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Police Weapons in Selected Jurisdictions

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Comparative Summary

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I. Introduction

This report examines the weapons and equipment generally at the disposal of law enforcement officers in several countries around the world. It also provides, for each of these countries, a brief overview of the rules governing the use of weapons by law enforcement officers. Precise and reliable information on the weapons and equipment of some countries' police forces was often difficult to find. Nevertheless, certain interesting facts and patterns emerged from the Law Library's research.

II. Centralized and Decentralized Police Forces

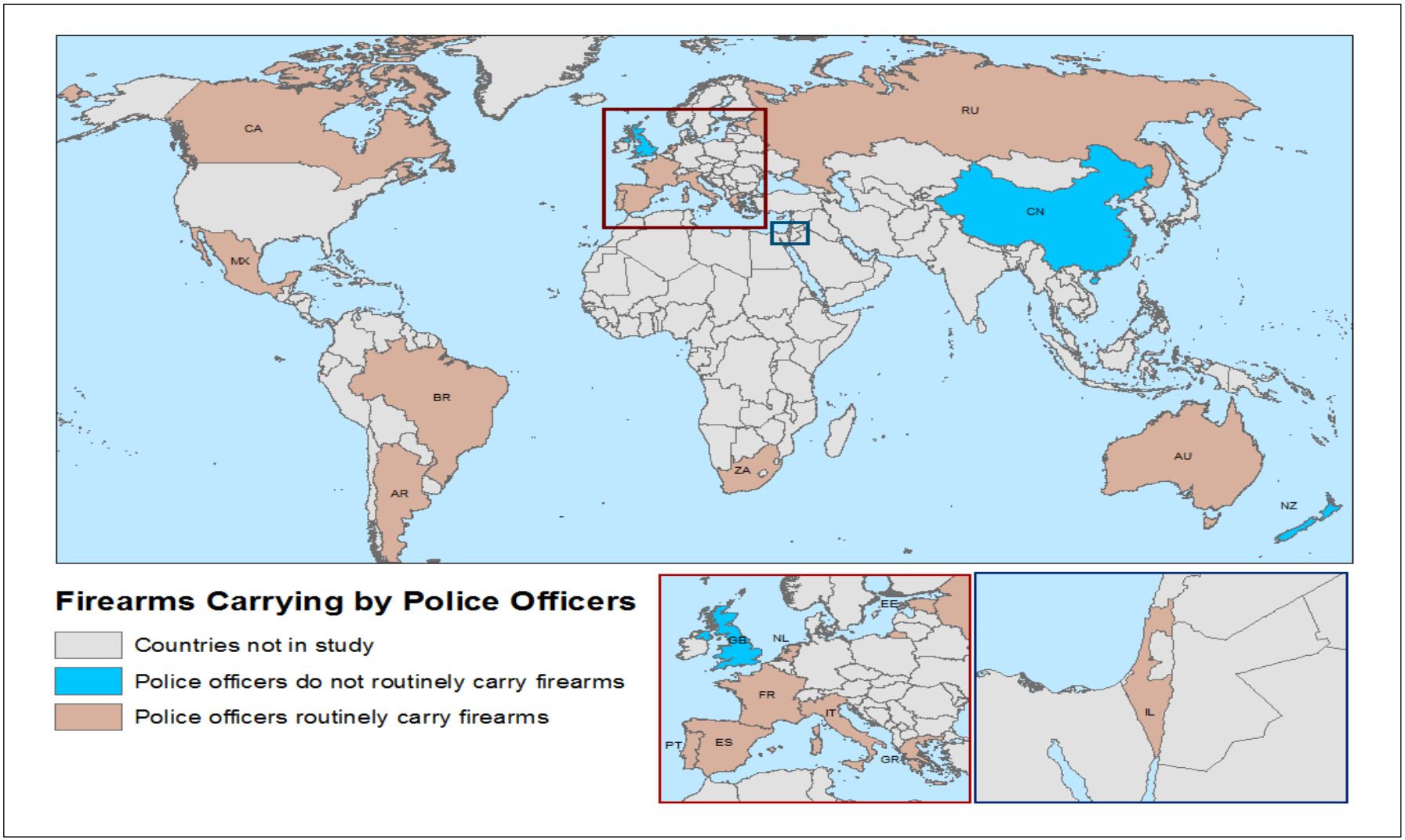
Some countries examined in this report have a very unified and centralized police force. In the Netherlands, for example, a recent reform combined the former twenty-five regional forces into a single national police agency. South African and Israeli police forces are also organized at the national level. Many other countries, however, have several layers of police, with separate organizations at the national and local levels. Mexico, Argentina, Canada, and Australia, for example, have national-level police organizations as well as separate police bodies at the provincial, state, or territorial level. Estonia, Italy, and France have a national police, but some municipalities in these countries also have their own police forces.

In countries that have multilayered law enforcement, there can sometimes be significant differences between the national and the lower-level forces' equipment. In France, for example, municipal police officers have access to a much more restricted array of weapons than members of the national force. This seems to be the exception rather than the rule, however. In most jurisdictions examined here, it appears that regional forces have access to roughly the same types of weapons and equipment as their national counterparts.

III. Police Weapons

The basic individual police weapon in almost all the countries examined is the handgun. The United Kingdom, China, and New Zealand stand out as exceptions, as their police officers do not routinely carry firearms. Even in those countries, however, police officers have access to firearms to be used when necessary.

Figure 1



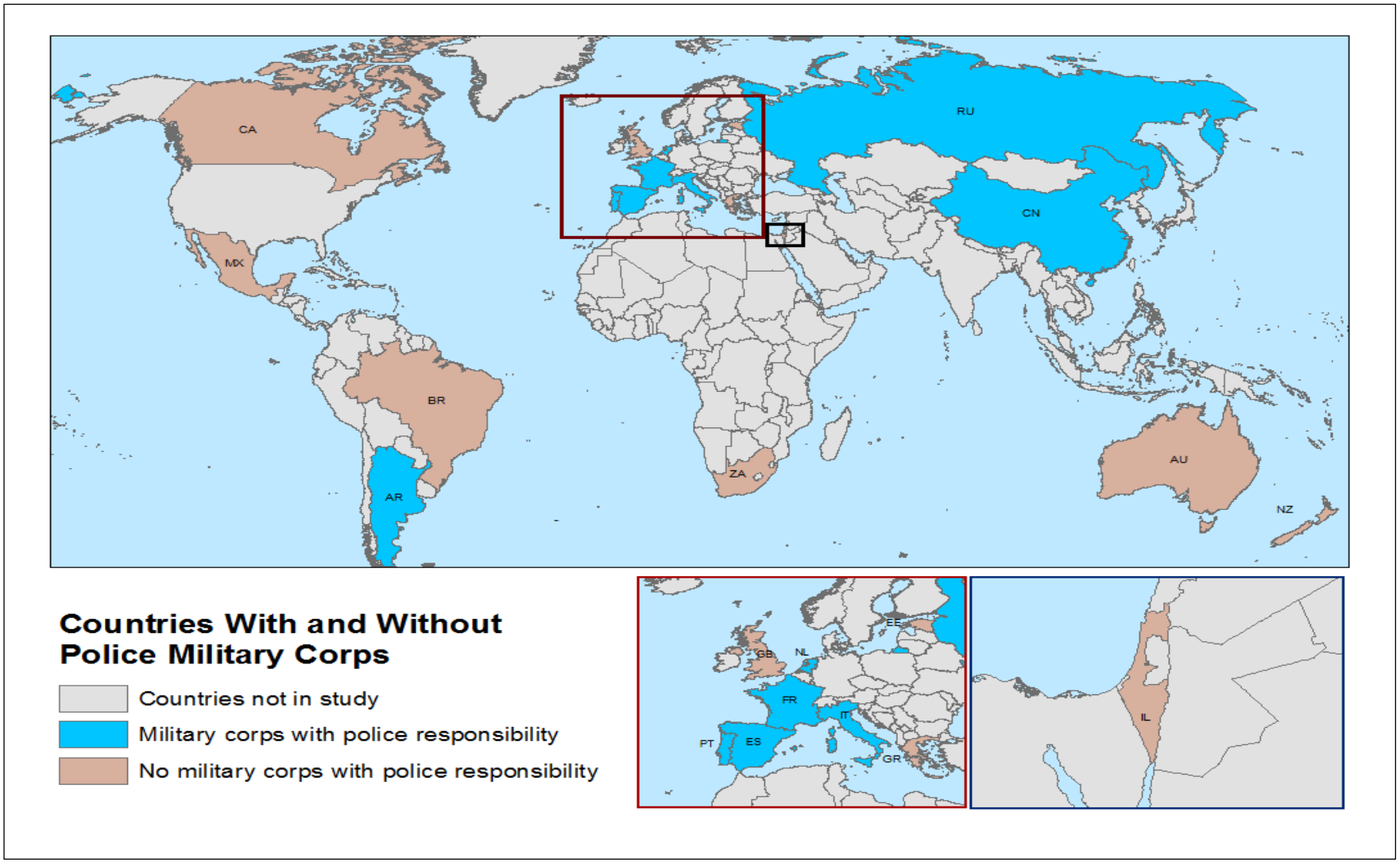
Source: Prepared by the Law Library of Congress based on information provided in this report.

In addition to handguns, police officers often carry nonlethal devices such as batons, pepper spray or tear gas, and Tasers. Almost all of the police departments examined here appear to have access to rifles and/or shotguns, even if these are generally not carried by officers in their day-to-day functions. Many, including the Russian, Dutch, Canadian, and Estonian police, also have access to automatic weapons such as submachine guns.

Most countries equip at least one major law enforcement organization with armored vehicles and other types of military equipment. In contrast to the United States, where military involvement in civilian affairs is limited by statute, some countries have a major law enforcement body that is actually part of the military. France's Gendarmerie nationale, for example, is a national-level law enforcement body that is part of the French military. The Netherlands has a similar corps called the Royal Netherlands Marechaussee, Spain has its Civil Guard, and Portugal has its National Republican Guard. It appears that these corps generally have access to heavier weaponry and more military-grade equipment than these countries' civilian law enforcement agencies. French gendarmes, for example, may sometimes carry the French army's standard assault rifle, and they have a number of wheeled armored personnel carriers at their disposal. The Royal Netherlands Marechaussee has a fleet of Lenco BEAR and BearCat armored vehicles. Russian Ministry of Internal Affairs Internal *Troops are* trained and equipped in much the same way as regular military forces.

Military police corps are not the only ones to have such heavy weapons and equipment, however. South African police forces have a number of armored vehicles, as do Australian state and territorial police forces, and some local Canadian police forces. Surveillance drones are used for law enforcement purposes in Portugal and the Netherlands. Mexican law restricts the use of certain equipment to the military, but Mexico's Department of Defense may authorize law enforcement agencies to use such weapons. New Zealand's police force does not appear to have its own fleet of armored vehicles, but it has an agreement with New Zealand's armed forces by which it has access to the Army's Light Armored Vehicles when necessary.

Figure 2



Source: Prepared by the Law Library of Congress based on information provided in this report.

IV. Rules on the Use of Police Weapons

While certain basic principles appear to be universal among the countries studied in this report, there are notable differences in their rules on the use of police weapons, and especially on the use of firearms. One clear commonality is that police officers are almost always required to give warning before using a firearm, except if there is no time or if giving such a warning would cause more serious and dangerous consequences. Guidelines issued in Brazil in 2010 appear to go further in that they require police officers to use at least two nonlethal weapons before using a firearm, but there does not seem to be such a requirement in other countries.

In addition to this point, all of the countries in this report ostensibly follow the basic principles that the use of force must be necessary and proportional to the threat being countered. The Council of Europe has established a nonbinding Code on Police Ethics, which recommends that police only be authorized to use force when strictly necessary, and that such force be proportionate to the objectives pursued. Case law from the European Court of Human Rights also establishes the principle that police may only use deadly force when absolutely necessary. Non-European countries appear to follow the same basic principles as well. The appreciation of what is "necessary" and what kind of threats warrant the use of potential deadly force varies considerably, however.

In some countries, such as Brazil, France, and Spain, police officers may use their firearms only in self-defense or defense of others, and only if it is proportional to the threat.[1] Some other jurisdictions give their police forces somewhat more leeway for the use of firearms. South Africa authorizes the use of deadly force not only when a suspect poses a threat of serious violence to the police officer or another person, but also when there is reasonable suspicion that the suspect has committed a crime in which he inflicted serious bodily harm or threatened to do so, and no other options are available for making an arrest. Similarly, Australia allows the use of deadly force in cases of self-defense and defense of others, or to stop someone who has been called on to surrender and who refuses, if that person cannot be apprehended in any other manner.

Russian law gives an exhaustive list of circumstances in which the use of firearms by law enforcement officers is authorized. This list includes self-defense and the protection of others, the apprehension of fleeing criminals, and the suppression of riots. Chinese law also provides a list of fifteen types of circumstances where police may use firearms, including preventing acts of violence, robbery of dangerous goods, sabotage of certain facilities, or resisting arrest for certain crimes.

In many countries, including Brazil, Portugal, France, the United Kingdom, and the Netherlands, any incident in which a police officer shoots someone automatically triggers an investigation or the requirement that a detailed report be made.

[1] French gendarmes have slightly wider authority to use their firearms compared to other French police forces, as gendarmes are allowed to open fire to defend a position or to stop a person who refuses to obey a clear order to stop.

V. Controversies

Issues revolving around police weapons and equipment have been the root of debates in most of the countries examined here. Controversies range from disagreements over the use of drones by law enforcement in Netherlands, to the question of whether New Zealand police officers should routinely carry pistols. In addition, many countries have seen incidents where law enforcement officers were involved in controversial shootings of unarmed individuals.

Argentina

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I. Introduction

The Federal Police of Argentina (Policía Federal Argentina) has jurisdiction for maintaining law and order in the national capital and preventing and investigating federal crimes in the provinces.[1] Other federal police authorities include the Airport Security Police (Policía de Seguridad Aeroportuaria), the National Gendarmerie (Gendarmería Nacional, responsible for border patrol), and the Coast Guard of Argentina (Prefectura Naval Argentina).[2]

All federal security and police forces fall under the authority of the Ministerio de Seguridad (Ministry of Security). Additionally, each province and the City of Buenos Aires have their own police force under the control of the corresponding provincial security authority.[3]

The Federal Police is an armed civil force that carries out the functions of security and judicial police derived from the police power responsibilities assigned to the federal government.[4]

II. Police Weapons

According to the National Law on Arms and Explosives and its regulatory Decree 395/1975, police forces are considered legitimate users of weapons classified as war weapons and ammunition not specifically listed as weapons for civil use.[5] These weapons include nonportable arms; automatic portable arms; launching arms; semiautomatic arms fed with magazines, like rifles; and submachine guns derived from military weapons larger than .22 LR, with the exception of arms specifically determined by the Ministry of Defense.[6] These weapons may be used only by members of the police force while carrying out their duties.[7]

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[1] Decreto-Ley 333, Ley Orgánica de la Policía Federal, Jan. 14, 1958, *as amended*, art. 1, http://www.infoleg.gob.ar/infolegInternet/anexos/20000-24999/20983/texact.htm.

[2] *Misión*, MINISTERIO DE SEGURIDAD, http://www.minseg.gob.ar/misi%C3%B3n (scroll down to # 3; last visited Sept. 10, 2014).

[3] *Id*.

[4] *Argentina: Policía Federal Argentina*, INTERPOL, http://www.interpol.int/en/Internet/Member-countries/Americas/Argentina (last visited Sept. 10, 2014).

[5] Ley 20429, Nacional de Armas y Explosivos National [LNAE] [National Law on Arms and Explosives], May 21, 1973, cap. 1, arts. 14(1), (2), available on the Registro Nacional de Armas website, *at* http://www.renar.gov.ar/index_seccion.php? seccion=legislacion_visualizar&ley=12&m=3; Decreto 395 Aprueba la Reglamentación de la Ley Nacional de Armas y Explosivos [Decree 395 Approving the Regulation of the National Law on Arms and Explosives], Feb. 20, 1975, cap. 1, art. 4, http://www.renar.gov.ar/index_seccion.php?seccion=legislacion_visualizar&ley=16&m=3.

[6] Decreto 395 art. 4(1).

[7] *Id.*

Weapons acquired for national and provincial police marked with a shield or numbering identifying the entity owning the weapon are considered war weapons for the exclusive use of police forces.[8]

The National Registry of Arms, an agency under the Ministry of Defense, is in charge of keeping records of purchases, transfers, and sales of war weapons.[9] All war weapons must be identified, and the police force must report the inventory of such weapons and any changes thereof.[10]

III. Rules on the Use of Police Weapons

The authorization to carry war weapons is issued by the National Registry of Arms with prior approval of the head of the police force after considering the personal and professional background of the police officer.[11] The authorization to carry equipment classified as a war weapon also allows its legitimate user to keep it under his or her control; use it for the specific purpose it was authorized for; transport it with the proper documentation; obtain training and practice in special authorized facilities; acquire and maintain its ammunition; and acquire spare parts for the repair and recharging of ammunition.[12]

[8] Decreto 395 art. 4(2).

[9] LNAE arts. 10–13; Decreto 392 arts. 50–51.

[10] Decreto 395 art. 53(1).

[11] *Id.* art. 53(3).

[12] *Id*. art.57.

Australia

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SUMMARY General duty federal and state police officers in Australia carry pistols, OC (pepper) spray, batons, and handcuffs. Such officers in most states and territories also have access to Tasers following various trials and reviews. Specialist units with responsibilities related to counterterrorism and responding to complex armed offender situations have special training and equipment, including high-powered rifles. The federal government recently funded the purchase of BearCat armored vehicles for use by these units in each of the states and territories. Some of the units have also started using drone technology in responding to high-risk situations.

Federal and state criminal and policing legislation contains provisions related to the use of force by police, requiring that the force used be reasonably necessary in the circumstances. There are also some provisions regarding the use of force for the purposes of suppressing riots. Over a period of around twenty years to July 2011, there was an average of five fatal shootings by police each year in the country. These events attract considerable attention and scrutiny. There have also been various inquiries and legal proceedings related to other controversial matters involving police, including in relation to corruption, deaths in custody, and riot tactics.

I. Introduction

The Australian population was estimated to be about 23.3 million at the end of 2013.[1] The country has a federal system of government, established by the 1901 Constitution.[2] There are six states and two mainland territories, with the most populous being New South Wales (about 7.5 million), followed by Victoria (about 5.8 million) and Queensland (about 4.7 million).[3] A national police force, the Australian Federal Police (AFP), was established by the Australian Federal Police Act 1979 (Cth).[4] The AFP investigates federal offenses, such as "drug trafficking, illegal immigration, crimes against national security and crimes against the environment."[5] All of the states plus the Northern Territory have their own police service and

[1] *3101.0 – Australian Demographic Statistics, Dec 2013: December Key Figures*, AUSTRALIAN BUREAU OF STATISTICS (June 19, 2014), http://www.abs.gov.au/ausstats/abs@.nsf/mf/3101.0 (last updated July 29, 2014).

[2] CONSTITUTION OF AUSTRALIA, http://www.comlaw.gov.au/Details/C2013Q00005.

[3] AUSTRALIAN BUREAU OF STATISTICS, *supra* note 1.

[4] Australian Federal Police Act 1979 (Cth), http://www.comlaw.gov.au/Details/C2014C00370.

[5] *About Australia: Legal System*, DEPARTMENT OF FOREIGN AFFAIRS AND TRADE, https://www.dfat.gov.au/facts/legal_system.html (last updated Feb. 2012). *See also Our Organisation*, AUSTRALIAN FEDERAL POLICE (AFP), http://www.afp.gov.au/en/about-the-afp/our-organisation.aspx; *Report a Commonwealth Crime*, AFP, http://www.afp.gov.au/contact/report-a-crime.aspx (both last visited Sept. 11, 2014).

relevant policing legislation, and are charged with enforcing state and territory criminal law.[6] The Australian Capital Territory (ACT) Policing is a business unit of the AFP that operates pursuant to an arrangement between the federal and ACT governments.[7]

Apart from the AFP, which is funded by the federal government, funding for police services in Australia "comes almost exclusively from state and territory government budgets, with some specific-purpose grants provided by the Australian Government."[8] As of June 30, 2012, state and territory police forces comprised a total of 51,778 sworn officers—about 228 officers per 100,000 persons.[9] At the end of 2013, there were 3,552 sworn AFP members and 718 Protection Service Officers (PSOs) based throughout the country and overseas.[10]

Specialist police units that provide support in complex situations (such as sieges and raids involving armed offenders) include the AFP Specialist Response Group (SRG), which includes a Tactical Response Team, Marksman Reconnaissance Team, Police Negotiation Team, Dog Team, and Bomb Response Team, among others.[11] The SRG is "the largest centralised specialist policing capability in Australia comprising almost 200 personnel."[12] State and territory police also have special counterterrorism and tactical response units. For example, in the New South Wales Police Force this includes the Anti Terrorism and Security Group, Coordinated Response Group, Public Order and Riot Squad, and State Protection Group.[13] These units have special training and equipment.

In 2011, the Minister of Defence announced that the Australian Defence Force (ADF) will replace or upgrade up to 85% of its equipment over the next 15 years. This will involve disposing of multiple armored vehicles as well as weapons and explosive ordnance, among other items, within the next ten years.[14] No reports were located that indicate any plans to distribute

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[6] *Police – States and Territories*, AUSTRALIA.GOV.AU, http://australia.gov.au/content/police-states-and-territories (last visited Sept. 11, 2014).

[7] *About Us*, ACT POLICING, http://www.police.act.gov.au/about-us.aspx (last visited Sept. 11, 2014).

[8] *Australian Crime: Facts & Figures: 2013, Chapter 7: Criminal Justice Resources*, AUSTRALIAN INSTITUTE OF CRIMINOLOGY, http://www.aic.gov.au/publications/current%20series/facts/1-20/2013/7_resources.html (last modified July 7, 2014).

[9] *Id.*

[10] *AFP Staff Statistics*, AFP, http://www.afp.gov.au/media-centre/facts-stats/afp-staff-statistics.aspx (last visited Sept. 11, 2014).

[11] *Specialist Response Group*, AFP, http://www.afp.gov.au/en/policing/international-deployment-group/specialist-response-group (last visited Sept. 11, 2014).

[12] AFP, ACT POLICING ANNUAL REPORT 2012–2013 at 112 (2013), http://www.police.act.gov.au/~/media/act/pdf/act-policing-annual-report-2012-13.ashx.

[13] *Counter Terrorism & Special Tactics*, NSW POLICE FORCE, http://www.police.nsw.gov.au/about_us/structure/specialist_operations/counter_terrorism_and_special_tactics (last updated Mar. 23, 2010).

[14] Press Release, Minister for Defence Materiel, Reforms to Disposal of Military Equipment (June 29, 2011), http://www.minister.defence.gov.au/2011/06/29/minister-for-defence-materiel-reforms-to-disposal-of-military-equipment/.

such equipment to Australian police forces, although it appears to be possible for the ADF to make transfers to federal or state government agencies or departments.[15]

II. Police Weapons and Equipment

A. Australian Federal Police

Both federal police officers or agents and PSOs (uniformed officers who provide armed protection for certain federal government buildings and embassies in Australia) receive firearms and defensive tactics training.[16] According to the AFP National Guideline on Uniform and Standards of Dress, AFP members performing operational duty in uniform must wear an AFP-issued accoutrement belt with the following items attached:

> **Master side:**
> - a firearm in an approved holster
> - an approved baton, in an approved baton pouch, positioned directly behind the firearm.
>
> **Non-master side:**
> - aerosol subject restraint OC [oleoresin capsicum or "pepper"] spray canister, in an approved pouch, on their non-master side front
> - handcuffs, in an approved pouch, in line with trouser seam and behind OC spray
> - an ammunition magazine in an approved pouch, positioned directly behind the handcuff pouch.[17]

In addition, the Guideline states that "[o]perational members wearing plain clothes will ensure any accoutrements carried in the normal course of duty are covered from general public view, for example under a jacket."

In July 2012, the AFP announced that it was introducing "video camera enabled, X2 Tasers to frontline Sergeants in Australia's 10 major airports."[18] The X2 model was also distributed to replace the X26 model that was previously used by "AFP specialist groups, Advanced Warrant Teams and ACT Policing frontline Sergeants."[19]

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[15] *See What You Should Know*, DEPARTMENT OF DEFENCE, DEFENCE MATERIEL ORGANISATION, http://www.defence.gov.au/dda/whatshouldyouknow.htm (last visited Sept. 11, 2014).

[16] *Recruit Training*, AFP, http://www.afp.gov.au/jobs/recruit-training.aspx (last visited Sept. 11, 2014).

[17] AFP National Guideline on Uniform and Standards of Dress § 43 (undated), http://www.afp.gov.au/about-the-afp/~/media/afp/pdf/ips-foi-documents/ips/publication-list/AFP%20National%20Guideline%20on%20uniform%20and%20standards%20of%20dress.ashx.

[18] Press Release, AFP, New Model Introduced to the AFP (July 31, 2014), http://www.afp.gov.au/media-centre/news/afp/2012/july/new-model-tasers-introduced-to-the-afp.aspx.

[19] *Id. See also* Press Release, AFP Policing, New Model Tasers Introduced to ACT Policing (Dec. 21, 2012), http://www.police.act.gov.au/media-centre/media-releases/act/2012/december/new-model-tasers-introduced-to-act-policing.aspx.

B. State and Territory Police Forces

State and territory general duty police officers carry pistols (particularly Glock or Smith & Wesson semiautomatics), OC spray, batons, and handcuffs.[20] Following various trials and reviews, Tasers may currently be used by trained frontline officers in New South Wales,[21] Queensland,[22] Victoria,[23] South Australia,[24] Western Australia,[25] and the Northern Territory,[26] as well as the ACT.[27] Tasers are only used by Special Operations Group officers in Tasmania.[28]

Appropriately trained general duty officers in states and territories may also have access to long-arms. For example, the service rifle of the Queensland Police is the Remington Patrolman R4 carbine.[29] These were purchased in 2013 to replace Ruger .223 rifles previously used by police. According to reports, at least 1,000 officers will be trained to use this weapon.[30]

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[20] *See* ACT PARLIAMENT, STANDING COMMITTEE ON LEGAL AFFAIRS, POLICE POWERS OF CROWD CONTROL 51–57 (May 2007), http://www.parliament.act.gov.au/__data/assets/pdf_file/0010/380386/06_police_powers_final.pdf.

[21] Press Release, Premier of New South Wales, NSW Government Delivers Tasers for NSW Police (Sept. 6, 2014), http://www.dpc.nsw.gov.au/__data/assets/pdf_file/0009/84708/2009.09.06_NSW_GOVERNMENT_DELIVERS_TASERS_FOR_NSW_POLICE_.pdf; *Crime: HSC Legal Studies: Tasers and Their Use by Police*, STATE LIBRARY NEW SOUTH WALES, http://guides.sl.nsw.gov.au/content.php?pid=242813&sid=2644177 (last updated Sept. 8, 2014).

[22] *Tasers*, QUEENSLAND POLICE, http://www.police.qld.gov.au/EventsandAlerts/campaigns/taser/ (last updated Aug. 25, 2014).

[23] Press Release, Premier of Victoria, Tasers for All 24-Hour Regional Police Stations (Apr. 23, 2014), http://www.premier.vic.gov.au/media-centre/media-releases/9697-tasers-for-all-24-hour-regional-police-stations.html; Press Release, Premier of Victoria, Minister Briefed on Taser Rollout (June 3, 2013), http://www.premier.vic.gov.au/media-centre/media-releases/6969-minister-briefed-on-taser-rollout.html.

[24] Nigel Hunt, *South Australia's Country Police Officers to be Issued with Tasers*, ADELAIDE NOW (Aug. 24, 2012), http://www.adelaidenow.com.au/news/south-australia/south-australias-country-police-officers-to-be-issued-with-tasers/story-e6frea83-1226457729603?nk=78549d8ba0c08824c328d158909128c9.

[25] WESTERN AUSTRALIA POLICE, POST IMPLEMENTATION REVIEW OF TASER (May 2010), http://www.police.wa.gov.au/LinkClick.aspx?fileticket=qHmOdYYIvNc%3D&tabid=1068; CORRUPTION AND CRIME COMMISSION, THE USE OF TASER WEAPONS BY WESTERN AUSTRALIA POLICE (Oct. 4, 2010), http://www.ccc.wa.gov.au/Publications/Reports/Published%20Reports%202010/Full%20Report%20-%20Use%20of%20Taser%20Weapons%20by%20WAPOL.pdf.

[26] Press Release, Northern Territory Police, Fire and Emergency Services, NT Police Review of the Taser (Oct. 15, 2009), http://www.pfes.nt.gov.au/Media-Centre/Media-releases/2009/October/15/NT-Police-Review-of-the-Taser.aspx; Press Release, Northern Territory Police, Fire and Emergency Services, NT Police – More on the Taser Review (Nov. 30, 2009), http://www.pfes.nt.gov.au/Media-Centre/Media-releases/2009/November/30/NT-Police--More-on-the-Taser-Review.aspx.

[27] *See generally*, *At-a-Glance: Taser Use in Australia*, SBS (Aug. 23, 2013), http://www.sbs.com.au/news/article/2010/10/05/glance-taser-use-australia.

[28] *No Taser Roll-Out for Tasmanian Police*, ABC NEWS (Mar. 12, 2012), http://www.abc.net.au/news/2012-03-11/20120311-no-tasers-for-tasmanian-cops/3882304.

[29] Queensland Police, Operational Procedures Manual, Chapter 14: Operational Skills and Practices at 7 & 27 (June 2014), http://www.police.qld.gov.au/corporatedocs/OperationalPolicies/Documents/OPM/Chapter14.pdf.

[30] Thomas Chamberlain, *Cops Want This Rifle to Even the Odds Against Crime*, THE COURIER-MAIL (Dec. 2, 2012), http://www.couriermail.com.au/news/queensland/cops-want-this-rifle-to-even-the-odds-against-crime/story-e6freoof-1226528052728.

In 2010, the New South Wales Police Force, the largest in the country with around 16,000 officers,[31] reported that it possessed 17,713 firearms of various types for operational police use.[32]

C. Specialist Units

Between 2011 and 2013, the federal government provided funding for the purchase of "BearCat" (Ballistic Engineered Armored Response Counter Attack Truck) armored vehicles for use by the special tactical operations units of state and territory police forces. The federal Attorney-General's Department stated in 2012 that

> New South Wales, Queensland, and Tasmania would receive the Commonwealth-funded vehicles as part of a NCTC [National Counter-Terrorism Committee] project. The vehicles are designed to help police deal with dangerous situations such as hostage incidents or acts of terrorism. The purchase of the Commonwealth-funded vehicles reflects the close and collaborative relationship between the Commonwealth and the states in building Australia's robust counter-terrorism capability. The first 'BearCat' armoured rescue vehicles were supplied to the Australian Capital Territory, the Northern Territory and South Australia in the second quarter of 2011.[33]

In April 2013, Victoria also received a federally-funded BearCat vehicle.[34] Western Australia Police announced the receipt of a second BearCat in May 2013, having first acquired one of the vehicles using state funding in 2007, and stated that it "would increase WA Police's capacity to respond to hostile and armed offender incidents."[35] It appears that the New South Wales Police Force had also previously owned a BearCat since around 2004.[36]

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[31] NSW POLICE FORCE, ANNUAL REPORT 2012–13 at 29 (2013), http://www.police.nsw.gov.au/__data/assets/pdf_file/0011/297821/NSW_Police_Force_2012-13_Annual_Report.pdf.

[32] NSW Minister for Police, Budget Estimates Hearing, Part A – Questions Taken on Notice, Question A11: Firearms – Audit of Police Firearms (Sept. 17, 2010), https://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/d6392ddc5ed3fbd7ca2577bb00250123/$FILE/101013%20Answers%20to%20QoN%20-%20Police%20-%20asked%20during%20hearing.pdf.

[33] ATTORNEY-GENERAL'S DEPARTMENT, ANNUAL REPORT 2011–12, Chapter 10 – National Security and Criminal Justice – Administered Programs (2012), http://www.ag.gov.au/Publications/AnnualReports/AnnualReport2011 12/Pages/Chapter10NationalSecurityandCriminalJusticeadministeredprograms.aspx. *See also* Press Release, Queensland Police, Armoured Rescue Vehicle Launched in Cairns (July 25, 2012), http://mypolice.qld.gov.au/farnorth/2012/07/25/armoured-rescue-vehicle-launched-in-cairns/; Steve Rice, *Armored Truck Rolls into South Australia's Crime-Fighting Arsenal*, THE ADVERTISER (May 19, 2011), http://www.adelaidenow.com.au/ipad/armored-truck-rolls-into-south-australias-crime-fighting-arsenal/story-fn6bqpju-1226059193168; Press Release, Tasmania Police, Armoured Rescue Vehicle (June 20, 2012), http://www.police.tas.gov.au/news/armoured-rescue-vehicle/.

[34] Press Release, Premier of Victoria, Armoured Rescue Vehicle Boost for Victoria (Apr. 11, 2013), http://www.premier.vic.gov.au/media-centre/media-releases/6445-armoured-rescue-vehicle-boost-for-victoria.html.

[35] Press Release, Hon. Lisa Harvey MLA, New Armoured Rescue Vehicle for WA Police (May 6, 2013), http://www.mediastatements.wa.gov.au/pages/StatementDetails.aspx?listName=StatementsBarnett&StatId=7349; *New Armoured Car Used in Police Raid*, ABC NEWS (Oct. 30, 2007), http://www.abc.net.au/news/2007-10-30/new-armoured-car-used-in-police-raid/710926.

[36] Motion: Policing Resources and Crime Rates, Hon. Peter Primrose, Parliament of New South Wales Legislative Council, Aug. 31, 2004, http://www.parliament.nsw.gov.au/prod/parlment/hansart.nsf/V3Key/LC20040831086.

Detailed information regarding other equipment used by specialist units throughout Australia was not located. Images of members of these units show the types of items worn and carried, such as helmets, vests, goggles, pistols, and high-powered rifles.[37] In each jurisdiction, special units have access to Tasers. The following examples of other weapons or equipment were located from various sources:

- South Australia: The Special Tasks and Rescue Group (STAR Group) was reported as testing the Blaser R93 LRS2 .338 caliber sniper rifle in 2010.[38] The news article stated that the weapon is also used by the Australian military and some tactical police in the country. In February 2014, an industry publication reported that the South Australia Police had acquired Altura 2 ATX8 drones, which would be operated by members of the STAR Group.[39]

- Western Australia (WA): The Tactical Response Group has around forty operatives as well as a further forty in the bomb squad. In addition to bomb detection and related equipment, the group reportedly has Blaser .338 caliber rifles.[40] In May 2013, in addition to announcing the receipt of a BearCat, the Western Australian government noted that other "hi-tech equipment" owned by WA Police includes "48 Advanced Traffic Management Vehicles costing $3.78million and a hi-tech helicopter costing $20million," and that the state government had also "provided $1.3million for two high-capacity police transport vehicles designed to assist in the management of out-of-control parties."[41]

- New South Wales: According to parliamentary committee records, the New South Wales Police Force Public Order and Riot Squad owns a water cannon. Thirty of the 100 members of this squad are trained to operate it.[42]

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[37] *See, e.g.*, *Melbourne Siege Continues*, ABC NEWS (May 22, 2012), http://www.abc.net.au/news/2012-05-22/keilor-east-siege-special-operations-group/4026460; Paul Anderson, *Inside the Shooting Death of Murder Suspect Wayne Joannou by Victoria's Elite Special Operations Group aka the 'Sons of God'*, HERALD SUN (Oct. 26, 2013), http://www.heraldsun.com.au/news/law-order/inside-the-shooting-death-of-murder-suspect-wayne-joannou-by-victorias-elite-special-operations-group-aka-the-sons-of-god/story-fni0ffnk-1226746239533; Doug Robertson, *Adelaide Has Witnessed Several Violent Incidents that Stopped the City Before Rodney Clavell's Siege*, THE ADVERTISER (June 6, 2014), http://www.adelaidenow.com.au/news/south-australia/adelaide-has-witnessed-several-violent-incidents-that-stopped-the-city-before-rodney-clavells-siege/story-fni6uo1m-1226945165757; Marissa Calligeros, *Police Flex Muscle Ahead of G20 Summit*, BRISBANE TIMES (May 22, 2014), http://www.brisbanetimes.com.au/queensland/police-flex-muscle-ahead-of-g20-summit-20140522-zrkxn.html; *SERT*, ABC NEWS (Apr. 30, 2014), http://www.abc.net.au/news/2014-04-30/special-emergency-response-team-police-sert-brisbane/5421012.

[38] Michael Milnes, *STAR Group Snipers Test World's Most Lethal Sniper Rifle*, THE ADVERTISER (Sept. 10, 2010), http://www.adelaidenow.com.au/news/south-australia/star-group-snipers-test-worlds-most-lethal-sniper-rifle/story-e6frea83-1225917673679.

[39] Emile Orzea, *South Australian Police Incorporate Drones in Policing Operations*, sUAS NEWS (Feb. 11, 2014), http://www.suasnews.com/2014/02/27468/south-australian-police-incorporate-drones-in-policing-operations/.

[40] Nicole Cox, *Behind-the-Scenes with WA's Elite Tactical Response Group Police*, THE DAILY TELEGRAPH (June 16, 2009), http://www.perthnow.com.au/news/behind-the-scenes-with-was-elite-tactical-response-group-police/story-e6frg12c-1225736281103?nk=78549d8ba0c08824c328d158909128c9.

[41] Press Release, Hon. Lisa Harvey MLA, *supra* note 35.

[42] NSW Minister for Police, Budget Estimates Hearing, *supra* note 32, Questions A8–A10.

- Queensland: In December 2013, the *Brisbane Times* reported that the Special Emergency Response Team had used a remote controlled drone (Remote Piloted Aircraft) during an armed siege for the first time.[43]

- Stun grenades and tear gas appear to be available to the specialist units of different jurisdictions.[44]

III. Rules on Use of Police Weapons

Various statutory provisions apply in relation to the use of force by police in Australia. In addition, relevant rules, standards, procedures, and guidance on the use of weapons are set out in orders and handbooks or manuals of the different forces. This includes the AFP Commissioner's Order on Operational Safety (CO3),[45] the NSW Police Force Handbook,[46] the Queensland Police Operational Procedures Manual,[47] the Victoria Police Manual,[48] and the Tasmania Police Manual.[49] Not all of these types of documents are currently publicly available. Aspects of the state and territory documents appear to have been guided by the *National Minimum Guidelines for Incident Management, Conflict Resolution and the Use of Force: 2004*[50] as well as the *National Guidelines for Deployment of Police to High Risk Situations, Deployment of Police*

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[43]Cameron Atfield, *Police Eye in the Sky Offers Remote Possibilities*, BRISBANE TIMES (Dec. 28, 2013), http://www.brisbanetimes.com.au/queensland/police-eye-in-the-sky-offers-remote-possibilities-20131228-300nt.html.

[44] *See, e.g.*, *Police Subdue Fugitive with Stun Grenades*, ABC NEWS (Mar. 25, 2011), http://www.abc.net.au/news/2011-03-24/police-subdue-fugitive-with-stun-grenades/2642826; *Inquest into the Death of Joshua Stephen Walsh* [2014] NTMC 005 ¶ 14, http://www.nt.gov.au/justice/ntmc/judgements/2014NTMC05InquestintothedeathofWalsh.htm; Andrew Dowdell, *Criminal Maniac Drew Claude Griffiths Jailed for Shocking Crime Spree*, THE AUSTRALIAN (Oct. 26, 2012), http://www.theaustralian.com.au/news/criminal-maniac-drew-claude-griffiths-jailed-for-shocking-crime-spree/story-e6frg6n6-1226503893804; Steve Lillebuen, *Vic Stand-off Ends with Tear Gas, Shots*, THE SYDNEY MORNING HERALD (May 23, 2012), http://news.smh.com.au/breaking-news-national/vic-standoff-ends-with-tear-gas-shots-20120523-1z3nz.html; *Tear Gas Used in Another Night of Unrest at Christmas Island*, PERTH NOW (Mar. 17, 2011), http://www.perthnow.com.au/news/western-australia/tear-gas-used-in-another-night-of-unrest-at-christmas-island/story-e6frg13u-1226023188602.

[45] The AFP Commissioner's Order on Operational Safety (CO3) (June 1, 2012), http://www.afp.gov.au/about-the-afp/~/media/afp/pdf/ips-foi-documents/ips/publication-list/AFP%20Commissioners%20Order%20on%20Operational%20Safety%20CO3.ashx. This redacted version of the Order was published pursuant to the Freedom of Information Act 1982 (Cth). Much of the information regarding the use of particular types of weapons has been removed.

[46] NSW Police Force Handbook (2014), http://www.police.nsw.gov.au/__data/assets/pdf_file/0009/197469/NSW_Police_Handbook.pdf.

[47] *Operational Procedures Manual*, QUEENSLAND POLICE, http://www.police.qld.gov.au/corporatedocs/OperationalPolicies/opm.htm (last updated Aug. 25, 2014).

[48] *See About Victoria Police: Policies, Procedures and Legislation*, VICTORIA POLICE, http://www.police.vic.gov.au/content.asp?Document_ID=30299 (last updated June 16, 2014).

[49] *See* Matthew Holloway, *Call to Suspend Oversight of Police Complaints*, TASMANIAN TIMES (Jan. 15, 2014), http://www.tasmaniantimes.com.au/index.php/article/call-to-suspend-oversight-of-police-complaints.

[50] Australasian Centre for Policing Research, National Guidelines for Incident Management, Conflict Resolution and Use of Force: 2004 (Report Series No. 132.2, 2004), http://www.anzpaa.org.au/upload/ANZPIRe/ACPR/ACPR-RS-132.2.pdf.

Negotiators and the Use of Lethal Force – 2005,[51] both produced by the former Australasian Centre for Policing Research.

The federal Crimes Act 1914 (Cth), which contains provisions that apply to both federal and state and territory law enforcement officers,[52] provides that

> (1) A person must not, in the course of arresting another person for an offence, use more force, or subject the other person to greater indignity, than is necessary and reasonable to make the arrest or to prevent the escape of the other person after the arrest.
> (2) Without limiting the operation of subsection (1), a constable must not, in the course of arresting a person for an offence:
> (a) do anything that is likely to cause the death of, or grievous bodily harm to, the person unless the constable believes on reasonable grounds that doing that thing is necessary to protect life or to prevent serious injury to another person (including the constable); or
> (b) if the person is attempting to escape arrest by fleeing—do such a thing unless:
> (i) the constable believes on reasonable grounds that doing that thing is necessary to protect life or to prevent serious injury to another person (including the constable); and
> (ii) the person has, if practicable, been called on to surrender and the constable believes on reasonable grounds that the person cannot be apprehended in any other manner.[53]

The Public Order (Protection of Persons and Property) Act 1971 (Cth) also provides for the use of force in dispersing or suppressing assemblies in a territory, on Commonwealth premises, or in relation to protected premises (e.g., embassies) in certain circumstances, stating that it is "lawful for a person to use such force as he or she believes, on reasonable grounds, to be necessary for that purpose and is reasonably proportioned to the danger which he or she believes, on reasonable grounds, is to be apprehended from the continuance of the assembly."[54]

State and territory criminal and policing statutes also provide for the use of force in overcoming any force used in resisting arrest or other law enforcement processes or to prevent the escape of an arrested person. The wording of these provisions reflects the principle that such force must be reasonably necessary in the circumstances.[55] Some statutes also contain provisions related to the

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[51] *See* Queensland Police, Operational Procedures Manual, Chapter 14, *supra* note 29, app. 14.1 (National Guidelines for the Use of Lethal Force by Police). A full version of the 2005 document could not be located.

[52] Crimes Act 1914 (Cth) s 3(1) (definition of "constable"), http://www.comlaw.gov.au/Details/C2014C00297.

[53] *Id.* s 3ZC.

[54] Public Order (Protection of Persons and Property) Act 1971 (Cth), ss 8(4) & 17(4), http://www.comlaw.gov.au/Details/C2014C00245.

[55] *See, e.g.*, Criminal Code Act (Qld) s 254, https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/C/CriminCode.pdf; Police Powers and Responsibilities Act (Qld) ss 614–616, https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/P/PolicePowResA00.pdf; Crimes Act 1900 (ACT) s 221, http://www.legislation.act.gov.au/a/1900-40/current/pdf/1900-40.pdf; Law Enforcement (Powers and Responsibilities) Act 2002 (NSW) ss 230–231, http://www.legislation.nsw.gov.au/maintop/view/inforce/act+103+2002+cd+0+N; Criminal Code Act Compilation Act 1913 (WA) ss 231–235, http://www.slp.wa.gov.au/pco/prod/FileStore.nsf/Documents/MR

use of force to suppress riots. These provisions essentially reflect the above language in the federal statute in relation to assemblies.[56]

IV. Incidents and Controversies

According to the Australian Institute of Criminology, 105 people were fatally shot by police between the fiscal years 1989–90 and 2010–11. In 16 cases, the person was not carrying any weapon, while in 34 cases the deceased had been in possession of a firearm, 41 cases involved a knife, and 14 involved some other weapon. In 42% of all cases the deceased was identified "as having some form of mental illness."[57] Police shootings receive extensive media attention and are subject to considerable scrutiny by official entities.

Police forces and officers in different parts of Australia have been involved in various controversies over the last two decades. These have related to issues such as serious corruption,[58] deaths of aboriginal individuals in police custody,[59] excessive use of force,[60] and crowd control or dispersal measures.[61] For example, the death in police custody of an

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Document:26420P/$FILE/Criminal%20Code%20Act%20Compilation%20Act%201913%20-%20%5B17-f0-00%5D.pdf?OpenElement; Criminal Code Act 1924 (Tas) s 26, http://www.thelaw.tas.gov.au/tocview/index.w3p;cond=;doc_id=69%2B%2B1924%2BAT%40EN%2B20140911020000; Crimes Act 1958 (Vic) s 462A, http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/LTObject_Store/LTObjSt7.nsf/DDE300B846EED9C7CA257616000A3571/F0DAEBAA20DFCD11CA257B0B00146ED4/$FILE/58-6231aa235%20authorised.pdf; Police Regulations 2014 (SA) reg 17(a), http://legislation.sa.gov.au/LZ/C/R/POLICE%20REGULATIONS%202014/CURRENT/2014.231.UN.PDF.

[56] *See, e.g.*, Criminal Code Act 1924 (Tas) s 34; Criminal Code Act Compilation Act 1913 (WA) s 238–242; Criminal Code Act (Qld) ss 261–265.

[57] *Police Shootings of People with Mental Illness*, AUSTRALIAN INSTITUTE OF CRIMINOLOGY (Research in Practice No. 34, May 2013), http://www.aic.gov.au/media_library/publications/rip/rip34.pdf.

[58] Lucy Carter, *Australian Federal Police Officer Benjamin Joseph Hampton Charged with 12 Corruption and Bribery Offences*, ABC NEWS (July 17, 2014), http://www.abc.net.au/news/2014-07-17/afp-officer-charged-12-offences-corruption-bribery/5604142.

[59] *See, e.g.*, Natasha Robinson, *Aboriginal Man's Death in Custody Triggers Call to Review 'Draconian' Law*, THE AUSTRALIAN (Sept. 9, 2014), http://www.theaustralian.com.au/national-affairs/indigenous/aboriginal-mans-death-in-custody-triggers-call-to-review-draconian-law/story-fn9hm1pm-1227051911262?nk=78549d8ba0c08824c328d158909128c9; Kenneth Nguyen, *Palm Island Man 'Bashed to Death by Policeman'*, THE AGE (Sept. 28, 2006), http://www.theage.com.au/news/national/palm-island-man-bashed-to-death-by-policeman/2006/09/27/1159337222690.html; *Aboriginal Legal Service 'Flabbergasted' by Death in Custody Decision*, ABC NEWS (June 28, 2010), http://www.abc.net.au/news/2010-06-28/aboriginal-legal-service-flabbergasted-by-death-in/883904; Allyson Horn & Ruby Jones, *'Lack of Care' by NT Police Led to Death in Custody*, ABC NEWS (Sept. 17, 2012), http://www.abc.net.au/news/2012-09-17/lack-of-care-by-nt-police-led-to-death-in-custody/4264934.

[60] *See, e.g.*, Nick Ralston, *Police Officers Should be Charged Over Fatal Shooting, Watchdog Says*, THE SYDNEY MORNING HERALD (June 26, 2013), http://www.smh.com.au/nsw/police-officers-should-be-charged-over-fatal-shooting-watchdog-says-20130626-2owk1.html.

[61] *See, e.g*, ACT PARLIAMENT, *supra* note 20; *Policing, Police Culture and Corruption*, UNSW CRIME AND JUSTICE RESEARCH NETWORK, http://www.cjrn.unsw.edu.au/node/92; *Occupiers 'Brutalised' in City Square Chaos*, THE AGE (Oct. 24, 2011), http://www.theage.com.au/victoria/occupiers-brutalised-in-city-square-chaos-20111024-1meym.html; Christopher Gillet, *Occupy Melbourne Protesters Leave $1 Million Legal and Clean Up Bill*, HERALD SUN (May 7, 2014), http://www.heraldsun.com.au/news/victoria/occupy-melbourne-protesters-leave-1-million-legal-and-clean-up-bill/story-fni0fit3-1226909466322.

Aboriginal man in Queensland in 2004 led to community protests and riots.[62] Most recently, in September 2014, controversy arose in relation to a video of New South Wales police in "riot gear" removing several Aboriginal children from a residence during the execution of a warrant. The police rejected claims that the removal was carried out at gunpoint.[63]

As a result of different incidents and concerns there have been a number of independent or parliamentary reviews and inquiries,[64] as well as inquests and other legal proceedings. These have led to recommendations for changes to some policies and procedures as well as the establishment or enhancement of oversight and complaints bodies.[65]

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[62] *See* Samantha Healy, *Palm Island Riot Class Action Alleges Discrimination*, TOWNSVILLE BULLETIN (June 24, 2014), http://www.townsvillebulletin.com.au/news/palm-island-riot-class-action-alleges-discrimination/story-fnjfzs4b-1226964566623.

[63] *Police in Riot Gear Removing Aboriginal Children at 'Gunpoint'*, SBS (Sept. 12, 2014), http://www.sbs.com.au/news/article/2014/09/12/police-riot-gear-removing-aboriginal-children-gunpoint.

[64] *See, e.g.*, VICTORIA OFFICE OF POLICE INTEGRITY, REVIEW OF THE USE OF FORCE BY AND AGAINST VICTORIAN POLICE (July 2009), http://www.ibac.vic.gov.au/docs/default-source/opi-parliamentary-reports/review-of-the-use-of-force-by-and-against-victorian-police---july-2009.pdf; Mark Coultan, *Robert McClelland to Lead Inquiry into Handling of Police Shootings*, THE AUSTRALIAN (Sept. 18, 2013), http://www.theaustralian.com.au/national-affairs/state-politics/robert-mcclelland-to-lead-inquiry-into-handling-of-police-shootings/story-e6frgczx-1226722123354.

[65] *See, e.g.*, Gabrielle Appleby, *South Australia Finally Moves to Establish an Independent Commissioner Against Corruption*, UNIVERSITY OF ADELAIDE PUBLIC LAW BLOG (May 19, 2012), http://blogs.adelaide.edu.au/public-law-rc/2012/05/19/south-australia-finally-moves-to-establish-an-independent-commissioner-against-corruption/; *About Us*, NSW POLICE INTEGRITY COMMISSION, http://www.pic.nsw.gov.au/AboutUs.aspx (last visited Sept. 12, 2014).

Brazil

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SUMMARY A constitutional principle provides that federal, state, and municipal police forces are charged with the duty of preserving public order and the security of persons and property, which must be funded by their respective budgets. In case of serious disturbances, armed forces may be dispatched to a specific region at the request of the appropriate authorities.

Federal law defines restricted firearms, ammunition, accessories and equipment suitable for military or law-enforcement use only.

In 2011, an Interministerial Administrative Act entered into force establishing new guidelines for the use of firearms by public safety officers, who are now required to use at least two other non-lethal weapons before firing any firearm. If a shooting occurs, its circumstances must be explained.

Recently, a poor area in the city of Rio de Janeiro was occupied by armed forces for the purpose of implementing a police unit designed to bring peace and help the police and people work together. However, the measure was received with indifference and suspicion by the population.

I. Introduction

Article 144 of the Brazilian Constitution addresses public security. It provides that public security is a duty of the State and the right and responsibility of all persons. It further states that public security is exercised to preserve public order and the security of persons and property, through the federal police, federal highway police, federal railway police, civil police, military police, and military fire brigades.[1] Article 144 also provides that municipalities may establish municipal guards to protect their property, services and facilities.[2]

Funding for the federal police forces comes from the federal budget. Civil police, military police, and military fire brigades are funded by the states. In 2014, the funding for the federal police was R$4.8 billion (approximately US$2.2 billion). The amount allocated to the acquisition of weapons was not specified.[3]

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[1] CONSTITUIÇÃO FEDERAL art. 144, http://www.planalto.gov.br/ccivil_03/Constituicao/Constituicao.htm (last visited Sept. 9, 2014).

[2] *Id.* art. 144(§8).

[3] VOL. IV, TOMO I MINISTÉRIO DO PLANEJAMENTO, ORÇAMENTO ANUAL DE 2014 at 209 (2013), http://www.planejamento.gov.br/ministerio.asp?index=8&ler=s798.

It appears that the police may not receive military equipment and arms. However, at the request of a state governor, the federal government may send the armed forces (army, navy, and air force) to the requesting state to ensure law and order.[4]

II. Police Weapons and Equipment

A. Federal Police

1. Individual Weapons

The researched legislation does not specify which individual weapons are used by the federal police. However, Decree No. 3,665 of November 20, 2000, defines restricted and permitted firearms, ammunition, accessories, and equipment.[5]

Article 16 lists the materials subject to restricted use, which include but are not limited to

> (I) weapons, ammunition, equipment, and accessories that have some of the characteristics of the armaments used by the national armed forces with respect to their tactical, strategic, and technical use;
>
> (II) weapons, ammunition, accessories, and equipment that are not identical or similar to the armaments used by the national armed forces but have characteristics that make them suitable only for military or law-enforcement use;
>
> (III) short firearms, the common ammunition for which has, on exiting the barrel, an energy higher than three hundred foot-pounds or four hundred seven Joules—ammunition such as the .357 Magnum, 9 Luger, .38 Super Auto, .40 S&W, .44 SPL, .44 Magnum, .45 Colt and .45 Auto;
>
> (IV) long striped firearms, the common ammunition for which has, on exiting the barrel, an energy higher than one thousand foot-pounds or one thousand three hundred fifty-five Joules—ammunition such as the .22-250, .223 Remington, .243 Winchester, .270 Winchester, 7 Mauser, .30-06, .308 Winchester, 7.62 x 39, .357 Magnum, .375 Winchester and .44 Magnum;
>
> (V) automatic firearms of any caliber.[6]

Article 17 of Decree No. 3,665 defines permitted firearms, ammunition and equipment, which include, but are not limited to:

> (I) short, repeating, or semiautomatic firearms, the common ammunition for which has, on exiting the barrel, an energy of up to three hundred foot-pounds or four

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[4] Lei Complementar No. 97, de 9 de Junho de 1999, art.15, http://www.planalto.gov.br/ccivil_03/leis/lcp/Lcp97 compilado.htm; Decreto No. 3897, de 24 de Agosto de 2001, art. 2(§2), http://www.planalto.gov.br/ccivil_ 03/decreto/2001/d3897.htm.

[5] Decreto No. 3.665, de 20 de Novembro de 2000, art. 15, http://www.planalto.gov.br/ccivil_03/ decreto/D3665.htm.

[6] *Id.* art. 16 (translation by author). For a full list of weapons, ammunition, equipment, and accessories of restricted use, see Decree No. 3,655.

hundred seven Joules—ammunition such as the .22 LR, .25 Auto, .32 Auto, .32 S&W, .38 SPL and .380 Auto;

(II) long striped, repeating, or semiautomatic firearms, the common ammunition for which has, on exiting the barrel, a maximum energy of one thousand pounds or one thousand three hundred fifty-five Joules—ammunition such as the .22 LR, .32-20, .38-40 and .44-40;

(III) smooth bore, repeating, or semiautomatic firearms with a caliber of twelve or lower and with a barrel length equal to or greater than twenty-four inches or six hundred ten millimeters; firearms with a smaller caliber, with any barrel length; and their permitted ammunition.[7]

2. Other Equipment

The website of the federal police provides several images of vehicles, trucks, helicopters, airplanes, and boats, which apparently compose the equipment used by the federal police to fulfill its mission.[8] However, it was not possible to determine their specifications, the amount of equipment available, or its purpose.

B. Local Police Forces

1. Individual Weapons

The definition established by Decree No. 3,655 in regard to restricted and permitted firearms, ammunition, accessories, and equipment also applies to local police forces.

2. Other Equipment

According to a news report, the police of the state of Rio de Janeiro recently acquired eight armored trucks manufactured in South Africa. These trucks, known as Paramount Mavericks, will be used by the Special Police Operations Battalion (Batalhão de Operações Policiais Especiais) (four trucks), the Coordination of Special Resources (Coordenadoria de Recursos Especiais) (two trucks), and the Police Shock Battalion (Batalhão de Polícia de Choque) (two trucks). The Maverick trucks were designed to be military vehicles and can withstand heavy-caliber shootings and grenades.[9]

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[7] *Id.* art. 17 (translation by author). For a full list of weapons, ammunition, equipment, and accessories of permitted use, see Decree No. 3,655.

[8] *Banco de Imagens*, AGÊNCIA DE NOTÍCIAS DA POLÍCIA FEDERAL, http://www.dpf.gov.br/agencia/banco-de-imagens?b_start:int=0 (last visited Sept. 9, 2014).

[9] Julio Cabral, *Conheça o Novo Caveirão da Polícia do Rio de Janeiro*, REVISTA AUTO ESPORTE, Apr. 11, 2013, http://revistaautoesporte.globo.com/Noticias/noticia/2013/04/conheca-o-novo-caveirao-da-policia-do-rio-de-janeiro.html. BOPE is a special force of the military police of Rio de Janeiro, which acts in critical situations. CORE is a special unit of the civil police of the state of Rio de Janeiro used for police intervention requiring exceptional training. BPChq is a military police organization within the military police of Rio de Janeiro, which focuses on the control of civil disturbances in open and closed areas.

C. Special Police Forces

1. Individual Weapons

The definition established by Decree No. 3,655 in regard to restricted and permitted firearms, ammunition, accessories, and equipment also applies to special police forces.

2. Other Equipment

No information is available in regard to special vehicles, weapons, or equipment used by special police forces.

III. Rules on the Use of Police Weapons

On December 31, 2010, the Ministry of Justice and the Ministry of Human Rights issued an Interministerial Administrative Act (*Portaria*) establishing new guidelines for the use of firearms by public safety officers.[10] The new rules aim to preserve the human rights and safety of civilians, and to gradually reduce rates of mortality resulting from actions involving public safety officers. The guidelines are composed of twenty-five new rules and apply to the federal police, federal highway police, national penitentiary department, and national public security force.[11]

Among the changes is a requirement that safety officers make use of at least two other nonlethal weapons before firing any firearm. In addition, if a shooting occurs, it is now necessary to provide a report explaining why the weapon was fired.[12] The guidelines also state that police must avoid using firearms against a person on the run who is unarmed, or even against one in possession of a weapon who does not pose an immediate danger of death or serious injury to law enforcement officials or third parties.[13]

IV. Recent Incidents

On April 5, 2014, an area inhabited by approximately 130,000 people called Complexo da Maré, composed of fifteen slums in a suburb of the city of Rio de Janeiro, was occupied by federal army and navy personnel using armored vehicles. The action preceded the implementation of an operation by a Police Pacification Unit (Unidade de Polícia Pacificadora)[14] in the area.[15]

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[10] Portaria Interministerial No. 4226, de 31 de Dezembro de 2010, http://download.rj.gov.br/documentos/10112/1188889/DLFE-54510.pdf/portaria4226usodaforca.pdf.

[11] *Nova Regra para Uso de Arma de Fogo por Agentes Públicos Visa Preservar Direito de Civis*, PORTAL BRASIL (Apr. 1, 2011), http://www.brasil.gov.br/cidadania-e-justica/2011/04/nova-regra-para-uso-de-arma-de-fogo-por-agentes-publicos-visa-preservar-direito-de-civis.

[12] *Id.*

[13] *Id.*

[14] The UPP program was designed according to the principles of proximity policing, a concept that goes beyond community policing and is based on a partnership between the people and the institutions involved in public security. The program includes partnerships between local, state, and federal governments and different agents of civil society, and aims to permanently recover communities dominated by drug trafficking and to ensure a closer

On the previous night, the Secretariat of Security announced that in fifteen days the police had killed sixteen people in the area; eight people had been injured; and 101 weapons, 2,252 cartridges of ammunition, and a great quantity of drugs had been apprehended.[16]

According to news reports, the arrival of the military was treated with a mixture of indifference and suspicion by most of the local residents and merchants, who did not expect the federal armed forces to behave much differently than the state military police.[17]

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relationship between the government and the population. *Segurança, UPP – Unidade de Polícia Pacificadora*, GOVERNO DO RIO DE JANEIRO (May 26, 2014), http://www.rj.gov.br/web/seseg/exibeconteudo?article-id=1349728.

[15] Gustavo Maia, *Após Polícia Matar 16 em 15 Dias, Exército Ocupa Complexo da Maré, no Rio*, UOL NOTÍCIAS (Apr. 5, 2014), http://noticias.uol.com.br/cotidiano/ultimas-noticias/2014/04/05/exercito-inicia-patrulhamento-na-mare-na-manha-deste-sabado.htm.

[16] *Id.*

[17] *Id.*

Canada

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SUMMARY The Royal Canadian Mounted Police (RCMP) is Canada's national police force. It provides federal, provincial, and municipal police services, and has contracted its services to a number of provinces and municipalities.

Reports indicate that Canadian police agencies at all levels both receive donations of surplus military equipment and vehicles and directly purchase military-style items. Generally, police are authorized to use force within the framework of the Canadian Charter of Rights and Freedoms and Canada's Criminal Code. In addition there are regulations, policies, and frameworks for the use of weapons at the federal and provincial levels.

Several recent incidents have reportedly caused some Canadian citizens to question the increasing police use of military-style weapons and tactics.

I. Introduction

The Royal Canadian Mounted Police (RCMP), Canada's national police force, is organized under the authority of the Royal Canadian Mounted Police Act.[1] In accordance with the Act, the RCMP "is headed by the Commissioner, who, under the direction of the Minister of Public Safety Canada, has the control and management of the Force and all matters connected therewith."[2]

The RCMP is regarded as "unique because it is the only police force in the world that serves as federal, provincial and municipal police services. As the federal police force, the RCMP enforces federal statutes across the provinces and is responsible for border integrity and national security, drugs and organized crime, financial crime and international policing."[3] Apart from its federal policing services, RCMP provides contract policing to "three territories, eight provinces (except Ontario and Quebec), more than 150 municipalities, more than 600 Aboriginal communities and three international airports."[4]

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[1] Royal Canadian Mounted Police Act, R.S.C., 1985, c. R-10, http://laws-lois.justice.gc.ca/eng/acts/R-10/.

[2] *Organizational Structure*, RCMP, http://www.rcmp-grc.gc.ca/about-ausujet/organi-eng.htm (last modified Sept. 15, 2014).

[3] *Description of Policing in B.C.*, BRITISH COLUMBIAS MINISTRY OF JUSTICE, http://www.pssg.gov.bc.ca/policeservices/description/ (last visited Sept. 19, 2014).

[4] *About the RCMP*, RCMP, http://www.rcmp-grc.gc.ca/about-ausujet/index-eng.htm (last modified July 10, 2013). For more information on contract arrangements, see *Contract Policing*, RCMP, http://www.rcmp-grc.gc.ca/ccaps-spcca/contract-eng.htm (last visited Sept. 19, 2014).

Apart from the RCMP, Canada also has police agencies at the provincial and municipal level. As seen below, police agencies at all levels either make direct purchases of military equipment or receive donations of surplus items from Canada's armed forces.

II. Police Weapons and Equipment

A. National / Federal Police

In 1995, the RCMP appears to have adopted the Smith & Wesson 9-mm semiautomatic pistol as a standard-issue weapon.[5] Online information suggests that RCMP officers also use model 5946 and model 3953 weapons,[6] and the Remington 12-gauge shotgun.[7] In 2010, there were reports of police use of the Heckler & Koch MP5 submachine gun in order to increase security in Ontario's Parliament Hill area.[8] The following weapons also appear to be in use: SIG Sauer 220R (.45), SIG Sauer 226R (9mm), Colt Canada C7 rifle, Colt Canada C8 Carbine,[9] and Taser International M26 and X26.[10] The Colt Canada C8 Carbine seems to be in limited use in the RCMP but of greater use in Canada's municipal police forces.[11] The RCMP also possesses water cannons.[12]

The marine section of RCMP currently operates five patrol vessels, four of them 17.7 m (58 ft.) fast patrol catamarans, and one 19.75 meter fast patrol aluminum catamaran.[13] The RCMP's Air Services Fleet has approximately forty-one aircraft, including three Cessna Caravans, two De

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[5] News Release, Royal Canadian Mounted Police, RCMP Academy in Full Expansion (Sept. 10, 2007), http://news.gc.ca/web/article-en.do?crtr.sj1D=&mthd=advSrch&crtr.mnthndVl=&nid=349069&crtr.dpt1D=&crtr.tp1D=&crtr.lc1D=&crtr.yrStrtVl=2008&crtr.kw=&crtr.dyStrtVl=26&crtr.aud1D=&crtr.mnthStrtVl=2&crtr.yrndVl=&crtr.dyndVl.

[6] THOMAS J. AVENI & DUANE CHICKERING, THE VARLEY INQUIRY: AN OBJECTIVE ANALYSIS OF RCMP POLICIES AND PROCEDURES SALIENT TO THE IN-CUSTODY DEATH OF DARREN VARLEY (Apr. 1, 2010), http://www.theppsc.org/Consulting/Varley.Inquiry-RELEASED.VERSION.pdf.

[7] *ARCHIVED Remington Gun Parts (M8500-12R034/A): Tender Notice*, PUBLIC WORKS AND GOVERNMENT SERVICES CANADA, https://buyandsell.gc.ca/procurement-data/tender-notice/PW-REG-121-4523 (last updated Sept. 18, 2014).

[8] *Submachine-Guns to Join RCMP Hill Arsenal*, CBCNEWS (Apr. 7, 2010), http://www.cbc.ca/news/politics/submachine-guns-to-join-rcmp-hill-arsenal-1.948383.

[9] Chris Purdy, *RCMP to Get New C8 Patrol Carbine, M-16 Like Rifles Modified to Have Less Power*, HUFFINGTON POST CANADA (Oct. 21, 2011), http://www.huffingtonpost.ca/2011/10/21/front-line-rcmp-officers-_n_1023821.html.

[10] *Hundreds of Faulty RCMP Tasers Destroyed or Pulled*, CTV NEWS (Apr. 18, 2010), http://www.ctvnews.ca/hundreds-of-faulty-rcmp-tasers-destroyed-or-pulled-1.503499.

[11] Press Release, Mounted Police Professional Association of Canada, Deaths of Three RCMP Members and Future Safety of Officers Demand External Public Inquiry (July 17, 2014), http://mppac.ca/deaths-of-three-rcmp-members-and-future-safety-of-officers-demand-external-public-inquiry/.

[12] *RCMP Adds Water Cannons to G8/G20 Security Arsenal*, NATIONAL POST (June 21, 2010), http://news.nationalpost.com/2010/06/21/rcmp-adds-water-cannons-to-g8g20-security-arsenal/.

[13] *Marine Services*, RCMP, http://www.rcmp-grc.gc.ca/mari/index-eng.htm (last modified Dec. 16, 2010).

Havilland Twin Otters, two Eurocopter EC 120Bs, eight Eurocopter AS 350B3s, fifteen Pilatus PC-12s, one Piaggo Avanti P180, and ten Cessnas.[14]

B. Local Police Forces

There does not appear to be any standardization across local police departments at the provincial and municipal level. Different police departments appear to use different weapons depending on the jurisdiction. There is some evidence of the use of Glock, Sig Sauer or Smith & Wesson handguns by police agencies at the provincial and local level.[15]

Canada.com has reported that a Grizzly armored personnel carrier was donated to Edmonton police in 2007 and one Cougar armored vehicle each to New Glasgow and Windsor, Ontario police in 2013. In addition, the Ottawa Police Service purchased a Lenco Bearcat armored vehicle in 2010. In 2013, the Montreal Police acquired a new Thunder 1 armored vehicle from Cambli International.[16] In 2014, the Department of National Defence also donated an MCI J4500-model bus to the Winnipeg Police Service.[17]

Local police, including in Toronto[18] and Montreal,[19] have reportedly purchased sound cannons or long-range acoustic devices (LRAD).

C. Special Police Forces

The RCMP's Emergency Response Team (ERT) appears to use the Heckler and Koch MP5 submachine gun (9mm) and C8 carbine. The ERT also uses tactical armored vehicles that it either contracted to have built or received through donations from the Canadian Armed Forces.[20] In 2010, there were reports of Cougar tactical armored vehicles being donated to the British

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[14] *Air Services*, RCMP, http://www.rcmp-grc.gc.ca/air/index-eng.htm (last updated July 27, 2010).

[15] ONTARIO POLICE COLLEGE, 2014 COURSE CALENDAR: MOVING FORWARD 71, http://www.mcscs.jus.gov.on.ca/stellent/groups/public/@mcscs/@www/@com/documents/webasset/ec159800.pdf.

[16] Douglas Quan, *Canadian Police Forces Bulking Up with Armoured Vehicles*, CANADA.COM (Aug. 21, 2014), http://o.canada.com/news/national/canadian-police-forces-bulking-up-with-armoured-vehicles/comment-page-1.

[17] Douglas Quan, *Canadian Forces Donate Surplus Military Hardware to Police Agencies*, CANADA.COM (Aug. 29, 2014), http://o.canada.com/news/national/rcmp-defends-acquisition-of-surplus-military-hardware.

[18] Jill Mahoney, *Police Can Use Sound Cannons, but with Limits: Judge*, THE GLOBE & MAIL (Aug. 23, 2012), http://www.theglobeandmail.com/news/world/police-can-use-sound-cannons-but-with-limits-judge/article1373891/.

[19] Marie-Michèle Sioui, *La police de Montréal se dote de canons à son*, LA PRESSE (May 22, 2014), http://www.lapresse.ca/actualites/montreal/201405/22/01-4768807-la-police-de-montreal-se-dote-de-canons-a-son.php.

[20] *Tactical Armoured Vehicle*, RCMP, http://www.rcmp-grc.gc.ca/fs-fd/tav-vbt-eng.htm (last modified Aug. 25, 2014).

Columbia RCMP by the Canadian Armed Forces.[21] In 2012, the RCMP purchased eighteen custom-built tactical armored vehicles from Navistar Defence Canada.[22]

III. Rules on the Use of Police Weapons

Police are authorized to use force within the framework of the Canadian Charter of Rights and Freedoms,[23] Canada's Criminal Code,[24] other provincial-level legislation, and case law. According to section 25(1) of Canada's Criminal Code, "[e]veryone who is required or authorized by law to do anything in the administration or enforcement of the law . . . is, if he acts on reasonable grounds, justified in doing what he is required or authorized to do and in using as much force as is necessary for that purpose."[25] Section 26 stipulates that "[e]veryone who is authorized by law to use force is criminally responsible for any excess thereof according to the nature and quality of the act that constitutes the excess."[26] Section 117.07(1) of the Code exempts police officers from the prohibitions on possession and other uses of weapons and firearms.[27]

Provincial police appear to have their own laws, regulations, policies, and frameworks that regulate the use of force involving weapons. For example, Ontario has adopted the Equipment and Use of Force Regulation, which "sets out requirements in relation to the use of force including use of approved weapons, training and reporting, as well as use/technical specifications for handguns."[28] British Columbia likewise has its own regulations.[29]

With the increasing use of Tasers by Police agencies, guidelines and policies for Taser use have been developed at the federal and provincial levels.[30]

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[21] *Armoured Vehicles Adopted by B.C. RCMP*, CBC NEWS (Mar. 24, 2010), http://www.cbc.ca/news/canada/british-columbia/armoured-vehicles-adopted-by-b-c-rcmp-1.871738.

[22] *RCMP Take Delivery of 18 Armoured Vehicles To Bolster Emergency Response Teams*, GLOBAL NEWS (July 24, 2012), http://globalnews.ca/news/269502/rcmp-take-delivery-of-18-armoured-vehicles-to-bolster-emergency-response-teams/.

[23] Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act, 1982, c. 11 (U.K.)

[24] Criminal Code, R.S.C., 1985, c. C-46, http://laws-lois.justice.gc.ca/eng/acts/C-46/.

[25] *Id.* § 25(1).

[26] *Id.* § 26.

[27] *Id.* § 117.07(1).

[28] Equipment and Use of Force Regulation, R.R.O. 1990, Reg. 926 (Ont.), http://www.e-laws.gov.on.ca/html/regs/english/elaws_regs_900926_e.htm.

[29] Use of Force Regulation, BC Reg. 203/98, *available at* https://www.canlii.org/en/bc/laws/regu/bc-reg-203-98/latest/bc-reg-203-98.html.

[30] *Guidelines for the Use of Conducted Energy Weapons*, PUBLIC SAFETY CANADA, http://www.publicsafety.gc.ca/cnt/rsrcs/pblctns/gdlns-cndctv-nrg-wpns/index-eng.aspx (last updated Mar. 4, 2014); *Tasers & Conducted Energy Weapons: Current Guidelines*, ONTARIO MINISTRY OF COMMUNITY SAFETY AND CORRECTIONAL SERVICES, http://www.mcscs.jus.gov.on.ca/english/police_serv/ConductedEnergyWeapons/ Guidelines/CEW_guidelines.html (Nov. 2013).

In 2000, the Canadian Association of Chiefs of Police endorsed a national framework for the use of force that became the basis for police agencies to "build their own use-of-force policies or standards."[31] The framework represents "how an officer enters into or is confronted with a situation, and how he assesses, plans and responds to incidents that threaten officer or public safety. It assists with training officers and provides a reference for decision-making and articulating their actions respecting use of force."[32]

IV. Recent Incidents

Though the surplus donation of military equipment to Canadian law enforcement has not reached a level comparable to the US, Canadian media sources reflect growing public concern over the increasing use of military equipment and tactics in relatively recent events and incidents involving federal and local police forces.

In 2010, the use of "heavy militarized police units during political protests" during the G20 summit was particularly controversial.[33] During the summit, Toronto police were seeking to use sound cannons or long-range acoustic devices (LRAD); however, the Ontario Superior Court ruled that only the voice function on the device could be used and not the alert function.[34] More recently, there have been reports of the RCMP using "armoured vehicles, helicopters and a cadre of heavily-equipped officers in full combat uniforms" during a manhunt for a gunman who shot and killed three officers.[35] Another recent incident reportedly involved a "peaceful anti-fracking First nations protest" that turned violent after "a large police presence featuring camouflaged snipers descended on the scene and employed military-like tactics to clear their encampment."[36]

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[31] Ron Hoffman, *Canada's National Use-of-Force Framework for Police Officers*, POLICE CHIEF (Oct. 2004), http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display_arch&article_id=1397&issue_id=102004.

[32] Chris Butler, The Use of Force Model and Its Application to Operational Law Enforcement – Where Have We Been and Where Are We Going?, http://www.cacole.ca/resource%20library/conferences/2009%20Conference/Chris%20Butler.pdf (last visited Sept. 19, 2014).

[33] Dana Yates, *Study of Toronto G20 Summit Examines Civil Rights, Role of Social Media*, RYERSON UNIVERSITY (June 07, 2013), http://www.ryerson.ca/news/news/Research_News/20130607_g20.html.

[34] Mahoney, *supra* note 18.

[35] Mathew Coutts, *Militarization and Protests in North America – Do We Have a Problem?*, YAHOO CANADA NEWS (Aug. 14, 2014), https://ca.news.yahoo.com/blogs/dailybrew/militarization-protests-north-america-problem-213726079.html.

[36] *Id.*

People's Republic of China

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SUMMARY Weapons the Chinese police may be equipped with consist of mandatory and optional items. Mandatory items include batons, handcuffs, tear gas ejectors, and flashlights. Optional items include police knives, guns, and anti-stab vests.

The standard gun specially designed to be used by the police is the 9mm Chinese Police Revolver. In practice, however, most Chinese police officers are not equipped with firearms, as gun-related crimes are deemed rare because of the country's strict gun control laws. However, since March 2014, many provinces reportedly announced that they would equip their on-duty policemen with guns in order to improve police response to violent incidents, and the Ministry of Public Security has launched training programs to train police officers on firearms use. This followed a deadly attack in the southwest city of Kunming in that month.

The use of police weapons is governed by a set of regulations promulgated by the State Council in 1996, which specify fifteen urgent situations involving violent crimes in which the police may open fire.

I. Introduction

The Law of the People's Republic of China (PRC or China) on the People's Police (Police Law) is the primary legislation that governs the organizational structure, function, discipline, etc. of the Chinese police forces throughout the country. The law was first enacted in 1995 and later amended in 2012.[1]

According to the Police Law, the Chinese police consists of several police forces: the public security police, state security police, prison police, and judicial police of the People's Courts and People's Procuratorates (China's prosecution service).[2] Article 10 of the Police Law provides that the public security police may use weapons in the case of emergencies, such as a suspect resisting arrest, rebellion, prison escapes, an attempt to grab a firearm, or other acts of violence.[3] To stop other serious illegal and criminal activities, the public security police may use "police implements" such as batons and tear gas.[4]

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[1] Renmin Jingcha Fa [Law on the People's Police] (promulgated by the Standing Committee of the National People's Congress (NPC), Feb. 28, 1995, revised Oct. 26, 2012), XINBIAN ZHONGHUA RENMIN GONGHEGUO CHANGYONG FALÜ FAGUI QUANSHU (2014) (hereinafter FAGUI QUANSHU) 3-65, English translation *available at* WESTLAW CHINA (by subscription).

[2] *Id.* art. 2.

[3] *Id.* art. 10.

[4] *Id.* art. 11.

It is not clear whether the ordinary police may receive military equipment and arms. It is worth noting, however, that the People's Armed Police (PAP), a paramilitary force that operates as part of the country's armed forces, may participate in dealing with rebellions, riots, large-scale criminal violence, and terrorist attacks, among their duties of safeguarding national security and social stability.[5] When performing these duties, the PAP troops are required to follow the same rules on the use of police weapons that apply to the police.[6]

II. Police Weapons and Equipment

A. Individual Weapons

In 2006, the Ministry of Public Security issued a circular specifying the standard weapons and equipment that may be used by police officers in performing their duties of maintaining public security and enforcing the law. The circular applies to all levels of public security authorities throughout the country.[7]

The circular divides weapons and equipment into mandatory and optional items. Mandatory items with which officers must be equipped include batons, handcuffs, tear-gas ejectors, and flashlights. Optional items that may be provided include police knives, guns, and anti-stab vests.[8] The standard police gun that is specially designed to be used by the police is the 9mm Chinese Police Revolver.[9] In practice, however, Chinese police do not generally carry firearms, as gun-related crimes are rare in China, where guns are strictly controlled, according to the official Xinhua News Agency.[10]

B. Other Equipment

Chinese law divides the weapons and equipment the police use into police implements and weapons. The term "weapons" refers to items capable of deadly force, including guns and

[5] Renmin Wuzhuang Jingcha Fa [Law on the People's Armed Police] (promulgated by the NPC Standing Committee, Aug. 27, 2009) arts. 2 & 7, FAGUI QUANSHU 3-62, English translation *available at* WESTLAW CHINA (by subscription).

[6] *Id.* art. 15.

[7] Gong'an Danjing Zhuangbei Peibei Biaozhun [Equipment Standards for Individual Public Security Officers] (issued by the Ministry of Public Security (MPS), July 24, 2006), §§ 1.0.4 & 2.0.1, available for downloading on the MPS website, http://www.mps.gov.cn/n16/n1957124/n1957171/n1957428/2863724.html (in Chinese; translated by author).

[8] *Id.* app.

[9] *Gong'an Danjing Zhuangbei Peibei Biaozhun Banbu, Fen Bipei he Xuanpei* [*Equipment Standards for Individual Public Security Police Officers Issued, Including Mandatory and Optional Items*], XINHUANET (Sept. 29, 2006), http://news.xinhuanet.com/legal/2006-09/29/content_5152908.htm (in Chinese).

[10] *Chinese Police Trained in Correct Firearms Use*, XINHUANET (June 6, 2014), http://english.people.com.cn/n/2014/0606/c90882-8737849.html.

ammunition; "police implements" include batons, tear gas, water cannons, special riot guns, handcuffs, shackles, and police ropes.[11]

C. Special Police Forces

Various police forces may "appropriately add other weapons and equipment" beyond the standard equipment in accordance with their work needs, according to the 2006 circular.[12]

The Ministry of Public Security had previously issued a guideline in 1994 that provided a set of equipment standards for police teams patrolling in cities. Weapons that may be issued to police patrol officers include pistols and submachine guns. According to the 1994 guideline, police patrol teams may be equipped with transportation equipment, communication equipment, weapons, police implements, protective equipment, and other equipment, which specifically includes the following items:

- Transportation: bicycles, patrol cars, motorcycles
- Communication: base stations, car radio station, portable radio station
- Weapons: pistols, submachine guns, gun cabinets, bullet cabinets
- Police Implements: batons, handcuffs, sirens, police ropes
- Protective Equipment: anti-stab vests, bulletproof vests, helmets, knee pads, and gloves
- Other equipment: flashlights, search lights[13]

The 1994 guideline states that its implementation depends on the "practice and financial ability of each locality."[14] In practice, police officers on patrol do not appear to have been widely equipped with guns until recently.[15] In April 2014, police officers in Shanghai reportedly started carrying guns and bullets while on patrol.[16]

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[11] Renmin Jingcha Shiyong Jingxie he Wuqi Tiaoli [Regulations on Use of Police Implements and Weapons by the People's Police] (promulgated by the State Council, Jan. 1, 1996), 1 ZHONGHUA RENMIN GONGHEGUO GUOWUYUAN GONGBAO [PRC STATE COUNCIL GAZETTE] (1996) 6-9.

[12] *Id.* § 1.0.3.

[13] Quanguo Chengshi Renmin Jingcha Xunluodui Zhuangbei Biaozhun Shixing Guiding [Trial Provisions of the Equipment Standards for National City Patrol Police Officers] (Ministry of Public Security, July 6, 1994; amended Aug. 11, 1997), http://policy.mofcom.gov.cn/GlobalLaw/blank/claw!fetch.action?id=g300019411&industrycode=S09423&secondcode=214002 (in Chinese; translated by author), amendment *available at* WESTLAW CHINA (by subscription).

[14] *Id.*

[15] *Duodi Tuixing Yixian Minjing Peiqiang Xiedan Xunluo* [*Civil Police at Many Localities Started Carrying Guns and Bullets on Patrol*], XIN JING BAO (May 27, 2014), *available at* http://politics.people.com.cn/n/2014/0527/c1001-25068549.html (in Chinese).

[16] Gongbo Jian, *Shanghai Jiceng Xunjing Zuoqi Peiqiang Xunluo* [*Shanghai Local Police Patrol Officers Started Carrying Guns and Bullets on Patrol from Yesterday*], JIEFANG DAILY (Apr. 21, 2014), http://newspaper.jfdaily.com/jfrb/html/2014-04/21/content_1160722.htm (in Chinese).

The equipment standards for the Chinese SWAT teams and anti-riot police forces could not been located. According to a news report, SWAT teams are equipped with military-style weapons, such as the Type 95 assault rifle and Type 88 sniper rifle, when dealing with armed criminals and terrorists.[17]

III. Rules on the Use of Police Weapons

Use of police weapons is governed by the Regulations on Use of Police Implements and Weapons by the People's Police, which were promulgated by the State Council in 1996.[18] The Regulations provide fifteen "urgent situations" of violent crimes under which the police may use weapons such as guns and ammunition, including

1. arson, breaching a dike, or explosion that seriously endangers public security;
2. hijacking any aircraft, ship, train, or motor vehicle, or driving any motorized vehicles such as an automobile or ship that intentionally endangers public security;
3. forcibly seizing or robbing any dangerous goods such as guns, ammunition, explosives and deadly poisons that seriously endangers public security;
4. committing a crime by means of using or threatening to use any dangerous goods such as guns, explosives and deadly poisons;
5. sabotaging important facilities for the military, communication, traffic, energy or danger-prevention to such an extent as to cause serious and imminent danger to public security;
6. committing violent acts such as murdering and kidnapping other persons and taking them as hostages, which endanger citizens' lives;
7. objects or targets that are stipulated by the State to be guarded, defended, or kept on alert being violently assaulted or sabotaged or in imminent danger of being violently assaulted or sabotaged;
8. robbing public or private property in a gang or with a weapon;
9. seriously disturbing social public order such as gathering people to fight with weapons or to make a riot, which cannot be otherwise subdued;
10. resisting or obstructing by means of violence the people's policemen from lawfully performing their duties or violently raiding the people's policemen and thus endangering their lives;
11. suspects in custody or criminals in prison gathering to make a riot, commit violence or escape;
12. rescuing suspects in custody or criminals in prison;

[17] *Chinese Police Trained in Correct Firearms Use*, *supra* note 10.

[18] Renmin Jingcha Shiyong Jingxie he Wuqi Tiaoli [Regulations on Use of Police Implements and Weapons by the People's Police] (promulgated by the State Council, Jan. 1, 1996), 1 ZHONGHUA RENMIN GONGHEGUO GUOWUYUAN GONGBAO [PRC STATE COUNCIL GAZETTE] (1996) 6-9, English translation *available at* WESTLAW CHINA (by subscription), translation amended by author.

13. resisting arrest or escaping after committing arson, breaching a dike, causing an explosion, committing murder, committing robbing or engaging in other serious acts of violent crime;
14. criminals resisting arrest or escaping with dangerous goods such as guns, explosives and deadly poisons; or
15. other situations that permit the use of arms as provided in the laws and administrative regulations.[19]

Generally, policemen are required to warn persons before using weapons and may open fire only if the warning yields no success. If they have no time for a warning or a warning would only cause more serious and dangerous consequences, they may open fire without a warning, according to the Regulations.[20]

The Regulations also specify that the police cannot use weapons where

1. The person committing a crime is a pregnant woman or a child, except where the person is committing a violent crime by using or threatening to use dangerous goods such as guns, explosives and deadly poisons; or
2. The criminal is at a place that is crowded with people or stored with a large number of inflammable, explosive, deadly poisonous or radioactive dangerous goods, unless more dangerous consequences would occur without using arms to stop the criminal act.[21]

IV. Recent Incidents and Controversies

As mentioned previously, most Chinese police officers were not generally equipped with firearms, as gun-related crimes were deemed rare because guns are strictly controlled in the country.[22] Some have argued for armed police on social media. One of the most-cited examples in support of equipping policemen with guns, as noted by a *Foreign Policy* article, is the Tai'an case:

> In January 2011, two armed suspects shot dead four policemen and injured five others in Tai'an, a city of over 7 million in the eastern province of Shandong. Reports showed that the policemen, all unarmed, went to a suspect's home to investigate a murder; as soon as the police identified themselves, two men inside opened fire.[23]

After a deadly attack in a railway station in the southwest Chinese city of Kunming on March 1, 2014, in which dozens of people were killed and more than one hundred wounded, many

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[19] *Id.* art. 9.

[20] *Id.*

[21] *Id.* art. 10.

[22] *Chinese Police Trained in Correct Firearms Use*, *supra* note 10.

[23] Lotus Yuen, *Should Chinese Police Carry Guns?*, FOREIGN POLICY (Apr. 17, 2014), http://www.foreignpolicy.com/articles/2014/04/17/should_chinese_police_carry_guns. *See also*, *Chinese Police Must Rethink Gun-Carrying Policy*, CHINA.ORG.CN (Jan. 11, 2011), http://www.china.org.cn/opinion/2011-01/11/content_21711718.htm.

provinces reportedly announced that they would equip their policemen on duty with guns in order to improve police response to violent incidents.[24] In March or April of this year, the Ministry of Public Security reportedly launched training programs to train police officers on firearms use. The first group of trainers was dispatched to the Xinjiang Uygur Autonomous Region in northwest China, according to *Xinhua*.[25]

The move triggered more debates on whether or not Chinese police should carry guns. The police have been under public criticism in cases of accidental injury and improper use of firearms, in addition to the public mistrust of police forces.[26]

[24] *Civil Police at Many Localities Started Carrying Guns and Bullets on Patrol*, *supra* note 15.

[25] *Chinese Police Trained in Correct Firearms Use*, *supra* note 10.

[26] *See*, *e.g.*, Yuen, *supra* note 23.

Estonia

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SUMMARY The Estonian Police is comprised of the State Police Force, Border Guard, and Immigration Service. This joint entity is the largest state institution, which is highly trusted by the public. The State Police Force is funded through a national appropriations process, and military-type equipment is used. The application of firearms by police is limited and strictly regulated by national legislation. Military-type weapons cannot be transferred to the municipal (local) police.

I. Introduction

The formation of the Estonian State Police Force was formally established on March 1, 1991, pursuant to the 1990 Police Act, following the restoration of national independence in the early 1990s.[1] The police system was further reformed after Estonia became a member of the European Union in 2004.

In 2010, under the Police and Border Guard Act,[2] the Police and Border Guard Board (PBGB), a department under the jurisdiction of the Ministry of Interior, was created. The Board is headed by the Director General, who is the national police chief.[3] The PBGB is the state police authority charged with the duty to protect public order, secure national borders, resolve issues in the area of migration, conduct search and rescue operations, respond to environmental accidents, and protect the highest government officials.[4] These tasks are divided between four major PBGB divisions: the Border Guard, Public Order, Criminal Police, and Citizenship and Migration divisions. All personnel of the PBGB, regardless of their full title or position are considered police officers and the entire organization is named the Police.[5] The State Police is divided into four regional prefectures, which consist of constable stations, border guard stations, and service offices of the Migration and Citizenship Bureau. Local subunits secure the presence of the police force in towns and villages.[6]

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[1] Police Act [Politseiseadus] of September 20, 1990, RIIGI TEATAJA [RT] (official gazette) 1990, No. 10, Item 113, http://www.riigiteataja.ee/akt/13093343.

[2] Police and Border Guard Act of May 6, 2009 [Politsei ja piirivalve seadus], RT 2009, No. 26, Item 159, https://www.riigiteataja.ee/en/eli/512112013003/consolide.

[3] *Id*., ch. 2, arts. 4.1, 4.3.

[4] *Id*. art. 3.

[5] *Police and Border Guard Board – In Cooperation We Create Security*, PBGB (Sept. 12, 2014), http://www.politsei.ee/en/organisatsioon/organization/.

[6] *Id*.

Some larger municipalities, such as the capital city of Tallinn, have nominated local officials to supervise local public order departments called Municipal Police. Municipal police may cooperate with the State Police but have no special police rights.[7]

The PBGB is the largest Estonian state agency, employing more than 6,000 people, of which 3,500 are engaged in public order and criminal police functions.[8]

II. Police Weapons and Equipment

All PBGB material resources are provided by the Ministry of the Interior according to the national budget. The acquisition of equipment, including weapons and ammunition for the police, is conducted through the regular government procurement process.[9]

The standard service weapons for State Police include firearms, gas and pneumatic weapons, cut-and-thrust weapons, and electric shock devices.[10] A complete list of weapons and equipment used by the police was not located; however, published sources show that automatic and semiautomatic weapons are used by the police force. According to a manufacturer's press release, the new Walther pistols P99Q were supplied to PBGB in February 2014.[11] Additionally, the Estonian Defense Forces official website provides information about weapons that are used in this country, including by the Border Guard, which is part of the Police. Among them are the Heckler & Koch (H&K) USP Semi-automatic 9×19mm Parabellum, Machine Gun Galil AR, SAR, ARM, AK-4, M14 rifle, Shotgun Benelli M3T, and Negev light machine gun.[12]

Special equipment used by the Estonian Police includes handcuffs; shackles; binding means; restraint jackets or chairs; service animals; technical barriers; means to force a vehicle to stop; water cannons; tear-gas grenades; smoke, sonic, light or other effects; sensation of pain devices; explosive devices for special purposes and not used against a person; lighting and audio devices for special purposes; and coloring and marking device for special purposes.[13]

In 1991, a special unit called K-Commando was created within the Criminal Police. This unit mainly deals with hostage situations, counterterrorism, the arrest and escort of high-risk criminals, high-risk detention, searches, and the protection of VIPs and important witnesses.[14]

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[7] Lauri Tabur, *Estonia: From Police Force to Public Service*, *in* HANDBOOK ON POLICING IN CENTRAL AND EASTERN EUROPE 81 (Gorazd Mesko et al. eds., 2013).

[8] *Id*. at 82.

[9] Police and Border Guard Act art. 75(13).

[10] *Id*. art. 28.

[11] Press Release, Carl Walther GmbH, Walther P99Q for Estonian Police (Apr. 9, 2014), http://www.carl-walther.de/cw.php?lang=en&content=press.

[12] *Hand Firearms*, EESTI KAITSEVAGI [ESTONIAN DEFENSE FORCES], http://www.mil.ee/et/kaitsevagi/tehnika/relvad/kasitulirelvad (last visited Sept. 9, 2014).

[13] Police and Border Guard Act art. 27.

[14] *K-Commando Special Unit of Estonian Criminal Police*, SPECIAL-OPS.ORG, http://www.special-ops.org/k-commando-special-unit-of-estonian-criminal-police/ (last visited Sept. 9, 2014).

K-Commando's tasks and duties are close to those of other units of the same or similar purposes in the army and police. K-Commando has the equipment mainly used by SWAT-like teams in other countries. Its arsenal includes military armored personnel carriers, helicopters, motor boats, and speed boats.[15]

The special equipment of this unit consists of a mixture of old Soviet and Western weapons, such as the Makarov pistol (9mm); Browning HP pistol (9mm); H & K MP5K (9mm), H & K MP5A3, and H & K automatic MP5SD3 (9mm) submachine guns; AKS-74U (caliber 5.45 mm) automatic rifle; H & K G36V (5.56-mm) rifle; and SIG SG551 SWAT-2P (5.56-mm), Sniper PSG1 (7.62 mm), and DSR-1 (7.62 mm) special rifles.[16]

III. Rules on the Use of Firearms

The Police and Border Guard Act allows police officers to use their weapons to defend themselves or someone else, stop crime or a serious threat, or eliminate a disturbance.[17] The Act requires a police officer to warn a person or crowd before applying weapons and to give people an opportunity to retreat voluntarily.[18]

While special means can be used under any circumstances based on police discretion, lethal firearms can be used only if there is no other way to counter a threat.[19]

IV. Recent Controversy

The only reported case of mass rioting occurred in April 2007, when ethnic Russians living in Tallinn protested the removal of a Soviet war memorial. Police fired rubber bullets and a water cannon at hundreds of protesters, and more than three hundred people were taken into custody while ten protesters suffered minor injuries. Public opinion mainly supported the actions of the police and no accusations of excessive force were made.[20]

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[15] *Id*.

[16] *Id*.

[17] Police and Border Guard Act art. 30.

[18] *Id*. art. 31.

[19] *Id*. art. 32.

[20] Jari Tanner, *Riots in Estonia After Memorial Removed*, WASHINGTON POST (Apr. 27, 2007), http://www.washingtonpost.com/wp-dyn/content/article/2007/04/27/AR2007042700165.html.

France

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SUMMARY There are three main categories of law enforcement in France: the National Police, the Gendarmerie, and local municipal police forces. Members of the National Police and the Gendarmerie have access to a similar array of weapons, which includes handguns and various non-lethal weapons. Gendarmes, who are officially a branch of the French military, appear to have access to a wider array of weapons and equipment, including armored vehicles. Municipal police forces are not always armed, and there are strict restrictions on the types of weapons that they are allowed to carry. Law enforcement officers may only use their weapons under certain circumstances, and any death as a result of the use of lethal force by law enforcement automatically triggers an investigation.

I. Introduction

There are three main categories of law enforcement forces in France: the National Police (Police nationale), the Gendarmerie (Gendarmerie nationale), and local municipal police forces (polices municipales).[1]

The National Police and the Gendarmerie are both highly centralized national structures,[2] but they stem from different origins. The National Police is a civilian force that was created in 1966[3] to replace several older law enforcement agencies.[4] The Gendarmerie is a military institution, part of the French armed forces since the days of the Revolution.[5] Traditionally, the National Police is in charge of law enforcement in urban areas, while the Gendarmerie operates in rural areas.[6] This distinction is very blurred, however, and there is considerable overlap between the two forces' areas of operation.[7] There have been efforts to bring the two organizations closer together in order to avoid institutional friction and duplication of resources

[1] Benoît Dupont, *The French Police System*, *in* COMPARATIVE POLICING 255 (M.R. Haberfeld & Ibrahim Cerrah eds., 2008).

[2] *Id.* at 256–57.

[3] Loi n° 66-492 du 9 juillet 1966 portant organisation de la police nationale [Law No. 66-492 of July 9, 1966, Organizing the National Police] (July 9, 1966), http://www.legifrance.gouv.fr/jopdf/common/jo_pdf.jsp?numJO=0&dateJO=19660710&numTexte=&pageDebut=05899&pageFin.

[4] *Histoire (History*), POLICE NATIONALE [NATIONAL POLICE], MINISTÈRE DE L'INTÉRIEUR [MINISTRY OF THE INTERIOR], http://www.police-nationale.interieur.gouv.fr/Presentation-generale/Histoire (last visited Sept. 3, 2014).

[5] MALCOLM ANDERSON, IN THRALL TO POLITICAL CHANGE: POLICE AND GENDARMERIE IN FRANCE 180 (2011).

[6] Dupont, *supra* note 1, at 255.

[7] ANDERSON, *supra* note 5, at 180.

and efforts.[8] Although the Gendarmerie remains a military institution, it was placed under the direction of the Ministry of the Interior (which already controlled the National Police) in 2002.[9]

In addition to the National Police and Gendarmerie, some French towns and cities have municipal police forces, which are under the mayor's authority.[10] These local forces have far fewer powers than the two main national law enforcement bodies, and are mainly there to "provide a uniformed presence in the streets, enforce local bylaws, and deal with quality of life issues."[11] Nonetheless, a significant number of municipal police officers are armed.[12]

Since January 1, 2014, a single organization has been in charge of procurement for both the Gendarmerie and the National Police: the Service de l'achat, des équipements et de la logistique de la sécurité intérieure (SAELSI, Interior Security Purchase, Equipment and Logistics Service).[13] Municipal police forces are funded and equipped by the city or town that employs them.[14]

II. Police Weapons and Equipment

A. Police Nationale and Gendarmerie

The standard equipment for members of the National Police usually includes a handgun, which officers are required to carry whenever they are on duty.[15] The current standard handgun of the National Police is the Sig Sauer SP2022.[16] Police officers may also carry other weapons as may

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[8] Dupont, *supra* note 1, at 258–59.

[9] *Id.*; Décret n° 2002-889 du 15 mai 2002 relatif aux attributions du ministre de l'intérieur, de la sécurité intérieure et des libertés locales [Decree No. 2002-889 of May 15, 2002, Regarding the Assigned Authority of the Minister of the Interior, Interior Security, and Local Liberties] art. 3 (May 15, 2002), http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000005633083&dateTexte=20100603.

[10] Dupont, *supra* note 1, at 255; CODE GENERAL DES COLLECTIVITES TERRITORIALES [GENERAL CODE OF TERRITORIAL COMMUNITIES] art. L2212-1, http://www.legifrance.gouv.fr/affichCode.do;jsessionid=B6AE708B7BD0677C4E026A69FBE3B543.tpdjo11v_3?idSectionTA=LEGISCTA000006164555&cidTexte=LEGITEXT000006070633&dateTexte=20140903.

[11] Dupont, *supra* note 1, at 256; CODE GENERAL DES COLLECTIVITES TERRITORIALES art. L2212-2; CODE DE LA SECURITE INTERIEURE [INTERIOR SECURITY CODE] art. L511-1,http://www.legifrance.gouv.fr/affichCode.do;jsessionid=92FA15C93EFB768468D3943C91B9BF9D.tpdjo01v_1?cidTexte=LEGITEXT000025503132&dateTexte=20140905.

[12] Dupont, *supra* note 1, at 256.

[13] *Service de l'achat, des équipements et de la logistique de la sécurité intérieure – SAELSI*, MINISTERE DE L'INTERIEUR (Mar. 11, 2014), http://www.interieur.gouv.fr/Le-ministere/Organisation/Service-de-l-achat-des-equipements-et-de-la-logistique-de-la-securite-interieure.

[14] CODE GENERAL DES COLLECTIVITES TERRITORIALES art. L1611-2.

[15] Arrêté du 6 juin 2006 portant règlement général d'emploi de la police nationale [Executive Decision of June 6, 2006, Establishing the General Employment Regulations of the National Police] art. 114-4 (June 6, 2006), http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000006054100.

[16] Georges Moréas, *Le pistolet Sig Sauer est-il adapte a la police?* [*Is the Sig Sauer Pistol Adapted to Police Use?*], LE MONDE (Feb. 28, 2007), http://moreas.blog.lemonde.fr/2007/02/28/le-pistolet-sig-sauer-est-il-adapte-a-la-police/; LAURENT-FRANCK LIENARD, FORCE A LA LOI [FORCE TO LAW] 51 (2009).

be necessary for, and proportional to, their specific mission: handcuffs, a baton, incapacitating spray, a Flash-Ball (a handheld weapon that fires a large rubber ball), or a Taser device.[17] The National Police may also use pump-action shotguns if necessary.[18]

Gendarmes generally have the same equipment as the National Police: they have the same standard handgun,[19] and access to the same array of nonlethal weapons.[20] Gendarmes, being members of the military, also have access to the French armed forces' standard assault rifle, the FAMAS.[21] Furthermore, they appear to have access to H&K submachine guns and pump-action shotguns.[22]

B. Special Units

1. Elite Special Operations Units

Both the National Police and the Gendarmerie have a number of specialized units for tasks such as crowd control, antiterrorism operations, etc. Among those is the Force d'intervention de la police nationale (FIPN, National Police Intervention Force), which is an elite special operations unit to deal with terrorist attacks, hostage situations, and similar emergencies.[23] The Gendarmerie has a similar unit called the Groupe d'intervention de la Gendarmerie nationale (GIGN, National Gendarmerie Intervention Group).[24] It is unclear what means the FIPN has at its disposal, but the GIGN can use a wide array of weapons and equipment including helicopters, armored vehicles, heavy weaponry, and CBRN (chemical, biological, radiological and nuclear) protection equipment.[25]

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[17] Arrêté du 6 juin 2006 art. 114-5; LIENARD, *supra* note 16, at 144–52.

[18] Georges Moréas, *Le fusil à pompe dans la police: une longue histoire* [*The Pump-Action Shotgun in Police Service: A Long History*], LE MONDE (Dec. 9, 2011), http://moreas.blog.lemonde.fr/2011/12/09/le-fusil-a-pompe-dans-la-police-une-longue-histoire/.

[19] HISTOIRE ET DICTIONNAIRE DE LA GENDARMERIE [HISTORY AND DICTIONARY OF THE GENDARMERIE] 220 (Jean-Noël Luc & Frédéric Médard eds., 2013).

[20] LIENARD, *supra* note 16, at 144–52.

[21] HISTOIRE ET DICTIONNAIRE DE LA GENDARMERIE, *supra* note 19, at 219.

[22] *Id.* at 220.

[23] *La police se dote d'une Force d'intervention pour répondre aux crises majeures* [*The Police Gives Itself an Intervention Force to Respond to Major Crises*], LE MONDE (Nov. 30, 2009), http://www.lemonde.fr/societe/article/2009/11/30/la-police-se-dote-d-une-force-d-intervention-pour-repondre-aux-crises-majeures_1274318_3224.html.

[24] *Missions*, GIGN, MINISTERE DE L'INTERIEUR, http://www.gendarmerie.interieur.gouv.fr/gign/Decouverte/Missions2 (last visited Sept. 4, 2014).

[25] GENDARMERIE: UNE HISTOIRE, UN AVENIR [GENDARMERIE: A HISTORY, A FUTURE] 165 (Pierre Aymar de Broissia ed., 2008).

2. *Crowd Control and Anti-Riot Units*

The Compagnies Républicaines de Sécurité (CRS, Republican Security Companies) and Gendarmerie mobile (mobile Gendarmerie) are another noteworthy type of police unit, specialized in crowd control and riot suppression.[26] CRS units belong to the National Police, while the Mobile Gendarmerie units, as their name indicates, belong to the Gendarmerie.[27]

Photographs show CRS officers carrying shields and wearing body protection and helmets as they faced recent protests.[28] CRS units can also use special trucks equipped with water cannons to disperse a crowd.[29]

Mobile gendarmes appear to be similarly equipped.[30] The Mobile Gendarmerie also has eighty-six armored vehicles called Véhicules blindés à roues de la gendarmerie (VBRG, Armored Wheeled Vehicle of the Gendarmerie), which can each carry a combat team and can be configured to carry a machine gun in a small turret.[31]

C. Municipal Police

The mayor of a city or town that employs municipal police officers has the option of arming them, although he/she must first obtain the authorization of the central government's representative, the prefect.[32] As of 2013, only 43% of France's municipal police forces were armed.[33]

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[26] *Direction Centrale des Compagnies Républicaines de Sécurité* [*Central Directorate of the Republican Security Companies*], POLICE NATIONALE, MINISTERE DE L'INTERIEUR, http://www.police-nationale.interieur.gouv.fr/Organisation/Direction-Centrale-des-Compagnies-Republicaines-de-Securite (last visited Sept. 4, 2014); *La gendarmerie mobile* [*The Mobile Gendarmerie*], GENDARMERIE NATIONALE [NATIONAL GENDARMERIE], MINISTERE DE L'INTERIEUR, http://www.gendarmerie.interieur.gouv.fr/fre/Sites/Gendarmerie/Presentation/Gendarmerie-mobile (last visited Sept. 4, 2014).

[27] *Id.*

[28] *Ecotaxe. La manifestation en images* [*Ecotax. The Protest in Pictures*], OUEST FRANCE (Oct. 19, 2013), http://www.ouest-france.fr/ecotaxe-la-manifestation-en-images-1633458; *Manifestations anti-Otan à Strasbourg* [*Anti-NATO Protests in Strasburg*], 20MINUTES (Apr. 6, 2009), http://www.20minutes.fr/france/diaporama-653-photo-429535-manifestations-anti-otan-a-strasbourg.

[29] Georges Moréas, *Le canon à eau dans les manifs* [*The Water Cannon in Protests*], LE MONDE (Aug. 11, 2011), http://moreas.blog.lemonde.fr/2011/08/11/le-canon-a-eau-dans-les-manifs/.

[30] See second photograph on *La gendarmerie mobile* [*The Mobile Gendarmerie*], GENDARMERIE NATIONALE, MINISTERE DE L'INTERIEUR, http://www.gendarmerie.interieur.gouv.fr/fre/Sites/Gendarmerie/Presentation/Gendarmerie-mobile (last visited Sept. 4, 2014).

[31] HISTOIRE ET DICTIONNAIRE DE LA GENDARMERIE, *supra* note 19, at 481–82.

[32] CODE DE LA SECURITE INTERIEURE art. L511-5; Christophe Cornevin, *En première ligne, les policiers municipaux réclament des armes* [*On the Front Lines, Municipal Police Officers Ask for Weapons*], LE FIGARO (Mar. 31, 2013), http://www.lefigaro.fr/actualite-france/2013/05/31/01016-20130531ARTFIG00628-en-premiere-ligne-les-policiers-municipaux-reclament-des-armes.php.

[33] Cornevin, *supra* note 32. It is unclear whether this number includes all types of weapons, or only firearms.

French law strictly restricts the types of weapons that may be carried by members of the municipal police. With regard to firearms, the options are limited to 38 Special caliber revolvers or to 7.65 mm caliber handguns.[34] With regard to nonlethal weapons, municipal police forces are allowed to use Flash-Ball devices, Tasers, incapacitating aerosols (such as pepper spray), and batons.[35]

III. Rules on the Use of Police Weapons

The normal rules of "legitimate defense" (*légitime défense*) apply to the use of weapons by members of the National Police,[36] and members of municipal police forces.[37] They may only use their weapons to defend themselves or someone else, or to stop a crime, and the amount of force used must be proportional to the threat.[38] Lethal force may only be used to protect a person, however, and may not be used to protect an object.[39] A French police officer may not shoot a firearm to stop a shoplifter, for example.

Gendarmes appear to have somewhat more leeway than National Police or municipal police officers. Indeed, Gendarmes are specifically authorized to use their weapons—even lethal force—when necessary to defend a position, or to stop a person who refuses to obey a clear order to stop.[40] A gendarme may thus fire upon a vehicle that has forced passage through a checkpoint, even if that vehicle is moving away and is no longer an immediate threat to the gendarme.[41]

Any police shooting incident resulting in a death automatically triggers a judicial investigation.[42]

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[34] CODE DE LA SECURITE INTERIEURE art. R511-12.

[35] *Id.* Hypodermic needle projectors are also on the list, but it would appear that these are for use against dangerous animals rather than humans.

[36] Arrêté du 6 juin 2006 portant règlement général d'emploi de la police nationale [Executive Decision of June 6, 2006, Establishing the General Employment Regulations of the National Police] art. 114-4 (June 6, 2006), http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000006054100.

[37] CODE DE LA SECURITE INTERIEURE art. R511-23.

[38] CODE PENAL [PENAL CODE] art. 122-5, http://www.legifrance.gouv.fr/affichCode.do;jsessionid=CA39DCDA5511A40E1A147EBACC1B1701.tpdjo01v_1?cidTexte=LEGITEXT000006070719&dateTexte=20140905.

[39] *Id.*

[40] CODE DE LA DEFENSE [DEFENSE CODE] art. L2338-3, http://www.legifrance.gouv.fr/affichCode.do;jsessionid=F8A7D5387960C509EBE7276A09EDBECC.tpdjo01v_1?cidTexte=LEGITEXT000006071307&dateTexte=20140905.

[41] LIENARD, *supra* note 16, at 130.

[42] *Id.* at 154.

IV. Recent Controversy

In 2010, the French Ministry of the Interior decided to change the standard ammunition used by police officers in their Sig Sauer pistols.[43] Prior to that, police officers used full metal jacket bullets as their standard ammunition, but these had a tendency to pierce through their intended targets, sometimes causing injuries or deaths to bystanders. Following several incidents, the Ministry of the Interior ordered that full metal jacket bullets be replaced by hollow-point ammunition, which has lower velocity and higher stopping power.[44]

[43] *Jugées "trop dangereuses", la police change de munitions* [*The Police Replaces Ammunition Considered "Too Dangerous"*], FRANCE SOIR (Sept. 13, 2010), http://www.francesoir.fr/actualite/societe/jugees-trop-dangereuses-police-change-munitions-56850.html.

[44] *Id*.

Greece

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SUMMARY The Greek Police has jurisdiction over the entire territory of Greece and operates under its own rules and disciplinary code. The types of weapons and other equipment used by the Greek Police to fulfill their duties are governed by a decree that is not published in the Official Gazette of Greece and thus not made publicly available. The use of lethal and nonlethal force by the Greek Police is governed by law. Human rights organizations have published reports on the excessive use of force and other human rights violations by the Greek Police, especially against refugees, migrants, Roma, and other vulnerable groups.

I. Introduction

The Greek Police is an armed security force that has jurisdiction over the entire territory of Greece, except in areas that fall within the competence of the coast guard.[1] In 1984, the police in Greece underwent a major reform when the Gendarmerie merged with the City Police.[2] In 2000, Law No. 2800/2000 reorganized the Ministry of Public Order, which was renamed as the Ministry of Public Order and Citizen Protection, and also introduced new provisions regarding the headquarters of the police.[3] A further reorganization occurred in 2014 under Law No. 4249/2014 on the Reorganization of Police Forces.[4]

The Chief of the Greek Police is in charge of the management of the police force and reports to the Ministry of Public Order and Citizen Protection.[5] The Greek Police operates under its own regulations and disciplinary code[6] and is composed of the regular police force, the civilian force, border guards, and special police guards.[7] The border guards and the special police guards are regulated by their own laws.[8] Structurally, the Greek Police is divided into central authorities, whose jurisdiction extends over the entire Greek territory, and regional authorities, whose

[1] Law 2800/2000 on the Restructuring of the Services of the Ministry of Public Order, the Composition of the Headquarters of the Police and Other Provisions art. 8, para. 1, EPHEMERIS TES KYVERNESEOS TES HELLENIKES DEMOKRATIAS [E.K.E.D.] Feb. 29, 2000, A:41, http://www.et.gr/index.php/2013-01-28-14-06-23/search-laws.

[2] *Id.*; Law 1481/1984 on the Organization of the Ministry of Public Order art. 54, E.K.E.D. Oct. 9, 1984, A:152.

[3] Law 2800/2000, art. 8, para. 1.

[4] Law 4249/2014 on the Reorganization of Police Forces, E.K.E.D., Mar. 24, 2014, A:73.

[5] Law 2800/2000, art. 23.

[6] *Id*. art. 9.

[7] *Id*. art. 18.

[8] *Id*. art. 18, para. 4.

jurisdiction is limited to their respective areas.[9] The central and regional authorities fall under the authority of the police headquarters.[10]

II. Equipment

The use and carrying of weapons by police, border guards, and special guards are regulated by Law No. 3169/2003 on Weapons Carrying, Use and Training.[11] Equipment is classified in three groups, depending on the specific purpose assigned to each group: (a) official personal equipment charged to each police officer for the exercise of his/her duties, and which may be carried while the officer is off duty; (b) private personal equipment that belongs to the police officer; and (c) specific equipment used for a specific purpose and then returned for proper storage.[12]

Information on the type of equipment used by the Greek Police is not publicly available. As Law No. 3169/2003 states, the procurement of weapons to be used by the Greek Police, types of weapons, oversight, storage, and use of explosives are addressed in a decision issued by the Minister of Public Order that is not published in the Greek Gazette.[13]

III. Rules on Use of Force

The Greek Police may use firearms to achieve four purposes: (a) to instill fear among the crowd by firing warning shots; (b) to shoot at nonhuman specific targets; (c) to incapacitate humans by shooting at nonvital parts, especially lower limbs; and (d) to hurt a human being and possibly deprive him/her of his/her life.[14]

The use of firearms by the Greek Police is permitted in the following cases:

- If during the exercise of a police officer's duties there is a threat of an armed attack against the police officer or another person, including a threat with a fake or concealed firearm; and
- When the use of force is required to fulfill the police officer's duties and the following conditions have been met:
  - All other measures have been exhausted, such as the use of warnings, barriers, physical force, batons, or warnings that lethal or permitted chemical weapons may be used;
  - The police officer has identified him- or herself, expressed a clear intention to use firearms, and has given sufficient time for the attacker to respond, unless this is not necessary; and

[9] *Id.* art. 10.

[10] *Id.* art. 11, para. 2.

[11] Law No. 3169/2003 on Weapons Carrying, Use and Training, E.K.E.D., July 24, 2003, A:189.

[12] *Id.* art. 1(δ).

[13] *Id.* art. 2, para. 8.

[14] *Id.* art. 1.

- The use of firearms is proportionate to the severity of the threat.[15]

When all the conditions specified above have been met, a police officer must use less lethal weapons, unless doing so would prove useless or heighten the danger of loss of life or limb by police officers or other people.[16]

The use of "lethal force" (*Eksoudeterosis*) is permitted, if this is warranted, in the following two instances: (a) to defend against a group attack that poses the risk of death or serious bodily harm; and (b) to free hostages who are at risk of death or serious bodily harm.[17]

The use of force with the intention to kill or incapacitate a human being is prohibited if

- there is a serious threat of harming a third person from a missed shot or ricocheting bullet;
- the use of force is directed against an armed group and could hurt unarmed people;
- a minor (i.e., anyone under eighteen years of age) is the target of the use of force, unless using such force is the only means to avert death;[18] and
- a person flees after being asked to submit to a lawful search.[19]

A police officer who uses a weapon on a superior's orders that are in violation of the Constitution or clearly unlawful may still be held liable for illegal use of force.[20]

In 2009, the Prosecutor of the Supreme Court in Greece, in response to a legal inquiry from the Office of the Greek Police, issued an opinion concerning the legality of the use of nonlethal force, specifically plastic bombs that detonate in small pieces to incapacitate people.[21] Basing his analysis on Law No. 3169/2003 on Weapons Carrying, Use and Training, the Prosecutor reasoned that because the Law allows police to use firearms, bombs, explosives, and batons in order to injure or incapacitate people, it also allows the use of nonlethal weapons such as plastic bombs that, on exploding, break into small pieces to "shock" and incapacitate protesters.[22]

The Prosecutor also held that the use of firearms by police is permitted, inter alia, when they are allowed under the Criminal Code in cases of self-defense and necessity. The use of firearms in

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[15] *Id.* art. 3, paras. 1, 2.

[16] *Id.* art. 3, para. 3.

[17] *Id.* art. 9, para. 6..

[18] Prohibiting the use of force to kill or incapacitate a minor was enacted in response to the police killing of a fifteen-year-old during demonstrations in 2008. *See* AMNESTY INTERNATIONAL, POLICE VIOLENCE IN GREECE: NOT JUST "ISOLATED INCIDENTS" 7 (2012), http://www.univie.ac.at/bimtor/dateien/greece_ai_2012_police_violence.pdf.

[19] Law 3169/2003, art. 9.

[20] *Id.* art. 3, para. 9.

[21] Office of the Prosecutor of the Supreme Court, Legal Opinion 8/09, June 24, 2009, http://www.eisap.gr/sites/default/files/consulations/%CE%93%CE%9D%CE%A9%CE%9C.%208-2009.pdf.

[22] *Id.* at 8.

self-defense must be proportionate to the dangerousness of the attack, the kind of harm that could result, the method and severity of the attack, and overall conditions.[23]

IV. Issues/Controversies

A. Violations of Human Rights

Two human rights organizations have published reports that raised concerns about human rights violations by the Greek Police. In 2012, Amnesty International published a report titled *Police Violence in Greece: Not Just "Isolated Incidents,"* which highlights the excessive use of force and other human rights violations during protests over the fatal shooting of a fifteen-year-old in 2008 and demonstrations against government-imposed austerity measures during the 2010–12 economic crisis.[24] Subsequently, in 2013, Human Rights Watch published a report titled *Unwelcome Guests: Greek Police Abuses of Migrants in Athens*.[25]

Then, in 2014, Amnesty International followed up on its first report with one titled *A Law unto Themselves, A Culture of Abuse and Impunity in the Greek Police*,[26] which documents claims of excessive use of force by the Greek Police during peaceful and nonpeaceful demonstrations. The Greek government denied such allegations by referring to them as "isolated" incidents. Only a limited number of the cases identified in the report have been subject to further investigation by the Greek Police.[27] Another issue highlighted in the report is that riot police display their identification on the back of their helmets, rather than on the front, as required by law, which consequently prevents victims of police violence from identifying riot police and reporting them.[28] Moreover, the report documents allegations received by Amnesty International about the Greek Police using excessive force against refugees and migrants in detention centers.[29]

The Greek Police conducted its own investigation on the orders of the Ministry of Public Order and Citizen Protection into allegations of police officers who "turned a blind eye" or supported offenses committed by Golden Dawn, an extreme-right wing organization.[30]

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[23] *Id.* at 4.

[24] AMNESTY INTERNATIONAL, *supra* note 18, at 7.

[25] HUMAN RIGHTS WATCH, UNWELCOME GUESTS: GREEK POLICE ABUSES OF MIGRANTS IN ATHENS (June 2013), http://www.hrw.org/sites/default/files/reports/greece0613_ForUpload.pdf.

[26] AMNESTY INTERNATIONAL, A LAW UNTO THEMSELVES, A CULTURE OF ABUSE AND IMPUNITY IN THE GREEK POLICE (2014), http://amnesty.org/en/library/asset/EUR25/005/2014/en/47005cd7-f536-4c21-851f-e595076dcaef/eur250052014en.pdf.

[27] *Id.* at 11.

[28] *Id.* at 14.

[29] *Id.* at 17.

[30] *Id.* at 31.

B. Case Law

The European Court of Human Rights has found against Greece in a number of cases involving the ill-treatment of detainees or misuse of firearms by the Greek Police, including lack of an effective remedy. In some cases, the victims were migrants or members belonging to minority groups. The Court has also found against Greece for police brutality against Roma people.[31]

Addressing the issue of using excessive force in the 2010 case of *Galotskin v. Greece*,[32] the European Court of Human Rights emphasized the need to conduct thorough investigations into serious allegations of ill-treatment at the hands of the police, and to close such investigations quickly without rushing to conclusions.[33]

[31] HUMAN RIGHTS WATCH, *supra* note 25, at 35.

[32] Galotskin v. Greece, App. No. 2945/07, Eur. Ct. H.R. (Jan. 14, 2010), http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-96687.

[33] *Id.* para. 41.

Israel

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SUMMARY The Israel Police (IP) operates as Israel's national police force and reports to the Ministry of Public Security. It operates eight divisions for such functions as fighting crime and conducting investigations, and also operates the Border Patrol. A special elite unit, the YAMAM, constitutes one of the units of the Border Patrol and specializes in civilian hostage rescue and counterterrorism activities. The use of weapons by the IP is strictly regulated by a special order that limits police use of firearms to cases where other methods of response are not possible. Information on the types of weapons and equipment used by the IP has not been identified at this time.

I. Introduction

The Israel Police (IP), Israel's national police force, operates as an arm of the Ministry of Public Security (MPS).[1] The IP budget allocation is specially designated in the MPS general budget.[2]

The IP is responsible for the "prevention and detection of offences, the apprehension and prosecution of offenders, the safe custody of prisoners and the maintenance of public order and of the safety of persons and property."[3]

In addition to fighting crime and enforcing traffic regulations, the IP's duties include maintaining public security by preventing acts of terror, examining and dismantling explosive devices, and deploying police officers during terrorist incidents. The IP is also charged with maintaining law and order; responding to public disturbances, demonstrations, and unlawful gatherings; securing public order at official ceremonies; and protecting official installations, including seaports and airports.[4]

The IP is headed by the Inspector General (IG), who is appointed by the government upon recommendation of the Minister of Public Security. The IP's national headquarters in Jerusalem provides the IG with assistance in "formulating policy, allocating resources, developing relations

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[1] For information on the Ministry's activities, see MINISTRY OF PUBLIC SECURITY, http://mops.gov.il/english/Pages/HomePage.aspx (last visited Sept. 2, 2014).

[2] EYAL KOFMAN, A DESCRIPTION AND ANALYSIS OF THE BUDGET OF THE MINISTRY OF PUBLIC SECURITY FOR 2013–2014, THE KNESSET INFORMATION AND RESEARCH CENTER 1 (July 15, 2013), http://www.knesset.gov.il/mmm/data/pdf/m03249.pdf (in Hebrew).

[3] Police Ordinance (New Version), 5731-1971, § 3, 2 LAWS OF THE STATE OF ISRAEL [LSI] (New Version) 158 (1972).

[4] *The Israel Police*, MINISTRY OF PUBLIC SECURITY, http://mops.gov.il/english/policingeng/police/pages/default.aspx (last visited Aug. 28, 2014).

with external agencies, providing professional guidance, promoting research and development, providing management services like computerization, and public relations."[5]

The national headquarters includes the following eight divisions:

(1) Policing and Security

(2) Investigations and the War on Crime

(3) Intelligence

(4) Traffic

(5) Community and Civilian Guard

(6) Planning and Organization

(7) Support and Logistics

(8) Human Resources[6]

The IP has six territorial districts: Northern, Central, Tel Aviv, Jerusalem, Southern, and Judea and Samaria.[7] In addition, the IP also operates the Border Patrol force that supports police activities related to providing security and fighting criminality and terrorism.[8] The Border Patrol operates an elite unit, the YAMAM, which specializes in civilian hostage rescue and counter-terrorism activities.[9]

II. Police Weapons and Equipment

Information on the types of weapons and equipment used by the IP has not been identified at this time.

III. Rules on the Use of Police Weapons

The IP's use of weapons is regulated by Order No. 06.02.14.[10] The Order sets forth general restrictions and also provides specific requirements as preconditions for using firearms to conduct an arrest, fire warning shots into the air to disperse rioters, and prevent immediate danger to human life.

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[5] *Structure*, ISRAEL POLICE (Feb. 13, 2012), http://www.police.gov.il/english_contentPage.aspx?pid=4&menuid=5.

[6] *Id.*

[7] *Id.*

[8] *Organizational Structure*, ISRAEL POLICE, http://www.police.gov.il/portal.aspx?pid=56&mid=17 (in Hebrew; last visited Sept. 2, 2014).

[9] For information on the YAMAM, see *The Counterterrorism Unit*, http://www.police.gov.il/yamam/ (in Hebrew; last visited Sept. 2, 2014); *YAMAM*, YNET (Jan. 26, 2005), http://www.ynetnews.com/articles/0,7340,L-3019527,00.html.

[10] Israel Police, Order No. 06.02.14, The Use of Firearms (Mar. 9, 2007), https://www.police.gov.il/Doc/pkodotDoc/sug_2/060214_2.pdf (in Hebrew).

A. General Restrictions on Police Use of Firearms

The Order provides the following general rules regarding the use of firearms by police:

> a. A firearm is a lethal measure, the use of which may endanger a person's life and the integrity of his/her body.
> b. The use of a firearm by a police officer is designed to assist the police officer in conducting an arrest and in protecting life and bodily integrity from an immediate danger—all in accordance with provisions and exclusions in this Order.
> c. The use of a firearm for the purpose of fulfilling a duty must be undertaken as a last resort, with the appropriate level of caution, and only under circumstances in which there is a logical relation between the level of danger that arises from the use of the weapon and the preventive result that is sought—all as detailed in this Order.
> d. The need for using a firearm during the performance of a task shall be examined at each stage of the event[;] the police officer will stop shooting immediately when the need for it has ceased.[11]

B. Police Use of Firearms for Conducting an Arrest

The use of firearms by police to conduct an arrest is prohibited unless all the following conditions exist:

- The arrest relates to a crime punishable by at least three years' imprisonment;[12]
- The act constituting the cause for arrest has substantially endangered or presently endangers a person's life or bodily integrity;
- There is no other way to conduct the arrest; and
- The use of the firearm does not constitute a substantial risk to the lives or the bodily integrity of passersby and innocent persons.[13]

Unless a real and imminent danger to the life or bodily integrity of the police officer or another person exists, a police officer must give advanced warning of his/her intention to open fire. The advance warning should, to the extent possible, be given in stages: first by calling loudly and, to the extent possible, in a language understood by the suspect; and then by firing a warning shot into the air, while exercising caution to prevent bodily harm and harm to property.[14]

When firing a weapon at a target, a police officer must exercise the utmost caution and fire in a way that will, to the extent possible, cause only minimal harm to bodily integrity or to property.[15]

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[11] Order No. 06.02.14, § 1 (translated by author, R.L.).

[12] *See* the Penal Law 5737-1977, § 24(1), LSI (Special Volume).

[13] Order No. 06.02.14, § 2(a).

[14] *Id.* § 2(b)(1)–(3).

[15] *Id.* § 2(c).

C. Firing Warning Shots into the Air to Disperse Rioters

Firing live ammunition into the air to disperse rioters is prohibited unless authorized by the IG, and when authorized must be carried out in accordance with the conditions of the authorization. Any use of other weapons for the same purpose must be made in accordance with conditions and restrictions provided in directives periodically issued by the IP.[16]

D. Use of Firearms to Prevent Immediate Harm to Human Life

Police use of firearms is permitted when there is a real and imminent danger to the life or bodily integrity of the police officer or of another person and when there is no other way to avert this danger. In such a case, the firearm must be used in a way that will not exceed what is reasonable to prevent harm to life or bodily integrity; "the harm which might result [from the firearm's use] will be weighed against the preventive harm that is sought."[17]

IV. Recent Incidents and Court Decisions

Recent incidents involving allegations of the unlawful use of weapons by the IP center on the use of Tasers. In May 2014 Israel's Supreme Court rejected the request of a police officer who had been convicted of the unlawful use of a Tasers to delay implementation of his twenty-eight-month term of imprisonment until a determination in his appeal was made.[18]

The use of a Taser by the Border Police during the arrest of West Bank settler Boaz Albert in August 2013, however, was determined to be lawful by a ministerial investigation into the matter. The incident made headlines after a YouTube video showed officers shocking Albert as he lay on the floor of his kitchen in the Yitzhar settlement in the West Bank.[19] An investigation conducted by the Justice Ministry into the case backed the Border Police. Citing the circumstances of the arrest, the Ministry's investigative report concluded that stones were thrown at police officers outside Albert's home and that when they entered Albert's home, he "initially resisted arrest by running into different parts of his caravan home, until he was cornered. . . . Border police used the Taser gun to subdue Albert so they could move him out of the house and leave the area quickly to avoid additional attacks by Albert's supporters."[20]

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[16] *Id.* § 3.

[17] *Id.* § 4(b).

[18] CrimA 3558/14 Anonymous v. State of Israel (decision by the Supreme Court rendered on May 26, 2014), STATE OF ISRAEL: THE JUDICIAL AUTHORITY, http://elyon1.court.gov.il/files/14/580/035/w01/14035580.w01.pdf (in Hebrew).

[19] Yonah Jeremy Bob et al., *MOJ: Police Taser Use Legal in Arrest of West Bank Settler Boaz Albert*, JERUSALEM POST (Nov. 26, 2013), http://www.jpost.com/National-News/MOJ-Police-Taser-use-legal-in-arrest-of-West-Bank-settler-Boaz-Albert-333059.

[20] *Id.*

Italy

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SUMMARY Italian legislation regulates the type of weaponry that may be used by the police to control and restore public order according to the weapons' features and the circumstances of their use. The basic weapons classifications distinguish between individual, departmental, and special weapons. In addition to these, other more sophisticated and heavy weapons may be used by the police. The use of weapons by the police must be adequate and proportionate to the requirements posed by the protection of the public order and safety, the prevention and punishment of crime, and other institutional duties. The Criminal Code exempts police personnel from criminal responsibility when they use their weapons in the line of duty. Currently there is a debate in Italy concerning the potential use of less-lethal weapons by the police.

I. Introduction

The Italian Constitution provides that the state has exclusive legislative powers in matters concerning "state security; armaments, ammunition, and explosives."[1]

The main police forces in Italy are the National Police, the Carabinieri, the Financial Crime Investigation Unit, and the Penitentiary Police Corps.[2] The National Police provides general police services throughout Italy, and has police stations in every major city and town. The National Police also includes specialty services such as traffic, railway, postal and telecommunications, and border and immigration police.[3] The Carabinieri is a military police force with both military responsibilities and general responsibility for maintaining civilian public order within Italy. The Carabinieri includes a Special Operations Group, a Mobile Units Division (which includes a group that conducts SWAT operations), and specialized units in charge of economically, environmentally, and socially sensitive issues.[4] The Financial Crime Investigation Unit, under the authority of the Minister of Economy and Finance, addresses financial crimes, organized crime, smuggling, international drug trafficking, illegal immigration, terrorist financing, and copyright violations.[5] The Penitentiary Police Corps provide security

[1] CONSTITUTION OF THE ITALIAN REPUBLIC art. 117(d), English version published by the Parliamentary Information, Archives and Publications Office of the Senate Service for Official Reports and Communication, https://www.senato.it/documenti/repository/istituzione/costituzione_inglese.pdf.

[2] *Policing Profiles of Participating and Partner States: Italy*, OSCEPOLIS, http://polis.osce.org/countries/details?item_id=23 (last updated May 22, 2007).

[3] *Id.*

[4] *Id.*

[5] *Id.*

over penal institutions.[6] In addition to these national police forces, some provinces in Italy have provincial and municipal police forces.[7]

Royal Decree Nos. 773 and 635[8] and Law No. 110 of 1975 regulate weapons, munitions, and explosives of the "Armed Forces and the Armed Corps of the State,"[9] and provide that authorization is required to use them. While the phrase "Armed Corps of the State" includes the police, these provisions exempt the police from the need to receive authorization to use weapons, weapon parts, ammunition, and explosives in the exercise of their duties.[10]

Presidential Decree No. 359 of 1991 sets forth rules governing what weapons are available to the National Police.[11] It states that the use of weapons must be adequate and proportionate to the protection of the public order and safety, the prevention and punishment of crime, and other institutional duties.[12]

II. Police Weapons and Equipment

A. National Police

Presidental Decree No. 359 states that certain weapons may be provided to individual officers, and that other categories of weapons may be provided to police departments to be used in a manner determined by the department.[13]

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[6] *Id.*

[7] *Id.*

[8] Regio Decreto 6 maggio 1940, n. 635 Approvazione del regolamento per l'esecuzione del testo unico 18 giugno 1931-IX, n. 773, delle leggi di pubblica sicurezza [Royal Decree No. 635 of May 6, 1940, Approval of the Regulations for the Implementation of Royal Decree No. 773 of June 18, 1931, Consolidated Public Safety Laws], GAZZETTA UFFICIALE DELLA REPUBBLICA ITALIANA [G.U.] No. 149, June 26, 1940, http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:regio.decreto:1940-05-06;635.

[9] Legge 18 aprile 1975, n. 110, Norme integrative della disciplina vigente per il controllo delle armi, delle munizioni e degli esplosivi [Law No. 110 of April 18, 1975, Additional Provisions Related to the Control of Arms, Ammunition and Explosives] art. 30, G.U. No. 105, Apr. 21, 1975, http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:1975-04-18;110!vig.

[10] Law No. 110 art. 30, para. 1.

[11] Decreto del Presidente della Repubblica 5 ottobre 1991, n. 359, Regolamento che stabilisce i criteri per la determinazione dell'armamento in dotazione all'Amministrazione della pubblica sicurezza e al personale della Polizia di Stato che espleta funzioni di polizia [Decree of the President of the Republic No. 359, of October 5, 1991, Regulations Establishing the Criteria for Determining Armaments Furnished for the Maintenance of Public Security and to Personnel of the State Police Who Perform Police Functions] [D.P.R. 359] art. 1, G.U. No. 264, Nov. 11, 1991, http://www.normattiva.it/uri-res/N2Ls?urn:nir:presidente.repubblica:decreto:1991-10-05;359.

[12] *Id.* art. 1(1).

[13] *Id.* art. 2.

1. Individual Weapons

Certain specified personnel of the Italian National Police are duly authorized to bear arms.[14] Those personnel may carry and use an "individual weapon," which consists of a semiautomatic handgun corresponding to the characteristics established in accordance with Presidential Decree No. 359 and by decree of the Chief of Police.[15]

2. Departmental Weapons

Departments of the National Police may also avail themselves of other weapons or equipment, to be distributed to police personnel according to the needs of the department.[16] The personnel who may receive such departmental weapons are subject to mandatory training in their use.[17] These weapons and equipment include billy clubs, smooth-bore rifles, rifle-bored shotguns or rifles, submachine guns, machine guns, and launchers, all of which must correspond to the characteristics set forth in articles 11–18 of Presidential Decree No. 359[18] and be specifically identified by decree of the Chief of Police.[19]

3. Special Equipment

National Police personnel may be authorized to use special weapons and equipment upon obtaining a certificate of specific skills.[20] In situations of grave necessity and urgency, the *questore* (superintendent—a provincial authority in charge of public safety) or other high-ranking officer may authorize the use of special weapons and equipment by personnel who do not have the appropriate certifications for their use.[21] Such special equipment includes portable arms, collective arms, bombs, self-propelled munitions, launching devices, and explosives that satisfy the applicable legal requirements.[22]

B. Local Police Forces

While Italy has some provincial and municipal police forces,[23] no special rules for them were found.

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[14] *Id.* art. 3(2).

[15] *Id.* arts. 3(2), 10.

[16] *Id.* art. 4.

[17] *Id.* art. 8(1).

[18] *Id.* arts. 8(2), 11–18.

[19] *Id.* art. 8(2).

[20] *Id.* art. 9(1).

[21] *Id.* art. 9(2).

[22] *Id.* art. 9(3).

[23] OSCEPOLIS, *supra* note 2.

C. Special Police Forces and SWAT Teams

No rules on special police forces or SWAT teams were found.

III. Rules on the Use of Police Weapons

The use of weapons by the police must be adequate and proportionate to the requirements posed by the protection of the public order and safety, the prevention and punishment of crime, and other institutional duties.[24] In addition, police are subject to other duties and responsibilities concerning the use of weapons. Police must (a) diligently secure their weapons and responsibly maintain them;[25] (b) carry out in all circumstances the security measures established for the handling of the weapon;[26] and (c) receive training, actively practice the techniques learned, and participate in drills organized by the authorities.[27] With respect to departmental weapons, (a) weapons must be kept in an armory according to the operational needs of the police;[28] (b) armories must comply with technical requirements that ensure their restricted access and safety;[29] and (c) weapons must be kept in armories in metal structures that are technically appropriate and in a suitable environment, and in a quantity strictly necessary for the performance of daily police duties.[30]

Under the Italian Criminal Code, public officers cannot be punished for using or authorizing the use of a weapon or other means of physical coercion in the line of duty in order to overcome resistance to authority or prevent violent acts or crimes such as murder, manslaughter, armed robbery, kidnapping or drowning someone, or causing a shipwreck, aviation disaster, or train wreck.[31]

The Italian Military Code of Peace contains a similar provision concerning military personnel.[32]

IV. Recent Incidents

There has been some recent debate in Italy concerning the use of nonlethal or less-lethal weapons (LLWs) by the police.[33] Several incidents have been reported in which police lacking

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[24] *Id.* art. 1(1).

[25] *Id.* art. 6(1)(a).

[26] *Id.* art. 6(1)(b).

[27] *Id.* art. 6(1)(c).

[28] *Id.* art. 7(1).

[29] *Id.* art. 7(3).

[30] *Id.* art. 7(4).

[31] CODICE DI PENALE [C.P.] [CRIMINAL CODE] art. 53, *available at* http://www.altalex.com/index.php?idnot=2205.

[32] Codice Militari di pace (Military Code of Peace) art. 41, *available at* https://www.icrc.org/applic/ihl/ihl-nat.nsf/0/eda1e8a870c1d78241256c910037a6af/$FILE/Codici%20Penali%20Militari%20di%20pace%20e%20di%20guerra.pdf.

nonlethal weapons have been placed in the dilemma of either using lethal force against a suspect in order to prevent the suspect from harming innocent bystanders or doing nothing.[34] The debate has brought out potential problems with the use of LLWs, such as the potential lethality of LLWs when improperly used.[35] Municipal police in Italy are also reportedly resorting to the wide-spread use of pepper spray.[36] Ultimately, the decision of whether the national police will use LLWs will be made by the political branches of government in Italy.[37]

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[33] Alessandro Bottoni, *Armi non letali per la Polizia*, ALEX'S BRAIN DUMP: IL BLOG DI ALESSANDRO BOTTONI (Sept. 8, 2014, 10:32 AM), http://www.alexbottoni.com/2014/09/03/armi-non-letali-per-la-polizia/.

[34] *Tre omicidi con il piccone, Kabobo condannato a 20 anni*, MILANO CRONACA: CORRIERE DELLA SERA (May 11, 2013), http://milano.corriere.it/notizie/cronaca/14_aprile_15/tre-omicidi-il-piccone-kabobo-condannato-20-anni-85bd8614-c47d-11e3-9713-8cc973aa686e.shtml; *Jesi, quei selfie dei passanti mentre l'uomo con il machete semina terrore in strada*, LA STAMPA CRONACHE (Sept. 2, 2014), http://www.lastampa.it/2014/09/02/italia/cronache/jesi-minaccia-i-passanti-armato-di-due-machete-selfie-dei-curiosi-nonostante-il-terrore-4tIalbVB25q95BhhTq7XbP/pagina.html; Franco Vanni, *Milano, va in giro con la spranga e minaccia la gente. "Ma non riusciamo a neutralizzarlo,"* R.IT MILANO (Aug. 28, 2014), http://milano.repubblica.it/cronaca/2014/08/28/news/milano_va_in_giro_con_la_spranga_e_minaccia_la_gente_ma_non_riusciamo_a_neutralizzarlo-94545563/.

[35] Bottoni, *supra* note 33.

[36] *Id*.

[37] *Id*.

Mexico

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I. Introduction

Mexico is a federal republic comprised of thirty-one states plus a Federal District.[1] There are state and municipal police forces in each of these jurisdictions.[2] In addition, there are police forces at the federal level, the most prominent of which is the Federal Police, which is under the supervision of Mexico's Department of Governance.[3] Mexico's federal and state governments contribute funds for a variety of police-related initiatives at the state level, such as recruiting, training, equipment, telecommunications, and facilities.[4]

II. Police Weapons and Equipment

Article 11 of Mexico's Law on Firearms and Explosives provides a list of the weapons that only Mexico's military may use.[5] This list includes certain revolvers, pistols, rifles, shotguns, machine guns, and ammunition for these weapons, as well as cannons, artillery devices, tanks, grenades, ships, submarines and seaplanes for naval combat, war aircraft, and generally, all weapons and ammunition exclusively designed for war.[6] Mexico's Department of Defense, however, may authorize the use of war weapons by government agencies at the federal, state, or municipal level provided that the need for the use of such weapons is justified.[7] Mexico's Law on Firearms and Explosives does not provide a list of the weapons that civilian government agencies currently have.

Mexico's General Law on the National Public Safety System provides that authorities at the federal, state, and municipal levels must register weapons and ammunition in their possession in

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[1] CONSTITUCIÓN POLÍTICA DE LOS ESTADOS UNIDOS MEXICANOS [POLITICAL CONSTITUTION OF THE MEXICAN UNITED STATES], *as amended* through July 2014, arts. 40, 43, DIARIO OFICIAL DE LA FEDERACIÓN [D.O.], Feb. 5, 1917, available on the website of Mexico's House of Representatives, *at* http://www.diputados.gob.mx/LeyesBiblio/pdf/1_07jul14.pdf.

[2] *Id.* arts. 21, 115(III)(h), 115(VII).

[3] Dirección General de Comunicación Social, *Policia Federal*, COMISIÓN NACIONAL DE SEGURIDAD, http://www.ssp.gob.mx/portalWebApp/wlp.c;jsessionid=y2L1JWqN20pHWLND3mThlQMXprscv3qn8djTccygg6nP1hVdnGvf!-1956886524?__c=7f9 (last updated Apr. 15, 2013).

[4] *Fondo de Aportaciones para la Seguridad Pública: ¿Qué es?*, SECRETARIADO EJECUTIVO DEL SISTEMA NACIONAL DE SEGURIDAD PÚBLICA, http://www.secretariadoejecutivosnsp.gob.mx/es/SecretariadoEjecutivo/Que_es_1 (last updated Feb. 15, 2013).

[5] Ley Federal de Armas de Fuego y Explosivos [Federal Law on Firearms and Explosives], *as amended* through Jan. 2004, art. 11, D.O., Jan. 11, 1972, http://www.diputados.gob.mx/LeyesBiblio/pdf/102.pdf.

[6] *Id.*

[7] *Id.*

a National Registry of Weapons and Equipment.[8] This Registry does not appear to be publicly available, and the General Law on the National Public Safety System does not provide specific information on the type of weapons that police forces currently have. Research using other relevant sources did not reveal specific information on the weapons currently used by the Federal Police.

III. Rules on the Use of Police Weapons

Mexico's Federal Police may use their weapons in a rational way in order to defend civilians and their rights, but only when other means are not effective.[9]

When the use of firearms is inevitable, the Federal Police should

- act in a way that is appropriate for the particular situation,
- limit damages and injuries,
- respect and protect human lives,
- provide prompt medical assistance to injured persons, and
- notify the relatives of the injured immediately.[10]

IV. Public Confidence

A recent report published by the Washington Office on Latin America argues that Mexico's police are corrupt, abusive, and disrespectful of human rights. The report states that if this problem is not properly addressed by Mexican authorities, "a vicious pattern of police abuse and a climate of mistrust between the police and the population" will be perpetuated.[11]

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[8] Ley General del Sistema Nacional de Seguridad Pública [General Law on the National Public Safety System], *as amended* through Oct. 2013, art. 124(II), D.O., Jan. 2, 2009, http://www.diputados.gob.mx/LeyesBiblio/pdf/LGSNSP.pdf.

[9] Acuerdo 04/2012 del Secretario de Seguridad Pública, por el que se emiten los lineamientos generales para la regulación del uso de la fuerza pública por las instituciones policiales de los órganos desconcentrados en la Secretaría de Seguridad Pública [Directive 4/2012 Providing General Guidelines for the Use of Public Force by Federal Police Forces] arts. 16, 19, D.O., Apr. 23, 2012, available on an online legal repository maintained by Mexico's Department of Governance, *at* http://www.ordenjuridico.gob.mx/fichaOrdenamiento.php?idArchivo=70732&ambito=emisor&idEmisor=6&idEspecifico=6&poder=Ejecutivo (click on "Descargar").

[10] *Id.* art. 18.

[11] MAUREEN MEYER, MEXICO'S POLICE: MANY REFORMS, LITTLE PROGRESS (May 8, 2014), available on the Washington Office on Latin America website, *at* http://www.wola.org/sites/default/files/Mexico%27s%20Police_Many%20Reforms%2C%20Little%20Progress.pdf.

Netherlands

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SUMMARY The Dutch police are standardly equipped with a truncheon, pepper spray, and a 9x19 mm semiautomatic service weapon. They may also be authorized to use long batons, handcuffs, a coupling device, a safety vest, and aftercare resources in the use of pepper spray. Units involved in carrying out arrests have explosives, noise and smoke grenades, stun guns, grenade launchers and CS gas canisters, semiautomatic and automatic firearms, repeating firearms, and pulsating weapons. The police also apparently have the use of SWAT armored vehicles. The use of weapons by the police is regulated by a set of rules that specify the circumstances under which each type of weapon is to be used. These rules, as well as the Police Act 2012, also specify the conditions for the acceptable use of force.

I. Introduction

As of January 1, 2013, the Dutch police force was reorganized, doing away with the former twenty-five regional forces and combining them with the National Police Services Agency (Korps landelijke politiediensten, or KLPD) into a single national police force comprising a national-level unit and ten regional units.[1]

The Ministry of Security and Justice now has full accountability for the police force, whereas formerly it had shared dual responsibility with the Ministry of the Interior and Kingdom Relations.[2] The Minister determines the police force budget and the framework within which the force carries out its tasks.[3] A national police commissioner, responsible for managing all ten regional units, heads the entire police force and a four-person command force; each of the regional units has a chief constable.[4]

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[1] Politiewet 2012 (July 12, 2012, in force Jan. 1, 2013, last amended effective May 1, 2013), art. 21(1), http://wetten.overheid.nl/BWBR0031788/geldigheidsdatum_02-09-2014; *Organisation of the Dutch Police*, GOVERNMENT OF THE NETHERLANDS, http://www.government.nl/issues/police/organisation-of-the-dutch-police (last visited Aug. 29, 2014). *See also* GOVERNMENT OF THE NETHERLANDS, NATIONAL POLICE 4 (Aug. 4, 2011), http://www.government.nl/issues/police/documents-and-publications/leaflets/2011/08/04/national-police.html (includes a map of the twenty-five regional forces and the then newly proposed ten regional units).

[2] *Police Reorganisation: A National Police Forc*e, GOVERNMENT OF THE NETHERLANDS, http://www.government.nl/issues/police (last visited Aug. 29, 2014); POLICE AND SAFETY REGIONS DEPARTMENT, MINISTRY OF THE INTERIOR AND KINGDOM RELATIONS, POLICING IN THE NETHERLANDS 13 (Jan. 2009), *available at* http://www.interpol.int/content/download/11814/82014/version/1/file/POLICE%20BROCHURE.pdf.

[3] *Police Reorganisation: A National Police Force*, *supra* note 2.

[4] *Id.*; HANS KOENDERINK, THE NATIONAL POLICE OF THE NETHERLANDS 4 (Sept. 2013), http://www.afp.gov.au/policing/ ptic2013/~/media/afp/ptic2013/documents/The%20Netherlands%20Police%20-%20Hans%20K.ashx.

Local police authority was not affected by the reorganization. "The mayor and the chief public prosecutor will still make local agreements about police deployment. Each municipality will draw up a public safety and security plan, which will serve as a basis for the mayor's management of the police."[5]

A. Police Officers

It was reported in 2013 that the total number of police employees was 63,000 and that the annual budget of the national police was over €5 billion (about US$6.6 billion).[6] This includes a corps of voluntary police officers, stated to number about 1,500, who, after undergoing extensive training, have the same powers and perform the same tasks as the professional police officers.[7]

Under the direct authority and control of the Board of Procurators General, the Rijksrecherche (Dutch National Police Internal Investigation Department) investigates all cases of serious injury or death involving the use of firearms by police officers, as well as alleged criminal conduct of government officials.[8]

B. Constabulary

The police may also work in concert with the Royal Netherlands Marechaussee (RNLM, Koninklijke Marechaussee), the Dutch constabulary, which is under the control of the Ministry of Defense.[9] The RNLM "is a gendarmerie corps, i.e., a police corps with military status," whose "personnel are both military and police personnel" and who are "deployable in all situations at home and abroad in the interests of security."[10] The RNLM may assist the police, and the police may also assist the RNLM.[11]

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[5] *Police Reorganisation: A National Police Force*, *supra* note 2.

[6] KOENDERINK, *supra* note 4.

[7] *Organisation of the Dutch Police*, *supra* note 1.

[8] *Onderzoek naar vuurwapengebruik politiefunctionarissen* [*Investigation of Police Use of Firearms*], http://www.rijksrecherche.nl/nieuwsberichten-rr/nieuwsbericht-1/ (last visited Sept. 3, 2014). *See also The Rijksrecherche (Dutch National Police Internal Investigation Department)*, IAACA (Feb. 10, 2012), http://www.iaaca.org/AntiCorruptionAuthorities/ByCountriesandRegions/N/Netherlandsjigou/201202/t20120210_802453.shtml; *The National Police Internal Investigations Department or Rijksrecherche*, OPENBAAR MINISTERIE [PUBLIC PROSECUTION SERVICE] (Nov. 10, 2008), http://www.om.nl/vast_menu_blok/english/the_national_police/.

[9] *Royal Netherlands Marechaussee*, MINISTRY OF DEFENSE, http://www.defensie.nl/english/organisation/marechaussee (last visited Sept. 2, 2014).

[10] *Id*. *See also* KONINKLIJKE MARECHAUSSEE, THE ROYAL NETHERLANDS MARECHAUSSEE (Oct. 2003), http://www.rijksoverheid.nl/bestanden/documenten-en-publicaties/brochures/2011/03/10/the-royal-netherlands-marechaussee/10fd20030016.pdf.

[11] Politiewet 2012, arts. 57 & 62 (specifically) *and* §§ 5.1 & 5.3 (in general); *see also* Samenwerkingsregeling politie-Koninklijke marechaussee [Collaborative Work Arrangements Police-Royal Constabulary] (as last amended effective Jan. 1, 2013), http://wetten.overheid.nl/BWBR0012415/geldigheidsdatum_03-09-2014.

II. Police Weapons and Equipment

The specific types of weapons that the Dutch police may use in performing their duties are governed by the Decision on the Arming and Equipping of the Police.[12] In general, a police officer will be armed with a truncheon, pepper spray, and a service weapon (*pistool*, defined as a 9x19 mm semiautomatic); the police chief may also determine that an officer should be armed with a long baton.[13] The police chief may determine that officers also be equipped with tie-wraps if necessary.[14] Additional equipment includes tactical vests, bulletproof helmets, gas masks, and shields.[15]

Officers who belong to arrest and support units (*aanhoudings- en ondersteuningseenheid*) will also be equipped with explosives, noise and smoke grenades, electric batons, grenade launchers and CS gas canisters, semiautomatic shoulder firearms, automatic shoulder firearms, repeating firearms, and pulsating weapons (*stroomstootwapen*).[16] Officers conducting their duties with a police dog may also be equipped with electric batons.[17]

The Decision further specifies that in addition to the regular equipment, officers involved in monitoring and security duties may also bear semiautomatic shoulder firearms; mobile units may also be equipped with long batons, grenade launchers and CS gas canisters, and water cannon; and officers in charge of personal security operations may also have grenade launchers and CS gas canisters, smoke and noise grenades, semi-automatic shoulder firearms, and automatic shoulder firearms.

According to the Army Technology website, the KLPD has in its fleet a BearCat G2 armored SWAT vehicle, producted by Lenco Armor, as well as a Lenco BEAR and BearCat.[18]

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[12] Besluit van 13 oktober 2012, houdende regels over de bewapening, de uitrusting en de kleding van de politie en de bijzondere bijstandseenheden alsmede regels over de taakuitvoering door de politie en de eisen aan de bekwaamheid van de ambtenaren van politie en van de bijzondere bijstandseenheden (Besluit bewapening en uitrusting politie) [Decision of 13 October 2012, Containing Rules on Armaments, Equipment and Clothing of the Police and the Special Support Units as well as Rules on the Tasks Performed by the Police and the Competency Requirements for Police Officers and the Special Support Units (Decision on the Arming and Equipping of the Police)] (Oct. 13, 2012, in force on Jan. 1, 2013), http://wetten.overheid.nl/BWBR0032136/geldigheidsdatum_02-09-2014.

[13] *Id*. arts. 1(c), 2(1)(a)–(c), 2(2). The service weapon currently in use is the Walther P5. "Welke Uitrustinig draagt een Agent?" ["What Equipment Does an Officer Carry?"], *Uniform en Uistrusting*, POLITIE, http://www.politie.nl/onderwerpen/uniform-en-uitrusting.html (last visited Sept. 3, 2014).

[14] Besluit bewapening en uitrusting politie art. 2(3)(a)–(d) & (4).

[15] *Id*. art. 2(5).

[16] *Id*. arts. 6(7) & 13.

[17] *Id*. art. 8(a).

[18] *Lenco Armor to Display BearCat® SWAT APC at Eurosatory 2014*, ARMY-TECHNOLOGY (June 10, 2014), http://www.army-technology.com/contractors/armoured/lenco-armored-vehicles/presslenco-display-bearcat-eurosatory-2014.html.

III. Rules on the Use of Police Weapons

According to the Police Act 2012, a police officer appointed to carry out police duties is authorized, in the legitimate exercise of his/her office, to use force or means of constraint when the aim and associated risks justify its use and cannot otherwise be achieved. Force may also be used as a warning.[19] In order to provide assistance to persons in need of it, police officers are authorized to gain access to any place to the extent reasonably necessary,[20] and to conduct a search of individuals if there appears to be an imminent threat to life or safety that the search may avert.[21]

Specific rules on the use of force and the handling of each type of police weapon are set forth in the Official Instruction for the Police, Royal Constabulary, and Other Investigative Officials.[22] Chapter 2 of the Instruction is on the use of force. In general, the use of force by a lawfully authorized official is permitted when executing a task for which violent means are sanctioned.[23] If a superior officer is onsite, the police officer will generally not use force without an explicit order from the superior officer.[24]

In regard to firearms, for example, the Instruction states that the use of a firearm, except for automatic or long-range precision firearms, is permitted in respect of persons who, among other acts, can "reasonably be assumed" to be ready to use a firearm against individuals; or who attempt to evade or have evaded arrest, arraignment, or other lawful custody, and are suspected of committing or have been convicted of a crime for which the sentence is at least four years' imprisonment, and which constitutes a serious threat to "physical integrity or privacy," or to society.[25] The Instruction also addresses automatic weapons, long-range precision firearms, firearms loaded with nonpenetrating ammunition (to which the prescriptions for other firearms, such as those stated above, do not apply), pepper spray, CS gas, water cannon, police dogs, and electric batons (to be used only against aggressive animals with the permission of the superior officer).[26]

A police officer who has used force must immediately report the facts and circumstances of the incident, and the effects thereof, to his/her superior officer.[27] The police are to bring the officer's report to the attention of the prosecutor in the district where the incident occurred within forty-

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[19] Politiewet 2012, art. 7(1).

[20] *Id*. art. 7(2).

[21] *Id*. art. 7(3).

[22] Ambtsinstructie voor de politie, de Koninklijke marechaussee en andere opsporingsambtenaren [Official Instruction for the Police, Royal Constabulary, and Other Investigative Officials] (Apr. 8, 1994, as last amended effective Jan. 1, 2013), http://wetten.overheid.nl/BWBR0006589/geldigheidsdatum_03-09-2014.

[23] *Id*. art. 4.

[24] *Id*. art. 5(1).

[25] *Id*. art. 7(1)(a), (b).

[26] *Id.* arts. 8–16.

[27] *Id*. art. 17(1).

eight hours, if in the view of the police chief the use of force has consequences or has caused more than minor bodily injury or death, or if a firearm was fired one or more times.[28] In the first half of 2014, the Rijksrecherche investigated nineteen shooting incidents involving police officers' use of firearms in the performance of their duties. The shootings resulted in seventeen injuries and two fatalities, but the fatalities were suicides, not deaths caused by the police firearm.[29]

IV. Controversies

In March 2013, it was reported that the Dutch Minister of Defence, Jeanine Hennis, had confirmed to members of the Dutch Parliament, in response to the privacy implications of drone use, that drones owned by the Ministry "are regularly used in the Netherlands to carry out police work."[30] A newspaper article published earlier that month had stated that the technology was "used to trace burglars and getaway cars as well as illegal marijuana plantations."[31] According to one source, "drones have been used 551 times since their use in civilian surveillance was agreed in 2009," although police contend that images captured by drones were not kept.[32]

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[28] *Id*. art. 17(3). Or, if a constabulary officer is involved, the Commander of the Royal Dutch Constabulary is to bring the report to the attention of the Prosecutor in Charge of Military Affairs in Arnhem.

[29] *Rijksrecherche onderzocht 19 schietincidenten in eerste helft 2014* [*Dutch National Police Internal Investigation Department Investigated 19 Shooting Incidents in the First Half of 2014*], RIJKSRECHERCHE, http://www.rijksrecherche.nl/@162942/rijksrecherche/ (last visited Sept. 3, 2014).

[30] *Use of Drone Aircraft by Police Is Increasingly Secretive: nu.nl*, DUTCH NEWS.NL (Mar. 28, 2013), http://www.dutchnews.nl/news/archives/2013/03/use_of_drone_aircraft_by_polic.php.

[31] *Id*.

[32] *Id.* (citing Jerry Vermanen, '*Overheid moet duidelijkheid geven over drones*' ['*Government Must Provide Clarity About Drones*'], NU.NL (Mar. 28, 2013, 7:16 AM, updated Aug. 21, 2013, 9:20 AM), http://www.nu.nl/binnenland/3380831/overheid-moet-duidelijkheid-geven-drones.html).

New Zealand

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SUMMARY Police in New Zealand are not routinely armed while on general duty. Handguns and rifles, as well as Tasers and ballistic vests, are securely locked in cabinets within police vehicles and may be accessed following authorization from a supervisor. In recent years, a project to increase the availability of these tactical options has been implemented, along with enhancements to tactical training for general duty officers. Specialized Armed Offenders Squads are called out for incidents involving armed individuals and a Special Tactics Group also has particular roles in handling complex situations. These units have special training and equipment. Police may also access some military-owned equipment, including Light Armored Vehicles, pursuant to cooperation agreements with the armed forces.

Various statutory and police-issued rules apply to the use of firearms and other force by police. These emphasize that the least amount of force necessary to achieve a purpose should be used. Since 1941, twenty-seven people have died as a result of police shootings. While no shots were fired, controversy arose in relation to the tactics of armed police in carrying out a search warrant operation in October 2007. There were public protests and investigations, leading to the Commissioner of Police making an apology to the Māori tribe affected in August 2014.

I. Introduction

New Zealand's population is currently estimated at around 4.5 million.[1] A national police force, New Zealand Police (NZ Police), delivers services through twelve districts,[2] and there were 8,782 sworn police officers as of June 30, 2013.[3] This included around three hundred part-time members of seventeen Armed Offenders Squads (AOS), which have particular roles in responding to situations "involving an actual or threatened use of firearms against members of the public or Police."[4] These squads operate on a call-out basis. In addition, current and former AOS members can apply to become full-time members of the national Special Tactics Group (STG), which has sections based in three cities. The members of this team "are trained for deployment on high-risk operations such as those involving counterterrorism, tactical roping

[1] *National Population Estimates: At 30 June 2014*, STATISTICS NEW ZEALAND (Aug. 14, 2014), http://www.stats.govt.nz/browse_for_stats/population/estimates_and_projections/NationalPopulationEstimates_HOTPAt30Jun14.aspx.

[2] NZ POLICE, ANNUAL REPORT 2012/2013, at 22 (2013), http://www.police.govt.nz/sites/default/files/publications/annual-report-2013.pdf.

[3] *Id.* at 103.

[4] *Armed Offenders Squads*, NZ POLICE, http://www.police.govt.nz/about-us/structure/teams-units/aos (last visited Aug. 29, 2014).

from helicopters and buildings, maritime incidents, covert surveillance, hostage rescue and complex armed offender situations."[5]

NZ Police is funded by the central government through annual appropriations.[6] No reports were found of surplus military equipment being acquired by NZ Police, although access to certain military-owned equipment may be granted through cooperation arrangements. For example, in 2006, NZ Police stated that it had reached an understanding with the New Zealand Defence Force "over access to the Army's Light Armoured Vehicles (LAVs) should the need arise."[7] The Defence Act 1990 allows the the Prime Minister to authorize any part of the Armed Forces to assist NZ Police if satisfied that a person (or persons) is threatening or attempting to kill or seriously injure another person or attempting to destroy or seriously damage any property, and that NZ Police cannot deal with the emergency without the assistance of the Armed Forces.[8]

II. Police Weapons and Equipment

A. Officers on General Duty

NZ Police officers do not routinely carry firearms on their person while on general duty.[9] Glock semiautomatic pistols and Bushmaster XM15 M4A3 rifles,[10] as well as ballistic armor,[11] may be carried in police vehicles in locked cabinets.[12] Firearms are generally accessed by officers following approval of a supervisor with respect to a particular situation.[13] Public debate about routinely arming general duty officers has arisen at various times as a result of officers being injured or killed while on duty.[14]

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[5] *Staff Recruited for Specialist Team*, TENONE (Issue No. 353, Jan. 2012), http://www.tenone.police.govt.nz/tenone/January12National8.htm.

[6] *See Police*, NEW ZEALAND GOVERNMENT: 2014 BUDGET, http://www.budget.govt.nz/budget/2014/by/vote/police.htm (last visited Aug. 29, 2014).

[77] Press Release, NZ Police, Police Release Report on Technology for Dealing with Violent Offenders (Aug. 3, 2006), http://www.police.govt.nz/news/release/2559. Two LAVs and their operatives were provided by the Defence Force during a fifty-one-hour armed stand-off with an individual in May 2009. Army bomb disposal experts were also present at the scene. *Hospital Hill Siege Unprecedented*, TENONE (May 2009), http://www.tenone.police.govt.nz/tenone/May09HospitalHill.htm.

[8] Defence Act 1990, s 9(4), http://www.legislation.govt.nz/act/public/1990/0028/latest/DLM204973.html.

[9] *See* Howard Broad, *Police Routinely Unarmed on My Watch*, POLICE COMMISSIONER'S BLOG: DIRECT LINE (June 15, 2009), http://www.police.govt.nz/news/commissioners-blog/police-routinely-unarmed-my-watch.

[10] *See* Press Release, NZ Police, Replacement Due for Police Rifles (May 19, 2005), http://www.police.govt.nz/news/release/1923.

[11] *See New Police Armour Stronger than a Speeding Bullet*, THE NEW ZEALAND HERALD (Dec. 9, 2008), http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10547190.

[12] *See Firearms Safes Almost Ready for Trials*, TENONE COMMUNITY EDITION (Aug. 2011), http://www.tenone.police.govt.nz/tenone/August11National4.htm.

[13] *See* General Instruction F060 – Carrying of Firearms by Police, *available in* Press Release, NZ Police, Use of Firearms by Police (Sept. 27, 2007), http://www.police.govt.nz/news/release/3376.

[14] *See, e.g.*, Press Release, NZ Police, Escalation of Firearms Use Not Supported After Kawhia Assault on Policeman (Jan. 13, 2013), http://www.police.govt.nz/news/release/33999; Howard Broad, *The Debate About*

Following reviews conducted in the early 2000s regarding less than lethal force options and equipment[15] and training, policy, and practice related to police use of force,[16] NZ Police commenced a field trial of model X26 Tasers in four districts in 2006.[17] A positive evaluation of the trial was published in 2008,[18] resulting in Tasers being approved for use in the trial districts.[19] Since 2010, Tasers have been available throughout the country for use by trained frontline staff.[20] They are not "carried on the hip as a matter of course."[21] As with firearms, they are locked in secure cases in police vehicles.

In April 2011, NZ Police began a project to "increase the access and availability of firearms and TASERs for general duty and road policing staff."[22] This involved installing new security safes in vehicles and ensuring that "[t]raining in the use of available tactical options will be commensurate with the increase in their availability."[23] Under changes to police tactical training implemented as of July 2014, "approximately 5,700 of Police's 8,100 district staff will receive training in the M4 rifle, Glock pistol and Taser as Level 1 responders – around 700 more than originally proposed. Meanwhile, approximately 2,100 district staff will be Level 2 responders, receiving training in the Glock pistol, in addition to their existing training."[24]

Arming Police, POLICE COMMISSIONER'S BLOG: DIRECT LINE (July 14, 2010), http://www.police.govt.nz/blog/2010/07/14/debate-about-arming-police/24684.

[15] Press Release, NZ Police, Police Release Report on Technology for Dealing with Violent Offenders (Aug. 3, 2006), http://www.police.govt.nz/news/release/2559.

[16] Press Release, NZ Police, Use of Force Report Explores Options (Dec. 14, 2001), http://www.police.govt.nz/news/release/351.

[17] Press Release, NZ Police, Police to Trial Tasers (Feb. 8, 2006), http://www.police.govt.nz/news/release/2283.

[18] NZ POLICE, OPERATIONAL EVALUATION OF THE NEW ZEALAND TASER TRIAL (Feb. 2008), https://www.police.govt.nz/resources/2008/operational-evaluation-of-nz-taser-trial/operational-evaluation-of-nz-taser-trial-2008.pdf.

[19] Speech, Annette King, Ministerial Statement on the Taser (Aug. 27, 2008), http://www.beehive.govt.nz/speech/ministerial-statement-taser; Press Release, NZ Police, Taser Decision Finalised (Aug. 28, 2008), http://www.police.govt.nz/news/release/4266; Press Release, NZ Police, Tasers Being Reintroduced to Trial Districts (Dec. 10, 2008), http://www.police.govt.nz/news/release/4572.

[20] *Taser Rollout Begins*, TENONE COMMUNITY EDITION (Feb. 2009), http://www.tenone.police.govt.nz/tenone/Feb10Taser.htm; Press Release, Judith Collins, Budget 2009: Judith Collins – $10 million to Complete National Taser Roll Out (May 22, 2009), http://beehive.govt.nz/release/budget-2009-judith-collins-10-million-complete-national-taser-roll-out.

[21] Howard Broad, *Tasers a Welcome Option*, POLICE COMMISSIONER'S BLOG: DIRECT LINE (Feb. 10, 2010), http://www.police.govt.nz/news/commissioners-blog/tasers-welcome-option.

[22] NZ Police, Briefing to the Incoming Minister 41 (Dec. 2011), http://www.police.govt.nz/sites/default/files/publications/briefing-to-incoming-minister-february-2012.pdf. *See also* Steve Plowman, *Complex Issues at Heart of Greater Access and Availability of Firearms and Tasers*, 44(9) POLICENEWS 244 (Oct. 2011), http://www.policeassn.org.nz/system/files/file/PoliceNewsOct%2011.pdf; *Clip Holsters Speed Access*, TENONE COMMUNITY EDITION (Sept. 2011), www.policeassn.org.nz/system/files/file/PoliceNewsOct%2011.pdf.

[23] Briefing to the Incoming Minister, *supra* note 22, at 41.

[24] Press Release, NZ Police, Further Enhancements to Police Integrated Tactical Training (Feb. 17, 2014), http://www.police.govt.nz/news/release/further-enhancements-police-integrated-tactical-training.

In addition to firearms and Tasers, frontline police may use OC Spray (pepper spray),[25] police dogs,[26] and batons. Police wear stab-resistant vests[27] and also have access to riot gear, such as helmets, armor, and shields.[28]

B. Specialist Groups

In addition to the Bushmaster M4 rifle and Glock handgun referred to above, AOS and STG members also have access to sniper rifles, possibly the Ruger Marksman 7.62.[29] Other tactical equipment includes OC Spray, Tasers, batons, tear gas, and stun grenades or other distraction devices. In November 2013, the XM1006 "sponge round" was made available to AOS in certain districts as well as to STG.[30] Members of these units wear special tactical clothing when deployed, such as ballistic vests, equipment vests, balaclavas, goggles, and helmets. They also use unmarked four-wheel drive vehicles rather than standard police cars.[31]

III. Rules on Use of Police Weapons

Under the Crimes Act 1961, an officer is justified in using

- "such force as may be necessary" to overcome any force used by a person in resisting the law enforcement process, unless the "sentence, warrant, or process can be executed or the arrest made by reasonable means in a less violent manner";[32]
- "such force as may be necessary" to prevent a person escaping in order to avoid arrest, or to prevent the escape or rescue of a person following their arrest, "unless in any such case the escape can be prevented or the recapture effected by reasonable means in a less violent manner";[33] and

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[25] *See* Press Release, NZ Police, Police Extending Trial of "Gel" OC Spray (Mar. 20, 2014), http://www.police.govt.nz/news/release/police-extending-trial-gel-oc-spray.

[26] *Police Dog Section*, NZ POLICE, http://www.police.govt.nz/about-us/structure/teams-units/dog-section (last visited Aug. 29, 2014).

[27] Press Release, NZ Police, Police Begin Roll-out of Stab Resistant Body Armour (Dec. 14, 2006), http://www.police.govt.nz/news/release/2780.

[28] *See Police Reveal New Riot Gear*, STUFF.CO.NZ (May 27, 2011), http://www.stuff.co.nz/national/crime/5062337/Police-reveal-new-riot-gear.

[29] *See* IPCA, PUBLIC REPORT ON THE FATAL SHOOTING OF LEE JANE MARTIN 10 (Apr. 2010), http://www.ipca.govt.nz/includes/download.aspx?ID=108400.

[30] Press Release, NZ Police, New Tactical Option Available to Specialist Groups (Nov. 29, 2013), http://www.police.govt.nz/news/release/new-tactical-option-available-specialist-groups-photos; *Sponge Rounds – No Soft Option*, TENONE (Issue No. 376, Dec. 2013), http://www.tenone.police.govt.nz/tenone/December13National4.htm.

[31] *See, e.g.*, *Photos: Napier Shooting*, THE NEW ZEALAND HERALD (May 7, 2009), http://www.nzherald.co.nz/nz/news/image.cfm?c_id=1&gal_objectid=10635342&gallery_id=105524#6609272.

[32] Crimes Act 1961, s 39, http://www.legislation.govt.nz/act/public/1961/0043/latest/DLM327382.html.

[33] *Id.* s 40.

- "such force as, in the circumstances as he or she believes them to be, it is reasonable to use" in the defense of himself or another.[34]

The Crimes Act 1961 further states that "[e]very one authorised by law to use force is criminally responsible for any excess, according to the nature and quality of the act that constitutes the excess."[35]

The Police Manual[36] and General Instructions[37] issued by the Commissioner of Police refer to the above provisions and contain principles and policies related to the use of firearms and other weapons by police, as well as outlining the roles of AOS and STG in responding to armed incidents. In addition, the Tactical Options Framework provides guidance to officers on determining the appropriate tactical option to use.[38] In terms of firing at an offender,

> Police policy provides that potentially lethal force may be used when an offender presents a threat of death or grievous bodily harm. Officers must give an offender the opportunity to surrender if practicable, and employ less lethal tactical options to effect an arrest or disarm an offender if they are available. However, if further delay in apprehending the offender would be dangerous or impractical, officers are justified in firing at an offender.[39]

IV. Recent Incidents and Controversy

Between 1941 and October 2008, twenty-two people died in New Zealand as a result of police firearm use.[40] Since then there appear to have been at least eleven shootings by police, five of them fatal.[41] The most recent statistics regarding the use of tactical options by general duty officers, covering the 2013 calendar year, recorded that a total of 1,053 non-fatal subject injuries

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[34] *Id.* s 48.

[35] *Id.* s 62.

[36] The Police Manual is not made publicly available in full. Information about aspects of the Manual that pertain to firearms and other weapons can be found in several IPCA reports. *See, e.g.*, IPCA, FATAL POLICE SHOOTING OF ANTONY RATAHI ¶¶ 226–243 (Aug. 2014), http://ipca.govt.nz/includes/download.aspx?ID=135477; IPCA, FATAL POLICE SHOOTING OF LACHAN KELLY-TUMARAE ¶¶ 321–335 (Oct. 2013), http://ipca.govt.nz/includes/download.aspx?ID=130981.

[37] *See* Press Release, NZ Police, Use of Firearms by Police (Sept. 27, 2007), http://www.police.govt.nz/news/release/3376.

[38] The Tactical Options Framework is not made publicly available in full. Information about aspects of the Framework can be found in several IPCA reports. *See, e.g.*, IPCA, POLICE SHOOTING OF DAVID TAITE (SUMMARY REPORT) ¶¶ 42–43 (June 5, 2014), http://ipca.govt.nz/includes/download.aspx?ID=133903.

[39] *Id.* ¶ 58.

[40] *Chronology of Fatal Shootings by Police*, THE NEW ZEALAND HERALD (Oct. 23, 2008), http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10539110.

[41] *See* Tracey Chatterton, *Police Shooting Still Unresolved a Year On*, STUFF.CO.NZ (July 24, 2014), http://www.stuff.co.nz/national/10303209/Police-shooting-still-unresolved-a-year-on. *See also* IPCA Annual Reports for recent years, *at* http://ipca.govt.nz/Site/publications/Accountability/default.aspx.

were caused by such police actions during the year.[42] Of these, only two were due to firearm use. Fifty percent of the injuries resulted from empty hand force, 26% from dogs, 15% from handcuffs, 4% from OC Spray, 2% from batons, and 1% from Tasers.[43]

Although no shots were fired, a particular controversy in relation to armed police arose in October 2007, when members of AOS and STG conducted several raids following a surveillance operation that uncovered what were believed to be military-style training camps in a remote part of the country. Following the raids, there were allegations that the methods used by armed police in executing multiple search warrants in the Urewera area were unnecessarily intimidating to the communities concerned. The operation resulted in numerous complaints and public protests.[44]

In 2013, the Independent Police Conduct Authority issued findings that stated NZ Police had acted "unlawfully, unjustifiably and unreasonably" in relation to some aspects of the raids.[45] The Human Rights Commission also concluded that "innocent people were exposed to unnecessary trauma and had their human rights negatively impacted."[46] In August 2014, the Commissioner of Police made a "historic apology" to the people of Tuhoe (the Māori tribe (Iwi) in the Urewera area) for police actions during the raids, stating that "the situations some community members were placed in, the fear that was experienced; and the harm that caused was unacceptable. . . . We now look to the future and continuing our work at a national and local level to build greater relationships between Police with Tuhoe and Iwi Maori, to ensure that all communities across Aotearoa [New Zealand] have trust and confidence in the New Zealand Police."[47]

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[42] RESPONSE AND OPERATIONS: RESEARCH AND EVALUATION, NEW ZEALAND POLICE ANNUAL TASER REPORT #2: 1 JANUARY TO 31 DECEMBER 2013, at 6 (Table 11). http://www.police.govt.nz/sites/default/files/publications/taser-report-annual-2013.pdf.

[43] *Id.*

[44] Juliet Rowan, *Hundreds Protest Against Terror Raids*, THE NEW ZEALAND HERALD (Oct. 19, 2007), http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10470859.

[45] Rebecca Quilliam, *Police Acted 'Unlawfully' During Urewera Raids*, THE NEW ZEALAND HERALD (May 22, 2013), http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10885376; *see also* Press Release, IPCA, Report into Operation Eight Finds Police Acted Unlawfully (May 22, 2013), http://www.ipca.govt.nz/Site/media/2013/2013-May-22-Operation-Eight.aspx.

[46] Press Release, Human Rights Commission, Commission Releases Operation Eight Human Rights Analysis (Dec. 19, 2013), http://www.hrc.co.nz/2013/12/19/commission-releases-human-rights-analysis-of-operation-eight/.

[47] *Police Return to Ruatoki to Say Sorry*, ONENEWS (Aug. 13, 2014), http://tvnz.co.nz/national-news/police-return-ruatoki-say-sorry-6054239; *Tuhoe Apology: Police Commissioner Releases Statement*, TE KARERE (Aug. 13, 2014), http://tvnz.co.nz/te-karere-news/tuhoe-apology-police-commissioner-releases-statement-6055829.

Portugal

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I. Introduction

In Portugal, internal security functions are performed by the National Republican Guard (Guarda Nacional Republicana, GNR); the Public Security Police (Polícia de Segurança Pública, PSP); the Judicial Police (Polícia Judiciária); the Border and Immigration Service (Serviço de Estrangeiros e Fronteiras); and the Office of Information Security (Serviço de Informações de Segurança).[1] The GNR was established as a quasi-military security force that, if required, can make use of military equipment and arms.[2] Investigation services and security forces are funded by the federal government. In 2014, their budget was €1.6 billion (approximately US$2.15 billion).[3] However, no information was located concerning the amount of resources allocated to the acquisition of weapons.

II. Police Weapons and Equipment

A. Individual Weapons

The Portuguese laws researched for this report do not list what individual weapons, equipment, or materials are used by federal, local, or special police forces. Law No. 5 of February 23, 2006, however, prohibits the sale, acquisition, transfer, ownership, and use and possession of weapons, ammunition, and accessories classified as class A.[4] Class A weapons, ammunition, and accessories include but are not limited to military equipment and war materials; automatic firearms; and explosive chemical, biological, radioactive, or nuclear weapons.[5]

B. Other Equipment

On December 11, 2013, a Portuguese newspaper reported that the Public Security Police (PSP) acquired two drones, three jet skis, and a boat capable of transporting ten people.[6] The purchase

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[1] Lei No. 53/2008, de 29 de Agosto, art. 25, available on the Polícia Judiciária website, *at* http://www.policiajudiciaria.pt/PortalWeb/page/%7B24B74B28-58D9-4CDE-85DB-14A7A6ED89C3%7D.

[2] *Guarda Nacional Republicana*, GUARDA NACIONAL REPUBLICANA, http://www.gnr.pt/default.asp?do=t04/14tn0vCnpn1/qrsv0vpn1EE (last visited Sept. 10, 2014).

[3] Lei No. 83-C/2013, de 31 de Dezembro, DIÁRIO DA REPÚBLICA, 1a série, No. 253: 7056-(161), 31 de dezembro de 2013, http://www.dgo.pt/politicaorcamental/OrcamentodeEstado/2014/Or%C3%A7amento%20Estado%20Aprovado/Documentos%20do%20OE/Lei_83-C_2013-OE2014_VersaoDR.pdf.

[4] Regime Jurídico das Armas e suas Munições, Lei No. 5/2006, de 23 de Fevereiro, art. 4(1), http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=692&tabela=leis.

[5] *Id.* art. 3(2). For a full list of class A weapons, ammunition, and accessories, see Law No. 5/2006.

[6] José Antonio Cerejo, *PSP Compra Veículos Aéreos Não Tripulados, Motas de Agua e Um Barco*, PÚBLICO (Dec. 12, 2013), http://www.publico.pt/sociedade/noticia/psp-compra-drones-motas-de-agua-e-um-barco-1615767#/1.

of the drones was authorized in July 2013 and classified as secret.[7] They come equipped with two recording cameras, remote-viewing instruments, and high-tech communications. The drones feature two hours of autonomous flight at a maximum altitude of 150 meters and a range of twenty kilometers. The device weighs five kilograms, has a wingspan of 1.8 meters, has manual (hand thrown) takeoff, and lands with the aid of a parachute.[8]

III. Rules on the Use of Police Weapons

Decree-Law No. 457 of November 5, 1999, applies to situations involving the use of firearms in police actions.[9] The use of firearms is allowed as an extreme measure, only when absolutely necessary and when less dangerous means have proved ineffective, and provided that their use is proportionate to the circumstances.[10] Article 3 lists the situations when the use of firearms is allowed. The use of firearms must be preceded by a clearly visible warning when the circumstances allow it.[11] The warning may consist of shooting into the air, provided that the shots could not hit anyone and that the prior warning could not be immediately perceived.[12] If a firearm is used, its use must be immediately reported to the police officer's hierarchical superiors in the shortest possible time, and accompanied by a written report.[13]

IV. Controversies

With regard to the PSP's acquisition of equipment to be used on air and on water, the president of the police union (Associação Sindical dos Profissionais de Polícia) was quoted as saying that "it was unacceptable that at a time when the state owes thousands of euros to more than three thousand police officers, when the PSP does not have the necessary cars, or protective equipment for their staff, that the PSP invest in equipment like this that is not essential."[14] Although somewhat in favor of acquiring the drones to help with police work, the president was skeptical as to its timing, and further said with regard to the purchase of the boats and jet skis that maritime police were already in place and that the acquisition represented both a duplication of investments and an infringement on the jurisdiction of other police bodies.[15]

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[7] *Id.*

[8] *Id.*

[9] Decreto-Lei No. 457/99, de 5 de Novembro, art. 1(1), http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1558&tabela=leis.

[10] *Id.* art. 2(1).

[11] *Id.* art. 4(1).

[12] *Id.* art. 4(2).

[13] *Id.* art. 7(1).

[14] José Antonio Cerejo, *supra* note 6 (translated by the author).

[15] *Id.*

As for the collection and use of aerial images, the spokesperson for the National Commission for the Protection of Data (Comissão Nacional de Protecção de Dados) said that the current laws on the use of fixed or mobile cameras did not address this type of situation and that such means could be used only after the adoption of legislation that permitted it.[16]

[16] *Id.*

Russian Federation

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SUMMARY Russian police are funded through the national budget and their acquisition of equipment, including military-grade weapons, is regulated by legislation. Firearms are purchased via the regular government procurement process. Federal legislation defines rules for the application of firearms by police officers, which appear to be too restrictive from the police point of view. Several bills aimed at expanding the right of police officers to use firearms were recently introduced in the legislature.

I. Introduction

Russian police forces operate under the Ministry of Internal Affairs (MIA), which is a federal agency of the executive branch of the Russian Government. Among other duties it is responsible for conducting federal criminal investigations, maintaining public order, patrolling highways, securing the safety of transportation, and guaranteeing the security regime for restricted territories and facilities.[1]

The MIA has its own armed forces, called Internal Troops, which are formed and equipped the same way as regular military troops but separate from them. They use heavy and combat military-grade weapons to deal with serious crimes, terrorism, and other extraordinary threats and are better trained than the regular police.[2] Internal Troops participate in emergency military-style operations, disperse crowds, and fight public disobedience.[3]

The MIA is financed through the federal budget.[4] Military weapons, ammunition, and other equipment are purchased through public procurement procedures.[5]

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[1] *Policing Profiles of Participating and Partner States: Russian Federation*, OSCEPOLIS, http://polis.osce.org/countries/details?item_id=31 (last updated Mar. 5, 2007).

[2] Peter Roudik, *Policing the Russian Federation*, *in* COMPARATIVE POLICING: THE STRUGGLE FOR DEMOCRATIZATION 143 (M.R. Haberfeld & Ibrahim Cerrah eds., 2008).

[3] OSCEPOLIS, *supra* note 1.

[4] Federal Law No. 3-FZ of Feb. 7, 2011, SOBRANIE ZAKONODATELSTVA ROSSIISKOI FEDERATSII [SZ RF] [COLLECTION OF RUSSIAN FEDERATION LEGISLATION] (official gazette, in Russian) 2011, No. 7, Item 900 (hereinafter Federal Law on Police) art. 48.

[5] A. IU. LARIN, KOMMENTARII K ZAKONU ROSSIISKOI FEDERATSII O POLITSII [COMMENTARIES TO THE LAW OF THE RUSSIAN FEDERATION ON POLICE] 291 (Moscow, 2011).

II. Police Weapons and Equipment

A. Federal and Local Police Forces

The most common service weapon used by the Russian police is the PM "Makarov" pistol, which is generally considered to be outdated. It is gradually being replaced by more modern pistols.[6] The list of weapons used by the police force also includes Russian-made pistols, revolvers, submachine guns, and automatic rifles.[7]

Special means used by the police include rubber batons, handcuffs, tear gas, paint dispensers, sound-and-light means of distraction, means to destroy barricades, shotguns, armored carriers, water throwing cannons (including water jet machines manufactured in Israel),[8] and service dogs.[9] Nonlethal weapons are also used by the police.[10] Nonlethal weapons are more popular with the police officers because, unlike traditional firearms, their use does not entail mandatory prosecutorial review.[11]

B. Special Police Forces (SWAT teams)

Weapons and equipment used by MIA Internal Troops and varied SWAT teams include military-type motor vehicles, armored personnel carriers, pistols, rifles, sniper rifles, automatic rifles and pistols, special underwater pistols and automatic guns, submachine and machine guns, and nonlethal weapons.[12] Recently, the list of weapons used by police was extended to include foreign-manufactured weapons and equipment, such as pistols and submachine guns manufactured by Glock, Walther, and Heckler & Koch.[13]

III. Rules on the Use of Police Weapons

Legal grounds for application of physical force, firearms, and special means by police are established by Federal Laws on Police,[14] on the State of Emergency,[15] on the Interior Troops of the Russian Federation,[16] and on Weapons.[17]

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[6] *MIA is Not Reforming but Arming Itself*, SVPRESSA.RU (Oct. 13, 2010), http://svpressa.ru/society/article/32045/ (in Russian).

[7] A. IU. LARIN, *supra* note 5, at 181.

[8] Aleksei Trubashev, *Special Pistols for Special Forces*, GAZETA.RU (July 19, 2006), http://www.gazeta.ru/2006/07/19/oa_208653.shtml (in Russian).

[9] Roudik, *supra* note 2, at 153.

[10] Vladimir Barinov, *The Police Are Being Armed with "Osa,"* VPK.NAME (Mar. 28, 2012), http://vpk.name/news/66913_policiyu_vooruzhayut_osoi.html (in Russian).

[11] *Id*.

[12] RUSSIAN FEDERATION MINISTRY OF INTERNAL AFFAIRS, INTERNAL TROOPS, WEAPONS AND MILITARY EQUIPMENT, http://vvmvd.ru/about/voorujenie/ (in Russian; last visited Sept. 5, 2014).

[13] *Special Pistols for Special Forces*, GAZETA.RU (July 19, 2006), http://www.gazeta.ru/2006/07/19/oa_208653.shtml (in Russian).

[14] Federal Law on Police No. 3-FZ of Feb. 7, 2011, SZ RF 2011, No. 7, Item 900.

All of these laws follow the general principle that before applying a firearm, a police officer must inform persons against whom the firearm is intended to be used that he/she is a police officer, warn of his/her intention, and give the person the opportunity and time to comply with police instructions. If firearms are applied by a group of police officers the warning must be issued by one of the officers in the group. However, the police officer has the right not to warn about the application of a firearm if a delay in doing so would create an immediate threat to the life and health of a person or an officer, or could result in other serious consequences.[18]

Article 23 of the Law on Police gives an exhaustive list of circumstances in which the use of firearms by police officers is authorized:

- Protecting other persons or themselves from a violent assault;
- Preventing an attempt to seize firearms in service of the police;
- Rescuing hostages;
- Arresting people apprehended during the commission of grave crimes and attempting to escape, provided there are no other means to arrest them;
- Arresting armed persons who refuse to follow orders to surrender weapons, ammunition, explosives, and poisonous and radioactive substances;
- Suppressing riots and other illegal acts hindering traffic, the operation of means of communication, and organizations;
- Repelling an armed attack; and
- Preventing the escape of suspects and persons accused of committing a crime.[19]

Additionally, a police officer has the right to use firearms in order to stop a vehicle if the driver refuses to comply with repeated demands of the police officer to stop and attempts to escape; to neutralize a dangerous animal; and where a person with an exposed firearm who is being arrested by a police officer attempts to walk up to the police officer, thus reducing the distance indicated by the police officer, or intends to touch the police officer's firearm.[20]

Police officers are prohibited from using firearms against women, persons with obvious signs of disability, and minors when their age is obvious or known to the police officer. Exceptions to this prohibition include armed resistance to the police officer, or committing an armed or group

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[15] Federal Law No. 3-FKZ of May 30, 2001, SZ RF 2001, No. 23, Item, 2277.

[16] Federal Law No. 27-FZ of Feb. 6, 1997, SZ RF 1997, No. 6, Item 711.

[17] Federal Law No. 150 of Dec. 13, 1996, SZ RF 1996, No. 51, Item 5681.

[18] *See*, *e.g*., Federal Law on Police No. 3-FZ, art. 22.

[19] *Id*. art. 23(1).

[20] *Id*. art. 24.

attack that threatens the life and health of individuals or police officers.[21] A police officer cannot use a firearm in a large crowd and if random people may suffer as a result of such use.[22]

A police officer's use of a firearm can constitute abuse of power, murder, or bodily injury under the Criminal Code where such use exceeds that which is necessary for self-defense and/or the defense of others, or necessary to arrest the perpetrator.[23]

IV. Recent Incidents and Controversies

Reportedly, each year there are almost twice as many murders of police officers in Russia than in the United States.[24] Apparently, police officers are reluctant to use firearms because they are afraid to be criminally prosecuted for violations of self-defense rules.[25] Police officers appear to be responsible for each shot and each used cartridge, and must prove that they acted legally and caused the least possible damage.[26] According to a study, 86% of law enforcement personnel are in favor of the idea of further development of legal grounds and procedures for the application of firearms.[27]

Russian media regularly report on murders or injuries of police officers who[28] could not use their service weapons because of the risk of injury to passersby.[29] In 2012, a criminal case was brought against a traffic police officer who shot and killed a criminal with his service weapon during a pursuit. In response, forty-two traffic police officers from his police department wrote a collective letter to the police union to declare that they would no longer shoot runaway criminals out of fear of being jailed and would hand over their guns.[30]

After a series of recent incidents a bill that intends to give additional powers to the police to act in self-defense was included in the legislative agenda of the Russian State Duma (lower house of the legislature). If passed, the police would be allowed to shoot even in crowded places, and the current ban on using firearms if it could result in the death of civilians would be lifted.[31]

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[21] *Id*. art. 23(5).

[22] *Id*. art. 23(6).

[23] A. P. TORSHIN AND OTHERS, EKSPERTNII DOKLAD K VOPROSU O REFORMIROVANII ROSSIISKOGO ORUZHEINOGO ZAKONODATELSTVA [EXPERT REPORT ON REFORMING THE RUSSIAN WEAPONS LEGISLATION] 27 (Moscow, 2012), http://torshin.ru/images/material-images/Doklad.pdf.

[24] *Id*. at 7.

[25] Konstantin Volkov, *Deiatelnost Politsii po Protivodeistviu Prestupnosti* [*Police Crime Counteraction Activity*], 2 CRIM. J. BAIKAL NAT'L UNIV. ECON. & L. 82 (2013), http://cj.isea.ru/pdf.asp?id=17301.

[26] Alena Sivkova, *Police Powers for Self-Defense to Be Expanded*, IZVESTIA.RU (Apr. 1, 2014), http://izvestia.ru/news/568406#ixzz2xbiLGsGg (in Russian).

[27] Volkov, *supra* note 25, at 84.

[28] Sivkova, *supra* note 26.

[29] *Id*.

[30] *Id*.

[31] *Id*.

Another recently introduced bill proposed giving the police officers the right to be tried by jurors when they are prosecuted for using indiscriminate force under article 286 of the Criminal Code. It is generally believed that trial by jury would make the conviction of police officers less likely.[32]

[32] Maria Butina, *The Right to Arms of Police Officers*, ECHO.MSK.RU (Dec. 24, 2013, 1:43 PM), http://www.echo.msk.ru/blog/maria_butina/1224557-echo/ (in Russian).

South Africa

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SUMMARY Weapons and equipment issued to members of the South African Police Service (SAPS) vary depending on the specialization of the police unit and the event in question. For instance, members of crime combatting units, which engage in crime control duties and crowd management during demonstrations and protests, carry weapons and equipment commensurate with a specific task. It appears that officers carrying out routine police duties carry pepper spray, a 9mm Z88/Beretta pistol, and an R5 assault rifle. Officers assigned to crowd management duties during public gatherings and protests are issued body armor, armored vehicles, stun grenades, shotguns, and rubber rounds. Members of the Special Task Force, a unit tasked with engaging in high-risk operations, have in their arsenal a wide range of equipment and weapons, including different types of small arms, assault rifles, sniper rifles, grenade launchers, and armored vehicles.

A number of statutes and police regulations govern questions of use of force and weapons. All laws place great emphasis on the use of the minimum amount of force necessary to deal with incidents, and permit the use of deadly force only in limited, dangerous situations.

The deaths of individuals as a result of police shootings and the incidence of deaths of police officers in the line of duty remain consistently high. In the two years from 2008/09 to 2009/10, 1,092 people were killed as the result of use of force by the police. During that same period 216 members of the South African Police Service were killed in the line of duty. In addition, there have been widespread controversies regarding police misconduct seemingly exacerbated by the surfacing of videos showing members of the SAPS using force against detainees.

I. Introduction

South Africa's population is estimated at about 52.8 million.[1] According to the South Africa Police Service's (SAPS') annual report for 2012/13, the country has 1,132 police stations and 240 other types of contact points throughout the nine provinces.[2] SAPS has a total of 197,946 personnel of which 155,531 are South African Police Service Act (SAPS Act)[3] employees (i.e., sworn officers).[4] The same report noted that in March of 2013, the police-to-population ratio was 1:336.[5]

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[1] SOUTH AFRICA POLICE SERVICE (SAPS), ANNUAL REPORT 2012/2013 at 25 (Aug. 31, 2013), http://www.gov.za/documents/download.php?f=200822.

[2] *Id*. at 26.

[3] South African Police Service Act (SAPS Act) 68 of 1995, § 13(3), 27 BUTTERWORTHS STATUTES OF SOUTH AFRICA [BSRSA] (revised through 2013), http://www.saps.gov.za/legislation/acts/act68of1995.pdf.

[4] *Id*.

[5] *Id*.

SAPS is headed by the National Commissioner appointed under the terms of the Constitution and the SAPS Act.[6] Under his direct supervision are four deputy national commissioners (within whose jurisdiction the different divisions and components of SAPS fall) and provincial commissioners.[7] One of the divisions within SAPS is the Operational Response Service, which includes five different units with specialized tasks: the Border Police, the SAPS Air Wing, the Special Task Force, Crime Combatting Units, and Intervention Units.[8] The equipment issued to Crime Combatting Units, which fight crime and engage in crowd management activities during protests, and the Special Task Force, a unit that deals with high-risk operations, are discussed below.

SAPS receives funding through parliamentary appropriations. In the 2012/13 budget year, the SAPS expenditure was around ZAR63.1 billion (about US$5.9 billion).[9] No information regarding whether SAPS receives surplus military equipment from the South African Defence Forces (SANDF) was located; however, SANDF provides assistance to SAPS in carrying out certain policing functions in limited instances. For example, President Zuma recently authorized SANDF to assist SAPS in maintaining law and order during the general elections and presidential inauguration.[10]

II. Police Weapons and Equipment

A. Officers on Public Order Policing Duties

The Crime Combatting Units (CCUs) within the Operational Response Service (OPS), which have seen various restructurings over the years, appear to have the dual function of combatting crime and performing crowd management during protests, gatherings, and major events.[11] The types of weapons and ammunition issued to these police units are regulated by what are known as standing orders, regulations issued by the OPS, and may vary depending on the operation in question.[12] For instance, Standing Order (General) 262 regulates the types of weapons and ammunition that may be used by the police during public gatherings or protests.[13] This Standing

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[6] S. AFR. CONST., 1996, § 207, http://www.gov.za/documents/constitution/1996/a108-96.pdf; SAPS Act § 6.

[7] Cap. 17, "Police, Defence and Intelligence" *in* SOUTH AFRICA YEARBOOK 2010/11 at 382 (Jan. 2011), http://www.gcis.gov.za/content/resourcecentre/sa-info/yearbook2010-11.

[8] Organizational Chart, "Structure of the Service," *in* MANUAL OF SOUTH AFRICAN POLICE 15–16 (undated), http://www.saps.gov.za/resource_centre/paia/eng_part1.pdf; *Operational Response Service*, SAPS, DEPARTMENT OF POLICE, http://www1.saps.gov.za/careers/operational_response_service.htm (both last visited Sept. 8, 2014).

[9] SAPS ANNUAL REPORT, *supra* note 1, at 190.

[10] Press Release, South African Government Online, President Zuma Employs Members of the SANDF to Support SAPS During Elections (Apr. 30, 2014), http://www.gov.za/speeches/view.php?sid=45365.

[11] MINISTRY OF POLICE, POLICY AND GUIDELINES: POLICING OF PUBLIC PROTESTS, GATHERINGS AND MAJOR EVENTS 15 (Aug. 29, 2011), http://www.policesecretariat.gov.za/downloads/policies/policing_public_protests_2013.pdf; BILKIS OMAR, SAPS' COSTLY RESTRUCTURING: A REVIEW OF PUBLIC ORDER POLICING CAPACITY 7 (ISS Monographs Series, No. 138, Oct. 2007).

[12] MINISTRY OF POLICE, *supra* note 11, at 23.

[13] *Id.*

Order bans and/or restricts the use of the following weapons and ammunition for the purpose of crowd management operations during public gatherings or protests:

(a) The use of 37 mm stoppers (prohibited);

(b) The use of firearms and sharp ammunition including birdshot and buckshot (prohibited); and

(c) The use of rubber bullets (shotgun batons) (may only be used to disperse a crowd in extreme circumstances, if less forceful methods prove to be ineffective-restricted).[14]

It appears that members of CCUs do or will soon be required to carry the following equipment when they are on crowd management duty at public gatherings and protests:

- Body armor and helmets
- Shields
- Batons
- Water cannons
- Armored vehicles
- Specified caliber firearms and ammunition
- Communication and video equipment
- Mobile operational centers[15]

It appears that members of CCUs also carry additional equipment, including pepper spray, stun grenades, gas masks, 12-gauge shotguns, and rubber rounds when engaging in crowd management during public gatherings and protests.[16]

The standard weapons issued to operational police are said to include pepper spray, a 9mm Z88/Beretta pistol, and an R5 assault rifle.[17] The introduction of Tasers is apparently being considered; in 2012 a number of such devices were issued to members of specialized police units as part of a pilot program.[18] One news report indicated that, in addition to the equipment issued

[14] Standing Order (General) 262, Crowd Management During Gatherings and Demonstrations, Notice No. 13/2004, § 11(4) (Sept. 16, 2004), available on the University of Pretoria website, *at* https://web.up.ac.za/sitefiles/file/47/15338/SKMBT_28311061513210.pdf.

[15] MINISTRY OF POLICE, *supra* note 11, at 23 & 24.

[16] OMAR, *supra* note 11, at 47.

[17] Andrew Faull, *Will Introducing Taser Guns Reduce Killings by the South African Police Service?*, INSTITUTE FOR SECURITY STUDIES (June 22, 2011), http://www.issafrica.org/iss-today/will-introducing-taser-guns-reduce-killings-by-the-south-african-police-service.

[18] Ernest Mabuza, *Researcher Says Use of Tasers Could Reduce Incidents of Police Abuse*, BUSINESS DAY (Aug. 6, 2012), http://www.bdlive.co.za/articles/2011/06/27/researcher-says-use-of-tasers-could-reduce-incidents-of-police-abuse;jsessionid=DC6073A63E6B1E9CEA03F19EE13678E7.present2.bdfm.

by SAPS, some police officers carry unsanctioned tactical equipment, including torches, knives, and Taser-like equipment.[19]

B. Special Task Force

The Special Task Force, also part of the OPS, deals with all high-risk operations including hostage situations and terrorist attacks.[20] Members of this unit are trained to use various weapons and equipment, including assault rifles, shotguns, submachine guns, pistols, grenade launchers, minor explosive devices, bush craft, battle craft, heavy vehicle operations, helicopter deployments, and sniper rifles.[21]

Members of this unit are equipped with various gear, weapons, and ammunition, including the following:

- Small arms (H&K USP 9mm x 19 caliber, H&K USP Compact 9mm x 19 caliber, and H&K MP5N 9mm x 19 caliber)
- Assault rifles (R5 Assault Rifle 5.56 mm x 45 caliber, and FN FAL Para/R3 Assault Rifle 7.62 mm (.308 in.) caliber)
- Sniper rifles (McMillan TAC-50 sniper rifle 50BMG caliber, Accuracy International AICS 308 & .338, and Steyr Mannlicher 7.62)
- Shotguns (RS202M1 shotgun 12 gauge, and RS200 Custom Shotgun (Stompie) 12 gauge)
- Machine guns (7,62 FN MAG Light Machine Gun (LMG), 7,62mm Browning Machine Gun (BMG) 7,62mm x 51mm caliber, and 12,7mm Browning Machine Gun (BMG) 12,7mm caliber)
- Grenade launcher (40mm Y2 MK1 Multi Grenade Launcher 40mm caliber)
- Ammunition and grenades (M26 Hand Grenade, Stun Grenade, and Smoke Grenade)
- Nightsight and infrared devices (Sniper Nightsight Scope, Wearable Nightsight Goggles, and S8 Infrared Aiming Device)
- Armored vehicles (Casspir, RG-12 Nyala, and RG 31)
- Communication and surveillance devices
- Body armor and battle jackets

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[19] Faull, *supra* note 17.

[20] *Overview*, SOUTH AFRICAN POLICE SPECIAL TASK FORCE, http://www.sapstf.org/Overview.aspx (last visited Sept. 8, 2014).

[21] *Training*, SOUTH AFRICAN POLICE SPECIAL TASK FORCE, http://www.sapstf.org/Training.aspx (last visited Sept. 8, 2014).

- Breaching equipment
- Fast rope, climbing and rope access[22]

III. Rules on Use of Police Weapons

The SAPS Act imposes some general limitations on the use of force[23] by a police officer; the officer must be on official duty for which he or she has authorization to use force and "may use only the minimum force which is reasonable in the circumstances."[24] Whenever there is an alternative to the use of force, police officers are required to employ such alternative.[25] In addition, the use of a certain degree of force is deemed appropriate only if the police officer "has reasonable grounds to believe that the use of that degree of force is necessary in the circumstances to achieve the objective, and that the effects which the use of that degree of force could reasonably be expected to have, are proportional to the objective to be achieved."[26]

The Criminal Procedure Act imposes requirements for the use of force and use of deadly force by police officers in the process of making an arrest. Under this Act, the police may use force to effect arrest in the following circumstances and conditions:

> If any arrestor attempts to arrest a suspect and the suspect resists the attempt, or flees, or resists the attempt and flees, when it is clear that an attempt to arrest him or her is being made, and the suspect cannot be arrested without the use of force, the arrestor may, in order to effect the arrest, use force as may be reasonably necessary and proportional in the circumstances to overcome the resistance or to prevent the suspect from fleeing.[27]

In this circumstance, deadly force (force likely to cause serious bodily harm or death, including shooting a person with a firearm) can be used only if the suspect "poses a threat of serious violence to the arrestor or any other person" or there is a reasonable suspicion that he has committed a crime in which he inflicted serious bodily harm or threatened to do so and no other options are available for making an arrest at that moment or later.[28]

In addition, the Criminal Procedure Act permits the use force to counter resistance against entry or search. When a police officer is trying to make a lawful search of a person or premises, he is

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[22] *Equipment*, SOUTH AFRICAN POLICE SPECIAL TASK FORCE, http://www.sapstf.org/Equipment.aspx (last visited Sept. 4, 2014).

[23] Nondeadly use of force means the use of physical force (including wrestling a subject to the ground, using wrist locks or arm locks, striking a subject with hands or feet) or mechanical force (such as the use of a baton, exposure to contact with dogs, and natural agent spraying). MINISTRY OF POLICE, *supra* note 11, at 23.

[24] South African Police Service Act 68 of 1995, § 13(3).

[25] D. Bouwer et al., *Police*, *in* 20(2) THE LAWS OF SOUTH AFRICA 1 at 129 (2008).

[26] *Id.*

[27] Criminal Procedure Act No. 51 of 1977, 9 BSRSA (updated through 2013), *available at* http://www.lawsofsouthafrica.up.ac.za/index.php/browse/criminal-law-and-criminal-procedure/criminal-procedure-act-51-of-1977/act/51-of-1977-criminal-procedure-act-22-jan-2014-to-date-pdf/download.

[28] *Id.*

authorized to use "such force as may be reasonably necessary to overcome any resistance against such search or against entry of the premises, including breaking any door or window of such premise."[29] When a police officer is seeking entry into the premises, he is required to "audibly demand" entry and notify the occupant of his purpose unless he has reasonable grounds to believe that doing so would result in destruction of the item sought for search.[30]

The Regulation of Gathering Act (RGA) and the Standing Order regulate the use of force by the police on crowd management duty during public gatherings and protests. The RGA provides that if a police officer of a certain rank has reasonable grounds to believe that a gathering or a demonstration poses a danger to persons or property that cannot otherwise be averted, he can order the crowd to disperse; if the crowd fails to do so, the police may, for the purpose of dispersing the crowd, use force, "excluding the use of weapons likely to cause serious bodily injury or death."[31] The RGA further states that "[t]he degree of force which may be so used shall not be greater than is necessary for dispersing the persons gathered and shall be proportionate to the circumstances of the case and the object to be attained."[32]

The RGA permits the use of force, including firearms and other weapons, in the context of crowd management only in the following limited circumstances, if a person

> i. kills or seriously injures, or attempts to kill or seriously injure, or shows a manifest intention of killing or seriously injuring, any person; or
>
> ii. destroys or does serious damage to, or attempts to destroy or to do serious damage to, or shows a manifest intention of destroying or doing serious damage to, any immovable property or movable property considered to be valuable[.][33]

The Standing Order, which states that the "use of force must be avoided at all costs and members deployed for the [crowd management] operation must display the highest degree of tolerance," also provides a list of specific requirements that a use of force must meet:

> (a) the purpose of the offensive actions are to de-escalate conflict with the minimum force to accomplish the goal and therefor the success of the actions will be measured by the result of the operation in terms of cost, damage to property, injuries to people and loss of life;
>
> (b) the degree of force must be proportional to the seriousness of the situation and the threat posed in terms of situational appropriateness;
>
> (c) it must be reasonable in the circumstances;

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[29] *Id*. § 27.

[30] *Id*.

[31] Regulation of Gatherings Act No. 205 of 1993, § 9(2)(b), 8 BSRSA (updated through 2013), http://www.lawsofsouthafrica.up.ac.za/index.php/browse/criminal-law-and-criminal-procedure/regulation-of-gatherings-act-205-of-1993/act/205-of-1993-regulation-of-gatherings-act-2-jan-2014-to-date-pdf/download.

[32] *Id*. § 9(2)(c).

[33] *Id*. § 9(2)(d).

(d) the minimum force must be used to accomplish the goal; and

(e) the use of force must be discontinued once the objective has been achieved.[34]

IV. Incidents and Controversy

In South Africa, in the two years from 2008/09 to 2009/10, 1,092 people were killed as a result of the use of force by the police in what is said to be the highest rate of police killing since the late 1990s.[35] For the 2011 and 2012 calendar years, the US State Department reported that 932 individuals died in police custody or as the result of police action.[36] From 2009 through 2011, according to a news article, 768 criminal charges were filed against members of SAPS including 516 assault charges, 50 murder charges, and 94 charges of rape.[37]

The incidence of violence directed at members of SAPS also appears to be high. In the two-year period from 2008/09 to 2009/10, 216 members of SAPS were killed in the line of duty.[38] However, this was some improvement compared to the numbers of police fatalities in the early days of the transition to democratic rule; in 1994, 265 police were killed in the line of duty and 178 were killed in 2000.[39]

Various serious allegations of police brutality have been made against the SAPS in recent years. For instance, in 2000, six white police officers were charged with attempted murder after a 1998 video surfaced showing them "setting dogs on three black prisoners and laughing as the animals mauled their victims."[40] Four of the officers were convicted and sent to prison in 2001.[41] In 2012, claims of misconduct were made after the police killed thirty-four of up three thousand miners who were on strike in the Marikana platinum mine, an incident which came to be known as the Marikana Massacre.[42] In addition, in 2013, eight police officers were charged with

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[34] Standing Order (General) 262, § 11.

[35] David Bruce, *Beyond Section 49: Control of the Use of Lethal Force*, S. AFR. CRIME Q. No. 36 (June 2011), http://www.issafrica.org/uploads/CQ36Bruce.pdf.

[36] U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, 2012 HUMAN RIGHTS REPORT: SOUTH AFRICA 1 (Apr. 19, 2013), http://www.state.gov/documents/organization/204378.pdf.

[37] *South Africa's Police: Kill and Be Killed*, THE ECONOMIST (Aug. 27, 2011), http://www.economist.com/node/21526932.

[38] R. Botha & J. Visser, *Forceful Arrests: An Overview of Section 49 of the Criminal Procedure Act 51 of 1977 and Its Recent Amendments*, 15(2) POTCHEFSTROOM ELECTRONIC L. J. 346, 347 (2012), *available at* http://www.saflii.org/za/journals/PER/2012/26.pdf.

[39] THE ECONOMIST, *supra* note 37.

[40] Alex Duval Smith, *Six Police Held for Dog Attacks on Black Prisoners*, THE INDEPENDENT (Nov. 9, 2000), http://www.independent.co.uk/news/world/africa/six-police-held-for-dog-attacks-on-black-prisoners-622773.html; *Judge Detains Suspects in Taped Attack*, LOS ANGELES TIMES (Nov. 10, 2000), http://articles.latimes.com/2000/nov/10/news/mn-49905.

[41] Ann M. Simmons, *4 S. African Officers in Dog Attack Sentenced*, LOS ANGELES TIMES (Nov. 30, 2001), http://articles.latimes.com/2001/nov/30/news/mn-9920.

[42] *South African Police Ordered Enough Mortuary Vans to Carry 32 Bodies Hours Before Shooting Dead 34 Striking Miners, Inquiry Hears*, MAIL ONLINE (Nov. 25, 2013), http://www.dailymail.co.uk/news/article-2513189/Marikana-miners-strike-South-African-police-ordered-vans-carry-32-bodies-shooting-34.html; Alex

murder after a video showing a man handcuffed to a police car being dragged through the streets of Johannesburg surfaced; the man was later found dead in a police cell.[43] More recently, in March 2014, a video showing uniformed Western Cape police stripping naked and beating a Nigerian man has stirred up controversy.[44] Later, one of the two police officers accused of misconduct resigned and the other was fired after a disciplinary hearing.[45]

Crawford, *Marikana Massacre: 'Damning' Evidence Emerges*, SKY NEWS (Oct. 24, 2013), http://news.sky.com/story/1158899/marikana-massacre-damning-evidence-emerges; *Massacre in South Africa: Police Defend Killing of 34 Striking Workers at Platinum Mine*, DEMOCRACY NOW (Aug. 21, 2012), http://www.democracynow.org/2012/8/21/massacre_in_south_africa_police_defend.

[43] Haroon Siddique, *South African Police Suspended over Death of Man 'Dragged Behind Van,'* THE GUARDIAN (Mar. 1, 2013), http://www.theguardian.com/world/2013/feb/28/man-dies-south-africa-police-van; *Police Charged with Murder in Dragged Man Case*, USA TODAY (Mar. 1, 2013), http://www.usatoday.com/story/news/world/2013/03/01/south-africa-police-officers/1955997/.

[44] *WC Police Filmed Beating Naked Man*, SA BREAKING NEWS (Mar. 7, 2014), http://www.sabreakingnews.co.za/2014/03/07/wc-police-filmed-beating-naked-man/.

[45] *Cop Fired for Assaulting Naked Man*, CITY PRESS (May 15, 2014), http://www.citypress.co.za/news/cop-fired-assaulting-naked-man/.

Spain

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I. Introduction

The two largest national police forces in Spain are the National Police (Policía Nacional) and the Civil Guard (Guardia Civil).

The National Police is an armed body with civil status at the national level. Its core mandate is to secure the enjoyment of people's rights and freedoms and to guarantee the safety of the country's inhabitants. The National Police is the law enforcement authority tasked with crime prevention and criminal investigations. It additionally has the authority to issue national identity cards and passports, enforce immigration laws, collaborate in foreign law-enforcement operations, and supervise private security services. The National Police is also in charge of collecting and processing information on national and international terrorism, and investigating organized crime operations and drug-related crimes.[1]

The Civil Guard is the military law-enforcement force of the Ministries of the Interior and Defense. It conducts customs police operations under the supervision of the Treasury and, as a judicial police force, it answers to the courts and the Public Prosecutor's Office. The Civil Guard is deployed throughout Spanish territory and is also responsible for territorial waters. It shares a number of competences with other law enforcement agencies, including public safety and order, criminal investigations, intelligence and counter terrorism, and administrative police tasks. However, it has exclusive authority over matters related to weapons and explosives; customs-related violations and crimes; traffic and transport beyond city limits; roads, railways, borders, ports, and airports; nature protection; and interurban prisoner transport.[2]

II. Police Weapons

According to the Royal Decree Approving the Regulation on Arms,[3] license type A professional arms are issued only to members of the National Police and the Civil Guard.[4] The Regulation allows Civil Guard members and officers of the National Police to use the following weapons:

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[1] Ley Orgánica 2/1986 de Fuerzas y Cuerpos de Seguridad [Security Forces Organization Act] arts. 9–11, 12(1)(a), BOLETÍN OFICIAL DEL ESTADO [B.O.E.] [OFFICIAL GAZETTE] Mar. 14, 1986, http://boe.es/buscar/act.php?id=BOE-A-1986-6859.

[2] *Id*. art. 12(1)(b).

[3] Real-Decreto 137/1993 por el que se Aprueba el Reglamento de Armas [Royal Decree 132/1993 Approving the Regulation on Arms], B.O.E. Jan. 29, 1993, https://www.boe.es/diario_boe/txt.php?id=BOE-A-1993-6202.

[4] *Id.* arts 114(1)(b), (c).

- category 1: short firearms, such as guns and revolvers[5]
- category 2: long firearms for use in surveillance and by guards[6]
- category 3: long firearms such as smooth-bore shotguns[7]

License A is the most comprehensive of the nine categories provided by the Regulation on Arms since its holders are also entitled to use sporting, antique, or historic arms; air guns; and arms with a "Flobert" system.[8]

The elite Special Operations Group (Grupo Especial de Operaciones, GEO) of the National Police is mainly responsible for combating terrorism, as well as guarding Spanish embassies abroad and conducting hostage rescue operations.[9] Members of the GEO are equipped with the following weapons:

- Mauser SP-66 sniper rifle
- H&K PSG-1 semiautomatic sniper rifle
- AMP DSR-1 police sniper rifle
- Sako TRG-41 (.338 caliber) sniper rifle
- SAKO TRG-21 sniper rifle
- SAKO A-II bolt action rifle with silencer
- SIG SAUER SWAT and SIG SAUER Commando assault rifles (both 5.56 caliber)
- Franchi, Remington, and H&K rifles
- H&K MP-5 submachine gun
- FN P-90 personal defense weapon
- SIG SAUER 226 (9 mm) combat pistol
- H&K USP COMPACT semiautomatic pistol[10]

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[5] *Id.* art. 3, 1st category.

[6] *Id.* art. 3, 2d category.

[7] *Id.* art. 3, 3d category.

[8] *Id.* arts. 3, 96(2), (3).

[9] *Grupo Especial de Operaciones (G.E.O.): Funciones*, POLICÍA NACIONAL, http://www.policia.es/org_central/dao/geo/funciones.html (last visited Sept. 11, 2014).

[10] *Grupo Especial de Operaciones (G.E.O.): Material del G.E.O.*, POLICÍA NACIONAL, http://www.policia.es/org_central/dao/geo/material.html (last visited Sept. 11, 2014).

III. Rules on the Use of Police Weapons

The authorization to carry weapons for the officers of the National Police and the Civil Guard are issued by the Dirección General de la Policía and the Dirección General de la Guardia Civil, respectively.[11] According to the Security Forces Organization Act, police officers may use arms only in situations of grave risk to their lives or the lives of others, and only in circumstances posing a serious risk to public safety, while meeting the proportionality and reasonability standards of behavior applicable to the police and security forces.[12]

[11] Real Decreto 137/1993, art. 115.

[12] Ley Orgánica 2/1986, art. 5(2)(c), (d).

United Kingdom

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SUMMARY The use of firearms in the commission of crimes remains relatively low in the United Kingdom (UK). Given the low incidence of criminal activity involving these weapons, the police forces across the UK are generally not armed during the course of their work. There are specialist firearms officers who may be authorized to carry weapons, and they must operate under the strict confines of the law. These weapons are rarely fired, with only five discharged in 2011–12.

I. Introduction

The police in the United Kingdom (UK) are organized into local districts along geographic lines. There are currently fifty-two police forces across the UK: forty-three in England and Wales, eight in Scotland, and one in Northern Ireland.[1] These are known as constabularies, or forces, and operate independently of one another, but cooperate when necessary. In addition to the constabularies, there is the Metropolitan Police Service, a large police force that operates in the greater London area, covering 620 square miles and 7.2 million people. The National Crime Agency is another law enforcement group that targets criminals and groups that pose the biggest threat to the UK. It conducts its own operations, but also provides support to its partners.[2] The British Transport Police are responsible for policing railways, including the London Underground and other tram systems.[3]

Funding for the police is provided by the central government, with the budget for each force being set annually by the government.[4] Funding is distributed according to the police allocation formula, a calculation that aims to share money among forces based on a number of factors, including population density and need.[5]

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[1] *Policing Profiles of Participating and Partner States*, OSCE POLIS, http://polis.osce.org/countries/details?item_id=73 (last updated Dec. 6, 2006). Scotland and Northern Ireland have their own regimes applying to the use of firearms by police. For the purposes of this report, only England and Wales will be considered, unless otherwise specified.

[2] *About Us*, NATIONAL CRIME AGENCY, http://www.nationalcrimeagency.gov.uk/about-us (last visited Sept. 2, 2014).

[3] *British Transport Police*, http://www.btp.police.uk/ (last visited Sept. 2, 2014).

[4] HM TREASURY, SPENDING ROUND 2012, Cm. 8639, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/209036/spending-round-2013-complete.pdf.

[5] Home Office, *Guide to the Police Allocation Formula*, GOV.UK (Mar. 26, 2013), https://www.gov.uk/guide-to-the-police-allocation-formula.

II. Police Weapons and Equipment

The use of firearms in the commission of crimes remains relatively low in the UK. The history of the police across the UK not carrying weapons dates back to the creation of the police in 1829 by the Home Secretary of the time, Sir Robert Peel. His aim was to distinguish them from the military to help garner respect and build the foundation of policing by respect.[6] He did so by dressing the new police force in blue rather than the military red, and not arming them with firearms.[7]

In the period 2010–11, 11,227 crimes were reported involving the use of firearms. Given the low incidence of criminal activity involving firearms, the police forces across the UK are generally not armed with firearms during the course of their work. Within each police force, there is a group of specially trained officers who are authorized to carry firearms. The carrying of firearms must be authorized by a specially designated officer.[8] In 2011–12 the number of authorized firearms officers was 6,756, approximately 5% of the total force. Firearms were authorized for police use in 12,550 incidents in 2011–12. In all these incidents, conventional firearms were discharged five times.[9]

A. Weapons Used by Police

As noted above, police in the UK are generally unarmed; however, given the special circumstances in Northern Ireland, the Chief Constable has given authority to all officers that have successfully passed training to carry firearms, both on and off duty.[10] Specialist firearms units are permitted to use weapons, and it is the responsibility of the Chief Officer of Police to select and acquire these weapons. The weapons are selected in accordance with a threat and risk assessment process that is constantly under evaluation to ensure the police are adequately armed.[11] Guidelines state that "[e]quipment selected should be appropriate for the purpose for which it is issued."[12] Weapons must be evaluated

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[6] LONDON ASSEMBLY, POLICE AND CRIME COMMITTEE, ARMING THE MET: THE DEPLOYMENT OF LESS-LETHAL WEAPONS IN LONDON 6 (Oct. 2013), http://www.london.gov.uk/sites/default/files/13-10-15-Arming-the-Met-the-deployment-of-less-lethal-weapons-in-London.pdf.

[7] MICHAEL J. WALDREN, ARMED POLICE: THE POLICE USE OF FIREARMS SINCE 1945, at 2 (2007).

[8] ASSOCIATION OF CHIEF POLICE OFFICERS ET AL., MANUAL OF GUIDANCE ON THE MANAGEMENT, COMMAND AND DEPLOYMENT OF ARMED OFFICERS 57, ¶ 4.0 (3d ed. 2011), http://www.acpo.police.uk/documents/uniformed/2011/201111MCDofAO3.pdf.

[9] HOME OFFICE, *Table 1 Number of Operations in Which Firearms Were Authorised*, *in* POLICE USE OF FIREARMS: STATISTICS (Mar. 27, 2014), https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/211845/HO_-_Police_Firearms_stats_Commons_-_2013_7_11__3_.pdf.

[10] ASSOCIATION OF CHIEF POLICE OFFICERS ET AL., *supra* note 8, at 57, ¶ 4.5.

[11] *Id*. at 41, ¶ 3.8.

[12] *Id*. at 39, ¶ 3.0.

against an operational requirement, which includes:

- The purpose for which the weapon is being acquired;
- The environment in which it is likely to be deployed;
- The ballistics of the ammunition.[13]

The weapons most carried by the police are 9mm, 5.56mm, and 7.62mm caliber weapons. Forces may carry other caliber weapons for general and specialist use.[14] The police also use the following weapons:

- Handguns, including self-loading pistols and revolvers;
- Carbines and rifles;
- Precision rifles fitted with telescopic sights;
- Shotguns (pump-action or self-loading) with appropriate sighting system and bored true cylinder to enable specialist munitions to be used (for example, CS and breaching rounds);
- 37mm Launchers, L104A1/2 with L18A1/2 optic sight (there are other launchers for use with signal flares and specialist munitions);
- Conductive Energy Devices (Taser X26 and M26).[15]

Most forces also hold a selection of 12 gauge and 37mm munitions to address specialist situations. These munitions include 37mm Attenuating Energy Projectiles, 12 gauge breaching rounds, and CS(m) barricade penetrating rounds.[16]

B. Other Equipment

The police also possess a number of items of other equipment to enable them to address a variety of situations, including forcible entry equipment, such as

- Kinetic devices;
- Hydraulic equipment;
- Cutting equipment;
- Shotgun breaching rounds;
- Explosive breaching devices.[17]

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[13] *Id*. at 41, ¶ 3.11.

[14] *Id*. at 42, ¶ 3.13.

[15] *Id*. at 41, ¶ 3.12.

[16] *Id*. at 42, ¶ 3.19.

[17] *Id*. at 49, ¶ 3.72.

The police have a variety of vehicle stopping devices; specialist munitions, which include pyrotechnic devices; percussion (stun) grenades; chemical munitions (such as smoke and CS based munitions); and barricade breaching munitions.[18] The metropolitan police is currently in the process of obtaining a license that will enable them to use water cannon.[19]

III. Rules on the Use of Police Weapons

There are extensive laws, regulations, and guidance that govern the use of police weapons, and the individual officer is both responsible and liable for any shots fired. The law[20] states that police forces have discretion to use any equipment they see fit to prevent crime, or to enable an arrest, and the Standards of Professional Behaviour for police require that any use of force be only what is necessary, proportionate, and reasonable in each case.[21]

The Human Rights Act 1998 imposes a duty on the state to safeguard life, and prohibits the taking of life. However, there is an exception if the deprivation of life is a result of force that is absolutely necessary.[22] Whether the use of force is absolutely necessary depends upon the facts of each case, and the police "must only resort to the use of force or firearms if other means remain ineffective or there is no realistic prospect of achieving the lawful objective without exposing police officers, or anyone whom it is their duty to protect, to a real risk of harm or injury."[23]

Authorized Firearms Officers may only be deployed when the officer authorizing deployment[24] has a reasonable belief that officers may have to protect themselves from a person who possesses or has access to a firearm or lethal weapon, or is so dangerous that the deployment of armed

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[18] *Id*. at 50, ¶¶ 3.75–3.80.

[19] Water cannon have been in use in Northern Ireland since the late 1990s. ASSOCIATION OF CHIEF POLICE OFFICERS & THE COLLEGE OF POLICING, NATIONAL WATER CANNON ASSET (Jan. 8, 2014), https://www.london.gov.uk/sites/default/files/ACPO%20Water%20Cannon%20Briefing%20Document,%20Jan%202014.pdf; *Metropolitan Police Given Permission to Buy Water Cannon*, BBC NEWS (June 11, 2014), http://www.bbc.com/news/uk-england-london-27781673.

[20] The laws include the Criminal Law Act 1967, c. 58, § 3(1), http://www.legislation.gov.uk/ukpga/1967/58/section/3 (providing that reasonable force may be used to prevent crime and for the purposes of arrest); Police and Criminal Evidence Act 1984, c. 60, § 117, http://www.legislation.gov.uk/ukpga/1984/60/contents (providing constables with the power to use reasonable force during the course of their duties); Human Rights Act 1998, c. 42, http://www.legislation.gov.uk/ukpga/1998/42/contents (implementing the European Convention on Human Rights into the national law of the United Kingdom, which provides for fundamental rights and freedoms); *and* Criminal Justice and Immigration Act 2008, c. 4, § 76, http://www.legislation.gov.uk/ukpga/2008/4/contents (providing for self-defense and common law provisions that allow for self-defense that is reasonable and proportionate in the circumstances, and that place a duty on the police to take action to protect the human rights of those around them). The common law provisions are detailed in Beckford v. The Queen [1988] AC 130; R v. Williams 78 Cr App Rep 276; and Palmer v. The Queen [1971] AC 814.

[21] Police (Conduct) Regulations 2008, SI 2008/2864, http://www.legislation.gov.uk/uksi/2008/2864/ contents/made.

[22] ASSOCIATION OF CHIEF POLICE OFFICERS ET AL., *supra* note 8, at 20, ¶ 1.30.

[23] *Id*. at 27, ¶ 2.3.

[24] *Id*. at 60, ¶ 4.24.

officers is an appropriate response.[25] Armed officers may also be deployed as an "operational contingency in a specific operation (based on the threat assessment)."[26] Firearms may be discharged only in circumstances after the officer has identified him- or herself as armed, given clear directions to the suspect, and allowed the suspect sufficient time to follow the directions, unless doing so would place any person at risk or be inappropriate or pointless.[27]

Any use of firearms must also take into account the Corporate Manslaughter and Corporate Homicide Act 2007, which provides that an organization is guilty of an offense if the manner in which its activities are managed or organized causes a person's death, or amounts to a gross breach of duty of care owed to the deceased by the organization.[28] Police officers are required to abide by all lawful orders unless there is good reason for doing otherwise.[29] However, obedience to these orders is no defense if the armed officers know that the order to use force is unlawful and if they have an opportunity to refuse to obey the order.[30]

IV. Recent Incidents

While use of firearms by the police is minimal, any police shootings are highly publicized. The coroner holds an inquest into each death, and the Independent Police Complaints Commission holds an investigation.[31] The inquest is a fact-finding process that determines the identity of the deceased, the place and time of death, and how the death occurred.[32] The most recent high-profile police shootings occurred in 2005 and 2011. In the wake of numerous terrorist threats in 2005, the police shot and killed Brazilian Jean Charles De Menzes, whom they suspected was a terrorist planning a suicide bombing in London. De Menzes was later found to be unconnected to, and innocent of, any terrorist activity.[33] The jury in this case came to an open verdict (declining to find the killing lawful) at the inquest into his death.[34]

On August 11, 2011, the police shot and killed Mark Duggan, who was unarmed. This led to some of the worst rioting England had ever seen, with over one thousand people arrested and

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[25] *Id.*, ¶ 4.20.

[26] *Id.*

[27] *Id.* at 33–34, ¶ 2.36.

[28] Corporate Manslaughter and Corporate Homicide Act 2007, c. 19, http://www.legislation.gov.uk/ukpga/2007/19/contents.

[29] ASSOCIATION OF CHIEF POLICE OFFICERS ET AL., *supra* note 8, at 23, ¶ 1.43.

[30] *Id.* at 24, ¶ 1.45.

[31] *About Armed Police*, POLICE FIREARMS OFFICERS ASSOCIATION, http://www.pfoa.co.uk/201/why-we-have-armed-policev2 (last visited Sept. 8, 2014).

[32] *Role of Coroner*, INQUEST INTO THE DEATH OF MARK DUGGAN, http://dugganinquest.independent.gov.uk/coroner-role.htm (last updated July 25, 2013).

[33] *Police Chief "Sorry" over Death*, BBC NEWS (July 24, 2005), http://news.bbc.co.uk/2/hi/uk_news/4712061.stm.

[34] *Open Verdict at Menezes Inquest*, BBC NEWS (Dec. 12, 2008), http://news.bbc.co.uk/2/hi/uk_news/7764882.stm.

millions of dollars in property damage.[35] An inquest that was held later found that Duggan was lawfully killed, a finding that sparked further violence. There has been a mixed public reaction over the verdict, and Duggan's family is currently involved in a judicial review process of parts of the decision.[36]

[35] DEPARTMENT FOR COMMUNITIES AND LOCAL GOVERNMENT, GOVERNMENT RESPONSE TO THE RIOTS, COMMUNITIES AND VICTIM PANEL'S FINAL REPORT (July 2013), https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/211617/Govt_Response_to_the_Riots_-_Final_Report.pdf.

[36] *Latest News*, INQUEST INTO THE DEATH OF MARK DUGGAN, http://dugganinquest.independent.gov.uk/latest-news.htm (last updated July 14, 2014).

Council of Europe

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SUMMARY Police weapons policy is a matter of national law for the forty-seven Member States of the Council of Europe. The 2001 European Code on Police Ethics, prepared by the Council of Europe, contains nonbinding recommendations on police activities. Case law of the European Court of Human Rights has set standards on police action during interrogation, detention, and peaceful assembly, and prohibits the use of torture.

I. Introduction

In 1989, following the changes in the political landscape of Eastern and Central Europe, the Council of Europe, an intergovernmental organization dedicated to the protection of human rights, fundamental freedoms and the rule of law amongst its forty-seven Member States, assigned the Committee of Ministers the task of drafting a code of ethics concerning police activities.[1] In 2001, the European Code on Police Ethics (the Code) came to fruition. The Code, which contains general, nonbinding recommendations, does not address the type of weapons police are allowed to carry. Police weaponry is a matter of national law. The Code does, however, contain standards on the use of police force and prohibits the use of torture under any circumstances. The Code also reflects the principles and standards emanating from the case law of the European Court of Human Rights.[2]

In addition, at the European level, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) has also produced its own set of guiding principles on a number of issues relevant to the activities of the police, such as the detention of suspects, the use of electrical discharge weapons, and the fight against impunity.[3]

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[1] European Code of Police Ethics (Recommendation Rec(2001)10 of the Committee of Ministers to Member States), adopted by the Committee of Ministers in 2001, https://wcd.coe.int/ViewDoc.jsp?id=223251.

[2] J. MURDOCH & RALPH ROCHE, THE EUROPEAN CONVENTION ON HUMAN RIGHTS AND POLICING: A HANDBOOK FOR POLICE OFFICERS AND OTHER LAW ENFORCEMENT OFFICIALS 101 (2013), http://www.coe.int/t/dghl/cooperation/capacitybuilding/Source/documentation/EuropeanConventionHandbookForPolice.pdf.

[3] European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, CPT Standards (2013), http://www.cpt.coe.int/en/documents/eng-standards.pdf.

II. Legal Instruments

A. European Convention for the Protection of Human Rights and Fundamental Freedoms

The European Convention for the Protection of Human Rights and Fundamental Freedoms, which is applicable to everyone within the jurisdiction of the Council of Europe Member States, also governs police activities.[4]

Two main articles of the Convention on Human Rights apply to the use of force by police: (a) article 2, which limits the use of lethal or potentially lethal force when it is necessary to save the life of a person;[5] and (b) article 3, which contains an absolute prohibition on the use of torture or ill and degrading treatment.[6] The European Court of Human Rights has repeatedly held in its case law that article 3 has no exceptions or derogations (see Part III, *infra*).

In general, when interfering with rights of individuals related to private and family life, peaceful assembly and association, or freedom of thought or religion, which are protected by the European Convention on Human Rights, police forces are required to meet three standards: (1) they must act in pursuit of a legitimate aim, (2) they must comply with the law, and (3) they must ensure that the action is necessary in a democratic society. In order to meet the third standard, any police action must meet three additional criteria: the action must correspond to a pressing social need, be proportionate to the aim to be achieved, and be supported by sufficient reasons.[7]

B. Code of Ethics for Police

The Code of Ethics for the Police applies to public police forces, police services, or other publicly authorized bodies whose primary duties are the maintenance of law and order. As a public body, the police should derive their authority from the law and their operations must be conducted in compliance with national and international standards.[8] With regard to the police and the criminal justice system, the Code recommends that the roles of the police, the prosecution, the judiciary, and the correctional system be clearly divided and that the police have no controlling authority over such bodies.[9]

Regarding police action and intervention, the Code reiterates the principle of respect of the right to life of individuals and the requirement not to inflict or instigate any act of torture or degrading treatment under any circumstances.[10] Other key highlights of the Code's recommendations regarding police action and intervention provide that the police

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[4] Convention for the Protection of Human Rights and Fundamental Freedoms, CETS No. 005, Sept. 3, 1953.

[5] *Id*. art. 2.

[6] *Id*. art. 3.

[7] HANDBOOK FOR POLICE OFFICERS, *supra* note 2, at 100–02.

[8] Code of Police Ethics, *supra* note 1, art. 2.

[9] *Id*. art. 6.

[10] *Id.* arts. 35–36.

- may use force only when strictly necessary, and such force must be proportionate to the objectives pursued;
- must always verify the lawfulness of their intended actions;
- must execute orders issued by their superiors, but must abstain from carrying out illegal orders; and
- must execute their duties impartially and not discriminate.[11]

With regard to accountability, the Code recommends that the police should be accountable to the state and citizens.[12]

III. Case Law of the European Court of Human Rights

The European Court of Human Rights (ECHR) has produced a significant body of case law dealing with issues related to the use of excessive force by police, interrogation techniques, detention, arrest, and the policing of public assemblies.[13] The ECHR has held that police action must meet the standards of necessity, relevance, and sufficiency.[14] The criterion of necessity is met when police action serves a pressing social need. The sufficiency standard requires (a) a connection between the means used and the objectives to be achieved; and (b) a fair balance between society's general interests versus individual rights.[15] The European Code of Ethics for the Police has been influenced to a great extent by the rich case law of the ECHR, and the standards described above have been incorporated into the Code.

With regard to article 2 and the use of force and when it is justified in the deprivation of life, the ECHR stated in the case of *McCann and Others v. United Kingdom* that

> the text of Article 2 (art. 2), read as a whole, demonstrates that paragraph 2 (art. 2-2) does not primarily define instances where it is permitted intentionally to kill an individual, but describes the situations where it is permitted to "use force" which may result, as an unintended outcome, in the deprivation of life. The use of force, however, must be no more than "absolutely necessary".[16]

[11] *Id*. arts. 37–40.

[12] *Id.* art. 59.

[13] HANDBOOK FOR POLICE OFFICERS, *supra* note 2, at 104.

[14] *Id*. at 17.

[15] *Id*. at 18.

[16] McCann and Others v. the United Kingdom para. 148, App. No. 18984/91 (E.C.H.R. 1995), http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-57943.

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