MAPPING IMPUNITY
WHY BRAZIL NEEDS A HOMICIDE CLEARANCE RATE
Introduction

The Americas account for around one-third of murders committed worldwide. In Brazil, over 54,000 murders were recorded in 2016 alone, equivalent to one homicide every 10 minutes. Brazil is also the seventh most violent country in Latin America.

In May 2017, Instituto Sou da Paz and 21 other Latin American civil society organizations issued a call to action to combat this problem. The “Instinto de Vida” (Instinct for Life) campaign, supported by the Open Society Foundations, Organization of American States, Inter-American Development Bank, and Latin American Development Bank, aims to reduce murders by half in seven Latin American countries in ten years: Brazil, Colombia, El Salvador, Guatemala, Honduras, Mexico, and Venezuela.

Apart from effective violence prevention and repression policies, reducing lethal violence in Brazil requires considerable effort to strengthen homicide investigation – both to remove dangerous criminals from circulation and to deter crime and prevent deaths at the hands of vigilantes. Despite piecemeal investments in certain capitals aimed at creating specialized homicide units and strengthening the capacity of forensic police units, multiple studies reveal poor investigative performance in homicide cases. In certain states, less than 15% of cases involving violent deaths were cleared, mainly due to weak evidence, poor forensic services, and excessive delays in processing cases.

It is also important to highlight that a significant proportion of violent crimes cleared in Brazil consist of domestic violence or in flagrante delicto arrests involving people who are close to the offender and are therefore easier to investigate. Many cases involving organized crime are left to languish for years, moving back and forth between the police and prosecutors’ offices, fueling impunity and hindering the design of focused homicide reduction policies. Unsurprisingly, the states that have been most successful in reducing rates of lethal violence are those which implemented violence prevention programs, revamped specialized homicide units, and introduced new working practices and investigative procedures. The more information available on murder suspects and victims, the better the data to inform programs directed at curbing homicides.

How can the Brazilian government fulfill its duty to protect the right to life? What should law enforcement agencies do to strengthen homicide investigations?

The first step is to develop a national indicator that allows for the effective and reliable measurement of police performance in relation to homicide investigations across states. By revealing the proportion of homicide investigations that result in prosecution throughout the country, this indicator would provide a useful tool for setting crucial investigation targets, consolidating good practices, measuring progress made by different states, and fostering information sharing between the police, forensic services, and state prosecutors.

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Homicide Investigations in Brazil and Law Enforcement Data Management

Weaknesses in investigations of violent deaths

Studies show that homicide investigations in Brazil tend to be ineffective and inefficient. In 2012, a national review carried out by the National Council of Public Prosecutors revealed strikingly low homicide clearance rates. Over three quarters (78%) of the 43,123 investigations monitored between March 2010 and April 2012 were closed because the police were unable to identify offenders, principally due to the long period of time between when the crime was committed and the examination of the evidence. 8

A study of homicide investigations in the State of Rio de Janeiro conducted in 2007 by Michel Misse and Joana Vargas, both professors at the Federal University of Rio de Janeiro, showed that only 14% of homicides that occurred between 2000 and 2005 were solved. Likewise, research in Belo Horizonte undertaken by the public security expert Luís Flávio Saporì indicated that state police solved only 15% of murders reported in 2005. 9 In October 2017, Instituto Sou da Paz published an assessment of a representative sample of murder investigations conducted in São Paulo city, which revealed that only 34% of murder suspects were charged and a mere 5% convicted. 10

Recent research also highlights that sentencing in homicide cases tends to take place months or even years after the crime was committed. According to a study published by the Center for the Study of Crime and Public Security (CRISP) in 2014, the average delay between the discovery of a murder and the end of judicial proceedings was 13 months in the cities of Belém, Goiânia and Recife, 25 months in Porto Alegre, and 27 months in Belo Horizonte. 11 Since Brazil lacks a standardized national system of homicide investigation indicators, it is not possible to compare the results of investigations across states. Many police authorities rely on the percentage of police inquiries that confirm the nature of the crime and identify a suspect to assess the quality of investigations. However, this data is not made available to the public and is a poor measure of the level of impunity given that even when suspects are identified, many are not charged due to lack of sufficient evidence or because the statute of limitations has expired. 12

Low homicide clearance rates and excessive delays in processing cases are attributed to staffing shortages in the civil and forensic police forces and poor working conditions, which in turn impact upon the critical initial steps of homicide investigations, such as crime scene preservation. 13 The vast majority of investigations in Brazil therefore rely entirely on testimonial evidence. 14 Forensic analysis, when available, is generally used to determine “what happened, rather than who did it.” 15 Finally, murder investigations in Brazil are also confounded by a lack of coordination and communication among the agencies that comprise the criminal justice system.

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14. Ibid, p.29
Homicide clearance rates

What can be done to address these weaknesses in the investigative process in Brazil? A number of countries have undertaken organizational reforms, improved training to strengthen the capacity of investigators, and adopted sophisticated information systems. Others have also increased funding to strengthen forensic services in an effort to prioritize forensic evidence over witness testimony. Some police forces have introduced operational procedures aimed at improving investigative performance, such as the “Murder Investigation Manual” produced by the National Centre for Policing Excellence in the United Kingdom.20

In addition to standardizing investigation practices and routines, at the end of the 1980s various countries introduced crime information management mechanisms to improve the effectiveness of murder investigations. The United States, Canada, United Kingdom, and Japan, for example, made significant efforts to publish police performance indicators and data regarding the murder victims, perpetrators, and other details about the cases.

In the United States, the National Incident Based Report System, created in 1988, forms the basis of police performance indicators, including the homicide clearance rate, defined as the percentage of reported murder and non-negligent manslaughter cases where at least one person has been arrested, charged, or turned over to the court for prosecution.18 It is important to highlight that certain clearances that an agency records in a particular calendar year may pertain to offenses that occurred in previous years. Therefore, in any given year the number of charges can exceed the number of homicides recorded.19 According to Arthur Trindade de Maranhão Costa, professor at the University of Brasília and former Secretary of Public Security for the Federal District, the United States government’s initiative to publish homicide clearance rates not only raised public awareness of the problem of unsolved homicides, but also put pressure on police chiefs to address issues of investigative performance, resulting in the shake-up of homicide investigation units, new investigative procedures, police training programs, and increased investment to strengthen the capacity of forensic services.20

In addition, homicide clearance rates provided researchers with a means for assessing the factors that influence the overall solvability of murder cases, ranging from the time and place of the offense, victim characteristics and weapons used, to specific police working practices and procedures, such as crime scene preservation and the number of detectives assigned to cases. As a result, civil rights movements and political leaders were able to monitor police performance more effectively and demand genuine commitment to solving murders regardless of victim race, sex or age.21
An example of this is the Murder Accountability Project, a nonprofit group of retired law enforcement investigators, investigative journalists, and criminologists that focuses on educating American citizens on the importance of accurately accounting for unsolved homicides within the United States. The group publishes annual homicide clearance rates by geographic region, spotlighting those communities that fail to report information to the FBI’s Uniform Crime Report and Supplementary Homicide Report and patterns in the occurrence of specific types of homicides.

**Figure 1: US Homicide clearance rates (1965-2016)**

In Canada, in 1961 the Homicide Survey began collecting police-reported data on murders, which is used to calculate the homicide clearance rate. According to Statistics Canada, the majority of cases are cleared in the year in which the incident took place; however, since some homicides become known to police long after they occur, the total number recorded in a given year typically includes homicides that actually occurred in previous years.

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23. Statistics Canada – Homicide Survey. An incident is treated as cleared when at least one accused has been identified and either a charge has been brought or there is sufficient evidence to bring a charge in connection with the incident, but the accused is processed by other means for one of many reasons (see https://goo.gl/rm4J89).
Canadian statisticians and criminologists have suggested that the murder clearance rate is a crucial indicator for measuring and monitoring police performance since it permits the analysis of the outcome of investigations over time by geographical region and police district\(^\text{25}\) and enables an assessment of the workload and capacity of investigation teams and the characteristics of the communities they serve, thus helping mayors and governors to evaluate different approaches to crime investigation and determine how best to allocate human and financial resources.

![Canada Homicide Clearance Rate](image)

Figure 2: Canadian clearance rates (1961-2010)

<table>
<thead>
<tr>
<th>Year</th>
<th>Clearance Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1961</td>
<td>90%</td>
</tr>
<tr>
<td>1966</td>
<td>85%</td>
</tr>
<tr>
<td>1971</td>
<td>80%</td>
</tr>
<tr>
<td>1976</td>
<td>75%</td>
</tr>
<tr>
<td>1981</td>
<td>70%</td>
</tr>
<tr>
<td>1986</td>
<td>65%</td>
</tr>
<tr>
<td>1991</td>
<td>60%</td>
</tr>
<tr>
<td>1996</td>
<td>55%</td>
</tr>
<tr>
<td>2001</td>
<td>50%</td>
</tr>
<tr>
<td>2006</td>
<td>45%</td>
</tr>
<tr>
<td>2010</td>
<td>40%</td>
</tr>
</tbody>
</table>


The clearance rate has also proved critical to advocacy undertaken by Canadian civil society and international human rights organizations. For example, following a sharp increase in the murder and disappearance of Aboriginal women in 2009, the Native Women’s Association of Canada and the Inter-American Commission on Human Rights denounced that only 53% of murders of Aboriginal women in Canada resulted in criminal charges, compared to the much higher national homicide clearance rate of 84%\(^\text{26}\). The data helped these organizations to successfully pressure the Canadian government to remedy police failures to deal with violent crimes against Aboriginal women.

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Countries such as Japan and the United Kingdom produce even more sophisticated homicide clearance rates. Japan's White Paper on Crime, published annually since 1960 by the Research and Training Institute of the Ministry of Justice, reports the percentage of homicides that result in the identification of a suspect (homicide clearance rate) and the percentage that result in criminal charges (prosecution rate). The White Paper also analyzes Japan's main public security challenges and provides important inputs to inform policies directed at preventing violence and recidivism.

Given that the clearance rate includes incidents that occurred in the previous calendar year, percentages may exceed 100%, as in the United States and Canada.

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The United Kingdom’s Office for National Statistics has been producing periodical statistical bulletins on homicide offenses recorded by the police in England and Wales and their outcomes (convictions, acquittals, and others) since 1982. Statistics are continually updated with information from the police and the courts and provide the foundation for the public debate regarding lethal violence in the UK, parliamentary briefings and research conducted by media channels.

Figure 5: Homicide case outcomes in England and Wales (2011 to 2015)

30. Id.
Curbing Brazil’s escalating homicide rate requires a comprehensive review of institutional arrangements and methodologies with a view to strengthening murder investigations and improving their overall effectiveness and efficiency. As part of this process, it is vital that the government adopts information management tools on a national scale that allow law enforcement bodies to:

I) Gather the necessary data to monitor the outcomes of homicide investigations across different states.

II) Rank states according to investigative performance and disseminate good practices.

III) Redirect funding to poorly performing states.

Methodology

To this end, Instituto Sou da Paz proposes that Brazil’s homicide clearance rate should treat a murder as “cleared” when an alleged offender has been charged by the Public Prosecutor’s Office and the case results in prosecution.

The percentage of murders that result in criminal charges is the best measure of the quality of the investigative process in Brazil because the lack of success of cases that do not result in legal proceedings is generally down to police failure to identify a suspect. Homicide charges are rarely brought without robust police investigations and in the vast majority of cases police performance is critical to the success of the investigation. Furthermore, to measure the influence of other factors on investigative performance, such as victim characteristics, place of death, and the context of homicides, it is important to consider not only the police’s assessment regarding the quality of the evidence they gathered, but also the views of other law enforcement officials. Gauging investigative performance solely on the basis of the percentage of cases solved as reported by the police is a poor measure of level of impunity, since a significant proportion of “successful” investigations do not result in criminal charges either due to the death of the offender or because the statute of limitations has expired.

As in the United States, Canada and Japan, the number of murders resulting in charges based on the criteria proposed by Instituto Sou da Paz is not necessarily equivalent to the number of solved murder investigations. However, this indicator provides an approximation that allows comparisons to be made between different geographical regions over time. A residual distortion will occur due to homicide cases that do not result in charges because the suspect acted in self-defense or to protect a third party, or due to the reclassification of the offense by prosecutors into crimes such as armed robbery resulting in death, injury followed by death, or suicide. A study of homicide investigations in the City of São Paulo in 2016 showed that these impacts may amount to approximately 15% of all murders.

In addition, it is important to highlight that a single indicator cannot capture the full range of activities associated with homicide investigations. Ideally, public security authorities should create a basket of indicators for assessing and monitoring investigative performance that shed light on other factors, such as time parameters of murder investigations, funding constraints, and public satisfaction with the services provided by the police.
Pilot Project

Using the above methodology, Instituto Sou da Paz took the unprecedented step of attempting to calculate homicide clearance rates across all Brazil’s 27 states. Given the limited scope of data on police investigations published by federal and state authorities, it was necessary to make formal requests for information under the Access to Information Act to the state Chief Prosecutor’s Office in each of the country’s states. The following information on all murder charges brought between January 2015 and June 2017 was requested: I) case number; II) date the charges were filed; III) date the case was registered by the police; IV) date the incident took place; V) municipality where the incident took place; and VI) police investigation number.38

The data was provided by only six states: São Paulo, Espírito Santo, Rondônia, Rio de Janeiro, Mato Grosso do Sul, and Pará. In Espírito Santo the information was systematized by the Chief Prosecutor’s Office using the organization’s internal writ management system and forwarded via its Criminal Investigation Support Center. In Rio de Janeiro, the data was compiled using the state prosecutor’s office’s case management module and forwarded by the Ombudsman’s Office.39 In Rondônia, data was extracted from the offense automatic control system (ParquetWeb), managed by the Information Technology Directorate, and forwarded by the chief of staff of the Chief Prosecutor’s Office. In Mato Grosso do Sul, the Information Technology Department compiled and sent the information requested, while in São Paulo it was provided via the integrated information management system (SIS MP Integrado), run by the office’s Criminal Investigation Support Center. Finally, information from the State of Pará was provided by the office’s IT Department.

In 2015, the Homicide Clearance Rates of São Paulo, Espírito Santo, Rondônia, Rio de Janeiro, Mato Grosso do Sul, and Pará were: 40

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38. Requests were made via formal letters of request, email and the states’ citizens information service (E-Sic) websites between May and June 2017. See request protocols in Appendix A.
39. It should be noted that the murder incidents recorded in the State of Mato Grosso do Sul include deaths resulting from the intervention of off-duty police officers and those recorded in Rondônia include deaths resulting from the intervention of off-duty police officers. The statistics for the other states exclude police killings. It is also important to note that cases where the date of the incident was not known were excluded (148 cases in Espírito Santo, 20 in Mato Grosso do Sul, and 25 in Pará). One case of armed robbery resulting in death was also excluded in the State of Rio de Janeiro; however, it is possible that there were other such offenses in the list provided.
40. It is important to note that the number of charges recorded is equivalent to the number of murder offenses, regardless of the number of suspects involved. Charges resulting from attempted murder in the State of Rondônia were not included.
São Paulo, which had the lowest homicide rate per 100,000 people in Brazil in 2015, had the second highest homicide clearance rate. Rio de Janeiro, which occupied 17th place in the state homicide rate ranking (25.4 deaths per 100,000 people), cleared only 12% of murders in 2015, while Pará, ranked fourth (41 deaths per 100,000 people), only managed to clear 4%.

**Figure 6: Murders in the Six States (2015)**

![Figure 6: Murders in the Six States (2015)](source: Chief Prosecutor’s Offices of Espírito Santo, Rondônia, Pará, Rio de Janeiro, São Paulo, and Mato Grosso do Sul. Murder statistics from the Annual Report of the Brazilian Public Security Forum.)

Eight states reported that they were unable to provide the information requested due to technical difficulties: Alagoas, Amazonas, Tocantins, Rio Grande do Norte, Ceará, Distrito Federal, Paraíba, and Goiás. The main problem cited was the lack of integration between police and judiciary databases, meaning that each homicide charge would have to be analyzed on a case-by-case basis to meet Instituto Sou da Paz’s request. In five states – Mato Grosso, Amapá, Minas Gerais, Paraná, and Maranhão – at the time this report was published, the requests remained under review by the chief of staff of the Chief Prosecutor’s Office or another agency linked to the state Chief Prosecutor’s Office. Roraima, Pernambuco, Rio Grande do Sul, Santa Catarina, Piauí, Acre, Bahia, and Sergipe provided incomplete data (missing dates of the murders or criminal charges filed), making it impossible to calculate clearance rates.
Table 1: Responses to Instituto Sou da Paz’s requests for data

<table>
<thead>
<tr>
<th>STATE</th>
<th>ANSWER</th>
<th>MAIN JUSTIFICATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Espírito Santo</td>
<td>Positive</td>
<td></td>
</tr>
<tr>
<td>Mato Grosso do Sul</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rio de Janeiro</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rondônia</td>
<td></td>
<td></td>
</tr>
<tr>
<td>São Paulo</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pará</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tocantins</td>
<td>Negative</td>
<td>Data is dispersed throughout the Chief Prosecutor’s Office; or</td>
</tr>
<tr>
<td>Rio Grande do Norte</td>
<td></td>
<td>Not all the information requested is stored in the system; or</td>
</tr>
<tr>
<td>Ceará</td>
<td></td>
<td>Data is not available at the level of detail required</td>
</tr>
<tr>
<td>Distrito Federal</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Paraíba</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Goiás</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Alagoas</td>
<td>Negative</td>
<td>Lack of integration between police and judiciary databases; each murder charge would have to be analyzed individually</td>
</tr>
<tr>
<td>Amazonas</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mato Grosso</td>
<td>Ongoing</td>
<td>As of November 7, 2017, Instituto Sou da Paz’s request was still under review by the chief of staff of the Chief Prosecutor’s Office or another body</td>
</tr>
<tr>
<td>Amapá</td>
<td></td>
<td></td>
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<tr>
<td>Minas Gerais</td>
<td></td>
<td></td>
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<tr>
<td>Paraná</td>
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</tr>
<tr>
<td>Maranhão</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Roraima</td>
<td>Incomplete</td>
<td>Data provided was incomplete (missing dates of the murders or criminal charges filed)</td>
</tr>
<tr>
<td>Pernambuco</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rio Grande do Sul</td>
<td></td>
<td></td>
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<tr>
<td>Santa Catarina</td>
<td></td>
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<tr>
<td>Piauí</td>
<td></td>
<td></td>
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<tr>
<td>Acre</td>
<td></td>
<td></td>
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<tr>
<td>Bahia</td>
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<td></td>
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<tr>
<td>Sergipe</td>
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</tbody>
</table>

Source: Instituto Sou da Paz archives

The above process undertaken using the homicide clearance rate methodology proposed by Instituto Sou da Paz revealed a striking lack of integrated crime information databases across states. The states of São Paulo and Rio de Janeiro, which have digital data collection systems and greater technical and administrative capacity, were successful in producing the requested information quickly. However, the scope of the data collected by the vast majority of databases used by state Chief Prosecutor’s Offices throughout the country is limited and systems do not tend to be integrated with the databases used by other law enforcement institutions. Furthermore, many Chief Prosecutor’s Offices lack the technical support and staff needed to perform manual data extraction.
The Brazilian government is failing to fulfill its duty to protect the right to life and hold perpetrators of murders accountable. Thousands of citizens have friends or relatives who have been murdered and call for a more effective criminal justice response to homicide.

Changing the culture within law enforcement agencies and special investigation units in Brazil is no easy feat. Nevertheless, the impact of change can be powerful. Instituto Sou da Paz seeks to contribute to this process by introducing a crime information management tool at the state and federal levels that will lay the groundwork for more efficient and effective murder investigations. This path will require the following:

1. Homicide investigation and clearance should be treated as a key priority by a national law enforcement institution, such as the National Council of Public Prosecution (CNMP) or the National Justice Council (CNJ).

2. A national digital platform should be developed that is capable of systematizing and cross-referencing data on murders and criminal charges.

3. Chief Prosecutor’s Offices must invest in more robust information systems that provide detailed data on murders and criminal charges.

4. Homicide clearance rates should be calculated by a national law enforcement institution on a periodic basis and all data should be made accessible via an online platform.

5. State public security officials, police, and state and federal prosecutors should set joint targets to increase homicide clearance rates over time.

6. State and city governors should develop operational plans to achieve these targets and allocate funding for homicide clearance initiatives.
References


The Native Women’s Association of Canada. “Fact Sheet: Missing and Murdered Aboriginal Women and Girls”.


APPENDIX A: Information requests sent to state public prosecutor’s offices between May and June 2017

1. Acre - Formal letter of request ISDP 114/2017
2. Alagoas - Formal letter of request ISDP 115/2017
3. Amazonas - Formal letter of request ISDP 116/2017
7. Distrito Federal - Formal letter of request ISDP 120/2017
12. Mato Grosso Sul - Formal letter of request ISDP 125/2017
14. Pará - Formal letter of request ISDP 127/2017
17. Pernambuco – Access to Information Law Request N° 37379062017-6. Formal letter of request ISDP 130/2017
22. Rondônia - Formal letter of request ISDP 135/2017
27. Tocantins – Access to Information Law Request N° 7010168357201770. Formal letter of request ISDP 140/2017