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Monitor of Use of Lethal Force in Latin America and the Caribbean

Brazil | 2024

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MONITOR DEL USO DE LA FUERZA LÉTAL EN VENEZUELA

Monitor of Use of Lethal Force in Latin America and the Caribbean

Brazil



FÓRUM BRASILEIRO DE
SEGURANÇA PÚBLICA



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1. INTRODUCTION

1.1. Context

Brazil is a federative republic. As such, policy and politics are arranged in a decentralized manner, with different attributions allocated to each level of power¹. As far as public security is concerned, most of the attributions and responsibilities are allocated at the state level, concentrating almost 96% of the total personnel of the police agencies in the country in 2021, as can be seen in Table 1.

Table 1. Police Personnel Data

Government Level	Police Agencies	Legal Competences	Number	Personnel (as of 2021)
Federal	Federal Police (PF)	<ol style="list-style-type: none"> Investigating federal crimes, i.e. crimes against the political and social order or to the detriment of properties, goods, services and interests of the Union or its autonomous entities and public companies, as well as other crimes with interstate or international repercussions or which require uniform repression, as provided by law; Suppressing illicit trafficking of narcotics and related drugs, as well as smuggling and embezzlement; Policing maritime, airspace and land borders, complementing the role of the Armed Forces; Enacting judicial policing at the Union level. 	1	13,795
	Highway Federal Police (PRF)	Patrolling federal highways.	1	11,575
	Federal Penitentiary Police (PPF)	Providing security to federal penitentiary establishments.	1	1,000
	Railroad	Patrolling federal railroads.	1	189

¹ The Brazilian Federalist model has 3 levels of Power. The federal level is the largest, encompassing the entire country. The state level is the intermediate one related to each of the 26 states and the Federal District. Finally, the municipality level is the smallest.

Government Level	Police Agencies	Legal Competences	Number	Personnel (as of 2021)
	Federal Police (PFF)			
	Legislative Police Department (DEPOL)	Preserving public order and protecting public property within the National Congress buildings, as well as preventing and investigating criminal offenses occurred in those areas.	1	459
States and Federal District (subnational level)	Military Police (PM)	Patrolling public spaces, preventive policing and preserving public order.	27	411,241
	Civil Police (PC)	Enacting judicial policing and investigating non-military criminal offenses.	27	109,440
	Penitentiary Police (PP)	Providing security to state penitentiary establishments.	27	98,248
Total police forces			86	645,947

Source: Transparency Portal of the Federal Government, the states' and Federal District's governments; Rio de Janeiro's Civil Cabinet; Federal Police Department; Highway Federal Police Department; National Penitentiary Department; Justice and Public Safety Ministry. Data consolidated by the Forum Brasileiro de Segurança Pública (Brazilian Forum on Public Security).

As for existing norms on the use of force, there are two main regulatory levels: national and subnational. At the national level, which corresponds to the federal government, guidelines for the use of force by public security agents are provided by the Interministerial Decree number 4226 of 2010, which is inspired by international norms and regulations. However, it is only legally binding for federal police forces (the Federal Police, the Federal Highway Police, the Federal Railway Police and the National Force²). It establishes that use of force by public security agents must comply with the principles of legality, necessity, proportionality, moderation and convenience. It explicitly establishes that agents must not fire firearms except in cases where they themselves or a third party face an imminent danger of death or grievous bodily harm, which represents the translation of principle 9 of the United Nations' Basic Principles on the Use of Force and Firearms by Law Enforcement Officials

² The National Force is not a permanent institution, but a national cooperation program between the Federal Government and the states, whereby state police personnel are temporarily transferred to the Federal Government in order to allow emergency interventions in other states. As such, it does not have a fixed number of officers.

into domestic regulations. Furthermore, the decree forbids the use of firearms against a fleeing person who is unarmed or who, despite being armed, does not represent an immediate risk of death or serious injury to anybody else. It also rules out the use of firearms against a vehicle that trespasses a police block, unless, again, there is an immediate risk of death or serious injury.

Due to Brazil's federal status that grants states autonomy for managing their public security policies, the Decree is non-binding for both state and municipal police forces, acting as a mere recommendation. As demonstrated by Table 1, most police agencies are on the subnational level, and each of them has its own regulation. Thus, there is no standardized legally binding regulation on police use of force applicable for most police agencies in the country. Even though the federal government can condition the transfer of public financial resources from the Public Safety National Fund to states and municipalities on the observance of such federal guidelines (Bueno, 2014), in practice this has had a limited effect.

On December 22nd, 2014, Law 13,060 introduced regulations regarding the use of less-lethal weapons by public safety agents and determined that training courses for law enforcement personnel must include the use of such weapons.

2. METHODOLOGY

This study was conducted according to the general methodology agreed for all countries that are part of the Monitor of Use of Lethal Force in Latin America and the Caribbean. However, a few specificities for the case of Brazil are detailed in this chapter.

In Brazil, any information of public interest can be requested by anyone, any time via the Freedom of Information Act. As such, the number of deaths following any police use of force can be easily requested by anyone without the need of any justification. Requests regarding official information on deaths following police use of force tend to be answered, even though such data might not be actively publicized by its holders.

Since every state has its own process and political agendas, the transparency/opacity of each one varies with time, according to time and circumstance, such as staffing, administrative and technological capacity, as well as political interests of the government in power at the time. The states' databases also have different degrees of coverage and some of them are of higher quality than others.

Most states send not only overall figures but also microdata regarding deaths due to police interventions. On the other hand, microdata often leaves a high degree of missing information. This is particularly true regarding two of the variables that are critical for our study: a) whether the victims were killed or injured by gunshot or by other means; b) whether public agents involved in the incidents were on or off-duty. Indeed, the more specific the data selection on the databases, the more information it is lost. This phenomenon is aggravated by the fact that state databases do not follow common standards. Due to such circumstances, we use estimates to try to measure the number of victims that happened by firearm and when officers were on duty, as we explain in the following section. When we tried to use the microdata for this purpose using the relevant variables (gunshot or other means; on-duty versus

off-duty), total figures were very low due to missing information in the databases.

2.1. Official Data.

Data on the number of fatal victims, both civilians and state agents, plus some of the weighting variables for the indexes (police size, firearms seized), were obtained from state Secretaries of Public Safety (or their equivalent) in each of the 27 Brazilian states through Freedom of Information Act formal requests.

As explained above, we received not only overall figures but also microdata from the states. Yet when we tried to filter relevant cases from the microdata, the final figure was too small to be credible due to missing data on the fields containing information on whether the police officers were on or off-duty, as well as on the weapon used. Thus, we estimated the relevant number of victims based on the cases in which such information was available, by applying the following procedure:

- *Amongst the victims of police killings*

We calculated the proportion of victims killed by police officers using a firearm over the total of victims killed by police officers. This yielded the **civilian firearm reduction coefficient**.

- *Amongst the police officers victimized*

We calculated the proportion of police officers killed using a firearm over the total of police officers killed whose murder weapon was known. This produced the **officer firearm reduction coefficient**.

- *Amongst the victims of police killings*

We calculated the proportion of victims killed by police officers who were on-duty over the total of victims killed by police officers whose duty status was known. This yielded **civilian on-duty reduction coefficient**.

- ***Amongst the police officers victimized***

We calculated the proportion of police officers killed who were on-duty over the total of police officers killed whose duty status was known. This produced the **officer on-duty reduction coefficient**.

For civilian fatal victims, the respective coefficients were as follows:

Table 2. Estimation coefficients for civilians killed by public safety agents

	2020	2021	2022
On-duty reduction coefficient	0,95	0,92	0,92
Firearm reduction coefficient	0,98	0,94	0,95

Source: Elaborated by the authors based on Public Security Secretaries data from each of the states.

As can be seen, the vast majority of cases happened when public security agents were on-duty and were caused by firearms.

Table 3. Estimation coefficients for public safety agents killed

	2020	2021	2022
On-duty reduction coefficient	0,28	0,19	0,14
Firearm reduction coefficient	0,95	0,93	0,99

Source: Elaborated by the authors based on the State's Public Safety Secretaries data.

As for law enforcement agents who were fatally victimized, most of them were also killed with a firearm, but most of the incidents happened while they were off duty.

Brazil does not systematically produce information on wounded victims, either civilians or public security agents, so it was not possible to obtain national totals for non-lethal victims.

2.2. Press Data.

Press data scraping had been conducted by a specialized company on the 2022 Monitor of the Use of Lethal Force in Latin America. Since such an enterprise had been unsatisfactory (both because it took over 6 months to finish and the results represented less than 3% of the universe of cases), we chose not to follow the same method, opting instead, to use both the data scraping tool and methodology proposed by the Monitor's research team, with some adaptations to the Brazilian case. Since the web scraping tool, named Spidermatch, is limited, and the human resources we had this time were smaller than last time, we decided to run a scraping trial using a month (May). We used the keywords agreed by the Monitor's project, then scraped the news platforms which had been the most fruitful in terms of useful information during the last attempt. Following this procedure, less than 10% of the official figure were found in the press in the month of May. Furthermore, after discarding cases that had happened in another year, duplicities and cases that had nothing to do with police use of force, we were left with little regional variation and an insignificant representation (less than 1%) of the universe of official cases. On the other hand, contacts with two other scraping companies were unfruitful because both alleged it would take too long to finish and were too expensive.

As a result of the high unreliability of press cases in our search, results will be reported only according to official sources.

3. RESULTS

3.1. National Level.

**Table 4. Use and Abuse of Lethal Force Indicators by Year.
Official Sources. Brazil**

	2020	2021	2022
I-1. Civilians killed (CK)	5,958	5615	5619
I-2. CK per 100,000 inhabitants	2.8	2.78	2.77
I-3. CK per 1000 agents	11.4	11.37	11.28
I-4 CK per 1000 arrests	...	...	...
I-5 CK per 1000 weapons seized	54.6	48.72	53.03
I-6. Agents killed (AK)	52	26	22
I-7. AK per 1000 agents	0.10	0.04	0.05
A-1. % of homicides due to state intervention	11.2%	11.8%	11.8%
A-2. Ratio between CK and AK	114.7	219.16	251.81
A-3. Civilian lethality index	...	...	...
A-4. Lethality ratio	...	...	...
A-5. Average of civilians killed per incident	...	...	...

Source: Elaborated by the authors based on the State's Public Safety Secretaries data.

The number of civilians killed by gunshot by public security agents on duty remained quite stable over the three years. However, the last census has demonstrated an important demographic shift characterized by a

decrease in population growth. As a result, the tendency is for rates to increase over time even with the stabilization of absolute numbers. Amongst the consequences of Bolsonaro government's policies, firearm apprehensions decreased 8% from 2021 to 2022, resulting in an increase in the ratio of civilians killed per 1000 seized firearms despite the stabilization in the absolute numbers of civilians killed.

The proportion of agents killed on and off-duty also shifted, towards an increase in the proportion of agents killed off-duty, which tended to reduce the value of the indicator I-6.

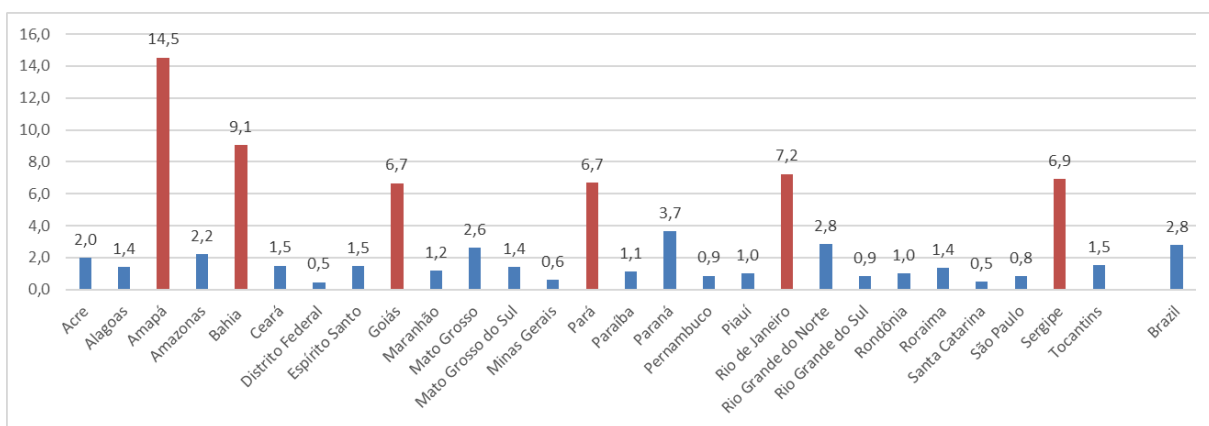
Data on the number of officers in law enforcement dates back from 2021 and could not be updated in 2022.

The only two abuse indicators that could be calculated have increased despite the stabilization in the absolute number of killings by police. The proportion of homicides attributed to state agents on duty by firearm exceeds the acceptable limit of 10% and grew in 2021 in comparison to the previous year. More concerning is the ratio of civilians killed to agents killed, which was already very high in previous reports. However, in the present scenario of a constantly high number of civilians killed versus a declining number of agents killed, the index reaches a staggering value of 250 civilians killed for every officer killed, which indicates absolute disproportion and a pattern of massive abuse of lethal force. Such trend demonstrates the importance of monitoring the phenomenon of abusive use of force by resorting to specific indicators, as the more generalist approach of monitoring only the absolute number of victims might lead on towards the opposite conclusion of what is actually happening. Brazil is losing an important opportunity to reduce its violence indexes by betting on violence as a means to end violence, aggravated by an increase in firearm circulation and a reduction in firearm apprehensions.

3.2. Subnational Level.

On the subnational level, police lethality in Brazil is very heterogeneous and territorially determined. The national rate in 2022 corresponded to 2,8 civilians killed by on-duty police officers by gunshot per 100 thousand inhabitants.

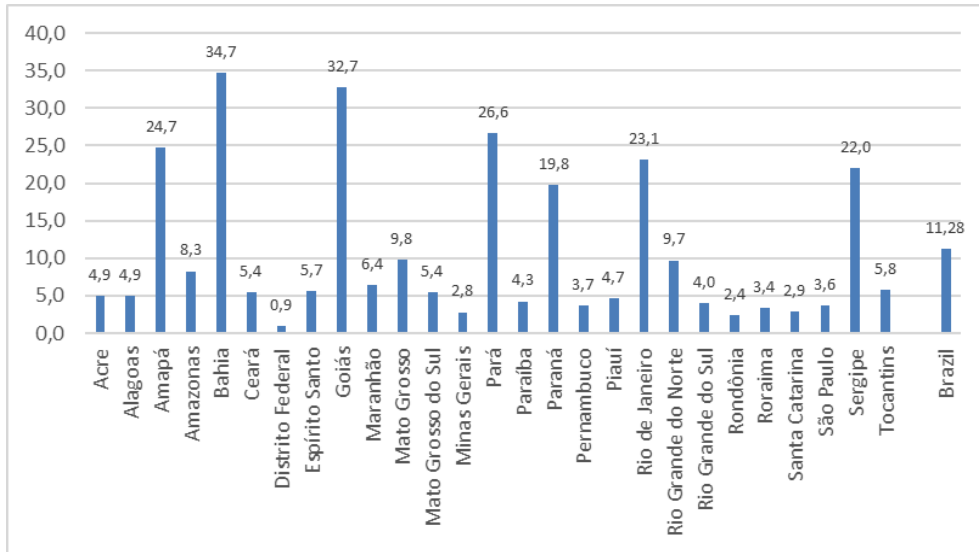
Graph 1: I.2 - Civilians Killed per 100 thousand inhabitants (per state, 2022)



Source: Elaborated by the authors based on the State's Public Safety Secretaries data.

A total of 8 States registered rates above the national incidence rate for I-2: Rio Grande do Sul (2.8), Paraná (3.7), Goiás (6.7), Pará (6.7), Sergipe (6.9), Rio de Janeiro (7.2), Bahia (9.1), and Amapá (14.5).

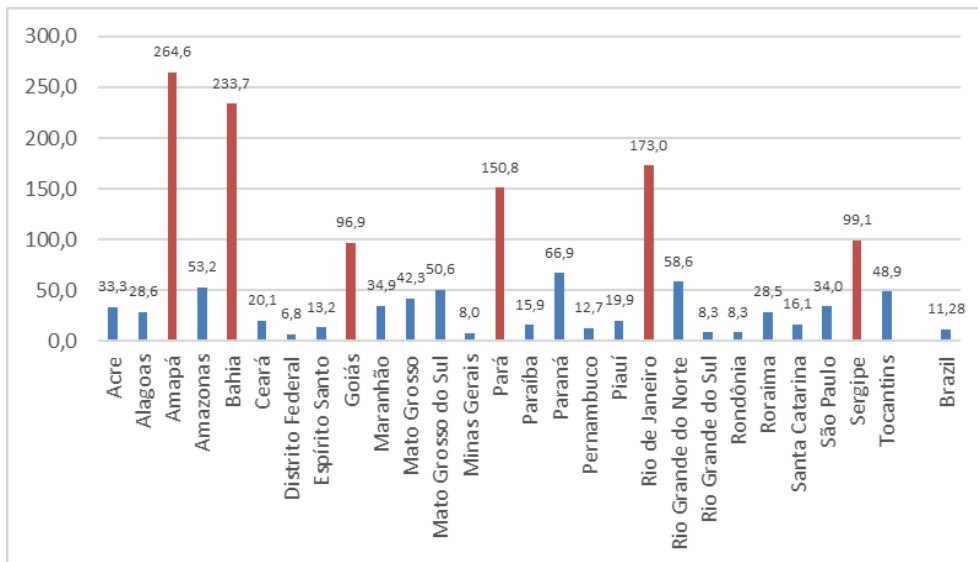
Graph 2: I.3 - Civilians killed per 1000 public security agents, per state (2022)



Source: Elaborated by the authors based on the State's Public Safety Secretaries data.

The indicator of civilians killed per 1000 agents (I-3) displays another dimension of the disproportionate use of force.

Graph 3: I-5. Civilians killed per 1000 weapons seized, per state (2022)

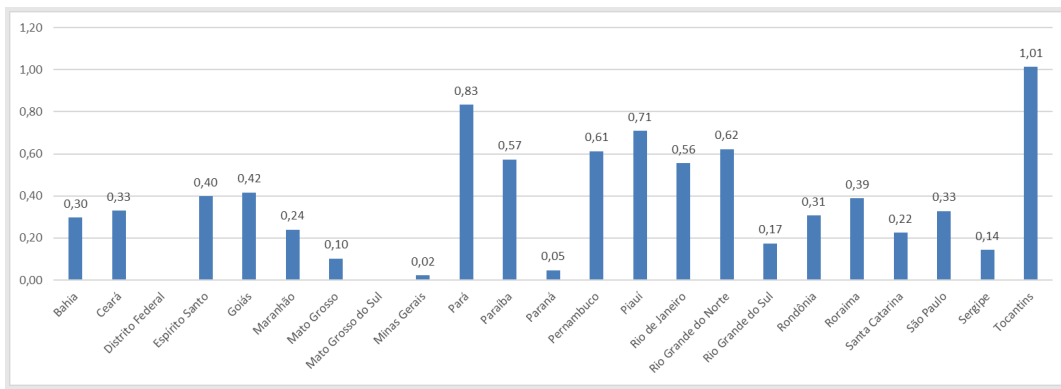


Source: Elaborated by the authors based on the State's Public Safety Secretaries data.

Both I3 and I5 demonstrate the focus on street policing coupled with the violent approaches employed in most States tends to produce deaths intensely and it does not prevent lethal weapons from circulating in the illegal market.

As for the risk of being killed for law enforcement agents (I-7), it also varies significantly from some states to others. In some of them the actual risk is very low or almost non-existent, where in others rates are much higher.

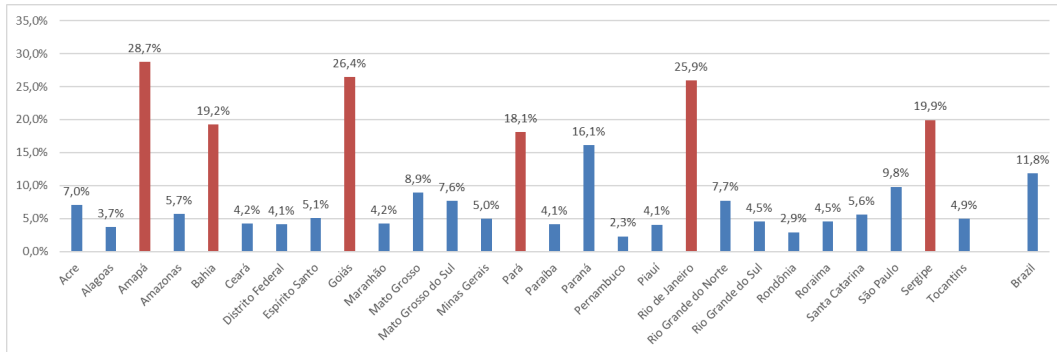
Graph 4. I.7 – Agents killed per 1000 agents, per state (2022)



Source: Elaborated by the authors based on the State's Public Safety Secretaries data.

The proportion of homicides committed by on-duty police officers (A-1) has been, due to the quality of the data with which it is calculated, one the most revealing when it comes to demonstrating the disproportionality of police use of force in Brazil. The territorial heterogeneity is still rampant, with some same states historically concentrating lethality, such as Amapá, Bahia, Goiás, Pará, Rio de Janeiro and Sergipe.

Graph 6. A-1. Percentage of homicides due to police intervention with firearms while on duty (2022)



Source: Elaborated by the authors based on the State's Public Safety Secretaries data.

Due to its high concentration, police abuse of force has been approached as a problem to be solved with focalized, territorialized policies, aimed at increasing transparency and control over police activity.

As a matter of fact, there are two focalized, successful cases of such approaches, which are worth mentioning: “*Programa Olho Vivo*” in São Paulo and the judicial orders originating from the Brazilian Supreme Federal Courts’ “*Arguição de Descumprimento de Preceito Fundamental 635*” (which we will loosely translate as Motion of Non-Compliance to Fundamental Constitutional Precept 635), to which we will refer with the acronym “ADPF 635”.

4. SUCCESSFUL CASES OF ACCOUNTABILITY ENFORCEMENT

In Rio de Janeiro, the successful experience was, unfortunately, short-lived. During the pandemic year of 2020, Brazil's Federal Supreme Court issued Motion of Non-Compliance to Fundamental Constitutional Precept 635, a decision banning police operations in favelas (slums) for as long as the COVID-19 pandemic lasted, unless in exceptional circumstances. The decision was effective immediately and its impact was a drastic temporary decrease in police lethality, which, in Rio de Janeiro's context, is typically very high and associated to such police operations. The decision was not respected for long though, as both the Military and Civil police disrespected the decision shortly thereafter, resulting in an increase in police lethality in Rio de Janeiro of around 9% in 2021 compared to the previous year. Even though the Supreme Court's Decision was meaningful, it was produced no lasting effects.

In São Paulo, the Military Police initiated the implementation of the "*Olho Vivo*" (Keen Eye) Program in 2020 which provided officers with individual body cameras to record their performance. By the end of 2022, 62 out of 135 battalions of PMESP (Military Police of the State of São Paulo) were part of the program, which represents 45.9% of the total (FBSP, 2023).

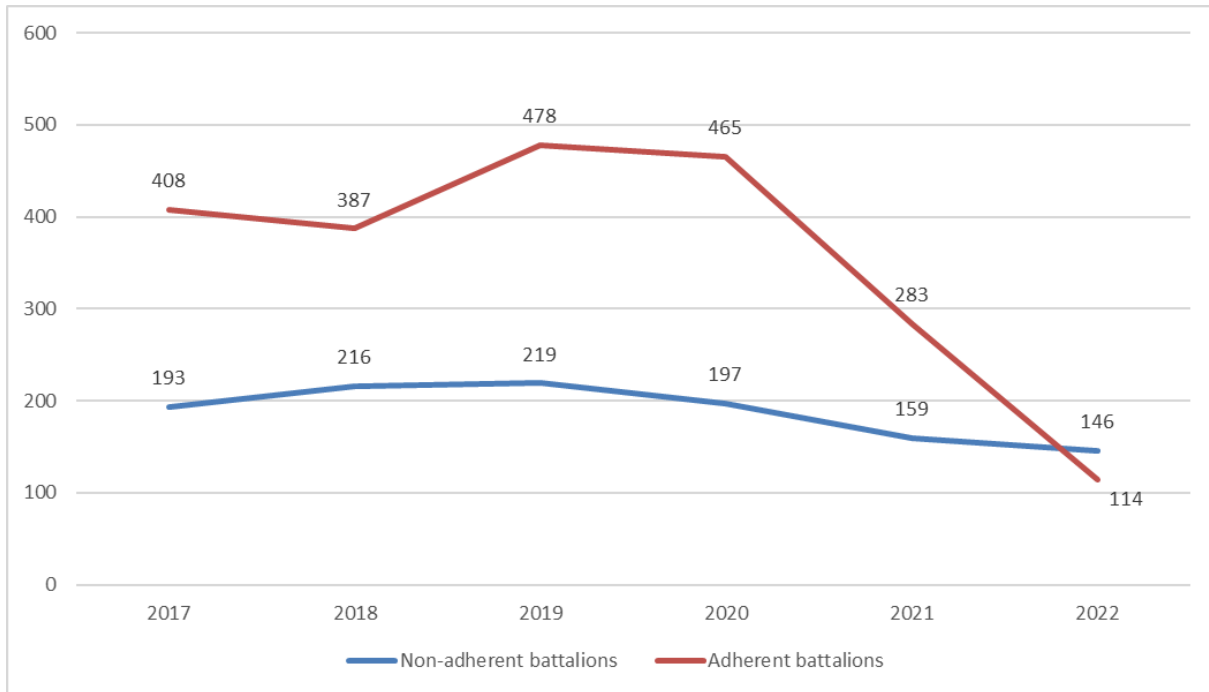
Data obtained by the Brazilian Forum of Public Security from the "Letalidade Policial em Foco" (Police Lethality in Focus) database, maintained by the Special Action Group for External Control of Police Activities (GECEP) within the State Prosecutor's Office of São Paulo (MPSP), indicated a 62.7% reduction in deaths due to interventions by on-duty military police officers between 2019, the period immediately before the implementation of the cameras, and 2022, showing an astonishing impact in reducing police use of lethal force in the state.

The program has 3 core objectives:

- A) a political one, aimed at dissuading police officers from using force, against the discourse of some politicians, irradiating a top-down change in expectations in terms of police officers' conduct;
- B) an administrative one, represented by a commission in charge of analysing cases with fatal outcomes to verify whether appropriate protocols had been applied in each of them (*Comissão de Mitigação de Não-conformidade*). This commission is also responsible for adjusting protocols and procedures to avoid cases of lethality;
- C) a technological one aimed at introducing technologies capable of increasing transparency, accountability and potential for de-escalation, as well as decreasing the actual use of force. This is also exemplified by the acquisition of less lethal equipment (such as tasers).

Among the battalions participating in the program, the reduction reached 76.2%. This number is much higher than the reduction observed among battalions that did not use body cameras: 33.3%.

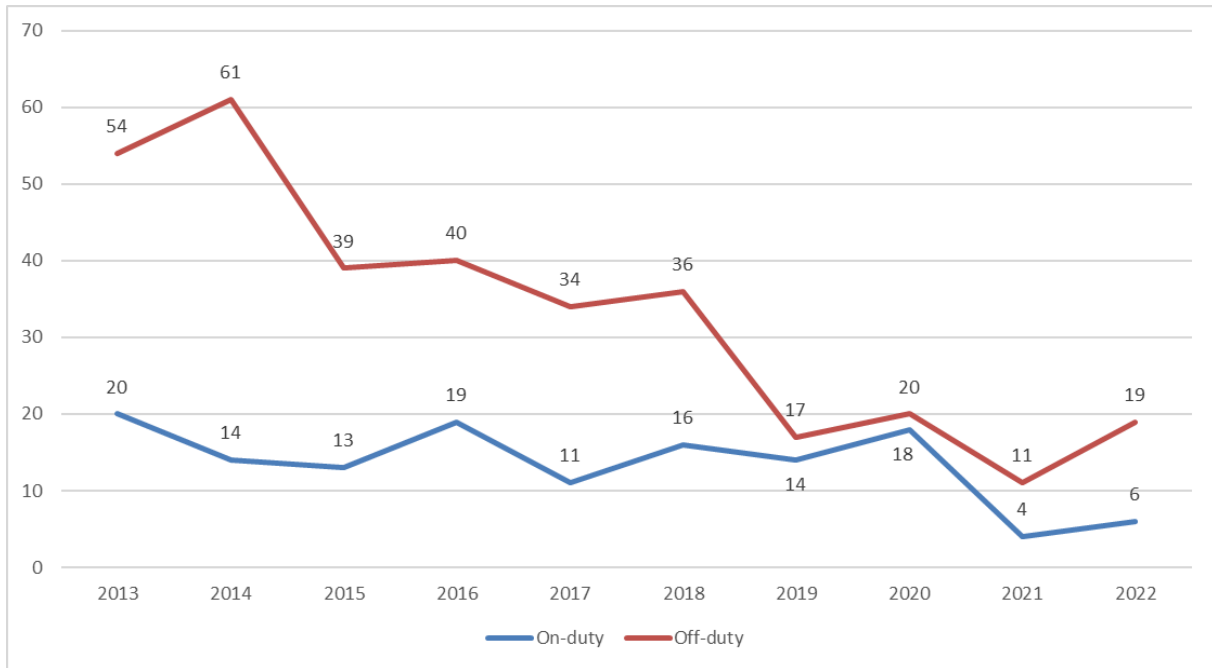
Graph 7: Victims of police killings by the on-duty Military Police Officers, per year - battalions adhering to the program vs non-adherent ones (2017-2022)



Source: Elaborated by the authors, based on the São Paulo State Public Prosecutors Office “Police Lethality in Focus” report.

The policy also had an impact on police victimization, which also decreased significantly over the years.

Graph 8: Military Police officers killed on and off duty (2013-2022)



Source: Elaborated by the authors, based on the São Paulo State Public Prosecutors Office “Police Lethality in Focus” report.

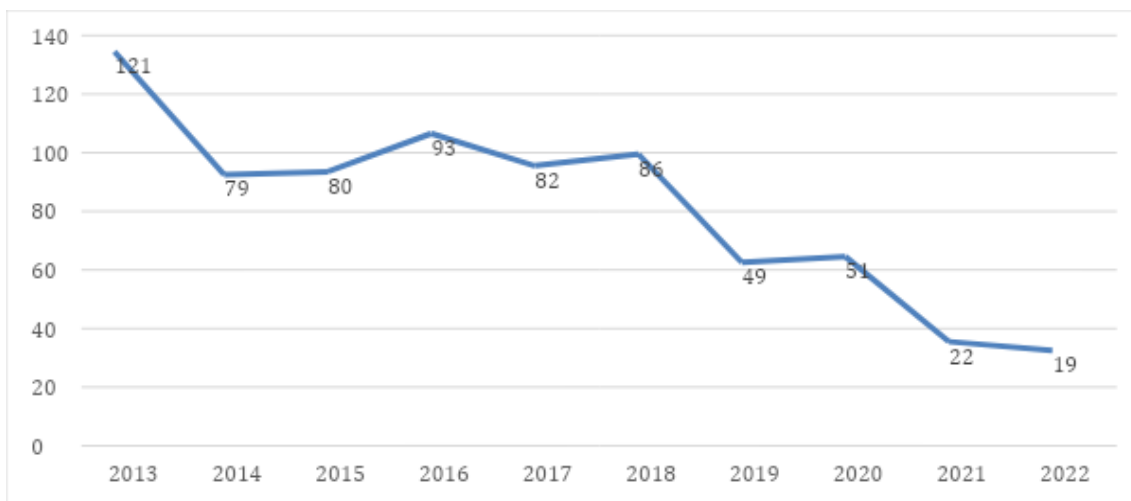
The fact that São Paulo, a state that had one of the most lethal polices in Brazil for several years, was able to reduce its police lethality along with police victimization rates so quickly seems to be a demonstration of how abusive use of lethal force has been traditionally in Brazil.

5. CONCLUSIONS

Brazil has seen an increase in the number of civilians killed by public security agents in the latest decade, reaching a stability in the last two years.

In contrast to this, the number of public security agents killed on-duty has been diminishing, as a trend, since 2013. In other words, the risk faced by law enforcement officers seems to be progressively less warranting of both the frequency and the intensity in which they resort to lethal force.

Graph 9: Public Security agents (military and civil police officers) killed on-duty (2013-2022)



Source: 17th, 16th, 15th, and 13th Brazilian Yearbooks on Public Safety (17º, 16º, 15º e 13º Anuários Brasileiro de Segurança Pública).

Moreover, abuse indicators, which had already reached very worrying levels are still escalating. The proportion of deaths due to police interventions exceeded the 10% threshold back in 2019. Even more concerning, the ratio of civilians killed to public security officer killed, which had already gone over the acceptable threshold of 10 at the national level by 2017, has been increasing ever since. In 2022 more than two hundred civilians die for every officer dead. We chose not to display the state A-2 indicators for states since there were states in which the number of officers killed on-duty was zero, which made it impossible to calculate

the actual value of the indicator despite the huge disparity revealed. The evidence demonstrates that the small risk to officers on-duty does not justify such an intense use of force against civilians. And this is true for all states, although figures are more dramatic in some of them than in others. This means that coordinated, concentrated efforts might be able to drastically change the scenario of abusive use of force in the country.

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