

# THE RELEVANCE OF POLICE INVESTIGATION AND INTELLIGENCE TO THE CRIMINAL JUSTICE SYSTEM AND ITS IMPROVEMENT IN BRAZIL<sup>1,2</sup>

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*More than calling the army to go up and down the “morros,” is the use of intelligence that will define the crime level we will have to endure for the next years.*

Guaracy Mingardi

## 1 INTRODUCTION

The debate related to the actions and performance of the State's institutions in formulating and executing the programs and policies requires a broadened understanding of the professional bureaucracies' operation and its ability to promote, democratically, favorable conditions for the development in its broad definition – what comprises the increasing guarantee of individual rights and the promotion of justice. With this objective in mind, this article raises some fundamental questions regarding the role of police organizations when facing the current challenges posed by the high crime rates and the sense of impunity disseminated in Brazil.

## 2 STATUS OF PUBLIC SECURITY IN BRAZIL

Data from Ipea show that most of the population is terrified of crimes such as murder and armed robbery, that the level of trust in police institutions is low, and that the Armed Forces' participation in public security operations is widely desired (Ipea, 2010; 2012). In this context of the citizen's clear, deep desire for a country where social peace and public security are achieved, one needs to consider the problems of police forces' actions and the possible impacts of the strategic reorientation of their actions cause on crime control.

The distribution of public security entails several correlated and continuing steps promoted by many State organizations, all of them unique, that as a group and working together, define the criminal justice flow, in which the police is a fundamental part (Sapori, 2007). Police organizations represent the most significant “filter” of this system, setting the distance between the crimes detected and investigated (Adorno and Pasinato, 2010).

The Police is the institution responsible for crime investigation and order maintenance, having the means for registration and explanation of facts, and the legitimate use of force.

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This institution works on an essential selection of what will or will not be registered as a crime and what will or will not be sent to be processed by the judiciary (Paes, 2010, p. 112-113).

### 3 POLICE INVESTIGATION AND INTELLIGENCE

In this article, we support that the deficiencies in police investigation and intelligence are among the main problems of the criminal justice system. Police investigation refers to technical procedures that shall be carried out so that, after an offense is committed, the facts can be verified and support information can be gathered for criminal action. Therefore, that is a *reactive* action, part of the criminal prosecution, used for determining if there are proofs of the fact, its characteristics as a crime, and possible author.

So that the facts of society can be recognized as a crime and deserve the intervention of agents in charge of the security and justice system's institutions, there needs to be a criminal classification, and the agents adopt a set of procedures for verifying the versions told, and pieces of evidence collected what comprises several documents that contribute to the formalization of the criminal fact to be judged (Paes, 2010, p. 110).

In other words, police investigation consists of work that must be done efficiently and effectively, so the consequences effectively guarantee public security. However, not only those technical aspects are at stake. Considering the State's prerogative to social control and the requirement to institute criminal proceedings when State's institutions are aware that a crime occurred, Brazilian legislation seeks to guarantee the full right to defense to the maximum degree and, this way, protect the citizens from the discretionary judgment of the agents in charge of implementing public security (Pereira, 2010). In those terms, the burden of proof rests on the plaintiff, who shall act with this objective to the extent permitted by the law, within limits also set by the guarantee of the fundamental rights of the suspects. Herewith, there should only be the possibility of the Judiciary enforcing the sentence on the citizens against whom the Police have legally gathered evidence.<sup>4</sup>

In Brazil, it is estimated that errors in investigations make most crime cases unsolved without even sending them to the Public Prosecutor's Office to file a complaint (Adorno and Pasinato, 2010). This shows a historical and structural problem of Brazilian police who, traditionally, do not keep the investigation and intelligence at a leading position among their responsibilities. Besides the general criticism about the "slowness of justice," the significant difference between the number of offenses that generates police service and the ones that become criminal proceedings represents one of the major factors of impunity in the country (Misse, 2010). To provide an example, in February 2012, the press widely disseminated the failure of a task force carried out by the Federal Government, the Judiciary, and the Public Prosecutor's Office to end around 143 thousand police investigations – which were on hold – created as of 2007 by the civil police.<sup>5</sup> The result: simply a substantial number of investigations were closed due to the lack of evidence, information about the authors, suspects, and witnesses, or very inaccurate information about them.

4. That is, there should be an effort to eradicate – in a democratic rule-of-law State – practices such as torture to extract a confession or to get evidence, the use of wiretapping, and other technological resources that violate the suspect's privacy without the proper authorization of a judge, among others that violate fundamental rights.

5. The headline of the first page of *Folha de S.Paulo* of February 23, 2012 (Fracassa..., 2012).

The deficiencies in investigation operations can be approached from different aspects as the lack of structure or investment in training experts. However, in this text, we aim to underline a specific dimension related to the occupational culture of the Police. Different studies present an alarming Framework regarding the role of criminal investigation techniques education in this culture. Research carried out in Rio de Janeiro, seeking to identify the formal and informal procedures of investigation and transmission of information in specialized units, indicated that the knowledge and learning acquired by police officers mainly occur during their daily activities at work. The conclusion is that the expertise to solve cases of kidnapping, homicide, and organized crime includes few formal specialization activities (Nascimento, 2008).

Indeed, Brazilian police organizations have not achieved an appropriate level of professionalism in two primary responsibilities: the use of physical force and the capacity for investigation. First, due to excessive use of force, especially against the low-income classes (Paixão, 1988). Second, the criminal investigation and analysis end up in the background, surrounded by a vast number of other demands that gained priority in the Police's standard service. Those requests range from administrative activities to service in a high number of cases unrelated to crime reporting that, per se, represent a significant demand in the middle of the Police's defective material and human resources context (Azevedo and Vasconcellos, 2011). Furthermore, the organizational culture – itself – usually developed by the police officers, is reluctant to a higher level of specialization and professionalism to improve the use of investigation techniques, mainly due to the strong sense police officers share that they are educated “in the streets” or “in the field.” According to Nascimento (2011, p. 27), “when questioned about their skills in investigating homicide cases, police officers often say they have not attended any course. They say they learn by getting experience and that some elements they have brought from the precinct they were in before can be used to solve crimes”.

It is about the myth of the “police instinct.” Police officers usually downgrade the training received in their academies, considering the courses distant from their daily practices (Minayo and Souza, 2003). When a crime occurs (e.g., a homicide), the civil police investigators, based on their experience or intuition, consider the possible motivations involved and search for evidence that indicates the suspects. Then, mainly based on the statement, they believe that, once they have the culprits, they can catch them falling into their contradictions once they have this “powerful police instinct.”<sup>6</sup>

The investigation function is too complex and vital to be carried out within common sense limits. One cannot deny that efforts have been made to improve investigation capacity training, which should be valued.<sup>7</sup> However, we seriously need to consider the possibility of further progress.

6. A detailed description is found in Beato (1992). Moreover, formal technical knowledge is also downgraded among Military Police officers. In the following excerpt from an interview collected by Muniz (1999, p. 153), a sergeant of the Military Police of Rio de Janeiro compares his learning process with that of the criminal, both through informal socialization with the most experienced in the environment: “*Vagabundo* says they take a crime diploma in jail. For the police officer, the diploma comes from the street. The street is the police officer's school. Everything you want to see is there; it is to look. I learned to have a technical look on the street” – the term *vagabundo* is commonly used by Military Police to refer to suspects and criminals, especially those from the low-income classes. The problem is that this allegedly “technical” look is not neutral. In practice, we can see that when the bodies of murdered black and poor young people are found in the favelas and peripheries. Police officers continually refer to the same version on the news in different media outlets in the country (“We already know what happened, the victim was involved in drug trafficking”). However, although police authorities estimate that most shooting victims in Brazil consist of individuals involved in trafficking, research shows this is a simplistic explanation (Adorno and Pasinato, 2010; Misse, 2010).

7. We could mention, among other initiatives, the courses in the field of research offered nationwide by the National Secretariat of Public Security (Secretaria Nacional de Segurança Pública – Senasp) It should also be noted that the spending on information and intelligence increased by 28.5% between 2008 and 2009 and 15.5% between 2009 and 2010 (Fórum Brasileiro de Segurança Pública, 2010).

As Barreto Júnior (2009) argues, the careers of chief of Police and detective need to be reconceptualized and understood within a new perspective on investigation management. This can be seen as a rational process of technical imbrication with qualities similar to scientific research.

We should ponder the feasibility of a methodological fusion between the objectives of describing crime for the judicial purposes of punishment and, at the same time, the objectives of an enlightening description, modeling a scientific “reading” of the recurrence and characteristics of criminal behavior within time and space. This last piece of advice would contribute to formulating preventive intervention policies, proactive and connected to the agendas of other government sectors, besides responsible and competent social movements (Barreto Júnior, 2009, p. 45).

Likewise, Pereira (2010) addresses the possibility of an investigation science that would go beyond isolated and individual practice, becoming a broad collective activity aimed at discussing general analysis models. This angle points to another topic that is also fundamental to the Police’s institutional improvement: the production and use of police intelligence.

Despite being connected and, in fact, complementary concepts, we need to see the difference between criminal investigation and police intelligence. As mentioned before, the research consists of a reactive activity, through which one seeks to raise pieces of evidence and proof of a criminal offense and its author, whose destination will be the police investigation and the records of the criminal proceedings – if the Public Prosecutor’s Office proposes to press charges. Intelligence, in turn, is a proactive activity characterized by the constant search for information that, once organized, becomes available to assist the decision-making process. By nature, criminal investigation’s role is to provide elements for prosecuting crimes that have already occurred. On the other hand, intelligence can aid both preventive and controlling actions against crime.

Police intelligence refers to the systematic treatment of information and the production of knowledge by establishing connections between criminal facts or situations of immediate or potential influence on them, establishing patterns and crime trends in a given historical context of an area or region (Ferro, 2006). It can also be seen as a complementary activity to crime investigation, providing elements that allow an understanding of the *modus operandi* of criminal agents in a broader framework using software, georeferencing, and statistical methods.<sup>8</sup>

While criminal investigation itself consists of activity of exclusive competence of the judicial police, the intelligence expertise can and should be developed for also advising the actions of ostensive policing through information analysis, sharing, and controlled dissemination. These practices allow us to understand a set of factors that affect criminal behavior in particular local or regional contexts. This happens through interdisciplinary and qualified criminal analysis based on data from different sources, such as police incidents and information produced during investigations. Even those that do not become part of the investigation or complaint can be stored to support future decision-making processes. The first National Public Security Plan (Plano Nacional de Segurança Pública – PNSP),

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8. Just to give you two examples, the Public Security Institute (Instituto de Segurança Pública – ISP) of Rio de Janeiro can be considered an intelligence production collaboration agency in the State of Rio de Janeiro. The ISP produces statistical reports on the state’s Public Security System to analyze the issues that most affect the population and, therefore, evaluate the performance of actions in that state. Regarding the partnership between the Police and the University, we can highlight the Center for Studies in Crime and Public Security (Centro de Estudos de Criminalidade e Segurança Pública – Crisp) of the UFMG, which has already offered several courses on criminal analysis for police officers, besides other similar experiences nationwide.

from 2000, already provided for implementing a public security intelligence subsystem (Sisp), and its creation was included in Decree No. 3,448 of May 5, 2000, but that has not been consolidated yet.

#### 4 CONCLUSION

Not disregarding other equally relevant and urgent initiatives to strengthen the public security system, we may consider that, in the Brazilian case, investigative and criminal analysis activities should be improved to be more effective in controlling crime rates. As Brandão (2010, p. 17) affirms:

in our country, we have not yet achieved a level of specialization and prominence capable of generating what is already called intelligence-led policing in other countries. It is crucial to building a culture capable of perceiving the answers and immediate operational results that intelligence activity can provide, and that fundamentally depends on the synergy produced between the technological gains made possible by the information and communications technology infrastructure, the robust databases, and information embedded in the operational activity itself (preventive and investigative) and analytical capacity.

Instead of acting on incidents in an isolated and limited way, police intelligence could guide police officers' actions for more detailed, long-term situational diagnoses, allowing better allocation of resources to combat crime and maintain order. Public security authorities cannot work with a narrow perspective on knowledge. The amount of data accumulated by Brazilian police is large but dispersed. There must be interest in recovering and transforming them into helpful guidance for dealing with any type of crime: from the so-called organized crime, such as drug and arms trafficking, to the most common types of crimes, such as theft, break-ins, and vehicle thefts. With intelligence work – which also involves critical capacity on the part of professionals in the area to fill information gaps with analytical judgment – it is possible to supply the police with more efficient strategies to fulfill their role, providing greater security to citizens.

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