

# PAPER CEMETERIES: INFORMAL BARRIERS TO BRAZILIAN PUBLIC SECURITY REFORM

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## ABSTRACT

Public security has become an increasingly important political issue in Brazil since the end of military rule in 1985. Increasing levels of violent crime have led to various initiatives to reform the public security system, and especially the police. This article looks at three reforms intended to increase the accountability of the police to the public: police ombudsmen, community policing, and Public Ministry oversight of police investigations. Drawing from research in the Brazilian northeast and national studies, it argues that so far, these reforms have had less impact than expected. This is due in part to organisational characteristics of the police, and specifically their combination of insulation and vulnerability to political manipulation.

**Keywords:** Accountability. Democracy. Human rights. Participation. Police. Public security.

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## 1. INTRODUCTION

In June of 2006, civil police *delegado* Alexandrino Thiago da Silva Vasconcelos was the senior officer in Itapessuma, near Recife, Brazil<sup>1</sup>. In his police station was what he called an “inquiry cemetery” (*cemitério dos inqueritos*). In a corner of his office on a table lay a pile of articles enclosed in yellow covers. These were 141 police investigations dating back five years that included reported incidents of rape, murder, and theft. Although the Code of Criminal Procedure requires that police investigations be turned over to a judge within 30 days<sup>2</sup>, the articles in this “cemetery” continued to moulder in the tropical heat, their investigation long abandoned. When I visited his police station, Alexandrino opened one of the files and showed me a case in which a victim described how his car was stolen from him at gunpoint by two men in 2001. One of the suspects was later killed, Alexandrino lacked the full name of the other, and the case had gone nowhere<sup>3</sup>.

Delegado Alexandrino was not proud of his inquiry cemetery, but neither did he seem embarrassed by it. He appeared to accept it as a commonplace in his line of work, and indicative of the poor conditions under which the civil police labour. He also admitted that he was unhappy in Itapessuma. A *Recifense* (native of Recife), he missed working in the city. He felt unsupported - the military police company had been withdrawn from Itapessuma several years ago – and underappreciated. Alexandrino alleged that his transfer was a punishment meted out by his superiors, because he had complained too aggressively and publicly about politics in the police force<sup>4</sup>.

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1 The policeman's name has been changed to protect his identity. There is no real equivalent of the *delegado* in British or US police forces. The *delegado* has a law degree and oversees police investigations, drafting reports (*inqueritos*) that form the basis of prosecution in the courts. For more on the civil police delegado, see Jorge Zaverucha, *Polícia Civil de Pernambuco: O Desafio da Reforma* (Recife 2003).

2 The requirement is thirty days when the suspect is at large, but ten days when the suspect is in custody. From Antônio Luiz de Toledo Pinto, Márcia Cristina Vaz dos Santos Windt and Livia Céspedes (eds.), *Código Penal, Código de Processo Penal e Constituição Federal* (São Paulo, 2<sup>a</sup> edition, 2006), Título II, Artigo 10.

3 From author's visit to the 31st Civil Police Station, Itapessuma, Pernambuco on 26 June 2006 and interview with *delegado* Alexandrino Thiago da Silva Vasconcelos, 30 March 2006.

4 From author's interview with Alexandrino Thiago da Silva Vasconcelos, Recife, on 30 March 2006. (All translations from the interviews and from texts in Portuguese are by the author.) The

It might be thought that the inquiry cemetery is just another example of Latin America's tradition of informal obstruction trumping formal chains of command, as in the saying "obedezco pero no cumplo" (I obey but do not comply) by colonial bureaucrats. However, it is also part of a more specific, contemporary problem in Brazilian public security whose scale can only be estimated. Inquiry cemeteries are created when *delegados* wait for more information (that may never arrive); or because the *delegado* has no interest in, time, or ability to pursue the case; or because someone has paid or used influence to bury the case<sup>5</sup>. Regardless of their origins, paper cemeteries deprive the criminal justice system of transparency and obstruct the rule of law. They reflect informal procedures that insulate the Brazilian police from the general public, while making them vulnerable to manipulation by the powerful.

How can we understand the role of the police in Brazil's public security system? In particular, have reforms initiated since the 1985 transition to democracy made the police more accountable to the public? This article addresses those questions. The next section describes the importance of public security as a political issue in Brazil. The article then examines the notion of accountability, and offers a justification of the use of case studies from Recife with which to explore the dilemmas of public security reform. In the following sections, the article analyses the impact of two new accountability mechanisms on policing in Recife – the police ombudsman and community councils. The article argues that so far, the operation of these mechanisms has been marked by informal barriers, barriers that have stymied the enhancement of police accountability to the public. The conclusion summarizes the argument.

## 2. VIOLENCE AND PUBLIC INSECURITY IN BRAZIL

In recent decades violence, crime, and insecurity have become major political issues in most Latin American countries, including

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Pernambuco legislature passed a law requiring civil police *delegados* to serve a minimum of two years in the jurisdictions where they are appointed, presumably in order to diminish the practice of politically-motivated transfer that Alexandrino alleged had taken place in his case.

5 From José Luiz Raton and Flavio Cireno, eds., "Relatório de Pesquisa Violência Endêmica: Homicídios na Cidade do Recife: Dinâmica e Fluxo no Sistema de Justiça Criminal" in *Revista do Ministério Público do Estado de Pernambuco*, Edição Especial, Volume VI, Número 1, January/June 2007, pp.1-157; the reference is to pages 124-125.

Brazil<sup>6</sup>. Most observers agree that this is not the result of a moral panic, but because there really has been an increase in violent crime in the region<sup>7</sup>. Latin America now has the highest homicide rate of any region of the world<sup>8</sup>. In Brazil, the homicide rate has almost tripled since 1980<sup>9</sup>. The scale of this killing makes Brazilian violence one of the most serious political and social problems in the region. Recent empirical studies show, for example, that Brazil's 61,283 violent intentional deaths in 2017 amounted to 35 per cent of all homicides that year throughout the Americas<sup>10</sup>.

Violence of this magnitude is a form of chronic, low-intensity conflict that imposes significant economic costs and generates fear. The anthropologist Nancy Scheper-Hughes declares, "Democratic Brazil has the demographic profile of a nation at war", and the commentator Luís Mir entitled his book on urban violence *Guerra Civil* (Civil

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6 For a thought-provoking introduction to violence, crime, and insecurity as global political issues, see John and Jean Comaroff, 'Law and Disorder in the Postcolony: An Introduction', in Jean Comaroff and John Comaroff (eds.), *Law and Disorder in the Postcolony* (Chicago 2006), pp. 1-56. The Comaroffs write, "the coexistence of neoliberalization with the proliferating problem of lawlessness would appear to be an ever more global phenomenon; although whether there is more crime..., more of an obsession with it..., or a greater readiness under current conditions to criminalize dystopic social phenomena, among them poverty and race..., remains a fraught question – especially if, as is likely, all are true, but in indeterminate proportions"; from *ibid.*, page 6.

7 See, for example, David Howard, Mo Hume, and Ulrich Oslender, 'Violence, Fear and Development in Latin America: A Critical Overview', *Development in Practice*, vol. 17, no. 6 (2007), pp. 713-724, and Magaly Sanchez R., 'Insecurity and Violence as a New Power Relation in Latin America', *Annals of the American Academy of Political and Social Science*, vol. 606, no. 1 (2006), pp. 178-195.

8 Caroline Moser and Cathy McIlwaine, 'Latin American Urban Violence as a Development Concern: Towards a Framework for Violence Reduction', *World Development*, vol. 34, no. 1 (2006), pp. 89-112; the reference is to page 90.

9 See, for example, Alba Zaluar, *The Paradoxes of Democratization and Violence in Brazil*, p. 1, article at [http://www.brasiluniao.europeia.ufrj.br/en/pdf5/the\\_paradoxes\\_of\\_democratization\\_and\\_violence\\_in\\_brazil.pdf](http://www.brasiluniao.europeia.ufrj.br/en/pdf5/the_paradoxes_of_democratization_and_violence_in_brazil.pdf) accessed on 02/28/08. The country's homicide rate increased from 11.7 per 100,000 in 1980 to 30.8 in 2018. The 63,895 violent intentional deaths in Brazil in 2018 are more than the number of U.S. troops lost during the entire Vietnam War. From Daniel Cerqueira, 'O Jogo dos Sete Mitos e a Miséria da Segurança Pública no Brasil', article presented at the I International Seminar on Public Security, Nucleus for the Study of Coercive Institutions, Federal University of Pernambuco, Recife, 12 September 2005, pages 2 and 4, and Forum Brasileiro de Segurança Pública, 12o Anuário Brasileiro de Segurança Pública, Infográfico at [http://www.forumseguranca.org.br/wp-content/uploads/2019/02/Infografico\\_an12\\_atualizado.pdf](http://www.forumseguranca.org.br/wp-content/uploads/2019/02/Infografico_an12_atualizado.pdf) accessed on 5 August 2019.

10 The Brazilian figure is from Forum Brasileiro de Segurança Pública, 11o Anuário Brasileiro de Segurança Pública, Infográfico at [http://www.forumseguranca.org.br/wp-content/uploads/2017/12/INFOGRAFICO\\_ANUARIO\\_11\\_2017\\_Retificado\\_15-12.pdf](http://www.forumseguranca.org.br/wp-content/uploads/2017/12/INFOGRAFICO_ANUARIO_11_2017_Retificado_15-12.pdf) accessed on 5 August 2019 and the Americas figure is from United Nations Office on Drugs and Crime, Global Study on Homicide, Executive Summary p. 11 at <https://www.unodc.org/documents/data-and-analysis/gsh/Booklet1.pdf> accessed on 5 August 2019.

War)<sup>11</sup>. Attacks by the criminal group the PCC (*Primeiro Comando da Capital*) on police and prison officials, buses, and police stations in São Paulo in May of 2006 revealed the vulnerability of major cities to coordinated actions by organized criminal groups<sup>12</sup>. In February 2018 a survey by Ibope indicated that the number of respondents registering concern about violence had doubled in a year, and anecdotal evidence suggests that fear of crime and violence was a factor in the election of Jair Bolsonaro to the presidency in October 2018<sup>13</sup>.

Political authorities at all levels of government feel increasing pressure to respond to the fear and insecurity generated by the rise in violent crime. At the Federal level this sometimes involves the National Secretariat for Public Security (*Secretaria Nacional de Segurança Pública*, or SENASP), a part of the Ministry of Justice created in 1998. Municipal governments have created an increasing number of *guardas municipais* to protect municipal property and, in some instances, to engage in street patrolling<sup>14</sup>. However, the focal point of public security reform is the state governments and the principal police forces that they control, the large contingents of uniformed, patrolling *Polícia Militar* (Military Police) and the smaller forces of plain clothes, investigative civil police (*Polícia Civil*).

These police forces have a chequered history. The military police were powerful, autonomous armies that served provincial governors in the Old Republic (1898-1930). They were subjected to increasing control by the Federal government and especially the Army during

11 Nancy Scheper-Hughes, 'Death Squads and Democracy in Northeast Brazil' in Jean Comaroff and John Comaroff (eds.) *Law and Disorder in the Postcolony* (Chicago 2006), pp. 150-187; the quote comes from page 154. See also Luís Mir, *Guerra Civil: Estado e Trauma* (São Paulo 2004).

12 "Polícia Reage com Caçada a Bandidos" in *Jornal do Commercio*, 17 May 2006, main section, p. 6.

13 From Ricardo Mendonça (2018) "Ibope mostrou que preocupação com violência dobrou em um ano" in *Valor Econômico*, 19 February 2018, accessed at <https://www.valor.com.br/politica/5329425/ibope-mostrou-que-preocupacao-com-violencia-dobrou-em-um-ano> on 5 August 2019. Anecdotal evidence about the role of fear of crime and violence in support for Jair Bolsonaro in the 2018 election includes the candidate's Twitter feed, on which he posted many videos from supporters with this theme.

14 There are now roughly five hundred *guardas municipais* in Brazil. They are technically not police forces and are given the role of protecting municipal property, services, and installations in the 1988 Constitution (See chapter III on public security, article 144, section IV, 8 from Toledo Pinto, dos Santos Windt and Céspedes, *Código Penal, Código de Processo Penal e Constituição Federal*, p. 74). The *guardas* are often unarmed, but have increasingly engaged in de facto policing in some cities and towns.

the presidency of Getúlio Vargas. The civil police grew out of judicial investigators attached to the crown in the 19<sup>th</sup> century – their main instrument, the *inquérito policial*, has existed since 1841 in Brazil – and have the authority to investigate all crimes except federal and military offenses. Both forces were modified under the military dictatorship of 1964 to 1985. The military police were put under Army control and deployed in the repression of political opponents and dissidents, while the civil police lost some of their investigative capacity<sup>15</sup>.

The transition to civilian rule of 1985 involved reform of civil-military relations, but little immediate conflict over or change in policing. The smoothness with which the Brazilian police passed from dictatorship to democracy should not be taken as a sign of their high degree of professionalism. Instead, it says more about the endurance of a political role for the police. The police are still more maintainers of governmental order than they are crime-solving organizations<sup>16</sup>. Both the civil and military police in contemporary Brazil have gained notoriety for the widespread use of force, especially torture and executions, and corruption. In the words of one specialist, “an antagonistic relationship between the police and the population at large is an almost universal problem in Latin America...Of the Southern Cone countries, the crime and policing situation in Brazil is by far the most extreme” and a “combination of low levels of professionalism, weak democratic controls, and extremely low salaries perpetuates an extreme politicization of police governance”<sup>17</sup>. Another observer writes, “Brazil’s police are among the world’s most violent and corrupt, and human rights, particularly those of socially marginalized groups, are violated with impunity on a massive scale”<sup>18</sup>.

Despite this problematic past and tainted image, the police lie at the heart of contemporary efforts to reform the public security system. Many advocates of reform have come to see the police, not

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15 Mercedes Hinton, *The State on the Streets: Police and Politics in Argentina and Brazil* (Lynne Rienner 2006), p.101.

16 For more on the political role of police forces, see Mark Mazower, ed. *The Policing of Politics in the Twentieth Century* (Berghahn Books, 1997), pp. 241-256.

17 Hinton, *The State on the Streets*, p. 8 and p. 147.

18 Frances Hagopian, “Brazil and Chile” in Larry Diamond and Leonardo Morlino (eds.), *Assessing the Quality of Democracy* (Johns Hopkins 2005), pp. 123-162; the quote comes from pp. 128-129. Hagopian is quoting from a 2003 Freedom House report.

just as part of an historical legacy of state repression, but as a potential partner in contemporary solutions to the problem of violence. It is commonplace and correct to observe that the police cannot address the problem of violent crime on their own. For effective reform to take place, a broad net would have to be cast over the penal code and its application, the prosecutorial service and the judiciary, as well as the interface between local communities and the police. It is also to be hoped that an amelioration of Brazil's social problems, and especially poverty, inequality, racial discrimination, inadequate urban housing, poor health and education facilities, chaotic, overcrowded, and underfunded prisons, the residential segregation of urban populations and the unemployment and neglect of poor young males, will occur. However, if Brazil's violent crime rates are to drop, police reform is likely to be a vital component of such a transformation<sup>19</sup>.

Recent decades have seen a number of important changes in policing. In part these have come from the pressure of various civil society organizations that have demanded increased democratic control over the police and a strengthening of the police forces' commitment to human rights. Many activists in these organizations have come to see the problems of police inefficiency and violence as related. Former opponents of the military regime (1964-85) who previously only denounced the police are now researching and cooperating with the police in order to make public security policy more both more responsive to public demands for crime prevention and solution, and respectful of human rights. This is an historic shift that has occurred over two generations and is eroding the political cleavages of the 1960s, 1970s, and 1980s.

Recent changes in Brazil's public security system include the creation of new accountability mechanisms. Discussions about altering the constitutional status of the police have also taken place. More recently, a spate of internal organizational and managerial reforms have

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19 In the words of Franklin Zimring, writing about the United States, high rates of crime "are not hardwired into the ecology of modern life or the cultural values of high-risk youth. Far more than we thought, serious crime is a highly variable component of modern urban life...we don't have to change the world to change the crime rate". From Franklin Zimring, *The Great American Crime Decline* (Oxford 2007), p. 209. Brazil's public security reforms are based in part upon this insight, in that they attempt to reduce crime rates in the short term, while social problems such as poverty and inequality can only be ameliorated, in large measure, in the long term.

aimed to make the police more efficient. These reform movements have a mix of ideological underpinnings. Some reformers are inspired by a vision of participation as community empowerment, others by a technocratic view of participation as a source of information that can improve police performance. However, the combined effect of these changes has been to create a reform dynamic in Brazilian public security, and to introduce significant changes in the management, procedures, and discourse of the police.

The range of reforms are too numerous to mention here, and they have been enacted at different times and in different ways in the patchwork quilt of Brazil's 26 states and federal district. However, a brief summary will capture some of the most significant trends. With regard to the democratic and rights-based trend, the Brazilian government ratified the major human rights treaties after the end of military rule and promulgated a national human rights plan in 1996. The 1988 Constitution strengthened the role of the *Ministério Público* (prosecutor's office) in protecting the public interest. Police ombudsmen's offices were established in 21 of 26 states, starting with São Paulo in 1995, and community councils to monitor and dialogue with the police were established<sup>20</sup>. The media gave widespread coverage to notorious acts of police violence and abuse of authority, while various groups and movements engaged in contentious action to demand more effective public security policies<sup>21</sup>.

With regard to the impulse to greater police efficiency, SENASP has promoted the integration of the military and civil police at the planning level (called *gestão integrada* or integrated management); the standardization of crime statistics; crime prevention policies involving various forms of involvement in "at risk" communities, especially with young males in poor neighbourhoods; human rights courses for the police; training in specialized areas such as crime scene investigation

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20 Bruno Kondor Comparato, 'As Ouvidorias de Polícia no Brasil: Controle e Participação', article prepared for the annual ANPOCS conference, Caxambu, Minas Gerais, 24-28 October 2006 and Rubens Pinto Lyra, 'A Atuação dos Conselhos e Ouvidorias na Área de Segurança e Justiça', *Lusotopie*, (2003) pp. 383-396. See also "Ouvidorias Estaduais e Distrital," Ministério dos Direitos Humanos, [www.mdh.gov.br/informacao-ao-cidadao/participacao-social/forum-nacional-de-ouvidores-de-policia-fnop/quais-estados-fazem-parte-do-fnop-1](http://www.mdh.gov.br/informacao-ao-cidadao/participacao-social/forum-nacional-de-ouvidores-de-policia-fnop/quais-estados-fazem-parte-do-fnop-1) (accessed 8 July 2018).

21 See, for example, the description of the 2001 march against a death squad in Timbaúba, Pernambuco in Scheper-Hughes, 'Death Squads and Democracy in Northeast Brazil' pp. 173-176.



and crime mapping; the promulgation of written codes of police conduct that spell out the permissible use of force in various situations; and the establishment of fire-alarm mechanisms such as *disque-denúncia* (crime stoppers) that allow for anonymous tips to be made to the police. Experiments in particular municipalities that appear to have reduced crime rates, such as a package of measures in Diádema, São Paulo and the *Fica Vivo* (Be on your toes/stay alive) programme in Belo Horizonte, Minas Gerais<sup>22</sup>, have attracted attention and spawned similar programmes in other cities. Civil society organizations have been part of this movement as well. Foundations such as the *Instituto São Paulo Contra Violência* (São Paulo Institute Against Violence) established partnerships aimed at improving policing<sup>23</sup>.

Given the complexity of these reforms, it is difficult to generalize about the politics of policing in Brazil. The reforms and reform proposals have been varied, but so have the governments enacting and discussing them. These have been state and municipal governments in the hands of a wide range of political parties, coalitions of parties, and elected officials. Patterns of crime and violence also differ from one city and state to the next, as do the combinations of civil society organizations that are recognized as stakeholders in public security reform. Public security reform is thus a shifting and variegated object of analysis. However, a key concept in most of the discussions about reform is accountability. It is to this concept that we now turn.

### 3. ACCOUNTABILITY AND INFORMAL ASPECTS OF POLICING

In recent years there has been an explosion of literature about violence, policing, and public security reform in Latin America and Brazil. Much of this work revolves around the concept of accountability. Accountability can be said to have three principal components: information, justification, and punishment or compensation. Many

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22 Cláudio C. Beato Filho, Bráulio Figueiredo Alves, and Ricardo Tavares, 'Crime, Police and Urban Space', Centre for Brazilian Studies, University of Oxford Working Article Number CBS-65-05, 2005, pp. 23-24.

23 Paulo Mesquita Neto, 'Public-Private Partnership for Police Reform in Brazil' in John Bailey and Lucia Dammert (eds.), *Public Security and Police Reform in the Americas* (Pittsburgh 2006), pp. 44-57.

would include a fourth component, prevention, so that the demand for accountability can lead to reforms that inhibit the kinds of abuses that occurred in the past. Accountability can be “horizontal” (i.e. accountability of state agents in one organization to state agents in another organization) and also “vertical” (i.e. between state agents and citizens). Vertical accountability can also be democratic or “social” (when citizens demand an accounting from state agents), or managerial (between supervisors and subordinates within a state agency)<sup>24</sup>. An important distinction can also be made between state officials’ political accountability (for example, to elected officials and/or voters) and legal accountability (to prosecutors and judges). Many more distinctions are made in the literature, but these examples suggest that it is very important to ask, in any discussion of accountability, accountability to whom, and for what?

When networks of accountability are functioning, they may garner little attention from observers, but a lack of accountability is often more noticeable. In the words of Philippe Schmitter, “accountability seems to be one of those political concepts, like legitimacy, that usually becomes apparent only when it is defective or absent”<sup>25</sup>. Police accountability to the public can be thought of as gathering information in order to subject police behaviour to greater public scrutiny, requiring police justification of policies and actions at times, and punishment of and/or compensation to the victims of misconduct. It is very difficult to achieve, in part because of the large amount of discretion that police officers are given in order to do their jobs. Police accountability to the public is by no means assured in democracies older than Brazil’s, and is the outcome of ongoing negotiations between citizens and state officials<sup>26</sup>. Its construction is

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24 For a discussion of some of these aspects of accountability, see Larry Diamond and Leonardo Morlino (eds.), *Assessing the Quality of Democracy* (Johns Hopkins 2005), pp. xix; xix-xxv. For “horizontal” and “vertical” accountability, see Guillermo O’Donnell, ‘Horizontal Accountability in New Democracies’, *Journal of Democracy*, vol. 9, no. 3 (1998), pp. 112-126; for “social” accountability, see Enrique Peruzzotti and Catalina Smulovitz (eds.) *Enforcing the Rule of Law: Social Accountability in the New Latin American Democracies* (Pittsburgh, 2006).

25 Philippe Schmitter, “The Ambiguous Virtues of Accountability” in Larry Diamond and Leonardo Morlino (eds.), *Assessing the Quality of Democracy* (Johns Hopkins 2005), pp. 18-31; the quote is from p. 26.

26 For example, in February 2008, more than one hundred lawyers for the UK’s Independent Police Complaints Commission (IPCC), which handles allegations of police misconduct, resigned to protest “the consistently poor quality of decision-making at all levels of the IPCC”, leading commentators

vital to the quality of democracy; in the words of Cao and Zhao, “If the police are not liberalizing or moving towards democratic forms of the exercise of state coercion, the claimed changes that the state is becoming more democratic are close to nil”<sup>27</sup>.

The literature on police accountability suffers from two significant weaknesses. First, it pays much more attention to formal mechanisms of accountability (constitutional, statutory, and regulatory rules) than it does to informal ones<sup>28</sup>. The formal aspect of organizations is what John Carey calls parchment – written rules<sup>29</sup>. This is not synonymous with structure, because not all structural aspects of organizations are formally prescribed.

Informal aspects of accountability include many characteristics of organization that are not, in the words of James Q. Wilson, “simply, or even principally, a set of boxes, lines, and titles on an organization chart” or legal arrangements, but a “system of consciously coordinated activities or forces of two or more persons”<sup>30</sup>. Adapting a definition offered by Helmke and Levitsky, we can define the informal realm of organizations as “socially shared rules...that are created, communicated, and enforced outside officially sanctioned channels”<sup>31</sup>.

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to suggest that the four-year old organization lacked credibility, independence, and effectiveness in investigating police wrongdoing. From Nick Davies, “Crisis at police watchdog as lawyers resign” in *The Guardian* 25 February 2008, p. 1 main section.

- 27 From Liqun Cao and Solomon Zhao, ‘Confidence in the Police in Latin America’, *Journal of Criminal Justice*, vol. 33 (2005) pp. 403-412; the quote can be found on p. 410. The sociologist and historian Charles Tilly seems to agree with the view expressed above. He writes, “analysts of democratization have exaggerated the centrality of competitive elections as the site of negotiated consent to rule. They have slighted the day-to-day negotiation of compliance with state demands in such domains as taxation, military service, policing, and provision of information.” From Charles Tilly, ‘Bolivarian Democracy’, *APSA-CP* (newsletter of the organized section in comparative politics of the American Political Science Association) vol. 18, issue 2 (Summer 2007), pp. 2-7; the quote is from p. 4.
- 28 When informal mechanisms of accountability are invoked, they are often couched in vague calls for changes in the police forces’ “institutional cultures”, without any specification of what, specifically, should be changed. For an approach to the informal that avoids this pitfall, see Daniel Brinks, ‘The Rule of (Non) Law: Prosecuting Police Killings in Brazil and Argentina’, in Gretchen Helmke and Steven Levitsky (eds.), *Informal Institutions and Democracy: Lessons from Latin America* (Johns Hopkins, 2006), pp. 201-226.
- 29 John Carey, ‘Parchment, Equilibria, and Institutions’, *Comparative Political Studies*, vol. 33, no.3. 6-7 (2000), pp. 735-61.
- 30 From James Q. Wilson, *Bureaucracy: What Government Agencies Do and Why They Do It* (Basic Books, 1989), p. 24. In the second half of the quote, Wilson is citing Chester Barnard.
- 31 Gretchen Helmke and Steven Levitsky, ‘Introduction’ in Gretchen Helmke and Steven Levitsky (eds.) *Informal Institutions and Democracy: Lessons From Latin America* (Johns Hopkins, 2006), pp. 1-30; the reference is to p. 5.

Informal practices can constitute barriers to the formal accountability mechanisms<sup>32</sup>.

Too few researchers have examined the relationship between formal accountability mechanisms and informal practices inside the “black box” of police organizations and the bureaucracies they interact with, or in what Keck and Abers call the “throughput” side of public agencies<sup>33</sup>. While it is sometimes difficult to research and often frustratingly complex, understanding informal police procedures matters, because the latter can undermine even well-designed reforms. This insight is still too little appreciated. In Wilson’s words, “Only two groups of people deny that organization matters: economists and everybody else”<sup>34</sup>.

Second, we have too few detailed case studies of how new or reformed institutions of police accountability actually operate, and what impacts they have. Understanding the reform process in this sense entails the study of particular political jurisdictions and groups of people over time because, for accountability to have concrete meaning, it must refer to the relationship between public officials and a given group of citizens over a specified period of time. In Fiona Macaulay’s words, “We...need many more finely-grained analyses of the dynamics of reform efforts and of the policy environments in which these take place in order to understand how and why reform initiatives are often derailed or subverted and, more rarely, flourish and can be embedded or replicated”<sup>35</sup>. The easiest way to conduct such fine-grained analyses is at the local level.

The problems identified here can be seen in the literature on police reform in Brazil. For example, analysts often identify the constitutional separation of the military and civil police as a major impediment to

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32 I take the important insight that informal practices can compete with (as well as complement) formal accountability mechanisms from Gretchen Helmke and Steven Levitsky, ‘Introduction’, in Gretchen Helmke and Steven Levitsky (eds.), *Informal Institutions and Democracy: Lessons From Latin America*, (Johns Hopkins, 2006), pp. 1-30; see especially p. 14. On the other hand I reject the authors’ distinction between informal “behaviour patterns” and “institutions”, because I believe it is difficult if not impossible to distinguish these in practice, and analytically unhelpful even if one could. *Ibid.*, p. 26.

33 Margaret Keck and Rebecca Neara Abers, ‘Civil Society and State-Building in Latin America’, *LASA Forum*, Volume XXXVII, Issue I, Winter (2006), pp. 30-32.

34 Wilson, *Bureaucracy*, p. 23.

35 Fiona Macaulay, “Knowledge Production, Framing and Criminal Justice Reform in Latin America”, *Journal of Latin American Studies*, Volume 39, 2007, pp. 627-651, the quote is from p. 627.

more accountable policing. This issue has become something of a fetish for many, who seem to implicitly assume that a merger of the two police forces would automatically usher in improvements, and who downplay the existence of serious conflicts operating within as well as between each force<sup>36</sup>. Similarly, one diagnosis identifies “extreme politicization of police governance” as the major problem of the Brazilian police, and attributes this to “a combination of low levels of professionalism, weak democratic controls, and extremely low salaries”<sup>37</sup>. While it is hard to deny that the latter are problems, this particular formulation of the issue over-emphasizes the formal aspects of policing (especially the duration of police training and the size of public security budgets) and raises as many questions as it answers. Demands for enhanced accountability of the police to the public imply a certain kind of politicization of the police, for example, and spending on public security, as well as salary levels, have been rising in Brazil in recent years. What is missing from this analysis is attention to how police resources and capacities are coordinated, and how incoherent and divided public security policy often is. Lack of police accountability seems much more plausibly due to coordination failures, rather than simply the weakness of individual state institutions<sup>38</sup>.

Perhaps the most influential approach to police reform in Brazil has concentrated on a particular form of managerial accountability and formal rule changing. In this view, the police are seen as an outmoded and inert state agency. What is needed is a new form of management – the use of information technology to manage data, map crime, and move from reactive to preventive and problem-oriented policing. This new public management perspective uses principal-agent analysis and other methods to track police behaviour and improve efficiency. It tends to have an individualistic, rationalist, cost-benefit and situational view of crime, in which crime is triggered by situation-specific calculations of the estimated costs and benefits of action, as well as the probability of being caught and the likely ensuing punishment. The thrust of these new managerial reforms is to provide

36 See, for example, Teresa P.R. Caldeira, ‘The Paradox of Police Violence in Democratic Brazil’, *Ethnography*, vol. 3, no. 3 (2002), pp. 235-263, specifically p. 256.

37 Mercedes Hinton, *The State on the Streets*, p. 147.

38 Taylor and Buranelli argue that this is the state of affairs in cases of corruption in Brazil; the same seems true of police accountability. See Matthew M. Taylor and Vinicius C. Buranelli, “Ending Up in Pizza: Accountability as a Problem of Institutional Arrangement in Brazil”, *Latin American Politics and Society*, Volume 49, Number 1, Spring (2007), pp. 89-112.

better service to “clients” – citizens – by reducing the opportunities for crime and increasing the probability that law breakers will be caught and punished, thus raising the costs of crime to criminals<sup>39</sup>. It proposes to do this by modifying internal regulations to create “quasi-markets” within the police force<sup>40</sup>, collecting information on crime in each area, setting targets for police commanders, and holding those commanders accountable for their performance<sup>41</sup>. The creation of a quasi-market based on monthly, district-level crime data (COMPSTAT) was the essential innovation of the heavily-promoted “zero tolerance” policies of Mayor Rudolf Giuliani and Police Commissioner William Bratton in New York City in the 1990s<sup>42</sup>.

The new managerial approach has limitations of scope, both in its view of police-community relations, and internal police politics. With regard to the former, it generally assumes the existence of consensus, trust, and harmony about what constitutes good policing. The new managerialist literature is based on the idea of a security community, a group of actors who “engage in various interactions in myriad spheres that reflect long-term interests” in order to promote a particular conception of security<sup>43</sup>. These patterns and relationships shape the effective guarantee of rights enjoyed by city residents.

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39 The new managerialism is a more accurate term than neoliberalism, even though the latter term is sometimes used to describe the nature of public security reform in Brazil. Here I agree with Fiona Macaulay; see Fiona Macaulay, ‘Neo-Liberal Influence on the Justice Sector and Human Rights Reform Under the Cardoso Government’, Centre for Brazilian Studies, University of Oxford Working Article Number CBS-74-06, 2006.

40 Ewan Ferlie, Lynn Ashburner, Louise Fitzgerald, and Andrew Pettigrew, *The New Public Management in Action* (Oxford 1996), pp. 3-6.

41 This is the logic of the COMPSTAT system of crime data used by the New York Police Department under Chief William Bratton and Mayor Rudi Giuliani in the 1990s, the era of the so-called “zero tolerance” reforms.

42 COMPSTAT is an acronym for computer statistics. In the New York Police Department (NYPD), computerized crime data is managed by a special unit. According to the NYPD’s web page, “The CompStat Unit generates electronic pin maps of crime locations citywide; analyzes geographical locations of shootings, homicides, and other major crimes; monitors pattern crimes; develops advanced computerized crime tracking methods; and provides briefing/presentation materials for the Police Commissioner. In addition the CompStat Unit gauges the crime-fighting effectiveness of field commands by monitoring: arrest activity, responses to pattern crimes, bias crimes, and the implementation of crime strategies.” From the NYPD web site at <http://nyc.gov/html/nypd/html/chfdept/compstat.html> accessed on 21 June 2007.

43 From R. Ben Penglase, ‘States of Insecurity: Everyday Emergencies, Public Secrets, and Drug Trafficking Power in a Brazilian Favela’, article prepared for the XXVI International Congress of the Latin American Studies Association, San Juan, Puerto Rico, 15-18 March 2006, p. 2.

However, such a view is relatively unhelpful when there are deep divisions within communities and between the police and community residents. With regard to internal police politics, it tends to see the formal organizational chart within public security bureaucracies as an authentic map of power. It lacks a diagnosis of informal power. It is primarily a criminological approach that strives to incorporate new understandings, measurement, and mapping of crime into police organizations, leading to a corresponding change in formal methods of police management and procedure. As others have pointed out, principal-agent analysis also assumes that “principals” (usually top managers in the public sector) have an interest in improving organizational performance and increasing the supply of public goods. It offers no remedies when such an assumption is unwarranted<sup>44</sup>. It is part of the “policy-oriented methodologies” described by McLaughlin as having “colonized the soul of police studies”<sup>45</sup>. Ultimately, it is not sufficient to answer the question of whether public security reforms really increase police accountability to the public.

One of the most evocative approaches to the accountability of state agents, pioneered by sociologist Peter Evans, has not generally been applied to the analysis of police reform in Latin America and Brazil. Evans claims that East Asian “developmental states” such as Japan, Korea, and Taiwan were particularly effective because they combined an optimal amount of bureaucratic insulation with connectedness to producer groups. Calling this “embedded autonomy”, Evans claims that bureaucracies in charge of industrial policy in Korea in the 1970s and 1980s were able to ward off capture by particularistic business groups, but at the same time acquire enough information from these groups to adjust their policies and maintain coherent long-term strategies<sup>46</sup>. This simultaneous insulation and connection resulted in an overarching coherence and rationality in state policy. Informal networks between state bureaucracies and business groups were crucial in allowing a two-way flow of information and incremental

44 This limitation can be seen in other works that use a principal-agent approach, such as Robert Klitgaard, *Controlling Corruption* (California 1988). The best example of the new managerialist approach to public security in Brazil is probably the work of the Centre for Studies of Criminality and Security (*Centro de Estudos de Criminalidade e Segurança Pública*, CRISP) at the Federal University of Minas Gerais (Universidade Federal de Minas Gerais, UFMG) in Belo Horizonte.

45 Eugene McLaughlin, *The New Policing* (Sage 2007), p. 85.

46 Peter Evans, *Embedded Autonomy* (Princeton 1995).

policy adjustments in the face of market changes. Although Evans did not use the term, what he describes looks like informal networks of a narrow kind of accountability, in which state officials are forced to explain their policies to affected parties (business groups and firms), demand changes on the part of those parties, and adjust the policies when business interests were adversely affected.

What patterns of embedded autonomy exist in Brazil's public security agencies, and especially the police? To get at this question, neither criminological nor new managerialist studies of the police are sufficient. Aggregate, macro-level statistics on crime and police performance are informative and can be used to find suggestive correlations, but are unable to uncover the causal mechanisms that produce police behaviour. Similarly, fine-grained ethnographic studies of policing, as valuable as they are for the exploration of many questions, are not always appropriate to an understanding of democratic accountability<sup>47</sup>. For the latter, case studies that take as the unit of analysis the relevant political units – state and municipal governments – are essential<sup>48</sup>.

#### **4. PUBLIC SECURITY REFORM IN RECIFE**

Research for this article represents an initial attempt to look inside the bureaucracies entrusted with public security at the state and city level. The research has involved interviews about public security with members of the civil and military police, prosecutors, judges, municipal guards, prison administrators, and officials at the Secretariat for Social Defence (the state agency responsible for public security), as well as members of civil society organizations, in 2006-8.

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47 Alba Zaluar makes a persuasive case for the need for qualitative research, including ethnography, as a way of tracing patterns of crime and violence in ways that go beyond the rather unreliable and politically-manipulated official statistics. From Centre for Brazilian Studies, Workshop Report on Crime Data, Victimization Surveys and Police Responses: Experiences from the USA, UK and Brazil, 28 January 2005, p. 2 accessed on 28 February 2008 at [www.brazil.ox.ac.uk/confreports/conf%20report%20-%20Crime%20Data%2028.1.pdf](http://www.brazil.ox.ac.uk/confreports/conf%20report%20-%20Crime%20Data%2028.1.pdf). I agree, and believe this also applies to studies of police behaviour. My point here is that to explore the question of police accountability to the public, city and state-level politics must be examined above the micro-level usually explored in ethnography.

48 Case studies represent attempts to fill the gap between large-n regression analysis, on one hand, and anecdotes, on the other, both of which are plentiful in the field. I thank Richard Palmer-Jones for pointing this out to me in personal communication, 17 March 2008.



Recife, the capital of the northeastern state of Pernambuco, constitutes the location of the case studies. While some of the material gleaned from these interviews is difficult to corroborate and contradictory, the language used by these individuals to describe their actions and those of others offers important evidence as to how public security reforms are enacted in practice. This kind of “thick description” is especially revealing about the cooperation (or lack of it) of state agencies entrusted with reform.

Recife was chosen as the location of the case studies for two reasons. First, it is outside São Paulo and Rio de Janeiro, the most heavily-analyzed cities when it comes to violence and police reform in Brazil, where the scale of violence is biggest, and where demands for police accountability are loudest and best-publicized. In many respects, conditions in São Paulo and Rio are both extreme and unique. Reform efforts in those cities are important in their own right, but unrepresentative of the reforms experienced by most urban dwellers in Brazil. Second, Recife is a major metropolitan area that lies somewhere between the low-intensity warfare on some of Rio’s hillside “hot spots” and the relative tranquility of many small towns in the affluent south and the southeast of the country, where policing is relatively uncontroversial and less politically contested. Rates of violent crime in Recife are relatively high, and it is thus a city where demands for police accountability have become recurrent and intense. According to the Institute for Applied Economic Research (IPEA, the Instituto de Pesquisa Econômica Aplicada), São Paulo had a homicide rate of 13.2 in 2017, the rate in Rio was 35.6 in the same year, and Recife’s was 58.4<sup>49</sup>.

In focusing on reforms in Recife, this article looks in-depth at the operation of two mechanisms of accountability during the same time period. These mechanisms are the police ombudsman’s office, created in 1999, and community councils in the area of public security, created in 2004. This selection is not arbitrary, because these are arguably the two most important new accountability mechanisms vis-

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49 From Daniel Cerqueira, coordenador et al. (2019) Atlas da Violência: Retratos dos Municípios Brasileiros. Rio de Janeiro: IPEA/Fórum Brasileiro de Segurança Pública, July, pp. 12-13 accessed at [http://www.ipea.gov.br/portal/images/stories/PDFs/relatorio\\_institucional/190802\\_atlas\\_da\\_violencia\\_2019\\_municipios.pdf](http://www.ipea.gov.br/portal/images/stories/PDFs/relatorio_institucional/190802_atlas_da_violencia_2019_municipios.pdf) on 5 August 2019.

à-vis the police in Brazil. A large body of theoretical and comparative historical literature also exists about these mechanisms.

Case studies produce only partial information, but can be particularly well-suited for exploring questions of how and why certain outcomes occur<sup>50</sup>. They are especially valuable when a surplus of plausible explanatory variables and causal indeterminacy are potential problems<sup>51</sup>. The advantage of such an approach is that it allows for a fine-grained exploration of cases in which causal complexity is likely. Such an exploration is important when – as in the case of public security policy in Latin America and Brazil – little is known about recent events (in this case, the outcome of reforms), and even less is known about how and why those outcomes have occurred<sup>52</sup>. By going into considerable detail about recent reforms in Recife, this research attempts to advance our understanding of both the scope and limitations of public security reform in the region, and generate propositions that can be tested in larger-scale studies.

## 5. THE OFFICE OF THE POLICE OMBUDSMAN

According to one observer, the “Latin American ombudsman... has become one of the region’s quintessential democratic institutional innovations over the past twenty years, offering citizens “an additional channel of institutionalized participation and oversight beyond the ballot box”<sup>53</sup>. The ombudsman has been described as “a permanent judicial and democratic voice of conscience within the state” and over the last three decades, governments throughout Latin America have created such offices, often supported by multilateral agencies<sup>54</sup>.

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50 Fred Leavitt, *Evaluating Scientific Research: Separating Fact from Fiction* (Prentice Hall 2001), pp. 137-140.

51 Charles C. Ragin, ‘Turning the Tables: How Case-Oriented Research Challenges Variable-Oriented Research’ in Henry Brady and David Collier (eds.), *Rethinking Social Inquiry: Diverse Tools, Shared Standards* (Lanham, Maryland 2004), pp. 123-138; the reference is to p. 137.

52 Paul Leedy and Jeanne Ellis Ormrod, *Practical Research: Planning and Design* (Prentice Hall, 2001), p. 149.

53 Thomas Pegrarn, Thomas, ‘The Peruvian Ombudsman: The Last Bastion of Universality?’, article presented at the Annual Conference of the Society for Latin American Studies, University of Newcastle, 13-15 April 2007, p. 1.

54 *Ibid.*, p. 6. Pegrarn is quoting from the Defensoría del Pueblo (1998) Primer Informe del Defensor del Pueblo al Congreso de la República 1996-1998 (Lima 1998), p. 19.

This innovation has spread to the area of public security in order to strengthen the accountability of the police to the public.

The first police ombudsman's office in Brazil was created in São Paulo in 1995, with a national forum of police ombudsmen being set up in 1999. Since then, the institution has proliferated, with 21 of Brazil's 26 states now having one. The ombudsman is supposed to register public complaints (which can be made anonymously) about the police and facilitate the investigation of these complaints by the internal affairs unit of the state civil and military police forces (*corregedoria*). Observers argue that the ombudsmen provide an important feedback function, making police misbehaviour more transparent and establishing the right of the public to oversee and control the state's use of force<sup>55</sup>. This initiative received substantial international support as well. The European Union transferred 6.52 million euros and considerable technical assistance to Brazil's Secretariat of Human Rights between 2004 and 2008 to promote the work of the police ombudsmen. The declared hope of this initiative was that the ombudsmen would diminish the notoriously high rate of violence and corruption in Brazil's police forces<sup>56</sup>.

The São Paulo police ombudsman is probably the most professional, effective, and transparent office of its kind in Brazil. It grew out of the State Council for the Defense of the Human Person (*Conselho Estadual de Defesa de Pessoa Humana*, or CEDPH), a part of the State Secretariat of Justice in which 80 percent of the members are representatives of civil society organizations. The council did not have the ability to investigate complaints of human rights abuses, and the idea of an ombudsman grew from that. The São Paulo police ombudsman has considerable independence. The ombudsman is appointed by the state governor from a list of three candidates drawn up by the CEDPH. He or she has a fixed two-year term that can be renewed once. (Comparato writes that in only six Brazilian states does a fixed mandate for the police ombudsman exist.<sup>57</sup>) The office of the

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55 Fiona Macaulay, 'Problems of Police Oversight in Brazil', University of Oxford Centre for Brazilian Studies, Working Article 33-02, 2002, p. 14.

56 Secretariat of Human Rights, 'Ouvidorias de Polícia e Policiamento Comunitário', Ministry of Justice, Brasília 2007. Accessed online at [www.presidencia/sedh/ue](http://www.presidencia/sedh/ue) on 19 March 2007.

57 Comparato, 'As Ouvidorias de Polícia no Brasil: Controle e Participação', p. 8. For more on the police

ombudsman exists in an office building far from the Secretariat of Public Security, symbolizing its independence.

The São Paulo police ombudsman is backed up by a large and capable staff consisting of a consultative council, a technical support team, and an administrative support team. These teams include five advisors and a staff of ten, as well as two police investigators, ten policemen seconded to the office, and interns. The ombudsman staff produces abundant, up-to-date information about the complaints the office received and – more importantly - their resolution. This includes the suspension and firing of police officers for proven violations of human rights<sup>58</sup>. While the investigations are conducted by police internal affairs, and the punishments carried out by internal disciplinary panels and courts (both military and civilian), the ombudsman's office works with the police to track the final disposition of all cases, and thus the state's response to complaints.

In contrast, the police ombudsman in Recife has little political independence and such a small staff – four people<sup>59</sup> - that it was described by the police ombudsman in Sao Paulo in 2008 as “an ombudsman without an ombudsman's office (*um ouvidor sem uma ouvidoria*)”<sup>60</sup>. It is located across the street from and is administratively part of the Secretariat of Social Defense – a problematic physical and organizational location for an institution that is supposed to be

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ombudsman's office in Minas Gerais, see Governo do Estado de Minas Gerais, *A Ouvidoria Agora Vai Falar* (Del Rey 2004); Governo do Estado de Minas Gerais, *A Ouvidoria de Polícia de Minas Gerais Mostra o Que Faz* (Artes Gráficas Formato, 2004); and Governo do Estado de Minas Gerais, *Ouvir Para Fazer Melhor: Ações da Ouvidoria de Polícia em 2005* (Del Rey 2005).

58 The information in these two paragraphs comes from the web pages of the Ouvidoria de Polícia at <http://www.ssp.sp.gov.br/ouvidoria/Oque.aspx> accessed originally in 2007 and checked on 5 August 2019, as well as information provided by Antônio Funari Filho, Police Ombudsman in São Paulo 2005-2009. It is worth noting that in June 2019 a bill was presented in the São Paulo legislature to abolish the Police Ombudsman in the state. The bill was authored by state deputy Frederico D'Ávila of the Social Liberal Party (PSL). From “Acabar com ouvidoria das polícias vai aumentar a letalidade e fragilizar a corporação” in Rede Brasil Atual 12 June 2019 at <https://www.redebrasilatual.com.br/cidadania/2019/06/fim-da-ouvidoria-das-policias/> accessed on 5 August 2019.

59 In Comparato, ‘As Ouvidorias de Polícia no Brasil: Controle e Participação’, p. 5, Comparato counts the number of functionaries as 5, but he seems to be including the ombudsman himself.

60 Antônio Funari Filho, then-São Paulo Police Ombudsman, in a workshop “Police Ombudsmen: How to Perfect Their Mechanisms of Accountability?” at the Federal University of Pernambuco, Recife, 16 June 2008.

independent from the police<sup>61</sup>. As in São Paulo, the ombudsman in Recife does not carry out her or his own investigations, but rather feeds information to the police internal affairs office, or *corregedoria*<sup>62</sup>. The office receives an average of about forty complaints a month<sup>63</sup>. Abuse of police authority is the most common allegation, brought typically by males aged 35 to 45 who reside in poor neighborhoods. Complaints can be made in person, by telephone, or online (the latter two anonymously). When the ombudsman's office records these complaints and turns them over to internal affairs, internal affairs can then decide to open an investigation into the alleged police misconduct and, if evidence of wrongdoing is uncovered, recommend to the Secretary of Social Defense that a range of remedies be applied, such as disciplinary action or dismissal. Investigations can also result in cases in state courts, both military and civilian, depending on the nature of the crime<sup>64</sup>.

However, unlike in São Paulo, basic information about the results of complaints brought to police ombudsman in Recife – the first element of accountability - does not exist<sup>65</sup>. The ombudsman does not publish a report for the public, and the semesterly reports it prepares for the governor contain only complaints, not the final disposition of complaints<sup>66</sup>. Unlike its São Paulo counterpart, the Pernambuco police

61 The ombudsman's office was originally located in a small building around the corner from the police internal affairs headquarters. In 2007 it was moved, and in August 2007 was in an unmarked former hotel, making it very hard to find. Many people on the street outside the building were unaware that the Police Ombudsman's office was there, and the ombudsman at that time told me that complaints had dropped off since the relocation. The presence of two armed military policemen outside the building was also potentially intimidating. In 2008 the office was moved again, to its present location across the street from the headquarters of the Secretariat of Social Defense.

62 The *corregedoria* in Pernambuco is unusual in Brazil because it is integrated, combining the civil police, military police, prison employees, and fireman. Previously, each branch of the police had its own internal affairs department. The integration was carried out in 2000, becoming operational in 2001. From author interview with José Luiz de Oliveira, Corregedor da Secretaria de Defesa Social de Pernambuco, 22 August 2006.

63 Governo do Estado de Pernambuco, 'Ouvidoria: Relatório Semestral Referente ao 2º Semestre 2005 (Julho a Dezembro de 2005)', Secretaria de Defesa Social, Recife 2005.

64 Daniel Brinks, 'Leviathan Unleashed: State Killings and Impunity in Buenos Aires and São Paulo in the 1990s', article presented at the XXIII International Congress of the Latin American Studies Association, Washington D.C., 6-9 September 2001.

65 The formal name of the ombudsman's office in Pernambuco is the Ombudsman of the Secretariat of Social Defense. I refer to it here as a police ombudsman for the sake of simplicity.

66 The author obtained a copy of the Pernambuco Police Ombudsman's first semester 2005 report by requesting it by email from the ombudsman himself and receiving a copy as an email attachment.

ombudsman does not post the outcomes of its cases on a web site. Whereas the web page of the São Paulo office contains voluminous information on complaints and the results of those complaints, its counterpart in Pernambuco is less informative ([www.sds.pe.gov.br/](http://www.sds.pe.gov.br/)). Furthermore, the ombudsman has no fixed mandate as in São Paulo. The ombudsman is appointed by the governor, serving at the governor's pleasure, limiting his ability to take on politically sensitive cases. Furthermore, with a small staff of four, it lacks effective capacity.

In contrast, the *corregedoria* is staffed by 172 members of the police forces<sup>67</sup>. Because in many instances the *corregedoria* staff will go back to work in other departments within the police, it cannot accurately be described as a mechanism of external control, nor does it have complete independence to rigorously investigate allegations of police misconduct. On the other hand, police who are perceived to stay too long in internal affairs may see their careers suffer<sup>68</sup>. The lack of external control in the way internal affairs conducts its investigations can be seen by the fact that, as a first step in handling a complaint, the internal affairs investigator goes to the commander in charge of the police accused of wrongdoing to hold a hearing (*sindicância*). The person alleging the misbehaviour has to appear in a military police installation or civil police station to testify, a somewhat intimidating situation. Furthermore, the *corregedoria* is bound by strict time limits in discharging its disciplinary duties, resulting in the frequent suspension of administrative punishments of police officials. Interestingly, the *corregedoria* has no fixed time limit for the investigation of complaints brought to it by the ombudsman, nor does

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However, it is not clear how many members of the public request copies of the reports, either by email or other means. Comparato notes that most police ombudsmen in Brazil nominally make their reports public, but only three (those in Rio de Janeiro, São Paulo, and Minas Gerais) put the reports on their web sites. The police ombudsman's office in Bahia told Comparato that it did not release its reports to the public, and only sent them to the relevant authorities (Secretary of Public Security, State Governor, Heads of the Military and Civil Police, and the Ministry of Justice). From Comparato, 'As Ouvidorias de Polícia no Brasil: Controle e Participação', p. 9. More recently, when the author clicked on the "access to information" link at the Pernambuco Police Ombudsman's web site, the result was a "this site can't be reached" error message. From 5 August 2019 at <http://www.sds.pe.gov.br/ouvidoria/63-ouvidoria/188-acesso-a-informacao>.

67 Author interview with José Luiz de Oliveira, Corregedor da Secretaria de Defesa Social de Pernambuco, 22 August 2006.

68 One civil police delegado said that she had worked in internal affairs for 8 years, and had never been promoted beyond the rank of delegado 1. From author interview with police delegado, Corregedoria, Recife, 7 July 2006.

it have adequate information management systems to monitor these cases. Human rights organizations complain that punishments of the police as a result of *corregedoria* investigations, tend to be rare<sup>69</sup>. This seems to be especially true in the case of high-ranking police officials<sup>70</sup>.

In Pernambuco, the internal affairs staff alleges that the reports received from the ombudsman are often insufficient to facilitate an adequate investigation. The ombudsman and her staff, for their part, tend to see the *corregedoria* as a corporatist agency more interested in protecting its own than uncovering wrongdoing. The ombudsman does not have high visibility in Recife, almost never appearing in the press. The ombudsman from 2003 until 2007, Dr. Luiz Guerra de Moraes, generally took a non-confrontational line towards the police. Nevertheless, he stated in public in 2006 that “in my judgment, the system does not work”<sup>71</sup>.

Although the information is lacking for a thorough evaluation of the police ombudsman’s office in Recife, there are strong reasons to conclude that it has not been particularly successful<sup>72</sup>. One reason for this concerns the formal design of the institution. As

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69 In the Third National Report on Human Rights in Brazil, the authors write, “Complaints against the police for violence and corruption are registered by the police ombudsmen in São Paulo, Rio de Janeiro, Minas Gerais, and Rio Grande do Sul, but the internal investigations [*sindicâncias*] and administrative processes, criminal investigations and trials rarely lead to the verification of responsibility and the punishment of the guilty.” From Paulo Mesquita Neto and B.S.A. Affonso, ‘Terceiro Relatório Nacional sobre os Direitos Humanos no Brasil’, Núcleo de Estudos da Violência da Universidade de São Paulo (NEV-USP) e a Comissão Teotônio Vilela do Direitos Humanos (CTV), 2007, p. 13.

70 Preliminary data from 2005 obtained from the Pernambuco *Corregedoria Geral* shows that 4 members of the civil police and 26 members of the military police were fired for disciplinary reasons in that year, following a *corregedoria* investigation. In the civil police, this was 3 *agentes* and one technical support person; no *delegados* were fired. In the military police, one captain was fired, but most (21 of 26) were of the lowest rank (*soldados*) and aside from the captain, no officers were dismissed. From *Pesquisa realizada em atendimento ao requerido no Protocolo No. 2010/2007-Cor. Ger.*, August 2007.

71 Dr. Luiz Guerra de Moraes, then-Police Ombudsman of Pernambuco, speaking at a conference “Live Citizenship: The Role of Police Ombudsmen”, Hotel Best Western Manibu, Boa Viagem, Recife, 25 May 2006. His words were “Em meu entender, o sistema é falha”. At the time of writing, August 2019, the Police Ombudsman in Pernambuco is the lawyer Jost Paulo Reise e Silva. His São Paulo counterpart is Benedito Domingos Mariano.

72 An important study of the police ombudsmen in São Paulo, Pará, Minas Gerais, Rio de Janeiro, and Rio Grande do Sul confirmed this conclusion, finding that 85 to 93 percent of the complaints to the five ombudsman’s offices did not result in any type of punishment of the accused. From Julita Lemgruber, *Civilian Oversight of the Police in Brazil: the Case of the Ombudsman’s Offices* (Centre for Studies of Public Security and Citizenship, University Candido Mendes, 2002), p. 22.

noted, the police ombudsman in Recife serves at the pleasure of the governor, whereas her São Paulo counterpart is nominated by an organization dominated by civil society representatives, and serves for a fixed term<sup>73</sup>. (The human rights ombudsman in Peru described by Pegrarn also serves for a fixed term.) There is also evidence that many of the police ombudsmen in Brazil share the limitations of the Pernambuco office, and have not attained the independence and degree of independence of the São Paulo police ombudsman. In a study of five police ombudsman's offices, for example, Lembgruber found that 85 to 93 percent of complaints did not result in any punishment of the accused<sup>74</sup>.

However, the argument offered here is that the fundamental difference between São Paulo and Pernambuco is informal rather than formal. As in São Paulo, many of the formal attributes of the police ombudsman's office in Pernambuco embody the principles of accountability and transparency, in that they establish the public's right to complain about the police. However, in establishing a working relationship with police internal affairs, the Pernambuco office has not done what its counterpart in São Paulo has: monitor the results of complaints. This means that a fundamental aspect of accountability – adequate information – is not being provided in Pernambuco. Such information could be provided without the creation of any new legislation or regulations – all that would be required would be for the ombudsman herself to insist on such a supervisory role, with the work done either by *corregedoria* staff or new personnel in the ombudsman's office. Yet this has not been done. The working relationship that has been established between the ombudsman and internal affairs is that the former is a passive appendage of the latter.

The Pernambuco police ombudsman's office seems to be an example of Schmitter's comment that accountability only becomes apparent when it is defective, and it may well be that many of the other similar institutions in Brazil bear a closer resemblance to the Pernambuco case than the São Paulo organization. In the opinion

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73 Pegrarn, 'The Peruvian Ombudsman: The Last Bastion of Universality?'

74 Julita Lemgruber, 'Civilian Oversight of the Police in Brazil: The Case of the Ombudsman's Offices', Centre for Studies of Public Security and Citizenship, University Candido Mendes, Rio de Janeiro, September 2002, p. 22.



of one specialist, for example, few ombudsmen “enjoy effective autonomy”<sup>75</sup> and Comparato even shows that in some states the police ombudsmen are police officials, compromising the independence essential to the ombudsman ideal<sup>76</sup>.

As we have seen, the wide discrepancy between this result and the much more active role of the police ombudsman in São Paulo is partly formal, but much more significantly informal. It concerns decisions about day-to-day working relationships between the governor, the Secretariat of Social Defense, the ombudsman, and police internal affairs, relationships that marginalize the ombudsman and diminish his ability to provide information and an independent perspective on the problem of police misconduct. Recommendations for improving the performance of the police ombudsmen in Brazil often neglect the informal realm. Leeds, for example, advises external donors that they can support academic research on public security and foster partnerships between advocacy groups and public security officials, but she neglects the vital inter-organizational relationships described above<sup>77</sup>.

The conclusion reached here about the Pernambuco ombudsman is shared by Uggla in his comparative study of ombudsmen in Bolivia, Colombia, El Salvador, Guatemala, Honduras, and Peru. Uggla writes, “the influence of the ombudsman can hardly be deduced from the formal, legal dispositions regarding the institution. Indeed, the strength and autonomy of the institution are generated by a process that is primarily political”<sup>78</sup>. In the Pernambuco case, the influence of the police ombudsman is low because informal practices compete with and largely undermine the formal architecture of accountability.

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75 Lyra, ‘A Atuação dos Conselhos e Ouvidorias na Área de Segurança e Justiça’, p. 384.

76 Comparato, ‘As Ouvidorias de Polícia no Brasil: Controle e Participação’, p. 7.

77 Elizabeth Leeds, ‘Serving States and Serving Citizens: Halting Steps Toward Police Reform in Brazil and Implications for Donor Intervention’, *Policing and Society*, vol. 17, no. 1 (2007), pp. 21-37; the reference is to p.30.

78 Frederik Uggla, ‘The Ombudsman in Latin America’, *Journal of Latin American Studies*, vol. 36 (2004) pp. 423-450; the quote is from p. 448.

## 6. COMMUNITY COUNCILS

Community councils in the area of public security have been promoted in Brazil over the last few years. The model was established earlier in health and education policy and spread to security. Community councils featured in the Workers' Party policy document on public security produced prior to the 2002 election, and in recent years SENASP has made its financial support conditional on the creation of these councils<sup>79</sup>.

For Lyra, the councils are part of an “experience that puts [Brazil] in the world vanguard of citizen participation in public management”<sup>80</sup>. The councils represent another example of the institutionalization of new forms of partnership between state and civil society actors, part of the same impulse that has led to the creation of participatory budgets in many cities. They involve – in part – a substitution (or at least an augmentation of) political society by civil society, in that they are supposed to be largely made up of civil society actors<sup>81</sup>. At least some observers of these new forms of community involvement in policy-making claim that they deepen democracy, improve policy, and enhance governmental responsiveness and accountability<sup>82</sup>.

In public security, the community councils were intended to be a participatory mechanism facilitating the transition from violent policing in defence of state interests to community policing on behalf of residents of neighbourhoods, or from public security to social defense. Reames, seeking to explain the creation of community councils and other new institutions in security, “argues against two prevailing notions in policymaking: that legislators, chief executives, and parties are necessarily the driving force in the process of policy innovation, and that reforms should be conceived of as one-shot legislative events. Rather, these reforms developed over time. Innovations seem sudden

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79 Lyra, ‘A Atuação dos Conselhos e Ouvidorias na Área de Segurança e Justiça’, p. 386.

80 *Ibid.*, p. 383.

81 Leonardo Avritzer, *Democracy and the Public Space in Latin America* (Princeton 2002).

82 Soraya M. Vargas Côrtes, ‘Fóruns Participativos e Governança: Uma Sistematização das Contribuições da Literatura’ in Catia Lubambo, Denilson Bandeira Coêlho, and Marcus André Melo, (eds.), *Desenho Institucional e Participação Política* (Vozes 2005), pp. 13-32; the reference is to p. 28.

but policy creation is a slow process. The success of these reforms hinged on the professionalized networks of civil society actors, who used media pressure, leverage from international actors, and their access to different points in the federal system of government to advance their agenda of democratic policing and accountability.<sup>83</sup> In the words of a civil police agent in Recife, “Hope lies in the organization of people...The people have to participate, regardless of the ideology of the government.”<sup>84</sup>

Community councils have succeeded in reshaping policing in some settings. For example, Desmond Arias argues that a community council in the Rio de Janeiro favela of Vigário Geral, a community marked by drug trafficking, played an important role in improving police-community relations and reducing violence between 1996 and 1998<sup>85</sup>. A network of groups, including the neighborhood association (*Associação dos Moradores*), an NGO called the House of Peace (*Casa da Paz*), MSF (*Médicos sem Fronteiras*), and the Afro-Reggae Cultural Group (*Grupo Cultural Afro-Reggae*, or GCAR) worked to undermine the power of drug traffickers in the community and reduce police violence – at least temporarily. In Arias’ words, the groups “created a system of peer monitoring that forced organizations to operate in ways consistent with the interests of residents and other network members”<sup>86</sup>; among these organizations were the police. The Vigário Geral case is thus largely a story of civil society organizations using the community council to implement reform at the grassroots level.

In contrast, community councils in Recife were instituted from the top down. In August 2004 the then-Secretary of Social Defense João Braga issued a decree establishing the councils<sup>87</sup>. Braga was a former state deputy from the Green Party and an appointee of then-

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83 Benjamin Reames, ‘Democratizing the Police of Brazil: The Strategies of a Professionalized Civil Society’, article presented at the Southern Political Science Association Annual Meeting, New Orleans, 6-8 January 2005, pp. 1-2.

84 Author interview with civil police agent from Casa Amarela, Recife, 25 January 2006.

85 From Desmond Arias, *Drugs and Democracy in Rio de Janeiro* (Chapel Hill, 2006), p. 160. For a longer account, see *ibid.*, pp. 145-163.

86 *Ibid.*, p. 163. The phrase in parentheses was added by the author.

87 This was Decree Number 27,004 of the 8th of August, 2004 establishing peace councils in police districts (*circunscrições*). From speech by Secretary Braga, Federal University of Pernambuco, Recife, 13 Sept. 2005.

Governor Jarbas Vasconcelos, of the PMDB (*Partido do Movimento Democrático Brasileiro*). Braga claimed to have initiated the formation of 214 community councils in the state by September 2005<sup>88</sup>, almost one for each of the 217 new security districts he created. Community councils were supposed to meet once a month, including representatives of the civil and military police, and open to members of community organizations and NGOs. Braga said that they were typically presided over by local judges and prosecutors (who are not really members of “civil society”). The councils were supposed to establish dialogue between communities and the police, discuss police activities and new ideas, and allow the police to account for their actions.

Braga created a statewide council, the Council of Peace (*Conselho de Paz* or CEPAZ), in the same reform. This council, whose president was a university professor, met on the first Tuesday of each month in the state capital Recife, and was usually attended by the Secretary. Braga attended twenty such meetings in the two-year period that he remained Secretary of Social Defense, from early 2004 to early 2006<sup>89</sup>.

Participatory mechanisms of various kinds have been subject to thoroughgoing criticism by various analysts, including those who condemn them as exercises in technocratic forms of manipulation conducted in bad faith in order to produce predetermined outcomes - the “tyranny of participation”<sup>90</sup>. This is not the perspective offered here. In the context of policing in Brazil, the community councils represent a potential improvement to the status quo by the simple fact that they require police officials to attend monthly meetings with community leaders and to be open to questions from those representatives. However, an analysis of the structure of the community councils and my observation of five meetings of the Council of Peace (13 September 2005; 13 December 2005; 10 January 2006; 2 May 2006; 6 June 2006) raise doubts about the effectiveness of this particular accountability

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88 Speech by Secretary Braga, Federal University of Pernambuco, Recife, 13 Sept. 2005.

89 From author interview with former secretary Braga, Recife, 16 May 2006. Both SENASP and the Pernambuco Secretariat for Social Defense are engaged in the collection of information about the operations of the community councils, and this information should allow for a more thorough assessment of the impact of their activities on public security.

90 B. Cook and U. Kothari, *Participation: the New Tyranny?* (Zed 2001).

mechanism in Recife. As with the police ombudsman, the barriers to effectiveness lie primarily with informal aspects of the organization. This focus, while largely neglecting the experiences of the lower-level councils, has the advantage of highlighting the flagship organization in the experiment and the one in which the secretary who created the reform was most directly involved.

The first observation to make is that the community councils do not conform to the organization of the police. Unlike the structure of community councils in education and health in Brazil, in which important decision-making powers were decentralized to the county (*município*) level, the police remained statewide organizations in which personnel are transferred around the state and in which operations are planned on a scale much larger than the security districts. In the case of the military police, they are still organized on military lines in companies and battalions rather than small-scale groups of patrolling officers for given neighbourhoods. Two specialists on community policing admit that the term covers many different types of policing, and has become a buzz word over the last few decades. However, they insist that what community policing is not is “military-style policing with a central bureaucracy obedient to directive legislation which minimizes discretion. It is not policing that is autonomous of public consent and accountability. It is not policing that is committed primarily to reactive crime-fighting strategies”<sup>91</sup>. However, the latter is a fairly accurate description of the Brazilian military police, raising the question of whether the creation of the new appendages of community councils can really alter the military police’s style of policing in the absence of other, internal reforms<sup>92</sup>.

In addition, in the absence of the Public Ministry’s ability to extract horizontal accountability from the civil police – as illustrated by the inquiry cemetery described at the beginning of this article – the potential for vertical accountability represented by the community councils goes largely unrealized. Police stations are not

91 Mike Brogden, Mike and Preeti Nijhar, *Community Policing: National and International Models and Approaches* (Willan 2005), p. 2.

92 As long ago as 2001, a BBC documentary on policing in Rio noted that “community policing” in Rio de Janeiro looked more like counter-insurgency warfare than the British bobby on the beat. From *Correspondent: On the Rio Beat*, documentary featuring reporter Sue Lloyd-Roberts, first aired on BBC2 on 13th May 2001.

transparent because many of their investigations are not reported to the judiciary and Public Ministry within the legal time frame; without accurate information about crime and police responses to it, citizens remain in the dark as to the performance of their ostensible guardians. Information hoarding within the state can thus neutralize the potential effect of civil society participation on state performance. As Arias writes, “The Brazilian state is an extremely heterogenous institution that contains many who operate within the law, others who break the law, and some who do both. State actors concerned about controlling crime and those who work with criminals are often political competitors”<sup>93</sup>. Unless the Public Ministry can push the civil police into a new, more transparent relationship, the promise of “social control” represented by the community councils cannot be realized.

Furthermore, the ability of community councils to influence the police and shape policing in their communities would be greatly facilitated by the operational integration of the police on the ground. This does not exist. Although the police have been integrated at the top through the Secretariat of Social Defense or SDS (a move initiated in 1998, and formalized by a commitment to integrated management in 2004)<sup>94</sup>, they remain operationally completely separate at the local level, without even basic communication between the two forces. This goes beyond lack of cooperation and shades into mutual hostility. The police *delegado* Alexandrino mentioned at the beginning of this article, for example, described the relations between the two forces as “cat and mouse” and declared that the military police should be abolished<sup>95</sup>. In my interviews with civil police in local police stations and military police officers in battalions, I found no evidence of joint operations between the two forces. And SENASP’s important survey of police forces, revealed that the civil and military police force do not use radio systems with the same frequency in most states, including Pernambuco<sup>96</sup>.

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93 Desmond Arias, *Drugs and Democracy in Rio de Janeiro*, p. 159.

94 The integrated management of the police in Pernambuco (*Gabinete de Gestão Integrada* or GGI) was created by Decree Number 26,806 of the 4th of June 2004. From Speech by Secretary Braga, Federal University of Pernambuco, Recife, 13th of September 2005.

95 Author interview with police *delegado* Alexandrino Thiago da Silva Vasconcelos, 30 March 2006. His exact words were “minha opinião pessoal é que a polícia militar, ela devia ser extinta no Brasil” (my personal opinion is that the military police should be abolished in Brazil).

96 Secretaria Nacional de Segurança Pública (SENASP), ‘Relatório Descritivo: Perfil das Organizações de Segurança Pública, Volume 1: Perfil das Organizações Estaduais e Municipais de Segurança

Therefore the intended effect of the councils, which is, in part, inducing greater commitment to community policing on the part of the police, is hampered by the organizational separation of the two major police forces and their state-wide orientations. Despite paying lip service to community policing, neither force seems to prioritize it. In SENASP's survey of 17 civil police forces in Brazil conducted in 2004, these forces reported that only 232 of their 15,051 programs (1.5%) were related to community policing, with the bulk of their activities being anti-drug programmes and "other preventive actions"<sup>97</sup>. The corresponding figure for the military police was 7,792 out of 417,320 (1.9%)<sup>98</sup>. Similarly, only 3 of 17 civil police forces (17.6%) said they divulged their annual plan of actions to the community councils or to civil society (5, or 29.4%), while the corresponding figure for the military police was 8 of 18 or 44.4% and 3 of 18 or 16.7%<sup>99</sup>. This apparent resistance of the police to the community policing ideal of open communication with and responsiveness to communities has been seen elsewhere. In their study of community policing in South Africa, Brogden and Nijhar argue that the lack of responsiveness of the police to community demands reduced the community councils to "toy telephones"<sup>100</sup>.

With regard to the Council of Peace, it is significant who did not participate. The two most important NGOs in the public security field, the human-rights oriented GAJOP (*Gabinete de Assessoria Jurídica e Organizações Populares de Pernambuco*, or the Cabinet for Legal Advice and Popular Organizations of Pernambuco) and the public security-oriented IACE (*Instituto Antônio Carlos Escobar*, an institute named after a prominent psychiatrist murdered in December 2005) did not send representatives<sup>101</sup>. They preferred to push the Secretariat of Social Defense "from the outside". In IACE's case, they

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Pública, Ministério da Justiça, Brasília, March 2006, p. 60. This situation was confirmed to me by police officials in a visit to the *Delegacia de Narcotráfico* (Narcotrafficking Police Station) in Recife on the 30th of May 2007. The police officers were rather embarrassed that the UHF and VHF radio systems of the two forces were incompatible.

97 Ibid., p. 73.

98 Ibid., p. 102.

99 Ibid., p. 46 and p. 77.

100 Mike Brogden and Preeti Nijhar, *Community Policing: National and International Models and Approaches* (Willan 2005), p. 143.

101 While IACE was closed down in 2013, GAJOP is still active in Recife.

demanded and received an audience with the Secretary of Social Defense in the aftermath of the killing of Carlos Escobar. Perhaps more surprisingly, the city *Guarda Municipal* did not send a representative, even though Recife was the topic of much of the discussion in the council. The representativity of the council can thus be questioned.

Another aspect of the council's proceedings has to do with the perceived tendency of the council to revolve around the Secretary of Social Defense, even while nominally presided over by a president who was not the secretary. The reforms wrought by João Braga came to be known as the "Braga Plan", for example. A former state deputy, Braga clearly had his sights set on re-election to the state assembly in the 2006 election<sup>102</sup>. In November of 2004 he decreed a dry law (*Lei Seca*) in which bars in neighborhoods with violent crime rates were forced to close by the police by 11:00 pm. The measure was hugely controversial, triggering a legal challenge from the *Ministério Público*, which decried the measure as unconstitutional. The measure also brought criticism from the association representing civil police officers, who contested the homicide figures on which it was based, and howls of protest and lawsuits from commercial interests harmed by the decree. While the Council of Peace could have been used as a venue to discuss the measure before its implementation, it was not.

The issue was discussed in the Council of Peace only after the implementation of the dry law. Despite the controversy and criticism of the measure in the media, the Council members generally refrained from criticism and pledged their support to the secretary. When João Braga left in early 2006, the measure was quietly dropped by his successor. This reinforces the impression that the council was less a mechanism for ideas to bubble up "from below" than it was a vehicle for the secretary to impose his agenda and to frame his performance in the best possible terms, especially in the face of harsh media criticism.

Rodney Miranda, Braga's successor, was appointed by interim Governor José Mendonça Filho in early 2006. Mendonça Filho faced re-election in October of the same year and needed to show some results in public security quickly. Miranda announced at the Council of Peace meeting in June that the homicide rate had dropped dramatically in

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<sup>102</sup> Despite his ambitions, Braga was unable to win a seat in the state assembly in the 2006 elections.



May in comparison to April's figures, and the surprising and welcome news was duly reported in the local press. The announcement was not contested in CEPAZ. However, when I asked SDS officials what might have contributed to the drop in the murder rate aside from the actions of the SDS, they admitted that May is the rainy season, and that murders almost always drop in Recife during that month.

Admittedly my evidence here is impressionistic and anecdotal, but my point is that the formal existence of a community council does not ensure that it will become a mechanism of accountability and change in police-community relations, as the community council in Vigário Geral described by Arias did. Informal elements of political style can pose barriers to accountability. For example, the executive branch can manipulate information on public security and use a council as a public relations vehicle rather than as sources of innovation or sounding boards. Similarly, a political leader can attempt to use a council to further his own political ambitions, while council members may fear to contradict that official, for fear of losing influence or being shut out of policy-making networks altogether. At the same time, some NGOs might decide that the council is only a rubber stamp, and that they can be more effective pressuring for change on the outside. All of these characteristics marked the Council of Peace in Recife, and in the end, Secretary Braga's experiment was short-lived. When a new Governor of Pernambuco, Eduardo Campos, assumed office in January 2007 he associated the Council of Peace with the government of his predecessor, and he promptly abolished it.

## **7. CONCLUSION**

This article looks at public security reform in one Brazilian city in some depth, in order to identify the functioning of new mechanisms of accountability that ostensibly subject the police to democratic control. The police ombudsman and community councils were the focus of attention because they are probably the most important innovations in Brazilian public security since 1985. Recife is a good choice for such a study because its patterns of crime and violence are similar to those of many other medium-size cities in Brazil, and by focusing on it one avoids the exceptional and extreme cases of Rio de

Janeiro and São Paulo, which are too often taken to represent Brazil as a whole. The police ombudsman and community councils

The study's main finding is mixed. In Recife in recent years, the police ombudsman and community councils have been part of an important reform dynamic that has improved the formal architecture of police accountability to the public. There is nothing in this formal architecture that dooms the new institutions to failure – indeed, the institutions have had significant success elsewhere. The police ombudsman in São Paulo, for example, has become an independent voice against impunity and in favour of reform there, and the community council in Vigário Geral, Rio de Janeiro succeeded in improving police-community relations and reducing violence, albeit temporarily. However, these new mechanisms have worked less well in Recife. This is primarily because of informal aspects of the way these institutions, as well as the police, work. This research therefore follows Macaulay's injunction to “tread a fine path between, on the one hand, presenting apocalyptic visions of a reform-resistant environment... and, on the other, wearing rose-tinted glasses and interpreting isolated incidents or cosmetic reforms as indicative of a sea change”<sup>103</sup>.

While the findings of two case studies such as these cannot be generalized, they are suggestive in empirical and theoretical terms. In Recife, both of the mechanisms analyzed had serious shortcomings due to informal practices that served as barriers to the creation of accountability. The police ombudsman created an important new channel that embodied the idea of citizens' control over the police, and provided a forum where people could complain about police misconduct and receive a sympathetic hearing. However, it has been, up to now, a relatively ineffective agency. This is partly because of the institutional design of the position (the ombudsman serves at the pleasure of the governor and is subordinate to the Secretary of Social Defense), but it is primarily due to informal aspects of its organization and the fit between the ombudsman and the police. The ombudsman's office lacks resources and has failed to develop a monitoring capacity. The fact that it does not document the final disposition of the complaints it handles means that it cannot fulfill a basic requirement of accountability: information.

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103 Fiona Macaulay, 'Knowledge Production, Framing and Criminal Justice Reform in Latin America', *Journal of Latin American Studies*, vol. 39 (2007) pp. 627-651; the quote is on p. 644

The police ombudsman in Recife is thus largely a façade for traditional internal affairs procedures – something “for the Swedish to see”, to paraphrase the old expression<sup>104</sup>. This is a very different outcome from São Paulo, where the police ombudsman tracks the results of complaints independently of the police, and provides this information to the public.

For their part, the community councils created a new feedback mechanism and involved new forms of public participation and deliberation. However, they largely fell short of a genuine dialogue between members of communities and police officials, and did not seem to have had a direct impact on policies. The latter is made difficult by the fact that in everyday operations, the military and civil police still do not cooperate or share information, and the Public Ministry lacks real oversight over the civil police. The cornerstone of the community council reform, the statewide Council of Peace, served more as a propaganda vehicle for the Secretary of Social Defense than as a forum for open debate about policies, and was closed down by a new government in 2007, lasting for less than three years. Furthermore, community councils lacked reliable information about police performance because the Public Ministry was unable to generate an effective system of reporting of police investigations, leading to myriad inquiry cemeteries like the one described at the beginning of this article. Again, very little in the formal institutional design of the community councils, the Council of Peace, or Public Ministry-civil police relations made such an outcome inevitable. Instead, it was informal procedures and relationships that produced such a result.

To whom are the police largely accountable, if not to the public? The evidence with which to answer this question is patchy and difficult to uncover. Nevertheless, a tentative answer is the governor and his political allies; political patrons in the state legislature and municipal governments; and business interests, including the powerful private security companies that include public security officials on their boards, employ off-duty police personnel, and contribute to political campaigns. In many instances, the police are effectively autonomous from the public, and the formal, public accountability mechanisms

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104 “For the English to see” (*para o ingles ver*) is a common expression with a long lineage in Brazil, and can be used to denote cosmetic reforms that lack real substance. In Uggla’s piece on ombudsmen in Latin America, he quotes a Colombian congressman dismissing the ombudsman in 2001 as “for the Swedes”. See Frederick Uggla, ‘The Ombudsman in Latin America’, pp. 423-450; the quote can be found on p. 428.

linking them to the public rarely produce results. On the other hand, the police are embedded in informal networks that connect them to political and business patrons. This is Evans' "embedded autonomy" in reverse, producing not coherent, effective policy-making, but fragmentation, lack of coordination, and the parasitism of private interests over public purpose.

The upshot of this analysis is therefore not that all police reforms are doomed to failure. This is worth remembering as Brazil braces itself for another round of public security reform under the government of President Jair Bolsonaro, which began in January 2019. However, reformers must address informal aspects of organization, both inside and outside police forces, if they are to succeed. Police forces' informal practices insulate them from the general public, while making them vulnerable to manipulation by the powerful. In the Recife case, the most transparent accountability mechanisms over the police were not very effective, and the most effective were not transparent. The police in Recife were part of a criminal justice system marked by a lack of trust and cooperation between and within different agencies, fragmentation, the hoarding of information, and covert political manipulation of the coercive capacities of the state.

Research on police reform in other cities in Brazil and Latin America might find barriers to genuine police accountability to the public similar to those this researcher found in Recife. Such barriers are unlikely to be removed simply by amending constitutions, tinkering with organizational charts, passing new legislation, altering the formal design of existing institutions, or creating new institutions from scratch. The devil of public security reform lies in the informal organizational details of the various police forces that are being asked to change. Only if the informal is treated seriously can Latin America's twin dangers of corrupt and repressive policing and the chaotic violence of the urban underworld be avoided.

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## **CEMITÉRIOS DE PAPÉIS: BARREIRAS INFORMAIS À REFORMA DA SEGURANÇA PÚBLICA BRASILEIRA**

### **RESUMO**

A segurança pública se tornou uma questão política cada vez mais importante no Brasil desde o final do regime militar em 1985. Os níveis crescentes de crimes violentos levaram a várias iniciativas para reformar o sistema de segurança pública e, principalmente, a polícia. Este artigo analisa três reformas destinadas a aumentar a prestação de contas da polícia ao público: ouvidores da polícia, policiamento comunitário e supervisão do Ministério Público das investigações policiais. Partindo de pesquisas no nordeste brasileiro e estudos nacionais, argumenta que, até o momento, essas reformas tiveram menos impacto do que o esperado. Isso se deve em parte às características organizacionais da polícia e, especificamente, à combinação de isolamento e vulnerabilidade à manipulação política.

**Keywords:** Responsabilização. Democracia Direitos humanos Participação Polícia Segurança pública

## **CEMENTERIOS DE PAPEL: BARRERAS INFORMALES A LA REFORMA DE SEGURIDAD PÚBLICA BRASILEÑA**

### **RESUMEN**

La seguridad pública se ha convertido en un tema político cada vez más importante en Brasil desde el final del gobierno militar en 1985. Los niveles crecientes de delitos violentos han llevado a diversas iniciativas para reformar el sistema de seguridad pública, y especialmente la policía. Este artículo analiza tres reformas destinadas a aumentar la responsabilidad de la policía ante el público: los defensores del pueblo, la policía comunitaria y la supervisión del Ministerio Público de las investigaciones policiales. A partir de la investigación en el noreste brasileño y los estudios nacionales, argumenta que hasta ahora, estas reformas tuvieron menos impacto de lo esperado. Esto se debe en parte a las características organizativas de la policía, y específicamente a su combinación de aislamiento y vulnerabilidad a la manipulación política.

**Keywords:** Responsabilidad. Democracia Derechos humanos Participación Policia Seguridad publica.

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