

CONFRONTATION, COLLUSION AND TOLERANCE: THE RELATIONSHIP BETWEEN LAW ENFORCEMENT AND ORGANIZED CRIME IN TIJUANA

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ABSTRACT. This paper offers an analytic narrative of relations between organized criminal groups and Tijuana's municipal police force. While civil society mobilization has made it progressively more difficult for elected and appointed officials to tolerate or collude with organized crime, civil society has few tools to hold the rest of the police bureaucracy accountable, particularly when compared with organized crime's ability to bribe, threaten, and overcome information asymmetries. As a result, interactions between organized crime and the police is a mix of confrontation, corruption, and tolerance. Recognizing the corruptive power of organized crime, this article asks if honest officials can alter the equation for rank and file officers. The paper explores advances in police remuneration, setbacks in selection criteria, the challenges to creating internal accountability mechanisms, and the difficulties in protecting officers.

KEY WORDS: *Police reform, Tijuana, organized crime, corruption, civil society.*

RESUMEN. *Este artículo ofrece una narrativa analítica de las relaciones entre los grupos de crimen organizado y la policía municipal de Tijuana. A pesar de que las movilizaciones sociales han hecho más difícil que los gobernantes electos toleren o participen con el crimen organizado, la sociedad civil cuenta con pocas herramientas para supervisar a la burocracia policial, especialmente si se le compara con la capacidad del crimen organizado de sobornar, corromper y obtener información. En consecuencia, la relación entre la policía y el crimen*

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organizado se caracteriza por una mezcla de confrontación, corrupción y tolerancia. Asimismo, explora los avances en remuneración policial, los retrocesos en los procesos de selección, los retos para la creación de sistemas de rendición de cuentas, así como la dificultad de proteger a los oficiales.

PALABRAS CLAVE: *Reforma policial, Tijuana, crimen organizado, corrupción, sociedad civil.*

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I. INTRODUCTION

Violent crime and the presence of drug cartels have been recognized as problems in Mexican society for decades. However, since the beginning of the 21st century these issues have steadily reached the top of the national agenda. In the last decade, the uneasy truces and balance of power that had governed relations among the country's organized criminal groups fell apart entirely, provoking several costly conflicts that would spread nationwide. Organized crime related assassinations have adorned newspapers everyday as the number of killings rose to approximately 2,280 in 2007, over 5,200 in 2008 and 6,587 in 2009.³ The violence has affected almost every part of the country, although it has been particularly brutal in the cities of Tijuana, Ciudad Juárez and Culiacán, traditional homes to Mexico's three

³ Estimates based on calculations by the *Reforma* newspaper as presented by the Justice in Mexico Project (www.justiceinmexico.org). Different sources provide different estimates, with several placing the number of assassinations in Mexico much higher.

largest criminal organizations.⁴ While most of the dead have been participants in organized crime, innocent civilians are often caught in the cross-fire.⁵ As the competition has increased and the rules of the drug trade have changed, criminal groups have begun to diversify into other activities to fund their operations, including theft, kidnapping, extortion and local drug sales.⁶ As the ensuing violence has spread, citizens have increasingly demanded a solution from government authorities at municipal, state, and federal levels.⁷

Unfortunately, now that organized crime and public security have become top national priorities, Mexican society has found it lacks the police forces (and an effective criminal justice system) to effectively confront the problem. Daily newspaper reports illustrate how many police officers have not only turned a blind eye to organized crime but have also become active participants in criminal activities.⁸ As the national death toll has risen, so has the number of police killed. Yáñez estimates that 831 police were killed in organized crime-related executions in 2007 and 2008.⁹ While many died in the line of duty, it is believed that many more were killed because of their involvement with the cartels.

Presidents Vicente Fox Quesada (2000-2006) and Felipe Calderón Hinojosa (2006-2012) have been of the opinion that in the absence of a professional and honest police force at all three levels of government, they had to turn to the military to take on a leading role in Mexico's war on organized crime.¹⁰ Both Fox and Calderón pledged to build the capacity of Mexican law enforcement and phase out the use of the military, but such efforts have been hindered by the pervasiveness of police corruption and drug cartel infiltration.

⁴ The Arellano Félix organization is based in Tijuana, Baja California, the Juárez organization or Vicente Carrillo Fuentes organization is based in Ciudad Juárez, Chihuahua, and the Sinaloa organization is based in Culiacán, Sinaloa.

⁵ For example, in January 2010, organized criminal elements affiliated with the Juárez cartel killed 15 innocent people (mostly youths) at a party believing they were members of a rival gang. Because of the commonality of such "ajustes de cuenta," or reprisal killings, the Calderón administration made regretful statements under the assumption that the innocent youths had links to organized crime. See for example, *Desligan del narco a jóvenes masacrados*, EL UNIVERSAL, Feb. 4 (2010).

⁶ See for example, *El Kaibil exhibió al CAF y al gobierno*, 1824 ZETA (2009), on the use of kidnapping to make up for insufficient drug trafficking revenues.

⁷ See for an example Ken Ellingwood, *Mexico Massacre Response Fails to Convince*, L. A. TIMES, Feb. 4 (2010) on societal response and frustration with insecurity.

⁸ See for example, *Policías y mafiosos, los secuestradores*, 1817 ZETA (2009).

⁹ José Arturo Yáñez Romero, *Violence in Mexico: Organization and Expansion*, 84 VOICES OF MEXICO (2009).

¹⁰ For further discussion, see Marcos Pablo Moloeznik, *The Militarization of Public Safety and the Role of the Military in Mexico*, in POLICE AND PUBLIC SECURITY IN MEXICO (Robert Donnelly & David Shirk eds., University Readers, 2009).

Besides the military, the federal police have been the key players in the fight against organized crime as drug trafficking, participation in organized crime, money laundering and the use of weapons restricted to the military fall under federal jurisdiction.¹¹ Despite this, municipal police forces are important figures in the current situation. First, municipal police could play an important role in supporting federal authorities since they make up the largest part of the country's police (49%) and possess substantial local knowledge and intelligence.¹² Moreover, as organized criminal groups have diversified their activities, they have increasingly run afoul of state and municipal legislation. Second, and perhaps more importantly, municipal police officers have in many cases served as an obstacle to the Calderón administration's efforts and have even worked for criminal groups. Corrupt police officers working with organized crime regularly offer intelligence; provide security, weapons and uniforms; release criminals; and in some cases actively commit crimes.¹³ The impunity for many organized crime leaders would simply not be possible without the support of local law enforcement.

Persistent police corruption in Mexico has produced a cynical attitude toward reform efforts, which is perhaps warranted after decades of unfulfilled promises. There is a generalized feeling that the police are a homogeneous group that always has been and will be corrupt and corruptible. For example, a *New York Times* article offered, "[i]t has been said, not entirely in jest, that of every 10 police officers in Tijuana, 11 were on the cartel's payroll in the 1990s."¹⁴ Even the accounts sympathetic to police officers argue that corruption is the inevitable product of low pay, large bribes and threats from organized crime.

This paper offers a case study of relationships between organized criminal groups and Tijuana's municipal police force, the Secretaría de Seguridad Pública Municipal, an agency of over 2,000 officers. The study uses data from interviews with police officers, police leaders and members of

¹¹ Functionally, the police are divided into preventive and investigative departments. Preventive police departments operate at all three levels of government and are typically organized under the auspices of a department of public security. Their primary job is to patrol, maintain public order, and be the first to respond to crime. Investigative police are organized under the auspice of the Office of the Public Prosecutor at the state and federal level and are responsible for investigating crimes and carrying out arrest warrants. For more information, see Ernesto López Portillo Vargas, *The Police in Mexico: Political Functions and Needed Reforms*, in TRANSNATIONAL CRIME AND PUBLIC SECURITY: CHALLENGES TO MEXICO AND THE UNITED STATES (John Bailey & Jorge Chabat eds., 2002).

¹² For 2007 numbers of Mexican police, see Guillermo Zepeda Lecuona, *Mexican Police and the Criminal Justice System*, in POLICE AND PUBLIC SECURITY (Robert Donnelly & David Shirk eds., 2009).

¹³ *Corrupción hasta el cuello*, 1867 ZETA (2010).

¹⁴ Tim Weiner, *Mexico Holds 41, Including Tijuana Police Chief*, in *Crackdown*, N. Y. TIMES, April 12, 2002.

civil society conducted during July 2008 and August 2009, complemented by an exhaustive study of newspaper articles from Tijuana's *Frontera* and *Zeta* newspapers and the national *El Universal* and *Proceso*.

Without a doubt, Tijuana, Baja California, represents an extreme case, as the traditionally dominant Arellano Félix Organization (AFO) has demonstrated its willingness to use both bribes and bullets to ensure a compliant police force again and again.¹⁵ As such, this paper offers a critical case study for understanding the challenges to altering the status quo of police corruption and organized crime infiltration. Furthermore, although it is an extreme case, it is not a unique one and lessons from Tijuana can serve other cities that struggle with powerful organized criminal groups.

This article is primarily descriptive, detailing the complex relationship between the police and organized crime. Such an analytical narrative is a necessary first step to build better theories in a constantly changing policy arena with limited information and data. The analysis argues that the equilibrium in organized crime-police relations has traditionally been one of collusive corruption. However, it is increasingly difficult to discuss organized crime-police relations without being aware of the diversity among criminal groups and within the police force. While not excluding these options, civil society mobilization has made it progressively more difficult for elected and appointed officials to tolerate or collude with organized crime. Nonetheless, civil society has few tools to hold the rest of the police institution accountable, particularly when compared with organized crime's ability to bribe, threaten and overcome information asymmetries. As a result, current interaction between organized crime and the police is a mix of confrontation, corruption and tolerance. Recognizing the increasing accountability of high level officials, this research asks if those same officials can alter the equation that their subordinates face. This article explores the progress made in police remuneration, setbacks in selection criteria, challenges in creating internal accountability mechanisms and difficulties in protecting officers. Noting some positive developments, the article concludes that only sustained efforts will allow Tijuana police leaders to change the logic of the "bullet or the bribe." The article also ends with a discussion of the generalizability of the Tijuana case and offers suggestions for further research.

II. ORGANIZED CRIME, THE POLICE AND DEMOCRATIC ACCOUNTABILITY

Bailey and Taylor argue that organized crime has various strategic options in dealing with the state, including (1) evasion, (2) corruption and (3)

¹⁵ JESÚS BLANCORNELAS, *EL CÁRTEL: LOS ARELLANO FÉLIX: LA MAFIA MÁS PODEROSA EN LA HISTORIA DE AMÉRICA LATINA* (Plaza & Janés, 2002).

confrontation.¹⁶ According to them, evasion is the most desirable strategy for criminal groups since they can continue with their activities without the cost of bribing or the risk of conflict. However, as the authors point out, it is often impossible for criminal operations to go entirely undetected by law enforcement. As a result, bribery and corruption offer a means to ensure the continuity of their operations. Confrontation is of course always an option. However, it is perhaps the least desirable, as it endangers human, financial, and contraband resources. The state also has the option to (1) tolerate, (2) collude, or (3) confront organized crime. Bailey and Taylor argue that the interaction (or interplay) between these two sets of actors has traditionally found equilibrium at either evasion-tolerance or corruption-collusion. Recently, this equilibrium has been disrupted and even a casual review of the daily headlines in Mexico suggests a strategy of confrontation has been brought into play.¹⁷

As Bailey and Taylor point out, such a simplified model of interaction offers parsimony but can fail to capture the often complex relationship between the state and organized crime. A primary concern is the extent to which either the state or organized crime can be viewed as unitary actors. At the most basic level, a federal system divides the state into three levels of government and municipalities might have very different interests than those of the federal government. Allison's influential work clearly illustrates how different assumptions about the diverse interests within the state produce radically different explanations of state behavior.¹⁸ Or as Bendor and Hammond argue, organizations can be assumed to operate (1) as a unitary actor, (2) as multiple actors with the same goals or (3) as multiple actors with conflicting goals.¹⁹

This insight applies to police departments as well. Police agencies are often portrayed as quasi-military organizations that function hierarchically, whereby orders are given by the chief and then trickle down through the chain of command to line-level officers. In news media accounts and popular discourse, the police are commonly presented as a whole and it is assumed that corruption runs from the top to the bottom of the organization. In contrast to this view, the police could also be seen as a complex bureaucracy comprising diverse interests and subject to principal-agent problems.

¹⁶ JOHN BAILEY & MATTHEW TAYLOR, *EVADE, CORRUPT, OR CONFRONT? ORGANIZED CRIME AND THE STATE IN BRAZIL AND MEXICO* (GIGA, 2009).

¹⁷ The reason organized crime has abandoned its evasion strategy appears to have less to do with its relationship with the state than with its relationship with other criminal groups. Fighting between criminal groups for territorial control has been the driving force of the violence affecting Mexico.

¹⁸ GRAHAM T. ALLISON, *ESSENCE OF DECISION: EXPLAINING THE CUBAN MISSILE CRISIS* (Longman, 1971).

¹⁹ Jonathan Bendor & Thomas Hammond, *Rethinking Allison's Models*, Vol. 86 (2) *AMERICAN POLITICAL SCIENCE REVIEW* 301-22 (1992).

A principal-agent approach maintains that an agent or subordinate is supposed to act in the interest and under the command of the principal, in this case the police leader. In practice, however, agents have their own interests that might deviate from that of the principal. More importantly, principals lack complete information about the actions of their subordinates, and agents can and often do exploit these information asymmetries to pursue interests contrary to the good of the organization or the public.²⁰ This principal-agent problem does not only exist between the police chief and his or her operational commanders, but down the entire hierarchy.

Assuming hierarchy and unitary command within organized crime is also problematic. Although some criminal organizations do follow a strict hierarchy consistent with the public's image of a mafia, research on organized crime has found a variety of organizational structures. A 2002 United Nations Office of Drugs and Crime (UNODC) report divided criminal structures into standard hierarchies, regional hierarchies, clustered hierarchies, core groups and criminal networks, this last category including largely independent criminals collaborating on specific short-term objectives.²¹ To offer another example, Bailey and Taylor divide organized criminal networks into four categories based on the degree of hierarchical control and the short and long-term nature of their collaboration.²²

There is a natural resistance against recognizing the diversity within the police and within organized crime. Both are organizations little understood by the public and even experts (justifiably given the lack of transparency in the police and the lack of reliable information about organized crime). Nonetheless, recognizing the diversity within the state, within any given police department and within organized crime organizations opens the door for not one type of interaction between the state and organized crime but numerous ones. As such, it is possible for a police chief to collude with one organized crime group and confront another, or to confront organized crime while some of his subordinates confront, others collude with, and even others tolerate criminal organizations.

A second concern with a simplified model of police-organized crime interactions is that of identifying the utility function of police officers since the interests of public officials depend on the extent to which they are accountable to citizens. For example, corruption is desirable for unaccountable officers, but the officials held accountable run the risk of punishment. Of course, holding officials accountable to citizens also faces principal-agent problems. In a democracy, the most celebrated tool of accountability is

²⁰ ROBERT KLITGAARD, *CONTROLLING CORRUPTION* (Berkeley, University of California Press, 1988).

²¹ UNODC-United Nations Office on Drugs and Crime, *Results of a Pilot Survey of Forty Selected Organized Criminal Groups in Sixteen Countries*, 2002, available at: http://www.unodc.org/pdf/crime/publications/Pilot_survey.pdf.

²² Bailey & Taylor, *supra* note 16.

elections and the ability to “throw the rascals out.” While elected leaders cannot run for reelection in Mexico, elections still offer citizens the option to reward or punish politicians in future races for higher offices. This tool is, however, undermined by limited and unreliable information on the behavior of elected officials and appointees. Corruption is by its very nature difficult to detect and accused officials are quick to portray themselves as victims of political attacks by their opponents.²³

Accountability to citizens can also be short-circuited by interest groups.²⁴ James Q. Wilson has noted that it is far easier for a small group of individuals highly affected by public policy (in this case organized crime) to organize and influence the policy process, than a large group of less intensely affected individuals (*i.e.* the general public).²⁵ In fact, by paying bribe money to police and police leaders, organized crime becomes a second principal. Criminal organizations do not only offer police carrots, however; they also pose a credible threat of reprisals for acting against their interests. As repeated in hundreds of journalistic accounts and in academic writing, organized crime offers police a choice between “*plata o plomo*” [“a bullet or a bribe”]. To illustrate this, on the day of his appointment as Tijuana’s chief of police and prior to his subsequent murder by organized crime in 2000, Alfredo de la Torre told a colleague, “First they send you a briefcase full of money. Then, if you reject it, they send you a briefcase with a gun.”²⁶ It is unquestionable that the simple logic of “a bullet or a bribe” provides considerable explanatory power. However, it risks being overly deterministic and offers little guidance as to how to break the vicious cycle of corruption that grips Mexico’s local police forces.

In response to the overdeterminism in corruption literature, in the 1980s and 1990s several authors began to explore policy initiatives to raise the costs and reduce the benefits of corruption.²⁷ Klitgaard, for example, offers a commonly followed framework for reducing corruption based on selecting qualified agents, creating carrots and sticks, gathering information and monitoring, restructuring the principal-agent relationship and changing attitudes about corruption. Figure 1 offers a simplified equation of the choices officers have ranging from confrontation with, corruption by and tolerance of organized crime. The result is the product of the benefit of corruption

²³ For example, the head of the federal Secretaría de Seguridad Pública, Genaro García Luna, is both celebrated as Mexico’s top cop and accused of colluding with the Sinaloa cartel. See for example, Anabel Hernández, *Intocable y solapado*, 1672 PROCESO (2008).

²⁴ J. LEIPER FREEMAN, *THE POLITICAL PROCESS* (Random House, 1965); George Stigler, *The Economic Theory of Regulation*, Vol. 2 BELL JOURNAL OF ECONOMICS 3-21 (1971).

²⁵ JAMES Q. WILSON, *THE POLITICS OF REGULATION* (Basic Books, 1980).

²⁶ Molly Moore, *Mexicans Stunned by Killing of Police Chief; Attack in Tijuana Follows Tough Talk by President*, WASHINGTON POST, February 28, 2000.

²⁷ SUSAN ROSE-ACKERMAN, *CORRUPTION AND GOVERNMENT: CAUSES, CONSEQUENCES, AND REFORM* (Cambridge University Press, 1999); Klitgaard, *supra* note 20.

minus the cost of corruption, a figure that is affected by the probability of being caught. From this, the moral cost of corruption, a function of the degree of professional commitment in itself, is subtracted. To these two factors, we add the cost of retaliation from organized crime, which depends on the probability of organized crime's use of violence.

FIGURE 1. THE CORRUPTION EQUATION FOR POLICE

The choice between confrontation, corruption, tolerance	=	Benefit of corruption <i>vis</i> <i>à vis</i> salary and benefits	-	Cost of corruption X Prob. of being caught	-	Moral cost X Degree of professional commitment	+	Cost of physical violence X Prob. of physical violence
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While the result of this equation has traditionally favored corruption and tolerance rather than confrontation, it offers clues towards potential policy solutions. The probability of corruption could be reduced by decreasing the relative value of the benefit (by increasing wages, improving benefits, and providing a pension), raising the probability of being caught, increasing a sense of professional commitment and protecting threatened police officers.

It is worth noting that while organized crime plagues governments the world over, there has been success in fighting organized crime, dismantling collusive ties with the state and reforming police departments in the United States, Sicily, Hong Kong and Colombia. In all these cases, citizen mobilization played an important role.²⁸ For example, despite the obvious power of the Sicilian mafia, Leoluca Orlando argues that it was cultural rejection and citizen mobilization against the mafia that (in conjunction with legal action) led to its dramatic decline in Palermo.²⁹ While not concerned with organized crime per se, Lawrence Sherman has illustrated the impact corruption scandals have had on mobilizing citizens and forcing change within U.S. policing.³⁰ More generally speaking, several scholars have noted that

²⁸ T. Wing Lo., *Pioneer of Moral Education: Independent Commission against Corruption*, Vol. 4 (2) TRENDS IN ORGANIZED CRIME 19-30 (1998); Richard LaMagna, *Changing a Culture of Corruption: How Hong Kong's Independent Commission against Corruption Succeeded in Furthering a Culture of Lawfulness*, Vol. 5 (1) TRENDS IN ORGANIZED CRIME 121-136 (1999); LEOLUCA ORLANDO, *FIGHTING THE MAFIA AND RENEWING SICILIAN CULTURE* (Encounter Books, 2001).

²⁹ Leoluca Orlando, *supra* note 28.

³⁰ LAWRENCE SHERMAN, *SCANDAL AND REFORM: CONTROLLING POLICE CORRUPTION* (University of California Press, 1978).

large scale mobilization can overcome entrenched interests and provoke rapid policy changes even in environments that favor continuity.³¹ This suggests a role for citizens and civil society in a policy arena that has traditionally been considered the sole purview of well-armed and well-trained law enforcement officers.

This discussion has raised several questions that might shed light on understanding the current conflict raging in Mexico. First, are observers better served by viewing a police force or an organized criminal group as a unitary actor, as multiple actors with the same interests or as different actors with different interests? Second, to what degree are the police accountable to citizens and to what extent can citizens assert themselves as principals over their police agents? Third, is the logic of “a bullet or a bribe” deterministic or can reform efforts undermine this compelling formula?

III. THE HISTORY OF THE TIJUANA EXPERIENCE: COLLUSIVE CORRUPTION

As Bailey and Taylor posit, there did appear to be a corruption-collusion equilibrium governing Mexico generally, and Tijuana in particular, prior to the most recent escalation of violence.³² In fact, for many, the central question was not whether there was cooperation between organized crime and government authorities, but which of these two groups could dominate the relationship.³³ In Baja California specifically, Luis Astorga uses health official's reports from the 1930s to document the direct involvement of Baja California's territorial governors in opium smuggling.³⁴ As late as the early 1980s, Blancornelas's writings suggest that the Baja California federal attorney (delegate of the Procuraduría General de la República), José Luis Larrazolo, was able to dictate the terms of the relationship with drug traffickers.³⁵ However, organized crime's position *vis-à-vis* state actors changed

³¹ Frank R. Baumgartner & Bryan D. Jones, *Agenda Dynamics and Policy Subsystems*, Vol. 53 (4) JOURNAL OF POLITICS 1044-1074 (1991); JOHN W. KINGDON, *AGENDAS, ALTERNATIVES, AND PUBLIC POLICIES* (Harper Collins, 1995).

³² For more about collusive corruption in Tijuana, see Blancornelas, *supra* note 15. Regarding Mexico in general, See Stanley A. Pimentel, *The Nexus of Organized Crime and Politics in Mexico*, in ORGANIZED CRIME AND DEMOCRATIC GOVERNABILITY: MEXICO AND THE U.S. MEXICAN BORDERLANDS (John Bailey & Roy Godson eds., University of Pittsburgh Press, 2000); Luis Astorga, *Organized Crime and the Organization of Crime*, in ORGANIZED CRIME AND DEMOCRATIC GOVERNABILITY: MEXICO AND THE U.S. MEXICAN BORDERLANDS (John Bailey & Roy Godson eds., University of Pittsburgh Press, 2000).

³³ For further discussion, See ORGANIZED CRIME AND DEMOCRATIC GOVERNABILITY: MEXICO AND THE U.S. MEXICAN BORDERLANDS (John Bailey & Roy Godson eds., University of Pittsburgh Press, 2000).

³⁴ Astorga, *supra* note 32.

³⁵ Blancornelas, *supra* note 15.

in the 1980s and 1990s. On the one hand, the monopoly power of state actors began to decline as Mexico transitioned to democracy and liberalized its economy. On the other hand, the power of organized crime grew as the Mexican cartels supplanted Colombian groups in transporting drugs into the United States.³⁶

This change was visible in Baja California with the rise of the Arellano Félix cartel in the 1980s and 1990s. The Arellano Félix family maintained firm control of the Tijuana organization and successfully fended off attempts by the Sinaloa and Juárez cartels to enter the Tijuana market. Flush with profits, the AFO provided sizeable carrots to induce collusive corruption, which could be readily backed up by credible threats and violence. In his seminal study of the AFO, Blancornelas provides several narratives of how those who acted against the cartel met with reprisals.³⁷ Although dominance had shifted to organized crime, the image of two unitary actors (the AFO and law enforcement) engaged in collusive corruption appeared to effectively describe the situation in the 1990s.

Corruption would survive the 1990s and continue to thrive in the 2000s. In 2002, during the 2002-2004 municipal administration of Jesús González Reyes, federal authorities called many of Baja California's police leaders to the state police academy for what was being promoted as training and evaluation. Upon checking weapons at the entrance, federal authorities arrested over forty police officers and flew them to Mexico City.³⁸

Rather than progress in the fight against corruption, cartel infiltration only seemed to increase under the 2005-2007 municipal administration of Jorge Hank Rhon. In early 2008, Calderón deployed 3,300 federal police and military personnel to Tijuana and took the extra step of confiscating the guns of all of Tijuana's officers, leaving the police force without weapons for nearly a month.³⁹ Although the official statistics do not bear out the assertion, popular perception holds that crime decreased during this time period.⁴⁰

IV. CIVIL SOCIETY MOBILIZATION AND THE STRATEGIC GAME FOR POLICE LEADERSHIP

The increase in criminality in the mid-2000s had the unanticipated effect of galvanizing popular opinion in Tijuana and mobilizing civil society. There

³⁶ Tony Payan, *The Drug War and the U.S.-Mexico Border: The State of Affairs*, Vol. 105 (4) SOUTH ATLANTIC QUARTERLY 864-880 (1996).

³⁷ Blancornelas, *supra* note 15.

³⁸ Weiner, *supra* note 14.

³⁹ *Operación conjunta Tijuana: gráfico animado*, EL NORTE, February 2, 2007.

⁴⁰ *Con las manos vacías*, 1714 ZETA (2007).

had always been a few groups and individuals active in condemning organized crime and police corruption. The first deserving mention is the weekly newspaper *Zeta* which, under the leadership of Jesús Blancornelas (until his death due to natural causes in 2006), consistently and unwaveringly published about police corruption and organized crime, much to the discomfort of some government officials who have labeled the publication as yellow journalism. *Zeta* remains one of a handful of newspapers in the country that is willing to conduct investigative journalism into organized crime-related issues. As a result of its activities, two of Blancornelas's associates were killed (in 1988 and 1994) and Blancornelas barely survived an assassination attempt in 1997, proving that it is also dangerous for civil society and the media to become too involved.

A second long term voice has been the Centro Binacional de Derechos Humanos [Binational Human Rights Center or CBDH], a Tijuana-based organization run by Víctor Clark. In 1992, the center published a report detailing a police side-business: selling police identification to criminals, as well as other acts of police corruption. Its activism also proved dangerous: two informants were killed, the group's offices were burglarized and copies of the report were stolen. Clark was provided with a body guard detail and later a sophisticated wiretap was found in the organization's phone.

Given the risks faced by *Zeta* and the CBDH, few individuals or organizations were willing to step forward.⁴¹ However, by the mid-2000s the security situation had become intolerable. While organized crime-related assassinations had always occurred in Tijuana, in 2005 *Zeta* calculates that there were a shocking 352 in the city and 539 in the state. By 2008, this number would rise even further to 882 in Tijuana and 1,019 in the state.⁴²

For various reasons, including increased competition, the rising costs of internal struggles and financial shortfalls, the AFO's cells also began to diversify their activities. Rather than just trafficking drugs, an activity that arguably had comparatively less impact on Tijuana society, AFO cells (and criminal groups operating under the protection of AFO cells) began engaging in kidnapping, extortion, bank and ATM robberies and local drug sales. The increase in violence and criminal activity had an unprecedented impact on Tijuana society. Examples abound: A civil society group called Aso-

⁴¹ In addition, the country's one-party corporatist state had produced an anemic autonomous civil society, as evidenced by comparative studies. GUSTAVO VERDUZCO ET AL., MEXICO. IN GLOBAL CIVIL SOCIETY: DIMENSIONS OF THE NONPROFIT SECTOR (L. M. Salamon *et al.* eds., Center for Civil Society Studies, 1999).

⁴² *Ejecuciones Baja California por año. Tijuana*, 1814 ZETA, 2009. It should be noted that *Reforma* newspaper reports much lower numbers of organized crime related killings. They estimate that there were 154 in 2007, 604 in 2008, and 320 in 2009. NUMBER OF DRUG KILLINGS IN MEXICO (Transborder Institute, 2010), available at: http://www.sandiego.edu/peacestudies/tbi/projects/current_projects/mapping_project.php#narcoannual.

ciación Esperanza contra las Desapariciones Forzadas y la Impunidad, A. C. (The Association for Hope Against Kidnappings and Impunity) reported in an interview that they had documented 134 kidnappings and disappearances in the first half of 2008.⁴³ Military personnel became increasingly visible as they established checkpoints throughout the city and surrounded public hospitals attending to wounded cartel members. A four-hour confrontation between authorities and an AFO cell took place outside a day care center and 450 children had to be evacuated in the midst of a shootout. An infant was killed by crossfire from a shootout between police and criminals. A family was accidentally killed by AFO hit men attempting to assassinate a police officer. Civil society's indignation at the growing violence in the mid to late 2000s forced it into action.

The earliest and most salient example was a fifteen-day March for the Victims of Insecurity held in 2006 in the most populous areas of Baja California. The march, an initiative of the Consejo Ciudadano de Seguridad Pública de Baja California [Baja California Public Security Citizen Council] under the leadership of Jesús Alberto Capella Ibarra, sought to draw attention to the crime-related problems the state was facing. The Council, created by law as a vehicle for formalized public participation in public security, does not have much power of oversight, but it does offers civic leaders regular access to public officials and has been an important tool for analyzing and making crime data public.

Many business leaders had traditionally felt that admitting the severity of the security problem would discourage business investment. However, as the situation worsened in the mid-2000s, the perception of insecurity could no longer be minimized and the business community overcame its ambivalence to play a more active role in recognizing and addressing the security concerns. For example, the Cámara de Comercio [Chamber of Commerce or CANACO] initiated a program called *Ponle dedo al ratero*, or "target the criminal". Through the program, CANACO works with the police to publish something akin to a most wanted list of thieves and rewards police involved in their apprehension.

No issue, however, has created more fear and mobilized more of Tijuana's civil society than that of kidnapping. Kidnapping victims taken for ransom have ranged from prominent business men to doctors to members of lower middle class families. Fernando Ocegueda Flores, the father of a kidnapping victim, is one of several citizens who has stepped into the spotlight, helped reinvigorate the above-mentioned Asociación Esperanza and later helped to found Asociación Ciudadana contra la Impunidad [Citizen Association against Impunity]. These organizations successfully pushed Gov-

⁴³ While the number above is taken from official statistics, official numbers are problematic since many kidnappings go unreported.

ernor José Guadalupe Osuna Millán to create a special prosecutor to investigate kidnappings.⁴⁴

A group of doctors also emerged to lead public protest against insecurity. The Consejo Médico Ciudadano [Citizen's Medical Council] came into being after doctors became a target for kidnappings and telephone calls extorting money.⁴⁵ The group reported that by mid-2008, 22 doctors had been the target of kidnappings or extortion. The doctors were also concerned that they were being put at risk by treating and housing wounded criminals brought to public hospitals for treatment.⁴⁶ In response, the group held protests, hung banners and held work stoppages to pressure authorities for protection. They succeeded in extracting governmental promises for stepped up commitment, self-defense courses and the transfer of patients to a military hospital.

These groups and others (such as a public security coalition of 55 institutions called Alianza Civil) illustrate an increasing willingness on the part of civil society to demand an end to impunity and violence and to extract a response from elected and appointed officials. With available information, protests and voting power, citizens in Tijuana have the tools to pressure public officials and help hold them accountable, making tolerance of and collusion with organized crime less desirable.

While there is considerable pressure on elected and appointed officials, there are limits to the involvement of civil society. For example, it appears that there has been less activity in supervising and overseeing the police directly. Even the state Citizen Public Security Council, which meets regularly with police leaders, has felt that it has had to resort to demonstrations to be effective. Moreover, the once active municipal Citizen Public Security Committee, a municipal version of the state level council, is now defunct. So while public officials have reasons to respond to civil society protest, line-level officers are (ironically) more insulated from citizens. As such, while citizens have tools to hold city and police leaders accountable, they have few tools to do so with the rest of the force.

V. INTER-CARTEL CONFLICT AND THE STRATEGIC GAME FOR ORGANIZED CRIME

By the mid to late-2000s, the situation had also changed for organized crime. In February 2002, the cartel's main enforcer Ramón Arellano Félix was killed in a shootout in Mazatlán, Sinaloa. A month later, the group's

⁴⁴ Luis Pedro Arellano Sarmiento, *En defensa de los desaparecidos*, 1812 ZETA (2008).

⁴⁵ *Exigen los médicos seguridad*. Tijuana, FRONTERA, May 2, 2008.

⁴⁶ Daniel Salinas, *Piden atender en cuartel militar a los lesionados en balaceras*, FRONTERA, May 8, 2008.

leader Benjamín Arellano Félix was arrested. Following numerous additional detentions of mid and lower level cartel operatives, in August 2006, the new leader, Francisco Javier Arellano Félix was also arrested. Although the mantle of leadership formally passed to a nephew, Luis Fernando Sánchez Arellano, challenges began to surface from within the organization.

Traditionally, the Arellano Félix cartel has been made up of a number of cells loyal to the Arellano Félix family, but with a degree of operational independence, a structure labeled by the United Nations Office on Drugs and Crime as a clustered hierarchy.⁴⁷ With the decline of the Arellano Félix brothers, one of the cartel's cell leaders, Eduardo Teodoro García Simental challenged Sánchez Arellano's leadership, producing a major rupture in the organization. Concurrently, the Sinaloa cartel, which had always been the AFO's chief rival, sought to take advantage of the AFO's weakness and strengthen its presence in Baja California, cultivating ties to the García Simental camp.⁴⁸ Clearly, the conditions of the game had changed for the Arellano Félix family leadership, which had to fight off both an insurgency from within its ranks and the entrance of an outside cartel.

The internal division turned violent by the spring of 2008. In April of that year, a sustained shootout took place between the two rival groups, resulting in sixteen deaths and many more wounded. Following a lull in violence over the summer, the killings escalated dramatically in the fall. By the end of the 2008, *Zeta* estimates that there were 882 assassinations in Tijuana, up from 310 the year before.⁴⁹ After months of fighting, which left both camps drained of human and financial resources, in December 2008, it is believed that the two groups called a truce and agreed to respect each other's territory. Despite some signs of cooperation during early 2009, conflict continued between the two groups.

VI. POLICE-ORGANIZED CRIME RELATIONS IN TIJUANA IN 2008-2009

Under increasing pressure from civil society, there is cautious optimism that the administration of Jorge Ramos (December 2007-November 2010) is more serious about tackling the problem of police corruption and developing a professional police department than previous administrations. Upon arrival in office, the Ramos administration responded to the crisis in the police force by going to two different extremes. For the post of Secre-

⁴⁷ UNODC, RESULTS OF A PILOT SURVEY OF FORTY SELECTED ORGANIZED CRIMINAL GROUPS IN SIXTEEN COUNTRIES (United Nations Office on Drugs and Crime, 2002).

⁴⁸ Kriztian Camarena, *Opera 'El Chapo' en Tj*, FRONTERA, Nov. 13, 2008.

⁴⁹ *Ejecuciones Baja California por año, 1814 ZETA*, Tijuana, 2009.

tary of Public Security he appointed Alberto Capella Ibarra, the above-mentioned civil society activist. Capella Ibarra was so outspoken that upon his selection as secretary, gunmen shot at his house in an attempt to scare or assassinate the civic leader turned police chief. The attack failed when Capella used the automatic assault rifle left by his bodyguards to fend off the assailants, propelling the young lawyer to stardom status in the national media.

For the position of police director and operational commander, the administration appointed a lieutenant colonel from the military, Julián Leyzaola Pérez. The colonel sought to bring military-style discipline to the force and took an active role in day to day operations, participating in police operations and meeting daily with all district commanders. The two appointments were meant to reassure civil society.

In early January 2008, members of an AFO cell attempted to rob an armored car along one of Tijuana's main thoroughfares.⁵⁰ Under the direct leadership of Leyzaola, a police pursuit was initiated, the thoroughfare was shut down and the robbers were forced to flee without their cargo. The operation detailed in the following day's newspaper was surprising to members of Tijuana's society for two reasons. First, the municipal police had successfully prevented a major criminal act, and second, the director of the police had personally joined and then led the operation. The incident suggested that the new leadership would not select the traditional options of tolerance and collusion, but would instead confront organized crime.

Had the story ended there, it might have been on balance a very positive outcome. Instead, however, messages were broadcast over the police radio threatening that anyone who participated in the operation would be killed. Only a few hours later, the commanders Leyzaola had ordered to close off the thoroughfare were assassinated. In addition, in attempting the carry out one of the killings, organized crime triggermen opened fire on the wrong house, killing a woman who lived there and wounding her husband and child. On realizing their error, the gunmen turned their weapons on the correct house, killing police commander Margarito Saldaña along with his wife and 12-year-old daughter.⁵¹ The killing of an honest officer (as evidenced by Saldaña's humble home and limited financial resources) seemed to break with a history of targeting double-crossing police and sparing families.

This cycle of crime, police response and reprisal would repeat itself several times in the following months. Organized crime was used to impunity and had no intention of giving an inch, even for rather small offenses.

⁵⁰ Fausto Ovalle, *Persiguen y matan policías a asaltante*, FRONTERA, Jan. 15, 2008.

⁵¹ Daniel Salinas & Fausto Ovalle, *Es la guerra: 6 muertos*, FRONTERA, Jan. 16, 2008; Myrna Sánchez, *Policías se sienten vulnerables*, FRONTERA, Jan. 16, 2008; Fausto Ovalle & Manuel Villegas, *Vive Tijuana una jornada sangrienta*, FRONTERA, Jan. 16, 2008.

When a twenty-year-old youth who claimed to have “connections” was detained in early April 2008 for driving a car without license plates, a municipal officer accompanied by another individual arrived at the district police station where the youth was being held and made threats in an attempt to obtain his release. To the commanding officer’s credit, the two men were arrested and transported to the central police station. Minutes later, an armed group of about ten men open fire on the district station and three days later an armed group tried to assassinate the police commander at his home.⁵²

History would repeat itself in March. Throughout early 2008, organized criminal cells were actually using tow-trucks to drag away ATM’s. The act was brazen and symptomatic of the degree of impunity with which organized crime felt it could operate in Tijuana.⁵³ Believing they were responding to a grocery store robbery, an elite police unit arrived at 4:00 am to find a tow truck guarded by armed men pulling away an ATM. A firefight ensued and two of the criminals were detained and arrested despite threats that there would be retribution. The next day, the mid-level officer in charge of the operation was assassinated on his way home from work just outside the police station.⁵⁴ Of the four remaining officers that participated in the arrests, three resigned in fear and one was transferred to another area.

Nonetheless, throughout 2008 and 2009, Leyzaola continued to pursue a confrontation strategy, facilitated by improved cooperation between municipal, state, federal and military authorities. Unable to corrupt Leyzaola and unable to kill him,⁵⁵ the AFO opted for an intimidation strategy. Following a tactic that had proven successful in removing Ciudad Juárez’s police chief in 2008, a somewhat united AFO threatened to randomly kill innocent police until Leyzaola resigned. Seven were killed in April 2009 in what were believed to be coordinated attacks between the Sánchez and García factions and another three officers were randomly shot in July.⁵⁶ Nonetheless, Leyzaola did not step down from his post.

⁵² Luis Gerardo Andrade, *Cumplen amenaza; balean comandancia*, FRONTERA, Jan. 1, 2008; *Mueren dos sicarios al atacar a jefe policiaco*, FRONTERA, April 13, 2008.

⁵³ By mid-March, the head of the Tijuana police acknowledged in an interview that there had been 14 ATM robberies in the first two and a half months of 2008. Fausto Ovalle & Luis G. Andrade, *Bandas ‘secuestran’ ahora a cajeros*, FRONTERA, March 19, 2008.

⁵⁴ Manuel Cordero, *Balean a policía y amenazan a otras*, LA VOZ DE LA FRONTERA, March 22, 2008.

⁵⁵ In November, 2009 military and police personnel uncovered and foiled a plan to assassinate Leyzaola. Organized crime elements had been tracking Leyzaola’s movements and planned an attack on his vehicle dressed as military personnel and using high powered .50 caliber rifles. *Militares apócrifos: Iban por Leyzaola*, 1858 ZETA (2009).

⁵⁶ *CAF amenaza a Leyzaola*, 1831 ZETA, May 1-May 7, 2009; *Asesinos de policías siguen libres*, 1841 ZETA, July 10-16, 2009.

Ever since the 1997 arrest of the Mexico's then drug czar General Jesús Gutiérrez Rebollo for collaborating with the Juárez cartel while leading the fight against other criminal groups, even effective police leaders are still distrusted by the population. Although some members of civil society worry that Leyzaola has made a similar deal, most members of civil society feel that he is engaged in a genuine confrontation strategy. It was even reported that Leyzaola's corrupt assistant director told his criminal handlers that the chief would not pact with organized criminal groups and could not be corrupted.

Nonetheless, even as Leyzaola pursues a confrontation strategy, many of the men and women under his command continue to play by the old rules. Evidence of collusive corruption between the rank and file and organized crime continues to come to light. It is worth mentioning a few of the events of 2008.⁵⁷

- General Sergio Aponte Polito took the unprecedented step in April 2008 of sending an extensive letter to the press detailing allegations of corruption against individual police officers and police leaders throughout the state.
- In June 2008, three police officers were detained along with 55 others in a police raid of what would become known as the “*narcobautizo*,” a baptism for an AFO member's child.⁵⁸
- In July 2008, Mexicali police detained a band of kidnapers, two of whom were Tijuana municipal police.⁵⁹
- In November 2008, the federal attorney general's office announced the arrest of 19 municipal police. All 19 were commanding officers, including one of the force's assistant directors.
- In December 2008, an officer working for a kidnapping gang with ties to García Simentel used his authority to pull over a vehicle and abduct the driver.⁶⁰

While there is evidence of collusion by the above-mentioned officers, a far more common strategy among line-level police officers is simply tolerance. As municipal police technically do not have jurisdiction over organized crime and drugs, it is easy for officers to justify turning a blind eye to

⁵⁷ Of course, evidence of corruption would continue to come to light in 2009. For example, in late 2009, authorities arrested corrupt former officer Gilberto Sánchez Guerrero working on behalf of cells affiliated with García Simentel. His testimony led to the arrest of eight active duty officers. *Corrupción hasta el cuello*, 1867 ZETA (2010).

⁵⁸ Luis Gerardo Andrade, *Pasó 'narcopolicia' test de confianza*, FRONTERA, June 24, 2008.

⁵⁹ Yadira Murillo, *Suman 11 secuestradores detenidos; 2 son policías*, FRONTERA, July 17, 2008.

⁶⁰ *Policías y mafiosos, los secuestradores*, 1817 ZETA, 2009.

organized criminal activity. Tolerance is in fact a far safer strategy than collusion. When the rift emerged in the AFO in 2008, corrupt officers found themselves on either side of that division and hence a legitimate target of the rival gang. In April 2008, a major shootout took place between two rival groups within the AFO. Sixteen people were killed in the incident including a municipal police officer.⁶¹ The weekly newspaper *Zeta* alleged that ten other municipal police participated on both sides of the fighting.⁶² It is believed that of the 30 municipal police killed in 2008, most were partisans in a war between the two factions.

A key to explaining the contradictory strategies of tolerance, collusion (with two different criminal factions) and confrontation is understanding the differences in the incentives faced by Leyzaola and those faced by his subordinates. As a political appointee, Leyzaola is more sensitive to civil society pressure. In fact, while Jesús Alberto Capella, the civil society advocate appointed police chief, was originally a popular choice, his lack of police experience quickly became a liability. After one year of poor results, he was pushed out and replaced by Leyzaola. Moreover, while the retired lieutenant colonel faces considerable risk by pursuing a confrontation strategy, he does have body guards and is able to live on the army base for added protection.

The incentives Leyzaola's subordinates have, however, are entirely different. They face only limited pressure from civil society because citizens have limited information, few tools to hold police accountable and even minimal personal interaction with officers. The one organization that might have such access, the Citizen Public Security Committee (a municipal version of the state council) was marginalized by the Ramos administration and is basically defunct. On the other hand, as the above assassinations indicate, police officers are very susceptible to the carrots and sticks provided by organized criminal operations.

In short, evidence remains of the choice between "a bullet and a bribe." In early 2009, two mid-level officers confessed to being paid between US\$500 and \$700 a month to facilitate criminal operations. They contended that they did not do it by choice but were told they would be killed if they did not cooperate.⁶³ In May 2009, another mid-level officer, Abel Santos Salazar, was killed on his way to work. Reports by *Zeta* suggest that he had been killed for refusing to work with organized crime.⁶⁴ It should be mentioned that police are not allowed to carry a weapon while off duty, making them particularly vulnerable.

⁶¹ *Guerra de 'narcos' deja a 13 muertos*, FRONTERA, April 27, 2008.

⁶² *Balacera: la verdad oculta*, 1779 ZETA, 2008.

⁶³ *Los acusan de repartir dinero del narco*, 1826 ZETA, 2009.

⁶⁴ *Asesinados por no aceptar teléfono*, 1834 ZETA, 2009.

Organized crime has also been able to overcome information asymmetries. In theory, if a police operation is carried out by masked police officers, the criminals should not know exactly who carried out the operation and be unable to issue reprisals. However, as one interviewed officer explained, “the problem is the other police officers” who report back to the cartels.⁶⁵ Organized crime is also able to monitor and communicate with the police by listening to unsecured police radios. In all of the above-mentioned cases, organized criminal elements announced threats over police radio.

As such, tolerance or collusion continues to be a prevalent strategy for line-level officers even though the situation is different for police leadership. The question then remains: how can the equation be changed for subordinate members of the police bureaucracy? The following section explores efforts to create a more accountable police force in Tijuana.

VII. CHALLENGES TO CHANGING THE EQUATION FOR POLICE OFFICERS

Despite the demonstrated ability of AFO cells to use violence, police leaders do, nonetheless, have policy options at their disposal to alter other aspects of the tolerance-corruption-confrontation equation. Referring back to Figure 1, the outcome of the equation could be altered by (1) raising police salaries and benefits (to reduce the relative benefit of corruption), (2) increasing the probability of being caught colluding, (3) increasing the degree of professional commitment by means of improved selection criteria and better training and (4) reducing the probability of being targeted by organized crime by increasing information asymmetries and protecting officers.

In fact, some important advances have been made. During the three-year administration of Jorge Hank Rhon (2004-2007), the salaries of police were virtually doubled. A line level police officer went from earning around \$800 USD per month to earning around \$1,450 USD per month. While the cost of living is admittedly much higher in Tijuana than in other Mexican cities, Tijuana police currently make far more than any municipal police force anywhere in the country. While improving salaries is one of the central tenets of reform efforts, there is strong consensus that it is an insufficient mechanism.⁶⁶ If the probability of being caught for engaging in corruption and the sense of professional commitment remain low, then the product of the equation remains the same. Absent such complementary re-

⁶⁵ Following the reprisals from the ATM robbery, some officers began to illegally use tape to cover over the patrol numbers and license plate numbers identifying their vehicles. Fausto Ovalle, *Tapan placas de patrullas los policías*, FRONTERA, March 27, 2008.

⁶⁶ Rose-Ackerman, *supra* note 27.

forms under Hank Rhon's administration, the salary increase did not have the intended impact.

Historically, the selection criteria to join the police have not been very restrictive in Tijuana. Interview respondents frequently made statements like, "In the old days, they would ask, 'Do you want to be a police officer?' 'Then come on in, we need police.' Or, 'You can't find work, join the police.'" While selection and training had improved in Baja California's police departments over the years, it suffered a major reversal in quality during the Hank Rhon administration. To better fight the city's crime problems, the administration dramatically enlarged the department from around 1,500 officers to almost 2,400 in just three years. During the expansion, selection and training filters were quickly overwhelmed by the need to put more police on the street. It is widely agreed that organized crime groups took advantage of the disorganization to place their own people within the institution. Without effective screening processes, the moral costs of corruption remain low and nonexistent for those who entered the force with the intention of engaging in criminal activity.

Truly altering the equation requires improving accountability mechanisms. However, such efforts have also suffered from implementation challenges. Over the years, several mechanisms have been developed to identify, investigate and sanction officers that violate the public trust. The primary institutionalized vehicle for doing so is known as the *Sindicatura* [statutory auditor], a branch of the municipal government that investigates allegations of abuses of authority by any municipal employee. Tijuana's statutory auditor has an institutional structure that is better than most. It is set apart from the police, which in theory should give it institutional autonomy. In addition, compliance with its decisions is obligatory and not mere recommendations for the police leadership (as they are in many other jurisdictions).

Nonetheless, the *Sindicatura* has not emerged as an effective tool for fighting corruption. While the agency had grown from just five investigators in the previous administration to twelve, the number is nonetheless insufficient for police a force with the historic challenges of Tijuana. Tijuana's statutory auditor only has .64 employees per 100 officers, a comparatively low percentage even in a country with weak accountability mechanisms on the whole (See Table 1.) Moreover, the agency primarily responds to formally filed citizen complaints. However, as there is often no "victim" in a corruption case in the way there is a victim when rights have been violated, there are relatively few reports of corruption.

TABLE 1. COMPARATIVE DATA ON POLICE
ACCOUNTABILITY MECHANISMS

	<i>Auspices</i>	<i>No. of Employees</i>	<i>No. of Police</i>	<i>Employees per 100 Police</i>	<i>Citizen Participation</i>
Tijuana	City Govt.	15	2,360	0.64	No
Ahome (Los Mochis)	City Govt.	5	1,009	0.50	Yes
Chihuahua	Police & City Govt.	5	1,138	0.44	No
Cuernavaca	Police	10	882	1.13	Yes
Guadalajara	City Govt.	88	2,996	2.94	Yes
Mérida	Police	2	312	0.64	Yes
Mexico City	Police & City Govt.	303	35,860	0.84	No
Monterrey	Police	30	806	3.72	Yes
Puebla	Police	6	1,406	0.43	No
San Luis Potosí	Police	15	1,111	1.35	No
Torreón	Police	4	1,003	0.40	Yes
Zapopan	Police	19	1,669	1.14	No

SOURCE: Survey of police departments conducted by the author.

More fundamentally, there has not been sufficient political will to tackle corruption directly. Sindicatura officials responsible for investigating police misconduct interpret their mandate to exclude investigating collusive ties between the police and organized crime. They argue that they investigate “administrative violations,” and since involvement in organized crime is a criminal offense, it is the providence of the state and federal ministerial police to investigate this type of felony. However, this argument does not actually square with the agency’s legal mandate, which requires it to investigate and resolve a situation in which “...a member or element does not comply with or violates one of the requirements to remain in the police force...”⁶⁷ As involvement in criminal activity violates these requirements, such activities are clearly within the mandate of the agency. Of course, *de facto* removal of this responsibility is perhaps inevitable in Tijuana’s dangerous cli-

⁶⁷ Ayuntamiento de Tijuana, Reglamento de la Secretaría de Seguridad Pública, published in the *Periódico Oficial del Estado de Baja California* on April 9, 2003, Vol. CXI, No. 16.

mate. Taking on organized crime would require major restructuring of the agency to ensure it could carry out its mission and protect its investigators. Currently none of the twelve investigators are provided any additional security or carry a weapon. The agency's credibility was further damaged in late 2008 when investigators were accused of soliciting bribes from officers to influence the conclusions reached in their investigations.

Given the failure of municipalities like Tijuana's to clean up their departments, the federal government began to promote a nationwide vetting program referred to as *control de confianza* [trust control]. Through the Subsidio para la Seguridad Pública Municipal [Municipal Public Security Subsidy or SUBSEMUN] program, Tijuana received around US\$8.2 million in 2008 (\$104 million pesos) and a slightly smaller amount in 2009 and 2010.⁶⁸ In exchange, it had to meet a number of requirements, including submitting their officers to a vetting process run by the federal government.⁶⁹ Tijuana and other cities (150 in 2008 and 206 in 2009) sent their police to take tests in practical policing skills and knowledge, fill out asset declarations, enter personal information into a national database and submit to psychological, medical, and polygraph tests.⁷⁰ The use of the lie detector at the municipal level was a new step in Mexican policing, previously employed by only a very few agencies.⁷¹

The impact of the program is difficult to determine. The federal government released aggregated test results in late 2008 showing that 88.9% of the State of Baja California's tested officers were not fit for service (compared to 61.6% nationally).⁷² The results both in Baja California and nationally were not encouraging. Rather than fire the vast majority of their officers, police leaders report that they view the test results as red flags that need further substantiation. The response has merits, but it only highlights the continued importance of a currently ineffective investigation agency.

Tijuana's police leadership has also tried to create its own internal mechanisms. In November 2008, the army temporarily replaced the police in the eastern half of the city, and 500 police were sent to the state police academy for vetting and further training. Since that time, over 60% of the department has been taken out of service for two-week periods for vetting and in-service training. In addition to strengthening professional commitment through training, police leaders claim that this process has helped them

⁶⁸ Myrna Sánchez, *Comprarán 2 mil radios y 55 patrullas*, FRONTERA, February 18, 2008.

⁶⁹ SUBSEMUN: CONCEPTUALIZACIÓN Y MECÁNICA OPERATIVA DEL NUEVO MODELO POLICIAL (Secretaría de Seguridad Pública, 2008).

⁷⁰ *Id.*

⁷¹ Interviews by the author.

⁷² Felipe Calderón Hinojosa, *Respuestas a las preguntas formuladas en relación con el Segundo Informe de Gobierno*, Presidencia de la República, Nov. 26, 2008. Available at: http://www.senado.gob.mx/sgsp/gaceta/60/3/2008-11-27-1/assets/documentos/Respuestas_50preguntas.pdf. Data not available for 2009.

identify corrupt officers. This program dovetails with a policy known as *recuperación de espacio* [territorial recovery]. The police leadership is proceeding through the city district by district, removing entire district personnel, replacing them with officers that have performed well in the courses and vetting process, and assigning retired military officers to lead them.

The most effective measures to clean the police force have been carried out by the federal attorney general's (PGR) organized crime unit (SIEDO) working in conjunction with the military. In November 2008, the PGR arrested 19 municipal officers based on intelligence believed to be provided by an arrested AFO member. In March 2009, SIEDO arraigned another 27 based on intelligence provided by a corrupt police officer turned informant. The detentions were well received, but the success was marred by allegations that arrested officers were tortured by their military captors.⁷³

As a result of all of these processes, the Tijuana municipal government reported that it had purged 430 officers, or almost 18% of the force as of July 2009. The number is not entirely accurate, however. Many of them (205) are actually officers who voluntarily resigned. While some did so to avoid confirming links to organized crime, others did so out of fear or simply normal attrition. In addition, 105 are officers who are suspended and in the process of removal, but have not actually been removed. In fact, labor laws make it difficult for police leaders to fire police suspected of corruption without sufficient evidence, highlighting again the importance of an effective investigation agency.⁷⁴ Only 64 were actually fired and 20 of them were not fired by the police force until after they were arrested by federal authorities. The celebrated reduction in force has also been undermined by admissions that the city wanted to reduce the size of the department for financial reasons. There is in general a tendency to prematurely declare that the police force has been successfully purged.

While the federal government's arrests suggest that the equation might be changing, the weakness of the municipality's own oversight mechanisms allow for only very cautious optimism. It should also be mentioned that all the existing efforts are focused on identifying "rotten apples," without sufficient concern as to whether the barrel might be rotten as well. A more systematic and public effort to identify why police are being corrupted and subsequent preventive measures that incorporate civil society in meaningful oversight has been lacking.⁷⁵

⁷³ Luis Alonso Pérez, *Policías en el limbo*, 1838 ZETA (2009).

⁷⁴ For example, four removal proceedings before the city's statutory auditor had failed to remove Luis Hernández Jaime from the force until he was finally arrested for the assassination of fellow officers on behalf of García Simental's group. *Atrapan más policías*, 1814 ZETA (2009). Constitutional changes enacted in 2008 have granted the police greater flexibility, but the underlying inability to gather evidence that can hold up in court remains to be addressed (Interviews by author).

⁷⁵ For example, public investigation commissions like the famous Knapp Commission

Finally, the equation can be altered by providing greater protection for police officers to reduce the probability of being victims to attacks from organized crime. Using Municipal Public Security Subsidy money, the department has invested heavily in bullet proof vests and high powered assault rifles, which have been issued to most officers. During times of crisis, the police patrol in caravans of three. The department is also transitioning to a more secure radio network using Matra radios that randomize communication frequencies and encrypt sound to prevent organized crime from listening to police communications and making threats over the police radio.

Leyzaola contends that he has reiterated to his commanders that if they are approached by organized crime and offered the choice between “a bullet or a bribe” that he will act to protect them. In some cases, threatened officers have been temporarily relocated, although there is no formal program. A few officers have also been granted permits to carry a weapon; however, in general, police are not permitted (by federal law) to carry their weapons off duty. And while municipal, state, and federal authorities recently announced that investigating police assassinations would become a joint priority, most cases have gone uninvestigated.⁷⁶ In addition, the random killings of 10 police in April and July 2009 reveal their continued vulnerability.⁷⁷

In summary, important efforts have been made to alter the equation of incentives given to officers. However, it is safe to conclude that they have fallen short. While salaries have been raised and efforts have been made to better protect police, accountability mechanisms have not been sufficiently effective, professionalism has been undermined by weak selection criteria, and the police are still vulnerable. Although the department does appear to be moving in the right direction, altering the equation will require sustained long-term reform efforts upheld by several consecutive administrations. Such a long-term approach would allow for gradual improvements in policy implementation and the elimination of loopholes that perpetuate police illegality. This is a tall order in Mexican policing, as elsewhere I have argued that the primary obstacle to successful professionalization has been precisely the lack of continuity in reform efforts across administrations.⁷⁸

in New York City [Knapp Commission], Commission to Investigate Allegations of Police Corruption and the City’s Anti-Corruption Procedures, KNAPP COMMISSION REPORT ON POLICE CORRUPTION (George Braziller, 1972) have not been established.

⁷⁶ In fact, most organized crime-related homicides are not investigated. Juan Velez Díaz, *Homicidios violentos, los que nadie investiga*, EL UNIVERSAL, February 23, 2009.

Generally speaking, state authorities claim that the crimes are a federal responsibility and the federal authorities claim that they are a state responsibility, thus allowing both departments to avoid the dangerous task of investigating organized crime.

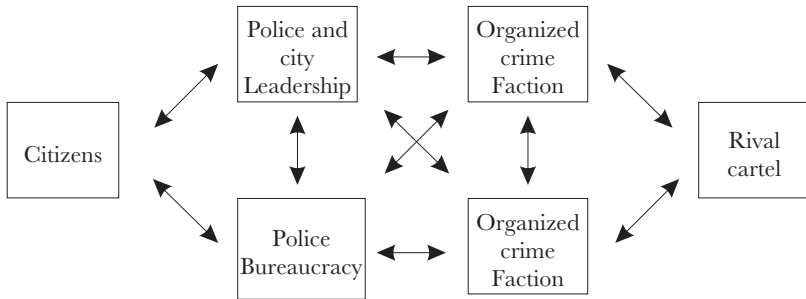
⁷⁷ *Asesinos de policías siguen libres*, 1841 ZETA (2009).

⁷⁸ Daniel M. Sabet, *Two Steps Forward: Lessons from Chihuahua*, in POLICE AND PUBLIC SECURITY (Robert A. Donnelly & David A. Shirk eds., University Readers, 2009).

VIII. DISCUSSION

In the theory section of this paper three questions were raised. First, are observers better served by viewing a police force or organized criminal group as a unitary actor, as multiple actors with the same interests, or as different actors with different interests? Clearly divisions within the police and within organized crime are important in the Tijuana case. The police leadership has pursued a confrontation strategy, while some street-level police have colluded with one faction of the AFO and others have colluded with another faction, and perhaps the largest number has opted for a tolerance strategy. Rather than a simple two player game between the state and organized crime, Figure 2 presents a more complex game better reflective of the Tijuana case.

FIGURE 2. CITIZEN-POLICE-ORGANIZED CRIME INTERACTION



Moving beyond the Tijuana case, while the assumption of a unitary actor might offer parsimonious explanatory power, it does not offer prescriptive power, as it shades over opportunities for change, ignoring honest police officers who could sustain reform and disregarding divisions within organized crime that could be exploited to gain a strategic advantage. Recognizing the diversity within organized crime also begs a question for future research: does a divided organized criminal landscape (as is increasingly the case throughout Mexico) discourage collusive corruption? Traditionally, it was in the interest of Tijuana police and police leadership to collude with the AFO because they received a bribe and avoided a bullet. However, in view of the competing groups, collusion with one group does not protect officers from another group, possibly making tolerance a safer strategy than collusion.

Second, the paper asked to what degree are the police accountable to citizens and to what extent can citizens assert themselves as “principals” over their police “agents?” While citizens have tools to pressure and help hold the mayor and police chief accountable, they lack the means to monitor

and hold individual officers accountable. This is not to suggest that police leadership will always act in the interest of citizens or to say that city and police leadership are not susceptible to the pressures and threats of organized crime. However, in comparison with line-level officers, citizens have far better tools to monitor and pressure police and city leaders. This finding can also be widely applied and begs the question can police institutions be made more accountable to citizens? Greater transparency, community policing and citizen oversight committees all offer avenues for civil society to counterbalance incentives for corruption. Unfortunately, the tendency in a deteriorating security situation is precisely the opposite: opacity over transparency and militarization over community-oriented policing.

Third, I asked if the logic of “a bullet or a bribe” deterministic, or can reform efforts undermine this compelling formula? While it does appear that the police chief has pursued a confrontation strategy and avoided both a bullet and a bribe, it has been harder for policy initiatives to change the logic of this equation for ranks further down the hierarchy. It is important to note that efforts have been made to improve police salaries, protect police and bring corrupt police to justice (primarily through federal investigations). Nonetheless, organized crime’s willingness to resort to violence with impunity and the lack of effective accountability mechanisms at a local level, suggests that line-level officers will continue to prefer tolerance and collusive corruption to confrontation. This finding can also be generalized to other Mexican cities with a strong presence of organized crime. Regrettably, a review of the literature and my own research suggests that there are no recognized models of effective local accountability mechanisms in Mexico despite successful international models. Given the importance of such tools in altering the tolerance-corruption-conflict equation, greater research on the implementation challenges of accountability mechanisms is urgently needed.

Looking towards the future, different options are possible in Tijuana and in Mexico in general. If civil society pressure is maintained, organized crime remains fractured and police leadership is able to sustain reform efforts that raise salaries and benefits, develop effective accountability mechanisms, promote professionalism and protect officers, the municipal police will then be able to maintain a confrontational strategy. On the other hand, changes in leadership, the consolidation of organized criminal groups or a decline in civil society pressure might cause a return to collusive corruption equilibrium.⁷⁹

⁷⁹ In early 2010 as this article was to be published, Teodoro García Simental and his top two lieutenants were arrested by Mexican authorities. It is as of yet too early to tell if this will lead to a long term reduction in violence and the consolidation of Arellano Sánchez power in Tijuana or if other actors will emerge from within the García Simental operation and continue the conflict.