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**Blame Avoidance and Policy Stability in Developing Democracies:
The Politics of Public Security in Buenos Aires¹**

Hernán Flom² and Alison E. Post³

Democratization originally inspired hopes that new regimes would privilege human rights, yet progressive reforms to the criminal code have been modest and insufficient to stem dramatic increases in incarceration rates. At the same time, developing democracies have made little headway reforming their ineffective police forces. How can we explain the stability and enforcement of punitive criminal justice policies and the erosion of police reforms? We offer a novel theoretical explanation of these contrasting patterns through a comparative study of these two policy areas in Buenos Aires, Argentina. Incentives to avoid blame for salient crimes discourage politicians from repealing punitive criminal justice policies and incentivize judges to enforce them. Responsibility for failed police reforms, however, is harder to assign, giving the police and their allies opportunities to undermine them.

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“Either the police catches a criminal or the next day a little girl gets killed, and then someone calls the radio to curse you”.¹

-Felipe Solá, Governor of Buenos Aires, 2002 – 2007

“Being in charge of security consists of always giving bad news. It’s like having the rod of King Midas backwards”.²

-Alberto Piotti, Secretary of Security, Buenos Aires, 1994-1996

Crime control in democracies of the developing world is characterized by a perverse equilibrium. Though democratization originally inspired hopes that new regimes would privilege human rights, progressive reforms to the criminal code have been modest and insufficient to stem dramatic increases in incarceration rates. The percentage of the population in prison in democracies and hybrid regimes grew by 87% in Latin America and the Caribbean, 62% in Southeast and Central Asia, and 38% in Africa between 1992 and 2013.³ Moreover, many of these prisoners have not yet been convicted: rates of pre-trial detention are 51% in South America and 44% in Africa. While these regional averages belie within-region variation,⁴ the overall picture is of the persistence of punitive penal regimes, with important implications for human rights and the public purse.

At the same time, developing democracies have made repeated but unsuccessful attempts to reform their ineffective police forces. Police are ineffectual at fighting crime, often complicit with criminal activity, and prone to human rights abuses.⁵ Reform efforts to bring police forces more firmly under civilian control—and thereby curb police racketeering and abuse of suspects and prisoners as well as improve crime-fighting effectiveness—have in many cases been eroded or blocked. Scholars have documented barriers to reform in post-PRI Mexico,⁶ and failed reform efforts in Colombia, Brazil, Argentina, Bolivia and Honduras.⁷ Politicians have also been unable or unwilling to enact or enforce police reform in India, Nigeria, South Africa, Turkey, and

Thailand, and many other countries.⁸ While some community policing programs have enjoyed modest success,⁹ the literature suggests that broader institutional reforms to curb police corruption and abuse and improve political oversight are typically eroded or reversed. In the policing arena, in other words, policy instability predominates.

The simultaneous stability and enforcement of punitive criminal justice policies and cycling of police reform efforts in developing countries remain unexamined.¹⁰ These contrasting patterns are puzzling in theoretical terms. The literature examining “weak institutions” in the developing world suggests that institutions or policies are typically *unstable*, and, even if formally unaltered, often go *unenforced*.¹¹ Existing theories stress that where institutions or policies are stable and enforced, this usually reflects the fact that enactors have successfully courted major interest groups or defeated policy opponents.¹² Criminal justice policies have remained largely punitive and been actively enforced in developing countries in the absence of organized beneficiary groups, or, for that matter, strong policy opponents. This relative stability and vigorous enforcement—i.e., policy entrenchment—is thus puzzling in theoretical terms.

Building on work by Weaver and others on blame avoidance,¹³ we propose that policy entrenchment in developing democracies with weak institutions can also stem from politicians’ and other government officials’ incentives to avoid blame. In certain policy areas, politicians and governmental officials are mainly concerned with avoiding isolated, politically damaging events and thus prioritize minimizing the risk of their occurrence. We argue that such incentives to avoid blame for rare but salient crimes discourage political incumbents from repealing punitive criminal justice policies, and pressure judges to enforce them to minimize risks to their reputation and chances of promotion. These incentives are sufficiently strong to bring about policy implementation even in the absence of organized beneficiary groups pressuring for the

continuation of these policies. Police reform efforts, however, are less likely to be maintained or fully enforced because strong, entrenched interest groups—police and local politicians—stand to lose from changes to the status quo. The perverse result is the persistence of a punitive criminal code, very high incarceration rates, and the repeated erosion of police reform.

We utilize this analytic framework to examine the entrenchment of a punitive penal regime and repeated rollbacks of police reform in the province of Buenos Aires, Argentina. Buenos Aires is in many respects a representative case. As in much of the developing world, policing and criminal justice policies are predominantly set at the subnational level.¹⁴ While Argentina is an upper middle-income country, experts consider its judiciary to be far less independent than those of other countries with similar income.¹⁵ In addition, while violent crime and incarceration rates are lower in Argentina than in Latin American hot spots such as Mexico, Central America and Brazil, they are in line with median rates in the developing world (Table 1, online appendix).¹⁶ Within Argentina, Buenos Aires' repeated police reforms were similar in content to those adopted in other major metropolitan areas—i.e. Cordoba, Mendoza and Santa Fe—all of which were also eroded over time.¹⁷ Meanwhile, judicial independence is higher in Buenos Aires than in many other Argentine provinces,¹⁸ which would lead us to expect the penal process code to be enforced less vigorously than elsewhere in the country. In this sense, Buenos Aires constitutes a harder case for our argument than many other provinces.

The paper first provides a fuller exposition of the theoretical argument, and then utilizes this framework to explain the simultaneous entrenchment of punitive criminal justice policies and recurrent, failed police reform efforts in Buenos Aires province. Our empirical analysis draws on extensive original data, including interviews with high-ranking members of the provincial executive and judiciary, and the consultation of government records on crime,

imprisonment and judicial appointments. The final section shows that similar dynamics were at work in El Salvador and Venezuela, countries with higher violent crime rates, and discusses the broader implications of our findings.

Blame Avoidance and Policy Entrenchment in Weak Institutional Environments

The literature on public policy in weak institutional environments suggests that reforms are often unlikely to stick due to the short time horizons of actors and efforts by entrenched interests to undermine them.¹⁹ A path-dependent dynamic develops in which actors become accustomed to instability, and thus invest little in new institutions and policies, making it easier to overturn them and replace them with others.²⁰ When policy entrenchment does occur, the literature suggests, one can usually attribute it to the existence—or intentional creation of—strong beneficiary groups, strong inter-temporal agreements between interested parties,²¹ or the consolidation of power by rule-writers.²² Scholars of American political development highlight additional factors that encourage policy stability: low visibility to the general public, which allows the most immediate beneficiaries to exert considerable influence upon policy;²³ long program duration, which tends to inspire greater activism in support of policy continuation;²⁴ the degree to which actors make investments that depend upon the continuation of policies;²⁵ and concerns about incurring voter wrath when benefits are withdrawn.²⁶ Much of this literature, in other words, focuses on the organization of winners and losers from reform in policy areas characterized by important benefits for politically important interest groups—and visible, politically salient benefits for voters.

Many important policies, however, are instead characterized by more abstract and diffuse benefits: shielding the population from rare but harmful occurrences, such as violent crime or

unsafe food or pharmaceuticals. As Ulrich Beck famously argued, citizens often blame politicians when they do not manage risks effectively—even when they are beyond their control.²⁷ Our contribution here is to show that focusing on blame avoidance and risk aversion helps elucidate patterns of entrenchment in such policy areas. The probability of harmful incidents may be low, but when they do occur, they attract media attention and public opprobrium, which can cost an elected official, career bureaucrat, or judge his or her chances for career advancement—and in extreme cases, his or her job. This provides incentives not only to refrain from repealing but also to enforce policies that guard against such risks, especially where the public is concerned about them. Blame-avoiding behavior can therefore lead to policy entrenchment even in the absence of well-organized beneficiary groups. This mechanism has been neglected by the theoretical literature on the politics of public policy in weak institutional environments.

Security Policy in Weak Institutional Environments

To illustrate how blame avoidance helps explain the entrenchment of policies characterized by small risks of politically damaging events in weak institutional environments, we examine two related policy areas that have usually been treated separately in the literature: criminal justice policies and police reform. In these policy areas, two types of institutions are pivotal and weak. Judiciaries are crucial for the implementation of criminal justice policy, but lack independence, while police forces are weak in the sense they often do not act in accordance with the law. We argue that blame avoidance contributes greatly to the stability and enforcement of punitive criminal justice policies by a weak judiciary. Politicians and judges' incentives to avoid paying the political costs of crime provide them with incentives to maintain and implement

punitive incarceration policies. Blame avoidance, however, provides weaker incentives for the consolidation of police reform, even though reforms may reduce crime. This allows entrenched interests that stand to lose from police reform—such as the police hierarchy, as well as their political allies—to sabotage reform efforts.

The Entrenchment of Punitive Criminal Justice Policies

Americanist and comparative literatures alike have documented politicians' strong incentives to adopt punitive criminal justice policies, such as mandatory minimum sentences and restrictions on pre-trial release. Salient, heinous crimes—especially those committed by released prisoners—are rare, but when they occur, they can decisively hurt a politician's image and electoral chances.²⁸ The introduction of punitive policies is a “politically cheap” way for incumbents to present themselves as addressing the concerns of electorates worried about crime and to proactively avoid the risk of being blamed for crimes committed on one's watch.²⁹

Analyses of American crime policy also stress that once punitive policies are on the books, concerns regarding blame *discourage politicians from repealing them*.³⁰ One would expect such incentives to be more important in developing democracies, where voters routinely rank crime as one of their most pressing concerns. The 2011-2014 wave of the World Values Survey reports that respondents from fifty-one countries—thirty-five of which are democracies and hybrid regimes—rank crime among their top three concerns. Meanwhile, the 2013 Latinobarometer survey reports that 24% of respondents considered crime to be the main problem in their country, surpassing all other economic problems considered individually. Not surprisingly, in Latin America conservative and liberal politicians alike often incorporate crime ‘regulation’ initiatives into their platforms or employ them in response to security crises.³¹

Efforts to repeal punitive elements of the criminal code must overcome politicians' concerns to avoid appearing soft on crime. Recent history provides some examples of the rare political circumstances under which this can occur. First, the democratization process itself can spark efforts to improve due process guarantees for the accused, out of concern to ensure judicial systems produce fairer outcomes than authoritarian systems did. For example, during the 1990s, most Latin American countries shifted from an "inquisitorial" to an "accusatorial" system, thereby separating the role of judge and prosecutor.³² However, politicians have reversed many progressive changes to the penal process code throughout Latin America.³³ Supreme Courts—which tend to be more independent than lower courts—have in some cases issued progressive rulings forcing governments to make penal process codes less punitive.³⁴ Finally, strong fiscal pressures from ballooning prison costs can prompt legislators to support reforms.³⁵ As stressed previously, these prompts are rare and encounter substantial headwinds.

While the literature suggests that many policies go unenforced in weak institutional environments, blame avoidance provides strong incentives for the *enforcement* of punitive elements of the penal code. The relevant Americanist literature stresses that elected judges possess electoral incentives to issue harsh sentences to avoid appearing soft on crime.³⁶ We argue, however, that the mechanism is different in weak institutional environments, where judges are typically appointed and less independent. A desire to avoid blame for violent crimes committed on their watch encourages politicians to pressure judges to interpret guidelines regarding sentencing and the pre-trial release of prisoners conservatively. This pressure can take a number of forms. First, politicians can publicly blame judges that authorized a prisoner's release for crimes subsequently committed, humiliating them and their families. Their incentives to do so will be particularly strong for violent crimes. These attract intense media coverage, and

thereby fuel general anxieties regarding crime. Second, politicians can initiate or support legal complaints regarding the professional conduct of judges who approved prisoner releases or absolved criminals. While such hearings rarely result in actual expulsion, they can trigger a judge's suspension with reduced pay and weaken his or her chances of promotion considerably. They can also provide an opening for authorities to investigate other parts of a judge's record. Taken together, these pressures encourage judges to rule more conservatively than they might otherwise.³⁷

Meanwhile, few powerful organized interests stand to lose from these policies in developing democracies and can mobilize to block implementation. Imprisoned individuals are usually poor, unorganized, and lack social support. In contexts with highly organized criminal actors, those who go to jail are mostly the ones on the bottom of the criminal hierarchy.³⁸ While some human rights organizations demand fair treatment for prisoners, they do not normally exert significant influence on security policy. Finally, judges' professional associations can be quite fragmented in the context of low judicial independence, given the ability of the executive and legislative branches to influence appointments and promotions. This weakens their ability to resist pressures to interpret sentencing guidelines conservatively. In sum, it is not necessary to have strong, organized groups champion these punitive criminal justice policies. They can result from politicians and judges supporting them as a way of avoiding blame for highly salient political failures.

The Repeated Erosion of Police Reform

Many developing democracies have launched police reform initiatives: i.e., reforms aiming to bring police forces under civilian control, thereby reducing rates of corruption and

police brutality, as well as improving crime control. Reform programs have typically included organizational changes, such as placing civilian ministers rather than members of the police hierarchy in charge, creating commissions for legislative oversight, instituting procedures for government (rather than police) review of cases of corruption or abuse, and adopting provisions for decentralization and citizen participation.³⁹

While blame avoidance fuels the persistence and enforcement of punitive criminal justice policies, the blame avoidance logic is far weaker for police reform. Political incumbents certainly do not want to be seen as tolerating police corruption or excessive use of force, or even worse, police organization of criminal activity.⁴⁰ For these reasons, they often launch police reform programs following scandals arising from revelations of police corruption or human rights abuses to distance themselves from the police.⁴¹ At the same time, citizens are ambivalent regarding police reform. While citizens are generally very concerned about crime, and thus supportive of reforms promising to improve police efficacy, they often sanction excessive use of force if they perceive it as reducing crime. Police corruption is of secondary concern. This makes citizens much more sympathetic when interest groups blame crime waves on police reform efforts themselves, faulting reformist politicians for “tying their hands.”⁴²

In addition, unlike the case of criminal justice policies, many important and well-organized interests stand to lose from police reform. Police forces may directly contest or subtly undermine the implementation of reforms in various ways. On the one hand, they can pay lip service to the introduced changes while continuing to use traditional practices.⁴³ On the other hand, police can actively resist reforms through strikes or illegal, even violent “lobbying” techniques,⁴⁴ including the surveillance and intimidation of government officials, or deliberately staging crimes to increase public support for more “traditional” police intervention. Local

politicians can also obstruct reform efforts launched by higher tiers of government when they profit from police corruption. Illicit rents are often non-negligible for the local politician's capacity to maintain his political machine and win internal partisan disputes.⁴⁵

Consequently, unlike the entrenchment observed in criminal justice policies, police reforms are more likely to follow a cycling dynamic. Politicians turn to reforms to diffuse security crises stemming from the police's inefficacy, corruption or criminal behavior.⁴⁶ However, organized interests undercut these reform efforts.⁴⁷ Security crises therefore surface again, prompting new reforms.

The combination of these two dynamics results in a sticky "perverse equilibrium" of high incarceration rates and unreformed police forces. Police forces deal with crime in traditional ways, brokering deals with major criminal actors while arresting (or killing) petty criminals. These arrests saturate the judicial and penitentiary system. Failing to reform the police, politicians turn to punitive criminal justice policies to show that they are tough on crime.

Public Security Policy in the Province of Buenos Aires

Our analysis of security policy in Buenos Aires encompasses the period 1997-2012, which witnessed a series of major reform initiatives in criminal justice policy and police administration, and covers the consecutive administrations of four different Peronist Party governors. During this period, we observe two patterns in security politics in Buenos Aires province: the resilience and vigorous enforcement of a punitive criminal process code and the repeated erosion of police reform programs intended to reduce corruption and human rights violations. In both cases, politicians and judges wanted to avoid blame for "security failures," i.e. high-profile crimes or incidents exposing the police's corruption or criminal activities. However,

while politicians had clear incentives to maintain a punitive criminal code and judges to *enforce* it, blame avoidance did not provide such incentives for politicians and bureaucrats to defend and implement police reform. This allowed police forces and political actors who stood to lose from police reform to undermine new policies. Meanwhile, the clear losers under punitive criminal codes—accused individuals—were far less organized and powerful. As a result, criminal justice policies have remained punitive and been vigorously enforced, leading to dramatic increases in the prison population, while police reforms have failed to gain traction.

Entrenchment of Punitive Criminal Justice Policies

Our analysis of criminal justice policies in Buenos Aires focuses on the stickiness and enforcement of new laws changing province's penal process code, that have influenced how likely individuals are to be imprisoned, and for how long. While the province, like much of the region, moved from an inquisitorial to accusatorial system during the 1990s and introduced a number of alternatives to pre-trial detention in 1998, legislation thereafter weakened protections for the civil rights of detained individuals. We focus on reforms that altered the criteria determining pre-trial detention, since these have an important impact on incarceration rates⁴⁸ by saturating prisons and police stations with unconvicted individuals.⁴⁹ Politicians' introduction and non-repeal of restrictions on pre-trial detention, as well as judges' enforcement of these provisions instead of less draconian alternatives such as electronic monitoring, dominated this period (1997-2012) and became more pronounced over time.

All four provincial governors—Eduardo Duhalde, Carlos Ruckauf, Felipe Solá and Daniel Scioli—modified the provincial Penal Process Code, expanding the situations under which judges should keep a defendant in prison while awaiting trial.⁵⁰ These measures essentially rolled back provisions for pre-trial release provided for under a 1998 law.⁵¹ While

Duhalde had initially sponsored the progressive 1998 reform, he quickly backtracked, promoting a law broadening the circumstances under which pre-trial detention could be applied (Law 12.278, March 1999). This law stipulated that release from pretrial detention could be denied if the crime had been committed by “several participants and in an organized manner” or if it involved individuals under 18.

Restrictions on pre-trial release increased following Carlos Ruckauf’s election as governor in 1999. Ruckauf (1999-2001) loudly championed his support for punitive policies, promising to “riddle criminals with bullets.”⁵² Ruckauf’s reform (Law 12.405), introduced in January 2000, significantly expanded the criteria for pretrial detention, extending it to all cases involving firearms or defendants with prior convictions.

Though the left-of-center Felipe Solá (2002-2007) did not use the inflammatory rhetoric of his predecessor, he also understood the political appeal of punitivism: “[In Buenos Aires] you can’t win elections with a ‘garantista’ [i.e., prisoners’ rights] platform”.⁵³ Not only did Solá not repeal Ruckauf’s modifications of the penal process code, he also expanded the criteria for applying pre-trial detention to include cases of unauthorized gun possession and crimes against sexual integrity after a mass protest led by Juan Carlos Blumberg, the father of a murdered upper-middle class college student in April 2004.⁵⁴ The rally also motivated national legislators to lengthen the National Penal Code’s minimum prison sentences for various offenses.⁵⁵

Finally, Governor Daniel Scioli made twelve modifications to the Criminal Process Code between 2008 and 2012.⁵⁶ These reforms reduced judges’ discretion in granting defendants release from pre-trial detention⁵⁷ and restricted the use of alternative measures to incarceration, such as electronic surveillance.⁵⁸ In September 2012, Scioli introduced—and the provincial Senate approved—a new reform that limited pre-trial release for individuals detained with

weapons or who had resisted arrest, among other things.⁵⁹ This bill obtained legislative support but the National Supreme Court ruled it unconstitutional.⁶⁰ As the preceding narrative indicates, each of these provisions has reinforced the punitive orientation of the criminal code. Moreover, politicians have not chosen to dismantle reforms made by their predecessors.

Various data suggest that provincial criminal judges have actively enforced these provisions.⁶¹ The proportion of mandatory rather than conditional sentences issued by penal judges increased from 40% to 61% between 1998 and 2009.⁶² Mandatory sentences require an individual to complete her entire sentence in prison, whereas conditional sentence lengths are contingent on the detainee's record or behavior. Second, the average length of criminal sentences handed down by provincial judges increased. In 1998, 80% of convicted individuals received sentences of up to three years and 10% sentences of more than five years. In 2009, the respective percentages were 63 and 17.⁶³ Both of these trends continued under the more left-leaning Solá administration, suggesting that pressures on judges did not vary with governor ideology.

Third, provincial judges have become less inclined to allow alternatives to pre-trial detention. While the overall prison population increased significantly between 2005 and 2010, the percentage of detainees under electronic surveillance or temporary custody decreased from 10% to 1%. This change resulted from a combination of the more stringent legislation and the perceived risk—for both politicians and judges—that electronically monitored prisoners can elude surveillance and commit new crimes. For example, in 2008, an electronically monitored individual murdered a family of four, and in 2010, a former inmate shot a pregnant woman while she was exiting a bank, killing her unborn child. The media provided extensive coverage of both incidents, and the judge approving release in the first case was almost impeached.⁶⁴ Overall, judges' recurrent imposition of pre-trial detention, along with the slowness of the judicial

process,⁶⁵ means that most prisoners are in jail without a final judgment: the average percentage of prisoners in pre-trial detention was 75% for 2001-2010.

Due in large part to these increasing restrictions on pre-trial release and the vigorous enforcement of punitive elements of the criminal code more generally, the provincial prison population more than doubled between 1997 and 2008, according to government estimates, growing from 11,000 to over 24,000 prisoners. Incarceration rates increased from 84 to 160 prisoners per hundred thousand inhabitants during the same period, a 90% increase. Non-governmental estimates suggest that incarceration rates were even higher, increasing from 108 in 1997 to 183 per hundred thousand in 2008.⁶⁶

Increasing crime rates cannot account for these trends on their own. Between 1997 and 2008 in Buenos Aires, total crime rates increased by 32%—far below the 190% increase in incarceration rates. Meanwhile, convictions for crimes incurring the longest sentences did not increase enough to explain these trends: homicide rates decreased by 30%, while convictions for crimes against individuals (e.g. unintentional manslaughter, assault) increased by 88%.

Why have judges adhered to increasingly punitive sentencing guidelines? We argue that vigorous enforcement stems from career incentives. Judicial tenure is an insecure business in Argentina, where political intervention in judicial affairs is normal.⁶⁷ In Buenos Aires, even the province's Supreme Court judges—the highest judicial body of the province—are subject to job insecurity, though less so than in many other provinces.⁶⁸ Criminal court judges are no doubt subject to greater informal pressures.

In Buenos Aires, political actors concerned with avoiding blame for salient crimes, which can tap into and increase public concerns regarding crime, have influenced judges' decisions through three main avenues: public shaming, appointment and promotion processes, and

impeachment proceedings. First, politicians can publicly lambast judges for authorizing pre-trial or early releases from custody. The press contains numerous examples.⁶⁹ Second, although the judicial appointment process contains protections against political interference,⁷⁰ judicial branch interviewees suggested politicians successfully lobby governors to appoint judges with whom they agree ideologically or with whom they have personal connections, even when the appointees are not the best candidates for the position.⁷¹ As a result, judges who “received [their] position because of political pressure rather than personal merit are bound to be dependent” on the Executive, or at least more compliant.⁷² To curry favor with mayors, governors can also stack the courts by creating decentralized prosecution offices and appointing judges to fill newly-created positions. During Governor Scioli’s first two years in office, for example, he appointed over 300 criminal court judges.

Politicians also influence judicial decisions by launching impeachment proceedings against judges who release individuals from pretrial detention who then commit violent crimes. In Buenos Aires, the two most notorious cases were attempts to impeach judges Nicolas Schiavo and Rafael Sal-lari in 2008 and 2011, respectively. Given their lack of substantive evidence, these proceedings were unsuccessful. However, politicians such as the mayor of San Isidro, Gustavo Posse, and civil society organizations such as the Mothers of Pain⁷³ publicly denounced and insulted the judges.⁷⁴ In an interview with the authors, Sal-lari—who resigned after being reinstated—described the politicization his proceeding:

“Off the record, the mayor [Posse] would sit [with me] and say ‘I know this [impeachment] is insane, but I have to do it, I have pressure from all sides’. [...] None of the politicians [in the Impeachment Jury] knew about the cases. You had to make a grid with who called in support of you or against you, and that’s how you won or lost.”⁷⁵

The prominent cases of Schiavo and Sal-lari subsequently emboldened many individuals, organizations, and politicians to initiate proceedings against other judges when they did not approve of their judgments.⁷⁶

Impeachment is painful to judges for many other reasons. Indicted judges are temporarily suspended and have 40% of their salary seized during the proceedings. Furthermore, judicial inquiries—even if they do not result in impeachment or removal—remain on judges’ records, lowering their chances of promotion. Even though impeachment has not resulted in the removal of criminal court judges, several have resigned prior to the beginning of the trial,⁷⁷ in part because opening such investigations grants the executive and judiciary the opportunity to investigate *all* of a judge’s actions. Finally, even if a judge is reinstated, he or she is likely to rule more conservatively to avoid future inquiries.⁷⁸ Commenting on why he decided to quit the provincial judicial system even after charges against him were dropped, Judge Sal-lari stated:

“I have two daughters and everybody knows [they] are the daughters of a judge. [...] I didn’t want to get in a position where, if tomorrow I have to decide something that I know is fair, to have to back down because of fear of being prosecuted or that people insult me on the radio and have my daughters find out.”⁷⁹

These pressures prompted discontented judges to create a provincial Network of Criminal Court judges.⁸⁰ This collegiate organization has issued several public statements denouncing impeachment processes as “persistent pressures and threats” against judges so that they do not “decide against the wishes of the [political] leadership,”⁸¹ and arguing that these pressures are especially common when “certain political sectors seek to capitalize on social demands for security.”⁸² In light of these pressures, judges have strong incentives to apply harsh rulings regarding pretrial detentions. Favarotto, who interviewed more than 40 criminal court judges,

reports that many judges ‘play for the crowd’, sending individuals to prisons they know are uninhabitable and undermining their rights and guarantees to please society and politicians.⁸³

Prisoners are ill equipped to push back against the vigorous enforcement of punitive policies. In Buenos Aires, they are disorganized and exert little political influence. No politician wants to appear to be explicitly defending them. Only human rights groups like CELS (Center for Legal and Social Studies) take up prisoners’ causes on civil rights grounds. Citing overcrowded prison conditions, this NGO convinced the National Supreme Court to rule in 2005 that the provincial government could not hold individuals in police stations.⁸⁴ NGO influence, however, depends largely on the provincial government’s cooperation: while Governor Solá respected the Court’s decision, a report published by public defenders alleges that under his successor, Governor Scioli, the province has not complied with the ruling, leaving jails and police stations overcrowded and poorly maintained.

Importantly, these restrictions on pre-trial release in Buenos Aires have been adopted, maintained, and enforced in the absence of strong beneficiary groups. Private companies do not manage the prisons, and thus do not profit from punitive policies increasing prison populations. Prison guards are non-unionized, work under extremely poor conditions—sometimes doing 24-hour shifts—and are subject to physical and psychological abuse by inmates. While additional prisoners imply an extra source of income for guards who demand bribes from inmates in exchange for protection or personal benefits, overcrowded prisons are also more difficult to manage.

In summary, provincial politicians have faced strong incentives to maintain “law and order” policies, and judges have had career and personal reasons to enforce these policies to avoid having politicians shift blame onto them. Blame avoidance, in other words, has fueled the

entrenchment of punitive criminal justice policies in the province of Buenos Aires, and thereby contributed greatly to rising incarceration rates.

The Cycling of Police Reforms

While Buenos Aires’ penal process code has become increasingly punitive since the late 1990s, police reforms display a cyclical pattern: adopted by one governor, they are soon eroded by him or his successor, particularly those provisions providing for civilian control over the police establishment (Table 1).⁸⁵ Politicians—especially governors—have promoted police reform to deflect blame for police corruption or scandalous human rights abuses. This situation is primarily the legacy of salient 1990s cases, such as the police’s complicity with the terrorist attack on the Israeli-Argentine Mutual Association in 1994 and the murder of news photographer José Luis Cabezas in 1997.⁸⁶ The sheer number of times the head of the security ministry has changed between 1994 and 2012 testifies to the instability of this policy area: 19 individuals have held this position, an average tenure of one year. As Alberto Piotti, Duhalde’s Security Secretary from 1994 to 1996, said: “the security minister is always the first fuse, even more than the chief of police.”⁸⁷ However, incentives to sustain and enforce police reforms are weaker than with criminal justice policies. Police reform does not necessarily reduce crime and is politically costly to implement. In addition, the main losers under reform—the police—are organized, have strong political allies and can use several tactics to counter these reforms.

Table 1. Cycles of police reforms in Buenos Aires Province (1996-2012)

Governor	Security Minister/s	State of police reform⁸⁸	Period
Eduardo Duhalde	Eduardo de Lázari Luis Lugones León Arslanián	Advanced	October 1996- August 1999

Carlos Ruckauf	Aldo Rico Ramón Verón	Reversed	January 2000- December 2001
Felipe Solá	Juan Pablo Cafiero	Advanced Reversed	June 2002- June 2003
	Leon Arslanián	Advanced	April 2004- December 2007
Daniel Scioli	Carlos Stornelli Ricardo Casal	Reversed	January 2008- present

Both the Duhalde (1996) and Solá (2002, 2004) administrations introduced police reforms, but each was dismantled or reversed within three years. During most of Duhalde’s first five years as governor (1991-1996), provincial politicians exerted little if any control over a police force that grew increasingly entangled with various criminal rackets, from prostitution to car theft and drug trafficking.⁸⁹ After several police scandals, Duhalde began to worry that perceptions of police corruption could jeopardize his presidential candidacy.⁹⁰ He therefore appointed then provincial prosecutor Eduardo de Lázari to carry out a full transformation of the police. De Lázari purged three hundred high-ranking officers and passed an Emergency Law to intervene and restructure the police. De Lázari explained that both the police and the local politicians who defended them contested reforms: “The [municipal] mayor would call and say, “I want such and such” [as a street boss]. I had lots of conflicts with mayors.”⁹¹ The police applied organized resistance, sometimes by acting *as if* they followed orders, and sometimes by applying more direct pressure. De Lázari’s house, for example, was fired at when he was not there and photographs were taken of his children. He left the ministry in March 1997.

In April 1998, Governor Duhalde appointed León Arslanián as Security Minister, who implemented a broad organizational and functional reform of the police, placing the force and each of its divisions under a civilian head, and creating neighborhood, municipal and departmental security forums for citizen participation.⁹² He also fired more than 3000 police

officers, who then organized the ‘*sin gorra*’ (without hats) movement in protest. Arslanián also faced resistance from local politicians “who did not buy my ideas [...] some believed that we had to negotiate with the police, this was a generalized notion among Peronists”.⁹³ He left office in August 1999, after the Peronist candidate for governor, Ruckauf, made it clear that if he won he would dismantle the reforms.⁹⁴ Upon winning the election, Ruckauf kept his word, reinstating the police chief as the head of the security bureaucracy, sponsoring legislation that increased the police’s discretion in arresting and interrogating individuals, offering police a bonus equivalent to six months of pay for using lethal force against suspects “caught in the act,” and dismantling forums for citizen participation.⁹⁵

Governor Solá presided over two reforms, both of which were ultimately eroded. First, in July 2002, after the police killed two social movement activists in a street protest in the municipality of Avellaneda, he appointed Juan Pablo Cafiero and Marcelo Saín, Peronists from the center-left Frente por un País Solidario,⁹⁶ to head the ministry. The team changed the configuration of the ministry, sought to implement more modern policing techniques, and closed down police car shop rackets (distributors of stolen cars and car parts). However, according to Saín,⁹⁷ Solá told them he did not want to “rock the boat” by upsetting the police in an election year, and halted implementation. Saín later publicly denounced that police corruption financed Peronist party politics and left the ministry after six months. Cafiero lasted a year and three months but the reform had already been informally eroded. He received a dozen death threats during this period.⁹⁸

Solá’s second reform came after a massive demonstration organized by Juan Carlos Blumberg following the kidnapping and murder of his son Axel. Governor Solá appointed Arslanián for a second time, again merging the Security and Justice ministries. This time,

however, more solid support from the Governor as well as President Néstor Kirchner enabled Arslanián to press on with his reforms. Additionally, the fact that giving the police functional autonomy had failed to address crime or curb corruption gave him greater political leverage than his predecessors. A key part of the process was gaining the acquiescence of local politicians, who had previously sabotaged reforms: Governor Solá even stated, “I would ask the mayors: what do you have to offer? A thug, a friend of the sheriff? We’ve already seen that.”⁹⁹

Arslanián created a second provincial police force to promote a new generation of officers, emphasized the collection and analysis of crime data, promoted community participation, and revitalized the external control and auditing process led by the Ministry.¹⁰⁰ While it is hard to measure the extent to which police corruption and criminal activities actually decreased, political monitoring of the police certainly increased. The government expelled more than 2000 police officers between September 2004 and November 2007, compared with just 172 between February 1999 and June 2004.¹⁰¹ However, the new (and current) Peronist governor, Daniel Scioli, dismantled this reform upon taking office, reinstating the police chief as the head of the security bureaucracy and the practice of delegation and tolerance for police corruption and abuses.¹⁰² Other aspects of the reform, such as community policing, formally remained in place but the provincial government largely neglected them in practice.¹⁰³ Despite its previous support for police reform, the national government—now under President Cristina Fernández de Kirchner—did not block counter-reform.

In sum, multiple police reforms have been formally repealed or eroded through foot dragging, pressures from political allies, or violent lobbying. Politicians’ interests in avoiding blame was not sufficient to prevent the erosion of these reforms. The situation in Buenos Aires province constitutes a self-reinforcing ‘perverse equilibrium’ of entrenched, punitive criminal

justice policies and unreformed police forces. On the one hand, unreformed provincial police forces primarily arrest low rank, petty criminals, who —because of judges’ enforcement of punitive elements of the criminal code—fill up the provincial prisons. According to CELS, by the end of 2010 provincial jails were overcrowded by 46%. On the other hand, the saturation of the prison system does nothing to solve the deep-rooted security problems in the province, which fuel public demand for more security. Such security concerns make it unattractive for provincial executives to defend police reforms, despite the evident need to do so. To address voter concerns about crime, provincial governors have instead resorted to punitive policies, which are more visible and politically cheap. Since the late 1990s, restrictions on pre-trial release and tough mandatory sentencing guidelines have remained on the books, while judges have enforced them vigorously to avoid blame for crimes committed on their watch.

Conclusion

Existing scholarship stresses that public policies in weak institutional environments are often unstable or not fully enforced. When policies persist and are implemented in such contexts, this is usually attributed to the existence of strong beneficiary groups, strong inter-temporal agreements between interested parties, or the consolidation of power by rule-writers. Our paper highlights an additional source of policy stability and enforcement in developing democracies with weak institutions: politicians’ and appointed officials’ incentives to avoid blame for rare, yet politically damaging events.

Politicians’ focus on blame avoidance helps explain the simultaneous entrenchment of punitive criminal justice policies and instability of police reforms in developing democracies with weak institutions. Politicians have electoral incentives to avoid blame for graphic crimes,

which tap into and augment general, underlying concerns about security. This leads them to promote and refrain from repealing punitive criminal justice policies initially adopted in the wake of security crises. Appointed judges, in turn, possess reputational and career incentives to enforce these policies because of their *de facto* tenure insecurity. Moreover, the absence of strong interest groups that stand to lose from these policies makes implementation straightforward. On the other hand, blame avoidance provides weaker incentives for the consolidation of police reforms, where the presence of strong, organized potential losers from reforms undermines them. Our analysis of the case of public security in the province of Buenos Aires illustrates the utility of this framework. The combination of stable restrictions on pre-trial release of prisoners and cyclical police reform efforts has generated a “perverse equilibrium” in the province, whereby security problems persist, and crime remains a main concern for voters. This prompts politicians to promote additional punitive policies and gives police and their allies political space to undermine police reform.

Importantly, one observes similar dynamics in countries with higher rates of violent crime and varying levels of judicial independence. While El Salvador and Venezuela both moved from an inquisitorial to an accusatorial trial system and provided for a number of alternatives to pre-trial detention in 1998, the penal process code has maintained a punitive character. In both countries, legislators subsequently introduced new restrictions on pre-trial detention.¹⁰⁴ The fact that in El Salvador incarceration rates continued to increase, and in Venezuela rates of pre-trial detention quickly returned to pre-reform levels, suggests that, as in Buenos Aires, judges faced strong incentives to follow new, more punitive sentencing guidelines. This is unsurprising given that judges do not enjoy independence in either case. In Venezuela, judges are removed frequently, and thus hesitate to rule against the government or make decisions suggesting they

are soft on crime.¹⁰⁵ And in El Salvador—generally considered to have a somewhat more independent judiciary than Argentina—it is not uncommon to remove criminal court judges, and the president has stated publicly that he could not tolerate “judges who let rapists and kidnappers out on the streets”.¹⁰⁶ In other words, blame avoidance underpins the stability of punitive criminal justice policies in these countries as well.

Meanwhile, politicians and police have blocked or reversed police reform in both cases, in spite of public concerns regarding crime. El Salvador launched a major restructuring of its police following the end of the civil war in 1992 focused on demilitarization, establishment of civilian leadership, external supervision and training in community policing.¹⁰⁷ However, “political elites used violence to resist changes in the public security system”¹⁰⁸ and blocked the transition to a more professional and transparent police, downplaying citizen participation and ignoring human rights abuses.¹⁰⁹ Venezuela also attempted to reform its police in 2006 after the killing of three middle class teenagers.¹¹⁰ The reform established a new centralized police force, as well as internal and external supervision mechanisms, including civilian police oversight committees. While many of these formal changes remain, many criticize the reform for not curbing police corruption or human rights abuses.¹¹¹

This study is an initial, and hence incomplete, effort to understand the mechanisms perpetuating a “perverse equilibrium” in security policy in countries like Argentina, Venezuela, and El Salvador. Future research is needed to understand the extent to which variation in criminal court judges’ tenure security, crime rates, and citizen attitudes about crime, among other factors, influence the political logic we describe.

Nonetheless, our findings are of theoretical and practical importance. Theoretically, our study contributes to a new, but growing literature on the politics of public policy in weak

institutional environments. Our insight—that blame avoidance can help explain the circumstances under which policies stick and are enforced in such contexts—suggests that this emerging literature should devote more importance to voter-driven mechanisms behind policy adoption, stability, and enforcement. In practical terms, our framework can potentially explain the simultaneous entrenchment of punitive criminal justice policies and weak police administrations in other developing democracies—a perverse equilibrium characterized by routine violations of citizen rights, persistently high rates of insecurity, and large public expenditures on prison systems.

¹ Author's interview with Felipe Solá, Buenos Aires, July 2012.

² Author's interview with Alberto Piotti, Buenos Aires, July 2012.

³ Regional averages calculated from data from the *World Prison Brief*, International Center for Prison Studies (www.prisonstudies.org). Figures do not include countries with fewer than 5 million inhabitants and only correspond to democracies and hybrid regimes.

⁴ See the online appendix.

⁵ Mercedes S Hinton and Tim Newburn, *Policing Developing Democracies* (London [etc.]: Routledge, 2009); Daniel M Brinks, *The Judicial Response to Police Killings in Latin America* (Cambridge; New York: Cambridge University Press, 2008); Adrienne LeBas, "Violence and Urban Order in Nairobi, Kenya and Lagos, Nigeria," *Studies in Comparative International Development* 48, no. 3 (September 2013): 246, fn. 5; Eduardo Moncada, "The Politics of Urban Violence: Challenges for Development in the Global South," *Studies in Comparative International Development* 48, no. 3 (July 3, 2013): 9.

⁶ Diane E. Davis, "Undermining the Rule of Law: Democratization and the Dark Side of Police Reform in Mexico," *Latin American Politics and Society* 48, no. 1 (2006): 55–86; Daniel M. Sabet, *Police Reform in Mexico: Informal Politics and the Challenge of Institutional Change*, 2012.

⁷ Eduardo Moncada, "Toward Democratic Policing in Colombia? Institutional Accountability through Lateral Reform," *Comparative Politics* 41, no. 4 (July 1, 2009): 431–49; Enrique Desmond Arias and Mark Ungar, "Community Policing and Latin America's Citizen Security Crisis," *Comparative Politics* 41, no. 4 (2009): 409–29; Mark Ungar, *Policing Democracy* :

Overcoming Obstacles to Citizen Security in Latin America (Washington, D.C.; Baltimore: Woodrow Wilson Center Press ; Johns Hopkins University Press, 2011).

⁸ R.K. Raghavan, “The India Police: Expectations of a Democratic Polity,” in *Transforming India: Social and Political Dynamics of a Democracy* (Delhi; Oxford: Oxford University Press, 2002), 288–313; Alice Hills, “The Dialectic of Police Reform in Nigeria,” *The Journal of Modern African Studies* 46, no. 02 (June 2008); Liza Grobler, *Crossing the Line: When Cops Become Criminals* (Auckland Park, South Africa: Jacana Media, 2013); Andrew Goldsmith, “Turkey: Progress toward Democratic Policing?,” in *Policing Developing Democracies* (London [etc.]: Routledge, 2009), 31–49; Felix Heiduk, *Security Sector Reform in Southeast Asia: From Policy to Practice*, 2014.

⁹ Hugo Frühling, “Recent Police Reform in Latin America,” in *Policing Insecurity: Police Reform, Security, and Human Rights in Latin America* (Lanham, Md.: Rowman & Littlefield Publishers, 2009), 21–46.

¹⁰ While Bergman and Whitehead, Frühling *et al.* and Uildriks contain chapters on both criminal justice policy and police reform, they do not contain integrated analyses of the two policy areas. See Marcelo Bergman and Laurence Whitehead, eds., *Criminality, Public Security, and the Challenge to Democracy in Latin America* (Notre Dame, Ind.: University of Notre Dame Press, 2009); Hugo Frühling, Joseph S. Tulchin, and Heather A. Golding, eds., *Crime and Violence in Latin America: Citizen Security, Democracy, and the State* (Washington, D.C. : Baltimore: Woodrow Wilson Center Press ; Johns Hopkins University Press, 2003); Niels A Uildriks, *Policing Insecurity : Police Reform, Security, and Human Rights in Latin America* (Lanham: Lexington Books, 2009).

¹¹ Steven Levitsky and María Victoria Murillo, “Variation in Institutional Strength,” *Annual Review of Political Science* 12, no. 1 (June 2009): 115–33.

¹² *Ibid.*, 122.

¹³ R. Kent Weaver, “The Politics of Blame Avoidance,” *Journal of Public Policy* 6, no. 04 (1986): 371.

¹⁴ UCLG, *Decentralization and Local Democracy in the World: First Global Report by United Cities and Local Governments, 2008* (Washington, DC: World Bank, 2009).

¹⁵ Global Competitive Index Historical Dataset of the World Economic Forum
http://www3.weforum.org/docs/GCR2014-15/GCI_Dataset_2006-07-2014-15.xlsx

¹⁶ The 2008 murder rate in Buenos Aires was 6.9 per hundred thousand, while the median for all developing countries was 7.3 (Authors’ calculation from United Nations Office on Drugs and Crime database, 2008).

¹⁷ See Gabriel Costantino, “Las Políticas de Seguridad En Argentina: Los Límites de La Autonomía Policial,” *Aposta: Revista de Ciencias Sociales* 63 (2014). The existing literature does not suggest reforms were attempted elsewhere in the country.

¹⁸ Marcelo Leiras, Guadalupe Tuñón, and Agustina Giraudy, “Who Wants an Independent Court? Political Competition and Supreme Court Autonomy in the Argentine Provinces (1984–2008),” *The Journal of Politics* 77, no. 1 (January 2015): 175–87; Andrea Castagnola, “I Want It All and I Want It Now: The Political Manipulation of Argentina’s Provincial High Courts,” *Journal of Politics in Latin America* 4, no. 2 (2012): 39–62.

¹⁹ Levitsky and Murillo, “Variation in Institutional Strength,” 123–4; Pablo Spiller et al., eds., *Policymaking in Latin America: How Politics Shapes Policies* (Washington, DC: Inter-American Development Bank, 2007).

²⁰ A. Grzymala-Busse, “Time Will Tell? Temporality and the Analysis of Causal Mechanisms and Processes,” *Comparative Political Studies* 44, no. 9 (December 16, 2010): 1285; Gretchen Helmke, “The Origins of Institutional Crises in Latin America,” *American Journal of Political Science* 54, no. 3 (June 21, 2010): 749.

²¹ Pablo Spiller, Ernesto Stein, and Mariano Tommasi, “Political Institutions, Policymaking, and Policy: An Introduction.,” in *Policymaking in Latin America: How Politics Shapes Policies* (Washington, D.C: Inter-American Development Bank, 2007), 1–28.

²² Levitsky and Murillo, “Variation in Institutional Strength,” 122; Eric M. Patashnik, *Reforms at Risk: What Happens after Major Policy Changes Are Enacted*, Princeton Studies in American Politics (Princeton: Princeton University Press, 2008); Eric Schickler, *Disjointed Pluralism: Institutional Innovation and the Development of the U.S. Congress*, Princeton Studies in American Politics (Princeton: Princeton University Press, 2001).

²³ Suzanne Mettler, *The Submerged State: How Invisible Government Policies Undermine American Democracy*, Chicago Studies in American Politics (Chicago: University of Chicago Press, 2011).

²⁴ Andrea Louise Campbell, “Policy Makes Mass Politics,” *Annual Review of Political Science* 15, no. 1 (June 15, 2012): 340.

²⁵ Patashnik, *Reforms at Risk*.

²⁶ Paul Pierson, *Dismantling the Welfare State?: Reagan, Thatcher, and the Politics of Retrenchment* (Cambridge, England; New York: Cambridge University Press, 1994).

²⁷ Ulrich Beck, *Risk Society* (London: Sage Publications, 1992).

²⁸ Tim Newburn and Trevor Jones, “Symbolic Politics and Penal Populism: The Long Shadow of Willie Horton,” *Crime, Media, Culture* 1, no. 1 (March 1, 2005): 72–87.

²⁹ David Garland, *The Culture of Control: Crime and Social Order in Contemporary Society* (Chicago: University of Chicago Press, 2001).

³⁰ Michael H Tonry, *Thinking about Crime : Sense and Sensibility in American Penal Culture* (New York: Oxford University Press, 2004), 15.

³¹ Deborah Yashar, “The Left and Citizenship Rights,” in *The Resurgence of the Latin American Left* (Baltimore: Johns Hopkins University Press, 2011); Lucia Dammert, “Police and Judicial Reform in Chile,” in *Policing Insecurity: Police Reform, Security, and Human Rights in Latin America* (Lanham, Md.: Rowman & Littlefield Publishers, 2009), 151–68.

³² Mauricio Duce and Rogelio Perez Perdomo, “Citizen Security and Reform of the Criminal Justice System in Latin America,” in *Crime and Violence in Latin America: Citizen Security, Democracy and the State* (Washington, D.C: Woodrow Wilson Center Press; Johns Hopkins University Press, 2003), 78.

³³ See Luis Schiappa Pietra, “Prisión Preventiva Y Reforma Procesal Penal En Argentina,” in *Prisión Preventiva Y Reforma Procesal Penal En América Latina: Evaluación Y Perspectivas*, vol. 2 (Santiago, Chile: Centro de Estudio de Justicia de las Américas, CEJA, 2011), 13–126; Cristián Riego and Mauricio Duce, eds., *Prisión Preventiva Y Reforma Procesal Penal En América Latina: Evaluación Y Perspectivas*, vol. 1 (Santiago, Chile: Centro de Estudio de Justicia de las Américas, CEJA, 2008).

³⁴ The Argentine Supreme Court’s 2005 *Verbitsky* ruling, for example, compelled the Buenos Aires provincial government to adapt its penal process code to alleviate overcrowding in its prison system.

³⁵ Proponents of Proposition 36, which repealed California’s “three-strikes-law,” argued that it would save the state over \$100 million a year

(http://www.slate.com/articles/news_and_politics/jurisprudence/2012/11/california_three_strikes_law_voters_wanted_to_reform_the_state_s_harsh_law.html).

³⁶ Franklin Zimring and David T. Johnson, “Public Opinion and the Governance of Punishment in Democratic Political Systems,” *The ANNALS of the American Academy of Political and Social Science* 605, no. 1 (May 1, 2006): 265–80.

³⁷ Admittedly, concerns about career security will be tempered by judges’ respect for professional codes of conduct regarding the fair treatment the accused. In fact, we expect blame avoidance concerns to be strongest for the lower court judges responsible for indicting and sentencing criminals, and to be much less relevant for higher court justices who effectively play more of a policymaking role in this policy area.

³⁸ Mark Ungar and Ana Laura Magaloni, “Latin America’s Prisons: A Crisis of Criminal Policy and Democratic Rule,” in *Criminality, Public Security, and the Challenge to Democracy in Latin America* (Notre Dame, Ind.: University of Notre Dame Press, 2009), 235–9.

³⁹ Ungar, *Policing Democracy*, 7–10.

⁴⁰ Hinton and Newburn, *Policing Developing Democracies*, 6–10.

⁴¹ See Lawrence W. Sherman, *Scandal and Reform: Controlling Police Corruption* (Berkeley: University of California Press, 1978).

⁴² Mark Ungar, “La Mano Dura: Current Dilemmas in Latin American Police Reform,” in *Criminality, Public Security, and the Challenge to Democracy in Latin America* (Notre Dame, Ind.: University of Notre Dame Press, 2009), 94–5.

⁴³ Arias and Ungar, “Community Policing and Latin America’s Citizen Security Crisis,” 417.

⁴⁴ Lessing describes similar lobbying by drug trafficking organizations. Benjamin Lessing, “The Logic of Violence in Criminal War: Cartel-State Conflict in Mexico, Colombia, and Brazil” (Ph.D. in Political Science Dissertation, University of California, Berkeley, 2012).

⁴⁵ Kent Eaton, “Paradoxes of Police Reform: Federalism, Parties, and Civil Society in Argentina’s Public Security Crisis,” *Latin American Research Review* 43, no. 3 (2008): 5–32.

⁴⁶ Fiona Macaulay, “Cycles of Police Reform in Latin America,” in *Policing in Africa* (New York: Palgrave Macmillan, 2012), 178.

⁴⁷ Macaulay, “Cycles of Police Reform in Latin America.”

⁴⁸ Author’s interview with Alberto Binder, one of the authors of the reformed 1997 provincial penal process code (Buenos Aires, July 2012).

⁴⁹ Individuals are “unconvicted” if they are imprisoned without a final judgment, i.e. without having exhausted the available judicial resources to plead their case. Luis Schiappa Pietra, “Prisión Preventiva Y Reforma Procesal Penal En Argentina,” in *Prisión Preventiva Y Reforma Procesal Penal En América Latina: Evaluación Y Perspectivas*, vol. 2 (Santiago, Chile: Centro de Estudio de Justicia de las Américas, CEJA, 2011), 13–126.

⁵⁰ Within Argentina’s federal system, *provincial* legislatures determine their penal process codes while the *national* congress decides on penal codes (typifying crimes and determining length of sentences).

⁵¹ *Law 11.922*. See Schiappa Pietra, “Prisión Preventiva Y Reforma Procesal Penal En Argentina,” 2011.

⁵² “A los asesinos los quiero muertos”, *La Nación*, August 6, 1999.

<http://www.lanacion.com.ar/148578-a-los-asesinos-los-quiero-muertos>

⁵³ Author’s interview, July 4, 2012.

⁵⁴ Law 13.183. Art. 171. Clauses (e) and (f).

⁵⁵ Solá also contributed to the overpopulation of the provincial penitentiary system by adhering to the ‘de-federalization’ of certain aspects of the national drug law (26.052) in 2005.

⁵⁶ “Polémica por el proyecto de Scioli para limitar las excarcelaciones”. La Nación, September 6, 2012. <http://www.lanacion.com.ar/1505919-polemica-por-el-proyecto-de-scioli-para-limitar-las-excarcelaciones>

⁵⁷ “Crítico Scioli a los jueces que liberan presos peligrosos”. La Nación, March 30, 2009.

<http://www.lanacion.com.ar/1113431-critico-scioli-a-los-jueces-que-liberan-presos-peligrosos>

⁵⁸ Provincial Law 13.943.

⁵⁹ La Nación, “Provincia: Más límites para excarcelar”, December 14, 2012.

<http://www.lanacion.com.ar/1536721-provincia-mas-limites-para-excarcelar>

⁶⁰ “La Suprema Corte frena la ley que limita las excarcelaciones”, February 27, 2013.

<http://www.lanacion.com.ar/1558480-la-suprema-corte-frena-la-ley-que-limita-las-excarcelaciones>

⁶¹ See also Ricardo Favarotto, “La Prisionización Bonaerense (1998-2013)” (Facultad de Derecho, Universidad Nacional de Mar del Plata, 2014).

⁶² Centro de Estudios Legales y Sociales, “Situación Carcelaria Actual” (CELS, 2011). This increase partially reflects punitive changes made to the national penal code—since mandatory sentences are based on the minimum sentence stipulated for certain crimes—and an increase in recidivism, because recidivists automatically receive mandatory sentences.

⁶³ Ibid.

⁶⁴ Clarín, August 5, 2008. “Al juez de la tobillera, envuelto en polémicas, le piden juicio político,” <http://edant.clarin.com/diario/2008/08/05/policiales/g-01730311.htm>.

⁶⁵ The average time from an individual's detention to the end of his/her trial was 620 days.

Schiappa Pietra, "Prisión Preventiva Y Reforma Procesal Penal En Argentina," 2011, 94.

⁶⁶ Government figures are more conservative because they do not include detainees in provincial police stations. Source: Authors' calculations from Argentine National Penitentiary System Annual Reports, SNEEP (1997-2010) and CELS (2011).

⁶⁷ Gretchen Helmke, *Courts under Constraints: Judges, Generals, and Presidents in Argentina*, Cambridge Studies in Comparative Politics (Cambridge, UK ; New York: Cambridge University Press, 2005); Diana Kapiszewski, *High Courts and Economic Governance in Argentina and Brazil* (New York: Cambridge University Press, Forthcoming).

⁶⁸ Leiras, Tuñón, and Giraudy, "Who Wants an Independent Court?"

⁶⁹ See, for example, former President Nestor Kirchner's criticism of the judges who released a prominent murderer: <http://www.lanacion.com.ar/1064952-nestor-kirchner-es-hora-de-que-la-justicia-se-ponga-los-pantalones-largos> (La Nación, October 30, 2008).

⁷⁰ Judicial candidates first take an anonymous exam and are interviewed by the Council of Magistrates, a body with political and collegial members.

⁷¹ Authors' interview with Criminal Appeals Court Judge in Buenos Aires, July 2011 and with Ricardo Favarotto, Former Criminal Court Judge of Mar del Plata, July 2014. See also Marcelo Zarlenga, "Selección de Jueces En La Provincia de Buenos Aires: El Imperio de La Arbitrariedad (un Caso Testigo)" (Revista de Pensamiento Penal, edición 62., 2008). and La Política Online, December 30, 2008. <http://www.lapoliticaonline.com/nota/33117/>

⁷² Author's interview with Ricardo Favarotto.

⁷³ Mothers of Pain (*Madres del Dolor*) is a NGO that seeks justice for children who have lost their lives in violent episodes, from car accidents to homicides, among other objectives.

www.madresdeldolor.org.ar

⁷⁴ “Fuerte reclamo contra un juez”, La Nación, December 9, 2008.

<http://www.lanacion.com.ar/1078821-fuerte-reclamo-contra-un-juez>; “El juez Sal-lari sería restituido en su cargo y habrá protestas”. Diario El Día, July 28, 2012.

<http://www.eldia.com.ar/edis/20120728/el-juez-sal-lari-seria-restituidocargo-habra-protestas-laprovincia3.htm>

⁷⁵ Author’s interview with Rafael Sal-lari, Buenos Aires, July 2014. See also Sal-lari’s public statement on these topics: <http://reddejueces.com/?p=353>.

⁷⁶ Interview with Ulises Giménez, Secretary before the Impeachment Jury, Buenos Aires, July 22, 2014.

⁷⁷ Interview with Ulises Giménez.

⁷⁸ Author’s interview with Favarotto.

⁷⁹ Authors’ interview with Sal-lari.

⁸⁰ Red de Jueces Penales de la Provincia de Buenos Aires. www.reddejueces.com

⁸¹ La Nación, “Jueces denunciaron presiones del poder”. April 1, 2009.

<http://www.lanacion.com.ar/1114106-jueces-denunciaron-presiones-del-poder>

⁸² Diario Judicial, “Jueces Bonaerenses responden al jury contra Sal Lari [sic]”, February 18, 2011. http://www.diariojudicial.com/contenidos/2011/02/18/noticia_0008.html

⁸³ Author’s interview with Favarotto. See Favarotto, “La Prisionización Bonaerense (1998-2013),” 87.

⁸⁴ Report by Provincial Public Defenders, Buenos Aires, 2011.

⁸⁵ Eaton, “Paradoxes of Police Reform”; Ungar, *Policing Democracy*; Mark Ungar, “Police and Judicial Reform in Argentina: Public Security versus Human Rights,” in *Policing Insecurity: Police Reform, Security, and Human Rights in Latin America* (Lanham, Md.: Rowman & Littlefield Publishers, 2009), 169–96.

⁸⁶ José Luis Cabezas was a photographer for an investigative magazine who was brutally murdered on January 25, 1997 by a police death squad, apparently to derail the reforms carried out at that point by governor Duhalde.

⁸⁷ Author’s interview with Alberto Piotti, July 7, 2012.

⁸⁸ The state of reforms is coded “advanced” when new legislation concerning the police’s organization is introduced and implemented, and “reversed” when the previous legislation (or its effects) is eliminated or not enforced.

⁸⁹ Carlos Dutil and Ricardo Ragendorfer, *La bonaerense : historia criminal de la policía de la provincia de Buenos Aires* (Buenos Aires: Planeta, 1997).

⁹⁰ Ricardo Ragendorfer, *La secta del gatillo: historia sucia de la policía bonaerense* (Buenos Aires: Planeta, 2002).

⁹¹ Author’s interview with Eduardo de Lázari, July 2012.

⁹² Provincial law 12.155, August 5, 1998.

⁹³ Author’s interview with León Arslanián, July 3, 2012.

⁹⁴ Hernán López Echagüe, *El Hombre Que Ríe: Biografía Política de Carlos Federico Ruckauf* (Buenos Aires: Editorial Sudamericana, 2000), 174.

⁹⁵ Ibid; “Arslanián busca reinstalar el control ciudadano sobre la Bonaerense”, Clarín, April 10, 2004 <http://edant.clarin.com/diario/2004/04/10/p-01401.htm>.

⁹⁶ Front for a Solidary Country. This party was formed in 1993 by legislators who left the PJ disgruntled by Menem's neoliberal reforms.

⁹⁷ Marcelo Fabián Sain, *El Leviatán azul : policía y política en la Argentina* (Buenos Aires, Argentina: Siglo Veintiuno Editores Argentina, 2008).

⁹⁸ Andrés Klipphan, *Asuntos Internos: Las Mafias Policiales Contadas Desde Adentro*, 1. ed, Crónica Argentina (Buenos Aires: Aguilar, 2004).

⁹⁹ Author's interview with Felipe Solá.

¹⁰⁰ León Carlos Arslanian, *Un Cambio Posible: Delito, Inseguridad Y Reforma Policial En La Provincia de Buenos Aires*, 1. ed (Buenos Aires: Edhasa, 2008).

¹⁰¹ Ibid., 252. During this time, the police had about 50,000 active officers.

¹⁰² All interviewees confirmed this shift.

¹⁰³ Yanilda González, "State Building on the Ground: Police Reform and Participatory Security in Latin America" (Ph.D. Dissertation in Political Science, Princeton University, 2014), 361–2.

¹⁰⁴ Riego and Duce, *Prisión Preventiva Y Reforma Procesal Penal En América Latina: Evaluación Y Perspectivas*.

¹⁰⁵ Carmen Alguíndigue and Rogelio Perdomo, "La Prisión Preventiva En Tiempos de Revolución (Venezuela 1998-2008)" (Centro de Estudio de Justicia de las Américas, CEJA, 2008), 464–6.

¹⁰⁶ <http://www.crhoy.com/corte-salvadorena-remueve-a-una-juez-por-desobediencia/>

¹⁰⁷ Charles T. Call, "Democratisation, War and State-Building. Constructing the Rule of Law in El Salvador," *Journal of Latin American Studies* 35, no. 4 (2003): 827–62.

¹⁰⁸ José Miguel Cruz, “Violence, Citizen Insecurity, and Elite Maneuvering in El Salvador,” in *Public Security and Police Reform*, by John Bailey and Lucía Dammert (Pittsburgh: University of Pittsburgh Press, 2006), 154.

¹⁰⁹ Edgardo A. Amaya, “Security Policies in El Salvador, 1992-2002,” in *Public Security and Police Reform*, by John Bailey and Lucía Dammert (Pittsburgh: University of Pittsburgh Press, 2006), 141.

¹¹⁰ Christopher Birkbeck and Luis Eduardo Gabaldón, “Venezuela: Policing as an Exercise in Authority,” in *Policing Developing Democracies*, by Mercedes S Hinton and Tim Newburn (London [etc.]: Routledge, 2009), 165–87.

¹¹¹ <http://venezuelablog.tumblr.com/post/42185418008/citizen-security-reform-part-1-police-reform>.

Online Appendix for:

Hernán Flom and Alison E. Post. “Blame Avoidance and Policy Stability in Developing Democracies: The Politics of Public Security in Buenos Aires.” *Comparative Politics*.

Table A.1. Prison system growth by region (1992-2013)

Region	N	Prison population rate per 100,000 (2013 or last year available)	Average prison population growth rate (1992-2013*)	Pretrial detention (% , 2013 or last year available)
Western Europe	22	102	31%	25
Eastern Europe	20	176	72%	22
Europe	42	159	63%	28
Latin America and Caribbean	32	230	87%	37
Central America	8	281	128%	38
South America	12	209	127%	51
Caribbean	12	359	69%	40
Southeast Asia	14	166	55%	31
Central Asia	4	76	10%	53
Asia (Southeast and Central)	18	171	62%	30
Africa	31	131	38%	44
Oceania	14	123	34%	16
United States	1	707	41%	22
Total (average)	142	174	60%	34
Total (median)	142	140	41%	31.8

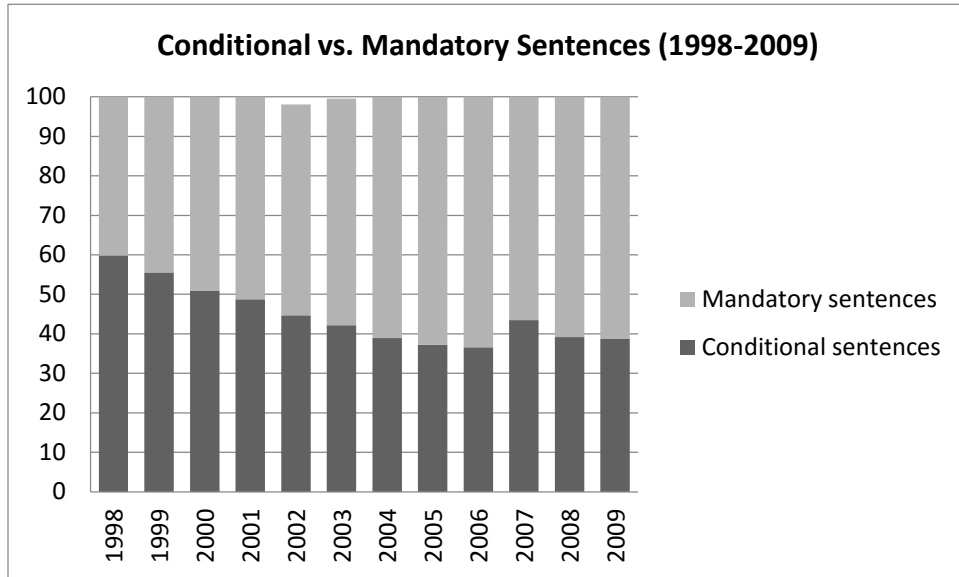
Source: Author’s elaboration from World Prison Brief, International Center for Prison Studies (www.prisonstudies.org), and only includes countries defined as ‘free’ or ‘partly free’ by the Freedom House Score, 2014. Dates may vary; see Table A.2 for details

Table A.2. Prison system characteristics (select countries)

Country	Prison population (incl. Pretrial detainees and remand prisoners)	Prison population rate per 100,000 (1992)	Prison population rate per 100,000 (last available year)	Prison population rate growth	Pretrial detainees (% of prison population, year)
Burkina Faso	5823	15	32 (2013)	113%	41.5 (2013)
Kenya	53,163	115	121 (2013)	5%	36.0 (2012)
Madagascar	18,719	154	83 (2013)	-46%	53.0 (2013)
Nigeria	56,620	46	33 (2013)	-28%	68.7 (2013)
Senegal	8,428	49	64 (2012)	31%	41.4 (2012)
Dominican Republic	25,500	145	247 (2013)	70%	53.2 (2013)
El Salvador	26,796	97	424 (2014)	337%	21.9 (2014)
Guatemala	16,336	59	105 (2013)	78%	50.3 (2013)
Honduras	12,969	109	160 (2013)	47%	50.0 (2013)
Mexico	248,487	98	211 (2014)	115%	42.2 (2014)
Nicaragua	9,168	85	153 (2012)	80%	12.3 (2012)
India	385,135	27	30 (2012)	11%	66.2 (2012)
Kyrgyz Republic	10,060	218	182 (2013)	-17%	20.9 (2012)
Bulgaria	10,006	93	138 (2013)	48%	21.1 (2012)
Hungary	18,239	153	184 (2013)	20%	28.8 (2013)
Romania	32,508	193	163 (2014)	-16%	9.3 (2014)
Ukraine	122,150	241	271 (2014)	12%	17.3 (2014)
Papua New Guinea	3,863	86	52 (2013)	-40%	31.8 (2013)
Argentina	62,263	62	149 (2012)	140%	50.3 (2012)
Brazil	548,003	74	274 (2012)	270%	38.0 (2012)
Colombia	118,968	78	244 (2014)	213%	33.4 (2014)
Ecuador	24,722	74	173 (2013)	134%	36.0 (2013)
Peru	67,891	69	221 (2014)	220%	54.2 (2013)
Indonesia	154,000	21	62 (2013)	195%	32.8 (2012)
Korea, Rep.	47,969	126	98 (2013)	-22%	33.7 (2013)
Malaysia	39,740	111	133 (2013)	20%	21.9 (2013)
Sri Lanka	22,414	52	105 (2013)	102%	43.9 (2013)
Thailand	292,227	127	435 (2014)	243%	22.7 (2013)
United States	2,228,424	501	707 (2012)	41%	21.6(2012)

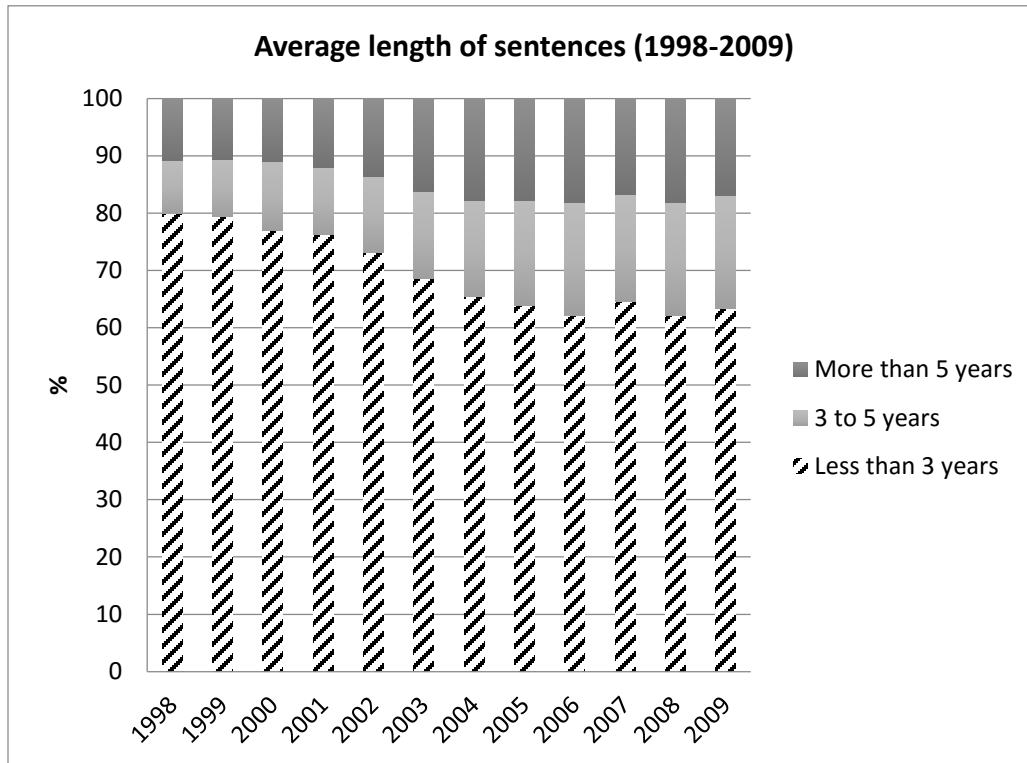
Source: Authors' elaboration from World Prison Brief, International Centre for Prison Studies (www.prisonstudies.org)

Figure A.3. Proportion of convicted individuals in Buenos Aires according to type of sentence (1998-2009)



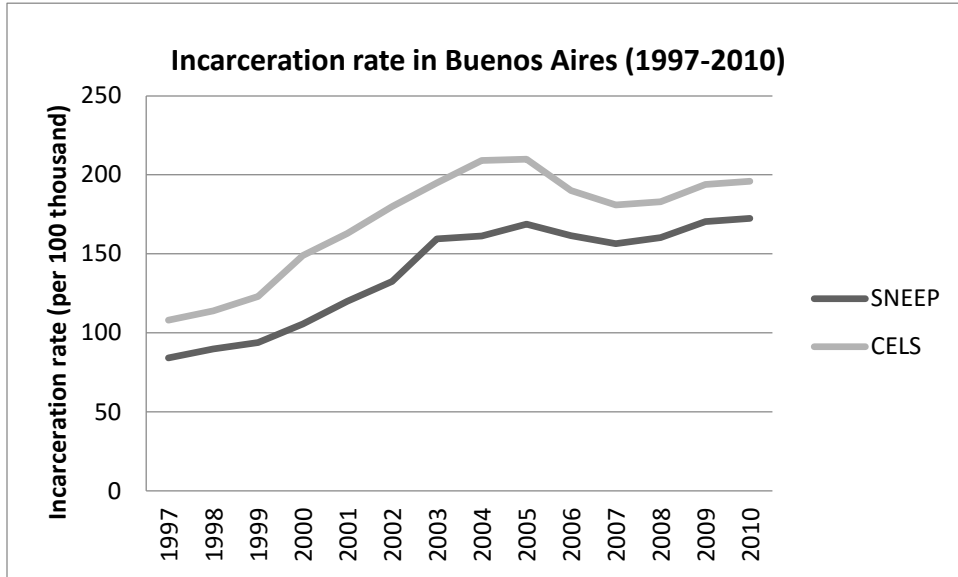
Source: Author's elaboration from Center for Legal and Social Studies (Centro de Estudios Legales y Sociales, CELS 2011).

Figure A.4. Average length of criminal sentences in Buenos Aires province (1998-2009)



Source: Author's elaboration from CELS (2011).

Figure A.5. Evolution of the incarceration rate in Buenos Aires, 1997-2010



Source: Authors' elaboration with data from National System on Penal Execution Statistics (Sistema Nacional de Estadísticas de Ejecución de la Pena, SNEEP, 1997-2010) and CELS 2011.