

# LAW ENFORCEMENT

PARLIAMENTARY OBSERVATORY OF THE UNIVERSAL PERIODIC REVIEW\*

## RECOMMENDATIONS TO BRAZIL

3RD CYCLE OF THE UNIVERSAL PERIODIC REVIEW (2017-2021)

**16** Recommendations

2 ↓ in retrogression  
14 ✗ not fulfilled

Linked to the following Sustainable Development Goal (SDG):



### RELATED CONSTITUTIONAL RULES

#### Art. 144, § 6

Military and civil police are subordinate to the governors of the states and the Federal District.

#### Art. 144, § 7

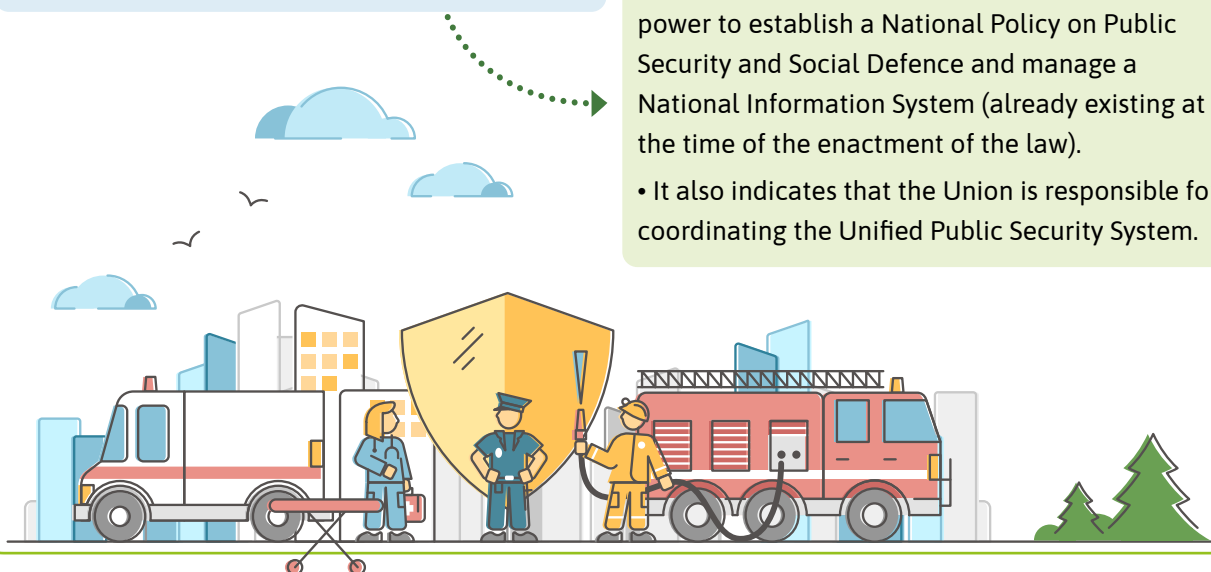
Federal legislation will rule the "organization and functioning of the bodies responsible for public safety, in order to ensure the efficiency of its activities".

#### Art. 22, XXI

Private competence of the Union to legislate on "general rules of organization, personnel, war material, guarantees, convening, mobilization, inactivities and pensions of the military police and military fire brigades".

#### Federal Law No. 13.675/2018

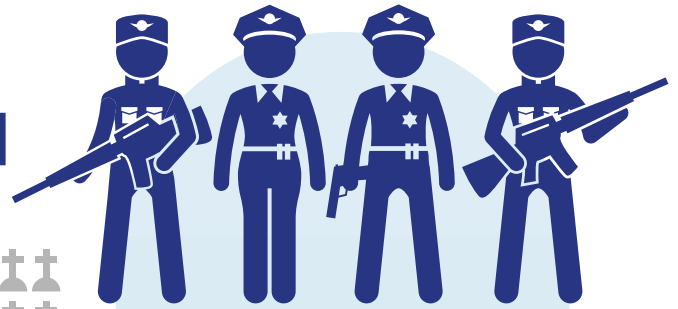
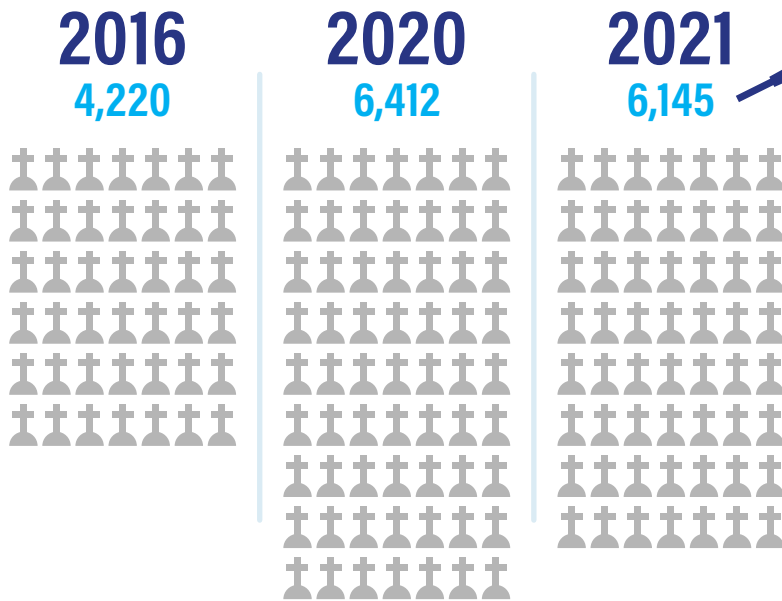
- Ensures the Union full centrality, giving it the power to establish a National Policy on Public Security and Social Defence and manage a National Information System (already existing at the time of the enactment of the law).
- It also indicates that the Union is responsible for coordinating the Unified Public Security System.



\* The Observatory is a government mechanism to monitor the effectiveness of the recommendations made to Brazil in order to improve our human rights situation. It is a partnership between the House of Representatives and the United Nations in Brazil (UN Brazil)

# INSTITUTIONAL VIOLENCE – POLICE LETHALITY

## DEATHS RESULTING FROM POLICE INTERVENTION IN BRAZIL<sup>1</sup>



Although, according to the Forum, these data should be nuanced due to the improvement in the information made available after civil society advocacy and demand, the official number of deaths increased substantially in the period of the third cycle of the UPR, despite oscillations recorded between 2020 and 2021.

## PROPORTION OF DEATHS DUE TO POLICE INTERVENTION IN RELATION TO INTENTIONAL VIOLENT DEATHS<sup>2</sup>

Brazil, 2020 **12.8%**

Amapá: **31.2%**

Goiás: **29.1%**

Rio de Janeiro **25.4%**



## RELATIONSHIP BETWEEN THE NUMBER OF DEATHS DUE TO POLICE INTERVENTION AND THE NUMBER OF VICTIMIZED POLICE OFFICERS<sup>3</sup>

Brasil, 2020

**33.1%** civilians for every victimized police officer

Goiás:

**210.3 to 1**

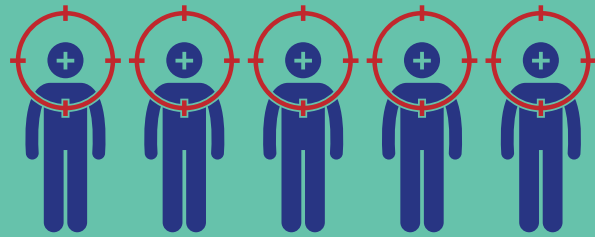
**International parameters:**  
Proportion of 12 or 15 civilians killed for every officer killed

<sup>1</sup> Fórum Brasileiro de Segurança Pública (Brazilian Forum of Public Security). **Public Safety Yearbook 2022**. FBSP, 2022. Available at: <https://forumseguranca.org.br/wp-content/uploads/2022/06/anuario-2022-v03.pdf>. Accessed on: 06/29/2022.

<sup>2</sup> Fórum Brasileiro de Segurança Pública (Brazilian Forum of Public Security). **Public Safety Yearbook 2022**. FBSP, 2021. Available at <https://forumseguranca.org.br/wp-content/uploads/2021/07/anuario-2021-completo-v6-bx.pdf>. Accessed on: 06/29/2022.

<sup>3</sup> LOCHE, Adriana. A letalidade de ação policial: parâmetros para análise. **TOMO Revista do Núcleo de Pós-graduação e Pesquisa em Ciências Sociais/Universidade Federal de Sergipe n° 1 (1998)**. São Cristóvão-SE, NPPCS/UFS, n. 17 jul./ dez., 2010.

International human rights organizations and civil society entities considered **institutional violence** as a **central focus of violations** in the Brazilian territory



4

In 2020, the Inter-American Commission on Human Rights (IACHR) expressed “**deep concern about the historical records of violent police actions** recorded during the first half of 2020 in the states of Brazil and their racial discrimination, **aggravated by the context of the pandemic**”

## RACIAL PROFILING

### VICTIMS OF POLICE LETHALITY (2021)



**84.1%**

black, mostly young males

A percentage much higher proportionally for black men and women in Brazilian society, slightly higher than 50% of the population

5



The chances of black people being caught in flagrante delicto are

**2.2 to 2.4 higher**

in relation to the non-black population.<sup>6</sup>

<sup>4</sup> IACHR (OAS). Press Release **The IACHR condemns violent police actions in Brazil and calls for measures to combat social and racial discrimination**. Available at: <https://www.oas.org/en/cidh/prensa/notas/2020/187.asp>. Accessed on: 06/30/2022.

<sup>5</sup> Fórum Brasileiro de Segurança Pública (Brazilian Forum of Public Security). **Public Safety Yearbook 2022**. FBSP, 2021. Available at <https://forumseguranca.org.br/wp-content/uploads/2021/07/anuario-2021-completo-v6-bx.pdf> Accessed on: 06/29/2022.

<sup>6</sup> SINHORETTO, Jacqueline et al. Policiamento e relações raciais: estudo comparado sobre formas contemporâneas de controle do crime. **Relatório de pesquisa enviado ao CNPq**. Universidade Federal de São Carlos, 2020.

# DEBATE ON EFFECTIVENESS METRICS IN POLICE OPERATIONS



## Commission of Legal Experts to Combat Racism

Installed by act of the presidency from the House of Representatives.

→ Proposed measures to contain police violence

Due diligence in combating the excessive and disproportionate use of force; raising awareness of standard operating procedures and establishment of **“parameters of convenience, opportunity and performance of operations in which the use of force is presumed or is the outcome”**.

- Risks and advantages to the protection of the lives of all potentially involved persons.
- Costs in terms of interruption of public and private services.
- Social and psychological costs for the affected communities, especially where there is a high density of children, the elderly, people with disabilities and other vulnerable groups.
- Advantages in terms of progressive assurance of safety of involved communities.<sup>7</sup>



<sup>7</sup> Report available at: <https://www2.camara.leg.br/atividade-legislativa/comissoes/grupos-de-trabalho/56a-legislatura/comissao-de-juristas-combate-ao-racismo-no-brasil/documentos/outros-documentos>. Accessed on: 5/9/2022.

# INTERNAL CONTROL OF POLICE ACTIVITY

## POLICE DEPARTMENTS

8

### Last survey – technical note (2014)

"The internal affairs of public security agencies in Brazil". Partnership between the National Public Security Secretariat and Brazilian Forum of Public Security (FBSP).

Poor levels of replies from law enforcement institutions to the questions asked: just under half of the initially identified state and federal agencies responded to the survey.



### CONCLUSIONS

- Internal Affairs do not usually get involved with the production, analysis and disclosure of information about their performance, nor do they have the habit of being monitored by external institutions.
- These institutions would also have problems, such as: low staff and under qualified agents; lack of infrastructure and budget; dependence on the command line of corporations; strong punitive culture, to the detriment of a preventive culture aimed at improving service quality; low investment in intelligence activities.



### Decree No. 9.489/2018 Regulated Law No. 13.675/2018

It establishes that it is up to the Ministry of Justice and Law Enforcement "to establish mechanisms for registration, monitoring and evaluation, at the national level, of corrective bodies"

However, there is no further information available on the effective exercise of this competence.



# EXTERNAL CONTROL OF POLICE ACTIVITY

## Competence of the Public Prosecutor's Office (art. 129, VII, of the Federal Constitution)

### Situation of low transparency

According to the National Council of the Public Prosecutor's Office (CNMP), there are no consolidated databases on the number of representations received by state prosecutors regarding deaths resulting from police intervention and excessive use of force; nor on complaints provided by public prosecutors in the same directions.



### Resolution No. 201/2019 (CNMP)

Objective: to adapt it to the ruling on the case "Favela Nova Brasília vs Brazil" and thus ensure greater participation of victims and/or their families in the criminal investigation phase carried out by the Public Prosecution.

Survey of research scientists from the Getúlio Vargas Foundation, based on CNMP reports

# 0.73%

of the extrajudicial procedures of state public prosecution offices (civil investigations and preparatory procedures), in 2018, had external control of police activity as its object.



<sup>9</sup> Available at: <https://www.cnmp.mp.br/portal/images/Resolucoes/Resolucao-n-201.pdf>. Accessed on: 6/26/2022.

<sup>10</sup> According to the sentence itself, the "case refers to the failures and delay in the investigation and punishment of those responsible for the alleged 'extrajudicial executions of 26 people [...] within the scope of the police operations made by the Civil Police of Rio de Janeiro on October 18, 1994 and on May 8, 1995 in Favela Nova Brasília". The sentence is available at: [http://www.itamaraty.gov.br/images/Banco\\_de\\_imagens/SENTENCIA\\_FAVELA\\_NOVA\\_PORTUGUESfinal.pdf](http://www.itamaraty.gov.br/images/Banco_de_imagens/SENTENCIA_FAVELA_NOVA_PORTUGUESfinal.pdf).

# PUBLIC MONITORING OF LAW ENFORCEMENT

**Law No. 13.675/2018**

Different from internal control and external control formally provided for in the Federal Constitution.

Performed by the "ombudsmen".

**"Situational diagnosis of the capacities of assistance, treatment, referral and monitoring of complaints/claims by police ombudsmen"**<sup>11</sup>

Conducted in 2016 – last national survey found in these institutions.

Research conducted by Isabel Seixas de Figueiredo within the scope of the Citizen Security Project, conducted by the Ministry of Justice in partnership with the United Nations Development Programme.

## **CONCLUSION:**

"Ombudsmen, in general, continue to have low visibility, serious problems in relation to human resources and little empowerment to act in fact as a social control body for police activity".



<sup>11</sup> FIGUEIREDO, Isabel Seixas de. **Diagnóstico situacional das capacidades de atendimento, tratamento, encaminhamento e monitoramento de denúncias/reclamações pelas ouvidorias de polícia**. Ministério da Justiça: Brasília, 2016.

# FORMAL AUTONOMY OF THE FORENSIC ACTIVITIES

Among the states and the Federal District<sup>12</sup>

8

with autonomous forensics in relation to the Civil Police, but subordinated to the Secretariats of Public Security, as Technical-Scientific Police.

9

with forensics still as civil police departments.

## PEC No. 325/2009

Ready to be considered at the House of Representatives

It deals with the formal autonomy of forensic experts.

Substitute adopted by the Special Committee that analysed it and proposed a modification to clarify what the legislative competence of the Union, the states and the Federal District is in regards to the organization of the forensic experts.

## EXTERNAL CONTROL OF LAW ENFORCEMENT ACTIVITY

**Bill No. 6,125/2019 and No. 733/2022, from the federal government, would be contrary to the recommendations received and accepted by the Brazilian State.**

Law No. 13.491/2017

It expanded the competence of the Military Justice of the Union to judge intentional crimes against life committed by military personnel in operations to guarantee law and order.

Law No. 13.756/2018

It changed the rules of the National Public Security Fund.



Mentions of the need for the federated entities to commit to results related to the "reduction of police corruption and violence" for the perception of the fund's resources were excluded.

Ordinance No. 229/2018  
Ministry of Justice and Law Enforcement

It provides for the unification and national standardization of data collected by federated entities and provides disaggregated information for deaths resulting from law enforcement intervention.

<sup>12</sup> MEDEIROS, Flavia. **Políticas públicas de Perícia Criminal na garantia dos direitos humanos**: relatório sobre a autonomia da Perícia Técnico-Científica no Brasil. IVH/FES, 2020.



# CASE "FAVELA NOVA BRASÍLIA"<sup>13</sup>

**The Inter-American Court of Human Rights condemned the Brazilian state for police violence.**

The case involving five police officers, that were accused, among other crimes, of killing 13 people, took 27 years to be brought to trial, resulting in the acquittal of the defendants for lack of evidence.



**The conduct of the case by the justice system, from the manner in which the investigations were carried out, was condemned by the victims, by human rights organizations and, finally, by the Court.**

The Inter-American Court of Human Rights stated that the Brazilian State was "responsible for the violation of the right to judicial guarantees of independence and impartiality of the investigation, due diligence and reasonable time, established in article 8.1 of the American Convention on Human Rights".

The Court also confirmed the responsibility of the Brazilian State for the "violation of the right to judicial protection, provided for in article 25 of the American Convention on Human Rights".

<sup>13</sup> The sentence is available at: [https://www.corteidh.or.cr/docs/casos/articulos/seriec\\_333\\_por.pdf](https://www.corteidh.or.cr/docs/casos/articulos/seriec_333_por.pdf). Accessed on: 05/10/2022.

# CLAIM OF NON-COMPLIANCE WITH FUNDAMENTAL PRECEPT NO. 635 (ADPF OF THE FAVELAS)

Lawsuit requested by the Brazilian Socialist Party (PSB). It questions what they consider as a "structural government omission" by the state of Rio de Janeiro "in the adoption of measures to reduce police lethality".

The Supreme Court determined several measures, still within the lawsuit in progress:

- Preservation of "all traces of crimes committed in police operations".
- Exceptionality of operations in perimeters "in which schools, daycare centers, hospitals or health centers are located", "and the respective commander must justify its indispensability".
- Regarding the investigation of criminal offences involving law enforcement agents, the court established that investigation by the competent Public Prosecutor's Office is mandatory, and must comply, in the case of investigations of potentially illegal deaths, with the requirements of the Minnesota Protocol.<sup>14</sup>
- Elaboration of a plan aimed at reducing police lethality and controlling human rights violations perpetrated by the Rio de Janeiro law enforcement officers<sup>15</sup>

## SUCCESSFUL POLICIES TO COMBAT POLICE VIOLENCE IMPLEMENTED BY MILITARY POLICE IN BRAZILIAN STATES

Adoption of body cameras by the Military Police of Santa Catarina<sup>16</sup>



Reduction, in average, of **56%** in firing of lethal and non-lethal weapons



**48%** reduction in charges of contempt

Adoption of body cameras by the Military Police of São Paulo



More than a **40%** reduction in the average cases of police lethality

Creation, by the Military Police of São Paulo, of "risk mitigation commissions" and a "mental health system for the military police"

<sup>14</sup> BRASIL. Supreme Federal Court. Precautionary Measure in the Claim of Non-compliance with Fundamental Precept 635. Rapporteur: Ministro Edson Fachin. **DJE** of 8/18/2020. Available at: <https://redir.stf.jus.br/paginadorpub/paginador.jsp?docTP=TP&docID=754168293&prcID=5816502>. Accessed on: 06/28/2022.

<sup>15</sup> BRASIL. Supreme Federal Court. Embargos de Declaração na Medida Cautelar na Arguição de descumprimento de preceito fundamental 635. Relator: Ministro Edson Fachin. **DJE** of 6/3/2022. Available at: <https://portal.stf.jus.br/processos/downloadPeca.asp?id=15351553094&ext=.pdf>. Accessed on: 06/28/2022.

<sup>16</sup> BRAGA, Anthony; SOUSA, William; COLDREN JR, James; RODRIGUEZ, Denise. The effects of body-worn cameras on police activity and police-citizen encounters: a randomized controlled trial. **Crim. L. & Criminology** 511, 2018.

# POLICE TRAINING IN HUMAN RIGHTS

## Law No. 13.675/2018

It provides that the curricular matrix be “based on human rights”, ensuring the transversality of human rights in the training of law enforcement professionals.



### National Curriculum Matrix of the National Law Enforcement Secretariat

Ministry of Justice and Law Enforcement (2014)

It provides for “human rights” as a discipline and cross-cutting element.

More than **87 thousand**

+ than **6 thousand** civil



Trained in “human rights” in 2019 (National Profile of Law Enforcement Institutions survey)<sup>17</sup>

**There is the perception, among law enforcement agents, of an opposition between policing “in theory” and policing “in practice”, a sphere in which abstract principles would be ruled out.**

Portfolio of courses provided by the National Law Enforcement Secretariat (Senasp)

This includes courses related to “police action against vulnerable groups” and “human rights philosophy applied to police action”.

An 80% reduction in law enforcement agents trained in the platform occurred in 2020.<sup>18</sup>

**The reason would have been the “need to update and review the content,” according to the federal government**

<sup>17</sup> The research panel is available at: <https://www.justica.gov.br/sua-seguranca/seguranca-publica/sinesp-1/bi/dados-seguranca-publica>. Accessed on: 10/23/2021. Unfortunately, there was no historical series available to compare, even quantitatively, with all the limitations experienced, on the number of “trained” police officers per year.

<sup>18</sup> Notified by the newspaper O Estado de São Paulo, according to data obtained by the Sou da Paz Institute through the Law on Access to Information. Available at: <https://politica.estadao.com.br/noticias/geral,governo-revisa-conteudo-e-reduz-cursos-para-policias,70003411542>. Accessed on: 06/29/2022.

# COMBATING RACIAL PROFILING IN LAW ENFORCEMENT AGENCIES

## INFORMATION REQUEST NO. 1097/2020 (RIC)<sup>19</sup>

The federal government did not mention existing policies on the subject, only the long distance course on “police action with vulnerable groups”.

Minimum number of participants compared to the total number of law enforcement agents. This number has been reduced in the present period.



### TRAINING:

2017

6,289

2018

4,832

2019

2,622

- The existence of the course precedes the current UPR cycle.
- In the last two years, since the response to the RIC, no new actions have been announced.

## USE OF FACIAL RECOGNITION IN MONITORING ACTIVITIES<sup>20</sup>

### Ordinance No. 793/2019 – Ministry of Justice and Law Enforcement

Encourages promoting “the implementation of video monitoring systems with facial recognition solutions, artificial intelligence or others”.

It is a major concern that any racial profiling through algorithms today have practically zero public accountability.<sup>21</sup>

Monitoring the use of facial recognition by the police in five Brazilian states in 2019:  
**90.5%** of the prisoners under this system were of African descent.

<sup>19</sup> MJSP's response to RIC No. 1097/2020. Available at: [https://www.camara.leg.br/proposicoesWeb/prop\\_mostrarintegra?cod-teor=1936948&filename=Tramitacao-RIC+1097/2020](https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra?cod-teor=1936948&filename=Tramitacao-RIC+1097/2020). Accessed on: 06/29/2022.

<sup>20</sup> NUNES, Pablo. Novas Ferramentas, velhas práticas: reconhecimento facial e policiamento no Brasil. In: Retratos da Violência – Cinco meses de monitoramento, análises e descobertas. **Rede de Observatórios de Segurança**. Available at: <http://observatorioseguranca.com.br/wp-content/uploads/2019/11/1relatoriorede.pdf>. Accessed on: 11/6/2020.

<sup>21</sup> For more information on racial profiling: [https://acnudh.org/load/2020/12/CERD\\_C\\_GC\\_36\\_PORT\\_REV.pdf](https://acnudh.org/load/2020/12/CERD_C_GC_36_PORT_REV.pdf) e [https://acnudh.org/load/2020/12/1821669-S-DPI-RacialProfiling\\_PT.pdf](https://acnudh.org/load/2020/12/1821669-S-DPI-RacialProfiling_PT.pdf).



## USE OF FORCE DURING PROTESTS AND DEMONSTRATIONS

**Law No. 13.060/2014**

Regulated the use of instruments with less offensive potential by law enforcement agents



Although it has contemplated some international standards, it is still very succinct to conform as a national code of conduct

**Interministerial Ordinance No. 4.226/2010**

Ministry of Justice and Secretariat of Human Rights of the Presidency of the Republic

No concrete policies have been found, with explicit mention to this ordinance, aimed at meeting the foreseen objectives

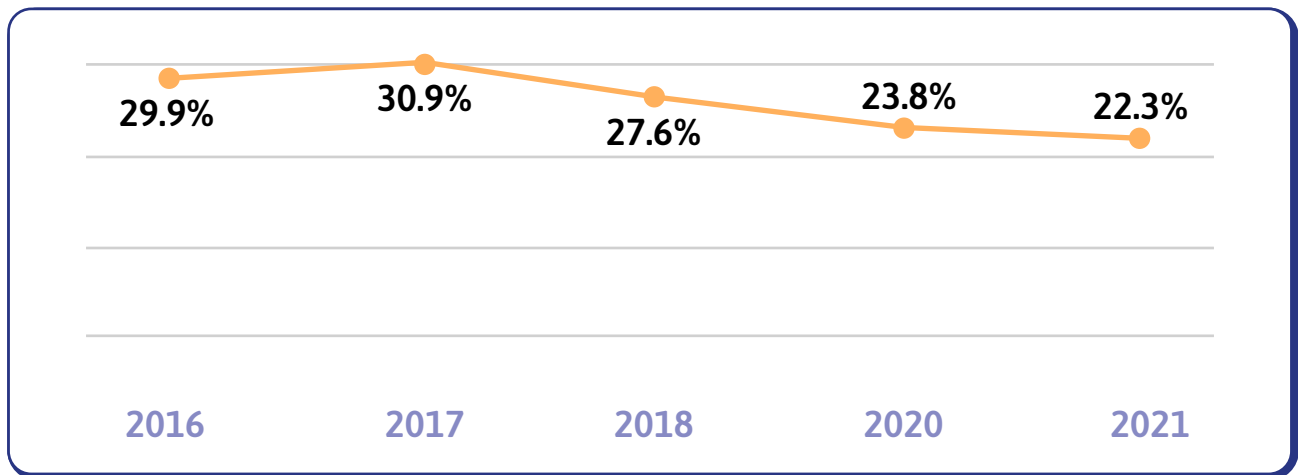


Most law enforcement officers still keep documents relating to their operational procedures confidential

# INTENTIONAL VIOLENT DEATHS

## INTENTIONAL VIOLENT DEATH RATE (MVI)<sup>22</sup> PER 100,000 INHABITANTS

Brazilian Forum of Public Security (FBSP)<sup>23</sup>



Factors that may be associated with the recent decline of Intentional Violent Deaths:

Demographic changes: there has been “a decrease in the number of children and adolescents aged 10 to 19 years and stability in the number of young people aged 20 to 29 years, groups with higher risks of homicide mortality”.

Dynamics of organized crime in the national territory: “regional conflicts between criminal groups have been cooling down, with the exception of some territories, such as Amazonas”.

Public policies: several units of the Federation adopted, throughout the years 2000 and 2010, homicide reduction programmes by focusing actions on their territories.

However...

Only from 2018  
to 2019

Growth of **35.2%** in the number of violent deaths from undetermined causes in Brazil

Increase of

232% in Rio de Janeiro

185% in Acre

178% in Rondônia

<sup>22</sup> This category corresponds to the sum of the victims of intentional homicide, robbery, bodily injury followed by death and deaths resulting from police interventions.

<sup>23</sup> Fórum Brasileiro de Segurança Pública (Brazilian Forum of Public Security). **Public Safety Yearbook 2022**. FBSP, 2022. Available at: <https://forumseguranca.org.br/wp-content/uploads/2022/06/anuario-2022-v03.pdf>. Accessed on: 06/29/2022.

# RACIAL PROFILING IN INTENTIONAL VIOLENT DEATHS

Almost half a million people of African descent have been murdered in the last decade

The chance of a black person being a victim of murder in Brazil is 2.6 times greater than that of a non-black person

In 2021, 62% of femicide victims were black, even though young black males are the main victims of Intentional Violent Deaths

Women of African descent accounted for 70.7% of other intentional violent deaths among women

## POSITIVE POINTS - THE ROLE OF THE UNION IN THE PROCESS OF REDUCING INTENTIONAL VIOLENT DEATHS



### Changes in legislation

**Federal Law No. 13.675/2018**  
Regulated a National Public Security System



### **Law No. 13.756/2018**

Allowed new sources of revenue, such as those from lotteries, to be allocated to states and municipalities

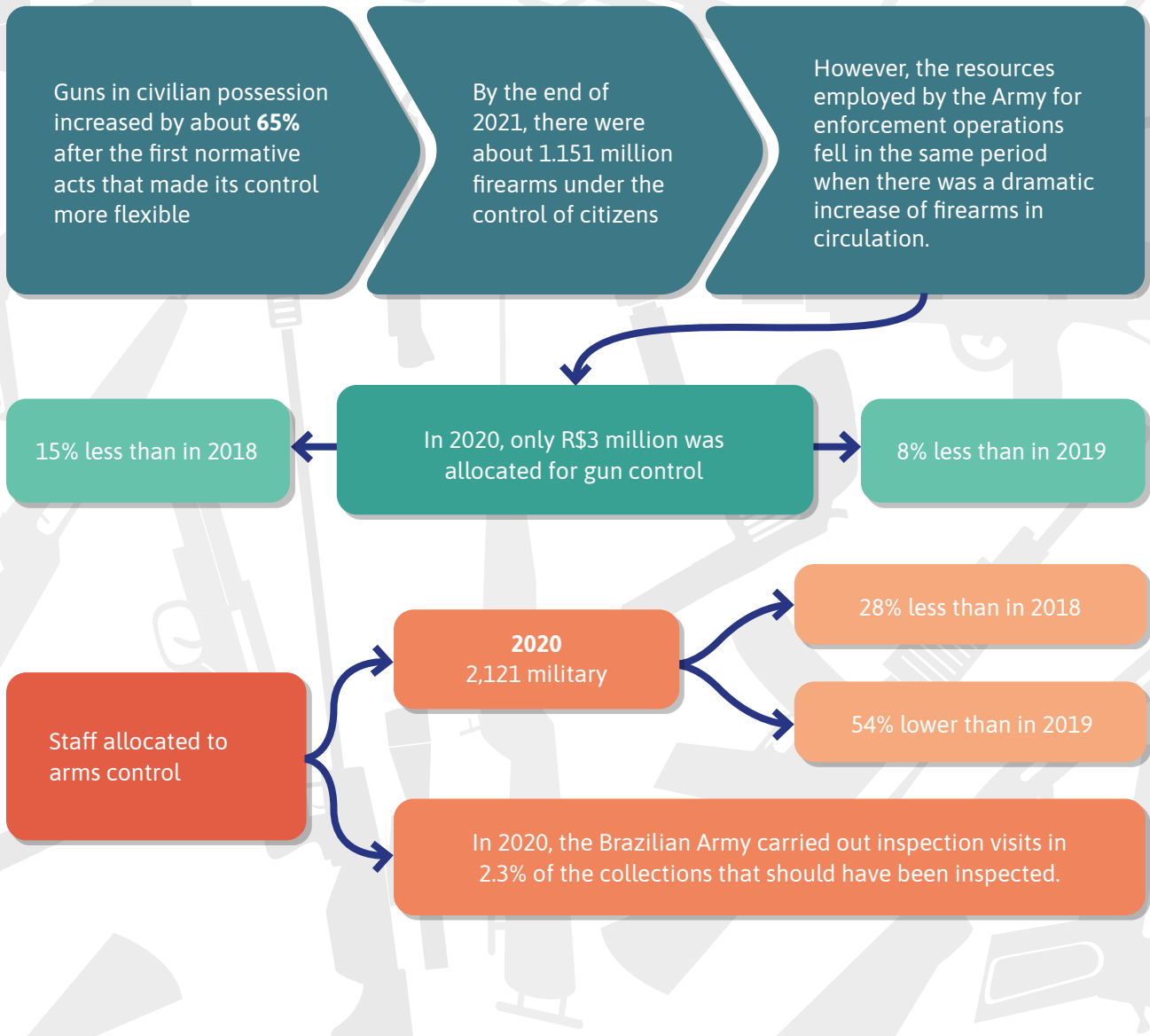
On the other hand...

The Federal Government did not institutionalize some of the main governance and policy induction mechanisms provided for in Law No. 13.675/2018.



In general, although it is safe to say that Brazil has experienced advances from the legislative point of view in this last cycle of the UPR, there are no specific comprehensive strategies or measures from the federal government aimed at reducing intentional violent deaths.

# WEAPONIZATION ISSUE<sup>24</sup>



<sup>24</sup> INSTITUTO IGARAPÉ. **Uncontrolled targeting (Bulletin 01)** – The flexibilization of access to firearms and ammunition in analysis by the Supreme Court: a overall view on voting. Instituto Igarapé, 2021. Available at: [https://igarape.org.br/wp-content/uploads/2021/09/2021-09-17-v2-boletim-1-Descontrole-no\\_alvo.pdf](https://igarape.org.br/wp-content/uploads/2021/09/2021-09-17-v2-boletim-1-Descontrole-no_alvo.pdf). Accessed on: 5/24/2022.

## LEARN MORE:

**Full report – Law Enforcement**

- **Public Hearing held on 11/3/2021**
- **Report on the hearing**
- **Parliamentary Observatory of the Universal Periodic Review**