

Brazil

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One sentence summary: Brazilian legislation on police use of force is quite robust. The issue lies in its lack of application. Over time, the use of lethal force has been concentrated in certain geographic territories. There is little legal enforcement on extrajudicial killings in the states which experience the most abusive police force.

Abstract: Brazil is a recent democracy, still influenced by its dictatorial period of authoritarianism. Such permanence is exceptionally noticeable in the public safety sector, as the abusive use of lethal force by the police is rampant in the country. In 2020, 2.81 civilians were killed by on-duty Law Enforcement Agents (LEAs) using a firearm for every 100 thousand inhabitants. Deaths caused by the police using a firearm were 12% of the total number of violent intentional deaths in the country, and 114.72 civilians were killed by on-duty LEAs using a firearm for every single agent killed by gunshot while on-duty, demonstrating there is little room for confrontations and strong evidence of extrajudicial use of lethal force.

The Public Prosecutors Office is the organ responsible for police oversight, but it is not very active. The Public Prosecutors Office can decide to either report or archive a case of death caused by a police officer. When a case is reported by the Public Prosecutors Office, it goes to trial, when it does not, the process reaches its end. Research shows the Prosecutors Office stops over 90% of the police lethality cases from ever undergoing trial in the biggest states of the country. Meanwhile, as official data production is abundant, but most of it remains unpublicized or difficult to obtain, with no evidence of standardization between the 96 police forces in the foreseeable future. Moreover, statistics are perceived by the Brazilian Executive as means to the end of legitimating the dysfunctional anti-democratic weaponizing of the State apparatuses, as lethal force serves as a tool for controlling the poor. As such, statistical fluctuations have rarely ever been perceived as policy-guiding indicators for the need to adjust or change public policies towards more democratic, transparent, and controlled police forces.

Background

Brazil is a federative republic. As such, policy, polity and politics are arranged in a decentralized manner, with different competences and attributions allocated to each level of Power. When it comes to the public safety sector, most of the attributions and competences are allocated on the state level.

As a result, data production, data systematization and data publicization are all done by each of the 27 Federation Units on the state level autonomously. Since every state level Federation Unit has its own process and political arenas and agendas, the transparency/opacity of each one varies with time, according to conjunctural and structural circumstance, such as staffing, administrative and technological capacity, as well as political interests of their current governments. The data regarding Public Safety Personnel references 2021.

Government Level	Police Agencies	Legal Competences	Number	Personnel (as of 2021)
Federal	Federal Police	- Investigating criminal offenses against the political	1	13,795

	(PF)	and social order or to the detriment of properties, goods, services and interests of the Federal or its autonomous entities and public companies, as well as other offenses whose practice has interstate or international repercussions and requires uniform repression, as provided by law; - Suppressing illicit trafficking of narcotics and related drugs, as well as smuggling and embezzlement, without detriment to the action of the Treasury and other public bodies in their respective areas of competence; - Policing maritime, airspace and land borders; - Enacting judicial policing at the Union level.		
	Highway Federal Police (PRF)	Ostensive patrolling of federal highways.	1	11,575
	Federal Penitentiary Police (PPF)	Enforcing federal penitentiary establishments' security.	1	1,000
	Railroad Federal Police (PFF)	Ostensive patrolling of federal railroads.	1	189
	Legislative Police Departments (DEPOL)	Preserving the public order and public property, as well as preventing and ascertaining criminal offenses occurred in the National Congress' buildings and external areas' jurisdiction.	1	459
States and Federal District	Polícia Militar (PM)	Ostensive policing and preserving the public order.	27	411,241
	Polícia Civil (PC)	Enacting judicial policing and investigating non-military criminal offenses.	27	109,440
	Polícia Penal (PP)	Enforcing State and district-level penitentiary establishment's security	27	98,248
Sum of all police forces			86	645,947

Part 1: Legal Frameworks

Legal Provisions

Global Treaties

Adherence to Selected Human Rights Treaties	
1966 Covenant on Civil and Political Rights (ICCPR)	Ratified on Jan. 24, 1992
ICCPR Optional Protocol 1	Ratified on Sep. 25, 2009
1984 Convention against Torture (CAT)	Ratified on Sep. 28, 1989
Competence of CAT Committee to receive individual complaints	No
CAT Optional Protocol 1	Ratified on Jan. 12, 2007

Regional treaties

Adherence to Regional Human Rights Treaties	
1969 American Convention on Human Rights	Ratified on Sep. 25, 1992

National legal provisions

<p>Identify and give brief details of any relevant constitutional provisions or general laws (e.g. Penal Code) that do not specifically regulate use of force but are applicable to it</p> <p>The 25th Article of the Brazilian Penal Code states that the whenever one moderately uses the necessary means to repel an unfair imminent or ongoing aggression against themselves or another person, the illicit status of such an act is lifted.</p>
<p>Identify and give brief details of any relevant specific national legislation: give date, title and brief details of any law(s) (such as a statute) that specifically regulate(s) the use of force in law enforcement and, if they exist, summarise any other general provisions that apply e.g. provisions of the penal code.</p> <p>None.</p>
<p>The Interministerial Ordinance n. 4226, of Dec. 31st, 2010, signed by the Justice Department and Human Rights Department, provides specific regulations regarding the use of force by all the polices in Brazil. Made up of 25 guidelines, the document states the use of force must conditioned to the principles of legality, necessity, proportionality, moderation and convenience. It states police use of firearms is illegitimate except in cases of legitimate defense of their own or a third person's life, demanding they otherwise refrain from it.</p> <p>Identify and give brief details of any relevant national regulations: give date, title and brief details of any other lower norms that apply e.g. codes or rules produced by LEOs (e.g. rules that might apply if there is no national law on the use of force, or that might exist in addition to national law)</p>
<p>Some key information can be found on: https://www.policinglaw.info/ and for global/ UN treaties: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CCPR&Lang=en Please check whether the information needs to be updated for your country.</p>

Legal interpretation and application

UN/other international body decisions or advisory opinions

Identify and give brief details of the most important relevant UN or other international body decisions or advisory opinions relating to the global treaties identified above and their application to LEOs and the use of force in the country in question (please refer to www.policinglaw.info and update where necessary)

Regional court judgments

The cases in which Brazil has been condemned by the Interamerican Court of Human Rights regarding Law Enforcement Operations are listed below:

1. Nogueira Carvalho and other versus Brazil
2. Escher and others versus Brazil
3. Gomes Lund and others (Araguaia guerilla) versus Brazil
4. Cosme Rosa Genoveva, Evandro de Oliveira and others ("Favela Nova Brasília) versus Brazil
5. Vladimir Herzog versus Brazil

National court judgments

Identify and give brief details of the most important relevant national court judgments on substantive and procedural aspects of the use of force by LEOs.

- This could include noteworthy judgments from a constitutional court, court of cassation, court of appeal, or other significant criminal or civil court judgments.
- Only include judgments on the use of force by LEOs and not on deaths in custody.
- Give the name of the judgment (case) and a date.
- Provide a few lines of text to summarise the facts and the court's judgment.

Oversight bodies

The first Brazilian Police Ombudsman was created in São Paulo 1995 through an initiative of the São Paulo State Council of Human Rights. As of 2005, 14 of the 27 Federative Units (or states) had implemented Police Ombudsmen via State Laws and Decrees. The list of states with Police Ombudsmen and their creation year is as follows:

1. São Paulo, created by the São Paulo State Decree number 39,900, Jan. 1st, 1985;
2. Pará, created by the Pará State Law number 5,944, Feb. 6th, 1996;
3. Minas Gerais, created by the Minas Gerais State Law number 12,622, Sep. 25th, 1997;
4. Espírito Santo, created by the Espírito Santo Complimentary Law number 297, Jul., 27th, 2007;
5. Rio de Janeiro, created by the Rio de Janeiro State Law number 3,168, Jan. 12th, 1999;
6. Rio Grande do Sul, created by the Rio Grande do Sul State Decree number 39,668 Aug. 17th, 1999;

7. Mato Grosso, created by the Mato Grosso State Law number 7,286, May 23rd, 2000;
8. Paraná, created by the Paraná State Decree number 2,026, May 9th, 2000;
9. Pernambuco, created by the Pernambuco State Decree number 22,149, Mar. 2000;
10. Rio Grande do Norte, created by the Rio Grande do Norte State Law number 7,851, Jun. 28th, 2000;
11. Goiás, created by the Goiás State Law number 14,383, Dec. 31st, 2002 ;
12. Santa Catarina, created by the Santa Catarina State Complimentary Law number 243, Jan. 30th, 2003;
13. Bahia, created by the Bahia State Decree number 7,623, Jun., 25th 1999;
14. Ceará, created by the Ceará State Law number 13,093 Jan. 8th, 2001.

Part 2: Policies and procedures

Policies and Practices

	Brazil
Data Collection and Publication by Official Agencies	
1. Are the number of deaths following any police use of force (be it firearms, 'less lethal' weapons or other force):	
<i>Collected?</i>	Green
<i>Accessible through existing publicly available information?</i>	Green
<i>Is this a legal requirement?</i>	Green
<i>Can such information be requested from the authorities when not publicly available (e.g. via Freedom of Information laws)?</i>	Green
<i>If one can request it, what is the likelihood this information would be released?</i>	Green
2. If published, to what extent is the number of deaths readily able to be determined from official statistics?	Yellow
3. Is it possible to identify specific individuals killed in official records?	Yellow
4. Is demographic and other information for the deceased (including ethnic background, age and gender):	
<i>Collected?</i>	Green
<i>Accessible through existing publicly available information?</i>	Red
<i>Is this a legal requirement?</i>	Black
<i>Can such information be requested from the authorities when not publicly available (e.g. via Freedom of Information laws)?</i>	Green
<i>If one can request it, what is the likelihood this information would be released?</i>	Green
5. Is demographic and other information on officers in use of force incidents:	
<i>Collected?</i>	Green
<i>Accessible through existing publicly available information?</i>	Black
<i>Is this a legal requirement?</i>	Green
<i>Can such information be requested from the authorities when not publicly available (e.g. via Freedom of Information laws)?</i>	Green
<i>If one can request it, what is the likelihood this information would be released?</i>	Green
6. Is information on the circumstances:	
<i>Collected?</i>	Yellow
<i>Publicly available?</i>	Yellow
<i>Is this a legal requirement?</i>	Yellow
<i>Can such information be requested from the authorities when not publicly available (e.g. via Freedom of Information laws)?</i>	Green
<i>If one can request it, what is the likelihood this information would be released?</i>	Yellow
7. Is information about the type(s) of force used:	
<i>Collected?</i>	Black
<i>Accessible through existing publicly available information?</i>	Black
<i>Is this a legal requirement?</i>	Black
<i>Can such information be requested from the authorities when not</i>	Green

<i>publicly available (e.g. via Freedom of Information laws)?</i>	
<i>If one can request it, what is the likelihood this information would be released?</i>	
Data Quality of Official Sources	
8. How reliable are the sources used to produce official statistics about deaths?	
9. Are there mechanisms for internal quality assurance / verification conducted	
10. Is the methodology for data collection publicised?	
11. How reliable are the overall figures produced?	
Data Analysis and Lessons Learnt	
12. Do State / police agencies analyse data on the use of lethal force to generate evidence-based recommendations / lessons learnt, in order to prevent future deaths.	
13. Is there evidence that state/ police agencies act on the results of their analysis, including applying lessons learnt.	
14. Are external bodies able to reuse data for their own analyses.	
15. Do external, non-governmental agencies collect and publish their own statistics on deaths following police use of force	
Investigations by Official Agencies	
16. Is there a legal requirement for deaths to be independently investigated?	
17. If so, which organisation(s) conduct these investigations?	The Civil Police, and sometimes the Prosecutors Office
18. In the year in question, how many deaths following police use of force have been investigated by the organisation(s) specified in question 17? Please also state the overall number and as a percentage of total deaths / eligible cases (where known).	
19. Are close relatives of the victims involved in the investigations?	
20. Investigation reports into deaths are:	
<i>Publicly available?</i>	
<i>Do they give reasons for the conclusions they have reached?</i>	
<i>Is this a legal requirement?</i>	
<i>Can such information be requested from the authorities when not publicly available (e.g. via Freedom of Information laws)</i>	
<i>If one can request it, what is the likelihood this information would be released?</i>	
21. Is there information available on legal proceedings against agents / officials pursuant to deaths	
22. Is there information available on legal proceedings against state agencies pursuant to deaths	
23. Is there information available on disciplinary proceedings against agents/ officials pursuant to deaths	
24. What is the number of prosecutions against agents / officials involved in the last ten years?	
25. What is the number of convictions against agents / officials	

involved in the last ten years?	
26. What is the number of prosecutions against agencies involved in the last ten years?	
27. What is the number of convictions against agencies involved in the last ten years?	
28. Number of cases in which States have been found to have breached human rights law on the lethal force (e.g., by international Human Rights Courts)? Please include cases that have found against the State in question both substantively and procedurally (i.e., that the process has been breached).	

	Good, Robust		No Provisions
	Partial, Medium		Unknown
	Limited, Poor	-----	Not relevant

Detailed elaboration

Data Collection and Publication by Official Agencies

The number of deaths following any police use of force, can be requested by anyone, any time via Access to Information Law. Requests regarding deaths following any police use of force are regularly answered, even though such official data might not be actively publicized by its holders.

Data Quality of Official Sources

Most states possess data regarding deaths due to police interventions at this point¹. On the other hand, data on law enforcement agents killed, either on or off-duty, have little coverage and pervasiveness. The consolidated data tends to be the most trustworthy, as the more specific the data selection on the microdatabases, the more information is lost.² This phenomenon is aggravated by the fact that each state has its own database, and they don't follow common standards. As a result, the information is filled differently in each state. The states' databases also have different coverages, some of them are of higher quality than others.

Data Analysis and Lessons Learnt

Unfortunately, the data produced by each of the State's Public Safety Departments and analyzed yearly by the Brazilian Forum on Public Safety, brought up no novelties regarding the pattern of use of force, nor the victims' profile. The use of force by the police is highly uneven throughout the country, with less than half the states (Amapá, Bahia, Goiás, Pará, Rio de

¹ The Brazilian Forum on Public Safety's experience demonstrated that constant information access requests, with media coverage on the states' transparency has made the states progressively more cooperative and transparent.

² A microdatabase consists of a database formed by data in which each line stands for one observation. Therefore, consolidated data is such bases' data grouped and filtered. A microdatabase of deaths due to police intervention, for an instance, presents each victim killed as one of its constituent lines. The total number of deaths due to police intervention on the other hand, needs to be extracted and group by performing different operations on the microdata, thus being a form of consolidated data.

Janeiro and Sergipe, i.e, 6 states out of 27) concentrating most (66%) of the deaths due to police intervention (regarding data on 2022). The most important and unexpected lesson learnt through the data analysis performed by the Brazilian Forum on Public Safety year after year while producing our multiple editions of the Yearbook on Public Safety, has been noticing how difficult it is for the press to cover a statistically significant number of cases in a country as violent and as continental in size as Brazil.

Investigations by Official Agencies

In general, the Civil Polices tend to neutralize the responsibility of officers involved in cases of use of force resulting in deaths, rendering them into legal jargon, as well as directing the investigations towards the (sometimes alleged) previous criminal past of the victims instead of their killing.

Legal proceedings, prosecutions and convictions

There is little data production on prosecutions and convictions in Brazil. Research produced by the Brazilian Forum on Public Safety demonstrated that the Prosecutors Offices of the States of São Paulo and Rio de Janeiro denounced (taking forward) as little as 10% of the cases of deaths due to police interventions, archiving 90% of such cases³.

Non-official Sources:

We have conducted multiple instances of compilations of data on police use of force using data from the press for the Monitor del Uso de la Fuerza Letal en America Latina initiative. Each attempt made it clear that data from the press was less pervasive than official data (Cano et al., 2024).

³ For more information, please check:
<https://noticias.uol.com.br/cotidiano/ultimas-noticias/2021/11/12/denuncias-e-arquivamentos-mortes-policiais-rj-sp.htm>

Part 3: Comparative Indicators.

The Table provides comparative indicators for deaths following police use of force, benchmarked against various figures for the population as a whole. The data regarding use of force references 2020 and the data regarding Public Safety Personnel references 2021.

Table: Use and Abuse of Lethal Force Indicators from published official statistics (IOPC data). England & Wales, FY 2019 -20. Figures rounded to 1 decimal place.

Comparative indicators	Figures for total population
I-1a. Civilians killed (CK) Number of civilians killed by LE agents on duty by gunshot	6165
I-1b. Total number of civilians killed by public security agents, regardless of means and whether on or off-duty (CKt) ^a	6416
I-1c. (CW) Number of civilians wounded by gunshots by LE agents on duty	Data unavailable
I-1d. Total number of civilians wounded by public security agents, regardless of means and whether on or off-duty (CWt)	Data unavailable
I-2. CK per 100,000 inhab.	22.0
I-3. CK per 1000 agents	100.2
I-4 CK per 1000 arrests	Data unavailable
I-5 CK per 1000 weapons seized (calculated using knife and offensive weapon offences).	396.9
I-6. Number of LE agents killed on duty by firearm (homicides only, excluding suicides and accidents) (AK)	16
I-6b. Total number of LE agents killed, regardless of means and whether on or off-duty	194
I-7. Number of LE agents killed on duty by firearm (attempted homicides only, excluding suicides and accidents) per 1000 agents (AK per 1000 agents)	0.03
A-1. % homicides due to state intervention	13%
A-2. Ratio between CK and AK	227.9
A-3. Civilian lethality index. Ratio between CK and CW.	Data unavailable
A-4. Lethality ratio. Ratio between Civilian lethality index and LE agents lethality index	Data unavailable
A-5. Average of civilians killed by intentional gun shot per incident ^b .	Data unavailable

Notes

¹ Since the microdata didn't contain information on whether Law Enforcement Agents who killed were on or off-duty, but did contain info on whether the victims had been killed with a firearm or not, we multiplied the percentage of victims killed by police officers using firearms (90%) by the number of civilians killed by on-duty Law Enforcement Agents

Please provide any discussion / extra detail necessary to explain and contextualise these numbers in the text below. This includes any deviations in the data compiled the precise wording of the comparative indicators.

In compiling this table, the main deviance from the comparative indicators' wording is that for Brazil the category of *violent intentional deaths* was used instead of *total homicides*. Since deaths caused by police officers are pre-emptively protected under the law until proven otherwise, they are technically not homicides. As such they constitute their own category of deaths within official nomenclature in Brazil. As a result, within this table the reference to total homicides aggregates both victims of initially non-criminal (police-caused) and criminal violent intentional deaths. Both are treated as *violent intentional lethal crimes*.

Summary and Recommendations

Brazil has an accountable legal framework that allows for any citizen to request any information of the government at any time, without having to state their reason for such request. However, while there is good compliance to Freedom of Information Law, the quality of public safety information varies significantly from state to state.

Since every state has its own information system and there is no standardisation in the way data is collected, it is difficult to aggregate statistics and compare police forces. The Federative Union provides a nationwide universal public safety system (Sistema Único de Segurança Pública - SUSP), however it has never been implemented ever since its inception, in 2018.

The use of lethal force in Brazil could be improved through the following measures:

- Releasing information pertaining to police activity, such as number of people stopped and searched by the police and their profile, number of people hurt in police interventions, etc. Such information could be provided either by the Civil and Military Polices or the Public Safety Department of each state;
- Providing information via active transparency, i.e. by making information on police use of force readily available for citizen consultation. Such information could be provided either by the Civil and Military Polices or the Public Safety Department of each state;
- Improving coverage on demographic data regarding victims and authors of police lethal use of force. Such improvement could be provided by the Civil Police by having their officers fill out the forms correctly.
- Releasing data on the Public Prosecutor's Office's processing of police lethality cases. Such information could be provided by the Public Prosecutor's Office of each state.
- Implementing SUSP in order to standardise and centralise information.

REFERENCES

Cano, Ignacio; Forné, Carlos, Silva; Correa, Catalina Pérez. (2024) *Monitor of Use of Lethal Force in Latin America and the Caribbean: A Comparative Study of Brazil, Chile, Colombia, El Salvador, Jamaica, Mexico, Peru, Trinidad and Tobago and Venezuela*
https://monitorfuerzaletal.com/docs/MFL2024_Regional_Report.pdf.