

# 1 Two Realities

## José Luis Montoya

In 1995, the National Action Party candidate (PAN—Partido Acción Nacional) won the mayorship of Mexicali, Baja California. It was the first time since Baja California became a state in 1953 that Mexicali would be governed by a party other than the traditionally dominant Institutionalized Revolutionary Party (PRI—Partido Revolucionario Institucional). The new mayor, Eugenio Elorduy Walther, promised to usher in a period of reform, and the local police force was a major focus for the new administration. José Luis Montoya remembers it as an exciting time. In 1996, he graduated from the newly created municipal police academy as part of the first generation of cadets to receive formal police training in Mexicali. He remembers that they felt special: like they were going to be different from the police who had come before them. As the police force purchased new equipment and police cars and invested in training and education, there was a sense that the Mexicali police were on a path toward modernization and professionalism.

After seven years of service, in 2003, José Luis Montoya was promoted to the position of supervisor, roughly the equivalent of a sergeant in many U.S. police forces, and given command over twenty men. He remembers his promotion fondly as his first opportunity to do policing the way that it was supposed to be done: working with citizens and doing honest police work. Recognizing that corruption was commonplace in the department, he told his men of his

intentions and requested that anyone who was not in agreement ask to be removed from his command.

Montoya was assigned a dangerous low-income community with a history of drug dealing and consumption problems. Drug sales were technically federal crimes and not within his jurisdiction; however, the federal government did not have the capacity to enforce drug laws at the neighborhood level throughout the country. As a result, this major source of crime and violence went largely unaddressed. Moreover, it was common for municipal police to look the other way about drug dealing and accept a little money from dealers in exchange. Their technical lack of jurisdiction gave such deals political cover. In many respects, things had improved dramatically since Elorduy was elected mayor, but corruption was still a daily part of police work.

Montoya approached his supervisors and proposed attacking the drug dealing directly. He remembers arguing, “The federal and state police are not doing anything. You know that. At the end of the day, the community blames us for not fixing the problem. They don’t care who is technically responsible.” Today Montoya believes that his supervisors were complicit in the drug trade; at the time, however, they gave him the go-ahead. While wanting to go after local drug dealers seems like it should be part of the basic instincts of a police officer, Montoya’s actions were somewhat revolutionary. Attacking drug dealers meant threatening agreements that had been made between the police and criminals. Even those police who shared Montoya’s vision of an honest, professional police force were wary of the risks. His commanding officer warned him, “If the state police ever try to pull you over, don’t stop. They are complicit and will plant drugs on you.”

With at least tacit support, Montoya and his men began going after the several different drug-dealing groups in the community. One of the main gang leaders was a man by the name of Jazzan Manuel Torres García, known as “El Chango.” He had connections to powerful drug traffickers and surrounded himself with strongmen. One of El Chango’s muscle just happened to be a boyhood friend of Montoya’s, and Montoya persuaded him to serve as an informant—another revolutionary break from standard municipal police practice in Mexico.

Using his friend and other informants, Montoya and his men busted several drug-dealing establishments. When the dealers would try to move locations, Montoya and his team, acting on reliable intelligence, were always one step ahead. The work was not easy, however. He caught some of his men

accepting bribes, and several attempts were made to threaten and/or bribe him into accepting the status quo. In his own personal account, Montoya recounts one dealer stating, “You don’t know for whom I work for. If you arrest me, they are going to kill you. You don’t know how many people are behind me; here we have always been ‘*arreglados*’ [colluding with the police] for years, and you are not going to come here and tell us what to do” (Montoya 2005). At one point a corrupt superior officer acting on behalf of the dealers ordered him to desist; however, according to Montoya, the officer was unwilling to put the order in writing, and Montoya persisted.

One day, El Chango came to Montoya’s house in search of a deal. Theoretically, El Chango should not have known where Montoya lived, but the dealer informed him that fellow police supervisors had given El Chango the young officer’s address. The dealer offered Montoya \$2,000 a week, a surprising sum that was more than several months of his official police salary. The money was not just to look the other way. El Chango also promised to provide Montoya with intelligence so that he could arrest rival groups in the community. The deal would benefit everyone: El Chango would obtain a monopoly over selling in the community and Montoya would still get to make arrests. However, the young police supervisor rejected the deal, and two days later at 5 AM his men arrested El Chango.

The persistent Montoya stayed with the suspect for all of the arrest process to make sure that El Chango did not threaten or bribe his way to freedom. Montoya returned to his house later that morning and lay down to sleep. Minutes later his sister rushed into the room in a panic: their house had been set on fire. The flames were extinguished, but this was not the end. At 1 AM, a floral funeral arrangement arrived at his house with another threat. A short time later, his friend and informant was found dead.

Montoya went to the state police, who are responsible for the investigation of crimes, and told them everything he knew. Much to his satisfaction, El Chango was convicted. Had the story ended there, it might have been a success. However, El Chango, with the benefit of one of Mexicali’s best lawyers, won on appeal and went free. He returned to running drugs and bragged that he had beaten the system and Montoya, expressing his intention to have the young officer killed.

With a \$10,000 to \$25,000 price on Montoya’s head, the stress was at times too much. Fearing for his life and the lives of his wife and young son, he left the force. With few other options, he went public with his story so that, as he

put it, “If tomorrow something happened to me, they [the authorities] couldn’t argue they didn’t know and with the hope that they would become interested and do something about it.” Montoya eventually returned to the force, but he was not a hero in his department. He was viewed as too uncompromising and as a threat. By 2010, he no longer held a leadership position, instead patrolling alongside young officers he once taught in the police academy. He continued to see endemic corruption, even among those former cadets who were his students in a class entitled “A Culture of Lawfulness.” Montoya acknowledges that the justice system failed him, but he remains as committed as ever. He stated in an interview:

If I backslide, then others will as well. I don’t feel like I have an alternative and just have to keep moving forward, adding my grain of sand and doing what I can. If I stop what I am doing, I can’t expect that others will keep going. My father has scolded me. He calls me stupid and says I should take the easy way out like everyone else. But I tell him that this isn’t what he taught me. He taught me to do the right thing and pardon me for believing in something and fighting for it . . . And you know what; my son is going to be worse than me.

This is a book about efforts to reform and professionalize Mexico’s municipal police departments. Through a qualitative and comparative case study of four municipal police agencies in Chihuahua City, Hermosillo, Mexicali, and Tijuana, set against a survey of additional departments and supplemented by public opinion and other data, this book explores the challenges confronting police reform in Mexico’s municipalities. I offer José Luis Montoya’s story as an introduction because it illustrates a couple of important points. Montoya entered the force at a time that appeared to be a watershed moment in policing in Mexicali. There is consensus in the Mexicali law enforcement community that the force began to professionalize in 1995 with the election of an opposition party to power. But this begs the question: why then was Montoya still confronted by such pervasive corruption and ineffectiveness despite years of reform efforts?

The need to professionalize Mexican law enforcement has been widely recognized since the mid-1990s, and numerous political and police leaders have come to office promising to do just that. A host of policies, purges, and programs have been implemented, and police and police leaders point to a number of advances in recent years, including improved training, higher selection standards, better operating procedures, and improvements in technol-

ogy and equipment. To be sure, the Mexicali police force is in most ways far better off than it was in 1995. Nonetheless a casual review of newspaper reports and public opinion surveys suggests that police corruption and ineffectiveness are worsening rather than improving. It appears as though there are two realities to Mexican policing: one of reform and one of stasis. This book will explore these two realities as it seeks to answer why so many reform policies have failed to produce meaningful institutional change.

Montoya's story is also a helpful introduction because it illustrates the many challenges confronted by those officers who want to change the way policing is done: corruption, jurisdictional conflicts, unsupportive leadership, criminals with the power to carry out reprisals, and a justice system that does not always deliver justice. While corruption is endemic in Mexican police forces, highly committed individuals risk their lives and some lose them for the security of their city and the integrity of their beliefs. Overgeneralizing about the police means ignoring the positive steps that have been taken and diminishing the contributions of those who deserve to be, although are usually not, treated like heroes. A central argument throughout this work is that reform requires incrementally building on the advances that have been made thus far. Police reform involves many challenges, but as this work will reveal, the erroneous perception that everything is wrong with Mexican policing ironically serves as an obstacle to meaningful change.

### The Police and Reform in Historical and Comparative Perspective

Policing in Mexico got off to a bad start. Throughout Mexico's early history during the 1800s, the central government had varying degrees of control over the large and diverse country. In the mid-1800s, then-president Benito Juárez founded a federal police force known as the "*Rurales*." Attempting to govern amidst a civil war, the Juárez government was forced to embrace bandits to fill a portion of the ranks of the new police agency. Vanderwood (1992), in his history of Mexican policing, profiles commanding officers like León Ugalde, "an unmitigated and unmerciful bandit" who was bought off to fight the French and later given command of a rural police unit (58). The *Rurales* were founded to fight and dissuade crime, but they had a dual mission of repressing political opposition (López Portillo Vargas 2002). This dual mission would continue throughout much of Mexico's history and as such, the police and their political

leaders placed a higher price on loyalty to the government than to the law. Rather than to protect citizens, their job was to protect the state. Writing about the years under the rule of the dictator Porfirio Díaz, López Portillo Vargas notes, “The Mexican state made a deal—impunity and a certain degree of autonomy in exchange for political loyalty” (112), a deal that appeared to continue in the decades of one-party rule (Gómez-Céspedes 1999). For some, law enforcement’s historical antecedents appear to have foreshadowed today’s crisis.

Of course, a historical perspective on policing tends to reveal an unsavory past in most countries (Vanderwood 1992). Case studies of policing throughout Latin America frequently note that police forces emerged to protect the state and/or elites rather than the citizens (Eaton 2008; Birbeck and Gabaldón 2009). Many contemporary studies of police misconduct recognize the sad irony that those entrusted to enforce the law are the very ones who abuse and violate the law for personal gain. A historical-rational choice, or political-economic approach, flips this argument on its head, however. Mancur Olson (1993) goes so far as to argue in his theoretical piece on the origin of government that predecessors of modern governments were roving bandits who learned that if they settled down as “stationary bandits,” they could monopolize and rationalize theft in the form of taxes. In fact, scholars of police deviance note that absent accountability mechanisms, the discretion and secrecy under which police operate make misconduct probable—regardless of the ostensibly noble reason for having a police force (Sherman 1974; Kleinig 1996). From this perspective, police integrity rather than police misconduct is the historical anomaly.

A comparison with U.S. police history is illustrative of the extensive challenge to transitioning away from this norm of corrupt, politicized policing. While there are considerable differences in the two countries’ economic and political histories, the United States is one of the few countries in the hemisphere that shares Mexico’s highly decentralized police structure. Moreover, U.S. policing has slowly overcome many of the same challenges that Mexico’s police currently confront. In many ways, the United States offers a better historical comparison than many Latin American countries, where police reform has focused on overcoming the legacies of relatively recent military dictatorships.

The early days of policing in the United States (1840–1930) was branded the “political era” of policing (Kelling and Moore 1998), a term that could easily be applied to policing in Mexico today. During this time, the police were part of

their cities' political machines and took their command as much from political ward or district leaders as they did from their police chief (Fogelson 1977). The lack of organizational control over the police resulted in corruption, abuses of rights, ineffectiveness, and use of the police for political purposes. Warren Sloat (2002) uses court documents and commission reports to profile extensive corruption and abuse in the New York City police in the late 1800s. Although the police were overseen by a Police Board, the board was more of a tool to divide up patronage and ensure political allegiance. Commissioners representing Tammany Hall (the Democratic political machine) would appoint Democratic loyalists to the force and ensure their favored officers were promoted. Republican commissioners would do the same, and both sets of commissioners were able to get rich in the process through the sale of positions.

The extent of police abuses provoked the emergence of a progressive reform movement in many of the nations' major cities, led by groups such as New York's Society for the Prevention of Crime, the New York Chamber of Commerce, the Citizen's Municipal Association of Philadelphia, the Baltimore Reform League, and the Los Angeles Committee of Safety (Fogelson 1977). While their successes were limited, they laid the groundwork for political reformers and police leaders of the early and mid-twentieth century such as August Vollmer, J. Edgar Hoover, and O.W. Wilson, who helped transition the police from corrupt political appendages to autonomous, professional law enforcement agencies. To remove political influence, civil service reforms were introduced, and efforts were made to insulate the police leadership from the political process (Kelling and Moore 1988). Throughout the following decades, reform chiefs throughout the country's major departments introduced knowledge and psychological tests to police selection criteria, stressed officer education and training, expanded car patrols, improved and tracked uniform crime statistics, introduced accountability mechanisms, and began evaluating the police based on measurable indicators such as response times (Kelling and Moore; Grant and Terry 2005). The federal government also played a hand in promoting local reform. In 1964, the Law Enforcement Education Program (LEEP) was created and funded to encourage policing-related training and education throughout the country's academic institutions, and the National Institute of Justice was established in 1960 to promote research and advanced study of criminal justice and law enforcement issues.

While reformers made substantial advances, scandals of corruption and abuses of individual rights persisted. Following race riots in 1967, the 1968

Kerner Commission of the Lyndon Johnson administration (1963–69) found widespread racial injustices and insufficient internal review mechanisms to ensure police accountability. In New York City, the 1972 Knapp Commission, which grew out of the whistleblowing of policeman Frank Serpico, found systematic corruption throughout the department and an ineffective internal affairs unit. Contemporaneous and future commissions, such as the 1974 Pennsylvania Crime Commission, the 1991 Christopher Commission, and the 1994 Mullen Commission would continue to identify problems of police misconduct and insufficient accountability. These commissions gave rise to renewed efforts to improve selection criteria, create better procedures and systems for monitoring agents, raise police salaries, and strengthen internal affairs units, often with citizen oversight.

Police misconduct still occurs in the United States; however, it is no longer believed to be systematic, and professionalism is seen as the norm throughout U.S. departments. Reform was possible in U.S. municipalities; however, it was an extremely long-term process that required an active civil society, reformist police chiefs, separation between politics and public administration, public investigations into police corruption, federal involvement, and considerable economic resources. Reform might have occurred more rapidly in the hemisphere's other success stories, Chile and Colombia; however, institutional change in these two cases involved many of the same elements. Of particular importance to both—with particular relevance for Mexico—was the separation between politics and policing (Dammert 2006; Llorente 2006).

Unfortunately, this complicated professionalization process is only just beginning in Mexico. Arguably a concerted effort to professionalize Mexican law enforcement did not begin until around the time that Eugenio Elorduy Walther took office in Mexicali, which was during the federal administration of Ernesto Zedillo Ponce de León (1994–2000). Upon election in 1994, Zedillo's administration conducted a diagnostic study of the state of the country's police forces (Sandoval Ulloa 2000). The results were not encouraging. Investment in public security was minimal, estimated at .008 percent of the GDP. Despite so many departments, there were only forty-one police academies across the country; these offered, on average, 4.5 months of training, and many police never received any formal training. Of these forty-one academies, only fourteen required education up to the ninth grade. In fact, 56 percent of preventive police had only primary school or no education at all. In response to this reality, Arteaga Botello and López Rivera wrote in 1998,



It should be emphasized that the problems that police in Mexico suffer are not that different than those suffered by their colleagues in the previous century. Emigrated from rural areas, low levels of education, a life noted for violence and illegality, condemned to have to pay a quota to their superiors, as well as to use extortion to collect money: all of this accents the fact that the problems from 100 years ago still have not been resolved. (11)

Their research, a two-year undercover ethnographic study, paints a vivid picture of Mexican policing that at times borders on the unbelievable. They detail how illegality and corruption begin even before future police are admitted to the academy. In a world of low opportunity for Mexico's lower-income citizens, candidates enter the academy fully intending to participate in corruption. Some of the candidates have even committed major crimes in other jurisdictions or been fired from other police forces for serious offenses. The bribing begins immediately, as those conducting the entrance exams in health, knowledge, and psychology offer good marks in exchange for money. Corruption is taken as a given aspect of policing among both the cadets and the academy personnel. The academy director is quoted as telling the class,

When someone tells about the things that his companions do—that is about the worst thing that can happen because everyone comes out covered in mud, and there can be even killings or jailing. Consequently, it is necessary to value the friendship and solidarity that we have between us, take care of one another, and don't gossip about what we do. (Arteaga Botello and López Rivera 1998, 57)

Corruption is even endorsed in the police ethics class, where cadets are taught to “steal with professionalism,” by, for example, not extorting citizens but waiting for them to offer money. While supposedly guarding cars to prevent parts from being stolen during practical policing exercises, cadets accept money to look after specific cars and additional money to ignore thefts from other cars.

Once on the force, the corruption worsens. While not explicitly solicited, it quickly becomes clear that the young police are required to pay a quota to their commanding officer if they wish to obtain “good job assignments,” which provide officers the opportunity to extort bribes. Police work, such as responding to crime, still occurs, but in a perverted form. The authors describe officers chasing and catching a burglar, beating him as a form of

punishment, and then letting him go after taking all of the stolen possessions for themselves. The stories continue of police shaking down prostitutes, illegally detaining and abusing gang members, and seeking every advantage to make money. The study contains no heroes or villains, but rather a form of doing business that is simply accepted by everyone, from incoming police to police commanders to citizens.

### Mexico's Police Forces Today

The Zedillo administration committed itself to changing this status quo, a goal presidents Vicente Fox Quesada and Felipe Calderón Hinojosa continued. The results of their efforts and those of governors, mayors, and police chiefs are mixed. On the one hand, there is plenty of evidence to support the claim that change has still not come to Mexican policing. Simply opening a daily paper in Mexico lays bare the continued problems faced by Mexican police forces. Nonetheless, the headlines obscure real changes that have occurred. The vast majority of police have received academy training, education levels of police are higher, and investment in public security has increased dramatically. Police officials and officers interviewed for this study expressed frustration at the citizenry's failure to recognize these advances. While conducting interviews for this study, I frequently found myself confronting two separate realities: the reality of police corruption, ineffectiveness, and abuse alongside an additional reality of measurable improvements in police professionalization.

Official statistics as of August 2009 placed the number of police in Mexico at 409,536 (See Table 1.1). When population is taken into account, Guillermo Zepeda Lecuona estimates that there are 351 police for every 100,000 people in Mexico and 299 police per every 100,000 people when the Federal District is excluded. Both these numbers are above the United Nations average of 225 and the recommended level of 280 police per 100,000 people, although some individual states fall below this mark (Zepeda 2009).<sup>1</sup>

Law enforcement in Mexico is divided by both geographical jurisdiction and function. Jurisdictionally, the police are organized into municipal, state, and federal police departments, each of which has different responsibilities. For example, the transport of drugs is considered a federal crime, and therefore, it falls under the jurisdiction of the federal police. Functionally, the police are divided into preventive and investigative departments. Preventive

**TABLE 1.1.** Breakdown of Mexico's police forces (August 2009)

<i>Police force</i>	<i>Number</i>	<i>Percent</i>
Federal police	32,264	7.88
Federal ministerial police and immigration agents	4,347	1.06
State ministerial police	26,329	6.43
State preventive police*	186,862	45.63
Municipal preventive police	159,734	39.00
Total Police	409,536	100

NOTE: \*This number includes police from the Federal District, which are at times presented as municipal police and as of June 2007 included 77,132 officers.

SOURCE: Data from the Sistema Nacional de Seguridad Pública. August 30, 2009.

police departments operate at all three levels of government and are typically organized under the auspices of a Secretariat (Secretaría) or Department (Dirección) of Public Security. Their primary job is to conduct patrols, maintain public order, prevent crimes and administrative violations, and be the first responders to crime. The ministerial police, formerly known as judicial police, are organized under the auspice of a public ministry at the state and federal level and are responsible for investigating crimes and carrying out warrants. The transit police, responsible for enforcing traffic laws, are typically considered part of the preventive police; however, in some cases they are organized as a separate police force. In the face of enormous coordination problems among Mexico's over two thousand police agencies, the Calderón administration has sought to consolidate and unify policing. At the federal level, the Federal Police replaced the Federal Preventive Police and was provided investigative authority that had traditionally been reserved for the ministerial police. A handful of states have consolidated their investigative and preventive departments into one agency, and some states are moving ahead with a proposal to collapse municipal police forces into a unified state police.

Regardless of jurisdiction or function, however, there are three major (and related) accusations commonly leveled against Mexico's police forces. These include (1) corruption, or the use of public office for private gain; (2) ineffectiveness, or the failure to address crime problems; and (3) violations of human rights, including arbitrary detentions and physical abuse. Evidence of these three problems has produced a deep-seeded lack of confidence in the police, which perpetuates a vicious cycle: furthering corruption, making the police even less effective, and producing additional abuses.