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Policing Democracy

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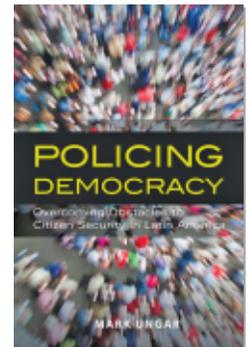
Published by Johns Hopkins University Press

Ungar, Mark.

Policing Democracy: Overcoming Obstacles to Citizen Security in Latin America.

Johns Hopkins University Press, 2011.

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Chapter 4

Honduras

Reina Grazzo's rounds as a police officer in the outskirts of La Ceiba, a tumbledown city of 100,000 on Honduras' s Caribbean coast, are unusual. Instead of following the usual fixed schedule, she attends sporting events wakes, and other family or community events taking place on—but more often off—her shift. The knowledge she gathers in the process has proven invaluable. For example, because more people have come forward with names, the police have been able to limit gang shootouts in residential blocks. According to Grazzo,

We try to develop a diagnosis of problems, to base our work on it. When we first started in 2003, people were shutting their doors and going to sleep at six in the evening because of the sheer terror outside. So we got community leaders together, and formed a Citizen Security Committee. We put the same officers in the same areas so people would get to know them. We set up centers for youth. . . . People then started coming to us, and we even got requests from other communities. So while things are not perfect now, people are no longer going to bed before sunset.¹

Grazzo's approach demonstrates how problem-oriented policing can boost traditional law enforcement, but it also raises residents' expectations of help with their innumerable social and economic problems. As in other Latin American countries, in Honduras the move toward problem-oriented policing runs the risk of putting more demands on a divided and often cor-

1. Reina Grazzo, Policía Nacional, Comunidad Más Segura, interview by author, La Ceiba, February 25, 2004.

rupt police force still struggling to find traction in a very inhospitable terrain. Nothing exemplifies that challenge more starkly than the fact that according to official numbers, Honduras's crime rate climbed to the highest in the world in 2009, which was more than double the average rate in Latin America. This chapter examines citizen security in Honduras's democratic era through the beginning of the Porfirio Lobo presidency in 2010. Specifically, it looks at how the political, institutional, legal, and societal conditions discussed in chapter 2 have not just slowed the move to problem-oriented policing, but also have been wielded deliberately to block it.

In Honduras a new era in citizen security dawned in the late 1990s as the country adopted one of Latin America's most comprehensive security overhauls. The establishment of an entirely new civilian police force in 1998 and a new penal process code (*código procesal penal*, CPP) in 1999, followed by other changes such as a national community policing program that began in 2002, contrasts with most other countries' gradual changes. But the reversal of reform has been nearly as rapid. The country's subsequent crackdown on crime, which repudiated and nearly dismantled the entire reform, has been one of the region's most resolute applications of *mano dura* approach. As a result, more than in other countries the tension between traditional and problem-oriented policing is on full display in Honduras. Past practices clash with new laws, rights groups clash with state officers, an information clashes with itself—all amid pressures impeding the necessary but politically treacherous long-term structural change. Even as they recognize the benefits of problem-oriented policing, officials and the institutions they run remain wedded to the conviction that crime fighting is an exclusive police function based on forceful responses. Thus even though it is not a typical case, Honduras illustrates most clearly both the extensive ambitions and the underlying tensions of Latin American police reform. In an analysis of policing since the authoritarian era, this chapter will discuss how Honduras's efforts to break out of this deadlock demonstrate the risks of both following and not following the path to reform.

History

As in other parts of colonial America, policing under the Spanish depended almost entirely on provincial and municipal officials in the viceroyalty of New Spain, which covered modern-day Mexico and Central America. That tradition continued into the first century of independence. Though limited to local jurisdictions, the power of the police continued to be wide. Law en-

forcement officers were particularly fixated on stamping out anything seemingly, from vagrancy to indulgence in alcoholic beverages such as *aschichi*. “Disorder lunches with abundance, eats with povertydines with misery and goes to sleep with death,” lyrically warned the *Official Gazette* in 1869.² The most cohesive policing agency in the territory that is now Honduras was the Civil Guard of Tegucigalpa, formed in 1876 and based on the 1870 Urban Police Law. This unit focused on sanitation, property protection, and general public order. Like the police today though, it was criticized for lacking coherent rules and for being too small to carry out its duties. As a result, the government formulated a police law that required each officer to “know all of the residents” in his jurisdiction and be able to recognize each one immediately (Article 37). The day this law went into effect—January 15, 1882—is considered to be the founding of the National Police (Policía Nacional) of Honduras.

In 1888 a follow-up police law formed an urban unit, a rural unit, and a mineral police unit to protect the country’s mines and other industrial sites. Although they were a major advance, these laws did not bring the expected organization and leadership to the police; the central government continued to exercise virtually no control over the police, and so its role was filled by political parties and the armed forces. The 1895 Law of Municipalities, which allowed local governments to set up their own forces, only served to divide the police even more. Such segmentation was addressed in part when an academy to train top officials was established in 1899 and one to train the lower ranks in 1921 (fifteen years after it was first proposed). A new police law was enacted in 1906, with reforms in 1916 and 1920 to expand officials’ power to crack down on minor crimes such as soliciting prostitutes and not paying debts.

These and other laws also expanded the police by creating investigation and traffic units, among others. In 1922 Honduras established five National Police districts, and rural units were formed later. However, lack of funding, administration, and political stability prevented this enlargement from providing truly national coverage. Local authorities still held sway over public order, which, over time, led to variant police practices. This perennial division was finally ended by the 1963 military coup in which the Special Security Force (Cuerpo Especial de Seguridad, CES) replaced the weak Civil Guard.³ The long-standing focus on social scourges such as “vagrancy and child delinquency” was supplanted by larger political aims. Police of-

2. Anales del Archivo Nacional, Fascicle 8, Year IV, August 1970, 23–24.

3. *La Gaceta*, No. 18,149, December 12, 1963.

Officers received tough military training and served in the 1969 war with El Salvador (Inestroza 2002, 329). In 1975 the CES was replaced by the Public Security Force (Fuerza de Seguridad Pública, FSP), which was under the control of the armed forces and the defense secretary. Its structure was far more organized and professional than that of any previous police force, and it had specialized units to deal with areas ranging from investigation to finance. In the decades that followed, the FSP, along with the secret police and the National Office of Investigation (Dirección Nacional de Investigaciones, DNI), were involved in disappearances, extrajudicial executions, drug trafficking, and other crimes. Battalion 316 and other death squad units were particularly active during the 1980s when the United States turned the country into a “USS Honduras” staging area for its proxy war against the leftist Sandinista regime in neighboring Nicaragua. So although Honduras had been ruled by elected governments since 1982 when a new constitution was adopted, regional conflict and military control continued to suppress real constitutional governance.

Citizen Security Overhaul

Democratization in the 1990s finally began to bring change. In 1993 the DNI was eliminated and a Public Ministry (Ministerio Público, MP) was established through the MP Law (Decree 228-93), which also created the Office of Criminal Investigation (Dirección de Investigación Criminal, DIC) “as an organ dependent on the MP, with exclusive responsibility to investigate crimes, discover those responsible and provide . . . all necessary information to exercise penal action.” Although the police continued as part of the armed forces, the country’s *fiscale* and judges were now in charge of investigation, and after training by the United States, Spain, and Costa Rica they began operating in 1995. The MP also became home to a new narco-trafficking unit (Dirección de Lucha Contra el Narcotráfico, DLCN) which plays a critical role in security policy. Bigger changes soon followed. The constitutional reform of 1996 transferred public security authority out of the armed forces, the Security Secretariat (Secretaría de Seguridad) was created in the executive branch in 1997, and the 1998 Organic Law of the National Police (Ley Orgánica de la Policía Nacional, LOPN—Decree 156-98) officially formed a new civilian police force to replace the FSP, with standards and structures similar to those that peace accords introduced to neighboring countries (see appendix B for a profile of the citizen security

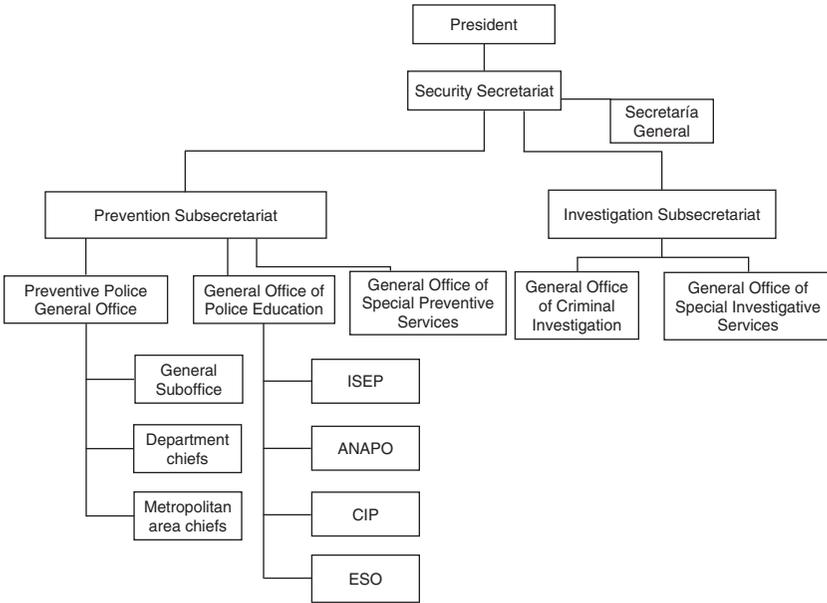
structure and the police force). The new National Police were given roles in Honduras's eighteen states in practically every area of law enforcement, including criminal investigation, prison security and social services such as aid for children.

The police force is headed by the Security Secretariat (figure 4.1). Its chief, the security secretary (formally the *Secretario de Estado en el Despacho de Seguridad*), as well as other top directors, are named by the president. The secretariat is divided into two broad subsecretariats: Prevention and Investigation. Under the Prevention subsecretariat are three agencies. The first is the General Office of Preventive Police (*Dirección General Policía Nacional Preventiva*), usually called the National Police (*Policía Nacional, PN*) because it is the country's biggest and most visible single police agency, responsible for street policing, detention, transit, and general crime prevention. The second agency, the General Office of Special Preventive Services (*Dirección General de Servicios Especiales Preventivos, DGSEP*), runs the penitentiary system, administers juvenile detention facilities, and oversees private security. The third Prevention subsecretariat agency is the General Office of Police Education (*Dirección General de Educación Policial, DGEP*), which is in charge of education, professional development, and the four police academies. The lowest-ranking street officers attend the Center for Police Instruction (*Centro de Instrucción Policial, CIP*), established in 1982. There they receive a six-month basic training course that covers transit, criminal investigation, special operations, prison control, and tourism. Higher-ranking subofficials go to the School for Subofficials (*Escuela de Sub-Oficiales, ESO*), founded in 2005, and candidate for *oficia* study at the National Police Academy (*Academia Nacional de Policía, ANAPO*)⁴ for four years, with a specialization in their final year. ANAPO has about 210 students at any one time, and most instructors are civilians. The fourth academy, the Superior Institute of Police Studies (*Instituto Superior de Estudios Policial, ISEP*), was created in 1996 to provide advanced degrees in police science. It offers courses in areas such as policing strategy, criminal justice, and administration.

The Investigation subsecretariat is divided into two main bodies. The first is the General Office of Criminal Investigation (*Dirección General de Investigación Criminal, DGIC*), commonly known as the Investigative Police, which investigates most crimes (officially under Ministry direction). The second is the General Office of Special Investigation Services (*Dirección General d*

4. Formed in 1976 as the *Escuela Nacional de Policía (ENAPO)*.

Figure 4.1. Citizen Security Structure, Honduras



Source: Security Secretariat, Republic of Honduras.

Servicios Especiales de Investigación, DGSEI), which investigates economic crimes such as drug trafficking, money laundering, and contraband. The DGSEI has had an erratic integration into the security system, primarily because its agents lack the specialized training they need for the complex crimes they are in charge of investigating. Since 2006, however, its officers have caught up by spearheading operations against organized crime networks such as car traffickers. DGSEI also oversees the Migration and Frontier Police (Policía Migratoria y de Frontera), which supports the Population and Migration Office (Dirección General de Población y Política Migratoria). These and other subunits are formed at the discretion of the security minister, potentially complicating the management difficulties outlined in chapter 2 by sidestepping the institutional and nonpartisan checks on agency proliferation.

Within the Security Secretariat are a large number of specialized units, such as the PN's Transit Police, the Feminine Auxiliary Police (Policía Auxiliar Femenina), the Department of Antidrug Analysis and Information (Dirección de Análisis e Información Antidrogas, DAIA), and sections on kidnapping, the family, children, drugs, and gangs. Among the most pow-

erful of these specialized divisions are the Cobras, an elite counterinsurgency squad that, like SWAT (Special Weapons and Tactics) teams in the United States, is used for special operations such as antiriot. Before democratization, the Cobras were an antiguerrilla force used against labor unions and activists. Since then, they have been used to quell prison uprisings, coordinate antigang activities, disperse illegal land occupations, and bolster security in high-crime zones. Their headquarters, whose entrance features an oversized mural of their namesake, has also become a center for critical discussion of criminal policy.

Since 2006, in the years that the government has provided an official count police officers in Honduras numbered between eight thousand (according to judicial officials) and ten thousand (according to police officials⁵ This discrepancy reflects the fact that the police include part-time and administrative officials. The ratio of police to citizens is about one to every 715 persons by the higher estimate or one to every 895 by the lower estimate.

Accountability was built into the country's new citizen security structure. In 1998 the Honduran legislature, the National Congress, proposed creating a Police Inspector (Inspectoría de la Policía) and a National Police Council (Consejo Nacional de Policía) made up of executive, justice, and NGO officials. Although neither agency was actually formed at that time, the LOPN established two major accountability agencies. The first was the National Council of Interior Security (Consejo Nacional de Seguridad Interior, CONASIN), whose formal responsibilities include formulating security policy, coordinating state agencies, advising the president, receiving complaints about officials, and, most generally, "supervis[ing] police activities." Composed of a wide range of groups, from local NGOs to state agencies such as the Human Rights Commission and the Association of Municipalities (Asociación de Municipios de Honduras, AMHON), CONASIN was conceived to be the primary channel for civil society's input on citizen security. The second accountability agency established by the LOPN was the Internal Affairs Unit (Unidad de Asuntos Internos, UAI), designed to be the primary internal affairs office and empowered to investigate wrongdoing by any police agent and to detain officers if necessary. Other accountability checks operate in the security bureaucracy. Within the police, the Preventive Police (Policía Preventiva) and the DGIC each have an Office of Professional Responsibility (Oficina de Responsabilidad Profesional, ORP

5. This number had increased steadily since 2002, when the police had 6,663 officers, as well as 567 administrative, technical, and service personnel (Rivera 2002, 6).

that conducts internal reviews of police misconduct. Outside the security structures, a Human Rights Commission conducts investigations of police abuse and criminal policy. The *fiscale* also investigate police abuse.

Crime and Criminal Policy in Honduras

Since it was formed, the Honduran police force has had to deal with frequent changes in security ministers and criminal policies that have swung between iron-fist crackdowns and community policing. When Elizabeth Chiuz Sierra became security secretary in 1998, she halted the depuration (cleansing) of police then being carried out by the Transition Board. But when Gautama Fonseca was named security secretary in 2000, he renewed the depuration, attempted to rein in the increasingly out-of-control Citizen Security Committees, tried to improve prison conditions, and attacked corruption and organized crime. He often went around Congress, which helped to limit political obstruction but ultimately hurt his chances at altering institutional practice. President Ricardo Maduro (2002–6) had two security secretaries, Col. Juan Ángel Árias in the first year of the administration and Óscar Álvarez for the duration. His successor, Mel Zelaya (2006–9), appointed Álvaro Romero as security secretary, who was then replaced by Jorge Alberto Rodas Gamero in January 2008. Police general Mario Perdomo became vice minister.

As in other countries, these changes at the top have made it hard for policymakers to get a grip on one of Latin America's worst crime levels. El Salvador and Honduras have had the highest homicide rates in Latin America since 1995.⁶ In Central America alone a crime is committed every ninety seconds. Robbery and kidnapping are the most common serious crimes in the region overall, whereas homicide is the most common in Honduras.⁷ Emblematic of the concentration of violence in Latin American cities, 86 percent of all Honduran homicides are urban, making Tegucigalpa and San Pedro Sula, the country's two biggest cities, among Latin America's most dangerous (Observatorio de Violencia 2010). Top officials, however, sometimes refer to a "false perception" of rising criminality and in any case pre-

6. In 1998 the rates were homicides, 154.2; assaults, 44.10; robberies and violent thefts, 5.12; and rapes, 1.17. Interpol, "International Crime Reports," Lyon, France, 1998.

7. María Siu, "Delincuencia atemoriza a Centroamericanos," *La República*, San José de Costa Rica, October 21, 2002.

fer to discuss progress on particular crimes rather than overall trends. In 2003, for example, the government reported declines in homicides, kidnappings, and assaults.⁸ Although some sources document a decline in homicides between 2002 and 2004 (see appendix A), others show an increase in 2003 (see table 4.1). And the comprehensive tracking of statistics after 2004 by the Violence Observatory (Observatorio de Violencia), discussed later in this chapter, verify that homicides and other violent crimes have been on a relentlessly upward trajectory.

Since 2005, in fact, Honduras's crime rate has been among the highest in Latin America. Accompanying this increase has been, more anecdotally, the quick resort to violence during the commission of many crimes. As economic strains have grown alongside the influx of consumer goods into the country, even murders over cheap electronics have become common. More demand by a growing pool of perpetrators, as well as the greater resistance exerted by their victims, means that a taxi driver who relies on a cell phone that cost him a month's income will not give it up easily. Killings for these reasons, as in other countries, have increased citizens' fear of crime as well. Particular cases, such as the June 2006 midday shooting of the president's niece (who did not resist the attempted robbery), have seared society, creating deep fears.

Public panic over this growing crime rate, which gave rise to *tomano dura* by Maduro's National Party government, put the security reforms of the 1990s under strain. A businessman whose son was killed by criminals, Maduro was elected president in 2001 on a "zero tolerance" anticrime campaign platform. His initial criminal policy was based on his "Mi Compromiso Contigo" (My Commitment to You), a mixed basket of tough and preventive approaches such as more citizen participation, a purge of the police, and judicial reforms, particularly in juvenile justice. This mix opened the way to "Si Se Puede" (Yes, it can be done), a program made up of a range of rehabilitative and educational programs such as "Despertar" (Awake), a series of educational workshops to help parents, particularly in low-income areas saturated by youth gangs.⁹ More lasting was the national community policing program Comunidad Más Segura (Safer Community), which is discussed in detail later in this chapter.

On the tough side, almost immediately upon taking office Maduro increased the size of the police force and flooded the streets with six thousand

8. Óscar Álvarez, security minister, interview by author, Tegucigalpa, July 18, 2003.

9. Sandra Castillo, "Familias hondureñas vislumbran nuevos horizontes para sus hijos," January 20, 2004, <http://www.casapresidencial.hn/reportajes/200104.php>.

Table 4.1 Reported Homicides in Honduras, 1999–2009

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Homicides	2,563	3,176	3,488	3,252– 4,167	6,231	2,155	2,417– 2,760	3,018	3,262	4,473	5,262
Rate per 100,000 persons	42.7	50.8	54.4	49.6– 63.5	89.8	30.7	37.0– 39.6	46.2	49.9	57.9	66.8

Sources: First row: 1999, 2000, 2001, and 2002 (lower number): Department of Strategic Planning (Departamento de Planeamiento Estratégico), Preventive Police. 2002 (higher number) and 2003: Department of Systems Engineering (Departamento de Ingeniería en Sistemas), DCIG, February 2003. 2004, 2005 (lower number), and 2006–9: Observatorio de la Violencia, Universidad Nacional Autónoma de Honduras, *Boletín Anual*. The discrepancy in the 2002 rates is an example of the poor system of criminal statistics. The higher rate for 2005 reflects Security Secretariat reports of an average of 231 violent criminal and noncriminal deaths per month, a number that some NGOs claim just includes criminal deaths. See also “Honduras, país convertido en ‘tierra de nadie,’” *El Heraldo*, June 12, 2006, 2–3.

soldiers—an influx that nearly matched the number of police officers. The security budget was pumped up with an extra 200 million lempiras (just over \$10 million at an exchange rate of 19.66 lempiras to one U.S. dollar) each to the police and the military. The government used these expanded forces to launch a series of crackdowns, such as the Honduras Segura program of joint police-military patrols in which armed forces were used in policing operations and an aggressive antigang campaign called Libertad Azul (Blue Liberty). This approach was credited for the 2003 crime drop, touted strongly by the government, whereas the Security Secretariat specifically attributed improved security more generally to the army’s involvement. Apart from its high costs and risks, however, policing by soldiers is often another way to put off the needed long-term change. In the stream of announcements of new operations and equipment involving the military in particular, police education and structure were rarely mentioned. This short-term approach also revealed a financial curiosity that has appeared in Bolivia and other countries: political will tends to suddenly produce the funds sought unsuccessfully the rest of the time. In short order, this tide of militarized money swept away much of Maduro’s early prevention and treatment legislation.

The police were greatly strengthened by the new laws as well as by the additional personnel and funds. The primary legal instrument of the new approach was the 2002 Law of Police and Social Coexistence (*Ley de Policía y Convivencia Social*, LPCS—Decree No. 226-2001), which authorizes the police to “control” the people in any given area and to arbitrarily detain “vagabonds”—people who lack an honest means of living or are suspected

of not having “licit” purposes in the neighborhood in which they are found. Much of the law’s language—such as Article 100’s focus on “in suspicious form” and a “state of societal danger”—gives the police wide discretion. But the law does not incorporate forms of mediation or education initiatives to help the police to better use this enhanced authority. Administratively, the LOPN, like any other law, gives overlapping controls to the National Police and the Municipal Police (Policía Municipal).¹⁰ By means of these powers the law has been used as a tool of discrimination. One NGO for Hondurans of African descent says that such laws justify ingrained racism in which police just “assume” that Afro-Honduran men are criminal.¹¹ AIDS activists claim that the police use the LPCS as a form of zero tolerance against people with HIV despite the protections of the special HIV/AIDS law.¹² Lesbian and gay activists say that it is used to round up “suspected homosexuals” on charges of vagrancy.¹³ The LPCS was quickly taken up to drive home the argument, reiterated in daily reporting, that the root of the crime problem is certain people who are irredeemably criminal. The new law makes “a clear differentiation between honest Hondurans and bandits (*bandoleros*),” one newspaper editorialized, “that is, between those who live within the law and those who break it.”¹⁴

Youth and the Maras

Young people are a primary focus of criminal policy, and any lingering questions of how Maduro might balance repression and prevention were answered by his focus on youth gangs, known primarily as *maras* and

10. Use-of-force regulations are found in the penal process code, the Organic Law of the National Police, the Law of Peace and Social Coexistence, and United Nations norms. These laws allow the police to use firearms when nonviolent means have failed when they are following a judge’s orders, or when they need to prevent the imminent or actual commission of crimes—any of which to ensure the capture of a suspect, to overcome someone resisting legitimate police order, to avoid worse public dangers, to defend others from physical or psychological harm, or to maintain or restore public order.

11. Karen Vargas, Organización de Desarrollo Étnico Comunitario (ODECO), interview by author, La Ceiba, February 24, 2004.

12. Manual Soliz, Project Hope, interview by author, San Pedro Sula, February 20, 2004.

13. Activists, Comunidad Gay Sampedra, interviews by author, San Pedro Sula, February 2004; Colectiva Violeta and Ku Kulcan, interviews by author, Tegucigalpa, July 2005.

14. Edmundo Espinal Díaz, “La Policía Nacional de Honduras” (editorial), *Diario Tiempo*, January 16, 2004.

pandillas.¹⁵ Hundreds of neighborhood gangs are active in Honduras, but almost all of them have become part of the MS-13 and 18th Street *maras*. Originating among Central American youth in Los Angeles, MS-13 and 18th Street are often known in Honduras as the “Californian” gangs or super-*clikas*. Together, they have an estimated 100,000 members in thirty-three U.S. states as well as in Mexico and Central America, held together by a tightly run structure with a strict code and a strong sense of identity. The biggest concentration of *mareros* (gang members) is in the three countries in northern Central America—Honduras, El Salvador, and Guatemala. And with its about 30,000 *mareros* or 500 per 100,000 persons (the numbers most officials agree on despite the differences discussed shortly), Honduras has more members of these *maras* than both Guatemala and El Salvador combined; Guatemala has about 14,000 (111 per 100,000 persons) and El Salvador up to 12,000 (153–180 per 100,000 persons).¹⁶ Filling a vacuum left by the government repression that wiped out youth leadership in the 1980s and early 1990s, MS-13 became prominent in Honduras in 1989 and 18th Street about four years later.

The *maras*’ role in the country’s crime rate is usually exaggerated, however; only about one in five *mareros* is considered criminally violent. The police estimate off the record that only about one in three violent crimes is committed by *maras*, and the percentage of deaths nationally linked to gangs ranges from NGO estimates of 13 percent to official estimates of about 25 percent.¹⁷ But the gangs are heavily involved in a range of serious crimes, from robbery to assault, and the many killings they do carry out use methods—such as decapitation—that would capture maximum media attention. Both MS-13 and 18th Street have also established neighborhood “tax” collection operations, and increasingly are part of international drug trafficking networks. As a result, the gangs receive nearly all the blame for crime in Honduras, and the national media coverage and the political rhetoric are saturated with descriptions of their activities.

15. The distinction between *pandillas* and *maras* is mostly usage—*pandillas* is the legal term used, and *maras* is the term adopted by the gangs themselves as well as the media. The main unstated difference is that *maras* are more organized, violent, powerful, and criminal than *pandillas*, which is often used as an umbrella term.

16. Salama (2008); Cruz (2008); “Guatemala, El Salvador y Honduras quieren impedir delitos desde cárceles,” *La Prensa*, August 19, 2008. Of the other Central American countries, Nicaragua has about 81 gang members per 100,000 persons, Costa Rica 62, Panama 43, and Belize 36.

17. Prosecutors, judges, and police, interviews by author, 2003–7.

Enjoying high levels of public approval and the almost unanimous backing of Congress and the judiciary, criminal law has focused nearly exclusively on the gangs.¹⁸ While less sensationalistic, the substantial international press coverage of the *maras* keeps attention trained on youth violence as well.

The centerpiece of the anti-*mara* policy was the August 2003 amendment of Penal Code Article 332, commonly referred to as the Law of Illicit Association or the Ley Anti-Maras (Anti-Maras Law). By casting a wide net of alleged criminality over all types of gang association, this law has probably blocked the path to problem-oriented policing more than any other area of criminal policy. It increased imprisonment of *mara* and *pandilla* leaders from six to up to twelve years (although for many the sentence has been far longer) and imposed hefty fines.¹⁹ Despite its shaky legal basis, Article 332 was approved unanimously by all five political party blocs after a single “debate.” It then quickly became a focal point of policing, from routine patrols to joint military raids, and has led to the arrest of up to 1,400 suspected *mareros* each year.²⁰ But most of those arrests do not lead to convictions. Of the 638 *mareros* that Article 332 netted in its first eighteen months, 3 percent were released for lack of evidence, and of those sent to a judge 22 percent had their cases dismissed (Centro de Documentación de Honduras

18. Most independent Honduran officials and activists believe that the major media outlets are paid by the government for favorable coverage. Editorials in *La Prensa*—“Edad punible,” January 26, 2003, and “San Pedro Sula, como en zona de guerra,” February 13, 2003—cite polls showing that crime is Hondurans’ main concern. And the president had consistently high levels of approval for his security policy.

19. Article 332 “punishes with nine to twelve years imprisonment and a fine of 10,000 to 200,000 lempiras the heads of *pandillas* and other groups whose purpose is to take actions tending to physically attack, damage goods, threaten or extort persons or commit any act that constitutes a crime. The same punishment of imprisonment . . . reduced a third, will apply to the rest of the group members. Chiefs or ringleaders are those who stand out or identify as such and whose decisions influence the spirit and actions of the group.” The 1983 code called for imprisoning heads of illicit organizations for between one and three years and focused on “illicit associations,” defined as group whose actions were “contrary to the law, public morality, or whose aim is to commit crimes.” In 1997 Article 332 was revised to increase the range of incarceration to three to six years.

20. In 2003, 900 suspects were incarcerated under the law, followed by 1,390 in 2004, 1,334 in 2005, and 1,028 in 2006. There were 202 arrests in the first trimester of 2007. Estimates made by the Centro de Documentación de Honduras. Víctor Meza, executive director, Centro de Documentación de Honduras, interview by author, July 4, 2006. At the height of such detentions, gang members made up over a third of the population of two of the country’s main prisons.

2004, 28).²¹ These percentages indicate a high level of arrests based on just circumstantial indications of *mara* activity, such as tattoos. In fact, most of those arrested are not tried because of judicial inefficiency and a lack of evidence. According to some rights groups, of all those arrested under Article 332 in 2004, only 3 percent were sentenced, and the rest remained incarcerated in legal limbo.

As a result, Article 332 dumps the *mara* problem into the prisons, where up to two-thirds of prisoners are awaiting trial.²² In those facilities the *mareros'* capacity for immediate harm is mortgaged for forms of organizing that vastly increase their capacity for harm in the long term. Moreover, *mareros* learn quickly how to get around the law. Many gang members now shun the trademarks of gang membership—particularly tattoos and style of clothes—which in more and more cases is prompting prosecutors and judges to declare that accusations against the gang members lack the higher level of proof that the penal process code requires.²³ This reluctance to prosecute antagonizes both police and executive officials, who blame such judicial obstinacy for reversing the police's hard work. At best, police officers say that the CPP "makes their work difficult,"²⁴ and at worst they are more inclined to kill suspected *mareros* on the street. The Human Rights Commission estimates that over 80 percent of detainees are beaten, adding that such abuse is not investigated by overwhelmed judges and *fiscales*.²⁵ Although the internal discipline of the police has improved, adds one com-

21. An Article 332 prosecution proceeds as follows. A suspect is detained after being caught red-handed committing a crime. The police pass the investigation report to the MP, who studies the report to decide whether to go to the *fiscal* in which case formal action is taken against the detainee. The judge on duty receives the case and assigns the defendant a public defender if he or she has not hired a private attorney. The next stage is the oral hearing in the presence of the *fiscal* who tells the judge the facts of the incident, the laws violated, and the evidence collected. The judge then decides whether to hold the defendant for judicial detention or preventive detention, the latter only if the *fiscal* requests it.

22. Mario Durón, communications director, Centro de Documentación de Honduras, Tegucigalpa, August 7, 2003, and confirmed by Jaime Banegas, director general Sistema Penitenciario de Honduras, telephone interview by author, September 8, 2003.

23. In the trial for the December 23, 2004, massacre of Chamelecón in which gang members killed twenty-eight passengers on a bus, the defense's argument that none of the defendants had tattoos was especially criticized. "Coordinador de fiscales defendió a 'La Pantera,'" *Diario La Prensa*, January 7, 2004.

24. Marcos Arnaldo Herrera Rodríguez, police commissioner, interview by author, Tegucigalpa, July 8, 2005.

25. Eduardo Villanueva, childhood prosecutor (*fiscal de la niñez*), interview by author, Tegucigalpa, July 15, 2003.

mission official, many citizens do not file reports on police abuse because they are fairly certain that the accused police officers will learn the identities of their accusers. In the cases this commission official has handled, from “robbery to torture,” there “are no witnesses,” and when there are, they are weakly protected.²⁶

Beyond its focus on *maras*, Article 332 has been used to widen police action in general. As the human rights commissioner unequivocally asserted, the law “practically authorizes the police to act with extraordinary powers that allows them to substitute for the MPand without any real oversight and destroying the presumption of innocence.”²⁷ Because it increases the police’s unaccountable power, Article 332 increases the inefficiency of the police as well. Police sweeps, in particular, tend to net the less dangerous and newer *mareros*. For example, less than half of them—45.4 percent in 2005 and 43 percent in 2006—could even be identified as members of specific *mara*. And the detailed and diverse descriptions of their roles reveal that most of them who did identify with a *mara* were not central to it. Indeed, the descriptions of their roles—as couriers, recruiters, and drug runners—indicate that for the most part they take instead of give orders.²⁸ Nevertheless, many of them are indicted as leaders, indicating a very elastic interpretation of the clause that defines leaders as those “whose decision influence the intentions and actions of the group.”

Taken as a whole, Article 332 erodes a range of basic rights, from the presumption of innocence to the freedom of association, because it specifies not crimes but the possibility of committing them. In addition, the law expands police discretion by including “pernicious *pandillas*,” which are defined in LPCS Article 90 as “groups of adolescents between 12 and 18 years of age, who meet and act to attack other people or . . . to damage public or private goods or carry out excesses that alter public order.” Because it shifts the focus of criminal policy from prevention toward detention, Article 332 also undermines judges by allowing detention without a judicial order. In short, along with other laws Article 332 incapacitates the rule of law because the law to which the police are supposed to be held does not match democratic standards. Such abuses have led to mounting pressure

26. María del Carmen, Northern Area Human Rights Commission, interview by author, La Ceiba, February 24, 2004.

27. Ramón Custodio, human rights commissioner, interview by author, July 4, 2006, and April 7, 2010.

28. Warden, officials, and prisoners in Centro Penal Barrio Inglés, interviews by author, February 24, 2004, and in Centro Penal San Pedro Sula, March 1, 2004.

from organizations such as the UN to modify the law by perhaps reducing its sentencing range. But Congress dismisses such efforts, and it stated in 2007 that any reforms would increase rather than decrease punishment.

Despite the centrality of *maras* in policing, the varying estimates of their numbers are additional indications of media sensationalism, the unstable statistical foundation of Honduras's criminal policy, and the lack of a consistent working definition. An estimated 475 *maras* are operating in Honduras, almost all connected to MS-13 and 18th Street. Also active are many satellite gangs, such as Los Vatos Locos, which are loosely allied with the Californian gangs. Many of these gangs, as well as independent gangs, school gangs, middle-class gangs, and others such as Los Chicos Bandos, are also connected to organized crime. When police officers estimate gang numbers, some include these groups and others do not. As a result, estimates of the number of *mareros* are chronically inconsistent. For example, police estimates of the number of *maras* in Tegucigalpa alone jumped from 45 in 1993 to 175 in 1994, and then down to 109 in 1999 and back up to 134 in 2000 (Andino Mencía 2006).

In 2000 the police's gang unit, Unidad de Prevención de Maras, estimated the number of *mareros* at 31,164, up from 25,940 the year before. Since then, police estimates range between 50,000 and 70,000, and the head of the police's gang division believes there are 36,000 active members and 70,500 sympathizers.²⁹ Executive officials tend to inflate these numbers loosely throwing out estimates of between 60,000 and 100,000 members, collaborators, and sympathizers.³⁰ Not to be outdone, the press has suggested that there are up to 140,000. Often included in this population is the huge number of street children in the cities, estimated to be between 7,500 and 20,000.³¹ Most of these children are not part of gangs but are associated with them because of their tendency to commit petty crimes and be addicted to sniffing glue. The police add that about 30,000 children do not see anything wrong with joining a *mara*, and that number may very well be included in many estimates of total gang membership. All these numbers are unsubstantiated by any public or independent study, and they are far above the estimates by religious groups of between 10,000 and 12,000 *mareros*,

29. Renan Galo Meza, director, División de Prevención de Maras, interview by author, June 2006 and November 2007.

30. "La venganza de los marginados," *El Progreso*, March 31, 2005.

31. Lower estimate: Reddy (2002); higher estimate: Casa Alianza director José Manuel Capellin, in "Major Bid to Tackle Gang Culture," *Honduras This Week*, May 13, 2006, 6.

and by most NGOs of between 30,000 and 36,000.³² On the lowest end of the NGOs' statistical range is an estimate by the San Pedro Sula group Jóvenes Hondureños Adelante—Juntos Avancemos (JHA-JA) of fewer than five thousand active Honduran *mareros*.

No matter what number is used, a large gap exists between gang membership and actual arrests. At least in part because of scarce or mismanaged resources, the police carry out only about a third of all court orders for capture (Centro de Documentación de Honduras 2004, 177). At the height of anti-*mara* operations between August and December 2003, the police netted a total of 1,109 *mareros*—561 of whom were released³³—and only 105 during the same period the next year. A sign of the dearth of critical analysis in criminal policy is the failure of journalists or opposition politicians to ask why the police can only find one in five *mareros* at best. At the same time, there is little doubt that the crackdowns had an impact, a fact that must be acknowledged by the international organizations that criticize Article 332. Because of police repression, many *mareros* have become less active—*calmarse*, as many of them put it—often leaving the cities for the countryside to reduce the chances of being caught. The resulting reduction in the *maras*' actions and concentrations and the ongoing police repression also have made it more difficult for *mareros* to replenish their ranks. An additional disincentive for younger and inexperienced youth to join gangs is the fact that, because of the difficulty encountered in collecting evidence against seasoned *mareros*, the majority of adult detainees are freed but the majority of underage detainees are not. However, even if it can rein in the *maras*, the policy of *mano dura* is no substitute for the rehabilitative programs, functioning juvenile facilities, efficient courts, and methodologically sound criminal policy needed to eradicate rather than just suppress *mara* activity. When and if the police let up on their crackdowns, gang activity is likely to increase because the conditions that caused it have not changed.

32. The only exception among NGOs is the Christian Youth Association, which puts the number at 125,000. It claims that 55 percent are between the ages of 15 and 17, and 14.6 percent are between the ages of 12 and 15. Comisionado de Derechos Humanos, "Inicia la discusión del dictamen de ley para rehabilitar" *Boletín Informativo*, No. 1554, August 16, 2001. Police say that about 30,000 children actually do belong to gangs. The Inter-American Institute of Human Rights (Instituto Interamericano de Derechos Humanos, IIDH) estimates that 36,000 children in Honduras belong to gangs, or more than in the rest of Central America combined (IIDH estimates for Guatemala are 14,000, El Salvador 10,500, and just 1,800 for Nicaragua).

33. DGIC Departamento de Estadísticas, February 2004.

This reality points to the need to combine traditional and problem-oriented policing, such as by helping the criminal justice system focus on actual *mara* leaders at one end of the spectrum and at-risk youth at the other. Although some of the rifts between the police and courts were ameliorated by the Interinstitutional Penal Justice Commission set up to improve coordination among criminal justice agencies, legal contradictions allow conflict to continue. Article 332 spells out severe punishments for *pandilla* heads, but LPCS Article 91 mandates that *pandilleros* engaging in threatening or illicit behavior be handed over to a judge who then determines the socioeconomic correctives to be applied. But many police officers do not see a big difference between an 18-year-old *pandillero* and 19-year-old *marero*, who may be treated very differently under the law. Their ongoing comments on juveniles being allowed to go free has fueled demands, as in other countries, to lower the age of criminal culpability. In Honduras most people support lowering the age to 14, even if that means renouncing international treaties that recommend otherwise. However such proposals ignore the fact that Hondurans between the ages of 12 and 18 can already be tried in juvenile courts, and that those between the ages of 18 and 21 are considered “minor adults.” Only 5 percent of all crimes are committed by persons under 18, and just less than 1 percent of those crimes are homicides. But overlooking those facts and implicitly rejecting the concept that children are not legally responsible prevent a serious look at the conditions that cause children to commit crimes in the first place.

Police Structure and Functioning

Such a stiffening of laws and rhetoric, however, has not always been backed by the agencies that enforce them. The LOPN carefully laid out a network of agencies to counterbalance each other and make policy as transparent as possible. In particular, it reserved most security powers not to the Security Secretariat, but to the subsecretaries, CONASIN, and the Direcciones Generales (General Offices). On accountability, primary authority went to the Internal Affairs Unit. But as the politics of policing played out, official and actual power diverged. The Security Secretariat became a powerful political entity able to neutralize CONASIN, the UAI, and other actors. And yet a lack of coordination prevented criminal policy from being implemented efficiently. As discussed in chapter 3, the de facto use of power can alter institutional relations, practices, and authorities without actually changing the law. Although the security secretary gained dominance over outside checks,

the subsecretariats and Direcciones Generales heading the Security Secretariat grew increasingly autonomous. In both law and practice, at least until the Police Law was reformed (as discussed below), they have had far more independence than their counterparts in most other Latin American security ministries. Each unit operates “without hierarchal control” (Article 11) under its own administrative structure and budget, which limits the secretary’s control. Although the secretary names the subsecretaries, each one is guaranteed a four-year tenure,³⁴ and their wide powers—such as naming officials and controlling funds—allow them to be “isolated centers of power” over which the Security Secretariat has little official control. Security officials’ professional status is determined by the Labor Law (*Ley de Trabajo*), which is controlled by the labor minister and so the Security Secretariat has limited control over their careers as well. In another limitation, the country’s Administrative Law (*Ley General de la Administración Pública, LGAP*) prevents the security secretary from changing the secretariat’s administrative structure without enacting a new law. Thus from its inception Honduras’s new security structure has suffered from a lack of both internal coordination and outside checks.

In fact, the most common and consistent criticism by police and government officials alike is of a persistently poor coordination rooted in constant competition and proliferation. For example, nine different police agencies are involved in drug trafficking. The DLCN (the Anti-Narco-trafficking Unit) is limited by a high turnover and a stagnant budget, and many officials say off the record that the competition between the antinarcotics units in the DGSEI and DGIC is a major problem. Better coordination usually happens only in a well-planned action such as joint drug operations by border agencies, investigative units, the Cobras, the PN, and the army.³⁵ However, as in other countries, the Honduran police complain that when such joint operations come up short, the response is to create yet another unit that only complicates the planning and execution of future actions. For example, when a special antikidnapping squad (*Organización del Grupo Especial Antisecuestros, GEAS*) made up of DGIC and PN officials was formed in 2003, the DGIC ended up withdrawing because it was placed under the PN and the Security Secretariat’s DAIA. New units also move the security system further away from the accountability built into the original model.

34. Tenure is set by the Law of the Jurisdiction of Administrative Challenge (to try cases in which the state is a party) (*Ley de la Jurisdicción de lo Contencioso-Administrativo*). Under the law, the investigative police are an auxiliary to the judiciary and the MP.

35. “Facilitaron armas se enreda lucha antidrogas,” *El Heraldo*, April 7, 2003.

Most criminological analysis, for example, is carried out by the DGSEI, units of the DGIC and the PN, and the Center of Information and Communication (Centro de Información y Comunicación, CEINCO). Operating since 1993, first under the police and then under the Security Secretariat CEINCO provides antidrug operations with intelligence collection, analysis, and operational planning.³⁶ It also maintains a registry of arrests, operations, and seizures related to illegal trafficking in weapons, ammunition explosives, and other materials in connection with drug trafficking. Such controls give this unit institutional and political powers beyond those in the laws that established the national security structure, shaping internal power in unintended ways. Even more problematic, as discussed shortly, are CEINCO's connections with criminal activity.

In Honduras as in other countries, poor operational coordination and weak legal checks are most evident in criminal investigation. In fact, the most pronounced and deliberate change in power within the Honduran security system has been the funneling of authority away from the investigative police. That deterioration began with the 1990s reforms. Investigation depends administratively on the DGIC, but technically and juridically on the MP. That distinction meant little between 1995 and 1997 when the DGIC (then the DIC) was under the MP, which had the authority to "direct, orient, and supervise the activities" of the investigative police, but it has meant a lot since then. When the Public Ministry Law began allowing legal actions to be lodged against their personnel, the security forces countered with a "ferocious" campaign (a characterization used by several officials), tacitly supported by politicians, against the MP. Their efforts, along with conflict between the DIC and the PN, succeeded in use of the 1998 LOPN to transfer the DIC over to the executive's Security Secretariat. However, because of counterpressures by the Foro Ciudadano (Civic Forum), a consortium of twenty-five civil society groups, the central office of investigation remained in the MP (Orellana 2004, 9). The Foro pointed out that placing the investigative police within the executive instead of the Public Ministry would go against the trends in other countries, and it warned that putting the investigative and Preventive Police under the same command might politicize

36. Most of this work is carried out using computers. U.S. counternarcotics assistance to Honduras is directed mainly to the counternarcotics units of the Frontier Police, the Security Secretariat, and the MP. Funds from the Bureau of International Narcotics and Law Enforcement Affairs (known by the acronym INL) also go to the two special investigative narcotics units in the DGSEI and the DGIC, as well as to programs that focus on the prevention of drug use by minors.

public security and continue the country's militarized and centralized model of policing.

In short, with the 1998 reforms the DGIC continued to operate officially under the Fiscalía's direction, but it became dependent hierarchically and administratively on the Security Secretariat. This uneasy compromise resolved the debate over investigative powers at the time, but sowed the seeds for later conflict by splitting up this key authority. In fact, the change in the DGIC's affiliation led to deterioration in the preparation, professionalism, teamwork, and transparency of criminal investigation. The DGIC is empowered to initiate investigation, collect evidence related to a crime, order the closure of a business in which a crime occurred, question witnesses, and participate in raids. But many times these actions are carried out without the knowledge or direction of the *fiscales*. Many police openly admit that they work on many cases without the Fiscalía's knowledge. Such parallel functioning of these two agencies, neither of which is allowed to interfere with the other, has led to collisions over these and other investigatory procedures in which cooperation is paramount.

More damaging have been the direct attacks on the DGIC from within the Security Secretariat. Civilians directed the DGIC until 2001, but then its leadership positions were systematically given to PN officials. Soon after it was established, 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 rights violations and in death squads." According to one analyst, the security secretary "privileged the Preventive Police and weakened the Investigation Police," which also halted the purge.³⁷ DGIC personnel grew from the original 300 officials in 1995 to a high of 550 under the M. That number then fell to fewer than 330 after the DGIC was moved into the Security Secretariat (Centro de Documentación de Honduras 2004, 5). DGIC officials do not estimate that they need at least three thousand investigators, which is three times their current count.

The Security Secretariat also created the DAIA in part as an investigative counterweight to the DGIC, even though the law clearly states that only the DGIC carries out criminal investigations. As the department began to usurp the DGIC, and as the security secretary reinforced the PN through other measures, the resources available for DGIC training and funding be-

37. Julieta Castellanos, "El tortuoso camino de la reforma policial," *El Heraldo*, October 8, 2002.

gan to decline. The PN was authorized to carry out functions previously exclusive to the DGIC such as guarding crime scenes and collecting and protecting criminal evidence. It also conducts investigations under certain conditions, such as for crimes whose punishment does not exceed five years in prison or in areas without DGIC “representation” (LOPN Article 43). The latter condition opened a big loophole, because the PN now has a far more extensive national presence than the DGIC. For example, the DGIC says it focuses its efforts in Tegucigalpa, which by law prevents the PN from carrying out investigations in the city. But in fact the DGIC is not present in most high-crime *colonias* (jurisdictions comprised of contiguous neighborhoods, often with up to 100,000 residents). The resulting shifts in inter-institutional power balances have been hastened even more by the droves of senior detectives leaving the DGIC, further damaging its capacity and justifying additional reductions in its authority.

Because of the PN-DGIC overlap and rivalry, both forces often pursue the same cases. Many victims go to both agencies to increase the likelihood that a crime might be solved, which only adds to the confusion and stretches out delays. Moreover, this approach often does not help anyway, because, as most criminal justice and many police officials agree, neither PN nor DGIC officials are able to carry out basic investigations. Although the PN was given more control in this area, its officers had had at most a short investigative course at the Centro de Instrucción Policial that did not include much of the needed technical training. Many investigative officers complain that evidence is often contaminated by PN officers who arrive first at a crime scene or during the investigatory process, and that a lack of follow-up by the forensics or criminology laboratory prevents officers from submitting many cases to the prosecutor. Poor protection of the crime scene is in fact a persistent and highly charged problem, with officers touching, discarding, and otherwise contaminating or failing to register evidence. Indeed, at crime scenes more time is given to accommodating local officials who show up with camera crews than to formulating a hypothesis or noting what bystanders are saying. In one deadly hijacking of a public bus in May 2007, the DGIC even failed to protect the scene itself or to collect shoeprints and bullet shells. Moreover, despite the scores of people at the scene, the judge issued a provisional dismissal of the three suspects in custody because the only witness available refused to identify the suspects. The lack of witness evidence is endemic. In a 2003 nationwide poll, 62 percent of citizens acknowledged that they knew the names of the criminals in their neighborhoods, but were afraid of reporting them because they did not trust the ju-

diciary to convict them (Centro de Documentación de Honduras 2004, 47–49).

Police Management

Within the police there is a chronic lack of personnel, with *comisarias* of just seven or eight officers expected to cover *colonias* having up to 100,000 residents. Although nearly two thousand officers have joined up since 2002 raising the numbers in some areas by 80 percent, the police presence still varies widely within the country, reflecting the kind of geographic disparity discussed in chapter 3. The DGIC has no presence in many areas, and even the National Police does not have a permanent presence in over 50 of the country's 299 municipalities. For example, the high-crime Valle de Sula district of Choloma has had just ten officers and one permanent vehicle for 70,000 residents. At the national level, officials say that the force needs a least 26,000 officers, or over three times the current amount

One source of such discrepancies and deficiencies is the police budget. Nearly 90 percent of the approximately \$35 million annual police budget is dedicated to the PN, and some 80–85 percent of it goes to salaries. This concentration of funds for the Preventive Police and their salaries is typical in Latin America, depriving the judicial and other units of resources. Although most of the budget is earmarked for salaries (as in other countries), most officers are not paid a living wage. Much of the blame is placed on the Office of Human Resources, largely regarded as an instrument of the security minister to distribute funds based on political alliances. Most studies recognize the low salaries and professional dissatisfaction of the police throughout the region, but they usually do not explore the consequences for daily policing. Like their colleagues in other countries, the Honduran police complain of poor resources, professional insecurity, and a lack of health benefits. The average salary of 4,000 lempiras (about \$200) per month,³⁸ which is what even new detectives earn, leaves them not much better off than others in the marginalized areas where most of them live.

Rotation inflicts further damage on officer living standards and family life. Because it is usually too difficult to move entire families with a change in assignment, many officers are separated from their families for long periods and are forced to live in substandard housing. Indeed, for much of their

38. Villatoro Aguilar, police subcommissioner, interview by author, Tegucigalpa, June 27, 2005; confirmed by others

careers in the lower ranks, officers may live up to eight hours from their stations. In regions farthest from urban concentrations, such as in the north, groups of up to twenty officers rent a single house together.

Nearly all police officers complain about their unmanageable schedules. Many work from seven in the morning to midnight with just every other weekend free, and others have twenty-four-hour shifts with six hours of free time and a break of seventy-two hours every fifteen days. They complain of an excess of responsibilities, such as guarding political officials and controlling street demonstrations, and of being pulled into community problems such as land disputes in which many of the people involved regard them as repressors, meddlers, or enforcers of unjust rules. Under these conditions, stress in the police ranks has led to high rates of depression, alcoholism, and drug addiction. Roughly 70 percent of officers who leave the police are forced out because of abandoning their posts and displaying a lack of discipline. Most of this behavior, says a police counselor, can be traced to work-induced mental disorders and personal anxiety.³⁹ The added stress on those who remain often leads to neglectful actions and mistakes such as evidence contamination. It also undermines their ability to move up. Police promotions are conducted twice a year. After a certain amount of time on the street, lower-level officers are eligible to take a course for promotion to Class 1, 2, or 3 lieutenant. Along with time on the job and general performance, courses at the academies are “the main filters” for promotion.⁴⁰ Most officers say (not convincingly) that the promotion process is fair, but then they often point out that the unclear guidelines for promotion allow favoritism to flourish. Many others complain about the absence of scholarships or opportunities for specialized studies.

The poor capacity of the police, along with the growing sophistication of crime, has gradually pulled the military into police operations such as neighborhood sweeps, inundations of gang territories, suppression of prison riots, and antidrug operations in combined military-police units. Although police officials stress the official separation of police and military, with soldiers limited to providing back-up, the relationship between the two is in fact more complicated. Military involvement brings rapid results, but it is harmful in the long term because soldiers' combat training is at odds with

39. Evelyn García R., psychologist, Policía Nacional, interview by author, Tegucigalpa, June 27, 2005.

40. Rodolfo A. Calix Hollmann, subacademic director, Dirección General de Educación Policial, interview by author, Tegucigalpa, July 22, 2003.

the rules and goals of policing a democracy. In 2002 most of the sixty-nine inmate deaths in the El Porvenir Agricultural Penal Colony were caused by soldiers (this incident is discussed in more detail later in this chapter).⁴¹ But even without the armed forces, the police are increasingly militarized, donning military uniforms and combat boots, which only fosters intimidation in civilian areas. Their greater discretion does not, however, improve their efficiency. For example, armed with Decree 123-2002, described later in this chapter, the police have carried out several raids in Tegucigalpa, where contamination of the scene—stemming in part from the lack of investigative personnel—led the Fiscalía to free the detainees. Without investigative acumen or citizen trust, such actions often just displace their target. Anti-*mara* sweeps and raids look great on television, but often disperse *mareros* into a wider swath of territory.

Along with such practices, poor resource management has turned much of Honduras into a battle zone. Weak control of police materiel in particular allows more arms to enter the general circulation and adds to the estimated 500,000 illegal weapons that make up about two-thirds of all firearms in the country and are responsible for between 75 percent and 82 percent of killings since at least 2005, when this statistic began to be independently documented.⁴² Over 80 percent of youth killings are estimated to have been committed by firearms, 78 percent of which were AK-47 assault rifles (Programa Centroamérica 2006). Killings with Uzis are also common in many Tegucigalpa neighborhoods. Several laws and legal provisions prohibit and control arms possession and use. Only certain officials are allowed to have high-caliber weapons such as the AK-47, which, along with semiautomatic revolvers and pistols (45-gauge and 11.5-gauge), are strictly limited by the 2003 Special Law for the decommissioning of AK-47 and other Prohibited Arms (Ley Especial para el Decomiso de las Armas AK-47 y Otras no Permitidas). The 2004 Law of Arms Possession and Control (Ley de Tenencia

41. Noring Reyes, warden (director), interview by author, El Porvenir, February 23, 2004.

42. Firearms accounted for 75.9 percent of homicides in 2005, 78.0 percent in 2006, 75.8 percent in 2007, 78.6 percent in 2008, and 81.4 percent in 2009 (Observatorio de la Violencia 2006, 2007, 2008, 2009, 2010). Other groups estimate that arms are responsible for about fourteen hundred injuries each year (“Crece[n] víctimas por armas de fuego,” *Diálogo Centroamericano*, no. 33, September 1998). The UN estimates that about half a million illegal arms are in circulation, and most national sources estimate a total of a million firearms. “Inicia proceso para registrar un millón de armas en el país,” *El Heraldo*, December 5, 2002. But the police’s Arms Registry Office reports 204,000 registered arms and an estimated 500,000 unregistered ones.

y Control de Armas) punishes possession of “arms of war” (such as the AK-47) with up to six years of imprisonment, and Police Law Article 332 punishes trafficking and possession of AK-47s with ten years of imprisonment and a heavy fine. The 2000 Law of Control of Firearms, Munitions, Explosives and Similar Weapons (*Ley de Control de Armas de Fuego, Municiones, Explosivos y Otros Similares*) limits the number of arms that can be registered to five per person. Efforts are under way to tighten these laws. Security Secretary Romero wanted to limit firearms ownership to one, an only for the home. But the current law has no requirement of background checks or good conduct, and anyone can buy a sophisticated firearm for upwards of \$20 on the street. Control by and within the police is also lax. Investigations always seem to turn up AK-47 parts lying around police stations, and less than half of murder weapons are found and tested. Police are also victims of this uncontrolled arms use; about four officers are killed each month.

Many of these counterproductive practices begin in the police academies. ANAPO has inadequate resources, with only a barely functioning forensics laboratory. Moreover, according to ANAPO’s directors and others, limited budgets for training (with just one small computer lab at ANAPO and none at the Centro de Instrucción Policial) and equipment and uniforms (including shoes) contribute to high turnover and desertion. Lack of funds also sidetracks directors’ plans to offer more specializations, such as a master’s program in investigation.⁴³ Casa Alianza has a weekly training course for police, but, as one of the instructors points out, so many of them leave the force that it has little impact.⁴⁴ CIP’s six months of training for cadets focuses on the use of arms, but with little legal or sociological education, and many of its graduates—working as street officers—are functionally illiterate. Many CIP graduates did not finish elementary school and, some officers say, only studied at CIP for four months. As for the center itself, its infrastructure is very poor, and it needs twice its normally allocated budget. Plans to make admissions more selective and to extend the training course to ten months have been delayed under pressure to keep up the numbers. At the upper levels, even the DGIC agents with some university education can-

43. ANAPO staff and Caballero Baca, assistant director, ANAPO, interviews by author, Tegucigalpa, June 16, 2006.

44. Juan Carlos Ávila, Street Team, Casa Alianza, interview by author, Tegucigalpa and Comayagua, August 2, 2003.

not build on that education through more advanced training in investigation or other specialized fields. Some of these problems were foreseen in the original reform, which tried to bolster police education by widening it. In particular, the LOPN established an Academic Council, which includes representatives of the country's two main universities, National Autonomous University (Universidad Nacional Autónoma de Honduras, UNAH) and Francisco Morazán University (Universidad Pedagógica Nacional Francisco Morazán, UPNFM), but in reality cooperation or integration has been limited.

Unreliable statistics also undermine the police's functioning. Without a national system of crime reporting or an official information network sharing system between the DGIC and *fiscale* (with each unit logging its own very different numbers), tracking both crimes and cases is a challenge. Even for a statistic as central as homicides, the PN, DCIG, courts, and capital city morgue each report different numbers. Morgue officials say that many of the bodies they receive are not recorded, and that other bodies are not sent to them at all.⁴⁵ To resolve these informational discrepancies and absences, in 2005 the UN-sponsored Violence Observatory began collecting and categorizing all incidences and fatalities involving violence. But in its first few years it was physically or electronically restricted from Security Secretariat data. When the Observatory reported rising murder rates in June 2006, the new security minister accused its staff, mostly national and international specialists, of a leftist bias based on their NGO affiliations⁴⁶ He also claimed they did not use the available information, but he acknowledged that such information was not readily available. Even the small percentage of crimes that is reported is not necessarily transmitted accurately, as many people who try to file a complaint or report will confirm. For example, one summer morning in June 2006 a woman in the Tegucigalpa *colonia* of Kennedy tried to report a knife attack the night before. But she was brushed off by several different officers as she went to different stations. The most concrete suggestion she received was to go to headquarters downtown, which her limited time and money did not allow. In addition to adding fuel to public frustration, such practices undercut the criminal justice system.

45. PN and DGIC officials; Sindy Fortín, director, Centro Electrónico de Documentación e Información Judicial, Corte Suprema, Tegucigalpa Morgue, interviews by author, June–July 2005.

46. Álvaro Romero, security minister, interview by author, Tegucigalpa, June 13, 2006.

Criminal Law and Procedure

Diverting attention from such institutional practices is the great deal of misplaced blame on supposedly lax laws, which falls primarily on the penal process code, a favorite tar get of police and government wrath. Amid a drumbeat of often unchallenged assertions that justify actions such as forced confessions, such blame by the police and government aggravates the perceived conflict between new laws and individual rights. Honduras actually experienced Latin America's biggest drop in unsentenced prisoners after adopting its penal process code, from 156.6 in 1999 to 102.2 in 2005 (Riego and Duce 2008, 44). But the police see that as a weakness of enforcement rather than a hallmark of due process. Like his colleagues in other countries, Óscar Álvarez, Maduro's security secretary, asserted in a 2003 interview that there was a fundamental divide between the larger philosophy of most criminal justice officials, whose leftist ideology leads to "guaranteeist" prioritization of civil rights provisions, and the rightist *mano dura* approach of the police, who for most of their history were part of the military. He called for scrapping the new penal code because it embodied a "guaranteeist" approach that was meant for developed societies but was far too weak against Honduras's particularly virulent breed of crime. Believing that *mareros* were little more than irredeemable killing machines often under the control of vicious organized crime networks, Álvarez crudely dismissed NGOs' charges of rights abuse against the state.⁴⁷ Any law or set of legal standards so openly derided by the chief of security are unlikely to be followed by his subordinates. In fact, as one Cobra official stated confidentially, "people don't protest about human rights because they're too fed up with crime."⁴⁸

Such views were followed up by means of legal action. In September 2002, for example, Álvarez put forth proposals through an interinstitutional security commission to "adjust" the penal process code to facilitate anti-crime and antigang operations.⁴⁹ In June 2003 Congress deliberated on reforming the LOPN to help the police act "with firmness" against criminals using a structure modeled after "the repressive police of New York" that provided "protection to officers who currently might be jailed for acting i

47. Óscar Álvarez, security minister, interview by author, Tegucigalpa, July 18, 2003; see also "Marero tenía su propio cementerio en un cerro," *El Heraldo*, April 6, 2005.

48. Anonymous, interview by author, Cobra Headquarters, July 11, 2005.

49. "Revisarán Código Procesal," *El Heraldo*, February 6, 2003.

their own self-defense against criminals.”⁵⁰ A year later Maduro accused those filing a petition of unconstitutionality against Article 332 of “violating the human rights of hundreds of thousands of innocent Hondurans.”⁵¹

This choice between guaranteeism and crime fighting was repeated in public as well. Supervising a January 2005 security operation, the president said, “My desire is to send all criminals to prison and then I’ll worry about overcrowding in Honduran prisons, although always respecting the human rights of the prisoners.”⁵² Ignoring the fact that two of Latin America’s worst prison massacres occurred during his administration and that well over half of all detainees were remaining unsentenced for years in massively overcrowded facilities,⁵³ the assumption being made—and largely accepted by society—was that imprisonment was the only solution. Porfiri Lobo, then president of Congress and presidential candidate, threw down the gauntlet when he proclaimed, “We are not going to recede one centimeter from the *Ley Anti-Maras*. . . . And to those who oppose this, all those who have threatened with going to international human rights tribunals, . . . are going to face the firm fist of our determination, the determination of people who have said that we are not going to surrender, we are not going to permit a group of delinquents to rob us of security . . .”⁵⁴ “Who has more human rights?” he asked, “the innocent person who represents the great majority of the people or the criminal who violates the rights of the rest?”⁵⁵

Attacks on the rights of criminal suspects invariably lead to attacks on the penal process code that protects them. As part of its strengthening of due process, the CPP gave more powers to the MP and introduced public oral trials as well as new courts at the investigation and sentencing stages, such as the *Juez de Ejecución* to oversee pretrial procedures. Since coming into

50. “Congreso Nacional reformará la ley de Policía,” *La Prensa*, June 23, 2003. This measure was based on a plan developed under Fonseca, who disavowed it because it was written by hard-line officials.

51. “Maduro defenderá legitimidad de la Ley de Propiedad y de la ‘ley antimaras,’” August 9, 2004, <http://www.CasaPresidencial.com>.

52. “Llenaré las cárceles hondureñas de delincuentes,” January 13, 2005, <http://www.casapresidencial.hn/2005/01/13>.

53. In 2004 Honduras’s eleven to twelve thousand detainees were double the 1992 prison population and the intended capacity of the system’s twenty-four facilities. Between 52 percent and 64 percent of prisoners were usually awaiting trial, over 90 percent of them for nearly two years. Centro de Documentación de Honduras (2004, 68, 96).

54. “No vamos a retroceder ni un centímetro con *Ley Antimaras*,” *La Tribuna*, January 26, 2004.

55. “Sociedad ya no tendrá ese yugo de las maras,” *La Tribuna*, August 8, 2003.

effect in 2002, the CPP has also sped up the slow criminal justice process through alternative resolution mechanisms such as mediation, which were credited with resolving 307 cases in the code's first two months, compare with 448 cases the entire previous year.⁵⁶ The code also has measures to fast-track cases stuck in the judicial process. Such measures were long needed. For example, of the 2,708 crimes reported in the first four month of 2002, just 295 were processed by the Fiscalía and presented to judges. Of those 295 cases, 128 had initial audiences and 67—limited to very serious crimes—led to detentions.⁵⁷

As set out by the penal process code, the procedure followed in dealing with a crime has three principal stages: preparatory, intermediate, and debate. At a crime scene the *fiscale* (with the support of medical forensics) are supposed to carry out the first steps in the investigation, directing the DGIC officers in the collection of evidence and the questioning of witnesses. In many cases, however, neither a *afisca* nor a DGIC official is available, leaving the work to the PN.⁵⁸ After the evidence and testimonies are compiled, the judge listens to the cases presented by the *fisca* and the public defender in deciding whether to free the detainee for lack of evidence or to order detention for trial. The police are not allowed to order or carry out preventive detentions, except during the commission of a crime or under other exceptional circumstances. But the DGIC can ask the judge in charge of the case (*juzgado*) to extend the normal twenty-four-hour period of detention and investigation to up to six days (police may detain suspects incommunicado only under *afisca*'s orders and for no more than twenty-four hours, and must free anyone against whom the evidence collected is compromised). In areas without DGIC detention facilities, the PN may hold de-

56. The code has been fortified with international support, such as a 2002 IABD loan for a Justice Administration Modernization Program to strengthen the public defenders, the court inspectors (*inspectorías de tribunales*), and the judicial academy; to build ten municipal judicial centers; to train MP staff; and to reduce backlogs through an e-mail system for preparing and dispatching cases. Judicial reform has been supported by numerous international agencies, including the World Bank, the U.S. Agency for International Development, and the Japan International Cooperation Agency. Germany has provided about 300 million euros, and Sweden and Spain also send funds. Other countries have helped the police in particular—Taiwan, for example, has paid for much of the fleet of police cars.

57. "Honduras: Satisfacción por logros del Código Procesal Penal," *La Prensa* April 10, 2002.

58. Procedures vary according to how the crime is committed and discovered. For example, if a person is arrested after being caught red-handed, the investigative police officer has six hours in which to present the case to a *fiscal*.

defendants instead, but in such cases it must hand over all information and report all actions to the DGIC. If the defendant cannot afford a lawyer, the *juzgado* can assign a court-appointed attorney (*abogado de oficio*). Only in some minor cases can the *juzgado* grant bail, and plea bargaining is not allowed. If warranted, the detainee is brought to the initial audience with the judge, *fiscal* accuser, and all lawyers.

The intermediate stage consists of the formal accusation and trial preparation. After the DGIC completes the investigation, the *juzgado* determines whether there is sufficient evidence for trial. If warranted, the *fisca* (usually the special *fisca* on the particular problem involved) approves an official investigation and assigns it to a police agent, who must then present a preliminary report within twenty-four hours. Based on this report, the *fisca* can then apply an alternative form of resolution, request preventive detention from a judge, or continue the investigation.

This process is littered with deadlines missed by the police, *fiscales* and judges. The Fiscalía is unable to handle all the reports it gets in a timely manner and has to send back many incomplete police reports. Even after delays of six months or more, many of those reports are incomplete or insufficient. The biggest delays happen during the police investigation and later in the courts. One study revealed that of the outstanding cases at the time, 23.9 percent were in the courts and 37.3 percent under investigation—that is, nearly two-thirds were in the hands of either the police or the judges. Many judges blame poor police work for the delays, saying that 40 percent of the cases they receive must be absolved because of poor investigation.⁵⁹ In 2002, the CPP's first year, just 5,068 of the 23,644 crime reports sent to the DGIC were returned to the Fiscalía with completed investigations (Centro de Documentación 2004, 70).⁶⁰ Not only must officials free anyone against whom the evidence collected is compromised, but the *criterio de oportunidad* also allows the MPto refrain from prosecution for reasons such as the detainee's "personal circumstances" (CPP Article 28). The police, in turn, blame such regulations for "nullifying" their work.

The *fisca* can also request a continuation of the investigation by the DGIC, the *juzgado*, the defendant's attorney, the *fiscal* and the accuser's attorney. If granted, this "discovery" period is limited to thirty days but usu-

59. Alex Urrea, Penal Court Judge, interview by author, San Pedro Sula, February 24, 2004.

60. Although a lack of personnel is the usual complaint, the office with the highest average of cases did not have the longest delays.

ally takes much longer—often because judges, lawyers, and police deviate from established procedures.

The third and final stage is the debate, made up of the trial and sentencing. Although the more efficient oral arguments have now been adopted, judges still rely on written statements to the *juzgado* laying out the information obtained during the discovery. This practice, together with the lack of judicial staff, contributes to a backlog that stretches trials out for months and even years. Once a trial is complete, the court sends the verdict to the Court of Appeals (Corte de Apelaciones) for ratification, usually after an appeals by either the prosecutor or the defendant. Without time limits on these steps, delays are frequent at this stage as well.

Toiling under these conditions, one DGIC officer said that he and his colleagues have basically given up on being investigators. In San Pedro Sula, well over two thousand bodies are brought to the city morgue each year, 80 percent of which are gunshot victims. Yet the DGIC's office there employ only about a hundred officials, about eighty-five of whom are rookies, working in units that are supposed to cover, among other serious crimes, homicides, assaults, vehicle thefts and other robberies, and financial crimes. As in other countries in Latin America, officials' abilities to follow the procedures fully and correctly are hobbled by a lack of personnel and of the specialized and adequately equipped laboratories needed, for example, to detect water and air contamination or preserve the DNA evidence on which nearly 90 percent of criminal charges depend (Centro de Documentación de Honduras 2004, 85). Agents are able to conduct tests for narcotics, but they cannot conduct other investigatory tests because they have no photo labs, document testing equipment, vehicular reports, ballistics labs, or biological or chemical toxicology equipment (such as for tests to detect alterations intended to cover a vehicle's ownership). Some detectives may even be trapped at headquarters because no vehicle (or one with gasoline) is available to take them to the crime scene. In addition, many civilian officials charged with preparing cases lack sufficient training to do so. Analysis personnel, for example, are routinely criticized for their sloppy work on evidence.

One detective said on condition of anonymity that they have no real training in investigation or in citizen relations—basically they are just given a gun. When the DGIC was under the MP, its officials received extensive training by the International Criminal Investigative Training Assistance Program (ICITAP), a U.S. Justice Department program begun in 1986. Since then, however, they make do with little more than the rudimentary CIP

course—essentially lowering them to the PN level. Many PN officers intimidate witnesses, inadequately protect crime scenes, and conduct their own parallel investigations while passing themselves off as investigative police.⁶¹ Officers often plant or remove evidence, depending on whether they want to harm or benefit the accused. Overall, officials estimate that percent of all serious crimes are not investigated, and one NGO says that 83 percent of homicides are unsolved.⁶² Thus unless someone is caught *in flagrante delicto* (red-handed) or linked to a crime through strong evidence, such as a blood sample, there is little chance it will be solved.

But when and if more police or equipment are provided, they may be used just to ramp up the traditional and increasingly ineffective tactics. Describing his need for more officers, one police official said he would use them to support neighborhood “saturations.” For example, after sending in a hundred agents and withdrawing most of them, he would leave twenty for a certain amount of time—say, eight or ten days—and then they gradually remove the rest until five are left.⁶³ If carried out in conjunction with social services and with adequate oversight, such a process could be an opportunity to bring in problem-oriented policing through traditional tactics. Encouraging community participation in the wake of an armed invasion is far from ideal, but many Honduran neighborhoods are robust enough to meet that challenge. Similarly, the long-term visions of several top officials, even if motivated by traditional goals, could also be a politically feasible way to integrate problem-oriented approaches. In an interview, the director of the country’s Planning and Management Assessment Unit (Unidad de Planeamiento y Evaluación de Gestión, UPEG) described projects to improve policing by means of CompStat software, digital mapping, a crime observatory, and a new analysis center.⁶⁴ As noted in the first two chapters, part of the citizen security crisis is managing the police and the functioning of the criminal justice system. Therefore, an assessment of the limitations of the current police units should precede any restructuring. Before adopting

61. César Alexis Ruiz, chief of personnel, DGIC, interview by author, San Pedro Sula, March 2, 2004.

62. Andrés Pavón, president, Comité para la Defensa de los Derechos Humanos en Honduras (Committee for the Defense of Human Rights in Honduras), interview by author, Tegucigalpa, August 6, 2003.

63. Gustavo Adolfo Bustillo Salgado, subcommissioner, Policía Nacional, interview by author, San Pedro Sula, February 28, 2004.

64. Jorge Nery Chinchilla O., director, Unidad de Planeamiento y Evaluación de Gestión, interview by author, Tegucigalpa, June 14, 2006.

CompStat, for example, the Honduran government should investigate why as one police officer stated, there is only sporadic internal communication on core issues such as drug trafficking and application of the CP.⁶⁵ The national government must also increase the size and power of its Contraloría General (Comptroller General), the agency that oversees administrative and budgetary state procedures, because it is among the smallest and least powerful in the region.

When combined with the suspicions between the police and the Fiscalía and the lack of a functioning communications network, such poor coordination slows down and impairs criminal investigation. To improve inter-agency coordination on criminal investigation, the Public Ministry in November 2002 created the Integrated Center of Interinstitutional Work (Centro Integrado de Procesos de Trabajos Interinstitucionales, CIP). It is made up of *fiscales* police, public defenders, and forensic doctors, divided into shifts and teams that work around the clock. When a crime is reported to the CIP, it brings the police and *fiscal* together to decide whether to move forward with searches, arrests, and alternative resolutions, and, if applicable, to release suspects in custody. CIP also pulls together evidence from crime scenes, helps prioritize cases, develops hypotheses, and standardizes procedures. According to many officers, however, CIP's contributions are neutralized by demands to solve crimes that push it to initiate charges without sufficient evidence. In other words, the stopgap measures of CIP are often too weak for the political pressures and institutional practices it must accommodate. Most discouraging, it has not yet been able to fully erase the discord between police and prosecutors. Many police officers complain that they have to track down *fiscal* about their cases, only to find out then that the evidence they presented was insufficient and that the *expediente* (a case's police report) is being returned to them. Beyond the annoyance and perceived lack of respect in not being notified directly, many of these officers add that the *fiscal* return *expedientes* for technical details not central to solving the case or are "too lazy" to make detailed comments that specify exactly what revisions are expected. (Some police officers also say that at times *fiscal* do not read their reports and instead punt them along to the courts, which causes problems later on.) *Expedientes* are also slowed down when military officials, who have no legal training, are involved in the response. In addition, according to the DGIC, each investigative agent juggles between a

65. Subinspector Daniel Molina, interview by author, Tegucigalpa, July 14, 2003.

hundred and two hundred cases at a time, which forces that agent to drop the majority of cases with leads but no clear evidence.

More *fiscale* and public defenders are needed. Most *fiscale* say they are often working on up to eighty cases at a time, which is particularly overwhelming because of the new CPP.⁶⁶ According to some estimates, there is just one public defender for every 6,000 persons and one *fisca* for every 300,000. Reflecting the country's geographic divides, the scarcity is more pronounced in rural states. For example, Atlántida state has just eight defenders for the nearly thousand prisoners held there.⁶⁷ And detainees in the one of the country's largest prisons, Centro Penal San Pedro Sula, complained that they rarely meet the public defenders assigned to them.⁶⁸ *Fiscales* estimate that because of their low numbers they are directly involved in only just over a quarter of all cases. Within the Fiscalía, there are no consistent guidelines for the assignment or follow-up of cases, and so *fiscale* use varying criteria to determine the priority of their cases. As for public defenders, one of their directors says that each defender could handle a hundred cases under the old code, but no more than thirty under the new code's more stringent demands and time frames. Thus to carry out their jobs, he asserts, public defenders need forensic technicians, psychologists, and, most important, investigators under their own control instead that of the police. But these professionals are not provided on a permanent basis or even on loan for the majority of cases.⁶⁹

Judicial Reform

The government has attempted to deal with these problems in criminal justice by instigating extensive reforms in Honduras's judiciary, including the creation of an independent judicial council to select most judges and judicial personnel, often with forums for public participation. Unreformed weaknesses in the judiciary, however, prevent it from building on such opportunities. Honduras's Judicial School (Escuela Judicial), with a curricu-

66. Walter Menjivar, *fisca* coordinator of the northern region, interview by author, San Pedro Sula, February 27, 2004.

67. Victor Parelló, northern region human rights commissioner, interview by author, San Pedro Sula, February 20, 2004.

68. Detainees, Centro Penal San Pedro Sula, interviews by author, March 2, 2004.

69. Jorge Gutierrez Flefil, regional coordinato, Defensa Pública (Public Defense), San Pedro Sula, interview by author, March 13, 2004.

lum light on legal interpretation, does not produce judges disposed toward questioning policy. Almost uniformly, law school professors have a low opinion of the school. No mechanisms are in place to evaluate sitting judges, and they say they are often under pressure by their superiors to follow precedence (Romero and Salomón 2000). There is also a severe dearth of judges, just one for every 55,000 Hondurans, which is far below UN-established recommendation of one for every 4,000 (Caldera 2003, 167). The Supreme Court of Justice, made up of fifteen magistrates elected for seven-year terms,⁷⁰ is largely viewed as politicized. Although a judicial council opened up the selection process, nominations still reflect bargaining between the National and the Liberal parties. As demonstrated by the selection of new court magistrates in January 2009, it also reflects conflict between the executive and judicial branches. For the 2009–16 term President Zelaya sought to have Sonia Dubón, the wife of the presidency secretary, Enrique Flores Lanza, reelected to the Supreme Court and become court president, even though she was not among the forty-five candidates chosen by the nominating committee and presented to Congress. This clash led to a crisis as the January 25 deadline approached; Zelaya even met with the heads of the armed forces and threatened to use them against Congress. But with the National Party firm and the heads of Liberal Party in accord, a legislative majority voted to consider only the original forty-five nominees

Supreme Court rulings often split along party lines, and the power of the court president to remove other magistrates—a practice condemned by international bodies such as the International Commission of Jurists—further compromises their independence. Decisions on security issues, however, usually yield strong majority votes. Although the Supreme Court exercises particularly strong police power through its right to vet congressional bills on the judiciary, it has been consistently supportive of the government's *mano dura* policy. Despite a few cautiously progressive rulings, such as obliging judges to be in charge of detainees during investigations, the court gave its stamp of approval to Article 332 and has refused to hear challenges to the constitutionality of presidential decrees such as 123-2002, which allows searches without a judicial warrant in residences in which there is suspicion of kidnapping or other illicit activity. The Government and Justice Ministry claims that this decree is validated by constitutional Article 99,

70. Three legal instruments set the judiciary's roles and powers: the Constitution, the Court Law (Ley de Organización y Atribuciones de los Tribunales), and the Judicial Career Law (Ley de la Carrera Judicial).

which allows for such searches in “cases of urgency,” such as when there is a suspicion that a crime is being committed in the home. But such views require an open-ended interpretation of “urgency” that invariably erodes constitutional privacy and due process. Even though NGOs have put forth legal recourses in response to the LPCS, the Supreme Court has not struck down any of that law’s provisions. Many writs of habeas corpus on behalf of minors in adult prisons have been rejected as well.

Since the political uncertainty of 2009 in which the Supreme Court played a central role, a renewed effort has been under way to get the judiciary back on track. With help from international agencies, judicial officials have introduced the Interinstitutional System of Digital Expediency (Sistema de Expediente Digital Interinstitucional, or SEDI) which allows judicial officials to better track cases, and the National Automated Case Management and Information System (NACMIS), a wireless communication system for filing criminal reports and giving investigators access to criminal files, arrest warrants, descriptions of stolen vehicles, and weapon registration. Court officers also plan to create jurisprudence websites with full case material, and to cooperate more with investigations by the National Anticorruption Council (Consejo Nacional Anticorrupción, CNA). Also supporting the courts, as well as the police, is the 2010 creation of a long-requested Technical Office of Criminal Investigation (Dirección Técnica de Investigación Criminal, DTIC) to support the Public Ministry, and in particular its *fisca* for organized crime. According to Carlos Ortega, head of the Supreme Court’s information system, such efforts are part of the judiciary’s effort—when greater international scrutiny has made public relations more important—to buff up its image.⁷¹

Prisons

Probably the biggest challenges for the judiciary are the prisons, a lawless incarnation of the legal system’s failure. The country’s eleven-to-twelve thousand detainees are double the intended capacity of its twenty-four penal facilities. Since 1992, when the prison population was 5,717, it has been violently overcrowded. In part because of poor access to lawyers, between half and two-thirds of detainees at any given time are awaiting trial, and over 90

71. Carlos Ortega, executive director, Centro Electrónico de Documentación e Información Judicial (Electronic Center of Judicial Documentation and Information), Tegucigalpa, interview by author, April 5, 2010.

percent will wait up to two years.⁷² Politicized changes in judges, say NGOs, also derail progress in many cases.⁷³ Basic rules—such as the CPP provision that prisoners must be separated by crime and be sentenced within four and a half years—are usually not enforced. Health care is poor, with hundreds of sick detainees held illegally (Zelaya 2004, based on DGSEP budgets). And there are no special provisions for people with HIV/AIDS or other illnesses, and most judges do not demand them.⁷⁴ Food is also inadequate; just \$.44 is spent per prisoner per day for food.⁷⁵ All together, the costs expended by the state on each detainee amount to just \$2.43 a day.

The few months of training that prison personnel receive leave them unprepared for the widespread violence, most common in facilities with a high number of *mareros*, who make up about 8.5 percent of the prison population. In April 2002, for example, sixty-nine inmates—sixty-one of them *mareros*—were killed in a fire at the El Porvenir Agricultural Penal Colony on the Caribbean coast, a three-hundred-capacity facility holding five hundred prisoners.⁷⁶ The massacre led to several reports, including an official one in which CONASIN participated and another by the Human Rights Commission. According to the official report, the killings were caused by a botched effort to disarm gang detainees that began when Cobra officials and the two prisoners in charge of internal security put certain *mareros* in punishment cells only days after the sudden transfer to the prison of the members of one gang without notification of the small twenty-person staff, even though members of the rival gang were being held there. After the *mareros* were released from the punishment cells, the gangs took up arms, killing the two prisoners in charge of internal security and attacking the police. In the chaos a large group of *pandilleros* took refuge in a cell. Officials then locked the cell, and the inmates burned in a fire. Soldiers apparently shot others trying to flee

72. According to most estimates, between 50 percent and 70 percent of detainees are awaiting trial. Jaime Banegas, director general, Sistema Penitenciario de Honduras, telephone interview with author, July 9, 2005. Yolet Calderón, delegada adjunta primera, Comisionado Nacional de Derechos Humanos (first adjunct delegate, National Human Rights Commission), interview by author, Tegucigalpa, April 6, 2010.

73. Lidia de Maradiaga, director, Pastoral Penitenciario, La Ceiba, interview by author, February 24, 2004.

74. Mario Cooper, Foro Nacional de SIDA, interview by author, San Pedro Sula, February 19, 2004.

75. In some prisons this amount is for both health and food. Mauricio Guardado, administrative director, Centro Penal San Pedro Sula, interview by author, March 1, 2004.

76. Officials at and prisoners in El Porvenir Agricultural Penal Colony and Penitentiary Barrio Inglés, interviews by author, La Ceiba, February 23–25, 2004.

This official version left unanswered many questions about why prisoners were given control of discipline, why those who burned to death could not get out, why the vast majority of them were in *thomara* 18th Street, and where all those firearms had come from. These questions revealed not only the lack of policy and control, but also state complicity in arms trafficking, drug trafficking, economic exploitation of detainee labor, and other abuses. And although fifty persons were accused of the actions that led to the massacre, the cleanup ordered immediately after the killings destroyed much of the evidence needed to try them in court. Nevertheless, in June 2008 a court convicted twenty-one of the forty-three officials involved, including a police commissioner and the police chief of La Ceiba, whose jurisdiction included El Porvenir.

Despite these preventable conditions, two years later an even deadlier incident occurred in Centro Penal San Pedro Sula, one of the country's largest prisons. A lack of health, legal, and other services had long made conditions there miserable.⁷⁷ The majority of its fourteen hundred prisoners, crammed into a space designed for four hundred, were *mareros* who had been placed in separate areas. "We don't get to leave this area, and they feed us through these gates—it's never enough, and there's a lot of competition to get what they have," said Melvin López, who later died in the fire.⁷⁸ "We only have a small space, and very few programs. Public defenders do not come regularly," said Óscar Jehovani Sevan, a survivor who did not belong to MS-13. In a windowless area of about 650 square feet where over 180 MS-13 *mareros* were held, a small fire broke out during the night of May 17, 2004. A scuffle then erupted when several prisoners tried to take equipment from firemen to rescue their compatriots, prompting the firemen to leave and the prison officials to deny help for those inside the cell. By morning, 107 inmates were dead. A report by the Human Rights Commission pointed to makeshift electrical equipment and the lack of escape routes, but clearly the lack of help was far more to blame.

With over 72 percent of the national penitentiary budget going to salaries, little is left for prisoner needs and safety in any of the prisons (Centro de Documentación de Honduras 2004, 101). In fact, ever since the LOPN shifted control of the prisons from the Government and Justice Sec-

77. Elías Canaca, director, Centro Penal San Pedro Sula, interview by author, March 1, 2004.

78. Melvin López, prisoner, Centro Penal San Pedro Sula, interview by author, March 1, 2004.

retariat to the Security Secretariat, prison conditions have not met the Minimal Rule for the Treatment of Prisoners.⁷⁹ The Penitentiary Cooperation and Control Committees (Juntas de Cooperación y Control Penitenciario), established in 1996, rarely meet. The El Porvenir and San Pedro Sula massacres, however, did finally prompt real reform efforts. In June 2003, in the wake of the El Porvenir fire, the president of Honduras proposed transferring penitentiary administration to an Interinstitutional Commission of Transition (Comisión Interinstitucional de Transición), and in 2006 Congress began deliberating a bill to create a Penitentiary Institute, under the Secretariat of Government and Justice, to train penitentiary officials, oversee budgets, and develop rehabilitation programs. After languishing for nearly two years in Congress, the law was finally enacted in June 2008. And despite the law's administrative overhaul and rights guarantees, even its sponsors acknowledge that it will mean little without money to build new prisons and efforts to break up the organized crime networks that control several of them. Combined with the legal conflation of potential and actual *mareros* and the judiciary's failure to create an information system that would establish a *marero's* status, such slow change impedes rehabilitation as well. In short, as in other areas of criminal justice, reforms do not work without an honest diagnosis of the laws and institutions they replace.

NGOs provide some alternatives. For example, when its inability to handle the swelling prisons attracts negative media attention, the government tends to promote church-affiliated rehabilitation for gang members. In fact religious institutions are one of the few refuges for those who try to leave their *maras*.⁸⁰ According to the director of one such program, however, these institutions have only a limited impact amid the state's ongoing abuses and failure to apply the Rehabilitation Law, which it regards as little more than "a piece of paper."⁸¹ The 1984 Law of Delinquent Rehabilitation (Ley de Rehabilitación Delincuente), which includes treatment programs geared toward different types of offenses and offenders, is not implemented adequately. Nor is the 2001 Law for the Prevention, Rehabilitation and Social

79. According to the Comisión de Reforma del Sistema Penitenciario (Commission for Reform of the Penitentiary System), 2003.

80. "Honduras: Evangélicos preparan a policías para educar en valores a los jóvenes," Ekklesia viva: Tu Foro Cristiano Evangélico, March 8, 2003, <http://www.foroekklesia.com>.

81. Ondina Murillo, director, Paz y Justicia, interview by author, La Ceiba, February 24, 2004.

Reintegration of Persons Belonging to Gangs (Ley para la Prevención, Rehabilitación y Reinserción Social de Personas Integradas de Maras y Pandillas), which established a national program that has only been partially enacted. Like other security laws, these measures have become part of the ongoing debate over a policy of *mano dura* versus human rights. The press heavily criticizes the laws for allowing inmates time outside prison, and officials called for the law's "revision" after two prisoners were arrested for assault in 2006 while on leave. Many officials, from Álvarez on down, have said directly that rehabilitation is a waste.

Offenders under 18 years of age do not fare much better. Judges can send underage offenders to a juvenile detention center for one to eight years. These centers (three for boys and one for girls, with a total of about three hundred youth) are operated by the Reeducation and Social Reinsertion Program of the Honduran Childhood and Family Institute (Instituto Hondureño de la Niñez y la Familia, IHNFA). They have many dedicated personnel and several rehabilitation programs, from intensive counseling to professional vocational workshops run by the National Vocational Training Institute (Instituto Nacional de Formación Profesional, INFOP). Such programs are supported by additional educational, therapeutic, community service, and labor centers for youth, as well as an intrainstitutional commission to coordinate them. For example, through the Security Secretariat's 2004 UN-supported Small Arms, Security and Justice Project, fifty young people who were incarcerated but who left their gangs received training in baking and metallurgy at the Centro Penal in Comayagua. Such efforts, however, are obviated by the incarceration of some of these youths in adult prisons, where they are subject to physical and sexual abuse. Although such practices violate international norms recognized by Honduras, in 1995 the Supreme Court issued a ruling that allowed them.

Like adult prisons, juvenile detention centers are generally characterized by poor conditions and inadequate services. For example, the Renaciendo Center in Támara holds up to two hundred youth in a space meant for seventy. The center is controlled by a twenty-five-member security unit that divided into three shifts, provides no more than ten on-duty officers at time, along with some unarmed IHNFA guards. Physical mistreatment, sexual abuse, and trading in arms and drugs are rampant, but instead of pushing the armed police to take control, many IHNFA officials suspect them of complicity and understandably want to get rid of them. IHNFA guidelines call for one counselor for every fourteen youths, but in Renaciendo there

are only eight counselors for two hundred youth⁸² *Mareros* sent to these centers, most of them captured in raids, are placed with their fellow *mara* members. They receive very little education or rehabilitation and are left to form their own social structures. The whole program lacks sufficient personnel and, because the IHNFA office is located outside of the youth center, case workers have limited contact with those inside and complain that they spend most of their time “shifting around papers.” To keep up with its current workload, the agency says it needs two or three times the current budget of 100 million lempiras (a little over \$5.5 million). Without increases, broader preventive steps cannot be taken. For example, there is no analysis of the country’s high school drop-out rates, and school officials barely notice or do not have the means to act when students are chronically absent from class.

Decentralization and Privatization

The state’s uneven presence also limits the provision of security services that rely on a range of agencies. The criminal justice system’s presence varies widely in Honduras, and particularly that of the public defenders, Human Rights Commission officials, and others focusing on due process protection. Because small towns suffer a dearth of *fiscales* and judges as well, the police have disproportionate power. In Latin America one cause of such irregular provision, even amid decentralization, is the ongoing weakness of local governments. Honduran mayors could create and fund many local security committees to take on some policing functions, but because of the lack of money few have done so. Similarly, the Municipal Department of Justice could mediate conflicts among citizens, but once again it is limited to areas that can afford it.

To deal with these limits, sometimes mayors decide to band together. For example, seventeen Sula Valley mayors formed a Peace and Coexistence Program that has helped reduce violence but is limited by a lack of funds in the region and backing from the capital. In response, these localities are organizing citizen forums (*mesas ciudadanas*), which were heavily promoted by the Zelaya government. The *alcaldes auxiliares* (auxiliary mayors) of municipalities also promote local action in security and judicial matters, usually by working with judges of the peace (*jueces de paz*). Judges of the peace,

82. Carla Luque, coordinator, Program of Reeducation and Social Reinsertion, Instituto Hondureño de la Niñez y la Familia, interview by author, Tegucigalpa, June 12, 2006.

who are not required to have law degrees, handle civil cases in which the demand does not exceed 50,000 lempiras. The judicial reach of such official is limited, however, and indicates to local officials that the federal government intends to replace real devolution with a limited form of deconcentration or delegation that retains real power in the capital. Although many initiatives have spelled out the powers that local governments should have, commissions to establish rules have become bogged down in political and regional competition (see Sosa 2007). So even when new initiatives help improve security, such as in La Ceiba, local officials are frustrated by what they regard as an insufficient national commitment to long-term support. In response to Security Secretary Álvaro's comments that local actions should be geared toward helping the police rather than vice versa, La Ceiba's mayor called out Álvaro—"What planet does the Minister live on?"—for misconstruing the police's obligations and spurning the role of local officials.⁸³

Although the big cities tend to have high concentrations of police, the smaller but fast-growing cities are falling far behind. The Valle de Sula metropolitan area, for example, has two million residents—700,000 in the city of San Pedro Sula and the rest in nineteen medium-size cities such as Choloma, discussed later in this chapter as a community policing model. But together these cities have fewer than four hundred police officers, or fewer than one for every two thousand residents (local officials claim it is more like one for every four thousand), even though these areas are notorious for *maras* who outnumber and outgun the police. Honduras's constitution allows municipalities to form their own police forces, but the ones that have been established are limited mainly to maintaining order in parks and open market areas. The only significant ones are those in San Pedro Sula which has over a hundred officers for its modest mandate, and Tegucigalpa, where the Municipal Police has sixty agents working in three shifts. Because the only prerequisite to join is past service in the armed forces or police, the capital's force is composed mainly of retired officers, with only some refresher training for preparation. Their authority is similarly circumscribed, at least on paper: they do not carry out special operations, and anyone they detain must be handed over to the PN. With only two vehicles and two motorcycles, they largely help keep order in the parks, the city's central plaza, and the public markets (particularly among street merchants).⁸⁴

83. Pablo César Zapata, "No quieren ayuda," *La Prensa*, September 29, 2007.

84. Capt. Francisco Javier Díaz Colidonio, chief, Policía Municipal, interview by author, Tegucigalpa, June 14, 2006.

Because they have experience in security, the Municipal Police chafe at their limited role as well as at the frequent fights with vendors, whom they are constantly shooting away. Many officers talk longingly about real policing, such as working with the Cobras. Because of the weak accountability, such comments may be more than just wishful thinking. Many reports on anti-*mara* raids mention the Municipal Police as part of the operation, indicating that the unit has a bigger role in practice than in law.

The country's march toward decentralization, however, will force it to confront local limitations. In 2010 President Lobo introduced bills to divide the country into six districts—a move regarded positively by most official and state reform specialists. Most change is likely to fall to the country's 299 municipalities, which have already taken on more responsibility and are represented in their politically influential association, AMHON. But corruption and capacity at the local level vary wildly in Honduras. There is "great weakness in the vast majority of municipalities," asserts an Inter-American Development Bank official working closely with the government, echoing a belief of most officials.⁸⁵ The head of an NGO working with local government on sustainable development underscores the point, describing "serious political, technical, and administrative weakness in the great majority of municipalities."⁸⁶ According to international officials, such weakness is regarded as the main reason for the "total failure" of the promising antiviolence IADB loan in the Valle de Sula, the metropolitan area of the city of San Pedro Sula. A leading security specialist, Julieta Castellanos, has bluntly asserted that mayors "contaminated" the project with politics.⁸⁷

More reflective of security's fragmentation and failure is private security. LOPN Article 21 prohibits assigning or contracting out police for paid work with private entities without the express permission of the secretary of security. The government publishes a regular report on private security agencies, but with no clear guidelines. Honduras has 189 legal private firms; 116 are registered with the police's Unit of Registration and Control of Private Security Enterprises, set up in 2005, and the rest are formed by individual businesses and *colonias*. Laws and regulations require private firms to register, pay a fee of 100,000 lempiras (a little over \$5,000), and report

85. María José Jarquin, state modernization specialist, Honduras Office, Inter-American Development Bank, interview by author, Tegucigalpa, April 6, 2010.

86. Isaac Ferrera, executive director, Fundación Vida, interview by author, Tegucigalpa, April 6, 2010.

87. Julieta Castellanos, rector, Universidad Autónoma de Honduras, and Honduran Truth Commission member, interview by author, Tegucigalpa, April 9, 2010.

on their arms inventory. The Association of Firms of Security and Private Investigation of Honduras (Asociación de Empresas de Seguridad e Investigación Privada de Honduras, ASEMSIPH) estimates that the country has up to four hundred private firms. They have nearly seventy thousand employees, of whom only about twenty thousand work for the 189 legal firm (Palacios 2007). Many of the extralegal firms are known as “suitcase businesses” because they have no fixed address and do not make public their owners’ names, how their personnel are selected and trained, or the types and sources of their weapons. The Zelaya administration took additional steps to regulate private security, such as through commissions and laws to register more firms, to enforce the prohibition of automatic weapons, and to restrict possession of the rest to one per office .

Despite the 2006 Law of Transparency and Access to Public Information, the government refuses to answer questions about why many firms operating around the country remain unregistered and are able to obtain AK-47s, M-16s, and Uzi-22s. Part of the reason stems from the links between officials and these firms. In 2003 the UN Development Program launched a project on registering private police that was to be extended to documenting control of arms and other issues. Everyone at the top level, in both the government and police, was in favor. But then several elements in the police itself told the police chief they would kill him if the project continued. Because many arms seized by the police are laundered by officers through private companies, any disruption to that cycle, say officers of the record, would cut their incomes in half. The project then came to an abrupt end three months after it began.

Accountability

Although the international community has continued to support disarmament, the 2003 UNDP project demonstrated the difficulty in taking the third step in full accountability—addressing the causes of abuse. As discussed throughout this book, the legislative and judicial branches do not fully check the executive. For example, the president of the Honduran Congress’s Defense Commission said he had only one staff person to investigate the range of national security issues.⁸⁸ In the area of internal security,

88. José Rodolfo Zelaya, president, National Defense Commission, National Congress, interview by author, Tegucigalpa, April 7, 2010.

trying to fundamentally alter such feeble accountability was an objective of Honduras's 1990s reforms, whose accountability mechanisms were stronger than those in most other countries. Since then, however, this critical channel has been drastically narrowed. When the Secretariat of Security was established in 1997 and given control over nearly all police agencies, there was initially a sharp drop in internal investigations of wrongdoing in the DGIC, as well as follow-up to specific accusations by CONASIN. At the Human Rights Commission, which also hears rights accusations against any state official, the three state agencies topping the list of those agencies with complaints lodged against them have been the PN, the DGIC, and the Transit Police. Less constrained by membership consensus, as well as by expectations of actual power, the commissioner has been more unequivocally critical of both the policies and declarations of the government. One reason the commission wields little influence in the government is that the complaints it receives are supposed to shape policy through CONASIN. But CONASIN cannot carry out this or its other functions if it is not convened, and the security secretary, CONASIN's head, is the only official empowered to convene it. In doing so only when needing political cover during institutional crises (such as after *El Porvenir*), the secretary has effectively excluded CONASIN from policy, planning, and internal control. Thus although CONASIN, much like the Human Rights Commission, conducts in-depth reports critical of criminal policy, its primary function of accountability has been largely neutralized. Internal police controls are also weak. Despite regulations in the LOPN and government claims that it has punished hundreds of officials for abuses—Álvarez said that 307 officers of all ranks were suspended for illegal activity in the first half of 2003—the disciplinary processes are not made public. In addition, according to CONASIN and UAI officials, many of the officers whose names CONASIN present to the UAI for rights violations were not investigated because of a lack of investigators and resources.

Such limited accountability does not bode well for the control of police corruption, whose forms in Honduras range from routine motorist shake-downs to unreported decommissioned vehicles. But it is drugs that most corrupt officials, from first-year patrol officers up to members of Congress and the executive cabinet. In May 2006 in one of the few force-wide drug tests, the results of one in five officers were positive. Even big police actions against traffickers are often tainted, with suspects managing to flee the country even when their goods are confiscated. Infiltration of the police organized crime runs deep; most police units are linked to networks of car

robberies, kidnappings, and narco-trafficking. Such levels of corruption make reformers hesitant. Programs are “not sustainable,” in the words of a high-ranking U.S. official stationed in the country, because “nearly the whole political elite is corrupt, [most] tied to narco-trafficking.”⁸⁹ Although many of the country’s *fiscal* work on corruption, about nine in every ten corruption cases in the Fiscalía are rejected for lack of evidence or are transferred to other agencies (UNDP 2003, chap. 7). Within the police academies, the discussion of corruption appears to be far milder than its reality. When asked about expanding the discussion, the directors often refer to the “professionalization” courses taught by specialists from Spain.

Such responses do not stem from a lack of instruments against corruption. One such instrument is the 2006 Law of Transparency and Access to Public Information (Ley de Transparencia y Acceso a la Información Pública), which is supported by seven million lempiras (about \$380,000) in World Bank funds and by training for public employees by a group of civil society organizations called “Alianza 72.”⁹⁰ But such laws often bark up the wrong tree, because access to information means little if the information is suspect. A more frontal attack against police corruption is internal purges, which have been a part of every security reform in Honduras. When he was security secretary, Fonseca created an intelligence unit made up of retired military officials to investigate the police. The unit’s investigations led to the dismissal of 2,500 officials in 2000–2001, a whopping 30 percent of the force, mostly for connections with organized crime.⁹¹ However, the processes and causes of the dismissals were not made public, and the vast majority involved no charges or trials. The purge came to a halt not because it rid the force of all corrupt officers, but because of a change in officials at the top, who then reinstated many of the officers who were fired. The DGIC lost 150 agents during this time, many of whom later got their jobs back, particularly after the Supreme Court’s Constitutional Chamber ruled the purge unconstitutional for not following the police law’s guidelines and for “transgressing constitutional precepts.”⁹² Although technically accurate, this decision was a politicized use of rules over principles. In addition, many

89. Interview by author, Tegucigalpa, July 8, 2005.

90. “Sociedad civil capacitará funcionarios públicos en aplicación de Ley de Transparencia,” *Conexión*, no. 80, July 1–15, 2007.

91. Serapio Umazor, “Honduras al frente de la lista de corrupción policial en Centroamérica,” *La Prensa*, February 13, 2002.

92. Supreme Court president Vilma Morales, quoted in Centro de Documentación de Honduras (2004).

police claimed that the purge caught up many officers who were slandered unfairly as corrupt, and the government calculated correctly that, amid high crime rates, most of the population was uneasy with a shake-up that might reduce police presence.

The lightning rod of controversy on policing in Honduras has been the Internal Affairs Unit. Since its formation, the UAI has been debilitated by a weak structure, insufficient resources, and open-ended regulations. From its single office in Tegucigalpa, the UAI's twenty-member staff depends administratively and financially on the Security Secretariat, which has never given it an adequate budget. When there is an "irregularity" by a police officer, such as a homicide, the officer "gives everything over to the UAI—it does its part," claim government officials. Although the UAI can receive reports from any citizen or group, it is not allowed to take preventive action, such as investigating officers with disturbing behavior or assets that are disproportionate to their salaries. The UAI has also been undercut by the continuing existence of the Office of Professional Responsibility, which investigates the Preventive Police with little transparency, and of the Office of the Inspector General, which disciplines the DGIC. These units conduct internal investigations of police misconduct and can recommend sanctions against those found guilty, but only the accused officer's immediate superior can actually punish him or her. In 1996 the MP created the ORP within the then-DIC to monitor the behavior of its agents. It reported to the attorney general as well as to the agency's human rights section. Accused by the MP and human rights groups of not pushing for more objective investigations of police wrongdoing, the ORP was slated for elimination by the LOPN. But it was saved by the DIC's move to the Security Secretariat.

What led to the most controversy over accountability was the UAI's focus on the accelerating number of youth killings. Undisputed of the record by state officials, the NGO Casa Alianza reports that 3,200 children and youth were killed between 1998 and June 2006, with an average of over forty killings a month during Zelaya's term—a rate exceeding that of the authoritarian era. Of the more than 1,600 extrajudicial killings of young people under the age of 23 reported between 1998 and 2003, 61 percent were inadequately investigated, and 39 percent had evidence of police responsibility.⁹³ In 2002 no perpetrator was identified in 60–70 percent of the

93. Casa Alianza, <http://www.casa-alianza.org/EN/about/offices/honduras/>. See also Amnesty International (2003). According to press reports and Casa Alianza, 549 persons ages 23 and under were killed in 2002 and 557 in 2003—often with AK-47 machine guns.

killings, and gangs were suspected in 15–20 percent of them. Such killings take place in a perpetually menacing atmosphere against youth. Young people complain of continual harassment and attack, often by unmarked gray vans roaming areas such as the basketball courts where they congregate.⁹⁴ According to one victim's mother, he and a friend were beaten in front of his house by unknown assailants, who then set fire to their bodies. "But the police don't do anything," she said, "not even punish those responsible."⁹⁵ Rights groups and many former police and government officials claim that the government turns a blind eye to police killings. Fonseca summed up many officials' beliefs when he said, "The shortest road to terminate crime is to terminate criminals."⁹⁶ But responsibility goes beyond the police. The UN Special Rapporteur on extrajudicial, arbitrary, or summary killings has sharply criticized the judiciary for its inaction and the media for inciting and even praising such killings.⁹⁷ Many officials, on condition of anonymity, also confirm accusations that the police's roughly twenty death squads—particularly "The Magnificents"—control most of the activities of CEINCO, the Department of Analysis and Information, the Frontier Police, and the Anti-Kidnapping Office (Sección de Antisecuestros). Such accusations, repeated independently and often without prompting, do not convey much confidence in the veracity of criminal information or in the strength of the internal control of police misconduct. Meanwhile, NGOs talk about an "enormous social indifference to the killings" and, despite the new penal process code, very limited access by poor Hondurans to the courts.⁹⁸

In September 2002, after several years of careful investigation, UAI chief María Luisa Borjas, a police veteran with twenty-five years of service, charged the Security Secretariat and National Police officials in at least twenty extrajudicial executions of children and youths. She immediately began to receive telephone death threats, her office support staff was reduced, and two months later she was suspended, allegedly for having failed to present proof of her claims (in violation of LOPN Articles 8 and 22). Members of the police hierarchy then piled on, demanding legal action

94. Street youth, interviews by author, Tegucigalpa, July 16–17, 2003.

95. Felita de Jesús Peralta, interview by author, Tegucigalpa, July 17, 2003.

96. Guatama de Fonseca, former security secretary of Honduras, interview by author, Tegucigalpa, July 21, 2003.

97. "Relatora de naciones unidas pide a gobierno poner coto a las ejecuciones extrajudiciales," Equipo Nizkor, August 16, 2001, <http://www.derechos.org/nizkor>.

98. José Gustavo Zelaya, legal director, Casa Alianza, interviews by author, Tegucigalpa, August 4–5, 2004, and February 15, 2005.

against her for “staining and provoking irreparable deterioration of the country’s image” abroad.⁹⁹ “When we began to investigate the participation of police in the deaths of youth, we obtained the names of several of the officers who formed these groups,” she recounted. “But the Minister far from supporting us, asked for my resignation. I did not pass on the information to him, since we realized [the information] was going directly to those involved in these deaths.”¹⁰⁰

But Borjas’s firing only drew greater attention to the problem. As a response, the PN began expunging officers, and in September 2002 the Security Secretariat formed a Special Unit to Investigate Children’s Deaths (Unidad Especial de Investigaciones de Muertes de Menores), which documented 967 violent deaths between 1998 and 2004, 24 percent of which were connected to security officers. Of those cases, the unit investigated 47 and presented 120 cases to the Fiscalía.¹⁰¹ But only three of those cases led to a conviction. A lack of evidence and witnesses impeded prosecution of the others, and the unit chief denounced the interference of DGIC officials some of whom were carrying out parallel investigations. After the unit ran out of money at the end of 2004, it no longer had the financial wherewithal to overcome such obstacles.

Honduras’s Fiscalía can investigate police wrongdoing as well, but lacks the institutional and political power to instigate change because “there are neither human nor logistical resources,” a former youth prosecutor said, to handle “the enormous quantity of cases.”¹⁰² A human rights prosecutor whose investigations demonstrated “systematic killings by a specific group” complained that investigations of the police faced constant delay and obstruction—criticism that led to death threats against her and public accusations by the security secretary that she acted “subjectively and with suspicion” against the police.¹⁰³ In fact, in January 2002 the *fisca* topped the list of those accused by the security secretary of usurpation of powers.¹⁰⁴ Since

99. “Oficiales enfilan ‘batería contra Borjas,” *La Prensa*, June 23, 2003.

100. María Luisa Borjas, ex-chief of internal affairs, Policía Nacional, interview by author, Tegucigalpa, July 18, 2003.

101. “Policías detrás de ejecuciones,” *El Heraldo*, January 3, 2005; Róger Lindo, “Ex jefe policial afirma que agentes también participan en ejecuciones,” *La Opinión*, October 10, 2004.

102. Eduardo Villanueva, fiscal de la Niñez, interview by author, Tegucigalpa, July 15, 2003.

103. Aída Estella Romero, interview by author, Tegucigalpa, July 22, 2003; “Álvarez molestó con fiscalía de Derechos Humanos,” *La Prensa*, February 26, 2004, 14.

104. Comisionado de Derechos Humanos, Bulletin No. 1638, January 14, 2002.

then, the conflict between the *fiscales* on the one hand, and the attorney general and the executive, on the other has only worsened. Evidence of that deterioration was the April 2008 hunger strike by *fiscale* protesting the dismissal of colleagues working on cases of corruption involving political figures

Meanwhile, the UAI has been relegated to mediating minor disputes and civilian complaints. It receives about three hundred complaints a year and resolves about seventy-five of them, mainly through its daily conciliatio sessions. The UAI has the “full cooperation” of other judicial entities, points out Elia Ramírez, Borjas’ replacement as UAI chief. But she adds that many cases that begin in the UAI are not tried, often because of lack of evidence, which “is frustrating because sometimes we work hard on those cases.”¹⁰⁵ Although the UAI insists on its autonomy, asserting that the security secretary has “never said to do something,” its limitations are apparent. “We investigate,” the chief says, “but don’t blame.” Although the unit has specialists who help officers avoid repeating abuses, it never grapple with larger patterns of misconduct because most of its time is spent on conflicts whose resolution, as in judiciaries without *stare decisis*, have no legal binding on related cases. Many top officials conjecture that what keeps th UAI in such a position is the lack of support from either the state or society. The post-Borjas UAI thus suffers from the worst of several worlds—a lack of power needed to confront the government, a lack of results needed to gain societal backing, and even a lack of confidence from at least som of the police, which is needed to gain their cooperation and information.

Such roadblocks demonstrate the pattern of accountability discussed in chapter 3 in which answerability and punishment do not lead to uncovering the root causes of abuse. Aware of the need to take those steps, the Zelaya administration promised yet another police purge and formed committees to handle police wrongdoing, such as forums and a Misdemeanor Commission (Comisión de Faltas). In other positive developments, it stressed police officer rights and created an internal affairs office whose persone would follow a separate track and so could not be transferred without their consent. In June 2008, Congress reformed the police structure through a revamped *Ley Orgánica de la Policía Nacional*, which gave the minister greater power over the *Direcciones Generales*, and, theoretically more ability to purge the agency. But the law reduced the official powers of ONASIN,

105. Elia Ramírez de Zelaya, chief, Unidad de Asuntos Internos, interview by author, Tegucigalpa, June 16, 2006.

handing its policy formulation role to a strategic directorate composed of police officials. It also failed to make the improvements needed to strengthen and clarify the main steps in police promotion and discipline. María Luisa Borjas, now a CONASIN member, criticized the law for giving the police a military structure and for not allowing civil society participation. The Human Rights Commission argued that the law would hand the country over to narco-traffickers by giving too much power to police administrators.¹⁰⁶ And a group of twenty civil society organizations criticized it for allowing greater discretion, downplaying the contributions of municipalities, and, more broadly, failing to promote community policing, regulate police-military relations, oversee police intelligence, or improve the MP's investigative capacity. But in giving the security secretariat direct power over the heads of the divisions, it also brought more administrative coherence to the police. Óscar Álvarez, reappointed security minister by President Lobo, added that it also allowed him to restructure a "passive" and "demoralized" force.¹⁰⁷

Community Policing and Honduran Society

The citizen participation so fundamental to problem-oriented policing was integrated into Honduras's initial reform through CONASIN at the national level, the Development Commissions (Comisiones de Desarrollo Departamental) at the department level, and the Development Councils (Consejos de Desarrollo Municipal) at the municipal level. Citizens were also given a chance to shape policy through the grand-sounding and much-heralded National Convergence Forum (El Foro Nacional de Convergencia, FONAC). Originally created under the Flores administration but revived in 2002 by Maduro, FONAC was designed to develop policies that advanced governance and development through dialogue between the government and civil society sectors such as teachers and indigenous groups. However, despite many meetings on citizen security, most of FONAC's long-term plans were cut short by the government's insistence on short-term results. Although the government exerted too much control over these channels of citizen partic-

106. Marcos García, "La nueva Ley de Policía entregará el país a narcos," *La Prensa*, May 19, 2008.

107. Óscar Álvarez, security minister, interview by the author, Tegucigalpa, April 9, 2010.

ipation, in other ways it did not exercise enough. Citizens could get involved in daily security in many ways, including through their neighborhood councils (*juntas de vecinos*), through their *patronatos*, which were officially non partisan committees elected by the community, and through their local security councils, which had elected presidents and focused on both prevention and police support. Soon after it was formed, the Security Secretariat also created Citizen Security Committees, which worked with police in surveillance, patrols, and detentions. Nearly six hundred committees were formed throughout the country over a short period of time. However, because they were often equipped with high-caliber weapons, they attracted a lot of people with questionable backgrounds and personal agendas. The lack of a clear and uniform national legal status added to their abuses. As a result, when Fonseca became security secretary he reined in the committees.

Such false starts led to a reevaluation of community policing and the police structure. In San Pedro Sula, for example, the police divided the city into six sectors with teams of police to patrol them. This change, local officials claim, has led to a 70 percent drop in crime.¹⁰⁸ In other areas of the country the police have created special units with positive impacts. For example, the heads of the units on family and children said that patrols exclusively focusing on domestic violence have significantly increased reporting. Although the unit heads could not cite raw numbers, they estimated that the rate of reports on domestic violence jumped from fewer than half to three out of every four¹⁰⁹ In the national survey described shortly women were more than twice as likely as men to see cooperation with the police and police visits in the home as central to community policing. “Having women officers walk down our street every afternoon” as part of the community policing program, said one woman in the low-income *colonia* of El Pedregal, “has helped give us some sense of recourse.”

Much of this approach was integrated into the 2002 national community policing program Safer Community (Comunidad Más Segura, CMS), which has turned out to be one of Honduras’s most successful and durable citizen security reforms. Hampered by weak organizations and socioeconomic instability, residents in poor neighborhoods say that most power falls to the *patronato* and the police. And if an area’s assigned police officer “exercise

108. José Luis Muñoz Licona, subcommissioner for the northern region, interview by author, San Pedro Sula, February 28, 2004.

109. Julián Hernández Reyes, head, Dirección Infantil (Children’s Office), and Lincoln Pacheco Murillo, head, Dirección de la Familia (Family Unit), interviews by author, July 11, 2005.

discretion” to build citizen relations, said one community activist, “he becomes a leader.” The CMS takes advantage of this natural base of police power through its three basic components: (1) assigning officers to improve community relations by means of foot patrols, (2) implementing special programs and education seminars on issues such as drugs, and (3) organizing community councils and meetings. In its first year of operation in which 126 police officials were working in seven cities, the program claimed that it “benefited” 264,000 people.¹¹⁰ In 2005 community policing chiefs said that crime declined even in the toughest areas.¹¹¹ Although such numbers are exaggerated, independent observations point to marked reductions in homicides, robberies, and domestic violence in CMS areas. The government also said the program “rehabilitated” 2,500 gang members.¹¹² Even though this number has not been independently verified, the CMS has been used to launch and boost anti-*mara* actions based on the education and rehabilitation of young offenders. As a result of the range of its advances, the CMS has expanded to thirty of Honduras’s most crime-ridden *colonias*.

Such success seems to be mainly attributable to citizen involvement and police autonomy, both of which the CMS has encouraged, probably more than intended. At one level, local commissioners have been given more leeway. In neighborhoods infested by powerful narco-traffickers, for example commissioners can declare curfews, and officers can alternate shift schedules and house visits to avoid having anyone targeted as cooperating with the police. Other innovations are in infrastructure, such as providing or replacing street lighting lost to neglect, vandalism, and robbery. San Pedro Sula, for example, used the CMS to get thousands of streetlights repaired.¹¹³ When integrated into larger municipal planning and local politics, the social service dimension of community policing can give the CMS program a big boost. After attending a local security meeting, for example, the mayor of Choloma emphasized how city services such as education and housing are “part of our goals for human security.”¹¹⁴

110. “A un año de su implementación,” *La Prensa*, January 8, 2004.

111. Ramón Martínez Hernández, chief, Community Division (police), interview by author, Tegucigalpa, June 20, 2005.

112. “Comunidad Más Segura ha rehabilitado a 2,500 mareros,” *La Prensa*, October 13, 2003.

113. These efforts have been funded and organized by Honduras’s legislature, the National Electric Energy Company (Empresa Nacional de Energía Eléctrica), and the Central American Bank of Economic Integration. Many residents have provided metal cages to protect individual lights.

114. Sandra Deras Rivera, mayor, Choloma, interview by author, February 17, 2004.

Community policing also owes its continuation to public support. Up to 75 percent of the respondents in some polls recognize its “favorable effect.”¹¹⁵ Meanwhile, in a survey of 237 citizens in CMS neighborhoods in four cities—Tegucigalpa, San Pedro Sula, Danlí, and Choluteca—respondents generally expressed approval.¹¹⁶ In that survey, which took the form of both a general questionnaire and individual interviews, over 90 percent of respondents said that the police were listening more to residents, 89.9 percent said their confidence in the police had increased, 75.9 percent said that communications between police and citizens were better, and 78 percent said that their opinion of the police had improved. Police officer interviewed reported their own higher professional satisfaction, as well as higher crime reporting. Such increases were verified by residents, who were asked to evaluate the impact of community policing on different crimes as very, somewhat, more or less, or not successful. On violent crime, 19 percent reported that community policing was “very successful,” and 55.7 percent said it was “somewhat successful.” Evaluations of the impact on gang activity were also positive: 32.9 percent said community policing has been “very successful” at controlling gangs, and 30.4 percent said it was “somewhat successful.”

The reasons for such opinions are on view in the Valle de Sula. Long saddled with the country’s highest levels of violent crime, many of the valley’s poorer areas have stopped or reversed crime rates through community policing. The CMS *barrio* of Choloma, for example, showed quick results soon after adopting community policing: the area had nine murders in January 2002 but only four a month in the first four months of 2003, and it had seventeen robberies in January 2002 but none at all in the first four months of 2003.¹¹⁷ Part of that success was attributable to the bimonthly community policing committee meetings, which attracted about twenty-five residents.¹¹⁸ In the eight months following the killing of nine persons on Au-

115. “A un año de su implementación,” *La Prensa*, January 8, 2004.

116. This survey was carried out by the Centro de Documentación de Honduras (Cedoh) and Mark Ungar as part of the project “Community Policing in Latin America,” a collaborative effort funded by a grant from the City University of New York and directed by Mark Ungar and Desmond Arias in 2004 and 2005.

117. Sandra Deras Rivera, mayor of Choloma, interview by author, Choloma, February 19, 2004.

118. At a meeting in the San Pedro Sula neighborhood of Choloma, for example, those attending one of the program’s regular meetings discussed the many social programs that have dramatically reduced the area’s crime rates. Interviews by author, community policing meeting, Choloma, February 19, 2004.

gust 5, 2002, Rivera Hernández reduced its level of violence dramatically; the monthly tally of violent incidents dropped from forty-five to three. In what was one of the most dangerous towns in Honduras, such declines earned the program the reputation of a national model. Much credit was given to the regional director, detective Óscar Gámez, who worked with a security committee made up of churches, city councils, sports leagues, youth groups, and private businesses. Before he took on this role, Gámez said, the *maras* were responsible for 70 percent of the area's crime and organized criminals for 10 percent, but the program reduced those statistics to 10 percent and 8 percent, respectively.¹¹⁹ He attributed the success not just to the resident committees, but also to the power granted to him by the LPCS. In particular he declared curfews frequently and put 90 percent of the police on the street (instead of in police stations). The result, Gámez claimed, was a near-complete reversal in insecurity, with 98 percent of the neighborhood feeling insecure before the program, and 93 percent feeling secure after it was in place.

Despite such promise, entrenched obstacles remain, not the least of which is the convoluted government response to the country's severe socio-economic conditions. The resulting deprivation can be seen throughout the twin cities of Tegucigalpa and Comayageula, both of which have CMS programs (see Map 4.1). One of the largest CMS programs is in the Tegucigalpa area of Kennedy, whose 38 *colonias*, with 162,140 residents spread out over almost 13 square miles, are run by the *patronato* and six citizen security committees, one for each of the area's *supermanzanas* (large residential blocks). Because it has plenty of citizen groups, many with connections to the capital's political institutions, Kennedy is in a good position to benefit from community policing. More broadly, its vibrant community is able to overcome many of the limits discussed in chapter 3. In addition to the CMS, in fact, the area has extensive educational programs against *maras*, sexual exploitation, domestic violence, and drugs.¹²⁰ But for both residents and police their problems remain far more formidable than their programs. According to one CMS office, the area's unemployment rate is at least 40 percent, which she says inflames violence by men against their wives and children. And another police officer claimed that a high level of drugs was being brought into the area by Kennedy's 2,500 *mareros*. Gangs bring in large

119. Óscar Gámez, Rivera Hernández police inspector, interview by author, San Pedro Sula, February 18–20, 2004.

120. Mainly through the drug program DARE (Drug Abuse Resistance Education), which began in the United States and now operates in forty-three other countries, most of them in Latin America.

amounts of money as well by charging residents for general “protection,” making them even more difficult to dislodge. Although it is far better off than other Tegucigalpa *colonias* such as Pedregal and San Miguel, Kennedy lacks the kind of infrastructure that facilitates community policing. For example, the *colonia* has sports leagues, but no field on which they can play.¹²¹

Such conditions cause great frustration among the police. In Kennedy’s main police station, the three starkly furnished rooms have little more than a few desks; collective information is kept in a log book that is often misplaced. Lower-level officers often use these conditions, along with the pressures of their job, as an excuse to brush off civilians trying to file a crime report or provide information. For those higher in command, the law is the main problem. Kennedy’s police commissioner says that the “very guaranteeist” CPP makes it difficult to find all the persons suspected of a crime within the time frame allowed to do so—particularly because obtaining a police vehicle can take up to two hours.¹²² Meanwhile, the *colonia*’s CMS officers complain that many of the painstaking advances they make in community relations are often wiped out by uncoordinated, unannounced, ham-fisted special operations and raids by different police and military units that needlessly abuse and antagonize residents.

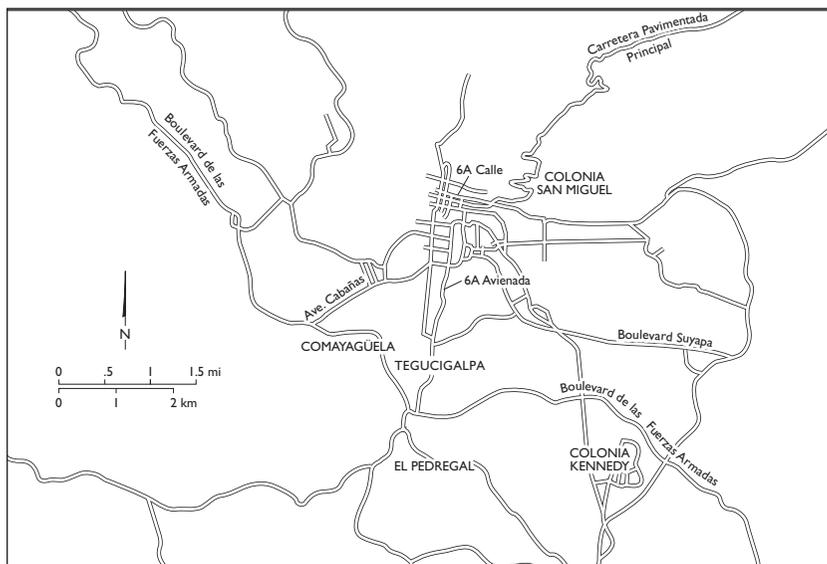
Officers may be divided over where to place blame, but, as in other countries, the bulk of them are skeptical of community policing as a solution. Those working in the CMS, from its directors down to its patrol officers feel that their ability to prove such views wrong are constrained by limited budgets and immediate demands. Scheduled rotations make it particularly difficult for them to demonstrate results, thereby enhancing the innovation and reputation of community policing. Changes at the top, such as the transfer of a regional director to the national community policing unit, also deflate the momentum behind community policing in several areas. Many CMS officers are frustrated as well with media coverage. Óscar Gámez who headed the successful CMS program in the Sula Valley area of Rivera Hernández, vehemently criticized the press “for putting it on the front page when the police kill someone but not when someone kills a police officer.”¹²³ More serious, according to several human rights and community critics, the

121. María Sierra and Elena Medina, officers, Colonia Kennedy, interviews by author, Tegucigalpa, June 2006.

122. Rolando Carcomo Piura, subcommissioner, Colonia Kennedy, interview by author, Tegucigalpa, June 2005.

123. Rivera Hernández residents and police inspector Óscar Gámez, interviews by author, San Pedro Sula, February 18–19, 2004.

Map 4.1. Tegucigalpa and Comayaguela (clockwise from upper right: the *colonias* of San Miguel and Kennedy in Tegucigalpa, and El Pedregal in Comayaguela)



Source: Google Maps.

program had become a channel for abuse by participating citizens. This was a partial legacy from the citizen security committees that began in 1994 and often were dominated by former military and police officers who used the for extrajudicial killings. In fact, prosecutors and human rights commissioners estimate that thousands of unreported vigilante attacks since 2002 have been connected to community policing.¹²⁴ In the poor *colonia* of El Confité which has La Ceiba's main community policing program, the head of the citizen CMS group described how citizens use it to attack local delinquents.¹²⁵ And in one of the biggest blows to community policing in Honduras, police detective Gámez was arrested in connection with the 2004 killing of two suspected *mareros*, bringing his "model" program to a swift end.

124. Victor Parelló, northern region human rights commissioner, interview by author, San Pedro Sula, February 20, 2004. All three officials agree that vigilantism has gotten out of hand, but do not want to estimate the number of cases.

125. Céleo Santo Sosa, Colonia El Confité, La Ceiba. Atlántida Department, interview by author, February 25, 2004.

The vast majority of residents, however, are dedicated to community policing that respects individual rights. But many are held back in supporting the CMS by their doubts over how far the police and the government are willing to apply the program. Of the six biggest problems identified by residents in the survey described earlier, four of them were the following: too little logistical support, 31.6 percent; too little economic support, 27.8 percent; too few personnel, 9.3 percent; and too little community support, 5.6 percent. Although police personnel also had a very positive view of the CMS (predictably—the interview pool was skewed toward CMS supporters), they too stressed its lack of financial and logistical support. For example, two CMS areas had just one vehicle, and most others had none. “There is not enough consideration of regional needs in national budgetary planning,” said one PN commissioner of operations, “leading to frustration among our cops in certain areas.”¹²⁶

Officers and citizens alike are also aware that community policing may not address underlying practices. Contrasting views of the impact of community policing on different crimes reveal awareness of how police corruption has limited the CMS. Although homicides and robberies had decreased, a fact widely recognized by program area residents, only 26.6 percent of respondents in the four-city survey felt that the CMS was very or somewhat successful against narco-trafficking. On police abuse, equal numbers reported both progress and lack of it. Choluteca, a city known for high levels of police corruption, reveals other CMS weaknesses. When asked to describe the functioning of community policing in their area, the responses from Choluteca residents were strikingly different than those in the other cities. Just 3.8 percent of residents said that one role was “protecting the community” (compared with 12 percent in Tegucigalpa and 26.1 percent in San Pedro Sula), and only 9.5 percent (compared with nearly 50 percent in other cities) said that residents should involve themselves in citizen security.

But the survey results reveal a dearth of citizen involvement. Asked about their participation, the residents of Choluteca reported less kinds of participation than did those of the other cities, except for providing “logistical support” (50 percent). Although nearly everybody in the other cities said that “police listen more to citizens,” most tellingly nearly one-third in Choluteca said they did not. As in Tegucigalpa, meetings with residents re-

126. Marcos Arnaldo Herrera Rodríguez, commissioner of operations, Policía Nacional, interview by author, Choluteca, June 16, 2006.

vealed low citizen participation and trust in the CMS. Meetings were frequently canceled, and those that did take place involved little more than police officers updating residents on the programs future plans. When survey respondents were asked to describe their participation in community policing in fact, the largest response, 29.8 percent, was “none,” followed by “logistical support,” 22.6 percent, and “patrols,” 10.7 percent. Asked to describe their roles, those who did participate answered vaguely about helping the police, but gave little indication that they should actually help develop policy. In many areas a domineering and sometimes intimidating police presence causes such self-restriction. As long as the police decide when and how citizens participate, the right citizen–police balance will never be struck. Many community policing meetings in Tegucigalpa’s Kennedy *colonia*, for example, consist almost entirely of showing scratchy videos with no real discussion beyond having attendees follow the text in comic book form.¹²⁷ Nor can citizens turn easily to other agencies to help them get organized. Over 54 percent of survey respondents said they knew of no participation by other government agencies, and 62 percent said that no NGOs participated. The only exception was Danlí, where the nearly opposite findings of 71 percent indicated some sort of NGO involvement. This marked difference stems from the origins of Danlí’s program. After physical confrontations with the police, the city’s residents decided to organize their own security groups. And although most of those groups have been absorbed into the CMS, the city’s community policing program is far more independent and robust because it maintains a local staff, budget, and set of neighborhood programs.

In most of the country, though, efforts to boost citizen participation will be complicated by the fractured nature of Honduras’s low-income communities. Honduras is the Western Hemisphere’s third poorest country, with a 2009 per capita GDP of just \$1,921. Its cities comprise sprawling areas of extreme deprivation. Despite annual macroeconomic growth of about 3 percent since 1998, which has helped Hondurans at all income levels, 59 percent of the entire population (and 75 percent of those in rural areas) was impoverished in 2008.¹²⁸ About 44 percent of Hondurans live on less than \$2 a day (half of them on \$1 a day), and official unemployment reaches u

127. Comunidad Más Segura meeting, June 29, 2005.

128. Central Intelligence Agency, *The World Factbook*, <https://www.cia.gov>; International Fund for Agricultural Development (IFAD), “Regional Agricultural Development Project in Central America,” http://www.ifad.org/media/success/honduras_2.htm.

to 27.5 percent. The high rates of poverty are matched by the high rates of inequality. In Honduras, whose Gini coefficient for income is 55, the richest 20 percent of households receive 54.3 percent of national income, while the poorest 20 percent receive only 3.2 percent. Because about half of the seven million Hondurans are under 19 years of age, such conditions aggravate youth misery and portend poorly for the future. Of every one hundred children entering school, only sixty complete their secondary education, and just three of them graduate from a university. Of low-income youth, only 8 percent finish high school (Arriagada 2001). Young people head 10 percent of Honduran households, and 68 percent of these households are below the poverty line.

Beyond the daily suffering, such conditions open up fissures that are hard to close. In particular, the constant heavy emigration has been a big drain on society. According to most estimates, about eighty thousand Hondurans try to get to the United States each year to join the estimated half-million Honduran men working abroad (Sladkova 2007). But only a quarter of them make it. Feeling they have let down their families, most continue trying to leave instead of finding work locally. Such outflows have left very few families and neighborhoods intact. It also leads to the incorrect assumption that the young men who do not leave must be *mareros* operating in the area. As some youth organizers point out, however, about two-thirds of the youths who are killed do not belong to any *bandilla* or *mara*.¹²⁹ But the vicious tactics and territorial divisions of the *maras* that do exist have succeeded in getting society to close itself off in its own self-imposed geographic divide and fear-driven isolation. Such divisions only reinforce themselves. A poll by the national Human Rights Commission revealed that insecurity has led nearly 50 percent of respondents to stop using public transport, about 33 percent to stop using taxis, and over 40 percent to stop visiting family and friends.¹³⁰

The impact of such conditions is evident in the bigger crime drops in areas with more citizen participation and more supportive commissioners. Such progress prompted the Zelaya government to come out, at least rhetorically, for expansion of the CMS. It reintroduced the citizen security groups (*mesas de seguridad ciudadana*) through which begins, said CMS executive director Carlos Chinchilla, “the process of creating new parameters . . .

129. Ernesto Bardales, director, Jóvenes Hondureños Adelante–Juntos Avancemos (JHA-JA), interview by author, San Pedro Sula, June 27, 2004.

130. “Autoridades Inician Fuertes Operativos Contra la Delincuencia,” *La Prensa*, February 1, 2008.

to change the reactive attitude” of the entire police, particularly its middle ranks. “Up until now, the course was on detentions and repression,” he described. “Now, it will be working with the community.”¹³¹ Similar views were expressed by actors whose strong connections to the police and presidency could integrate such views into the security system. Mario Perdomo, a police general who was appointed security vice secretary in 2008 and who headed an internationally sponsored effort to write a security report of reform, emphasized the need for deep changes in the police’s basic outlook.¹³² Similarly, presidential adviser Ramón Romero, despite an arguably misplaced desire to have the president more forcefully impose community policing, personally supervised CMS meetings, and he conveyed his personal stake in the program to the president.¹³³

The worry was that if they became politicized, co-opted, or underfunded, the groups (*mesas*) spearheading this change might begin to resemble little more than the disastrous 1990s *comités*. Thus the *mesas* had to begin by addressing people’s fears of the police. But in doing so they did not get off to a good start. Of the small minority of meeting attendees who spoke, nearly all seemed to view the police far less critically than most Hondurans, indicating a lack of outreach. The meetings themselves were not designed to overcome residents’ passivity. For example, the first forums at Choluteca were very formal, failing to pose real questions or stimulate meaningful discussion. Planning strategies to recruit citizens included no mention of their fear of working with the police, which was particularly important in Choluteca, where surveys showed that community policing had little impact on police corruption. Danlí, which now offers a diploma in community policing after a six-month course, is a better model of how to switch the source of citizen security from officials above to citizens below. But even a program with such a strong beginning will peter out without changes in the rest of the police force. After three years of community policing, Police General Perdomo said resignedly, there was a lack of “awareness” of it among the top brass.¹³⁴ In high-crime areas even community policing officials often expressed either impatience or indifference toward that approach.

131. Carlos Chinchilla, executive director, Comunidad Más Segura, interviews by author, Tegucigalpa, July 22, 2003, and Choluteca, June 2006.

132. Mario Perdomo, police general and former director, ISEP, interview by author, New York, November 10, 2006.

133. Ramón A. Romero Cantarero, interview by author Tegucigalpa and Choluteca, June 2006.

134. Mario Perdomo, police general, interview by author, Tegucigalpa, July 12, 2006, and April 6, 2010.

Indeed, despite the favorable reputation earned by community policing in the area, the chief heading the program in the Sulá Valley district of Chamelocón showed little enthusiasm for it while dealing with serious crime.¹³⁵ And although newer police officers by and large are more amenable to problem-oriented policing, many academy recruits seem unclear on the concept of community policing. After a day of workshop discussions on community policing, one of the first questions raised by an ANAPO cadet in the concluding session was: “Is it okay to bring attack dogs when visiting a resident’s home?”¹³⁶

Any improvement in community policing will also require a real look at gender. The Feminine Auxiliary Police was formed in 1977, and in 1995 women were allowed to matriculate into the National Police School (Escuela Nacional de Policía) to become officials. But fewer than four hundred officers, less than 5 percent of the total, are women, and only fifteen of the are in the top ranks. As in most other countries, chronic sexism is a large and largely unaddressed issue in the Honduran police force. The only unit in which women constitute a substantial proportion is the CMS, where they make up nearly half of the corps. This is a positive trend in the sense that community policing is the most promising of Honduran reforms and women are more trusted by the community. But underneath is a thinly veiled attempt to marginalize both women and community policing, which, in turn, deepens stereotypes, creates separate trajectories of professional development, and engrains traditional policing. One of the regular roles of the CMS is to make presentations at schools, but just about all of the presentations in Tegucigalpa are done by women. Meanwhile, violence against women, Honduras’s most serious and hidden form of violence, demonstrates the potential and challenge of problem-oriented policing. The MP’s Technical Unit of Penal Reform (Unidad Técnica de Reforma Penal, UTR) and the MP’s Office for Women (Fiscalía de la Mujer) reported a nearly fourfold increase in reported attacks against women between 2002 and 2003, which probably reflected better access to reporting mechanisms but was still only a fraction of the total. The growth continued through 2008, when nearly ten thousand cases were reported.¹³⁷ For many years, unclear government guidance curtailed aggressive enforcement and an integrated response by

135. Raúl Martínez, inspector, Comunidad Más Segura, and director, Chamelocón San Pedro Sula, interview by author, Chamelocón, February 18, 2004.

136. Honduras Investigative Police (DGIC) Academy, July 6, 2005.

137. Fiscal Especial de la Mujer, Tegucigalpa; “Preocupante aumento de violencia doméstica en Honduras,” *Prensa Latina*, May 12, 2008; “Se acrecientan casos de violencia doméstica en Honduras,” Radio América, October 9, 2008.

the courts, police, and hospitals. But better -publicized campaigns against this scourge, many developed in 2010, have helped.¹³⁸

Future Policy Outlook

Perhaps the greatest promise, though, comes from recognition by official under both the Zelaya and Lobo administrations of how the dilemma between traditional and problem-oriented policing has slowed progress. The Zelaya government began responding to that dilemma through a series of reforms that reversed many of his predecessor's practices and policies. The Strategic Plan of Integral Public Security , which laid out the goals for 2006–10, recognized the range of police weaknesses, from low institutional transparency to high personnel turnover . Although it soft-pedaled police corruption and abuse as a “lack of credibility ,” it addressed them with twenty-five separate plans at a cost of 272.8 million lempiras (about \$15 million) in the first of its three phases. Along with expansion of the *mesas*, according to the vice security secretary , the government wanted to strengthen social services, statistics collection, and the DGIC. To improve accountability, he wanted a stronger UAI, ORP , and inspector general.¹³⁹ The Office of the Inspector General proposed in 1998 was intended to be transparent, but the one that was actually formed conducted most of its investigations confidentially . Most ambitiously, Zelaya wanted to restructure the police with a hybrid structure that combined centralized control with a network of posts and mobile units. The largest mobile force, with about two hundred officers each, would roam Tegucigalpa and San Pedro Sula.

The Lobo administration has continued in this direction and, despite the controversy surrounding its election during the de facto government, its rightist political position may give it more credibility and success in reform. Óscar Álvarez, the former security minister and the top vote-getter in the 2009 congressional elections, was reappointed security minister and has embarked on a critique of the policy of *mano dura*. Realizing its limits, he is now promoting more preventive initiatives, such as Barrio Saludable (Healthy Neighborhood), which strengthens social services in high-crime areas. Responding

138. Carlos Ortega Medina, executive director, Centro Electrónico de Documentación e Información Judicial, interview by author, Tegucigalpa, April 5, 2010.

139. José Roberto Romero Luna, police commissioner and vice secretary of security, interview by author, Tegucigalpa, July 13, 2006.

to a long-demanded support, the Technical Office of Criminal Investigation (Dirección Técnica de Investigación Criminal, DTIC) is being created to support the Public Ministry, and in particular its *fisca* for organized crime. Such a move will respond to a long-term demand while significantly improving investigation. Indeed, over 80 percent of cases are not investigated at all,¹⁴⁰ and because of their complexity “the most serious crimes are the least investigated,” observed the MP’s director general, Danelia Ferrera.¹⁴¹

To have a lasting impact, though, such advances will also need to include an honest assessment of state functioning. First, the role of the military in internal security must be clarified. Many officials involved in human rights abuses in the 1980s found posts in Honduras’ various police units.¹⁴² Sparking unease within the police and protests from NGOs, both Zelaya’s first security secretary and his vice secretary (and successor), retired colonel Jorge Rodas Gamero, were military officials. Rodas was a member of the notorious DNI, which carried out rights abuses in the authoritarian era, but his expertise in terrorism was thought to be useful in relations with the United States. He and other top officials relied on traditional policing actions that brought the armed forces into law enforcement, such as the 2008 “Five Stars” Operation, which involved ten thousand police officers and ten thousand soldiers, and plans to move into the police force one thousand military officers. With antinarcotics funding from the United States an ongoing major source of aid, and with narcotics central to both national and internal security, the government will continue to face the challenge of clarifying the line between the police and the armed forces.¹⁴³

140. Interview with Yoleth Calderón, April 6, 2010.

141. Danelia Ferrera, director general, Ministerio Público, interview by author, Tegucigalpa, April 7, 2010.

142. Juan Almdares, executive director, Centro de Prevención, Tratamiento y Rehabilitación de las Víctimas de la Tortura y sus Familiares, interview by author, Tegucigalpa, July 2003.

143. U.S. funds for police and military antinarcotics operations rose from \$1.17 million in 2001 to \$3.62 million in 2004. The lack of rights conditions attached to such aid, says Commissioner Leonel Saucedo, often means that abuses do not necessarily prompt reductions in funding (interview by author, Tegucigalpa, July 14, 2003). Since the mid-1990s, Honduran military and police personnel have been trained at the School of the Americas, a U.S. Army training facility; the U.S. Navy Small Craft and Technical Training School; the Inter-American Air Forces Academy; and the U.S. Defense Department’s Center for Hemispheric Defense Studies. Honduras received almost \$5 million in foreign military financing between 2000 and 2006—\$620,000 from Section 1004 Counterdrug (a Defense Department program), and other funds from International Narcotics Control. Between fiscal years 2000 and 2003, Honduras also received \$1.93 million

Officials will also have to study why many problem-oriented programs go nowhere fast. As the next chapter describes in Bolivia, long-term plans are usually misaligned with institutional and financial realities, causing large chunks of them to be discarded. Even the most worthwhile projects will fall flat without an analysis of what is wrong with the ones they replace and why officials do not see them through. Similar to the Sula Valley anti-violence programs, for example, the much-vaunted Pandilla Prevention Program (Programa de Prevención de Pandillas), based on NGO services and education for youth, was effectively abandoned despite the European Union's promise of 20 million euros in support. Along with assessing the actions of top officials, training for lower officials will also be needed. For example, although over four hundred officials have been trained in ACMIS, the criminal case tracking system described earlier, international aid officers regard it and other programs as "too sophisticated" for most police officers, who lack basic education.¹⁴⁴

Both of these weaknesses in the state require better accountability, particularly as state officials acquire greater legal powers. Although Álvarez and other Lobo officials stress prevention, they also want tougher laws, and accountability mechanisms must be strong enough to check them. Most broadly, a campaign backed by judges, members of Congress, and the *procuraduría general* (who represents the state in legal cases) proposes making Article 332 "much more severe." And in addition to longer prison terms, the Security Secretariat wants to introduce conspiracy and racketeering charges, as used those in the United States against the mafia. Such requests reflect organized crime's tremendous power in Honduras. Narcotics predominate, but syndicates are also trafficking stolen goods, cars, persons, and psychostimulants such as amphetamine. More recent developments are networks of prostitution, kidnapping, deforestation, and land acquisition. Nearly every area of economic activity in fact seems to be considered by officials as "controlled" by organized criminals. Thus even

from ICITAP (Source: Center for International Policy). Worried that Honduras may become a recruiting ground for terrorists, the United States also stepped up funding to bolster the government's ability to fight terrorism, such as through the State Department's International Military Education and Training program. In August 2003 Honduras declared a national terrorism alert after receiving information that Al Qaeda was trying to recruit Hondurans to attack foreign embassies. The Security Secretariat said a Saudi terrorism suspect sought by the United States was spotted in Tegucigalpa.

144. María Isabel Gil, Spain's Technical Office of Cooperation in Honduras, Embassy of Spain, interview by author, Tegucigalpa, April 7, 2010.

though more powerful laws may be necessary to fight them, their likelihood for abuse also requires more powerful judicial monitoring. One step toward that goal came in March 2010 when the minister of governance and justice announced plans to have CONASIN meet once a month, or far more often than the total of two or three times it had met in the previous four years.¹⁴⁵ However, in order to reach the third stage of accountability by addressing the causes of abuse, it will need more powers to go along with those meetings.

Such accountability is particularly important because, in addition to much of the economy, organized crime controls much of the state. Zelaya's security secretary, Romero, said that they had begun to attack the problem, in contrast to the Maduro government, which "didn't touch organized crime, only *pandillas*." This spin on Zelaya's policy, though, has been roundly repudiated in light of the many scandals reaching the highest levels of that government. As before, many accusations against officials around the country were halted as soon as they started pulling in others, such as a 2006 investigation of the police chief of Roatán that implicated a large cast of local and high-level national officials. By most accounts, today the infiltration has only become deeper. Most damning, the director of the National Anti-Narcotics Council (Consejo Nacional contra Narcotráfico), a consortium of the top twenty-five state and nonstate antidrug agencies that coordinate national antidrug policies, says unequivocally that "all of the state or organizations working on drugs are infiltrated by drug traffickers"¹⁴⁶

Conclusion

Notable and promising in both Zelaya's and Lobo's plans were the acceptance of a theoretical dichotomy between the dominant reactive policing and the hoped-for preventive policing. Unlike other countries' review of their initial security reforms, Honduras did not hold back on its list of the effects of repressive police actions, including deterioration of the rule of law, social intimidation, radicalization of delinquents, and "partial security" in urban areas.

Diario Tiempo, one of Honduras's newspapers of record, congratulated

145. "Instalado el Conasin para apoyar la lucha contra la criminalidad," *La Tribuna*, March 12, 2010.

146. Mirna Andino, executive secretary, Consejo Nacional Contra el Narcotráfico interview by author, Tegucigalpa, April 8, 2010.

itself at the end of Maduro's term for having never failed to point out "the disastrous action" of that government on citizen security. It noted the administration's "enormous budgetary applications, squandered on false publicity and leaving a disarticulated police, tremendously infiltrated by narco-trafficking, and in general, by organized crime, or dominated by corruption."¹⁴⁷ Indeed, there is nothing quite like regime change to bring out 20/20 hindsight. The leaders of the 2009 government overthrow, for example, did not fail to point out that conditions had not changed under Zelaya. In addition to the series of corruption scandals tarring Zelaya, *de facto* foreign minister Enrique Ortez charged the overthrown government with facilitating shipments of drugs on Venezuelan-registered planes. This heightened politicization of security extended to the security forces, from daily policing to long-term reform. The use of police officers to violently break up pro-Zelaya protests demonstrated, on one level, how abruptly political change can alter routine functions. On another level, the rift among reformers set back change on security policy, according to Mario Perdomo and Víctor Meza, two of the leading and most knowledgeable reformers, who were also prime sources for this chapter. But Perdomo continued on as vice security minister of the *de facto* government of Roberto Micheletti, and Meza, a minister of governance and justice under Zelaya, became the ousted president's chief negotiator, distracting them from reform and aggravating divisions that will take time to bridge. Even human rights groups were pulled into the political divisions. In particular, Ramón Custodio, who long provided the country's most consistent and unbiased guidance on constitutionalism as human rights commissioner, became mired in controversy through his support of Zelaya's ouster.¹⁴⁸

Continuation of such conditions will eventually wear down even the toughest reform-minded police officials, such as the community policing officer Reina Grazzo, who have put up with the conditions in the expectation of something better. Despite an entirely new police force, a set of accountability agencies, and a well-designed new penal process code, citizen security reform has been hindered in Honduras through societal fear of *maras*, political attacks that link accountability with leniency, institutional obstruction of the monitoring of police activities, and a lack of reliable information. But community policing, the CPP, and other changes have given

147. "Nueva Policía" (editorial), *Diario Tiempo*, June 14, 2006.

148. Ramón Custodio, national human rights commissioner, interview by author, Tegucigalpa, April 7, 2010.

problem-oriented policing a foothold in the country, which, by continuing to show demonstrable results, may begin to gradually break down many traditional policing approaches. Even the acrimonious end of the Zelaya administration in June 2009 may lead the police to distance themselves from federal officials and the armed forces by moving away from national action and toward local action. As described in the next two chapters, even such ruptures can turn into opportunities for change.