

September 4, 2003

(By Fax and Electronic Transmission)
LIC. MARCELO EBRARD CASAUBÓN
Secretary of Public Security for the Federal District

Dear Secretary Ebrard:

We write on behalf of the Lawyers Committee for Human Rights, a New York-based non-governmental organization that focuses on the role of institutions in the protection and defense of human rights. We have followed closely the efforts to reform police institutions in the Federal District, in particular the *Secretaría de Seguridad Pública* (SSPDF) and its constituent police forces. Your office has kindly forwarded to us for comment a summary of the recommendations from the consultant team led by former New York mayor Rudolph Giuliani.

As the consultancy by the Giuliani Group has generated significant controversy over the direction in which it may push the SSPDF's initiative, it is all the more appropriate that SSPDF has made public a summary of the Giuliani recommendations and invited comment. We have drawn on our own past work on criminal justice, our knowledge of the experience of the NYPD, and have shared our ideas with colleagues and counterparts in Mexico, notably the *Instituto para la Seguridad y la Democracia, A.C.* (INSyDE), and have tried to offer responses that take into careful account the particular circumstances of the Federal District, its police and criminal justice system. We applaud both the gesture towards debate and the effort to improve the alternatives available to the SSPDF and justice system, and our response(s), both criticism and commendation, is offered in the same spirit.

It is clear that the SSPDF's process of inquiry and consultation with others about analogous experiences is firmly underway, and the Giuliani recommendations are simply the most concrete evidence of the degree to which New York's approach has figured in this process. As we have said in the past, good ideas should cross borders, and the last decades in policing have certainly seen a broad expansion of good practices, worthy experimentation, and practical research, which should be mined for the benefit of Mexico's public.

We share the conviction that underlies the report's first point: that the public deserves more from its investment in the police, which in turn means greater capabilities for the police to generate a greater shared sense of public security. To achieve that goal, we agree with the priority that the report places on modernizing operations and strategies and are glad to see that more police or more resources are not put forward as the primary solution to the problem. Indeed, we find a number of the recommendations (to the extent they are described in the summary) to be salutary and laudable.

Board of Directors
Chair, William D. Zabel
President, Tom A. Bernstein

M. Bernard Aidinoff
Raymond M. Brown
Lynda Clarizio
Craig Cogut
Mitchell F. Dolin

Donald Francis Donovan
A. Whitney Ellsworth
Kenneth R. Feinberg
Leslie Gimbel
R. Scott Greathead

Louis Henkin
Robert D. Joffe
Lewis B. Kaden
Kerry Kennedy Cuomo
Harold Hongju Koh

Philip A. Lacovara
Jo Backer Laird
Li Lu
R. Todd Lang
Barbara A. Schatz

Steven R. Shapiro
George Vradenburg III
Sigourney Weaver
James Ziglar

Executive Director, Michael Posner

National Council Chair, Talbot D'Alemberte

Washington, D.C. Council Chair, Daryl Libow

For all its good content, the proposals do not constitute a strategic plan. No document of 146 recommendations without a clear sense of priorities and the means of achieving the key objectives can possibly serve that function. As such, rather than criticize that obvious fact as a failing of the Giuliani report, we hail it as an opportunity, born of necessity, to engage in a process of sorting out, debating and prioritizing, modifying, adding and, in some cases, eliminating recommendations so that a coherent, operational roadmap can be developed. (In particular great care will need to be given to reconciling in theory and practice, especially in the eyes of affected communities, approaches which are potentially in conflict, for example “quality of life” enforcement, and community policing.)

The recommendations make their strongest contribution in the area of institutional and operational reform and strengthening, combine good ideas with poorly defined or questionable proposals in the area of public order/anti-crime strategies, and link reiterations of longstanding criticisms of the prosecutorial and judicial functions with ambitious reform suggestions that, to date, have eluded local legislators and officials in the Federal District government, and which will require, in general, far more reflection and debate before they can be translated into coherent action. Unfortunately, the report betrays a relatively limited vision of community participation and the importance of public information, elements that are likely to be of crucial importance in winning the uphill battle to sow public confidence.

Many of the proposals (or elements of specific proposals) presented by the Giuliani team suggest reforms that appear self-evident, long overdue, and highly welcome. These are not necessarily the best or most important recommendations, but those that are least controversial. As such, they do not require extensive discussion, but to the extent that identifying them as such increases the chances that they will receive rapid attention, we do so here (using the recommendation numbers included in the SSPDF document as a reference):

Recommendation Number	Description
12	Using plainclothes policemen to detect and prevent robberies in selected zones (provided there are due safeguards to prevent abuses by police whose identity is by intent not immediately disclosed, and to prevent abuses by civilians impersonating police).
14	Coordinating with prosecutors and judicial police in anti-robbery efforts
15	Sharing of photographs of suspects with outstanding arrest warrants among the prosecutors, judicial police and preventive police
17	Giving SSPDF access to the registry of public transport drivers and vehicles
27	Restricting the sale of autos that are the subject of robbery reports
31	Improving the vehicle registry and licensing system
34	Creating a new police manual for the SSPDF with updated information about policies and procedures
35	Reviewing and upgrading of policies and procedures continuously
36	Developing a public mission statement for the SSPDF
37	Articulating challenges and goals for each department within the SSPDF; monitoring progress
38	Creating job descriptions for each post in the SSPDF
39	Developing a standard system for personnel evaluation; with established and well-publicized rules and criteria. (The target of semiannual review of all personnel is an

	ambitious but welcome goal.)
44	Assigning work hours according to crime patterns and need; increase flexibility
53	Creating collaborative group with judicial police to prioritize and execute outstanding warrants
55	Improving daily patrol logs
67	Stating that police instructors should be among the best
68	Giving instructors additional training
70	Re-introducing on the job/field training
92	Assigning resources according to needs (assuming the latter are appropriately defined)

A number of the recommendations reflect advanced management concepts and practices which have come to be seen as essential elements of forces around the world. Because they tend to reflect ambitious restructuring or creation of institutional architecture, or a broad rethinking of operations and policies, these recommendations need to be explored and fleshed out, potential dangers identified and avoided, but their orientation is both innovative and promising:

Recommendation Number	Description
1-10	Combining the use of statistical and mapping information with the management, review and accountability platform known as Compstat; create incentives and consequences for officers, commanders to catalyze a process of decentralizing decision-making
33	Revamping the organizational structure of the SSPDF to emphasize decentralized decision-making, specialization of functions and uniform procedures
41	Creating an internal auditing mechanism to evaluate compliance with laws and internal norms, and conduct random inspections of all operations
46	Using change of shifts as an opportunity to review prior shift performance, monitor officers, reinforce training and note particular conditions likely to face the next shift
57	Conducting field observations as a means of enhancing supervision and evaluation
60, 63	Addressing factors that contribute to low morale and poor performance, principally conditions of work; offer forms of credit, support to officers and families, etc.
64	Creating a record format for documenting each case in which an officer used force
66	Conducting follow-up of review of performance of graduates of police academy
73	Developing situation-specific training, including tools for resolving disputes
74, 75, 76	Establishing an Internal Affairs unit, independent of the police (reporting to the Secretary); segregate serious investigations from routine integrity functions; unit should be autonomous with separation from police commands to ensure confidentiality of investigations
77, 78	Reviewing Human Rights Commission complaints and other pending complaints to determine patterns of corruption and brutality; develop system for registering and monitoring complaints
79, 80	Identifying quality candidates for Internal Affairs; provide incentives for staff, including an opportunity to choose assignments after tenure with Internal Affairs (with appropriate safeguards)
84,85	Naming integrity officers for each sector as decentralized liaisons to Internal Affairs; create integrity unit as part of Internal Affairs
84, 87	Increasing responsibility of supervisors to act against misconduct of their subordinates; create supervisors over small groups to enhance monitoring; use specialized supervisors in corruption prone units
90	Creating a Police Commission, with technical staff and community representatives, who will monitor anti-corruption systems and receive complaints of corruption
117	Publishing locations with frequent automobile accidents
121	Creating controlled legal graffiti spaces to balance anti-graffiti enforcement measures

139	Laying out a system for registering and following up on community complaints; ensuring that commanders attend meetings with community members on a regular basis
-----	--

The following chart identifies those recommendations that require a very critical review, either because the summary presentation is too general to offer a clear sense of the substance of the proposal, or because the proposal on its face raises important concerns. A parenthetical observation follows each recommendation description.

Recommendation Number	Description
18	Take action against pirate taxis; (perhaps a laudable goal, but little practical guidance as to how to achieve this)
23	Registry of autos with police; owner agrees that the vehicle may be stopped at any moment (the registration and authorization to stop should be de-linked to permit registry alone if the vehicle owner so desires)
32	Control of drug distribution should be enhanced; seizure of those who facilitate vehicles or structures where drugs are sold (no guidelines offered for what might be a non-criminal proceeding with significantly lower standards of proof; subject to abuse or improper application, particularly in a notoriously imperfect judicial process)
45	Using the <i>Policia Bancaria e Industrial</i> (PBI) as a model for auxiliary police force. (Given the widespread changes required in all SSPDF forces, seems doubtful why PBI should be taken as a model for any other force)
48	Photograph all detainees (no information as to whether this will be limited to those who are charged—it should be— or if photos taken of all arrestees, what use will be made of those released without charges or acquitted; of particular concern in the DF, where the arrests are largely made without a warrant or meaningful judicial review)
123	Take action against <i>franeleros</i> [self-appointed parking space keepers] and <i>limpia-parabrisas</i> [squeegee men]; (not clear what the impact, or unintended results will be for Mexico City, which has tens of thousands of potential new arrestees; as the report notes, this type of enforcement creates countless opportunities for corruption and abuse)
133	Suggests short cases for flagrancy arrests (seems to ignore both the frequency of flagrancy arrests and the overly expansive definition of flagrancy now in use; makes no mention of the common use of summary proceedings for flagrancy and other cases in the Federal District courts)

Notable for their absence are several proposals that we believe would represent advances toward the goal of a responsive, trustworthy and accountable police for the Federal District. We therefore suggest a few additional measures:

- End the practice of providing monetary bonuses to SSPDF officers for each remittance of a suspect to the prosecutor’s office. This practice sends exactly the wrong message to officers, needlessly inflates the workloads of prosecutors who must process the cases, and is far from a validated anti-crime strategy.
- Enhance public information about crime patterns and accountability efforts so that residents can judge for themselves the progress in reforming police practice and enhancing results.

- Review the SSPDF's own *responses* to documented complaints and recommendations regarding abuses documented by the Federal District's Human Rights Commission.
- Improve the now dismal mechanisms for investigating and adjudicating disciplinary matters via the *Consejo de Honor y Justicia* .

Institutional Reform. As the SSPDF has suffered from a profound institutional weakness throughout its history, with a perilous absence of basic norms to define and govern what it does, the recommendations in this area generally begin to address urgent necessity. The most obvious are the redesign of lines of authority, the generation and distribution of policy and procedure documents whose current state most clearly reflects the organizational deficits facing the Secretariat.

We also believe that the recommendation to develop a management and policing approach based on the Compstat-based approach to information management is appropriate, for several reasons. Compstat has demonstrated its value as a mechanism for organizing information and using it to assist the police in developing "evidence-based" strategies. Large institutions (the NYPD no less than the SSPDF) are susceptible to inertia and hard to energize, and the combination of decentralized authority and monitoring of results can uniquely motivate a more proactive approach.

However, the recommendations do not make clear that like any system of its nature, Compstat will reflect and magnify the values that officials program it for and pay greatest attention to. If, as in New York, arrest figures are perceived as far and away the most significant element of their jobs and reflect the strongest criteria for their eventual evaluations, police officials will begin to define their policing mission almost exclusively in terms of arrests. Other elements of effective policing, such as good community relations and the harvesting of community intelligence and cooperation as a crime fighting resources, lose prominence. The resulting tactics can alienate communities rather than making partners of them. If, as you have publicly suggested, you intend for the legacy of your work at the SSPDF to include a reputation for community policing, these risks are indeed very relevant to your objectives.

It is reassuring to see that the SSPDF intends to use Compstat to track figures on complaints of human rights abuses. However, inputting such data does not guarantee that it has an impact. An explicit effort must be made to convey that these are important factors — in order to exploit the full potential of Compstat as a management tool while remedying some of its unintended adverse consequences.

For example, Compstat could capture information (not necessarily numerical) about formal police community dialogues on a precinct by precinct basis, record the commitments and strategies made to address community concerns, and chart efforts and progress towards meeting those objectives. By incorporating these elements into the review process, improved community relations — and ultimately, a more community-oriented style of policing — can be linked to the career pressures that tend to attach to favorable arrest and crime numbers.

Management of accountability and discipline. We applaud the suggestions concerning the development of an Internal Affairs Unit, which tracks recommendations we made to you in our letter of March 11, concerning the Organic Law of the SSPDF. As the SSPDF observes in the brief observations which accompany the recommendations, the new Organic Law of the SSPDF Security of the Federal District, has already authorized an Internal Affairs Unit. However, the Giuliani team appears to share our view, which we expressed in March, that the legislation mistakenly provides that Internal Affairs officers not be police (although it does not specify what profiles or credentials should be required of potential members). Indeed, their recommendations second our view that incentives should be provided to ensure that quality officers choose (or are chosen) for Internal Affairs. Because the Giuliani recommendations do not state so explicitly, we reiterate our recommendation that a unit also be created to ensure independent capacity in situations where Internal Affairs itself is the target. The development of an Integrity Control unit, as suggested by the Giuliani team, may help in this regard, though this unit, as conceived in the recommendations, may not be intended to have the capacity to carry out a complex or sensitive investigation.

Although the Internal Affairs unit will be a critical element in a system of accountability, it needs to be complemented by an adjudicative body that can ensure fair processes and appropriate outcomes. This means that the *Consejo de Honor y Justicia*, still a clearly inadequate body, needs to have the resources, professional development and faculties to live up to a difficult mandate. As we recommended in March, the *Consejo's* role needs to be clarified, and its capacity enhanced. We reiterate another recommendation from March, that the relevant substantive norms be amended to clearly define 1) sanctioned conduct and 2) the laws and norms to be applied to each type and rank of employee or official, as both questions have vexed attempts to achieve accountability even in relatively egregious cases.

Similarly, we rely on our March recommendation to complement the proposal from the Giuliani team that the SSPDF keep track of complaints, including those relayed from the Federal District Human Rights Commission. It is apparent from the new organic law of the SSPDF, approved in March with little discussion, that while the SSPDF is willing to commit itself to maintaining and analyzing this data, it wants to unduly restrict access to it. The Giuliani recommendations apparently include no suggestion in this regard, which prompts us to do so, again: such information, highly relevant to the question of police performance, should be made available to the public, even if it is necessary to remove information that would identify individual officers. The public is entitled to know about the frequency and patterns of complaints against the police, and perhaps most important, the consequences attached to such matters by a police agency in the midst of a campaign to win back the public trust.

Crime fighting. We do not pretend to substitute our judgment about the causes or factors underlying crime for that of the Giuliani team. However, we note, as we have on prior occasions, that the approach advanced by Giuliani is not the only option available, is subject to significant debate, and that given its controversial nature, it is necessary to explore alternatives as well as measure carefully the possible impact of such approaches in Mexico.

Perhaps the greatest disadvantage of the approach is the pressure it places on the police to solve problems that are largely beyond its competence to resolve. Indeed, in the area of public order and regulation of use of public spaces, the differences between New York and the Federal District are most pronounced. Mexico City's hundreds of thousands of *franeleros*, windshield wipers and ambulatory vendors are a reflection of a massive informal sector that has no real counterpart in New York (whose "squeegee men" totaled less than 200 when Mayor Giuliani ordered his crackdown on them). Their significant presence is virtually guaranteed by the weaknesses and inequities in the District's economy and local public administration — problems that are neither the fault of the police nor overly susceptible to their efforts, Mr. Giuliani's recommendations notwithstanding. Under such circumstances, the consequences of criminalizing the lifestyles of last resort are difficult to predict, but unlikely to be sustainable or an unalloyed benefit for the city. The experiences of other Latin American cities (that of Lima, for example) are, regarding the Federal District, far more analogous in this regard than that of New York, and most likely more instructive.

Administration of criminal justice. With regard to the overall strengthening of the criminal justice system, the Giuliani team makes several far reaching suggestions that merit further consideration and debate, while advancing others that reflect misconceptions about Mexico's criminal process. Although it stops short of proposing unification of the various police forces (a recommendation that was widely anticipated in the wake of public comments by various officials who had spoken with the Giuliani team) it does recommend authorizing investigative judges to conduct what are now prosecutorial investigations and make the determination whether to bring charges or not.

We wholeheartedly share the conviction that the prosecutorial investigation, as currently constituted, is the source of many of the system's evils. We agree that the judicial police have not performed adequately to ensure reliable criminal investigations. Our work has documented a troubling imbalance of power that has long favored the prosecution but has failed to ensure the system's effectiveness. There are numerous potential approaches to these and other self-evident flaws in the system, and we believe that the Legislative Assembly is long overdue to convene a process of developing a meaningful reform. That process should be informed by, among others, the Giuliani recommendations, but not defined by them.

We remain, of course, willing to discuss these points and possible avenues for police reform at your convenience. Many thanks for your attention.

Very truly yours,

Robert O. Varenik
Mexico Project