, it disregards the well-documented practices of drug cartels throughout Mexico and the only reasonable explanation for the repeated threats and violence directed against the petitioner. Given the pervasive manner in which Mexican drug cartels use ostentatious violence, systematically corrupt police officers, efficiently eliminate all threats, reward "freelance" violence, and send messages to those who stand up to them—all as reflected in the record and well-documented outside it—the petitioner's claim cannot be reduced to a series of isolated threats and acts of violence. The Board erred, in short, by mistaking a common form of drug cartel persecution for mere personal revenge.

A. The Board Failed to Apply the Mixed-Motives Doctrine to the Interwoven Motives of Retaliation and Persecution.

Though rejecting the petitioner's claim, the Board largely accepted its premise. The Board found, following the Immigration Judge, that the petitioner belonged to a social group of incorruptible police officers (past or present) that could support an asylum claim if supported by evidence of a nexus between the group and the persecution that he suffered. AR3-4; AR87-88. The Board accepted the petitioner's testimony and evidence that Mexican drug cartels tar-

geted incorruptible police officers under a policy known as *plata o plomo*—“silver or lead”—that systematically makes officers choose between bribes and violent retaliation (lead bullets). AR81, 85, 181–82. And the Board accepted that if the petitioner was targeted as part of a broader aim to corrupt police officers through intimidation (*i.e.*, the “silver or lead” policies), he might establish a status claim. What the Board did not accept—indeed, what it seemed to categorically rule out—was the possibility that retribution for specific acts (*e.g.*, investigations) could mix with any additional motive. AR4, citing AR99 (rejecting motive relating to silver or lead policies because “evidence indicates he was specifically targeted as retribution for particular investigations”). In short, the Board rejected the petitioner’s claim because it found retribution and persecution to be mutually exclusive.

This finding is wrong as a matter of law. Consistent with the statute,¹ application may establish a ground for asylum by showing that a protected ground “play[s] more than a superficial or minor part”; once that is established, other motives—even those that could be considered the primary reason for the persecution—do not preclude a grant of asylum. *Shaikh v. Holder*, 702 F.3d 897, 902 (7th Cir. 2012). And recent decisions have recognized that not only do multiple motives often trigger persecution, but those motives are also sometimes so

¹ The statute provides that “the application must establish that race, religion, nationality, membership in a particular social group, or political opinion was or will be *at least one central reason* for persecuting the applicant.” 8 U.S.C. § 1158(b)(1)(B) (emphasis added).

closely intertwined as to make any attempt to meaningfully distinguish them arbitrary and wrong. See *Castaneda-Castillo v. Holder*, 638 F.3d 354, 363 (1st Cir. 2011) (finding persecution on account of membership in the group of former military officers believed to have been involved in a particular massacre); *Madrigal v. Holder*, 716 F.3d 499, 505–06 (9th Cir. 2013) (“[E]ven if revenge partially motivated [the drug cartel’s] mistreatment of [a former military officer engage in anti-cartel activity] . . . their desire to intimidate members of this social group was another central reason for the persecution.”); *Sarhan v. Holder*, 658 F.3d 649, 656 (7th Cir. 2011) (holding that “honor-killings” amount to persecution on account of membership in a social group of those alleged to have “flouted repressive moral norms,” even though “the man who does the killing may have a personal motivation in the sense that he is angry that his sister has dishonored the family”).

And so it is here: if the silver or lead policies of Mexican drug cartels motivated threats and violence against the petitioner, then “attempts to exact retribution [for investigations would be] not only consistent with persecution on the basis of group membership, but in fact [would] constitute[] such persecution.” *Castaneda-Castillo*, 638 F.3d at 363. By categorically rejecting this possibility, the Board erred as a matter of law.

B. In the Context of Mexican Drug Violence, Personal Motives Alone Cannot Plausibly Explain Violence Against the Petitioner.

The Board’s refusal to conduct a mixed-motive analysis, or even to consider the possibility that broader concerns animated threats and violence against the

petitioner, caused it to take an implausible view of the evidence—a view, in fact, that the Ninth Circuit recently rejected in *Madrigal* on a similar record. To understand why, one need only consider the broader context of cartel violence in Mexico. As well-documented by journalists and academics, Mexican drug cartels are a dominant Mexican institution: they have systematically terrorized and corrupted police, targeted incorruptible police officers (and other specifically-identified groups and individuals) on a national scale, inflicted threats and violence against targets not merely as retribution but to intimidate and otherwise ensure control, and treated the entire operation as central to their business model and ability to maximize profits. In this context, cartel retaliation cannot be separated from persecution, or persecution from what happened to the petitioner. The Board could not, in short, plausibly view the petitioner's account of threats and violence repeated across different police departments in different states and towns and following different cartel investigations as isolated cases of personal revenge. See AR173-74; 227.

1. Drug-Related Violence in Mexico Is National, Pervasive, and Specifically Targeted at Cartel Enemies Such as Incorruptible Police Officers.

The violence associated with the Mexican drug trade is, above all else, pervasive: its motives and targets are part of a symbiotic relationship between law enforcement, drug traffickers, and freelance operatives looking to gain influence or employment with the drug cartels. And although the drug cartel's level

of activity varies by region, their violence extends throughout the country.² The primary form of that violence is assassination. Most of the killing in the drug war in Mexico are targeted, ambush-style assassinations—known as *ejecuciones*, or “executions.” As one commentator has observed:

Even the name is chilling; it explains that someone has ordered a death sentence on the target. The gunmen rarely miss. Mexico has no death penalty, but the worst days have seen more than sixty executions—two dozen in Ciudad Juárez, more sprinkled over Michoacán, Guerrero, Tamaulipas, Sinaloa, Durango, Tijuana. The next-highest number of drug war victims are people who are kidnapped, murdered, and have their bodies dumped. Deaths in shoot-outs account for a small percentage. This is a drug war fought by assassins. Their hit-and-run tactics are extremely difficult to defend against.³

Many assassinations, moreover, are not carried out on direct orders from one particular boss that filter down a chain of command to a particular assassin or band of assassins. Instead, a “boss” adds an individual or a class of individuals to a free-floating “hit” list, and then assassins eager to curry favor with that boss or his organization will seek out and kill that individual or members

² Howard Campbell, *Drug War Zone: Frontline Dispatches from the Streets of El Paso and Juárez*, locs. 125, 3755 (kindle ed. 2009); Tracy Wilkinson, *Mexico under Siege*, Los Angeles Times, August 19, 2013.

³Graham H. Turbiville, Jr., *Firefights, Raids, and Assassinations: Tactical Forms of Cartel Violence and Their Underpinnings*, 21 *Small Wars & Insurgencies* 123 (2010); Ion Grillo, *El Narco: Inside Mexico's Criminal Insurgency*, loc. 3079 (kindle ed. 2011); Human Rights Watch, *Mexico's Disappeared* (2013), 5-7; John Gibler, *To Die in Mexico: Dispatches from Inside the Drug War*, 38-40, 161 (2011).

of that group.⁴ So far from personal, drug-related assassinations are often carried out by people lacking any direct connection to the target.

In addition to actual lists that bosses circulate to their henchman, the “list” of people targeted for assassination exists in the form of banners and posters, known as *narcomensajes*, left in public places or alongside the discarded bodies of other assassination victims;⁵ lists also take the form of YouTube and other online video posts in which individuals are tortured into revealing their confederates (or reading off a list of names and accusations against particular individuals and groups) before they are executed (sometimes on camera), or they arise where assassins level warnings and threats against specific individuals and groups.⁶ Once the word gets out that a particular individual or group has been targeted, various assassins will make their own risk-reward calculations as to whether they will choose to go after them.⁷ In this way, incorruptible police officers are literally targeted for their membership in a social group—*i.e.*, the group of officers whose names appear on the assassins’ list.

⁴ Molly Molloy and Charles Bowden, *El Sicario: The Autobiography of a Mexican Assassin*, locs. 1205, 2462 (kindle ed. 2011); Vidriana Ríos, *Why is killing so cheap in Mexico?* *Este País*, February 5, 2010 (Stephanie Delgado-Garcia trans.), available at www.gov.harvard.edu/files/uploads/Rios_EstePais_KillingE.doc ; *Sicarios de Élite, Entrenados para Matar*, *Proceso*, No. 1913, July 29, 2013; *Suspect on Zetas' Hit List Is Arrested in San Antonio*, *Borderland Beat*, February 9, 2012.

⁵ *Mexico's Drug Wars: Where Brutality Knows No Bounds*, *Sunday Herald*, July 8, 2012.

⁶ *Blog del Narco, Dying for the Truth: Undercover Inside the Mexican Drug War by the Fugitive Reporters of Blog del Narco* locs. 290, 1429, 1961, 1988, 3009, 3821, 3986, 4037, 4371 (kindle ed. 2013); Gibler, *supra* note 3, at 7.

2. Drug Cartels Use Violence for Business Reasons, Not Just Personal Vengeance, and Operate Expansively Across Mexico.

That killing associated with the drug trade cannot be reduced to mere “personal disputes” or retaliation for particular acts or investigations becomes increasingly clear when understood not as a struggle between various factions, but rather as a competitive marketplace in which the leading drug organizations act like other for-profit corporations—though without the ethical and legal strictures that constrain legitimate enterprises. In this marketplace, drug cartels hire legions of accountants and lawyers to maximize their profit margins;⁸ they eliminate operations and individuals who hurt the bottom line;⁹ and they zealously guard their brands from both competitors and would-be imitators.¹⁰ But they also make strategic alliances with the very same competitors in various locales and segments of the market—to shut out third parties, to stave off government regulation, or simply to achieve economies of scale. And they compete for top talent. Similar to professional sports, high-tech, and other industries, enterprising drug lords have poached each other’s most valuable

⁷ Blog del Narco, *supra* note 6; *Mystery blogger reveals why she risks assassination to expose drug cartels*, Daily Mail, October 16, 2013.

⁸ David Shirk, *The Drug War in Mexico: Confronting a Shared Threat* (kindle ed. 2011), loc. 602.

⁹ George W. Grayson & Samuel Logan, *The Executioner's Men: Los Zetas, Rogue Soldiers, Criminal Entrepreneurs, and the Shadow State They Created*, loc. 921 (kindle ed. 2012),

¹⁰ Alfredo Corchado, *Midnight in Mexico: A Reporter's Journey Through a Country's Descent into Darkness*, loc. 2044 (kindle ed. 2013); Grayson & Logan, *supra* note 9, locs. 282, 1081, 1184; *Cartel Boss Calls, but Zeta Brand Strong*, Washington Post, July 19, 2013; “Sadist” Los Zetas Cartel Set Brutal Standard in Drug War, PBS, July 16, 2013.

people—such as accountants, financiers, assassins, and smugglers;¹¹ sought talent abroad—such as gang members in the U.S., Honduras, and El Salvador;¹² and recruited skilled assets from government and other industries—such as special forces operatives from Mexico and Guatemala.¹³ As a result, there is virtually no part of Mexico beyond their interest or reach.

3. *Drug Cartels Use Violence to Corrupt Police Forces through a Policy of “Silver or Lead.”*

Under the “silver or lead” policy commonly adopted by cartels across Mexico, any police officer who attempts to opt out of collaborating with drug-trafficking organizations becomes a valuable target—if only because individuals outside the system are individuals beyond cartel control.¹⁴ The greater a particular police officer’s involvement in drug investigations, the greater the risk: any individual with significant information on the drug trade or any of its connections to various political leaders poses a risk to their operations and their

¹¹Grayson & Logan, *supra* note 9, locs. 1007, 1231.

¹²*El Salvador Becomes Drug Traffickers’ “Little Pathway”*, L.A. Times, March 22, 2011; *El Salvador Fears Ties Between Cartels, Street Gangs*, National Public Radio, June 2, 2011; *Zetas Cartel–Mara Salvatruchas Alliance in Mexico Unites Brutal Gangs*, El Paso Times, April 15, 2012.

¹³ Shirk, *supra* note 8, loc. 278; Grayson & Logan, *supra* at note 9, loc. 21716.

¹⁴Alfredo Corchado, a correspondent with the *Dallas Morning News* who has covered the drug war for more than a decade explains this policy in similar terms: “If the newcomers refused to accept bribes or resisted intimidation from colleagues and hit men, they would risk their lives and the well-being of their loved ones: an ultimatum known as *plata o plomo*—silver or lead.” Corchado, *supra* note 10, loc. 348; see also Grayson & Logan, *supra* at note 9, loc. 1924; William Finnegan, *Silver or Lead; The Drug Cartel La Familia Gives Local Officials a Choice: Take a Bribe or a Bullet*, The New Yorker, May 31, 2010; Tony Payan, *The Three U.S.–Mexico Border Wars: Drugs, Immigration, and Homeland Security* 43 (2006).

reputations.¹⁵ When the leaders of drug organizations are incarcerated or even killed, surviving associates pursue their enemies far beyond the actual value of the information they hold. This is particularly true in the case of individuals (like the petitioner in this case) who might expose connections to public officials whose careers outlast those of their criminal allies or patrons.¹⁶

More than mere personal vengeance, cartels and their associates target enemies in order to protect the fearsome reputations of their organizations and, in the case of police officers, the broader system of corruption on which their livelihood depends.¹⁷ The reputations they build by leaving mutilated bodies with warning notes in public places, posting videos of gruesome executions on

¹⁵ For example, Vice Admiral Carlos Salazar, a senior officer in the Mexican Navy, was assassinated in a remote area of the state of Michoacán on July 28, 2013. Three gunmen from the Knights Templar drug cartel confessed to the killing and explained that Salazar had threatened their ability to collect protection money, distribute bribes, and carry out kidnappings. Manuel Rueda, *Why a Mexican Cartel Killed a Top Navy Officer*, ABC News, July 29, 2013.

¹⁶ Former Reuters correspondent in Mexico City Ion Grillo reports that from 2007-2011 “cartel gunmen slayed more than twenty-five hundred public servants, including twenty-two hundred policemen, two hundred soldiers, judges, mayors, a leading gubernatorial candidate, the leader of a state legislature, and dozens of federal officials.” Grillo, *supra* note 3, loc. 2568. See also Cory Molzahn, Viridiana Rios & David A. Shirk, *Drug Violence in Mexico: Data and Analysis Through 2011* (2012), available at <http://justiceinmexico.files.wordpress.com/2012/03/2012-tbi-drugviolence.pdf>.

¹⁷ In 2004, Sidarta Alfredo Walkinshaw, rated Mexico’s leading criminal investigator by the National Public Security System (SNSP), was fired from the State Ministerial Police and then assassinated after he refused to accept an offer to collaborate with the Carrillo Fuentes drug cartel. The offer was part of his promotion within the Ministerial Police, negotiated by director Jesús Antonio Aguilar Íñiguez, who was twice prosecuted for protecting the interests of the drug cartels. Walkinshaw was killed on police premises, just after leaving the meeting in which he was fired. Javier Valdez Cárdenas, *Levantones: Historias Reales de Desaparcecidos y Víctimas del Narco* 131-47, 173-75 (2012); *El Universal*, July 18, 2004. See also Corchado, *supra* note 10, loc. 2044; Grillo, *supra* note 3, loc. 249; Grayson & Logan, *supra* note 9, loc. 516.

the internet, hanging bodies from freeway underpasses, or rolling a severed head into crowded nightclubs serve not only to intimidate rivals and enemies, but also to maintain internal discipline, to remind their associates what happens to those who betray the organization.¹⁸

4. *Corruption of Police Officers is Pervasive and the Borders Between Law Enforcement and Drug Traffickers Are Porous.*

The “silver or lead” violence practiced by drug cartels has been broadly successful, creating a porous boundary between law enforcement and drug traffickers across Mexico. Moreover, the cartels benefit from this intimate relationship in a variety of ways. It has been widely reported, for example, that the cartels rely on police to *train* their operatives. All of the major drug organizations send promising young personnel to various police forces to learn basic marksmanship, communications, and the politics of law enforcement.¹⁹ And the cartels also recruit directly from within the ranks of the police and the military. *Id.* Later in their careers, successful operatives even return to old law-enforcement connections to place informants or collaborators in positions of authority.

¹⁸ Phil Williams, *The Terrorism Debate Over Mexican Drug Trafficking*, in *Intersections of Crime and Terror*, Ch. 6 (James J.F. Forest ed. 2013); Howard Abadinsky, *Organized Crime* 151 (10th ed. 2012); *Bodies Hung from Bridge in Cuenavaca*, BBC News, August 22, 2010; Jason Buch, *Ruthless, Intelligent Zetas Leader to be Succeeded by Brother*, Houston Chronicle, July 16, 2013.

¹⁹ Valdez Cárdenas, *supra* note 17 at 131-47; Shirk, *supra* note 8, loc. 278; Gibler, *supra* note 3 at 29; Grayson & Logan, *supra* note 9 loc. 2704.

This porous boundary, in fact, is central to the cartel business model. The business of drug cartels is leverage: they operate protection rackets,²⁰ and specialize in kidnapping for ransom, migrant smuggling, and extorting public officials,²¹ and they even control their subordinates by extending them credit and holding their friends and family responsible (through torture and or murder) for any personal transgressions.²² In these illicit endeavors, cartels benefit from—if not outright require—the collusion of law enforcement agents like local police. *Id.*

Indeed, it is precisely because corruption is so beneficial that silver or lead policies are so strictly enforced. If incorruptible police officers were permitted to function without consequence—to reject the silver and escape the lead—the system of internal discipline and leverage would collapse.²³ So the violence is viewed as necessary to a critical objective: intimidating other officers into col-

²⁰ Grayson & Logan, *supra* note 9, loc. 365.

²¹ Gibler, *supra* note 3 at 88, 185.

²² Sandra Rodríguez Nieto, *La fábrica del crimen* 97-122 (2012); Valdez Cárdenas, *supra* note 17 at 98-102; Grayson & Logan, *supra* note 9, loc. 740.

²³ As a result, the federal government has often found the only effective way to deal with police departments under the thumb of particular drug cartels is shut down entire departments. On December 29, 2007, federal agents dismissed and disarmed the entire police force in Rosarito, Baja California. *San Diego Magazine*, August 2009. The fear that arresting one of their own will incriminate the others has led to standoff between various police departments, military units, and vigilante groups. Sylvia Longmire, *Cartel: The Coming Invasion of Mexico's Drug Wars* 109 (2011).

laboration. And to make sure the message gets across, the cartels favor violence that is particularly graphic and extreme.²⁴

In sum, the corruption of police officers through “silver or lead” violence is a defining feature of the Mexican drug war. And seen in this context, the plight of *incorruptible* officers closely resembles the mixed-motive persecutions discussed in *Sahran*, *Casteneda-Castillo*, and *Madrigal*. There is simply no way to distinguish the intent to avenge the petitioner’s particular investigations of drug cartels, on the one hand, from the desire to persecute and intimidate him as belonging to a social group defined by actions *against* those cartels, on the other. Nor can one reasonably deny the role of “silver or lead” cartel policies in the petitioner’s individual case. The sheer repetition of threats and violence against him—perhaps the most salient fact in the record—could *only* be explained by these entrenched cartel practices. Petitioner’s Brief at 7–9. And by misunderstanding them, the Board mistook the central operating principle of

²⁴ The severed heads of seven off-duty soldiers and a local police commander were tossed into a shopping mall in Chilpancingo, Guerrero, along with a note to the regional military commander, after they had been kidnapped, tortured, and decapitated. Andrew R. Martinez, *Mexican Soldiers’ Decapitated Bodies Discovered*, Bloomberg, December 22, 2008. The following year, in Ciudad Juárez, after the bodies of two murdered police officers were found, drug traffickers threatened to kill another officer every two days until the new police chief resigned. Ismael Estrada, Michael Ware & Rey Rodriguez, *Death Threats Force Juárez Police Chief to Resign*, CNN, February 20, 2009; *Mexicans Discover Mutilated Body of Police Officer*, Borderland Beat, August 15, 2010; Blog del Narco, *Video: Entrevista a un Zeta “Los Cocinábamos con Diesel” ; parte 1* (Oct. 15, 2013), <http://www.elblogdelnarco.net/2013/10/video-entrevista-un-zeta-los.html>.

Mexican cartel violence for an implausible combination of happenstance and spite.

II. Violence and Threats Suffered by the Petitioner Are Different Than Dangers Normally Associated with Police Work.

The Board also misunderstood the petitioner’s evidence—and the nature of cartel violence against the Mexican police generally—by equating threats and violence directed against the petitioner with dangers inherent in ordinary police work. See AR4 (stating that the asylum and withholding of removal statutes do not “afford protection based on social group membership to persons exposed to risks normally associated with employment in occupations such as the police or the military” (citing *Matter of C—A—*, 23 I. & N. Dec. 951, 958 (BIA 2006))). This “equivalence” ignores another well-documented reality of Mexican drug trafficking: violence directed at incorruptible police officers is different in scope and kind than any violence normally associated with the work of police.

To begin with, incorruptible police officers face extreme risks. As discussed, cartel policies of “silver or lead” create a regime of assassinations, *targeted* assassinations accounting for most of the drug violence in Mexico.²⁵ So even if Mexican police work is itself dangerous, those risks bear little resemblance to the threat of assassination faced by incorruptible police officers. Unlike risks associated with employment, moreover, violence against incorruptible officers extends beyond the workplace. And its “instructive” nature alone—dictating

²⁵ See *supra* notes 3, 16 and accompanying text.

that the more gruesome the violence, the more forceful the message—makes it singularly severe. In short, no Mexican police officer would confuse the systematic violence associated with “silver or lead” policies with the generalized risk of normal police work. And no reasonable factfinder would join the Board in treating them as one and the same.

This distinction is evident in the petitioner’s own experiences. In testimony found credible by the Immigration Judge, the petitioner described attacks carried out at private residences, violence when he was off duty, and threats made even after he had left the police force altogether. AR165–66; AR161–62. *See generally Casteneda-Castillo*, 638 F.3d at 366 (distinguishing persecution of military officer associated with group perceived to have massacred civilians from ordinary dangers faced by military personnel where attacks targeted him personally and “occurred when he was not undertaking official duties”). He described not just on-the-job shooting, but an assassination attempt that nearly killed his father. AR165–66. And he faced this extraordinary danger not just occasionally, but repeatedly—forcing him to move from police department to police department over the course of his truncated law enforcement career.

That the *reason* for this persecution—his status as an “incorruptible police officer”—arose through his job should make no difference. The Board seemed to reject any nexus between persecution and the petitioner’s membership in a social group merely because refusing bribes and pursuing drug traffickers were among his official duties. AR4 (rejecting analogy to persecution of soldier based on his perceived participation in a civilian massacre as inapplicable to claims

that the petitioner was “targeted for carrying out his lawful duties as a police officer” (citing *Castaneda-Castillo*, 638 F.3d 354)). This circuit, however, has specifically acknowledged that even *general* police work might—if eliciting persecution intended “to discourage enlistment and choke off the government’s supply of new police recruits”—support a status-based asylum claim. *Ahmed v. Ashcroft*, 348 F.3d 611, 616-17 (7th Cir. 2003).²⁶ Cf. *In re C-A-*, 23 I. & N. Dec. 951, 958 (BIA 2006) (“[W]e do not afford protection based on social group membership to persons exposed to risks normally associated with employment in occupations such as the police or the military.”). And in similar contexts, it has recognized asylum claims by applicants targeted for performing official duties as government employees. See, e.g., *Supulveda v. Gonzales*, 464 F.3d 770, 772 (7th Cir. 2006) (finding that former state prosecutors could be targeted as a social group for performing, and acquiring knowledge while performing, their lawful duties); *Bace v. Ashcroft*, 352 F.3d 1133, 1136 (7th Cir. 2003) (finding applicant targeted for refusing to certify an apparently fraudulent vote, as required by his official duties, persecuted on account of his political opinion).

Protection is no less warranted here. In the context of Mexico’s drug wars, lumping police officers who take bribes with those who refuse them ignores a social group broadly recognized in Mexican society—and certainly recognized by the persecutors themselves. It neglects a laudable and important coalition of

²⁶ Yet in distinguishing between *all* police officers and officers (past and present) known to be incorruptible, the petitioner makes a more limited claim.

individuals willing to stand up for the rule of law. And it withholds protection from group members whose names irrevocably and often literally populate lists of targets for assassination. If people like the petitioner do not merit protection when persecuted on account of their status as incorruptible police officers, it becomes almost impossible to imagine who does. Indeed, there is no basis in policy or this court's precedents for reading these persecuted officers out of the asylum statute altogether.

III. Even After Leaving the Police Force, Incorruptible Police Officers Like the Petitioner Remain Targets Under the “Silver or Lead” Policies of Mexican Drug Cartels.

The Board's misapprehension of the nature of cartel violence carries through to its conclusion that the petitioner failed to link any “well-founded fear of persecution” to his status as a *former* police officer. AR4 (reasoning that 1) the petitioner “did not experience persecution after leaving the police force,” 2) “the record does not show persecution of former police officers,” and 3) “eight years have now passed since” he left Mexico). Not only does this finding disregard credible evidence that the petitioner *did* receive threats after leaving the police force—and, in fact, after leaving Mexico for the United States. AR251. But it conflicts with several well-documented features of drug cartel violence.

First, the very logic of “silver or lead” policies ensures that police officers remain valuable as cartel targets even after they leave their jobs. Ostentatious displays of violence, as the petitioner has explained, function to intimidate police officers into accepting bribes. AR81–82. But that message—and cartel pow-

er—would weaken if incorruptible police officers could disrupt cartel operations and then retire without consequence.²⁷ And conversely, violence against *former* police officers communicates the extent of cartel power and so amplifies the “silver or lead” threat.²⁸

The structure of cartels also creates continuing risks. As widely-documented, cartel violence is often the work of freelance assassins who pursue targets previously identified by a cartel boss or even “on speculation,” regardless of whether that target remains an active threat to the organization. Nor are these assassins easily called off. Once a particular individual or group has been targeted, various assassins will make their own risk-reward calculations about possible pursuit. And because the list is not centrally controlled or maintained, names or descriptions of groups placed “on the list” become nearly impossible to retract.²⁹

The risk-reward calculus puts former police officers at risk in other ways too. In the usual case, the risk of capturing and killing a person affiliated with the police must be taken into account. But a potential assassin need worry far less about provoking the wrath of the police, the military, or one of the criminal organizations if a target is unconnected. So former police officers remain active

²⁷ Grayson & Logan, *supra* note 9, loc. 1271; Valdez Cárdenas, *supra* note 17 at 98-103, 173-75.

²⁸ Sergio Garcia, *Asylum for Former Mexican Police Officers Persecuted by the Narcos*, 31 B.C. Third World L.J. 245 (2011).

²⁹ Molloy & Bowden, *supra* note 5, locs. 231, 1654, 2711. Charles Bowden, *Murder City: Ciudad Juárez and the Global Economy's New Killing Fields* 185, 243, 285 (2011).

targets, if only because the risks of pursuing them are typically low. At the same time, the reward for targeting former officers may be high—particularly if they have information about the drug trade or which political or other leaders are taking bribes. Cartels expend significant time and money to corrupt police officers and politicians and prefer not to put this investment at risk.³⁰

Beyond such incentives, the national reach of many cartels itself presents a danger to incorruptible officers who leave the police. Drug trafficking is an international business, in which even daily operations of provincial drug trafficking organizations involve international connections and commerce. So cartels maintain a national presence. As a result, there is no place where cartels are not active, where they do not track threats, or where the Mexican government has effective sovereignty over them.³¹ There is no place, in short, where a former officer is safe.³²

The Board, in sum, concluded that cartel violence stops when incorruptible police officers stop working for the police. But that finding discards credible testimony and misunderstands the logic and methods of cartel violence. Fairly considered, evidence of past persecution entitled the petitioner to the presump-

³⁰ Shirk, *supra* note 8, loc. 278; Grayson & Logan, *supra* note 9, loc. 21716; Grillo, *supra* note 3, locs. 249, 1895, 2568. See also Shannon O’Neil, *The Real War in Mexico: How Democracy Can Defeat the Drug Cartels*, 88 *Foreign Affairs*, July/Aug. 2009, at 72-74.

³¹ See *supra* note 2.

³² See *supra* note 14.

tion of a well-founded fear of persecution upon returning to Mexico—and one the government did not rebut. 8 C.F.R. § 1208.13(b)(1)(i)(A).

Conclusion

Though lacking any personal connection to the petitioner, *amicus curiae* submits this brief based on his knowledge of drug violence in Mexico and his inability to reconcile that knowledge with the reasoning or conclusions of the Board. *Amicus curiae* urges this Court to grant the Petition for Review and remand the case for further proceedings.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE WITH RULE 32(a)

1. This brief complies with the type-volume limitation of Fed. R. App. P. 32(a)(7)(B) because this brief contains 5,845 words, excluding parts of the brief exempted by Fed. R. App. P. 32(a)(7)(B)(iii).

2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5), as modified by Circuit Rule 32(b), and the type style requirements of Fed. R. App. P. 32(a)(6) because this brief has been prepared using proportionally spaced typeface using Microsoft Office 2010, Bookman Old Style, font size 12 in the body text and size 11 in the footnote text.

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I certify that on October 18, 2013, a copy of the Brief of *Amicus Curiae* Everard Meade In Support Of Appellant, Urging Reversal was filed electronically with the Clerk of the Court for the United States Court of Appeals for the Seventh Circuit by using the CM/ECF system. I certify that all participants in this case are registered CM/ECF users and that service will be accomplished by the CM/ECF system:

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