

**Panel III: Latin America's Police: Advancing Citizen Security?**

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The police in Latin America cannot advance citizen security unless it is reformed through the network of institutional and practices of which it is part. Although the police are at the forefront of responding to Latin America's prevalent violence, knowing whether it can actually advance citizen security must account for the tight web of political, institutional, and societal obstacles facing needed change. While this memo cannot adequately cover the range of these obstacles, it will provide an overview of them and apply them to several key cases.

Amid mounting crime in Latin America over the past ten years – including a 41 % rise in homicides that has made it the world's most crime-ridden region<sup>1</sup> – governments throughout the region have enacted a wide range of reforms to make the police more effective and accountable. While such changes extend over a broad range of proposals, most fall into three general areas. First is structural re-organization of police agencies through regional decentralization, simplified hierarchies, more professional security, oversight and disciplinary bodies, and other measures to improve efficiency, professionalism, and accountability. Since the early 1990s, second, 14 countries have addressed their notoriously slow and biased criminal justice systems – most of which resolve fewer than 2 % of homicides – with new penal process codes to strengthen defendant and due process rights, replace slow and biased written procedures with oral trials, transfer investigative authorities from the police to prosecutors (*fiscales*) in the Attorney General Office (*Ministerio Público*, MP), create investigative and sentencing courts, and improve institutional cooperation. The third change is community policing, which aims to empower citizens to respond directly to crime through neighborhood patrols, education programs, social services, and councils comprised of

citizens, politicians, and police officials. Community policing is often supplemented by police re-structuring measures to increase police-citizen interaction, such as giving more autonomy to neighborhood police commissioners (*comisarios*). In addition to its reductions of violence, community policing is also one of the most popular bases of police reform around the world because it bypasses dysfunctional criminal justice systems.

While many of these reforms are new and so have not yet shown results, most of them have already been weakened and undermined – even those that have been carefully formulated and gained broad support. The range and complexity of obstacles to reform is as wide as the reforms themselves, of course, but this paper identifies three inter-related levels of obstruction that begin to demonstrate the challenges facing attempts to reform Latin America’s police. After first describing these obstacles, this paper shows how they re-enforce each other in four countries with highly different political and socio-economic conditions: Honduras, Venezuela, Bolivia, and Argentina. In the process, the paper also explains how community policing helps overcome those obstacles.

***Obstacles to Reform.*** The first type of these obstacles is political. On one level, changes to established practices usually clash with the interests of police forces and state officials – that is, with those responsible for implementing any police reform. Since most alterations of police functioning are seen as meddling or punitive ways to reduce police power, obstruction by police and criminal justice agencies is common. Even reform packages that balance such changes with rewards such as higher pay and better technology may still fall prey to such resistance. On a broader level, police reforms are undermined by political pressures to crack down on crime, which has been the first or second biggest concern in national polls throughout Latin America since the mid-1990s.<sup>2</sup> But most governments have been incapable of developing effective long-term policy responses due to financial

limitations, sharpening political divisions, and the state's institutional incapacities. Far easier and more popular is a *mano dura* (iron fist) approach by presidents and governors, who, usually limited to one term, want immediate results. *Mano dura* is a toughened version of “zero tolerance,” a policy based on the “broken windows” theory,<sup>3</sup> which argues that petty crimes, intimidation, and physical deterioration are the main causes of crime because they scare off law-abiding citizens and allow delinquency to take root in an area. Detentions for misdemeanors and anti-social behavior therefore prevent serious crime by taking criminals off the street and catching those with illegal arms or wanted for outstanding crimes. New York's record-breaking drop in homicides of 71% is attributed to this policy.

In Latin America, of course, *mano dura* policing long precedes “zero tolerance” policy, but, based on its success in New York, is now being justified by it. To be both effective and remain within the bounds of civil rights, though, zero tolerance requires solid training for police officers, consistent oversight over their practices, coordination with social services to resolve the problems that lead to public disorder, and more effective courts to process detainees. But in Latin America, “zero tolerance” is applied without such supports or outside controls, so that the *mano dura* is often just a continuation of pre-democratic practices and a justification for the dividing line drawn by many officials between “public order,” associated with a strong state, and “human rights,” associated with delinquency.

The politization of police reform further damages its prospects. Political parties often reject plans enacted by their predecessors in office, while the frequent rotation of security ministers further impedes change. Many reforms that do attempt to control or oversee the police are usually enacted as a reaction to specific abuse or in the midst of political change, further, which usually means that support for them dries up once those temporary conditions pass. When they do not, attacks on reforms as “soft on crime” – often orchestrated by the

police or opposition parties – effectively stop any change. Politization also affects community policing. In many countries, police actively discourage the citizen participation needed for such programs, marginalize police in the program as “social workers,” and often control or manipulate citizen-based security councils. Even international aid, particularly in the form of drug eradication and interdiction policing, may run contrary to reform. In both producer and transit countries – which include most of the Andean and Central American nations – the U.S. focus on anti-trafficking efforts has let governments ignore abuses by police forces pulled into the drug war as well as deterioration of penal reforms that the US supported.

The second type of obstruction to police reform is legal. The basis of police reform in Latin America is a set of new laws, particularly new penal process codes, fortified due process, and judicial re-structuring. But the implementation of these measures is being impeded in several ways. First, as part of the zero tolerance approach, many countries are using police edicts from the past and introducing laws which further increase the police’s unregulated control over citizens. Throughout the history of the region, the police have been greatly empowered by edicts and other misdemeanor regulations. Until the mid-1990s, for example, most police activity in Buenos Aires was taken under unregulated edicts, such as for disorderly conduct, and in Venezuela the 1939 Law of Vagabonds and Crooks allowed detention of anyone deemed “suspicious” until it was finally declared unconstitutional in 1997. In nearly every country where such regulations have been struck down, governments try to re-instate them by stepping up use of other regulations or enacting new “social control” laws that erode the due process rights of new penal process and the accountability mechanisms of re-structuring reforms. What is more, many of those reforms have yet to be implemented and enforced. Above all, most new penal process codes lack the funding,

training, and political support that is necessary for implementation. The new codes are criticized for being “ineffective,” as a result, further undermining them.

A third form of obstruction to reform is institutional: most police forces simply do not function well enough to absorb change. The quality of policing varies widely, of course, but similar problems afflict it all over the region. First, there is poor coordination among preventative and investigative units as well as among geographic entities. Inadequate or non-existent information sharing, institutional territoriality, and other limitations prevent the cooperation needed for effective and geographically uniform law enforcement. The extraordinary proliferation of police units, has further aggravated this problem. Second, the working conditions of most officers – characterized by irrelevant training, low salaries, professional insecurity, archaic hierarchies, and exhausting work schedules – make them reluctant to take on the extra work needed to implement new policies. Such conditions even make it difficult for officers to carry out their most important tasks, from patrols to investigation. Throughout Latin America, basic criminal investigation steps such as crime scene protection and forensics are very poorly carried out, and lack the citizen cooperation needed to attain evidence and witnesses. Without adequate funding or societal trust, frustrated police forces resort to blunt, abusive and ineffective tactics like rounding up suspects, raiding neighborhoods, and intimidating witnesses. Finally, as the cases illustrate, is a lack of financial and professional accountability needed to keep agencies efficient and honest.

***Honduras.*** Honduras’s extremely high rates of violent crime has undermined its promising police reforms, which were based on a 1996 constitutional reform that created a civilian police force, the 1998 Police Law and Organic Police Law, a new penal process code, and judicial reforms such as formation of a judicial council to select most judges.

Dismantling of most reforms began with the aggressive “zero tolerance” policy of the

National Party government of President Ricardo Maduro (2003-7). The focus of his policy were the youth gangs (*maras*), which even police acknowledge commit less than a third of all crimes but whose activities nevertheless dominates criminal legislation and saturate the media. The centerpiece of this legal change was amendment to penal process code article 332 to punish gang membership with nine to twelve years' imprisonment. The Law of Police and Social Co-Existence also allows officers to "control" people in a certain area in order to fight crime and to arbitrarily detain "vagabonds" – people who have no honest means to earn a living or are suspected of intending to engage in criminal activities.

This approach rests on what officials consider a stark choice between fighting crime and protecting rights. As Maduro's Minister of Security asserted, the new penal code embodies the *garantista* approach of rights protection and so should be scrapped for being ineffective against crime.<sup>45</sup> Many gang members now shun tattoos and other overt marks of gang membership, for example, which often leads prosecutors and judges to declare insufficient proof to convict under the new penal process code – angering state officials and aggravating the split between the *garantista* and *mano dura* approaches. Along with the lack of training to implement the penal process code, it also has increased the use of mass raids, extended preventative detention, forced confessions, and extra-judicial killings of suspected *mareros*. Most state officials agree off the record with the estimate of 2,300 extra-judicial killings of youth and children from 1998 to 2005 – nearly 40% of which had evidence of police involvement.<sup>5</sup> Youths living on the street complain of continual harassment,<sup>6</sup> and residents of poor neighborhoods report unmarked vans roaming areas like basketball courts where youths congregate. Some rights commission officials estimate that most detainees are beaten and that such cases are not investigated by overwhelmed judges and *fiscales*.<sup>7</sup>

Implementation of reform is also difficult because the police are poorly prepared, funded, and equipped. The six months of cadet training focuses on the use of firearms, with little legal or sociological education. Many police officers are functionally illiterate, their average monthly wage of US\$225 is inadequate, and their 17-hour shifts are taxing. There is a chronic lack of personnel – even in San Pedro’s Choloma, a test case for community policing, there are only 10 officers and one permanent vehicle to cover 70,000 residents. Also hurting all three areas of reform is the police’s poor investigative capacity. About 90 % of the force’s budget goes to the Preventative Police (PP), while the Investigative Police (*Dirección General de Investigación Criminal*, DGIC) has only about 400 officers to the 9,000-strong PP. Although receiving minimum investigative training, PP officers intimidate witnesses and inadequately protect crime scenes. As a result, officials say, only *flagrante delicto* crimes are likely to be resolved. State officials agree that policing is very poor, but their proposed solutions center on augmenting police power – such as by giving it more than 24 hours to investigate a detainee. Since 2002, in addition, soldiers have been used in police sweeps and inundations of gang-controlled urban areas and to control prison riots. Such tactics are effective in the short-term, but they are abusive and inappropriate since soldiers are trained for war, not citizen security. Many of the victims of prison massacres in 2002 and 2004, for example, were killed by soldiers sent to restore order.<sup>8</sup>

The accountability agencies that were a cornerstone of police structuring have been weakened. The main accountability agencies are the National Council of Interior Security (CONASIN), which advises the government on criminal policy, and the Internal Affairs Unit (*Unidad de Asuntos Internos*, UAI), which investigates police wrongdoing. But CONASIN is rarely convened, removing an important check on state policy.<sup>9</sup> And many concur with one analyst’s assertion that since it was established in 1997 and given control over nearly all

police agencies, the Security Secretariat initiated a “process of counter-reform and deterioration of the police [...] characterized by halting the process of depuration of corrupt officers and those involved in right violations and in death squads.”<sup>10</sup> The UAI, meanwhile, has been weakened by deficient resources, unclear regulations, and rivalry with the Security Secretariat’s Office of Professional Responsibility, which the new police law was supposed to eliminate. The most controversial issue, however, is UAI investigation of youth killings. In September 2002, UAI chief María Luisa Borjas implicated Security Ministry and Police officials in 20 extrajudicial executions of youth.<sup>11</sup> She began to receive death threats, her staff was reduced, and two months later, was suspended for allegedly failing to present proof of her claims. Although continuing pressure and bad publicity led the government to create the Commission on Summary Executions, to date the commission has not published a report or initiated prosecutions. Honduran *fiscales* can also investigate police wrongdoing – but lack the institutional, political and legal power to instigate real change. The country’s Human Rights Prosecutor complains that any investigation of the police is constantly delayed and obstructed, and that there is a lack of will and personnel to follow up on cases.<sup>12</sup>

But as crime continues to rise, the limits of the *mano dura* became apparent and the country’s community policing program provides a viable alternative. Taking a different approach has been the national community policing program, Safer Community (*Comunidad Más Segura*), which began in 2002 and now operates in 30 of the country’s most crime-ridden areas. The program’s preventative strategies, such as regular community meetings and fixing street lights, have led to a marked decline in homicides, robberies, and domestic violence. In the San Pedro Sula Valley city of Choloma, for instance, where regular community meetings are held, the murder rate has dropped by well over 60%.<sup>13</sup> There has been police and citizen violence associated with the program.<sup>14</sup> The head of community

policing one district was arrested in connection with police killing youths, for example, and a member of the citizen policing group in La Ceiba said that they used it to attack suspected delinquents.<sup>15</sup> But drop in violence and popular support for community policing – with 89.9% of citizens in a survey expressing more confidence in the police<sup>16</sup> – has led to its strengthening under Manuel Zelaya, Maduro’s successor as President. Some of the *mano dura*’s harmful effects may begin to lessen, but the government will under pressure to use this approach if the security system remains unable to bring crime – with homicide continuing at an astonishing rate of 46.2 per 100,000 – under control.<sup>17</sup>

**Venezuela.** Although it is a far wealthier country and led by a leftist government, like Honduras Venezuela has undermined both enacted and proposed police reform. As long-standing demands for a *mano dura* clash with the hand-off approach to police by the government of President Hugo Chávez, police reform has been effectively paralyzed. With the country’s crime rate increasing non-stop over the past 20 years, security is a foremost public concern. In the 1990s, homicides rose by over 75 %,and between 1999 and 2006 by another 67%.<sup>18</sup> In the Federal District (*Distrito Federal*, DF), which encompasses Caracas and the surrounding area, murder soared by 506 % in the 1990s.<sup>19</sup> There is not only more crime, but more of it is violent. The proportion of property crimes that were violent grew from 16 % in 1990 to 46.2 % in 2002 while violent crime overall rose more than 150 % between 2001 and 2002.<sup>20</sup>

Various policies have been formulated in response to this problem, but with little impact. Even the proliferation of police forces – 105 new police forces have been created since 1990, an increase of 363% – has had little effect. At the national level, the criminal justice police (*Cuerpo of Investigaciones Científicas, Penales and Criminalísticas*, CICPC) and the Office of Intelligence and Prevention Services (DISIP), both under the Ministry of the

Interior and Justice, investigate national security crimes. The military police have also become involved in policing, including the National Guard (GN), the Defense Ministry Office of Military Intelligence (DIM), and the Office of Army Intelligence (DIE). The country's 23 states have police forces that operate at the regional level, and at the local level there are hundreds of municipal forces, most created in accordance with the provisions of the 1989 Decentralization Law. Responsibility for policing the Federal District lies with the Metropolitan Police (PM), which operates alongside nearly a dozen municipal forces, many hostile to one another because of their mayors' political affiliations. Since 1998, in fact, policing has become politicized by the confrontation between President Hugo Chávez and the opposition. Armed clashes have become routine in the Federal District. The opposition complains about repression by police forces controlled by Chávez allies and by the dozens of armed pro-Chávez Bolivarian Circles (*círculos bolivarianos*), while government allies criticize the PM and other opposition-controlled police agencies.<sup>21</sup>

In this context of conflict, policing policy is haphazardly formulated and often politicized. The 2001 Citizen Security Coordination Law, for example, formed councils to coordinate security agencies but did not specify how they would function in practice. In response to a 58 % increase in firearm killings,<sup>22</sup> the 2002 Disarmament Law provided economic incentives to turn in privately-owned firearms (estimated to number 600,000 in the DF alone),<sup>23</sup> but with little of the cooperation with community groups needed to actually collect the weapons. More seriously, the proposals of the Police Reform Commission, created in 2006 and involving extensive national surveys, have been undermined by politics and institutional instability. The commission was the initiative of Jesse Chacón, who was one of nine Ministers of Interior and Justice under the eight years of government of President Chávez. Chávez declined to continue this work after firing Chacón in January 2007, and has

since enacted sweeping changes – such as the January 2008 decree placing the PM under the federal government – that went against the commission’s recommendations.

As in other countries, the country’s 1998 penal process code has also been a casualty of this political and institutional obstruction.<sup>24</sup> Detectives accuse prosecutors (“we speak different languages”) of continuing to protect the rights of detainees as under the old code, and not prosecuting them as mandated by the new code. Although prosecutors reject such accusations,<sup>25</sup> delays and abuses continue. A September 2001 investigation at the CICPC discovered that there were 14,000 uninvestigated crime reports, while police agents continue to withhold information from judges, use false witnesses, tamper with evidence, and coerce confessions<sup>26</sup> – justifying such actions with their belief that judges want to stop preventative detention and that public defenders hide incriminating evidence.

As in Honduras and elsewhere, street policing gets far more resources than investigative work. Just about two % of Venezuelan police work in the CICPC,<sup>27</sup> which had the same budget in 2003 as it did in 1999, and needs, its detectives claim, to triple its 10,000-officer body.<sup>28</sup> *Razzias* (mass roundups) have been common in poor neighborhoods, as are “confrontations” with the police that end in the death of suspects. Indeed, law enforcement is particularly violent in Venezuela, with death resulting in over 40% of incidents of civilian resistance – one of Latin America’s highest rates.<sup>29</sup> As in other countries, edicts and exceptions – from detentions for identification to illegal curfews – fortify the police’s street power. The use of military forces for policing also increases tensions. Although deployment of the GN has lowered crime rates,<sup>30</sup> the use of tanks, machine guns, and other military equipment for policing has increased the rate of excessive force.

Meanwhile, internal police discipline is weak and only vaguely regulated by norms covering the use of arms and on detainee mistreatment. About 90% of police rights violations

go unpunished.<sup>31</sup> Most police forces still lack professional security, sufficient salaries, health benefits, and manageable schedules. According to police forces themselves, basic training is poor – particularly on social conditions, the use of firearms, and human rights. What is more, as in other countries, Venezuelan policing is Balkanized. The wealthy eastern half of the city of Caracas has ten times more police officers than the poor western half, where over 70% of the city’s residents live. Most of the crimes – over two-thirds of the total and 43% of them violent – occur in the biggest Western municipality, Libertador.<sup>32</sup>

Given all this, citizens lack confidence in the police<sup>33</sup> – a view confirmed by the police themselves, who say that society sees them “as an enemy.”<sup>34</sup> Many communities have opted out of policing altogether and turned to vigilantism. Even in *barrios* with better physical conditions and community organization, meetings of “self defense” groups attract large attendance.<sup>35</sup> Lynchings have become more open and brazen, with bodies often left in the middle of the street, and victims include not just criminals, but also those accused of some form of “disrespect”.<sup>36</sup> Para-police squads and criminal extermination groups have also stepped into the vacuum created by the lack of effective policing. These groups, many of which are comprised of police and funded by trafficking of contraband, have been responsible for hundreds of killings in at least seven states and the Federal District.<sup>37</sup>

**Bolivia.** Despite 12 security plans and an ever-increasing police budget, common crime in Bolivia has more than tripled since the 1982 transition to democracy.<sup>38</sup> The even more urgent problem of maintaining public and political order has compounded the country’s security crisis. Two presidents have been brought down since 2003 amid increasing levels of inequality, secessionist pressures, a destructive war on drugs, and growing public protest. By its own admission, the police, ranked in polls as the country’s most (or second most) corrupt and untrustworthy institution, has responded to the “ungrateful” population,<sup>39</sup> with “brutality,

authoritarianism, and violence.”<sup>40</sup> The last two presidents, though, have attempted to address the police’s weaknesses head on. Carlos Mesa, who assumed the Presidency after Gonzalo Sánchez de Lozada was ousted in October 2003 (partly by police strikes), focused on police corruption, while his successor, Evo Morales, is using his electoral mandate in December 2005 to hold them more accountable to human rights standards.

The most serious problem is corruption, which many top officials view as “profound” and “systemic.” Since the 1982 transition to democracy Bolivia has had an equal number of commanders, 18 of whom were forced out because of involvement in crimes and cover-ups. Top officials have also tortured detainees, organized burglaries, and extracted money for speeding up or slowing down court cases. Forced entry without warrants, illegal confiscation, and extra-judicial shootings – implicitly allowed by anti-drug laws – are common, as is police extortion, kidnapping and trafficking in drugs, arms and vehicles. The extent of corruption was demonstrated in 2003: after the Interior Ministry purged the 290 officials running Palmasola prison for taking money from prisoners to leave the prison, an entirely new staff had the same practice up and running a day later. Most inquiries into such abuses lack teeth: investigations into 25 of the country’s 77 senior police commanders have not been concluded. Efforts to strengthen Internal Affairs in 2002 did not go far.<sup>41</sup>

The greatest source of corruption is police control over its own finances, which is “not known” to outsiders.<sup>42</sup> The retirement fund processes illicit funds, budget chiefs often over-charge contracts by “up to a million dollars,”<sup>43</sup> and the Customs Police has paid officers after they have been fired. The police’s National Identification Directorate each year earns millions of dollars – only about 15 % of which is given to the Government Ministry – from fees to citizens to issue and replace about 18 million identity papers (such as drivers’ licenses and identification cards).<sup>44</sup> The “dual” income from legal and illegal resources allows the

police to ignore state directives.<sup>45</sup> The police have a generous budget compared to other state agencies (the Government Ministry's budget, 82% of which goes to the Police, increased by over 50% between 2000 and 2004).<sup>46</sup> Even with such increases, budget centralization limits efficiency, forcing regional units to foster compensatory corruption networks. According to the Police Reform Commission, Law 1178 (or the SAFCO law), which promotes transparent state financial management, is not fully applied to the police.<sup>47</sup>

The other main problem has been the violence stemming from the anti-coca eradication campaign, responsible for most of killings by police since 1990. Economic liberalization in the 1980s made coca the surest source of income in rural regions. But in 1998, President Hugo Banzer enacted the US-backed anti-coca *Plan Dignidad* that eliminated illegal coca in most targeted areas but provided few of the promised economic alternatives.<sup>48</sup> The plan involved creation of many new police agencies, usually joint police-military bodies and supported by separate drug courts and prisons. The principle agency, the Special Antinarcotics Force (FELCN), has its own intelligence service, and runs the Rural Area Police Patrol Unit (UMOPAR). Other new forces were the US-funded Joint Task Force and the Expeditionary Task Force. In both the coca areas and in La Paz, security forces responded to widespread protests with states of siege, mass detentions, and in some cases armed clashes with *cocaleros* (coca growers). As a result of this violence, FCT and FTE forces have been downsized or removed from the coca-growing regions.

There have been some encouraging reforms. Most accusations against police are directed to the Office of Professional Responsibility (DNRP), which investigates them and sends those with sufficient evidence to the Superior Disciplinary Tribunal (TDS), which tries and disciplines the accused. Long known for being toothless, US prodding led the government to modify the police Disciplinary Code, to increase efficiency, and give more rights to the

accused. As a result, the number of processed cases jumped from 550 to 920 between 2003 and 2004.<sup>49</sup> The police academy (ANAPOL) was also overhauled, reducing physical preparation from about 50% to 10% of the time. Encouraged by the government, the *Fiscalía* has been better able to prosecute high-level cases, meanwhile, including the first conviction of police generals in 2004 for involvement in the fatal hold up of an armored truck.

Despite these important steps, Bolivia's police reforms have yet to address the causes of poor and abusive policing. Aside from the few high-profile prosecutions, the vast majority of cases handled by the police disciplinary system were for desertion among non-commissioned ranks of the two-tiered structure (about 85 % of the approximately 20,000 police personnel), which is rooted in their low pay and poor working conditions. Reflecting the country's sharp ethnic and class divisions, most non-commissioned officials are from the indigenous groups that comprise the majority of the population, and the broader discrimination against indigenous people is replicated within the police, compounding internal divisions. While education has improved, the constant rotation of officials prevents them from developing expertise in their area of work and acquiring the control over an agency needed to monitor and improve it. Indeed, rotation and lack of expertise are the central complaints of the judicial police chief.<sup>50</sup> The entrenched favoritism of the annual promotion process, which a former Security Minister characterizes as a "total war,"<sup>51</sup> also fuels corruption further by allowing corrupt officers to rise up the ranks.

Reform is also limited by inconsistent law enforcement. The Organic Police Law (the main legal instrument) does not discuss human rights at length, while edicts and anti-drug laws often encourage abuse. Even after some of its more controversial provisions were eliminated, for example, the 1988 anti-trafficking law (1008) violates due process by, for instance, prohibiting pretrial release. Like Colombia and Peru, Bolivia's special courts for

drug-trafficking and terrorism, often lack transparency or fail to comply with due process. The Ombudsman (*Defensoría del Pueblo*), the country's main accountability agency, is empowered to challenge such abuses, but has been blocked by a stonewalling executive and inefficient courts. A former *Defensora*, Ana María Romero de Campero, complained of haplessly trying to block unconstitutional state actions such as intrusions on citizen privacy and the use of clandestine agents. Such efforts caught her up in the false division between rights and security, with many labeling her a “*Defensora of Delinquents*.”<sup>52</sup>

Most generally, police reforms remain unrealistic. Like many of its predecessors, the latest (and now defunct) security reform, the 2003-2007 Institutional Strategic Plan<sup>53</sup> was a litany of excellent ideas lacking institutional support. It included measures to control corruption with new disciplinary regulations; better education, housing and health services for the police; economic incentives for police work; and creating a Police Treasury to control police finances. While US support led to improvements in the first two areas, the rest fell by the wayside because of poor financial, institutional, or political backing. The absence of such support also affected the 1999 penal process code. Despite extensive outside training of criminal justice officials, along with steps to increase public access and support,<sup>54</sup> there has been a dire lack of training for police, public defenders, and prosecutors in the code's provisions on gathering evidence, interviewing suspects, protecting crime scenes, and conducting oral trials. The result is a mix of inquisitive and oral procedures, which, along with a lack of mechanisms to ensure transparency and sharing of information between police and prosecutors, leads to only about one in every five cases to get to trial.<sup>55</sup>

As in Honduras and other countries, though, the most effective security reforms in Bolivia are coming from below. Based on legal reforms such as the 1994 Law of Popular Participation (*LPP: Ley de Participación Popular*) and flourishing citizen-police units such as

Neighborhood Security Brigades and School Brigades, community policing has gained momentum around the country. In 2006, for example, the city of La Paz launched a Neighborhoods of Truth Program to stimulate citizen development of security policy in low-income areas,<sup>56</sup> as well as a Community Police Project to build police centers, teach seminars on issues from crime reporting to family violence, and form neighborhood brigades made up of residents and police officers. While the President's popularity will help sustain these efforts, demands by regional government for control over policing may undermine them by increasing instability in police structure and criminal policy. Along with continuing crime, such politics will continue to make long-term change an uphill struggle in Bolivia. .

*Argentina.* Although police reform in Argentina also suffers from similar political, legal, and institutional obstacles, this section describes how they have been more successfully minimized through new laws, initiatives and community policing programs. Such reforms also show how authoritarian legacies, stronger in Argentina than most of Latin America, can be overcome. Historically, the Argentine police played a central role in repression under democratic and military regimes alike. The 1983 transition to democracy brought with it personnel purges, new rights guarantees, and other reforms in some of the 24 provincial police forces as well as in the federal police agency, the Argentine Federal Police (PFA), which enforces law in the Federal Capital and federal law throughout the country. However, in most of the provinces there was continuity in police structure and authority. And when military unrest and economic crisis in the late 1980s sidetracked police reform, the government of President Carlos Menem (1989-1999) built up the security apparatus and encouraged police to prevent crime at the "pre-criminal" stage. As crime increased to record levels in the 1990s (along with unemployment, inequality, and poverty) and criminal justice remained slow, public demands a *mano dura* increased.<sup>57</sup>

However, in provinces where a *mano dura* approach failed to work, the public started to believe that the police was too involved in corrupt activities to be effective, and began to support reform. The provinces where such pressure resulted in the most widespread reforms were Buenos Aires and Mendoza. In Buenos Aires, then governor and presidential hopeful Eduardo Duhalde overhauled the notoriously violent and corrupt police in 1997. The force was decentralized into 18 departments (the same as the judicial districts), each run by an official accountable to the civilian Secretary of Justice and Security of the province, divided up into security, investigative, transportation and penitentiary agencies. Popular participation was instituted through citizen forums at the community, municipal and department levels. Within a few years, however, the reform collapsed under the pressures of increasing crime rates, police resistance, and opposition from Duhalde's successor.<sup>58</sup> When reformers were elected in 2003, though, the reform was re-introduced and greatly expanded. First was a radical structuring that entailed, among other changes, the transfer of most security authority to municipal-level units. Education and internal affairs were strengthened, as was financial transparency and coordination with social services. Most of all, citizen power and participation were increased to levels almost unknown in Latin America through Neighborhood, Municipal, and Departmental Forums authorized to control and monitor policing, evaluate police officers, and develop preventative policies.

The pattern was similar in Mendoza, whose ambitious 1999 police reform was catalyzed in part by having the country's second highest crime rate and one of the worst records of police abuse. The provincial security structure was altered through establishment of a Ministry of Justice and Security to head the police, along with two oversight bodies, citizen forums, and security councils made up of political officials and neighborhood representatives. As in Buenos Aires, however, the reform clashed with political and

institutional interests. It met with “ferocious resistance” from the police, which had been left out of planning. The changes were enacted under a Peronist government and its 1999 successor, the Radical party, failed to follow through. Meanwhile, the two accountability agencies, the General Security Inspectorate (*Inspección General de Seguridad*, IGS) and the Disciplinary Junta (*Junta de Disciplina*) became politicized and were starved of resources, which stymied the training for civilians that the reform stipulated. The vast majority of investigations of police misconduct were carried out by police themselves, as a result, which undermined both the unit’s credibility and overall accountability.<sup>59</sup>

As most provinces were unwilling or unable to propose serious police reforms, the pressure for change fell on the national government of President Néstor Kirchner that was elected in 2003. During his first year in office, the President purged 107 top PFA officers and in April 2004 introduced a broad National Security Plan of sweeping changes in the police and courts such as a Federal Investigations Agency, the replacement of many police chiefs with elected civilians, citizen boards to evaluate police promotions, jury trials for many criminal and corruption cases, new courts for juvenile crime, the relocation of some judges and prosecutors to neighborhoods, and educational scholarships for youth in “critical areas.” Although this plan was the most feasible and broadest in Argentina’s democratic era, proposing a long-term alternative to the *mano dura*, a range of political, legal, and institutional obstacles emerged against it. A shift in national priorities, particularly as energy problems and corruption scandals shadowed the candidacy of Cristina Fernández (instrumental in police reform) then let the window of opportunity shut.

A first area of obstruction was political. As the President learned, political support for his administration did not necessarily translate into support for his reforms, as an impatient public is more inclined to support proposals are apparently “tough” and immediate.

In Argentina, kidnappings have come to symbolize the uncontrollable nature of criminality and police ineffectiveness. In 2004, the kidnapping and killing in Buenos Aires province of 23-year-old Axel Blumberg led to massive 200,000-strong protest in front of the national Congress, which responded with a series of hastily-drawn up laws, including lowering the age of criminal liability and tougher sentences for murderers, kidnappers and rapists. Although these measures lacked the national plan's detailed coherence and institutional focus, the political upheavals forced the government to revise it – precipitating resignation of the PFA police chief and the firing of the Minister of Justice, Security and Human Rights.

A second problem that Argentina shares with other federal countries is coordination. Any national plan requires the cooperation and coordination of provincial governments, who are notoriously territorial. Indeed, soon after the plan was announced, security officials from every province complained that it would limit their autonomy and take up scarce resources. Further, like many countries, the federal government and the province of Buenos Aires that together cover the Buenos Aires metropolitan area, suffer from poor local coordination by the various police forces operating in a single urban area (such as with agencies working on drug abuse) with highly varying crime rates.<sup>60</sup> Such institutional problems are aggravated by politics, such as the patronistic alliance between most of the province's mayors with former president Duhalde, one of Kirchner's biggest political adversaries.

A third problem is control over internal affairs, both legal and financial. As elsewhere, police control over budget and procurements has long been a source of corruption in the PFA. Heads of the sub-official police academy keep funds earmarked for firearms while street officers are expected to extort money to pay their commissioners.<sup>61</sup> Police control over the legal aspects of internal affairs creates similar problems, especially slowing down or preventing investigations into police wrongdoing. In fact, the Chief of Judicial Investigations

said that he lacks the personnel to address the backlog of cases, particularly as even judges – with a lack of trust in the judiciary – hand over charges to be investigated.<sup>62</sup> The government developed innovative ways to investigate wayward police officers (creating new citizen channels, for instance, and forcing retirement of accused officers by not assigning them to a position). But addressing the roots of the problem calls for the legal and financial branches of internal affairs to be civilianized and strengthened. More transparent, effective internal affairs would make prosecution more consistent and less politicized (the PFA's top echelon argued that Kirchner's dismissal of their colleagues was arbitrary, for example<sup>63</sup>), increase the likelihood of popular support (since the reasons for the action would be public), and free up more officers to police the streets (just one third of all police officers work on the street<sup>64</sup>).

A fourth and more important long-term problem is officer evaluation and promotion. As in Bolivia, Honduras and elsewhere, in Argentina promotion is rife with favoritism. Moving up in the PFA depends almost entirely on the officer's academy exam score and whether she has caused any problems rather than on positive actions or skill development. Street officers basically monitor a single corner without no real proactive crime prevention,<sup>65</sup> even though improvement in crime fighting calls for promotions based on acquiring expertise in different areas of policing, such as community relations. Argentina's government is moving in this direction with policies that reward *comisarías* that reduce crime, but lasting change requires both broader training as well as more consistent evaluations.

A fifth problem obstructing reform throughout the region is the lack of clarity, development, and application of criminal laws and policies. The use of force in Argentina illustrates this. Insufficient training on how its use-of-force guidelines apply in practice leads to the unwarranted use of force and the cover-up of resulting fatalities. In the capital, one in every four killings is attributed to police officers, and between 1996 and 2002 the number of

civilians killed by police rose by 89 % and the killing of officers by 132 %. As in other countries, formalistic legal education in police academics involves little critical analysis or actual application to activities on the force. Commissioners have become far better at tracking crimes through recently-installed Compstat programs, meanwhile, but their understanding of causes or the development of strategies for high-crime areas (often blanks on police station maps) lags behind.<sup>66</sup> This underscores the need for revamped education curricula and joint policy efforts between the police and social services. But criticizing police training, of which they are very defensive, is not politically practical.

But what most clearly underscores the government's new approach is community policing. In Argentina, the core of the government's community policing proposal was to enlarge the Buenos Aires city Community Police with 1,500 new officers. But the PFA plan to put these officers in *plazas* and other public spaces condemns community policing to failure by marginalizing it to a particular sector of the police and by not empowering citizens meaningfully. The City of Buenos Aires does already have a functioning program of forums, networks, and coordinators who work with residents to find solutions to conflict and violence. Because the latter already have great support in the neighborhoods, the federal government should work to integrate them with the PFA, establishing joint patrols for example.<sup>67</sup>

**Conclusion.** Describing why the police cannot advance citizen security is far easier than forging a path for it to do so. In the range of reform initiatives, from local projects to comprehensive national packages, nearly every government in Latin America has experienced the political, legal, and institutional impediments described above. Pressures to fight crime erode efforts to make the police more accountable; most police forces resist reform as interference or lack the capacity to incorporate change, and "zero tolerance" laws undermining due process and civil rights. In short, actions against escalating crime run

counter to the very standards that comprise democracy. But community-oriented policing, by making democratic processes central to criminal policies, can overcome these obstacles by preventing the crimes that trigger them in the first place.

## Endnotes

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<sup>1</sup> As reported by the Pan American Health Organization (PAHO). *Health Situation in Latin America: Basic Indicators*. Washington, DC: PAHO, 1997.

<sup>2</sup> In the 2007 Latinobarometro poll of 20,212 people in 18 Latin American countries, crime was statistically tied with unemployment as citizens' biggest concern.

<sup>3</sup> See: George Kelling and Catherine Coles. *Fixing Broken Windows: Restoring Order and Reducing Crime in Our Communities*. New York: Touchstone, 1996.

<sup>4</sup> AI, Security Minister Óscar Álvarez, Tegucigalpa, July 18, 2003.

<sup>5</sup> See: Casa Alianza, at: [www.casa-alianza.org/EN/about/offices/honduras/](http://www.casa-alianza.org/EN/about/offices/honduras/)

<sup>6</sup> Author interviews (AI), youths on the streets of Tegucigalpa, July 16, 2003.

<sup>7</sup> AI, Víctor Parelló, Northern Human Rights Commissioner, San Pedro Sula, February 20, 2004

<sup>8</sup> AIs, warden, officials, and prisoners at the El Porvenir Agricultural Penal Colony, February 23, 2004; and at the Centro Penal of San Pedro Sula, March 1, 2004.

<sup>9</sup> AI, Ramón Custodio, National Human Rights Commissioner, July 4, 2005.

<sup>10</sup> Julieta Castellanos, "El Tortuoso Camino de la Reforma Policial," *El Herald*, October 8, 2002.

<sup>11</sup> AI, María Luisa Borjas, former UAI Chief, National Police, Tegucigalpa, July 18, 2003.

<sup>12</sup> AI, Aída Estella Romero, July 22, 2003. Eduardo Villanueva, *fiscal* for children, added that "there are neither human nor logistical resources," to handle "the enormous quantity of cases." AI, Tegucigalpa, July 15, 2003.

<sup>13</sup> Committee meeting (with about 25 in attendance), Choloma, February 19, 2004. "Presidente Maduro inaugura programa "Comunidad Segura" en Choloma, Cortés, 3 de mayo de 2003," at: [www.casapresidencial.hn/seguridad](http://www.casapresidencial.hn/seguridad)

<sup>14</sup> AI, Carlos Chincilla, Executive Director of *Comunidad Más Segura*, Tegucigalpa, July 22, 2003. Prosecutors and human rights commissioners estimate there have been thousands of unreported vigilante attacks since 2002. AI, Eduardo Villanueva, Tegucigalpa, July 15, 2003. In an AI on February 26, 2004), Walter Menjivar Mendoza, the head prosecutor for the northern region, agreed that vigilantism had become uncontrollable, but did not want to estimate the number of cases.

<sup>15</sup> AI, anonymous, Confite, Honduras, February 25, 2004.

<sup>16</sup> Survey in 2002 and 2003 of 237 residents of community policing areas in the cities of Tegucigalpa, San Pedro Sula, Danlí, and Choluteca. Carried out by CUNY "Community Policing in Latin America" project and the Centro de Documentación de Honduras (Cedoh).

<sup>17</sup> Observatorio de la Violencia, *Boletín Enero-Diciembre 2006*, Edición No. 5, Febrero 2007, Tegucigalpa: Universidad Nacional Autónoma de Honduras.

<sup>18</sup> "Venezuela es el sexto país con mayor índice de homicidios," *El Nacional*, August 31, 2002;

"President of Venezuela Fires Deputy and Interior Minist," *New York Times*, January 5, 2007, p. A6.

<sup>19</sup> OCEI, *Anuario Estadístico de Venezuela*, 1993, 1996 and 2000.

<sup>20</sup> See "Los crímenes se han vuelto cada vez more violentos," *El Nacional*, July 23, 2001 and "El crimen disparó más de 150 por ciento," *El Universal*, January 13, 2003.

<sup>21</sup> One Congressman accused the PM of being "criminal and repressive," and claimed that anti-Chávez mayors allow police to kill pro-government figures. AI, Congressman William Tarek Saab, Fifth Republic Movement (*Movimiento Quinta República*, MVR), February 27, 2003.

<sup>22</sup> "Asesinadas 30 personas en el mes de octubre," *Últimas Noticias*, November 7, 2002.

<sup>23</sup> PM estimates, in: *El Universal*, April 20, 2002.

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- <sup>24</sup> AI, Luís Enríque Oberto, President of the Legislative Commission, June 29, 1998; IDB, *The Código Orgánico Procesal Penal*, 5-15.
- <sup>25</sup> AI, Dilia Parra, Director of the Institute of Superior Studies of the Fiscalía, February 25, 2003; and Omar Jiménez, *Fiscal* 18 of Guarenas, February 26, 2003.
- <sup>26</sup> “La Ley Antidroga es una patente de corso de jueces y policías,” *El Nacional*, September 9, 1988; “PTJ: un cuerpo que vive entre la enfermedad y la depuración,” *Diario de Caracas*, June 21, 1989. AI, Carolina Oliva, Office of the Attorney General Liaison with Congress, April 6, 1995.
- <sup>27</sup> AI, Amram Lazés, PTJ Commissioner, July 2, 1998.
- <sup>28</sup> AI, Jerssen Mojica, Inspector of the CICPC, February 26, 2003
- <sup>29</sup> Citizen deaths jumped from nine per police officer in 2000 to 28 in 2001.
- <sup>30</sup> In 2001, 600 GN officers were deployed in key parts of the DF, partly to take over areas unprotected by striking local police. Using checkpoints and seizing narcotics, vehicles, crime suspects, and weapons, it lowered the crime rate in the first six months of 2001 by 16 %. “Hubo sólo 5 homicidios en áreas cuidadas por el GN,” *El Nacional*, July 18, 2001.
- <sup>31</sup> For officers convicted of homicide, the average sentence is over five years less than citizens guilty of the same crime. Fiscalía General, *Informe del Fiscal General al Congreso de la República*, p. 13
- <sup>32</sup> “El avance fue muy escaso,” *El Universal*, July 23, 2001. Between 2000 and 2003, the mayor of Baruta municipality invested 33% of its budget in security and reduced the crime rate by 30.9 %.
- <sup>33</sup> In one poll, only 22.1 % of respondents expressed confidence in the police. See: Richard Hillman and Elsa Cardozo de Silva. “Venezuelan Political Culture and Democracy: 1996 and 1997 Survey Results.” Paper presented at the Caribbean Studies Association, Antigua, 1998.
- <sup>34</sup> AI, Valmore Leegos, CICPC officer, February 26, 2003.
- <sup>35</sup> AI, residents, barrios of Catia, La Vega, and Brisas del Paraíso, 1998 and 2003.
- <sup>36</sup> “Un hombre fue linchado en Carabobo,” *El Universal* October 1, 2002. In 1995, when 57% of national poll respondents supported *justicia de auto mano* (*El Nacional*, March 14, 1995) the Interior Minister met with some “self-defense” groups leaders “to better guarantee security.” “Escovar Salom se reunirá con empresas de vigilancia y grupos de autodefensa,” *Ultimas Noticias*, February 2, 1995.
- <sup>37</sup> “MIJ evalúa a 327 cuerpos policía del país,” *El Globo*, November 25, 2000. Like the police they also benefit from legal impunity. One of the few legal actions against para-police leaders was paralyzed because of the absence of witness protection. “El Defensor no quiere que lo envíen al Rodeo,” *Tal Cual*, September 18, 2002.
- <sup>38</sup> See: Juan Ramón Quintana, “Bolivia: militares y policías,” Unpublished manuscript, La Paz: Obsevatorio Democracia y Seguridad.
- <sup>39</sup> See: Franklin González Mendivil. *Doctrina policial*. La Paz, Bolivia: Policía Nacional/Comando General, 1988.
- <sup>40</sup> AI, Coronel Jaime Gutiérrez, Director of Human Rights, National Police; July 13, 2000.
- <sup>41</sup> “La policía tiene poco interés en el cambio y emite mala señales,” *La Razón* March 20, 2002.
- <sup>42</sup> AI, retired police official José Arancibia Mollinedo, December 15, 2004
- <sup>43</sup> This was according to a top Interior Minister official, on condition of anonymity.
- <sup>44</sup> Movimiento Autonomista Nación Cambia, “Policía y Seguridad Ciudadana.”
- <sup>45</sup> Luis Ossico Sanjinés, former Vice President of Bolivia; Author Interview, December 16, 2004.
- <sup>46</sup> FULIDED (Fundación Libertad, Democracia y Desarrollo). “The Budget for State Security in Bolivia, 2004. Santa Cruz, Bolivia: FULIDED, April 2004, pp. 11 and 14.
- <sup>47</sup> Gloria Eyzaguirre, Oscar Molina and other members of the Police Reform Commission.
- <sup>48</sup> Linda Farthing and Ben Kohl, “The Price of Success: Bolivia’s War against Drugs and the Poor.” *NACLA Report on the Americas*, 35, n° 1 (July-August, 2001): 36.
- <sup>49</sup> As stated by Embassy officials requesting anonymity, who also asserted that the time it takes to process complaints dropped from 7-10 years to just two to ten days
- <sup>50</sup> AI, Colonel Rolando Fernandez, Chief of the PTJ, December 20, 2004.
- <sup>51</sup> AI, Alfonso Ferrufino V., former Government Minister, 16 December 2004.
- <sup>52</sup> AI, Ana María Romero de Campero, *Defensora Nacional*, July 12, 2000.

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<sup>53</sup> See: “7 políticas del Plan Estratégico de la Policía 2003-2007,” *La Razón*, May 16, 2003.

<sup>54</sup> The 1995 Public Defense Program established public defense offices in under-served neighborhoods and the proposed Platform of Public Attention (*Plataforma de Atención al Público*, PAP) would receive complaints on a 24-hour basis, assist victims, and help ensure that deadlines are met. This U.S.-funded program, however, has been delayed because of fund disbursement delays.

<sup>55</sup> AI, Gloria Eyzaguirre and General Óscar Molina, Police Reform Commission, December 2004. One *fiscal* said they have “no control” over police, who often send evidence to their superiors rather than prosecutors, as required. AI, William Alave, *Fiscal de Materia*, December 17, 2004

<sup>56</sup> *El Diario*, 18 September 2006, “Ultimo día para las propuestas al programa Barrios de verdad “

<sup>57</sup> According to the most reliable cross-referenced estimates (by the police, national statistics institute and NGOs), homicides rose over 50 % between 1995 and 2004 (from about 4.0 to 6.3 per 100,000 people) and reported crimes more than tripled between 1983 and 2001 (from 348,780 to 1,178,530).

<sup>58</sup> The country’s largest force, the 47,000-strong Buenos Aires provincial police continues repressive practices, including extra-judicial killings. Many of its commissioners have been former dictatorship officials, including Aldo Rico, a former military official who said that “it is necessary to kill [delinquents] in the street without any doubt and without pity.” See: “El carapintada por la boca muere,” *Página/12*, March 10, 1998, p.12. During the 1999 gubernatorial campaign, the Peronist candidate, national vice president Carlos Ruckauf, justified police killings and, after taking office, appointed Rico as the province’s Chief of Security and. See: Eduardo Oteiza, “Consecharás tempestades,” *Clarín*, August 8, 1999.

<sup>59</sup> AI, Gustavo Lucero, Junta de Disciplina, June 3, 2004.

<sup>60</sup> The Federal District homicide rate (4.99 homicides per 100,000) is lower than that of the province (11.48, with 71% in the *conurbano*, the poor area surrounding the Federal Capital, See: “Solá anunció que bajó el delito, pero le preocupa la sensación,” *Diario La Unión* (La Plata), July 15, 2004.

<sup>61</sup> AIs, police officials, Falcón de Oficiales Police Academy of the PFA, 27 May 2004, and the PFA Commissioner, General Alberto Villa of the non-commissioned officers (NCO) school, 28 May 2004.

<sup>62</sup> AI, Alejandro Hayet, Chief of Judicial Investigations, May 24, 2004.

<sup>63</sup> AI at a meeting with the Plana Mayor of the PFA, May 26, 2004.

<sup>64</sup> AI, Fernando Simón, Under-Secretary of Coordination and Innovation, May 26, 2004.

<sup>65</sup> AI, commissioner, under-commissioner, and two sub-commissioned officers of *Comisariado 32*, May 25, 2004.

<sup>66</sup> AI, Father Farinello of the Farinello of Quilmes Foundation, Buenos Aires Province, 22 May 2004; author meetings with neighborhood groups in the working class Illia district and the Ciudad Oscura *villa* (shantytown), city of Buenos Aires, May 2004 and July 2007.

<sup>67</sup> Author observations of the community policing program, Morón, Buenos Aires Province, May 27, 2004; AI, Claudio Suárez, head of the security program of Buenos Aires City, May 26, 2004; AI, four coordinators of the safety program of the city of Buenos Aires.