

**PAPER PROTECTION:
HUMAN RIGHTS VIOLATIONS
AND THE MEXICAN CRIMINAL JUSTICE SYSTEM**

July 1990

A report of the
Minnesota Lawyers International Human Rights Committee
Minneapolis, Minnesota

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Minnesota Lawyers International Human Rights Committee
430 Marquette Avenue, Suite 402
Minneapolis, Minnesota 55401
Telephone: (612) 341-3302
FAX: (612) 340-9518

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MEXICO
x - Ciudad Juarez
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PREFACE

In 1988 the Minnesota Lawyers International Human Rights Committee ("Minnesota Lawyers Committee" or "Committee") began to study human rights in Mexico. Three separate fact-finding missions were sent to Mexico in the summer of 1988 and the fall of 1989 to investigate human rights abuses, especially reports of torture and abuse of authority by the Mexican judicial police in northern Mexico. This report sets forth the observations and conclusions of the Committee based on those missions.

Two fact-finding missions were sent to Mexico in the summer of 1988 to determine if Mexican citizens believed human rights abuses existed in their country and, if so, what they considered to be the most serious human rights problem. From 28 July 1988, through 2 August 1988, attorney Karen Ellingson traveled to the U.S.-Mexico border towns of El Paso and Ciudad Juárez to interview human rights workers, journalists, lawyers, and union leaders. Attorney Mary Ann Ringwelski visited Mexico City from 15 through 17 August 1988 to conduct a similar investigation. The Committee found that police abuse of the average citizen was the most pervasive and chronic form of human rights abuse in Mexico. Arbitrary detentions and torture by local, state, and federal security forces were so widespread as almost to go unremarked.

The Committee also researched the international, regional, and local human rights guarantees applicable to Mexico. On paper, Mexico is one of the most advanced countries in the legal protection of human rights. In reality, the government lacks the political will or control to enforce these protections. Hence, torture and other human rights abuses are rampant.

Faced with the glaring discrepancy between existing legal safeguards and widespread reports of police abuse, the Minnesota Lawyers Committee sent attorney Daniel Gerdts to conduct a third fact-finding mission based in Ciudad Juárez, Chihuahua, from 16 October to 29 December 1989. The goal of this mission was twofold: to gather evidence of police brutality and abuse including the use of torture, arbitrary detention, and extra-judicial killings and to examine the response of the Mexican legal and political systems to abuses by the security forces, comparing the Mexican penal codes and international legal guarantees to the practices of the Mexican officials. All available sources of information were explored, including interviews with, among others, governmental and non-governmental human rights workers, prosecutors, defense lawyers, and court personnel. Court hearings were also observed.

This report was written by Daniel Gerdts, with assistance from Jean Boler and Sonia Rosen. The authors wish to express their appreciation for the help of Karen Ellingson, Rose Grengs, Mary Meg McCarthy, Mary Ann Ringwelski, and Louis Robards. Additional gratitude goes to Barbara Frey, Mary Foster, and Prof. David Weissbrodt for their editing. Finally, a special thanks to the many Mexicans who helped with this project. Their dedication is sincere, and their hope and determination are encouraging.

SUMMARY AND RECOMMENDATIONS

Based on information gathered from three missions to Mexico, as well as other information reporting the use of torture and other human rights abuses by Mexican police, the Minnesota Lawyers Committee found arbitrary detention, beatings, and torture to be an everyday method of criminal investigation by the security forces in northern and central Mexico. Persons interviewed stated that police brutality was a common, daily occurrence. Nearly all said that beatings and torture were routinely used to extract confessions or obtain information. Arbitrary detentions and torture by security forces are so widespread that they often are taken for granted.

Agents in all branches of the security forces are reported to commit torture and authorize arbitrary arrests and detentions. It is the judicial police forces, however, especially the Federal Judicial Police, who are responsible for the most serious problems. These forces are known to enjoy enormous autonomy and impunity in their work despite the illegality of their actions.

Arbitrary detention and torture are implicitly encouraged, even though prohibited, because of the nature of criminal law and procedure in Mexico and because of the jurisprudence of the Mexican Supreme Court. As such, the Mexican criminal justice system continues to foster abusive methods of law enforcement in spite of Mexico's legal obligations to the contrary. This situation is made worse because treaties and Mexican laws against torture are not enforced against the security forces.

Based upon the information gathered for this report, the following is a typical scenario of a person arrested and detained in northern or central Mexico: A crime is committed and the police suspect a certain individual is responsible. Without a warrant, agents detain the

individual, or some third person knowing that individual, and bring the detainee to a police cell or motel room where the individual is held *incommunicado*. Although the individual has the constitutional right to a defense attorney, the individual is rarely informed of this right. Most of Mexico's criminally accused are poor and thus unable to afford an attorney, even if advised of this right.

The police proceed to interrogate the person who is without counsel. They beat or torture the detainee to obtain information or extract a confession, usually one that has been prepared by the police in advance. Once they force the desired result, the police demand money in exchange for the detainee's freedom. If extortion is not possible, and the detainee has signed a confession, the police then turn the detainee over to the appropriate judicial authority. The prosecutor's office charges the detainee with a crime based on the confession.

Only at the time of the defendant's first appearance before the judge, some two to three days after the arrest, will a public defender be appointed to the case. By this time, the defendant has already been forced to confess and the prosecutor's office has already made its case. If the defendant cannot prove that the confession was extracted through torture, it is accepted into evidence. This first confession "given" to the police has more probative value than any other statement made later by the defendant. Even when there is evidence that the confession was forced, the judge may still allow it in evidence if there exists corroborating evidence.

In addition to the regular abuses carried out by the police and fostered by the system, the Minnesota Lawyers Committee found the problem of unofficial police assistants called *madrinas* or *meritorios* to be particularly serious. These un-enlisted and illegal agents exacerbate human rights problems. The *madrinas* are usually armed, wear civilian clothes, and have traditionally

acted as spies or informants for the judicial police. They operate with the authority of the official security forces without adequate accountability.

The Committee also found that the "war against drugs" is used as a justification for uncontrolled police practices such as arbitrary arrests, prolonged detentions, and killings. The campaign against drug-trafficking also is used to justify the use of *madrinas*.

Based on these findings, on its own analysis, and on the writings and comments of many Mexican citizens, the Minnesota Lawyers Committee recommends:

1. That the use of *madrinas* be rigorously prohibited and classified as a penal offense.
2. That security force personnel on the federal, state, and local level be trained on the Law to Prevent and Punish Torture.
3. That the Attorney General's Office of the Republic enforce the Law to Prevent and Punish Torture, and that similar laws be promulgated and enforced in each of the Mexican states.
4. That the Constitution be amended to require that public defense counsel be provided to indigent defendants at the time of arrest, not merely at arraignment.
5. That no confession be admissible in evidence which is not given in the presence of at least defense counsel and preferably the judge assigned to the case.
7. That corroborating evidence be required in addition to a confession to convict.
8. That the Mexican government ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, regardless of corroborating evidence.
9. That evidence seized when persons are detained without a warrant, and not in the commission of a crime, be excluded from evidence.
10. That independent supervisory departments be created within the Offices of Attorneys General with full power to investigate and prosecute police agents who have committed human rights abuses.
11. That the government of Mexico apply the recommendations of the U.N. Special Rapporteur on Torture set forth in his 1990 report to the Commission on Human Rights.

It is a common expression in Mexico to say: I'd rather deal with a thief than a policeman because a thief will take only my money; a policeman will take my money, my freedoms, and maybe my life.

Rosario Ibarra de Piedra, 1988 candidate for president¹

In the streets of Ciudad Juárez in mid-1988, three persons were riddled with holes by agents of the Federal Judicial Police who subsequently gave an infantile explanation of the incident. This fact . . . was only the visible part of a great quantity of anomalies and attacks against security perpetrated by these supposed guardians of order.

Editorial from *Diario de Juárez*, 28 October 1989

I. INTRODUCTION

Despite Mexico's constitutional guarantees and its support for improved international human rights norms, chronic and systematic abuses of basic human rights of Mexican citizens by the country's security forces are widespread. This situation was confirmed in interviews with prosecutors, criminal defense lawyers, other lawyers, court personnel, state legislators, journalists, clergy, human rights workers, and a variety of government officials.

The abuses include illegal searches, arbitrary detentions and arrests, extra-judicial killings, and extensive use of physical and psychological torture to obtain information and confessions. The abuses appear to be part of an entrenched system of police abuse. All elements of the country's security apparatus are involved in the abuses, including the army and the federal, state, and municipal police forces. It is the judicial police forces, however, who have the worst record.

Abuse of authority and the use of torture by the judicial police are inextricably linked to the prosecutorial role played by the judicial police in Mexico's penal system. Mexican law

¹ Interview with Mary Ann Ringwelski, Aug. 15, 1988.

distinguishes between "preventative" and "prosecutorial" or "judicial" police. Preventative police are those municipal agents who wear uniforms, walk beats, direct traffic, and generally are responsible for maintaining public order and providing an administrative presence in the community.

Judicial police agents do not wear uniforms and have the primary task of investigating crime for the purpose of prosecution. The judicial police force is the primary investigative arm of the Attorney General and the prosecutor's office and is under the direct control and immediate command of that office.

The majority of the information collected by the Minnesota Lawyers Committee concerns the security forces in northern and central Mexico, especially the states of Chihuahua and Aguascalientes. Chihuahua is the largest of thirty-one states in the Mexican Republic. Located in the north-central part of the republic, it shares a border with the United States to the north, the Mexican state of Sonora to the west, Coahuila to the east, and Sinaloa and Durango to the south. Aguascalientes is one of the very smallest Mexican states. It is located in central Mexico, approximately 130 miles north-east of the city of Guadalajara.

There is reason to believe that the situation observed in these areas is similar to the situation in most of Mexico. Not until recently has anyone conducted a systematic study of human rights abuses in Mexico. In a newly released report by Americas Watch, however, abuses by the Mexican security forces were cited from all parts of the country.² The present report of the Minnesota Lawyers Committee independently corroborates much of the findings of the Americas Watch report. This report seeks to further examine the response of the Mexican legal and judicial system to the documented abuses.

² Americas Watch, *Human Rights in Mexico: A Policy of Impunity* (1990).

II. HUMAN RIGHTS ABUSES BY THE POLICE

Luis de la Barra Solórzano, author of the recent book *Torture in Mexico*, describes the power of Mexico's modern police as exceeding that of the interrogators of the Spanish Inquisition.³ This unfettered power, and a lack of government action to stop the resulting abuse of that power, allows an intolerable situation for human rights to exist in Mexico.

Government officials blame human rights abuses by the police on a lack of proper recruitment and training, lack of equipment and resources, and poor pay. There are even more serious underlying problems, however, and the following chapters will offer analysis of those problems as well as documentation of human rights abuses by the Mexican security forces.

A. Police Autonomy and Impunity

Of constant concern to Mexicans during the Minnesota Lawyers Committee's investigation was the grave problem of substantially autonomous police power and a corresponding immunity from prosecution and sanctions enjoyed by the police.⁴ The autonomy and practical impunity of the judicial police creates a situation conducive to corruption. The State Attorney for Citizen Protection in Aguascalientes⁵ emphasized that the police commit torture and other abuses not

³ Luis de la Barra Solórzano, *La Tortura en México* [hereinafter Barreda Solórzano], México, D.F., 1989, at 173-174.

⁴ See, e.g., interview with Fr. Xavier Gutiérrez Cantú, chaplain at Chihuahua State Penitentiary, Dec. 13, 1989; Barreda Solórzano, *supra* note 3, at Chapter XIII; Proceso, Dec. 4, 1989, at 16; Diario de Juárez, Oct. 23, 1989, at 1, col. 2.

⁵ For a description of this office, see Chapter III.B.

because they are corrupt, but they are corrupt because they can commit abuses with impunity.⁶

The judicial police force, as an auxiliary of the prosecutor's office, theoretically is not autonomous, but subject to the control and supervision of that office. In practice, however, judicial police agents act without restraint or accountability. They are reported to use hotel rooms or other private places frequently as *incommunicado* detention centers where they can commit abuses without the knowledge or consent of the prosecutor's office.⁷

Most persons in Mexico who are victims of torture or abuse of power by the police are people who are poor and relatively uneducated.⁸ Government officials and human rights workers indicated that the majority of such persons are unaware of their constitutional rights, are fearful of retaliation if they were to make formal complaints against the police, and are distrustful of the system's ability to stop the abuses.⁹

A significant factor allowing the police to maintain their autonomy and impunity is their role in the criminal system. As the primary investigative arm of the prosecutor's office, the

⁶ Interview with Lic. Miguel Sarre Iguiniz, Dec. 2, 1989; see also his analysis of public security and human rights in 11 Bulletin of the Mexican Academy of Human Rights 1, at 6, August 1989.

⁷ Interview with Francisco Javier Nolasco Fernández, Sub-Jefe de Averiguaciones Previas de Ciudad Juárez, Dec. 6, 1989; Diario de Juárez, Nov. 22, 1989, at 1-B, col. 1. Note also the circumstances of the Olivas Madrigal case described *infra*, at 16.

⁸ Barreda Solórzano states that "the great majority of defendants in Mexico -- almost always poor -- don't know their rights or, when they are not ignorant of these rights, do not know how to make them effective." *Supra* note 3, at 162; Lic. Elpidio Ramírez Hernández, a noted Mexican criminal scholar, also says that the majority of defendants are poor. El Heraldo de Aguascalientes, Jan. 28, 1990, at 6, col. 2.

⁹ Interview with Lic. Oscar Saúl Corral Robles, Agente Adscrito a la Procuraduría General de Justicia, Dec. 12, 1989; interview with Elva A. Gómez, with the Chihuahua office of COSYDDHAC, Dec. 13, 1989.

judicial police are assigned frequently to investigate complaints against their own agents.¹⁰ These investigations are reportedly slow, inaccurate, and used to cover up abusive conduct.¹¹

B. Madrinas -- The Unofficial Police Agents

Human rights abuses committed by civilians under the direction of the judicial police is of particular concern to the Minnesota Lawyers Committee. There were many reports, especially in the state of Chihuahua, concerning unofficial, un-enlisted "agents" of the judicial police called *madrinas*, *meritorios*, or *soplones*.¹² The *madrinas* are associated primarily with the Federal Judicial Police. A commander of the Chihuahua State Judicial Police denied that his force employed *madrinas*, but confirmed their use by the Federal Judicial Police.¹³ The *madrinas* work with individual agents who provide under-the-table compensation for their efforts. They commit abuses with the acquiescence of police agents, and they receive protection from the Federal Judicial Police. In essence, the *madrinas* are allowed to commit human rights abuses under the color of state authority.

The President of the Chihuahua Institute of Criminology, Alberto Medrano Villarreal, indicates that the Federal Judicial Police entrust the *madrinas* with committing many crimes and

¹⁰ Interview with Lic. Domingo Quintanilla Morales, attorney with the Department of Human Rights, Dec. 1, 1989; editorial, *Diario de Juárez*, Oct. 28, 1989, at 4-B, col. 1.

¹¹ See, e.g., Editorial, *Diario de Juárez*, Oct. 28, 1989, at 4-B, col. 1.

¹² These Spanish words respectively translate to English as godmother, meritorious (used to refer to an employee who begins with a small or no salary), and informer. See, e.g., *Ahora*, Oct. 20-27, 1989, at 2, col. 2; *Diario de Juárez*, Oct. 24, 1989, at 15-A; *Diario de Juárez*, Oct. 25, 1989, at 17-A, col. 1; *Diario de Juárez*, Nov. 9, 1989, at 1-B, col. 2; *Diario de Juárez*, Nov. 9, 1989, at 2-B, col. 1; *Diario de Juárez*, Nov. 10, 1989, at 1-B, col. 4; *Diario de Juárez*, Nov. 10, 1989, at 18-A, col. 1; *Diario de Juárez*, Nov. 11, 1989, at 4-B, col. 1.

¹³ Interview with José Refugio Rubalcava Muñoz, Sub-Jefe de la Policía Judicial del Estado de Chihuahua, Dec. 11, 1989.

abuses of power. He notes that the only method of investigation used by the *madrinas* is torture. He said it has become common for an expensive car suddenly to stop and for several armed men to emerge and force someone into the car. They then cover the person's head and torture him during an interrogation session while driving.¹⁴

The *madrinas* also are reported to receive protection from the Federal Judicial Police. One weekly periodical stated: "It is a fact that the *madrinas* enjoy impunity in their work. An almost divine impunity which they acquire by working for the Federal Judicial Police."¹⁵ While the *madrinas* occasionally will be apprehended by some other police force while committing their abuses, many are freed quickly after intervention of the Federal Judicial Police.¹⁶

The *madrinas* are civilian men who traditionally work in an unofficial capacity for particular police agents, acting as spies and informants. They also have been described as "apprentices" who hope one day to become enlisted agents.¹⁷ Their role has changed over time, however, and now they are described as the executing arm of the judicial police.¹⁸ They are known to carry weapons, including automatic rifles. Many *madrinas* are reportedly ex-convicts or drug-traffickers and are responsible for many human rights abuses.¹⁹

There were reports of 150 agents working for the Federal Judicial Police in Ciudad Juárez.

¹⁴ Diario de Juárez, Oct. 24, 1989, at 15-A.

¹⁵ Ahora, Oct. 20-27, 1989, at 2, col. 2.

¹⁶ See, e.g., the cases of Francisco Javier Quintana, Carlos Caro Cossio, Cuauhtémoc García Hernández, and José Alfredo Lugo Soto below.

¹⁷ Diario de Juárez, Nov. 9, 1989, at 1-B, col. 2.

¹⁸ See Ahora, Oct. 20-27, 1989, at 2, col. 2.

¹⁹ See, e.g., Diario de Juárez, Nov. 9, 1989, at 1-B, col. 2.

Of this number, only 15-20 were active enlisted agents of the Federal Judicial Police.²⁰ The remaining agents are either *madrinas* or agents commissioned from other police forces. The commander of the State Judicial Police in Juárez stated that he has 57 agents commissioned to the Federal Judicial Police.²¹ Some reports indicated that each official agent has from six to ten *madrinas* working for him.²²

Among the many reported incidents of illegal use of power by the *madrinas*, the shooting death of television journalist Hermalinda Bejarano is one salient example. In that incident, which occurred in Ciudad Juárez on 23 July 1988, there were at least three *madrinas* who participated in the homicide along with one enlisted agent. The *madrinas* identified were Santos Robles Peña, Roberto Gómez Silguero, and Noé Librado Zavala. Two other men detained also were described as *madrinas*: Felipe García Martínez and Saúl Salinas García.²³

Among the other reported incidents of homicides, assaults, extortions, and abductions committed by *madrinas*, is the killing of Carlos Zurita Ruíz by the *madrina* Francisco Javier Quintana on 1 September 1989. He was set free five days later and not prosecuted for the killing.²⁴

On 10 September 1989, the *madrina* Julio Cervera Ramos was detained while drunk and

²⁰ See Diario de Juárez, Oct. 25, 1989, at 17-A, col. 1; Diario de Juárez, Nov. 9, 1989, at 1-B, col. 2; Diario de Juárez, Nov. 9, 1989, at 2-B, col. 1; Diario de Juárez, Nov. 10, 1989, at 1-B, col. 4; Diario de Juárez, Nov. 11, 1989, at 4-B, col. 1.

²¹ Interview with José Refugio Rubalcava Muñoz, Sub-Jefe de la Policía Judicial del Estado de Chihuahua, Dec. 11, 1989.

²² Diario de Juárez, Oct. 24, 1989, at 15-A; Ahora, Oct. 20-27, 1989, at 2, col. 2.

²³ See Diario de Juárez, Oct. 24, 1989, at 15-A; Ahora, Oct. 20-27, 1989, at 2, col. 2.

²⁴ Diario de Juárez, Oct. 24, 1989, at 15-A.

making threats with a .357 calibre pistol. On 6 October 1989, the *madrina* Manuel Loya Rentería was captured in an attempted bank robbery. On 8 October 1989, the *madrina* Miguel Angel Reyes Torres was captured after he and his accomplices assaulted and beat the night watchman at a factory in Ciudad Juárez. On 10 October 1989, the *madrina* Carlos Caro Cossio was detained after a shooting and was found in possession of an Uzi machine gun and a Colt 9mm pistol. The next day he was accused by a local merchant of extortion and abduction. He was also investigated for the assault of another establishment and for car theft, but was free in less than a week.²⁵

Another *madrina* of the Federal Judicial Police, Carlos Santacruz Flores, shot twice and killed Arturo Corona Holguín in the aftermath of a minor traffic accident in Ciudad Juárez on the evening of 4 November 1989. The car Santacruz Flores was driving was reported to be stolen. He said that he had received the vehicle from the Federal Judicial Police. The State Judicial Police also found eighteen kilograms of marijuana in a search of his residence. He is said to have a criminal record and was detained three weeks earlier for terrorizing a Ciudad Juárez neighborhood one night where, while intoxicated, he was firing a pistol in the air. Santacruz Flores was not punished for that incident, but was reported to be on trial in the third criminal court of Ciudad Juárez for the homicide. The results of the trial are unknown.²⁶

Rafael Ruiz Hernández, a doorman in downtown Ciudad Juárez, made an official complaint against three unidentified *madrinas* on 9 November 1989. He stated that on the previous evening he was accosted by the three individuals who came armed with pistols and accused him of selling drugs. They forced him against the wall, searched his clothes, and then forced him into

²⁵ *Id.*

²⁶ See Diario de Juárez, Nov. 6, 1989, at 16-A, col. 1; Diario de Juárez, Nov. 7, 1989, at 12-A, col. 1; Diario de Juárez, Nov. 8, 1989, at 14-A, col. 1; Diario de Juárez, Nov. 9, 1989, at 3-B, col. 4; Diario de Juárez, Nov. 11, 1989, at 16-A, col. 4.

their vehicle. They continuously beat him while interrogating him about marijuana during an hour long drive. When Ruiz Hernández did not provide any information, he claims that they stole his watch along with 450,000 pesos and abandoned him in another part of the city.²⁷

Another case is that of the *madrinas* Cuauhtémoc García Hernández and José Alfredo Lugo Soto. Both worked as *madrinas* for the federal agent Ladislao Quintana. Both men had been detained in a stolen automobile and were considered criminals. Both were freed from the municipal jail on 18 October 1989 by Ramón Olivas, a commander of the Federal Judicial Police.²⁸

Still another case is that of Oscar Barraza Olivares. During the first week of October 1987, he was arrested along with another person for having a large quantity of stolen property in their possession. He also had an Uzi automatic rifle. It was learned that he was part of a well-organized group of thieves, notorious in the Juárez-El Paso area, called *los super-ratones*. Yet, even after having confessed, he was released from custody on 30 October 1987 after paying a large sum of money. He was later identified as a *madrina* of the Federal Judicial Police.²⁹

The *madrinas* are reported to receive no salary but are said to dress well, wear jewelry, carry weapons, spend "dollars," and drive expensive automobiles. They are reported to share some of the profits of extorted money, drugs, and weapons when a case is "fixed" and not reported to the judicial authority.³⁰ Another report says that they are paid by "commission."³¹

²⁷ Diario de Juárez, Nov. 10, 1989, at 18-A, col. 1.

²⁸ *Id.*

²⁹ Ahora, Oct. 20-27, 1989, at 2, col. 2.

³⁰ Diario de Juárez, Nov. 9, 1989, at 1-B, col. 2.

³¹ Ahora, Oct. 20-27, 1989, at 2, col. 2.

Still another report questions where the *madrinas* obtain their income since they have no salary, implying that crime and abuse of power is the obvious answer.³²

These unofficial agents are particularly problematic because they have most of the powers of regular agents without being subject to the corresponding responsibilities and disciplinary procedures. The federal and state Laws of Responsibility of Public Servants, for example, could apply to police agents but do not apply necessarily to unofficial agents such as the *madrinas*.³³ Likewise, the Federal Law to Prevent and Punish Torture specifically defines torture as an act committed by a public servant in the exercise of his functions³⁴ and therefore is arguably inapplicable to unofficial agents. Regardless of the wording of Mexico's current law against torture, Mexico has a continuing obligation under the Convention Against Torture to promptly investigate all acts of torture and to ensure that all acts of torture are offenses under its criminal law.³⁵ The Convention further states that an order from a superior officer or a public authority may not be invoked as a justification of torture.³⁶

Nonetheless, in spite of the abuses, public officials have demonstrated no will to put an end to the use of *madrinas*. They have cited the war against drugs to legitimize the use of the *madrinas* by the Federal Judicial Police. The Governor of Chihuahua, Fernando Baeza Meléndez, publicly expressed his concern about the continued reports of abuses by the *madrinas* and

³² Diario de Juárez, Nov. 10, 1989, at 1-B, col. 4.

³³ See, e.g., Ley Federal de Responsibilidades de los Servidores Públicos, D.O., Dec. 31, 1982.

³⁴ Ley Federal Para Prevenir y Sancionar la Tortura, D.O., May 27, 1986, Art. 1.

³⁵ Convention Against Torture and Other Cruel, Inhuman, and Degrading Treatment or Punishment, Arts. 1, 4, and 12, Dec. 10, 1984, GA res. 46 (XXXIX), 39 UN GAOR, Supp. (No.51) at 197, U.N. Doc. A/39/51 (1984) entered into force June 26, 1987. Mexico ratified the Convention Against Torture on Jan. 23, 1986. For further discussion of Mexico's international obligations, see Chapter IV.

³⁶ *Id.* at Art. 2(3).

suggested that it was all a public campaign, financed by drug traffickers, to discredit the Federal Judicial Police.³⁷ Local business leaders responded that they support the war on drug-trafficking, but oppose the use of these unofficial agents who commit excesses against the population in their eagerness to please their bosses.³⁸

One unidentified official from the Federal Prosecutor's Office said they were obligated to accept the services of these "agents" because they did not have sufficient law enforcement personnel. He noted that Mexico suffers from a lack of resources needed to combat drug-trafficking, and without the *madrinas* and the other commissioned agents, the Federal Judicial Police never could have confiscated the great quantities of drugs seized in the course of the year.³⁹

C. Anti-Drug Campaign

The Mexican government has been under pressure both from its own citizens and from the international community, particularly the United States, to stop the trafficking of illegal drugs in and through Mexico. While the Mexican government has achieved some success in this campaign, the Minnesota Lawyers Committee is concerned about the security forces' use of the campaign as an excuse to legitimize the abuse of police power.

Abuses of Mexican citizens by the security forces, committed under the pretext of the "war

³⁷ Diario de Juárez, Nov. 9, 1989, at 1-B, col. 2.

³⁸ Diario de Juárez, Nov. 10, 1989, at 1-B, col. 4.

³⁹ Diario de Juárez, Oct. 25, 1989, at 17-A, col. 1.

on drugs," often were criticized during the course of the Committee's study.⁴⁰ Among the abuses cited are robberies, threats, illegal detentions, torture, and extra-judicial killings.⁴¹ In the context of the anti-drug campaign, the army also has committed human rights abuses. Incidents involving the army occur largely in rural areas and primarily affect peasant farmers who are accused of growing drug crops.

The Linda Bejarano case, referred to above, is only one example of the anti-drug campaign's connection to increased police violence. On 23 July 1988, popular Mexican television journalist Hermalinda Bejarano and two others were killed when a Federal Judicial Police agent and five *madrinas* fired on their car in Ciudad Juárez. Police explained the homicides by saying that they thought the car belonged to drug dealers. Bejarano's husband, Manuel Gómez Martínez (former spokesman for an opposition gubernatorial candidate and successful talk-show host), Bejarano, Gómez's mother, and a family friend were driving home in Gómez's white car when they were surrounded by police in plainclothes and unmarked vans. Pistol and machine-gun fire left 50 bullet holes in the car. Gómez, the only survivor, was held *incommunicado* for seven hours after being pulled out of the car by the police. He was interrogated and accused of being a drug trafficker. When he was taken from the scene of the accident, his wife was alive. By the time he was released, he learned she was dead.

This incident gave rise to a number of allegations and questions regarding the practices of the Mexican security forces and the affects of their actions on journalists and other citizens. On 30 July 1988, in Ciudad Juárez, the Association of Journalists of Ciudad Juárez and an independent journalists' association co-sponsored a large demonstration where 5,000 people

⁴⁰ Interview with Lic. Teresa Jardí, prominent Mexican human rights advocate and attorney, Nov. 18, 1989; interview with Fr. Xavier Gutiérrez Cantú, Dec. 13, 1989; *NotiDiócesis*, Nov. 12-18, 1989, at 9, col. 1; *Proceso*, Dec. 11, 1989, at 18.

⁴¹ See, e.g., *Proceso*, Dec. 11, 1989, at 18.

protested police brutality and drug violence. The journalists demanded an investigation into the killings, the resignation of the head of the Federal Judicial Police in Juárez, and that Gómez receive all statements already collected regarding the death of his wife. Bumper stickers and T-shirts were distributed saying "Don't fire -- I'm not a drug dealer."

The Federal Judicial Police commander in Ciudad Juárez, Joaquín Salvador Galvan, was suspended as commander after the Bejarano shooting. He was retained, however, as an active officer.⁴² Six individuals were ordered to stand trial in the killings of the three individuals.⁴³ One of the suspects, a federal agent, was charged with murder.⁴⁴ The other five ordered to stand trial, *madrinas*, were charged with murder and impersonating police officers.⁴⁵ To date, the outcome of the trials is not known.

Another case illustrates how the war on drugs gives rise to the most extensive violations of human rights. On 11 November 1989, sixty agents of the Federal Judicial Police and approximately a dozen more officials of the Federal Highway Police took by assault the entire town of Ceballos, Durango (located very near the southern border of Chihuahua). They struck at 3:00 p.m. and stayed till 8:00 p.m., entering houses, looting, and beating people. At gunpoint, they forced hundreds of men, women, and children -- everybody including the parish priest -- to lie face-down in the middle of the central square of town while they ransacked and looted houses and businesses, under the pretext of a search for a certain band of drug traffickers. They took control of a bar which they made into their headquarters, forcing all the patrons and

⁴² See El Paso Times, Aug.1, 1988, at 1.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*