

# INTERNATIONAL PROJECT ON “NORMATIVE FRAMEWORKS FOR THE USE OF FORCE BY THE POLICE”

## VENEZUELA

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### 1. Description of the country

Venezuela is located on the northern coast of South America and has an estimated current population of 24.6 million people. It attained formal independence from Spain in 1821, when it formed a federation with Colombia and Ecuador, and became a separate country in 1830. It was largely ruled by autocrats until 1958, when democratic movements ousted the military President Marcos Pérez Jiménez. During the Nineteenth Century, Venezuela's economy was overwhelmingly agrarian, relying principally on exports of cocoa and coffee. The discovery and exploitation, starting in 1907, of rich petroleum reserves around Lake Maracaibo marked the transition to an oil-based economy, which was favoured by the discovery of other large reserves in the east of the country and in the River Orinoco basin. Although Venezuela has considerable natural resources (agricultural, hydrological, iron ore, bauxite and gold), the economy is still largely sustained by oil revenues, which currently account for about one third of the GDP, 80% of export earnings and more than half of governmental revenues. Oil makes Venezuela one of the wealthiest countries in Latin America, although it has not escaped the high levels of economic inequality that characterise much of the region.

During the second half of the Twentieth Century, the country experienced a rapid process of modernization, with the development of manufacturing and the movement of population from rural to urban areas. Currently, 87% of the population is estimated to live in settlements of more than 2,500 population. The capital city, Caracas, has an estimated population of 2.3 million, although the larger metropolitan area probably numbers 5 million inhabitants. Other large urban centres are Maracaibo, Valencia, Barquisimeto, Maracay and Puerto Ordaz.

As in much of Latin America, the Spanish have had a huge impact on language and culture. The Spanish colonizers, who first arrived in 1499, mixed with indigenous inhabitants, and later with black slaves and their descendents, to produce a variety of skin colours and surnames. There are still some indigenous tribes in the west, east and south of the country, but they represent a very small percentage of the population. The aftermath of the conflicts in Europe between 1936 and 1945 saw a considerable influx of émigrés from Spain, Italy and Portugal. More recently, with the oil boom of the 1970s immigrants from Asia and the Middle East also began to arrive. Finally, the internal conflicts in neighbouring Colombia produced a considerable flow of migrants to Venezuela during the 1960s, 70s and 80s, most of whom have settled in the western and central regions of the country. Venezuela is overwhelmingly a Spanish-speaking country.

Since 1958, Venezuela has been a federal democratic republic. Following a period of abundance during the late 1970s and early 1980s based on high international oil prices, the economy began to falter in 1983. Continuing economic problems, together with a widespread perception of corruption and mismanagement in government, fuelled the

discontent that prompted two failed military coups in 1992. A leader of the first coup, Hugo Chávez Frías, was subsequently swept into power with a huge margin of popular support in the presidential elections of 1998. Chávez vowed to set Venezuela on a new course and was the driving force behind the new constitution that came into effect at the end of 1999 (Venezuela, 1999). Opposition from the political parties, elites and interest groups that had controlled the country before 1999 came to a head in 2002, when there were two general strikes and an attempted coup, none of which were successful in ousting Chávez. The marked political polarization has affected policing in general and the policing of public order in particular, as Ministers, Governors and Mayors tend to use police forces to protect their own supporters while controlling opposing factions.

Under the Bolivarian Constitution, government is hierarchically organized. At the lowest level are the municipalities, with elected mayors and municipal councils. The municipalities oversee urban planning, local commerce and industry, and sanitation. Some of the larger municipalities also have their own police forces. At the intermediate level is state government. The country is divided into 23 states each with an elected governor and legislative council. Each state has a uniformed police force, which is partly regulated by the local Police Code. This level of government also includes the Capital District (centred on Caracas) and a federal dependency of eleven island groups (with a total of 72 islands). Finally, there is the national government, which is based in Caracas.

National government is divided into five branches: legislative, executive, judicial, citizen and electoral. Legislative power is vested in a single-chamber National Assembly with 165 representatives. Executive power is exercised by the President, Vice-President and Council of Ministers. The Judiciary, including judges and public defenders, is headed by the Supreme Court (*Tribunal Supremo*) with 32 justices divided into six chambers. The Citizens' branch is defined as the "moral power" of government and comprises the Ombudsman (*Defensor del Pueblo*), the Attorney General and the Comptroller. Two important functions of this moral power are the defence of human rights and investigations into governmental corruption. Although the Constitution declares Venezuela to be a "federal decentralized state," the major institutions of criminal justice (judicial police, courts, prisons) belong to the national government. States and municipalities, as we have seen, can create their own uniformed police forces. Although the new Constitution provides for the creation of a national police force, states and municipalities maintain competence for organizing local forces, a matter which has raised great concern and produced some confrontation between national and local powers. Many state governments have also been granted limited responsibilities for prisons located within their jurisdictions, although they have not yet taken significant action on prison matters. Finally, municipalities can also name Justices of the Peace, a relatively new program that has still to be put into practice in most of the country.

Venezuela's legal system was historically influenced by the European civil law tradition, which places much emphasis on the enactment of legislation in the form of Codes. Legislation contains strong declarative principles and therefore performs important symbolic functions, particularly for national and group identity. For example, the country has adopted 23 constitutions since the first moves toward independence from Spain in 1811. The most recent constitution was adopted in 1999 to mark the transition from the representative to participative democracy. Programmatic and declarative principles frequently foster impracticality, such that there are often wide breaches between law and reality. Additionally, the proliferation of laws encourages formalism, which often results in extremely slow and cumbersome legal procedures.

## 2. Structure of the police forces

The organisation of policing in Venezuela reflects the contours of government, as public authorities at the national, state and municipal levels have organised police forces and armed them. The national government has five forces, distinguished by function and administrative location:

- i. The judicial police (*Cuerpo de Investigaciones Científicas, Penales y Criminalísticas*, or CICPC), is the primary criminal investigation agency with 7,200 officers and is attached to the Ministry of the Interior and Justice. The CICPC is charged with reception of crime reports made by citizens, investigation of crimes, gathering of evidence and arrest of suspects. In all these tasks, the CICPC is subordinated to the Public Prosecutor's office. The national headquarters are in Caracas, and there is one office in each state capital, with additional offices in some other cities.
- ii. The political police (*Dirección de Servicios de Inteligencia y Prevención*, or DISIP), with an unknown number of officers, is also attached to the Ministry of Interior and Justice. It is primarily a national security force dealing with crimes against the state, kidnappings and some drug offences. The national headquarters are in Caracas and there is at least one branch office in each state.
- iii. The National Guard, with 39,500 officers, is attached to the Ministry of Defence. Apart from its military duties, it is responsible for policing frontiers, checkpoints and ports; providing perimeter security at prisons; policing environmental, drugs and contraband crimes; and providing auxiliary service to the judicial police, or in the restoration of public order. These policing responsibilities are largely overseen by the Ministry of the Interior and Justice and the Public Prosecutor. The national headquarters are in Caracas, with local headquarters in each state and numerous other offices and checkpoints relating to specific duties.
- iv. The traffic police (*Cuerpo Técnico de Vigilancia del Tránsito y Transporte Terrestre*), with approximately 5,000 officers, is administratively attached to the Ministry of Infrastructure and is responsible for surveillance, preliminary investigation, and occasionally the arrest of suspects, when traffic offences involve violations of the criminal law.
- v. The military police (*Dirección de Inteligencia Militar*), with an unknown number of officers, is attached to the Ministry of Defence and is mainly involved in investigating military crimes, such as rebellion and desertion.

Twenty two of the 23 states, as well as the Capital District (centred on Caracas), has a uniformed state police force, which is responsible for patrol work and public order, crime-scene investigation and arrests, and community service. There are approximately 47,000 officers in the states and 8,500 in the Capital District, under the command of state governors and the Metropolitan Mayor, respectively. Each force is regulated by a state Police Code and is also coordinated by the Ministry of Interior and Justice, which compiles selected statistics and sets guidelines for internal procedures. Following the Decentralisation Law of 1989 (Venezuela, 1989), municipalities began creating their own police forces and there are now approximately 80 such forces, with a total of about 9,500 officers, located in the wealthier of the country's 335 municipalities in Caracas and the states of Anzoátegui, Carabobo, Miranda and Zulia. The small state of Vargas, just north of Caracas, also has a municipal police force rather than a state police force. Municipal police forces are attached to the mayors' offices and regulated by the state Police Code and municipal ordinances.

With so many different uniformed police forces, there are obviously difficulties in coordination and efficiency. For that reason, since at least 1977 there have been diverse proposals to create a unified national police force. The most recent is the National Police Law, which is currently being debated in the National Assembly. This law would create a national level centralized civil police force, including the traffic police, and set uniform rules for ranks and standards of training for other state or municipal police forces.

### 3. Legal guidelines

Rules for the use of force are very general, largely confined to firearms, and relatively unimportant in officer training. Administrative prescriptions, and proscriptions, regarding the use of force are set down in departmental guidelines. For example, the General Regulations of the Caracas Metropolitan Police (Venezuela, 1995) specify, in Article 67, that police officers must use non-violent means for the purposes of maintaining order and keeping the peace. Article 68, referring specifically to the use of firearms, is a near textual copy of Point 9 of the Basic Principles on the Use of Force or Firearms by Law Enforcement Officials, approved during the Eighth United Nations Congress on the Prevention of Crime and Treatment of Offenders held in Cuba in 1990 (UN, 1990).<sup>1</sup> Nothing is indicated in the General Regulations about the use of non-lethal force. However, the Operations Manual of the Metropolitan Police (PM, 1982), which is a kind of “pocket guide” for procedures on the street, outlines a number of situations in which “physical arrest” may be made. Thus, such arrests can be made for robbery, brawls, failure to comply, and illegal public meetings if participants do not disperse. Persuasion is recommended if there is failure to comply, while the incorrect use of the baton is to be avoided. However, “incorrect” uses of the baton are not specified, nor the manner in which a “physical arrest” should be made.

Prohibitions on the use of force are found in the Disciplinary Regulations of the Metropolitan Police (PM, 2001). According to Article 64, officers will be removed from the force if they “cause injury to others by shooting, or otherwise using firearms or other weapons, in an improper, imprudent or negligent manner.” Unauthorized carrying of a service firearm while off duty leads to a written warning, as does carelessness or negligence in the use of equipment, including batons (Article 63). These disciplinary regulations, like those in place in other departments, do little to indicate specific behaviours or situations that are to be avoided. A judgment regarding the “improper,” “imprudent,” or “negligent” use of physical interference essentially shifts the focus of evaluation to authorized uses (i.e., where force would not be authorized, it can be designated “improper”). Thus, prohibitions of the use of force add little specificity to the prescriptions for its use.

Each of the municipal police departments that participated in the present research (see Section 8) is guided by municipal ordinances that regulate police behaviour, and each has different levels of detail regarding the use of force by officers. The first department, “Polioriente,<sup>2</sup>” has Ordinance No. 003-02 (*Gaceta Municipal*, No. 4022, Extraordinario,

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<sup>1</sup> This citation is taken directly from the UN Basic Principles, but the version in the Metropolitan Police Regulations is near textual, because Article 68 contains a notable transcription error. Instead of indicating the use of a firearm to arrest (*detener*) “a person presenting such a danger,” it indicates its use to defend (*defender*) such a person! This is not a problem of translation, because the UN Basic Principles have always been available in Spanish. It is, rather, a typographical error, and its appearance in the Regulations suggests that no great attention was paid to the rules for the use of firearms.

<sup>2</sup> We use pseudonyms to refer to the police departments.

18-4-2002), which deals with Personnel and Disciplinary Dispositions for the Officers of the Municipality. This ordinance requires officers to respect human rights, protect the life and dignity of citizens, and to abstain from engaging in, instigating or condoning any act of torture or other cruel, inhuman or degrading punishments or behaviours. The right to self defence is also recognised, provided that officers avoid using more force than is necessary, and also conform to the principles of correspondence, opportunity and proportionality when acting to prevent or frustrate a crime (Article 11, Clauses 10, 13, and 23). Articles 51 and 52 specify that officers should preferably use non-violent means in the course of their duties and should avoid the use of physical force or firearms, except that firearms may be used in self defence or the defence of others when there is an imminent threat of death or severe injury, or of the commission of a crime entailing serious danger to life. Article 79 sets down an extremely long list of disciplinary violations, of which the following relate to the use of force: negligence regarding the life and integrity of people in custody (Clause 3); permitting abusive or discriminatory practices that involve physical or psychological violence (Clause 6); using excessive force while making an arrest (Clause 17), inappropriate use of a firearm (Clause 28); physical or psychological abuse of citizens (Clause 32); public display of firearms (Clause 50); and unnecessary or careless firing of shots (Clause 52). These infractions can lead to the termination of employment, although Polioriente's legal counsel commented that termination is now regulated by national legislation on public employees, which sets out norms that are both more general and more strict in relation to this matter.

"Polioccidente" has an ordinance governing the Institute of Public Safety and Transport, to which the municipal police belong (*Gaceta Municipal* No. 2544-1, 23-9-2004), but there is almost nothing referring to the use of force by officers. Thus, the only provisions of relevance are found in Section V, Articles 56 to 60, which require officers to use only weapons and ammunition authorized and/or provided by the police department. If officers wish to use a different weapon firearm, the latter must appear in the National Register of Firearms (administered by the Ministry of Defence), and notification must be given to the director of the police department.

In criminal law, the only specific mention of the use of force is found in Article 282 of the Criminal Code (Venezuela, 2005), which restricts the use of firearms by the police to self-defence or the maintenance of public order. Article 65 of the Criminal Code provides for the legitimate exercise of authority and also for self-defence, provided that the means used in self-defence are proportional to the threat and that there has been no prior provocation of the aggressor by the person who acts in self-defence. If self-defence or the maintenance of public order cannot be proven by the officer, misuse of force is prosecuted as an assault or homicide while the wrongful use of the firearm is potentially prosecutable as a public order crime and subject to detention for three to five years. Article 117 of the Criminal Procedure Code (Venezuela, 2001) includes rules for the use of force when making arrests – for example, the force used must be "strictly necessary" for making the arrest, and weapons should not be used unless there is a threat to life or physical integrity – but violations of these rules do not constitute a crime, they merely open up the possibility of having a case thrown out because of improper police behaviour.

Civil law makes no specific mention of the use of force by the police but provides, in Article 1.185 of the Civil Code (Venezuela, 1982), for liability when someone has intentionally, negligently, or imprudently caused harm to someone else. Finally, the

Constitution (Venezuela, 1999) guarantees the right to life and physical integrity (Articles 43 and 46) and makes specific mention of police use of force when it prohibits the use of firearms and toxic substances in the control of “peaceful demonstrations” (Article 68).

The problems with these different rules regarding the use of force can largely be summarized as a failure to provide clear guidelines for behaviour in the situation. For example, the Criminal Code’s general statement about the right to self-defence cannot, by itself, provide a judgement about the appropriateness of shooting to kill, for much will depend on the specific details of the encounter. Other rules represent the inevitably unsuccessful attempt to provide an inventory of uses of force and situations. For example, although the Constitution prohibits the use of firearms and toxic substances in the control of peaceful demonstrations, it says nothing about other types of force (batons, dogs, bodily force) that may have serious consequences for civilians. Nor does it say anything about how firearms and toxic substances are to be used when demonstrations are not peaceful. Indeed, none of the rules relating to firearms indicate specifically how and when they should be used. For example, the U.N. guidelines authorize the use of a firearm “to prevent the perpetration of a particularly serious crime involving grave threat to life;” but at what point does perpetration begin, and how is the firearm to be used to prevent its perpetration?

In fact, these questions are rarely raised or answered in Venezuela because in most departments training in the use of force appears to concentrate more on techniques than rules, and interviews with officers reveal them to have almost no more guidelines than those provided by common sense (e.g., Birkbeck and Gabaldón, 1996). Periodic refresher courses in the use of force are almost unheard of, and some officers report that they have gone for years without firing a shot.

Finally, it is important to note that there is no systematic recording of instances in which force is used by officers. In contrast to the administrative arrangements in many high income countries, where officers usually must fill out forms reporting the use of lethal force, and quite often the use of non-lethal force as well (e.g., Pate and Fridell, 1993), Venezuelan police officers are not required to fill out paperwork relating to the use of force and, at most, may only have to report the use of supplies (bullets, tear gas canisters, etc.) so that departments can keep some control over their inventory.

#### **4. Use of Force Practices**

As cadets, police officers receive training in physical techniques for defence and attack (mainly Jujitsu), the use of handcuffs and the use of firearms. Once on the job, the inventory of weapons they carry and their level of expertise in handling them both vary greatly. Departments usually provide their officers with a firearm, typically a rather old service revolver, although the handgun arsenal is diverse and occasionally sophisticated among special units or the higher echelons of command. Long guns are sometimes carried by public order police (usually shotguns) and frequently by the National Guard (FALs). Target practice does not appear to be mandatory in any police force and depends on the initiative and resources of individual officers, who must find the time to practice and the money to buy ammunition.

Handcuffs are in short supply in many departments – to the point where a squad going out on patrol must ensure that there is at least one pair of handcuffs in the group. Officers can buy handcuffs to carry with them, but the cost is prohibitive – approximately half of a month’s wages. Many officers in the state and municipal police forces also carry

a baton, usually the *tonfa* or PK24, but not many are trained or skilled in using them. Chemical weapons are largely limited to tear gas for crowd control; pepper spray is rarely carried or used. Some forces also have a canine squad.

Centralized, accessible, and valid information on the use of force by the police does not exist, largely because officers are not required to file use of force reports. Most recording of the use of force is generated by citizens' complaints, but the latter are probably infrequent and certainly cannot be taken as a random snapshot of incidents in which force was used.<sup>3</sup> Thus, the absence of write-ups and the low frequency of complaints combine to make force a largely invisible component of police-citizen interactions; and to the extent that it is invisible, the use of force cannot be evaluated. Additionally, review procedures are clearly affected by labelling processes that make it relatively easy for the police to escape detailed evaluation. Venezuelan society has high crime rates and high levels of concern about those crime rates (Birkbeck, 2003), combined with a Manichean division of the social world into "decent citizens" and "criminals." The former merit trust and respectful treatment, while the latter are not to be trusted and deserve everything they get. The consequences of this moral framework are such that those who are superficially labelled as "criminals" and who feel that they have been physically abused find it difficult to press a complaint or to have their side of the story given serious consideration (see, generally, Birkbeck and Gabaldón, 2002).

But if there is no reliable estimate regarding police abuse of force, there is much evidence that serious abuses of lethal force occur with frightening regularity. One phenomenon of concern are "shoot-outs," in which the police kill civilians who have supposedly used or threatened violence against them. Shoot-outs are usually reported in the press in a matter-of-fact way that reflects the unproblematic nature of these encounters for most of the Venezuelan public. For example, during the period October 2002 – September 2003, the human rights organisation PROVEA (2003) identified 435 civilian deaths in shoot-outs that were reported in the national press.<sup>4</sup> A second phenomenon of concern are the extrajudicial executions at the hands of death squads, which are covert organisations probably composed of members of one or more police agencies that sometimes work in collusion with local community representatives (shopkeepers, etc.). The government's Human Rights Ombudsman reported 379 police homicides during 2003, most of them apparently extrajudicial executions rather than deaths in shoot-outs (Defensoría del Pueblo, 2004). Death squads may be operating in as many as seven states in the country.

## 5. Terminology Relating to Force

The word "force" appears only rarely in the legislation, ordinances and departmental policies regarding police behaviour and procedures. This aspect of police activity is

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<sup>3</sup> Anecdotal information from human rights organisations suggests that complaints are sometimes withheld for fear of further victimization by the police. (See the information on selected victims of alleged police homicides prepared by COFAVIC, a leading Venezuelan NGO specializing in support and assistance for the victims of police violence, available at <http://www.cofavic.org.ve/casos.htm>). An additional impediment to the registration of complaints is the difficult access to public institutions faced by many poor people (the principal targets of force), who may not have the time, money and *savoir faire* to successfully lodge a complaint.

<sup>4</sup> Figures for prior years were 272 (2001/2002) and 642 (2000/2001). It is noteworthy that although 435 civilian deaths in shoot-outs were reported by the press during 2002/2003, PROVEA only received 165 reports alleging police homicide, a figure that reinforces the impression that complaint rates are quite low.

usually touched on in references to the different instruments and techniques through which force is used. Thus, the most frequent references concern firearms and arise in the context of prescriptions or proscriptions regarding their use. Occasional, but far less frequent, references are found to other instruments, such as the baton or tear gas. The general term that is used for instruments and techniques is *medios*, i.e., means. For example, regulations frequently include something similar to the following: “officers must use means proportional to the threat or danger when responding to a situation.” The word force used to appear in the official name of many state police forces, for example, *Fuerzas Armadas Policiales del Estado Mérida* (the Mérida State Armed Police Forces), which reflected the former affinity (and links) between the police and the armed forces (called *Fuerzas Armadas*). However the reference to “armed forces” has now been dropped from the official name of many state police departments, which is a reflection of the growing trend away from the quasi-military ideology that once was strong in state policing. (As more recent creations, municipal police departments, including those that participated in the current research, usually just call themselves “police.”)

Common expressions and terms used by police officers themselves are as follows (the list is compiled from the focus group transcripts):

- *Disparar a manosalva*: shooting in advantageous circumstance (which is not allowed).
- *Neutralizar*: Literally, to “neutralize” the suspect. This is often mentioned as the objective behind both lethal and non lethal force.
- *Abatido*: shot down.
- *Encañonar*: aim a gun at someone.
- *Acción física*: “physical action,” when pulling the suspects out of the car.
- *Intimidar*: to intimidate or constrain suspects, so that they will be less aggressive.
- *Tiroteo*: gunfire. Often used to refer to the exchange of shots between the police and citizens.
- *Dar muerte*: to kill.
- *Pahh*: “bang!” (shooting, shots).
- *Percutar un disparo*: to fire a shot.
- *Liposucción*: “liposuction” (shooting and killing at close range).
- *Manos arriba*: hands up (accompanies an order to get out of the car).
- *Desabrochar la revólvera*: unbutton the holster (referred to when approaching suspects).
- *Hacer armas en contra de uno*: being attacked with firearms by suspects.
- *Desenfundar el arma*: unholster the gun (anticipating aggression).
- *De la cárcel puedes salir caminando, pero del cementerio no*: You walk out of jail but not out of the cemetery (the justification for shooting, even if in doubt about the situation, to preserve life).
- *Lopsin capsicum*: pepper spray (oleoresin capsicum).
- *Las técnicas de aprehensión policial a veces parecen duros, pero no hacemos nada con florecitas*: Techniques of police arrest sometimes look rough, but with little flowers we do nothing.
- *Mortadela*: luncheon meat (i.e., “dead meat”).
- *La policía lo agarró en la bajadita*: “the police got him as he was coming down” (in general, to get someone “as they are coming down” means to get them after they have done something and at a moment when figuratively or literally they

have to pass close by you and they are relatively vulnerable. In this case it refers to someone who has shot at the police.)

## **6. Important Critical Incidents/Complaints**

During late 2003, when the focus groups for this project were being conducted, there were no high profile incidents involving use of force by the police. The focus groups were conducted against a backdrop in which three phenomena were of ongoing importance, but none of which constituted critical incidents. The first was the continued political polarization of the police, in which elected politicians and other public officials tended to use the police for the furtherance of their own political ends (e.g., by protecting their own supporters and ignoring – sometimes harassing – supporters of opposing groups). However, given the cooling off following the failed general strike of 2002/2003, this tendency was less apparent than it had been previously.

The second phenomenon was the routine production of civilian deaths at the hands of the police, either as shoot-outs or through death squads (see Point 4, above). The number of such deaths has clearly increased since the late 1990s (when death squads were unheard of), but these deaths have raised little public concern except among the immediate victims and the human rights groups that support those victims (the average citizen apparently feels that alleged criminals or “antisocials” get what they deserve). For example, the Inter-American Commission on Human Rights (2003) compiled a report on human rights in Venezuela in which considerable attention was given to civilian deaths caused by the police or by death squads, but the report had little impact at national level. Certainly, neither this nor other initiatives from human rights groups has affected the rules or practice of the use of force. For police use of force to generate a critical incident, and perhaps calls for greater control, the victims must be labelled as “decent” (usually middle class or professional) citizens. The nearest critical incidents of this kind were a botched shoot-out following a televised hostage situation at a private clinic in the late 1990s and the recent (2005) execution-style killing of three university students in a Caracas precinct after they had failed to stop at a temporary checkpoint one night. While the 2005 incident obviously could not have affected our focus groups, the clinic shoot-out had also faded from view by 2003.

The third phenomenon of contextual relevance for the focus groups was the change in the Criminal Procedure Code in 1999. Until that year, criminal procedure was inquisitorial, formalist and written (Venezuela, 1962). It also gave police officers relatively wide powers of arrest and detention (suspects could be held in jail by the police for up to a week without a court order). On July 1, 1999, a new Criminal Procedure Code took effect which represented nothing short of a paradigm shift for the Venezuelan criminal justice system (Venezuela, 2001). The old inquisitorial system was replaced by a new adversarial system, characteristic of common law countries, based on oral proceedings, the right to trial by jury, the possibility of pre-trial diversion, and a modest role for plea bargaining (Pérez, 1998). The new Code also placed heavy restrictions on the detention of crime suspects by the police and on the use of preventive detention measures while adjudication proceeds. In fact, police actions in these matters are now decided by public prosecutors and the courts; on-the-spot arrests can only be made if suspects are caught “in the act.” These radical changes in criminal procedure met with appreciable opposition from the police, who lost considerable powers under the new Code, and from some elected officials who argued that it was “soft” on criminals. Although the Code was reformed twice (in 2000 and 2001) in order to toughen the measures that can be taken with suspects and convicted offenders, there is no doubt that the police still have far

fewer powers to arrest and detain than they did prior to July 1999. In the first six months after the new code came into effect, judges went into prisons and released thousands of inmates under a judicial emergency plan that was designed to eradicate the deleterious consequences of the old Procedure Code (under which suspects regularly spent one or two years in prison before being tried). This plan therefore put many criminals, or suspected criminals, back on the streets at precisely the moment when the police had lost the power to arrest and detain them. Given that the former police arrest powers were in some ways a means for the control and short-term punishment of certain groups of the population, it is tempting to speculate that the subsequent increase in fatal shootings by the police occurred partly in compensation for the loss of other means to deal with offenders. At the least, it is clear that the new Procedure Code has had a major impact on police work and it was mentioned quite frequently in the course of our focus groups.

## **7. Crime Rates and other relevant official data**

Violent crime rates in Venezuela have increased dramatically during the last 20 years. Most notably, homicide rates doubled from 8/100,000 in 1987 to 16/100,000 in 1992, and then almost tripled again to 44/100,000 by 2003.<sup>5</sup> This trend has undoubtedly fed social anxiety about crime and personal safety, especially in the nation's largest cities (the homicide rate in Caracas reached 133/100,000 in 2002). In a survey carried out in July 2003, crime (27% of respondents) was second only to unemployment (36%) as the country's most serious perceived problem (PROVEA, 2003), while in a national victim survey conducted for the government in April 2001, more than 75% of respondents reported feeling "unsafe" or "very unsafe" walking alone in their neighbourhood. The same survey also revealed quite negative opinions regarding the police. More than two thirds of the respondents felt that the police are not doing a good job in their neighbourhood.

With such high levels of concern about crime and personal safety, and with only lukewarm opinions about the effectiveness of the police, one response to the crime problem has been the use of violence against presumed criminals in some of the low-income neighbourhoods of the larger cities, occasionally ending in death. These "lynching" incidents, as they are locally known, are not recorded separately in police statistics and can only be tracked if they are reported in the press. A 1998 study found 26 cases reported during 1995 (twelve deaths, 14 injured) and 26 in 1996 (seven deaths, 19 injured) (Han Chen, 1998). Despite their relative infrequency, there appears to be quite widespread support for, or at least tolerance of, this kind of behaviour. A 1995 national opinion survey found that 57.2% of respondents approved of lynching as an alternative form of justice (Han Chen, 1998). A Caracas Metropolitan Area survey conducted in 1996 on urban violence found that 53% of respondents in low-income neighbourhoods, and 36% of respondents in middle- and upper-income neighbourhoods thought that it is acceptable to take the law into one's own hands. Nor is the acceptance of extralegal responses to crime confined to civilian violence. Almost one third of the sample (32%) in the same survey agreed with the statement: "the police have the right to kill criminals" (Briceño-León et al., 2000).

## **8. Methodology Used**

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<sup>5</sup> Property crime rates (including vehicle thefts – the property crime with the highest reporting rate) have not shown the same trend. They increased during the 1990s, but have stabilized or even declined since 2000.

The Venezuelan team undertook extensive testing of the scenario and the focus group methodology prior to conducting the focus groups that form part of the international project. The original scenario, as formulated after the Vancouver meeting in April 2002, was translated into Spanish and used with three focus groups conducted in Mérida (in Western Venezuela) during late 2002: two groups were of officers from the Mérida State Police (one with line officers, the other with supervisors), and one group was conducted with people from a low income neighbourhood. Visual, cartoon-style, depictions of each stage of the scenario were used to aid its presentation. The groups were facilitated by one of the project team, while three other project members sat outside the group and manually recorded the conversation and non-verbal communication. An assessment of this methodology quickly revealed two problems. First, the prompts for focus group members, asking “What would the police do?” and “What do you think about that?”, tended to produce a style of conversation in which focus group members spent a great deal of time talking about what the officers in the scenario might do, and very little time about whether or not a given line of intervention was justified or not (and why). Second, given the speed with which Venezuelans talk, and their tendency to talk simultaneously rather than sequentially, it proved difficult to capture an adequate record of the conversation.

In early 2003, project members therefore decided to modify the methodology in order to try and remedy these problems. First, the scenario was changed slightly to include the description of a specific police intervention at each stage of the unfolding events. The interventions mentioned were selected from plausible possibilities and were designed, as far as possible to avoid being obviously insufficient or excessive (which would have precluded analysis and evaluation by the focus groups and also made the scenario look unreal). At each stage of the scenario, the behaviour of the two young men was described, together with a response from the police officers (the visual materials were altered to include the police behaviour) and focus group members were asked “Do you justify what the officers are doing? Why, or why not?” Second, the focus group conversations were recorded by a professional sound technician and transcribed in their entirety by a specially trained research assistant who was familiar with the project. Non-verbal communication was also to be included subsequently by the project member responsible for recording that kind of activity during each focus group.

This modified methodology was tried on three further focus groups (one community group and two groups of Mérida state police officers – one with line officers and the other with supervisory officers) in mid-2003. It worked considerably better: the fact that we were recording the sessions appeared to have little effect on members’ dispositions to participate; these focus group conversations contained much more discussion about the justifications for the use of force; and the conversations were captured and transcribed verbatim. Only the non-verbal communication proved to be a challenge: its insertion into the text of the first focus group took so long that this aspect of the research was abandoned with subsequent groups.

This was the methodology we decided to use for the focus groups that would be conducted as part of the international project. The modified scenario is on the “Members Only” part of the PUOF website and is also available from us on request. The visual representations to accompany our presentation of the scenario are also available on the website.

For the focus groups that we would use for the international project, we chose two municipal police forces in the capital city (Caracas). The first was Polioriente, a department that serves the wealthiest municipality in the country, with much high-end commerce and housing, and most of the foreign embassies. The second was Polioccidente, which covers the much poorer and more populous central and western areas of Caracas, including many hillside *barrios* (spontaneous settlements) that are largely inaccessible, except by foot. We chose these two police departments for a number of reasons. First, the contrasting levels of income in the two municipalities broadened the range of experiences with police-citizen encounters and crime that our respondents would bring to the conversation. Second, Polioriente was controlled by the opposition, while Polioccidente was controlled by the government party, thus including both sides of the polarized divide in Venezuelan politics. Third, officers in municipal police departments are mainly involved in patrol work and therefore very familiar with the kind of scenario that we were presenting in the focus group, whereas the national police agencies have very specialized functions.<sup>6</sup> Fourth, being located in Venezuela's largest city, the departments that we chose would reflect urban policing (rather than small town or rural policing) and therefore be comparable in at least that sense with the departments chosen in the other countries that are participating in the international project.

Two focus groups were conducted with officers from Polioriente, on October 27 and 28, 2003. Both were held in the conference room at the Centre for the Study of Law, Catholic University, Caracas. Although the project team had requested ten officers for each focus group, a misunderstanding on the part of the police administration led them to send all 20 on the first day, of whom 14 turned up. Three of these, who were the last to arrive, were asked to return the following day and to tell their remaining colleagues to do so as well. Eleven officers remained for the first focus group, but only four attended the following day. However, it was still possible to conduct a focus group with only four participants, much advantage being gained from Venezuelans' relative loquacity. Two focus groups were conducted with officers from Polioccidente on October 30 and 31, 2003. These were held in the departmental canteen, and attendance was enhanced by conducting the focus group on site. Nine officers participated in the first focus group with Polioccidente and 10 officers participated in the second focus group.

We used exactly the same method with all of the focus groups. The project team included a facilitator (to present the scenario and guide the discussion), and three observers who were stationed outside the group and whose task it was to note down the order in which people spoke, fragments of conversation, and significant instances of non-verbal communication (all of which would be used to help triangulate the transcription). The facilitator used a visual representation of the scenario, placed on a flipchart facing the officers. The latter sat round a table for the duration of the focus

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<sup>6</sup> As a public order force, the Caracas Metropolitan Police has very similar functions to the municipal forces that also exist in the Capital District; indeed, at times the Metropolitan and municipal forces come into conflict when both intervene in a situation. We did not approach the Metropolitan Police for this project because in late 2003 the department was just emerging from a lengthy intervention by the Ministry of Justice (using the National Guard to occupy command posts and other facilities) that was part of the ongoing struggle between the government and the opposition for control of that police force. Officers' attention was focused heavily on the intervention and its consequences, and it did not seem that a request to conduct focus groups would be approved, or that focus groups would have elicited relatively calm reflection from participating officers.

groups, with the three observers positioned behind them or laterally. Several microphones were in place, connected to professional recording equipment that was located away from the area in which the focus group was taking place. Focus group conversation was recorded on tapes and then copied to compact disks for safer storage and easier handling.

Before each focus group began, participants were asked to fill out a brief form asking about their age, rank, years of service and educational level. In order to aid the project team, participants wore stickers with their first names on, but were assured that the focus group and its associated information would remain strictly confidential. Refreshments were offered during the focus group, on one occasion leading to a brief recess. At the conclusion of the focus groups, participants were given a key ring as a token of gratitude for their participation.

Each group began with a presentation by the facilitator, indicating the nature of the activity to be undertaken and giving assurances that the project had strictly academic objectives. After answering any questions from participants about the project, the scenario was presented sequentially and comments were elicited. As is typical in Venezuela, it was not difficult to get participants to talk, although it was somewhat more difficult to get them to talk one at a time. Participants found the scenario both interesting and plausible and would also narrate cases from their own experience that bore on the discussion at hand. While every attempt was made to encourage participation from all members of the focus groups it was almost inevitable that some participants would talk more than others. Relative disposition to talk did not appear to be affected by rank (in part because the structure of these municipal forces is quite horizontal), but seemed to reflect more individual tendencies to extraversion or introversion. However, in no group did one member clearly dominate the rest, and in no group did one or more participants refrain from saying anything. Groups varied in their level of enthusiasm and informality: the first group with Polioriente and (especially) the last group with Polioccidente were the most talkative and lively; the second group with Polioriente and (especially) the first group with Polioccidente were quieter and more reserved in their conversations. However, in general the facilitator did not need to do much to encourage participants to talk about the scenario (or related topics) and his main tasks were: asking for clarification if a participant said something that was not immediately understandable for the project team; to the extent possible, ordering the sequence of interventions by focus group participants; and presenting the next stage of each scenario once the current stage had been discussed. Disagreements about the scenario and the appropriate police responses were rare and minor; the general impression derived from the analysis of substantive content and conversational patterns is that in each focus group officers were involved in a collective construction of the analysis and representation of police work for the project team.

Following the conclusion to the scenario, participants or project members would often take a little time to talk about other aspects of policing and this conversation was also recorded. The focus groups lasted between two and two and a half hours. They were transcribed by a professional stenographer and then carefully checked and corrected by a project assistant. The completed transcriptions average almost 50 pages of single spaced text and approximately 24,000 words. These texts (obviously all in Spanish) are available from the project team in printed or digital form.

## **9. Analysis**

## Phase I, The Encounter

In the Venezuelan project, the first phase of the scenario was described as the spotting, by two officers, of two rather poorly dressed young adult males in a car which officers have reason to believe is stolen. These youngsters are familiar to the police because of their probable criminal records and because they are apparently smoking a joint. While being approached and asked to get out of the car, the youngsters refuse and verbally react in an abusive way toward the police. At this time, one of the officers opens the door of the car, orders the driver to get out and tries to pull him out of the car.

### a) Perceptions:

In the preliminary setting of the encounter, the main issues emerging from the officers' perceptions were related to the risk and dangerousness implied by the situation leading to the encounter, mentioned twelve times. Perceptions of risk and danger come mainly from the suspects, whose likely behaviour is unpredictable. One possibility is harm or death because of a hidden firearm, mentioned explicitly, as "while approaching the car they [the officers] could be shot at," or implicitly as "you don't know what they have in the car," or "the car can move and run over the officer." These respondents stressed the importance of the officers approaching the car along separate paths, in order to prevent a simultaneous attack, and some mentioned at this stage the importance of having backup. Comments were complemented by stressing the suspiciousness every officer should have in everyday routines: the need to be "suspicious" or "wary" about the risk of the youths using a firearm was mentioned nine times, but only five comments involved the explicit claim that the youths were probably in possession of a handgun. This suggests that officers have diffuse perceptions of risk and danger, rather than concrete perceptions of specific threats. The latter interpretation is supported by the number of comments (ten in total) highlighting a perception that members of the public – suspects, bystanders or neighbours - tend to stick together and to be uncooperative with the police, as the following statements show:

*Some of them become aggressive and irritated as we proceed, although others think it is normal stuff. (Polioccidente2, 6, Jo)*

*When you engage in such a procedure, people from the shanties start throwing rocks and bottles. (Polioccidente2, 7, R)*

*We need backup, but then people complain about police excesses, even if we are only two officers. (Polioriente1, 9: H)*

*...then people come and say: "he beat me up, he started everything," and this and that; so you need support from witnesses. (Polioriente1, 13: R)*

*...sometimes they [the suspects] say: "OK, you get me you out, if you want!" (Polioriente1, 14: A)*

Drug consumption appears to signify an unpredictable outcome and even a dangerous situation, as three out of four comments on the fact the suspects are smoking marijuana showed:

*They are under the influence [of drugs], so they are not willing to get out of the car. (Polioccidente2, 19: Ju)*

*They use drugs, and that's a stimulant. (Polioccidente2, 33: Be)*

*If they are using drugs, the level of danger is higher. (Polioccidente1, 5: R.)*

Nevertheless, five comments stressed that this is a routine police procedure which should not bring major problems or developments. One officer mentioned that this kind of encounter is unrewarding for the police, because a conviction is probably unlikely, so it would not be worth spending time approaching and checking out the suspects under these conditions:

*There are officers who become hesitant because they know people like this have been detained and released over and over again. Thus, the time comes when they overlook the situation and keep on going without doing anything. (Polioccidente2, 11: E.)*

b) Actions:

The most common action suggested by officers was ordering the young men to get out of the car (mentioned 18 times), while physical arrest was indicated six times and coercion and intimidation twice. Overall, physical interference with suspects was recommended for forcing the suspects to do something (like getting out of the car), or to stop doing something (such as consuming drugs), in 26% of all actions recommended. "Approaching" the suspects, which does not mean physical interference, was suggested nine times. Officers recognised the potential conflict inherent in the encounter when they recommended (twelve times) "speaking slowly, maintaining verbal contact and even to apologize if, after the search, nothing comes of it". Politeness was mentioned as a way of making it easier for the police when they approach citizens:

*Sometimes it is convenient to approach the citizen with good manners in order to avoid an escalation into aggression. (Polioccidente1, 11: E)*

*..if the subject gets angry because he's been approached, you talk and talk again until you get him to lower his temper. (Polioriente2, 10: A)*

While approaching the citizens and asking for papers is viewed as a way of verifying if the car is stolen or if the suspects have a criminal record, ordering them to get out of the car is seen as a way of avoiding a risky situation. Thus, some officers criticised the direct approach made on the car that was described in the scenario:

*I would use the patrol unit's loudspeaker for ordering them out of the car with their hands up, and then the officer would approach the citizen with due caution. (Polioccidente2, 13: Jua)*

*When trying to make them get out of the car, you act carefully and you cover a perimeter, in order to keep an eye on any third party. (Polioccidente1, 7: F)*

*You stop the patrol unit and then, acting carefully, you give the order for getting out of the car with their hands up. (Polioriente2, 5: J)*

Nevertheless, a physically coercive approach was also defended as a way for stressing the authority and presence of the police:

*I would stop them, search them, make them get out of the car in order to find out as much as possible: where the car comes from and the kind of stuff they've got with them. (Polioriente1,6: R.)*

*The officer behind should be at the back right side of the car, in order to neutralize the guy beside the driver and pull him out of the car. (Polioccidente1, 6: F).*

Physical restraint, in the form of “detention,” was suggested at times as a way for carrying out a full body search, or if suspects are not able to show an identity card and/or if drugs are found. In the latter case, arrest is mentioned when the suspect disputes the police action by pretending that a small amount of drug is not relevant. Thus, the officer confers a symbolic rather than an instrumental function on physical detention:

*Arrest the guy as soon as possible... they say that with such a small amount they will get a free ride out of jail, mocking the officer as they please; so you have to be as fast and as decisive as you can when carrying out your task. (Polioccidente1, 12: R)*

Acting with caution, was mentioned 17 times, and reporting to headquarters eleven times. Additionally, coordination with fellow officers was mentioned nine times, which overall means that in 37% of the cases the officers would employ measures aimed at preserving their own physical safety or producing safer behaviour on the part of the young men. This is consistent with the perception of uncertainty in the situation, as previously discussed.

#### c) Formal rules:

The most commonly invoked rule for supporting physical restraint through arrest and search was probable cause related to the evidence of the crime, in this case illegal possession of weapons or drugs. This search is extended to the car, once suspects are searched, and emphasis was given to the articles providing for search powers in legislation (*Polioccidente2, 12, M; Polioccidente1, 8: E*). Witness cooperation in corroborating the evidence was mentioned as important once the search for drugs had proved positive, so that the report being filed would have a solid basis (*Polioccidente 1, 9: Jo; Polioriente 2, 5: J*), even if it was only drug use, because *we have not legalized drug consumption here (Polioriente1,7,: R)*. Resisting the officers was mentioned as legal grounds for using force in order to search for stolen goods and crime prevention (*Polioriente1, 10: D*). One comment suggested that when citizens resist, officers are authorized to use physical restraint and to take suspects into headquarters for an “administrative sanction,” which was not specified (*Polioccidente2, 20: O*). Nevertheless, one of the officers mentioned that searching the car is not easily done because it involves *private rights (Polioriente1, 15: Re)*.

#### d) Informal rules:

During this stage of the scenario, two informal rules emerged for approaching the citizens and ordering them to get out from the car: a suspicious attitude (mentioned twice), and a police record (mentioned once). There was no clear indication of what a “suspicious attitude” might be, but the following statement gives some clues:

*We make an initial reconnaissance of how the people are behaving, how many of them there are, what signs the car gives to us, the place where they are parked, and the attitude of the guys once spotted by the police... there are many clues and you have to be very active on the streets... often you find a woman and her husband changing the nappy for their baby and you drop the case (Polioriente2, 6: J).*

Having a police record can be considered an informal rule because there is no legal basis for searching or investigating a person based on a police record. But a combination of acquaintance with the suspects and their low status seems to underlie the officers' decision to move in, revealing a clear differentiation between powerful and powerless suspects, as the following statement reflects:

*We are dealing with two people we know; they have a police record; the car is probably stolen and they are adopting an aggressive attitude toward us... we try every way get the guys out of the car, including blocking it off, but sometimes they refuse to obey, arguing that they are the brother of the president of whatever, and I have no right to pull them out of the car... but these guys [referring to the young men in the scenario], you know, they are "two jewels" [a mocking expression meaning two punks]. (Polioriente1, 14: Z)*

d) Justifications:

The most frequent justification mentioned for using force was *to prevent or to avoid an ongoing crime*, mentioned 18 times, even if not always in precise terms. Thus, one officer commented that a search would *at least avoid those people being there*, and another officer commented that *the person will stop committing a crime*, although it is not clear what kind of crime is being avoided (presumably one associated with drug use). Search and physical restraint seem to work as a way for charging the youths with drug possession, and even drug use (mentioned six times), although it is not clear how criminal proceedings could subsequently be sustained, as the following comments suggest:

*They are already showing serious behaviour because they are using psychotropic drugs for which I believe the punishment is stiff. (Polioccidente1,4: Ed)*

*If we are going to stop them because of the smell of grass, at least we have drug use, and you get them caught in the act. (Polioccidente1, 5, R).*

*If they are using drugs, besides the use itself, there is also drug distribution. (Polioccidente2, 12: Jua)*

Approaching the car and conducting a search was defended seven times as a means for preventing an unspecified crime, which might occur because of the characteristics attributed to the suspects. In these cases, the suspects' character is inferred from drug use or sitting in a stolen car, either of which would be an indicator of another crime, instead of looking for specific clues for a different criminal event. The following comments make this point clear:

*They are suspects because you don't know what they could be planning. (Polioccidente1, 4, J)*

*The police function is preventive, we avoid crimes... we are stopping these citizens from becoming criminals, or that when we've gone they will commit a robbery, a rape or engage in any kind of crime. (Polioriente2, 10: J)*

*The only thing you can imagine is that the car is stolen or that they [the young men] are thinking of doing something that's illegal. (Polioriente1,6: H)*

*Whether or not they're involved in a crime, our work is prevention; thus, our work is to try to prevent a crime. (Polioriente1, 7: H)*

*You are doing your job searching and deciding if there is something going on or if there is not, i.e., you're eliminating the chance that something happens. (Polioriente1, 7: K)*

Although officers mentioned four times that the main issue is to identify and to prosecute the specific incident they are dealing with, and that legality should be emphasized when charging the person with a specific offence, an underlying assumption is that the challenge to authority is a crucial issue for the police, as the following comment clearly shows:

*The police officer should work on basis of the rule of law, what is written in the law, if there is probable cause, because they are using drugs on the street, apart from their [the suspects'] lack of respect for the officers and their attempt to thwart the officers' actions; we are not going to use violence, breaking the window or pulling them through it, but using assertive behaviour. (Polioccidente1, 12: R)*

The second most frequent justification for force is to overcome resistance from the young men (mentioned twelve times) and it was often combined with the imminent threat of aggression against the officer. It seems that officers, at least at this phase of the scenario where there is no open attack on the police, combine aggression and its threat in a line of argument that stresses a broader perception of "active resistance" rather than "aggression." Overcoming this kind of resistance seems to be sufficient reason in some of the police officers' explanations for the use of force. In most opinions, the mere fact of resistance justifies the coercion, while it appears that in other cases the resistance is linked to a prior negative behaviour attributed to the citizen, as the following comment shows:

*If their action is aggressive, the more the reason to take one of them by the arm to get him out of the car... these are established parameters, because they are presumably drug users, and moreover they have a hostile attitude; thus, if there is aggression, I will try to subdue them with aggression as well. (Polioriente1: 8, R)*

In other cases, resistance is a symptom of wrongdoing or of hidden behaviour; thus, the use of force is presented as a way of controlling further illegal behaviour that is not yet evident in the situation, as the following statements show:

*If they become reluctant to follow instructions, you have to use force; there is probable cause to believe they adopt this attitude because they have something to hide, such as drugs, or the fact that the car is stolen, or any other crime. (Polioccidente1, 11: Jo)*

*A guy who has nothing to hide, a common citizen, leaves the police to do their work, including the searches. (Polioccidente1, 11: F)*

But the suspicion of hiding illegal goods or products, by itself, was mentioned five times as enough grounds for proceeding to search, which shows that this reason is independent of “active resistant” behaviour, as the following comments show:

*You have to find the way to make him get out of the car because they're hiding something; in order to avoid them running and get rid of it, so I would make them get out at any cost, even if I have to get into the car and fight. (Polioccidente2, 20: E)*

*These are safety measures, because you don't know what they could be hiding inside the car. Overall, we get more eye contact with them, so we make them get out. (Polioriente2, 7: Y)*

Insults were mentioned as a justification for the use of force three times, twice in a strictly retributive way and once as a possible substitute punishment by the police, because *here you know that if a guy insults you he will not be arrested for that (Policacaracas2, 20: E)*. The fact that a search was also perceived as an inconclusive procedure due to the small amount of drug that might be found (*Polioccidente1, 5: R*), suggests that such searches are carried out as routines that display police behaviour and are aimed at showing authority on the ground rather than building a case for prosecution. In this sense, three officers mentioned that drug use is enough grounds for physical restraint and search, but in four further comments, the qualification of the circumstances under which such a use is carried out and the visible display effect it carries seem to be the determinant factors predicting the decision to approach and search, as the following comments show:

*You evaluate the case. The car is parked there. It seems to be a residential area, an area where drivers cannot stop. Thus their hanging around is not justified. (Polioriente1, 6: K)*

*...they are using drugs there and some residents call the police, because they see strange cars in the area... (Polioriente1, 7: B)*

*... if we keep going and they're using drugs, people are going to say that the police don't do anything; while if we stop they will say we're working, because we saw them there and took action (Polioccidente1, 9: W)*

*.. We have to demonstrate to people we are not afraid. (Polioccidente1, 13: J)*

A police or criminal record was mentioned five times as a justification for a stop and frisk procedure, though from the context of such comments it is not clear what is the ultimate objective behind frisking. It seems that officers feel that their likely prior contact with the young men is sufficient for intervening without opening themselves up to claims of

abuse, unless they have a judicial arrest warrant, which would demand immediate action. A general sense of balance between an ostensive display by the police and a safeguard against confrontation seems to be the predictable pattern of action among police officers, as is clearly shown in the following statement:

*We stop them, they are suspects, we verify for whatever. You have to follow your "nose", as they say; everyone is armed and could hurt you, because it has happened many times: you stop them for running a red light, you don't suspect anything, the guy has just committed a robbery and he is armed, and when you approach him... well there have been a lot of officers killed that way.*  
(Polioriente2, 8: D)

## **Phase II: The Chase**

The second phase of the scenario describes the driver starting the car and driving off through the neighbourhood, after which the officers begin pursuit with the siren turned on, while informing headquarters. Shortly afterwards, the car crashes and the officers get out of their vehicle with guns in hand, shouting at the young men to get out of the car with their hands up.

### **a) Perceptions:**

At this stage, perceptions of danger and threat were mentioned only twice, while perceptions of opposition and resistance toward the police were mentioned three times. Two officers commented that lawyers and rich people can easily run off, and a third mentioned that respect for the police is disappearing.

A new issue that emerged was "poor procedure", which means that police should not have allowed the young men to drive off in the first place, and one officer mentioned "police malpractice" in this sense. One of the officers argued that if the people in the car were reluctant to get out, or became violent, backup should have been requested and waited for (*Polioccidente2, 23: Jua*).

Even if officers made fewer comments regarding situational uncertainty at this stage of the scenario compared to the previous phase, they did not dismiss the possibility that an armed attack could take place soon after the chase, after the collision, or at the point when they physically confront the young men. Running away was perceived as resistance by the young men, resistance that should be neutralized in some way, although the chase itself was perceived as a relatively unimportant matter compared to other more serious aspects of the situation, as the following comment reflects:

*We should not be too concerned at this moment, because if the people at Puente Llaguno [civilians who were shooting at the police in serious clashes in April 2002] were finally absolved of guilt, why should we make a big effort to catch these guys who are on the run? ( Polioriente1, 21: R)*

### **b) Actions:**

The most frequent actions mentioned were to unholster the gun (twelve times), as a precautionary action once the officers approach the car after the collision, and to start the vehicle chase itself (mentioned eleven times). Eight officers emphasised the need to notify headquarters about the chase. These actions were generally approved on the

assumption that fleeing is a sign that the young men are hiding something, because otherwise someone would not run. Although there were not many comments about unholstering the gun, two officers related this step to the need to neutralise resistance or to be on the defensive in case an attack came:

*You unholster the gun because of the guys' attitude. (Polioriente2, 16: J)*

*Because they flee and we don't know if they're armed or not. (Polioriente1, 24: T)*

Although shooting at the tires was praised in one comment, six more comments dismissed this line of action, arguing that those fleeing are not necessarily armed nor have they yet shot at the police. Two officers stated that shooting at the body should never be carried out before the men shoot at the police, while another justified shooting after the crash on the grounds of armed resistance to arrest:

*If you stop the car and at the moment you try to arrest the guys they resist the police action by firing at the officer, it is logical that you can fire against them. (Polioccidente1, 16: E)*

Arresting the fugitives was mentioned three times as an objective behind the vehicle chase, although the legal purpose of detention was not clearly stated, as the following comments show:

*Remember that their objective is to escape, to run for freedom, and yours is to stop them, with precautions. (Polioccidente 2, 25: Jo)*

*It's logical that you have to stop them, send them to headquarters and open an administrative file. (Polioccidente1, 18: E)*

*Well, he ran off, on this side. He should go this way and you will try to intercept him. (Polioriente2, 13: D)*

Three officers mentioned a "swift approach" to engage with the suspects and gain control, and even pulling the young men out of the car, something that should have been done "from the first moment". Four other officers mentioned giving assistance to injured people in the car, if there were any injuries. Two more mentioned the importance of making bystanders aware of the chase, by using the siren to clear the route and avoid accidents.

#### c) Formal rules:

Rules mentioned for this phase have to do both with the vehicular pursuit itself and with the use of force against the suspects. Even if the pursuit cannot be strictly considered as "physical interference" with the subjects, it is closely related to such interference, because it is a means of creating a new situation of proximity between the officers and the young men.

With regard to the vehicle chase, one comment concerned the need to report to headquarters on the whereabouts of the patrol car engaged in the pursuit; one officer mentioned that *sometimes or usually* the companion officer reports the route of the chase (*Polioccidente2, 29: Jua*), which suggests a common practice rather than a formal rule, although it was recommended in order to gain control over the situation. Another

officer mentioned the need to assess the motive for escaping, a motive which, presumably, will give more information about how to proceed with the chase:

*Definitely this is the way you should proceed, i.e., look inside the car to find out, why the subjects are escaping. (Polioriente2, 16: A)*

This comment is relevant, because in a real case of hot pursuit (involving hostages) that was narrated and extensively discussed by one group of participants, officers mentioned that the chase apparently began without the police knowing that hostages were involved. There was a considerable exchange of shots between the fleeing car and the police patrol vehicle and officers did not realize until after it was over that there was a hostage inside the car, despite the fact that his head appeared once or twice through the back window, presumably raised by one of the robbers in the car.

This rule is also related to the perceived prohibition of firing a gun at the back of a person, mainly because the justice system would be attentive to the whole process of using the gun, from unholstering to firing:

*...using the gun requires several steps, such as putting your hand on it, grabbing it, unholstering, aiming, putting your finger on the trigger and shooting, all of which are steps that are evaluated by the prosecutor and the judge. So you will have the gun on hand just for prevention, in case after the crash the suspects are not hurt and get out of the car firing at the officer. (Polioriente1, 25: Re)*

A rule regarding self defence appeared for the first time at this phase of the scenario, a rule apparently requiring that suspects fire first:

*The fact the car is escaping [does not] allow you to unholster and use the gun.. if I shoot and kill one of the guys, how can I prove self defence? (Polioriente1, 23: D)*

As we will see in the next stage of the scenario, this argument is fully developed when the confrontation occurs between the young men and the police officers.

c) Informal rules:

Informal rules also refer to both the vehicle chase and the confrontation with the young men.

In relation to pursuit, five officers recommended following the car “at a prudent distance,” so as to avoid any crash that could endanger the police patrol vehicle or result in other damages. Protection of property, including public property, was mentioned by one officer as a hindrance to free pursuit (*Polioccidente2, 26: E*). Another officer suggested that in his municipality hot pursuits “might be” forbidden (*Polioriente1, 20: Re*). Lack of clear rules for this kind of situation is reflected in comments such as: *you have to live the experience; it’s something unplanned; your adrenaline gets high (Polioccidente2, 25: O)*. Another officer commented that if a person runs from the police, the latter - like a *tiger that hunts a deer* - follows the person in the patrol vehicle (*Polioriente1, 20: Re*). One officer made the point that a pursuit could imply *harassment* of the pursued and could be used by fleeing offenders to justify even the death of a pedestrian as a result of the chase (*Polioccidente1, 15:R*). Nevertheless, vehicular pursuit seems to be indicated, as

a practical matter and despite ambiguous formal regulations, as a way of preventing or halting a crime in progress, as the following comment shows:

*That's the way you act, because you don't know who's inside the car, whether they have kidnapped someone or if they're going to commit another crime. (Polioriente2, 15: D)*

Confrontation with subjects provided the context for another set of informal rules. Aggression and the disreputable identity of the young men seemed to play a crucial role in the decision to use force, and the combination of these two variables seemed to indicate that force could be used without regrettable consequences for the police:

*Look at this: if you shoot before getting a response from these people involved, even if they are punks, or whatever, the one who gets into trouble is the officer... unfortunately, you have to wait for an attack from the others, for example with a gun, before you can respond. (Polioccidente1, 20: E)*

Nevertheless, if the threat of death is imminent, even if the civilian has not yet fired and the legality is not so clear, you can fire the gun, because the “fact rule” prevails over a “legal rule”, as the following rather confusing statement suggests:

*There is an imminent threat of death, nonetheless it is controversial... according to legal principles... the law says that, but in practice it is not that way. I was defending myself, and it is like a reflex, more than an action. (Polioccidente1, 20: R)*

The character of the person involved in the situation, whether a disreputable offender or a higher status citizen, can make a difference in the informal approach to the use of force:

*There are two guys who probably remained hurt inside the car. We do not exactly know who they are; we know they are two criminals, aren't they? But we are not sure... police action is justified one hundred percent. (Polioriente1, 24: H)*

Even if the talk is not explicit, nevertheless the issue of *being a criminal* seems to grant immunity to police officers whatever the result of the pursuit. On the contrary, other statements reveal that much more caution should be shown by the police when the fleeing person is of a superior social status:

*Unfortunately, in Venezuela laws are made for assholes, to screw them. An offender could look to be in the right because he's "daddy and mummy's boy" [a popular irreverent form of reference to the rich and pampered], or even a student, but in the end it turns out that he was a full criminal. (Polioriente1, 22: R)*

#### d) Justifications:

The most common justification for unholstering the gun while approaching the car (mentioned eleven times) was anticipatory protection. In some cases, carrying the gun outside the holster was considered to be a wise course of action in the face of a probable imminent attack:

*We don't know if they are armed or not, and they can shoot at us... so, first us, our safety. (Polioccidente1, 19: Jo)*

*...or they are waiting for us to approach them so that they can shoot at us. (Polioriente2, 15: J)*

*We don't know if they will get out [of the car] with a gun and shoot at us. (Polioriente1, 24: H)*

*If these people aren't hurt, they get out firing at the officers, so we must be alert to an exchange of shots in such a situation. (Polioriente1, 25: Re)*

*They run out of the car shooting and you have to be alert. (Polioriente1, 25: R)*

*We don't know in what condition they are getting out [of the car], they could even open a window and throw a grenade at us. (Polioriente1, 27: H)*

Some other statements describe uncertainty and suspicion, rather than the certainty that an attack is imminent, as in the following statements:

*We don't know if the guys have pistols or not; we don't know anything and we have to look after ourselves. (Polioccidente1, 19: Joh)*

*You never verified what was going on and whether the guys had guns. (Polioccidente2, 30: Jua)*

*We have to unholster our weapons because we don't know if they'll get out with a gun. (Polioriente2, 15: D)*

Other comments suggest a vague sense of a lack of safety, which is not necessarily related to a physical attack:

*After the collision, the approach is immediate, trying to prevent the guys having time to think. (Polioccidente2, 30: Be)*

*They [the officers] should be aware that they could be facing any kind of situation when they open the door of the car or give assistance to the citizens inside the car. (Polioccidente1, 19: E)*

In contrast, other comments see the handling of the weapon a part of a routine practice, with no reference to the perceived risks of injury:

*Until you get to the car and check the people there, you keep your gun unholstered. (Polioriente1, 25: T)*

*You are looking for criminals and you can make a mistake, so you point the gun at them, stop them and search, because you have to take care of yourself. (Polioriente1, 26: R)*

The fact that something could be hidden was mentioned twice as a reason for pointing the gun, adding in one case that the young men who were fleeing could have been in the course of committing a crime (*Polioriente2, 15: D*).

The chase itself was justified three times in terms of a presumed offence, either completed or in progress. However, four comments considered that fleeing itself was enough grounds for the pursuit, apart from any other specific objective, which means that the symbolic use of police power in response to a defiant attitude is a frequent justification among officers. Subjugation of the subject is very clear in the following statement, in which the avoidance of possible danger appears to be a collateral argument to the symbolic value of aiming the gun in order to display authority:

*Every time we stop someone we work with intuition and by the book.. we have to take precautions and the gun must be unholstered because the person must feel that he is under [police] control. In general, we look for criminals, and we can make a mistake. You point your gun at someone, stop them, search them and then, "Sorry, this is nothing personal"... I have to be alert, I have to take care of myself. (Polioriente1, 26:R)*

### **Phase III: Finale**

The last part of the Venezuelan scenario describes the young men getting out of the car and running away, one of them with a gun in his hand, while officers chase them on foot down a street where there are pedestrians. When the officers see the gun, they order the young man to halt and fire a warning shot in the air. One of the men turns round and shoots at one of the officers, who responds by firing at him several times.

#### **a) Perceptions:**

At this point, the situation clearly appears as one of flight from the police, after the crash, followed by one of the young men firing at one of the officers; thus, it is not surprising to find fewer comments about what is going on and some of them were simple repetitions of what was already described in the scenario. Nevertheless, it is worth mentioning two comments that reveal a perception of opposition to the police, or at least a lack of support for police intervention, from people who might have witnessed what is going on:

*...when these kind of things happen you'll have trouble getting witnesses, because people get afraid... even if they saw what happened they would certainly refuse to testify, particularly when there are injured people involved. (Polioriente 2, 24: Y)*

*..as soon as people die, they [the witnesses] are more reluctant to cooperate. (Polioriente2, 24: J)*

These comments reveal how the police often have to coax bystanders to serve as witnesses, despite the fact that witnesses are legally required to provide testimony. Thus, the police perceive testimony as "collaboration", i.e., some kind of benevolent disposition towards the police officers involved in a shooting, a topic that warrants further research. It is not clear if this perception comes from the fact that people generally disapprove of shootings by the police or because potential witnesses are afraid of retaliation from the victims of shootings (or their relatives). In any event, these comments

point to a crucial issue in police accountability: the support of third parties for corroborating an account of a shooting.

Three officers made explicit claims that the officers in the scenario had not followed rules for safety and/or that they had been negligent by letting the situation get as far as the crash and the subsequent foot pursuit, suggesting that swift action at the beginning could have avoided the final confrontation:

*There was an excess of confidence regarding norms for safety, the procedure was not [carried out] as it should have been. (Polioccidente1, 38, E)*

*If they had acted as they should from the beginning, they would have made the guy get out of the car. (Polioccidente1, 39, O)*

*They acted incorrectly, because they didn't get the guys out of the car and find the weapons; and this is simple, a matter of ten minutes. (Poliocaracas2, 26: R)*

b) Actions:

At this stage in the scenario, more than half of the comments referred to actions. Thus, 20 comments referred to the shooting; 14 dealt with avoiding warning (or risky) shots; four comments referred to shooting at the body of the suspects and two of them dealt with the avoidance of shooting at the body.

Shooting at the suspects was recommended once the latter had fired at the police, or even when they had made a clear move showing the gun, provided that the police response was in reasonable proportion to the presumed attack:

*On taking out his gun, [the suspect] practically rose up against the police. But if they are not equal, if there is not strict proportionality, one could shoot at the foot to neutralize him. (Polioriente2, 16: D)*

Nevertheless, shooting at the suspect's back is generally disapproved of (*Polioriente1, 29: T*), because it would be taking unfair advantage - "mano salva", as they say, i.e., if the guy has not yet shot at the police (*Polioccidente2, 34: Jo*). Once the decision to shoot has been made, the aim should be precise (*Polioriente1, 33: A*).

Many officers stress that shooting should be avoided, if doing so would be unsafe, which means that it could hurt bystanders or innocent people, as the following comments on warning shots show:

*What if someone is hanging the clothes out to dry? (Polioccidente2, 33: O)*

*... he could hit a lady (Polioccidente2, 34: Be).*

*If you hit someone you get jail: a warning shot is inadmissible. (Polioccidente2, 34: E)*

*An officer should never fire a warning shot. He doesn't know if people around might get the bullet. (Polioriente2, 16: D)*

*The warning shot does not exist: you can hit a girl or a lady on the balcony. (Polioriente1, 28: Re)*

Other comments relate to “cold bullets”, i.e. the weight of the falling projectile after its force has been expended:

*Never shoot upwards. There are heavily populated areas, zinc roofs, a bullet twice its weight. There children could be killed in the cot. (Polioccidente1, 22: R)*

*It is what we call “killed by a cold bullet.” Once the shot has been fired, the bullet comes down and it will kill someone just the same. (Polioriente1, 33: R)*

Notice in almost all these comments the emphasis on vulnerable victims who would garner great sympathy if shot, such as children, the elderly and women. It is clear that officers feel very sensitive, indeed vulnerable, to possible claims from respectable people or those would be perceived as being the victims of abuse because of careless behaviour. Thus, comments about care when firing a weapon seem have more to do with the potential for complaint from (or about) these victims than from strict professional rules set by the police as an agency.

During this phase of the scenario pursuit was mentioned seven times, its objective being to capture the fleeing subjects, preferably on foot considering the difficulties in accessing many places by car. Neutralization of the subjects was mentioned twice, in one case through the suggestion of physical defence techniques (Polioriente1, 31: Re). Two officers mentioned the need to keep an eye on both vehicles (that of the suspects and that of the police) thinking that if the police vehicle was left on its own there could be vandalism (Polioccidente2, 32: Jua). There were virtually no comments about securing evidence and protecting the scene of the incident, which means that it was not clear if the capture of the fugitives had to do with preparing a criminal case or something else.

c) Formal rules:

Rules mentioned during this phase of the scenario dealt mainly with firing a weapon, and involved at least three, each related to the other. Firstly, self defence (mentioned eight times); second, the “safe shot” (also mentioned eight times); and third, “not hurting innocent people” (another eight times). Not shooting someone in the back and not shooting at a fleeing suspect (mentioned seven times) are the inverse rendering of the self defence rule. Proportionality in the use of force (mentioned three times) and shooting at the legs (mentioned twice) can be considered as versions of the minimal force rule. Safe shots and not harming innocent bystanders can be considered as expressions of a complex rule which prescribes careful aim when shooting and hitting the appropriate target. Officers also mentioned the need to preserve the scene of the incident as a way of sustaining a legal case on their behalf.

Self defence is the clearest rule related to the use of the gun, even if it was not always explicitly formulated:

*The action must not come first from us, but from them. (Polioccidente2, 34: Jo)*

*Now there is a precedent which states that if the criminal is shooting that way [over his shoulder or under his arm while running away] and you shoot at him, the self defence argument is accepted. (Polioccidente2, 35: J)*

*[He] is now shooting at the police, and even if the officer kills him by shooting the guy in the back there is no legal problem, because there is an exchange of shots. (Polioriente2, 23: D)*

*As soon as the offender aims at the officer there is self defence, because he [the offender] is trying to neutralize you and it is my defence against his. (Polioriente1, 28: Re).*

*We only use our guns for self defence and for defending others. (Polioriente1, 31: J)*

The “golden rule” seems to be: the suspect shot first; or at least (but not so good), he was on the point of doing so. This is very clear in different statements made by participants in the focus groups. Notice, also, how officers referred to this situation as involving “offenders”, which implies a presumption of guilt and a devalued identity for the fleeing young men. One of the officers went into great detail when commenting on the forensic problem of identifying “defensive wounds” among suspects (wounds which could indicate that the police had murdered the person rather than acting in self defence):

*From a legal perspective some think that if there are defensive bullet wounds in the hands, the guy tried to defend himself; but these facts should be cleared up from a technical and scientific point of view because... what if the guy had a cap and while shooting was trying to fix his cap and that is why I hit him in the hand? (Polioccidente1, 23-24: R)*

These comments show that officers understand the rule stated in Article 65, Subsection 3, of the Penal Code, which cites both real and imminent aggression as grounds for self defence. This article covers shooting when the person is aiming a gun at the police, or even shooting him in the back if he was the first to shoot, provided that there is still the need to use force.

The safe shooting rule indicates that police officers should shoot only in conditions which favour hitting the appropriate target, avoiding unintended results. There is an emphasis on expertise and training. Safe shooting does not necessarily mean “a shot at the central body mass”, as the following comments show:

*The officer must be sure how to shoot. (Polioccidente2, 35: Jua)*

*To hit the target. (Polioccidente2, 35: E)*

*What the law requires is a frontal shot. (Polioriente2, 18: A)*

*As a police officer, you should know when the appropriate moment is; which speed you should run at. (Polioriente2, 19: J)*

*I think you are able to know where to put the bullet... if you are in pursuit, you keep a prudent distance and you know where to aim. (Polioriente2, 19: D)*

*...our shots are effective. (Polioriente1, 31: J)*

*The shot is at the chest [as a principle]. Then you take courses on how to hit there, here, on the side, while standing or jumping, in other words, under different conditions. (Polioriente1, 42: K)*

A closely related rule is to avoid hurting innocent people, which is a correlate of the rule not to shoot indiscriminately:

*There are "civilians" around there; you can't hurt them. (Polioccidente2, 36: M)*

*If this officer runs along shooting and one of the bystanders gets hit, the officer will be jailed immediately. (Polioccidente2, 36: E)*

*No one knows where the bullet could go; it could injure a third party. (Polioccidente2, 36: Be)*

*There could be manslaughter. (Polioccidente2, 36: M)*

*Beware of bystanders. (Polioriente2, 19: D)*

*Keep an eye on the people who are around, the onlookers. (Polioriente2, 21: D)*

Not shooting at the suspect's back seems to be a widely shared rule, even if not unanimously accepted by officers. It is closely related to the rule of proportionality (mentioned twice) and the argument seems to run as follows: shooting at the back suggests that the officers took an unfair advantage from the suspect's position; this should be avoided in order to prevent any negative consequences arising from administrative or legal review of the officers' actions. However, if there is no doubt that the suspect fired the gun first, shooting is acceptable, although the police will have to prove, using standard forensic practices, that the suspect shot first. Some comments confirm this way of thinking:

*They teach us that we should not fire at someone's back, and that we have to take care. (Polioccidente1, 24: Joh)*

*This is why we have been trained to shoot at the legs, not at the back. (Polioriente2, 18: D)*

*If you hit someone twice or three times in the back the judge will say: this officer didn't try to neutralize, but to kill him outright. (Polioriente2, 18: J)*

*From a legal point of view, you can't kill anybody [by shooting them] in the back. (Polioriente1, 36: Re)*

*You always try to avoid this kind of shot, but it is admissible. (Polioriente1, 38: Re)*

Proportionality is emphasized in various comments referring to the use of the gun by the police, mainly in the context of confrontations with suspects, although it conveys the sense of a broader rule which would require adjusting the means employed in the

situation with the scope and danger involved in dealing with it, as the following statements suggest:

*As the law states, if they are not equally placed the force is not proportional. (Polioriente2, 16: D)*

*They are pulling out a gun, so we are in proportion with them. (Polioriente2, 17: D)*

*When judges evaluate a shot in the back they usually take it as an abuse by the police. (Polioriente1, 38: Re)*

d) Informal rules:

Few informal rules were mentioned at this phase of the encounter. One of them, which emerged tangentially to the scenario itself, had to do with the authority for dealing further with the case by the police department which confronted the suspect and was involved in a shooting, as expressed through the following comment:

*They [another police department] waited for the fleeing suspect and shot at him. The guy took his gun and threw it over the bridge. We caught the guy and the investigation was then continued by them because they had already wounded him. (Polioccidente2, 34: Jo)*

With regard to overlapping jurisdictions, it is not clear why the department that intervened in the second place kept control over the investigation on the grounds that they had shot the suspect. Perhaps the overriding concern was that there was a wounded person (something that might have been more serious than the chase or some minor offence that led to the chase); or perhaps the police knew they had acted improperly and wanted to “arrange” the evidence in such a way as to avoid the risk of prosecution.

Another informal rule which seems to emerge is that an aggressive individual should be subdued at any cost. Here is a comment that seems to support this rule:

*From the moment they become aggressive towards the police, they should be overpowered, whether or not they are armed; that's it. Once the patrol vehicle arrives and the guys are surrounded, where are they going to run to? Things shouldn't get further than this point. (Polioriente1, 30: R)*

This seems to be a rule because it is clear from many comments that officers perceived that the initial situation had developed in a dangerous and complex way far further than was necessary. This comment at the final stage of the scenario suggests that the officer summed up all that had been happening during the scenario in order to underline the desirability of a proactive stance on the part of the police so as to avoid escalation to armed confrontation.

One officer commented about the “instinctive shot,” thereby referring to a situation where an automatic response, related to training and practice, would determine a course of action not necessarily matched with an informed evaluation and assessment. But it is not clear if this is a rule or an unintended consequence of being exposed to danger in particular circumstances:

*When instinctive [the shot], the conscious is not present; rather, it is the subconscious. That's why I cannot say shoot at the hip, because the subconscious will dictate the response you are used to: shoot at the chest. (Polioriente1, 42: H)*

c) Justifications:

The most common justification mentioned was confronting the attack launched by the young men (mentioned 23 times). In some cases, a clearly instrumental reason, such as neutralizing the attacker, represented the whole argument, as the following examples show:

*That's why the officer shoots, to neutralize, to respond to the attack. (Polioccidente2, 35: O)*

*If they attack the police, it is logical to respond. (Polioccidente1, 22: E)*

*They are attacking the officers and - this a very well known fact - you then have to follow the rules, that is, repel the attack, and that's it. (Polioccidente1, 23: F)*

*They are shooting at us; we are not going to blow them kisses or throw stones, we have to shoot. (Polioriente1, 33: T)*

*The officers are repelling the attack, in other words, there is an equilibrium of forces. (Polioriente1, 37: Ja)*

*They are shooting at us. (Polioriente1, 37: A)*

In other comments, the young man firing at the police was labelled in negative terms, which suggests that gun use not only has the instrumental function of repelling an attack, but also the additional function of punishing someone who is socially disreputable or who otherwise deserves punishment, as the following comments suggest:

*The officer is repelling the action by the criminal, and you can get out of jail, but not out of a cemetery. (Polioriente2, 23: J)*

*This is a criminal on the verge of committing a crime, and you have to think about your safety, be aware of the attack. (Polioriente2, 23: D)*

*Situations evolve quite quickly, and you lose your life; in that case [talking about another situation involving fellow officers] things went in our favour: criminals were killed, but not Officer K. (Polioriente1, 35: R)*

*A person firing at the police is a criminal in the course of committing a crime, and you have to protect yourself (Polioriente2, 23: D)*

When using the gun, this justification for repelling the attack is crucial for the investigation that could take place after the event. Many comments referred to the reconstruction of suspicious facts, such as the position of the corpse at the scene. Officers frequently said that they have to justify self defence at a trial, and the fact that many incidents end with the death of the civilians *...is not because of the mere fact of their being armed, because you have not yet justified your action, but because our shots*

are precise (*Polioriente1, 30: J*). The latter statement shows confusion between the grounds for using the gun and effectiveness of the shooting itself.

Repelling aggression is extended to attacks involving less-than-lethal weapons, such as knives, and even to physical attacks when they involve a risk for the officer because of the great strength or appearance of the attacker (*Polioriente1, 39: K; Polioriente1, 39: H*). From these comments, it seems that officers do not see alternative, less lethal, means for repelling attacks, and that the threat to life is sufficient to warrant shooting, even if the law does not cover them completely. This interpretation is supported by the following comment:

*When you go in pursuit and they are shooting, it may be not legal but it is justified [to shoot] because you are defending your life and that of others. (Polioriente1, 37: K).*

Neutralization (subjection, restraint, control) of the person was another justification mentioned by officers. This control may have arrest as its objective, or the avoidance of damages to third parties, and can be achieved by simply pointing a gun at the individual:

*In that case we were able to neutralize the guy at gun point [speaking about a pursuit of two robbers that ended in arrest]. (Polioccidente1, 26: R)*

Arrest was mentioned three times as the explicit objective of the chase described in the scenario. Nevertheless, it seems that once the suspect fired on the officers, the idea of killing him becomes an objective, and one that is independent of self defence or confronting the attack, as the following comments show:

*If the situation becomes irregular with an exchange of shots, this guy is luncheon meat [i.e., "dead meat"]. The citizen [the same suspect] isn't leaving. (Polioriente1, 28: Re)*

*If he is armed and exchanges fire with the police, he would end up dead. (Polioriente1, 30: D)*

*This guy is already dead [because he shot at the officers]. Polioriente1, 33: R)*

Although the above comments were made in only one focus group and may not be representative of all officers, the context suggests that officers perceive an armed confrontation with the police as a situation in which a civilian death following an exchange of shots is fully justified. We have previously found this kind of attitude in other interviews conducted with Venezuelan police officers (Birkbeck and Gabaldón, 1996).

A *state of need* (in Spanish, *estado de necesidad*) as an independent justification was mentioned twice. One participant mentioned the perceived risk to the officer's life, even if aggression was not evident, a figure more related to what in legal terms is called *putative defence*, i.e., a situation in which there is no actual attack but an excusable mistake (*Polioccidente2, 33: Jo*). The second justification was geared towards the prevention of further shots from the fleeing suspects, because even if these were not aimed at the officers they could put bystanders' lives in danger (*Polioriente1, 37: H*). These two cases are clear instrumental or teleological justifications.

## General Appraisal

The perceptions of the police can be basically characterised as relating to risky encounters with suspects that involve potential harm to the police themselves as well to bystanders, even if the situation begins with a relatively banal and routine encounter. From the start, the officers perceive possible alliances among citizens that work against them, thereby lowering the chances of successfully carrying out their work. Fleeing from the police is perceived as an unacceptable challenge to police work, while uncertainty seems to play a secondary function as the suspects escape from the police, even if potential aggression is always present once physical contact becomes unavoidable after the crash. The flight is something that could have been avoided with a “proper procedure,” although officers would still seem to engage enthusiastically in a pursuit whose ultimate purpose is not very clear, and which might even contravene departmental rules (intended to avoid unnecessary risks) that require them to ask for backup. Rather than arrest and prosecution, restoring authority and saving face seem to be the main motivations for the pursuit. As the crash and flight on foot develop, the suspects’ behaviour becomes very clear and there is less margin for doubt about what might happen afterwards. In some comments, officers even anticipated the firing of shots by the suspects before it was described in the scenario. Once again, a perceived lack of support from bystanders is evident, and attention now concentrates on the possible support for the reasons given for using extreme force during the last stage of the scenario.

Even if there is a perception of risk right from the start, as well as a clear lack of confidence about the chances of building a criminal case against the suspects, withdrawing from the scene is very seldom mentioned as an option. As soon as the situation develops, a pattern of behaviour seems to appear among police officers in which overcoming real or assumed resistance becomes the central issue, mainly as an expressive way of counteracting defiance against the police. This is clear from the comments on the ambiguities of using drugs as a prosecution offence and the doubts about the chances for getting an eventual conviction, which suggest that the police do not perceive themselves as a functional part of the criminal justice system.

Once the young men take off in the car, hot pursuit (which in itself is not physical interference) and pointing the gun at the suspects were the actions most frequently suggested. At this point in the scenario shooting at the car or at the suspects was mentioned for the first time, but the overwhelming majority of officers disagreed with shooting at the car on the grounds that the youths had still not shown aggression towards the officers and that there was a danger of injury to third parties. Nevertheless, in an extensively commented case in one of the focus groups, shooting at a fleeing car (even with the possible presence of hostages) was praised by officers as an appropriate way of dealing with fleeing robbers. When the physical confrontation becomes evident, the dilemma becomes one of to shoot or not to shoot. Warning shots are dismissed overwhelmingly on the grounds that it is a risky action that puts innocent people in danger. Shooting at suspects was not treated uniformly. Some of the officers spoke of aiming at the central body mass as a target, while others suggested alternative, less lethal, targets in the body. Shooting the suspect in the back was generally discounted because it represents a legal risk for the officer, not for technical or professional reasons. At this stage in the scenario, self defence is a central issue, and there are no suggestions that the officers should leave off the pursuit until backup arrives, even when

backup was mentioned as useful. Considering the relatively banal situation described at the beginning of the scenario, the pursuit seems to be clearly related to the expressive function of asserting authority, rather than with the instrumental function of delivering the suspects to the criminal justice system.

Formal rules expressed by officers were both substantive and procedural. The most salient substantive rule adduced was self defence, which is clearly established in Article 65, Clause 3 of the Penal Code. This rule was used for defending the decision to shoot, and is related to other rules, such as the proportionality of the response, not shooting at the suspect's back, not shooting a fleeing offender, and avoiding hitting innocent targets, all of them related to the three legal requirements for self defence: unjust attack, necessity of the means employed for repelling it, and lack of provocation by the person arguing self-defence. Officers seemed to be aware of both the legal and jurisprudential qualifications of this rule, which was manifest in the nuances in their comments about not shooting at the back, and about the "steps" that need to be verified for determining that firing the gun was the appropriate action. Procedural rules are mainly concerned with the grounds for searching suspects and cars, and with hot pursuits, and involve related guidelines on gathering evidence, preserving the scene of the incident (including vehicles), avoiding damage to property and requesting and obtaining backup. Officers mentioned both the Criminal Procedure Code and departmental guidelines, although – somewhat surprisingly - they were less specific about the latter than the former.

Informal rules can also be distinguished in substantive and procedural terms. The first relate to qualities or conditions attributed to the subjects in interaction with the police, while the second relate to the ways of acting. Suspicious behaviour and police record were frequently mentioned as triggering conditions for police intervention, even if there was little elaboration of the first of these. From the few comments available, suspicion appears to be constructed through the combination of personal characteristics, such as gender, age or behaviour toward the police, and situational factors, such as the development of the encounter and the characteristics of the neighbourhood, even though the description in the scenario gave officers enough clues about the young men involved. Social status emerged as an important variable determining informally what the police should do and how it should be done. High status is related to positions of social or political power, while low status is associated with criminal labels and labels of moral disrepute. Police officers complained that high status citizens hinder police actions in many cases, producing frustration and anger, but also impotence, because of the fear of retaliation. Disreputable labels are not coextensive with low status, as revealed by some comments on powerful, but not respectable, people. Impunity with impotence emerge as issues related to power, even if status is not always the issue.

Procedural informal rules were mentioned mainly in relation to the pursuit and to the reduction of risks arising from it. Keeping a "prudent distance" was mentioned, but no references were made to instruction manuals. Additionally, control over the case by the police force that first shot or injured suspects was an informal rule that seems to have a broader implication relating to the "pre-eminence of the police force affected by the situation." In turn this latter consideration seems to underlie various forms of police punishment (Monsalve, 2004).

Justifications for the use of physical force are mostly instrumental, in the sense that they are presented as a way of obtaining an objective beyond the use of force itself. In this sense, preventing or interrupting a crime, neutralizing a suspect and responding to

aggression can be interpreted as having the objective of thwarting a crime in progress, arresting a person for prosecution and stopping an unlawful attack. Nevertheless, there is generally little elaboration regarding the precise crime to be interrupted, or about the requirements and conditions for a successful prosecution and the extent to which aggression is effectively thwarted.

For example, drug use has an ambiguous status as a crime, and officers seem to perceive that there is little chance for successful prosecution in these cases. Similarly, hiding objects is a rather imprecise description of the nature of the crime. Arresting the fleeing suspects is not clearly related to prosecution (which would be a teleological justification), but is rather associated with completing an intervention that had begun in a bad way, as if arresting were a matter of saving face. Indeed, in this case, besides the accomplishment of police control, which could be seen as instrumental, there is a strong tendency toward the affirmation of authority, which is an expressive use of arrest.

Even in more well defined situations of attack, insults and resistance are frequently conflated with aggressive behaviour, suggesting a broader interpretation of “active resistance” which should be ended or even punished. Additionally, the symbolic affirmation of authority, which is an expressive rather than an instrumental justification, is clearly involved in justifying the use of force when comments are made by officers regarding the location of the scenario, the audience and demands made by neighbours. But even in the extreme case where the suspect fires the gun at the police, the label “criminal” attached to those attacking the police suggests that an additional component of moral disqualification and censure is present in an apparently instrumental justification, and seems to set the scene for a use of force that does not have to cease immediately at the moment the attack is halted, but could be continued. This becomes very clear in the discussion on how “delivering death”, as some kind of ultimate punishment, could be given to the young men once they have fired at the police, despite the further development of the aggression itself.

In conclusion, one could say that justifications for the use of force combine instrumental and expressive reasons, in which the causal component, i.e., what the person has done before the encounter or is doing during the encounter becomes crucial for predicting the decision to use the force and the amount of the force employed. From this perspective, the “causal” model prevails over the “teleological” one.

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