
Investigation of the Puerto Rico Police Department



United States Department of Justice
Civil Rights Division

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EXECUTIVE SUMMARY

The Puerto Rico Police Department is Puerto Rico's primary law enforcement agency. Its mission is critical: To protect and serve the residents of Puerto Rico by designing and implementing policies and practices that control crime, ensure respect for the Constitution and the rule of law, and enable the Department to enjoy the respect and confidence of the public.

Many hard working and dedicated PRPD officers serve the public with distinction under often challenging conditions. Unfortunately, PRPD is broken in a number of critical and fundamental respects that are clearly actionable under the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141 ("Section 14141"). Based on our extensive investigation, we find reasonable cause to believe that PRPD officers engage in a pattern and practice of:

- excessive force in violation of the Fourth Amendment;
- unreasonable force and other misconduct designed to suppress the exercise of protected First Amendment rights; and
- unlawful searches and seizures in violation of the Fourth Amendment.

In addition to these findings, our investigation uncovered other deficiencies of serious concern. In particular, there is troubling evidence that PRPD frequently fails to police sex crimes and incidents of domestic violence, and engages in discriminatory policing practices that target individuals of Dominican descent in violation of the Fourteenth Amendment, the Safe Streets Act, and Title VI. At this time, we do not make a formal finding of a pattern and practice violation in these areas, in part because PRPD does not adequately collect data to evaluate these issues. However, we are quite concerned that PRPD lacks basic systems of accountability to ensure that all individuals are treated equally by PRPD officers, regardless of race, ethnicity, national origin, or sex as required by federal law. Furthermore, our investigation raises serious concerns that PRPD policies and practices are woefully inadequate to prevent and address domestic violence committed by PRPD officers. We find that these deficiencies will lead to constitutional violations unless they are addressed. PRPD's continued failure to keep necessary data in light of our findings and despite knowledge of these indicators of a very serious problem, may constitute a pattern and practice that violates federal law.

We recognize that PRPD faces significant challenges as Puerto Rico's primary law enforcement agency. The unconstitutional acts that we have identified arise at a time of crisis in public safety. Contrary to national trends, violent crime increased overall in Puerto Rico by 17% from 2007 to 2009. In 2010, Puerto Rico saw the second highest number of murders in its history, a trend that is escalating in 2011. The clearance rate for murders remains below the national average. Some Puerto Rico officials maintain that drug trafficking and social deterioration are fueling the wave of violent crime. However, increasing crime cannot be used to justify continued civil rights violations or the failure to implement meaningful reforms. Constitutional policing and effective law enforcement are inextricably bound. Public safety depends on the trust and cooperation of the community, which in turn depends on constitutional police practices that respect civil rights. Our previous efforts in working with large police departments strongly suggest that by addressing the civil rights concerns we raise in this report,

the Commonwealth will not only meet its constitutional duty, but also reduce crime, improve public safety, and increase community confidence.ⁱ

For many years, victims' families, civic leaders, legislators, and civil rights advocates have voiced concerns over chronic mistreatment by police. For example, over the past decade, various legislative measures have called for comprehensive investigations of police misconduct, greater education and training, and an accounting of public funds spent on civil rights lawsuits against the Commonwealth. Other grass-roots and advocacy organizations have sent letters to Puerto Rico officials denouncing allegations of discrimination against people of Dominican descent, and civic and professional organizations have issued investigative reports detailing numerous civil rights violations at the hands of police. PRPD officers have also called for agency reforms. One police affinity group representing thousands of officers attributed widespread low morale among officers to verbal abuse from supervisors, indifference to officers' personal problems, lack of support and training, absence of motivational and educational activities, deficient equipment and materials, and late payment.

The public's demands for remedial action are fueled in part by the appalling number of officer arrests and convictions for serious misconduct and criminal activity. Among these are: the killing of family members by two police officers in the "Massacre of Las Piedras" in 2007; the videotaped shooting of a civilian by a Tactical Operations Unit ("TOU") officer during a birthday celebration in Humacao in 2007; the shooting death of a PRPD lieutenant by a sergeant at a police station in Yabucoa in 2007; the conviction of multiple officers assigned to the Mayagüez Drug Unit for planting drugs in 2008; the conviction of the director of the Special Arrests and Extraditions Unit and several of his officers on drug-related charges in 2009; the conviction of a lieutenant directing the weapons registry at PRPD headquarters as part of an illegal gun licensing scheme in 2009; the indiscriminate use of batons and chemical irritants against protesters at the Capitol in June 2010; the shooting death of an unarmed young man who was reportedly aiding police following a robbery in September 2010; and the arrest of 61 PRPD officers as part of the largest police corruption operation in the Federal Bureau of Investigation's ("FBI") history in October 2010.

In the report that follows, we discuss the wide range of issues that were the focus of our investigation and the findings that result from our review. In sum, our investigation reveals the following:

- **The constitutional violations we uncovered are pervasive and plague all levels of PRPD.**

Our investigation concluded that a longstanding pattern and practice exists of PRPD officers violating the Constitution by using force, including deadly force, when no force or lesser force was called for. As a result, PRPD officers have unnecessarily injured hundreds of people and killed numerous others. PRPD's overreliance on such tactics is evident in its regular deployment of heavily armed tactical units on routine patrols or "preventive rounds," usually in public housing complexes or low-income neighborhoods. These units, relying almost exclusively on extreme displays of force and actual force, rather than on more contemporary problem-solving approaches, were neither intended nor trained to perform such patrol functions.

Indeed, the marked disconnect between residents and tactical officers, who routinely enter neighborhoods en masse with high-caliber rifles drawn amid children, seniors, and other bystanders, reveals PRPD's reliance on law enforcement strategies that run counter to widely accepted models of community-oriented policing. Distressingly, an officer assigned to one of these units told us openly and without objection from his supervisors that officers *need* to violate civil rights to fight crime and meet the goals set by government officials. This conduct deprives the people of Puerto Rico of their rights guaranteed by the Constitution and federal law.

Officers' use of excessive force also chills speech in violation of the First Amendment. While some individuals may engage in unlawful activity during protests and civil demonstrations, only a fraction of the force used by PRPD is directed at specific threats or criminal behavior, as evidenced by the dearth of arrests supported by probable cause. Instead, PRPD officers regularly rely on the indiscriminate use of force or threat of force well beyond what is necessary to protect public safety when engaging with crowds. Specifically, PRPD indiscriminately used chemical agents, batons, and physical force against demonstrators and other individuals on University Avenue in August 2009, at the Sheraton Hotel in May 2010, and at the Capitol in June 2010. PRPD officers also used choke holds and pressure techniques against protestors who were passively resisting or otherwise not posing any significant threat as recently as December 2010 and January 2011. In February 2011, officers pushed, struck, and sprayed protestors at a university campus, and officers threw rocks and other objects at individuals who likewise posed no significant threat. The use of excessive force by PRPD officers in these instances, along with other tactics aimed at intimidating demonstrators, has garnered significant public attention and discouraged residents of Puerto Rico from engaging in protected First Amendment activities. While we recognize that prolonged strikes and civil demonstrations strain PRPD personnel and resources, Puerto Rico must not waver in its duty to uphold the fundamental rights of all residents, even when their viewpoints or affiliations may be disagreeable.

We also found a pattern and practice of illegal searches and seizures in violation of the Fourth Amendment. Specifically, our investigation revealed a pattern and practice of PRPD officers conducting searches of civilians' homes without a warrant or consent and in the absence of any exigent circumstance or exception that would render such a search constitutional. Too frequently, PRPD officers plant evidence during searches, rely on excessive force and intimidation as search aids or tools, and proceed with searches even when knowing that the address, identity of the individual, or other pertinent information is incorrect. The evidence we uncovered further demonstrates that PRPD officers engage in a regular pattern of detaining, arresting, and searching individuals without reasonable suspicion or probable cause in violation of the Fourth Amendment, and that supervisors and members of specialized units are often involved in these unlawful acts.

- **The staggering level of crime and corruption involving PRPD officers must be addressed in systematic fashion.**

The amount of crime and corruption involving PRPD officers further illustrates that PRPD is an agency in profound disrepair. From January 2005 to November 2010, there were more than 1,709 arrests of PRPD officers. The charges varied widely, from theft and simple

assault to rape, drug trafficking, and murder. Hundreds of officers have also engaged in domestic violence; many have been arrested multiple times for harming their partners.

- **There are many contributing factors to the constitutional violations.**

PRPD has failed to provide officers with the basic understanding and tools they need to safeguard the rights of the people they serve. Basic systems of accountability are non-existent or profoundly broken, and have been for years. Although our report focuses on recent constitutional violations, the systemic deficiencies that underlie the misconduct developed over a much longer period. These systemic deficiencies include the following:

1. **Policies fail to guide officers on lawful policing practices.** PRPD’s policies and procedures on use of force and searches and seizures are out-dated, disorganized, and omit contemporary legal standards. Officers are not provided with copies of PRPD’s policies, or access to policies through other reliable means, to reference as they carry out their day-to-day duties. As a result, officers develop their own informal practices, and the operations of similar units or components throughout PRPD vary widely. Officers also expressed a fundamental misunderstanding of critical aspects of their duties. For instance, officers in different areas and units routinely defined “force” differently. Many other officers were unfamiliar with the parameters of temporary investigatory detentions, or *Terry* stops, which may, when performed unreasonably, constitute Fourth Amendment violations. These and other essential concepts are not communicated effectively and consistently to officers on an ongoing basis through policy.
2. **Pre-service field training is insufficient.** Cadets review PRPD’s policies and procedures while attending pre-service training, but are not provided with post-academy field training to prepare them for real-life policing. This training is particularly essential in developing the practical skills, judgment, and understanding necessary to lawfully employ force, effect arrests, treat all persons equally, and solve problems effectively as partners with the community. Instead, new officers are simply armed and released into the streets and neighborhoods of Puerto Rico. In many cases, they never return to the academy for regular in-service training.
3. **In-service training is virtually non-existent.** Effective law enforcement agencies reinforce their expectations on use of force and searches and seizures through consistent and sufficient in-service training. However, many PRPD officers reported that they do not return to the University College of Criminal Justice (“University College”) for in-service training for years, or ever, after completing the pre-service program. In 2010, the Puerto Rico Legislature confirmed these reports and passed legislation requiring PRPD to provide at least 12 hours of annual in-service training. The Legislature found the training was “necessary and urgent” in light of domestic violence, corruption, and numerous instances in which officers failed to exercise self-control with civilians. Even with the new legislation, PRPD still requires less than half the average number of annual training hours required by police departments across the country.

4. **No external oversight of officer standards and training.** Unlike every state except Hawaii, Puerto Rico does not have a state-wide authority that establishes minimum law enforcement standards and training requirements, such as Peace Officer Standards and Training (“POST”) boards, commissions, or academies. Instead, Puerto Rico vests sole authority for officer recruitment, hiring, training, and development of core competencies on the discretion of the Superintendent. PRPD Superintendents, subject to budget and political pressures, have reduced the length of pre-service training programs, authorized deployment of cadets on patrol duties before cadets completed critical training, and changed the criteria used to identify at-risk officers who engage in repetitive misconduct, without any accountability for outcome.
5. **Tactical units have been allowed to develop violent subcultures.** PRPD has been on notice for years that officers assigned to tactical units routinely employ excessive force when interacting with civilians. These units all too frequently rely on intimidation, fear, and extreme use of force to manage crowds and are often deployed to low-income and minority communities on routine patrols. These units operate with insufficient training and guidance on the lawful exercise of police power.
6. **Supervision is lacking.** PRPD has too few qualified supervisors to effectively supervise. PRPD has not filled many of the 2,100 supervisor vacancies it reported in 2009. In some instances, supervisors must supervise 18 or more officers, nearly double the generally accepted ratio of 1:10. In the field, supervisors are not required to independently review the use of force of their subordinates. As a result, officers engage in multiple incidents of misconduct over prolonged periods, without effective intervention from supervisors.

Many officers expressed concern that PRPD’s promotion practices are driven more by one’s affiliations than talents. For instance, although agency regulations indicate that objective examinations should be used to select candidates for promotion, we found that the vast majority of promotions were carried out as excepted “merit” promotions under special authority granted to the Superintendent. Only five percent of officers were promoted by examination from January 2008 to September 2010. Many officers reported that the prevalence of discretionary promotions reinforced their concerns about the quality of supervision.

7. **Internal investigations take years to complete.** Profound deficiencies in the conduct of administrative investigations leave misconduct unaddressed, decimate officer morale, and foster the public’s mistrust. We found that administrative investigations routinely take years to complete – in some cases, 10 or more years – well beyond the 180-day timeframe required by existing Puerto Rico regulations.
8. **Discipline is seriously deficient.** In 1989, the First Circuit upheld punitive damages against the Superintendent and other supervisors for federal civil rights violations, relying on evidence that PRPD’s disciplinary system was “grossly deficient.” As evidence of the dysfunction in PRPD, many aspects of this seriously broken disciplinary system remain unchanged. For example, immediate supervisors are not involved in the disciplinary process, disciplinary sanctions are too limited in scope, and officers are permitted to

refuse to testify or give a statement to internal investigators. Discipline is also ineffective because administrative investigations take years to complete, or are never resolved. In many instances, officers develop pronounced patterns of serious misconduct and face removal only after they are charged with a crime. Other problem officers, sometimes referred to as “parachuters,” are simply transferred from one component to another, without any effort to address their underlying problems, because of the extreme delays in completing internal investigations.

9. **Inoperable risk management system.** Effective risk management systems help commanders and supervisors take early corrective action when officers exhibit potential problem behaviors. Interventions typically include targeted training, education, and counseling. These systems are designed to protect the community and support officers who may be experiencing difficulties. PRPD developed a limited program in 1990 following a federal civil rights lawsuit that found PRPD supervisors liable for operating a “grossly deficient” disciplinary system. The program provided a one-size-fits-all intervention, a multiple-day training course, which PRPD stopped offering in 2007. PRPD did not resume the course until October 2010.

It would be an enormous mistake to continue attributing the widespread and ongoing police misconduct that infects PRPD to an isolated group of individual officers or a seemingly intractable crime problem. Doing so not only forestalls the implementation of critical reforms, but also prevents PRPD from regaining the credibility and respect it needs and deserves to fight crime effectively and uphold the rule of law.

- **Prior efforts to reform PRPD have been sporadic and superficial, all too often spawned by public outcry over the latest tragic event.**

The Government of Puerto Rico has recognized the public’s diminishing confidence in PRPD following tragic and violent incidents involving police corruption and misconduct. However, the implementation of corrective action has been sporadic and superficial. In 2007, former Superintendent Pedro Toledo Dávila established an external evaluating committee to assess violence, corruption, and misconduct within PRPD. The committee issued reports finding patterns of civil rights violations and corruption, and recommended dozens of remedial measures.ⁱⁱ In its December 2007 report, the committee urged Puerto Rico to establish a fully resourced commission to develop long-term solutions to PRPD’s complex and institutional deficiencies, an endeavor they projected would take up to two years.ⁱⁱⁱ No such commission was ever created, and many recommendations were not implemented. Governor Luis Fortuño acknowledged the need for reform in September 2010 when he called on the Civil Rights Division to “expand its investigation to incidents of possible use of excessive force or other possible violations of civil rights by the Police of Puerto Rico that may have occurred during [his] administration . . .”^{iv} Despite longstanding calls for external reviews and investigations, basic reforms have not been implemented and the necessary effort to openly restore the public’s trust remains long overdue.

For too long, PRPD has failed to provide its officers with meaningful systems of support and accountability to ensure that officers discharge their duties lawfully and effectively. Policies

do not delineate the limits of lawful exercise of police power; training is insufficient; supervision is too unquestioning and sparse; and civilian complaints languish for years. The lack of meaningful external oversight of PRPD policies and actions exacerbates these issues. The problems outlined in this report are chronic and pervasive. The public lacks confidence in PRPD at a time when Puerto Rico faces significant public safety challenges. While Puerto Rico has taken some initial steps to detect, correct, and deter the problems we highlight in this report, it has failed to adequately address the institutional causes that contribute to both its unconstitutional law enforcement and ineffective policing. It is imperative that Puerto Rico act decisively, openly, and transparently to restore the public's trust and ensure that PRPD becomes an institution that exemplifies the rule of law for all residents in Puerto Rico.

The path toward lasting reform will require nothing less than federal judicial intervention. We believe a court-enforceable agreement will provide the structure, transparency, and accountability that will be necessary to achieve sustainable reform. Accordingly, we look forward to working with Puerto Rico, rather than engage in contested litigation, to craft a meaningful and collaborative reform plan with judicial oversight that will ensure constitutional policing, improve public safety, and restore the public's confidence.

The report that follows is an account of our findings. Section II provides background information concerning PRPD, the University College (which serves as PRPD's training academy), public safety, and crime and corruption within PRPD. Section III discusses the patterns and practices of civil rights violations involving use of excessive force, use of unreasonable force to suppress speech, and unconstitutional searches, detentions, and seizures. We also include illustrative cases demonstrating the deprivation of federal rights and discuss specific deficiencies that cause the pattern and practice for each type of violation. Section IV evaluates additional systemic deficiencies that are common causes and contributing factors for all the violations we uncovered. Finally, Section V provides recommendations for remedying PRPD's systemic deficiencies.

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- ⁱ Nagoumey, Adam, *In Los Angeles, A Police Force Transformed*, New York Times, Aug. 11, 2011, <http://www.nytimes.com/2011/08/13/us/13lapd.html?pagewanted=1>
- ⁱⁱ Arturo Negrón García et al., *Report of the External Evaluating Committee of the Puerto Rico Police* (Dec. 21, 2007); Arturo Negrón García et al., *Report of the External Evaluating Committee of the Puerto Rico Police: Corruption in the Puerto Rico Police* (May 1, 2008).
- ⁱⁱⁱ Arturo Negrón García et al., *Report of the External Evaluating Committee of the Puerto Rico Police* at 20 (Dec. 21, 2007);
- ^{iv} Press Release, La Fortaleza, “Gobernador nombra Monitor Independiente para supervisor a la Policía,” Sept. 24, 2010, available at http://www.fortaleza.gobierno.pr/2011/news.php?cnt_id=562.