Volume 23 Issue 44
Originally issued as C5



Global Journal of human-social science: C
Sociology & Culture
Volume 23 Issue 5 Version 1.0 Year 2023
Type: Double Blind Peer Reviewed International Research Journal
Publisher: Global Journals
Online ISSN: 2249-460X & Print ISSN: 0975-587X

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GJHSS-C Classification: *FOR Code: 1602*



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Under the Gun and the Archive: Examining Police Lethality and Legitimacy in Greater Curitiba (2017-2018)[1]

Murillo Amboni Schio ᵅ & Vyctor Hugo G. Grotti ᵟ

Abstract- **The Brazilian police are one of the ones that kill the most in the world. In 2022, Brazilian police killed around 6 thousand people. What does the State do in the face of this? This article seeks to examine exactly that answer. Based on the analysis of 37 completed court cases (2017-2018) in the city of Curitiba in the State of Paraná/Brazil, we analyzed the police discourse on police lethality and how the judiciary interprets it. The Judiciary almost always archives the case and there is no punishment. Based on this information, we seek to understand the relationship between police lethality and repression in the Brazilian neoliberal State – the current state configuration.**

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I. Introduction

Since the end of the military-bourgeois dictatorship in 1964 and the re-inauguration of democracy in Brazil in 1985, homicides committed by the state, through the police, have become the main state policy for dealing with crime, consolidating its upward trend in numbers that, even today, stand out due to their volume and constant growth.

This work seeks to explore and understand lethal state repression and its legitimization by the neoliberal Brazilian state, in its institutions that make up the penal face of the state, determinations and specificities in the current regime of integral accumulation, drawing on the Marxist theory of the state and regimes of accumulation. The regularization of this situation is understood in our work as one of the neoliberal repressive state policies (neoliberal social form) that aims to regularize the social relations necessary for the production and reproduction of contemporary capitalism.

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[1] This article was first published in Portuguese in 2023 in the Revista de Sociologias Plurais volume 9, n. 1, which can be accessed at this link <http://dx.doi.org/10.5380/sclplr.v9i1>.

Some notions are fundamental to understanding this state policy (easy trigger), among them the capitalist mode of production, the regime of integral accumulation, and the neoliberal state, as well as the concepts of totality, class struggles, and forms of regularization of social relations. What does this theoretical position imply? What multiple determinations, characteristics of the economy and its ordinary meanings that we know today and cultural, religious, political, etc. aspects act simultaneously to reproduce the capitalist mode of production? However, they have a fundamental determination, which is the capitalist mode of production itself (and the mode of production is far from dealing only with economic aspects) and its need to guarantee the best sociability for this, which, in the periphery, in the neighborhoods of the exploited and marginal classes (lumpen), is characterized by the violent and lethal repression of the repressive state forces. Hence, the need to understand the role of the neoliberal state in general, but with a focus on preventive repressive policy, understood here as a neoliberal state repressive policy. It is not, therefore, a question of pretending to write everything down or to explain everything, but rather of being aware that our work seeks to analyze multiple determinations, only some aspects of which will be dealt with further - and others only mentioned.

II. Development

The state is one of the main regulators of social relations, which, in the regime of full accumulation, emerged together with the neoliberal state from the 1980s onwards. Neoliberal ideology predates the neoliberal state itself, which sometimes leads to confusion about the origins of one another. Since the 1930s, Friedrich Hayek developed the foundations of what neoliberalism would consist of, but it was with the release of his book The Road to Serfdom (2013) in 1944 that the ideological foundations were laid. This is the economist's most prominent work, but it did not immediately prosper due to the certain stability of Keynesian ideology. He was not the only neoliberal ideologue but was followed by many thinkers who made up the Mont Pèlerin Society, a think tank at the time. It is, therefore, essential to distinguish between neoliberal ideology and the neoliberal state. Harvey defines it as:

> Neoliberalism is first and foremost a theory of political-economic practices that proposes that human well-being

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> can best be promoted by unleashing individual entrepreneurial freedoms and capacities within an institutional framework characterized by strong private property rights, free markets and free trade. The role of the state is to create and preserve an institutional structure appropriate to these practices; the state must guarantee, for example, the quality and integrity of money. It must also establish the military, defense, police and legal structures and functions required to guarantee individual property rights and to ensure, if necessary by force, the proper functioning of markets. (HARVEY, 2008, p.12)

With its faith and belief in the regularizing capacity of the market, neoliberalism, as an ideology, is based on some key propositions, among which the following stand out: 1) limiting the size of the state to the minimum necessary to maintain the rules of the capitalist game - the state as a mediator of two distinct spheres, the market and society; 2) as a consequence of the first, state spending, especially in social spheres, should be reduced as much as possible in order to prevent problems related to inflation, something that many countries suffered with the collapse of the integrationist state, further circumscribing the sphere of action of the state; 3) privatizing all existing state companies, even those considered strategic, on the grounds of public inefficiency and excessive spending on civil servants; 4) completely opening up the economy to the established world market and the rapid expansion of the international division of labor; 5) valuing and facilitating financial and speculative activities, with an increase in interest and exchange rates in favor of international creditors; 6) valuing inequality as something positive; 7) and finally, making greater use of repression as a means of controlling the disparities and dissatisfaction that neoliberal political and economic practices create (PAULANI, 2006; HARVEY, 2008; VIANA, 2015).

The neoliberal state emerged at the end of the 1970s and the beginning of the 1980s, consolidated in the imperialist countries by the governments of Margaret Thatcher in England in 1979, Ronald Reagan in the USA in 1980, and Helmut Kohl in Germany in 1982. It was due to the crisis of the intensive-extensive (or conjugated) accumulation regime that neoliberalism was rescued, recovering and adapting some of the main theses of Hayek and the Mont Pèlerin Society, among others, to the needs of the mutation of the state and other social spheres (HARVEY, 2008; VIANA, 2009; PRADO, 2005). As a reaction to the defeat of his worldview by the predominance of Keynesianism and the integrationist state in the post-war period, Hayek brought together several conservative thinkers - including von Mises and Milton Friedman, who would go on to become living exponents of neoliberalism - to discuss what strategies they would take in the face of the tide of interventionism and state regularization that characterized the reconstruction of the wreckage of the world conflict (PAULANI, 2006). This meeting took place in Switzerland, in Mont Pellerín, where inequality was highlighted as a positive, even essential, value for Western societies (ANDERSON, 1995). Its concrete manifestation in each territory has particularities that only a case study can resolve. Deviations from the theory and dynamics of each state shape different implementation processes. Although it is possible to speak of a dominant neoliberal theory, it is impossible to speak of a single neoliberal state in concrete terms. According to Harvey, it would be surprising to see even the most fundamentalist neoliberal state following neoliberal orthodoxy all the time" (2008, p.81).

According to different currents of criticism or support, one of the main characteristics of neoliberalism is that of the minimal state. The name is problematic since a minimal state can lead to the interpretation of absence, weakness, and impotence. The Italian Norberto Bobbio, a neoliberal convert, helps us resolve the issue when he points out that a relative reduction in state apparatus is accompanied by a maximization of its strength (BOBBIO, 1987). In other words, the neoliberal state is a strong, repressive, and violent state, characteristics that are highlighted in state action when compared to other states that were also strong, repressive, and violent. Prado is adamant that "neoliberalism is not the doctrine of the minimal state" (2005, p.25). For the regime of integral accumulation, state repression acquires importance commensurate with the intensification of the class struggle that has emerged since the late 1960s, with the crisis of combined capitalism, requiring the integrationist state and its derivatives to respond to the social changes underway (HARVEY 1992; VIANA, 2015). Its repressive role is highlighted as a way of regularizing social relations in contemporary societies, as a tendency of states and governments of all colors. Neoliberalism and the neoliberal state carry out a class project that, to be implemented on a popular basis, has made a pragmatic effort to defend the cause of individual freedoms. The role of the state was and is fundamental, especially through its apparatuses of co-optation, propaganda, and repression (HARVEY, 2008).

From the 1980s onwards, the neoliberal state expanded around the world, as did its ideology, with one of its fundamental tasks being to create and regulate the institutional conditions for the resumption of capitalist accumulation (DUMÉNIL; LÉVY, 2004), affected by the achievements of the post-war period, linking it closely to productive restructuring (the emergence of production chains, for example, or the advance of pejotization, employment through the hiring of legal persons, companies legally endowed with human quality, and outsourcing in labor matters) and neo-imperialism. Chesnais (1996) provides an overview of the process of monopolization and centralization of

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various productive sectors in the hands of limited groups of companies. Faced with the consolidation of the neoliberal doctrine and the free market, there is a continuous merger and acquisition of large sectors by holding companies and trusts in a broad process of monopolization and oligopolization. The so-called global production chains flourish, using intense and extensive labor exploitation to maximize distribution and consumption worldwide. In addition to this, there has been a reduction in welfare and social security policies, such as the social security system; a counter-offensive against labor rights won by trade union and workers' movements; privatization of state-owned companies, services, and properties; financialization of the economy and others. (VIANA, 2009).

If necessary, the neoliberal state resorts without difficulty to coercive or criminalizing legislation and using the police to quell opposition movements. Protesters become terrorists, thugs, and drug dealers, figures that today populate the collective imagination. Here again, another contradiction between neoliberal ideology and the neoliberal state in practice: the repressive and coercive arm is strengthened in this new moment of capital accumulation to maintain the flow of business and the corporate interests of capital. Here, like Harvey (2008), we disagree with those on the left and right who say that the state is irrelevant and dispensable in neoliberalism. Reconfiguring the functions of the state is very different from the eliminationist discourse that perseveres in the public debate regarding neoliberalism. We summarize the issue as follows:

> The neoliberal state is the state form necessary for the new regime of accumulation, the regime of integral accumulation, which is a necessary complement to the process of productive restructuring and changes in international relations and which is characterized by containing state spending, deregulating the market and "flexibilizing" labor relations, subsidizing oligopolistic capital and increasing the policy of repression and social surveillance. There is no single formula for carrying out this process, as it depends on the situation in each country, the social and political forces that support a given government, the population's power of pressure, among various other determinations (VIANA, 2009, p. 87).

This is a diagnosis and analysis that various authors have already presented under other headings: the criminalization of poverty and misery or the penal economy (WACQUANT, 2003), the militarization of urban space (GRAHAM, 2016), social control as an industry (CHRISTIE, 2011), to name a few. Together with the social upheavals that the world experienced at the end of the 1960s and 1970s and the consequent neoliberal reaction to the welfare state, better known as the welfare state in its European form, discussed above, the hyper-repressive state was gradually configured and built up into democratic and republican state forms, in response to the massive growth in unemployment, social inequality, worsening wages and employment opportunities and conditions, as a dominant trend of neoliberal capitalism, and whose reaction is not precisely to a consequent increase in crimes committed as a result of worsening living conditions. These are more defined macro-policies than "natural" reactions to a "probable" increase in criminal resources for the survival and affirmation of impoverished populations.

Among the various social transformations that capitalist society underwent with the crisis of the conjugated accumulation regime in the 1970s and the emergence of neoliberalism as an expression of the new dynamics that capitalism has assumed since then, and as a response to the crisis it was facing, we highlight the repressive characteristic of the role of the state and its institutions. With privatizations, the deregulation of work, fiscal and monetary adjustments, the deregulation of markets, and the reduction of state interference in financial matters, a series of implications for the life of the surplus value-producing class followed to increase exploitation and intensify the accumulation process. To this end, the neoliberal state, as already announced by the Trilateral Commission in the 1970s in an attempt to save the regime of conjugated accumulation, had to take on even more violent and intensified repressive functions in order to regulate the widespread social unrest in the face of the social effects that the neoliberal form of capitalism proposed (ASSMANN, 1979).

The neoliberal state was created in Brazil in the 1980s in a transitory and initial way. At the international level, the central capitalist countries were already changing from the intensive-extensive to the integral accumulation regime, which put pressure on the subordinate capitalist countries to promote changes to create more favorable conditions for a new cycle of capital accumulation. The Brazilian military dictatorship, in this context, had also been weakened, mainly due to the workers' struggle through strikes and other forms of resistance against their working conditions. The military dictatorship's repression against the mobilization of the working class meant that workers' resistance sometimes advanced and put pressure on capital and its representatives, while at other times, it ebbed (BRAGA, 2013). The "economic miracle", in turn, was already showing signs of exhaustion, causing the Brazilian state to turn to international financial capital to make up for the growing trade deficit (ALVES, 2005).

Neoliberalism began to take hold in Brazil at the end of the 1980s and beginning of the 1990s, especially with Brazil's adherence to the Washington Consensus, which was based on the "The New Deal". The Collor government followed this booklet in terms of opening up the national market to foreign capital and a strong monetary policy to combat inflation and privatization (SILVEIRA, 2009). FHC's government was marked by

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Brazil's turn towards neoliberalism, with the consequent removal of the state from the economy, made possible by a high rate of privatizations and opening up to international financial capital. One of the factors that enabled the liberal path to continue was the containment of inflation by the "Real Plan", giving the impression that Brazil was "on the right track". On this path, labor was particularly affected by legal precariousness in hiring workers and reforms that reduced labor and social security rights. The governments that followed, in turn, continued the neoliberal consolidation of the Brazilian state.

In terms of repression, the FHC government intensified the construction of prisons and the consequent increase in incarceration rates - from 65.2 prisoners per 100,000 inhabitants in 1988 to 181.5 in 2003. During the PT government, repressive policies continued, especially after the new drug law, which expanded the list of behaviors considered to be drug trafficking while at the same time intensifying the custodial sentences for this crime. Supported by this law, the Brazilian police are increasingly directing their efforts towards repression in the favelas and peripheral communities, with the war on drugs being the main culprit in the criminalization and murder of people in the country, especially by the police (ALVES, 2018).

Moving on to the discursive dimension of the neoliberal state, in the problem of the legitimization and naturalization of preventive repression, it is necessary to understand and relate the technical-legal enunciation that confers legitimacy through the law with the context of neoliberal capitalism and the neoliberal state that corresponds to it, for example. It is from connections like these that, in our view, the understanding and unveiling of the use of lethal repression as a neoliberal state policy should proceed. Language, in our case legal discourse, involving different bureaucratic institutions and different social classes assisting in its process, such as the bureaucracy and the intelligentsia, is an important element in understanding, at the level of discourse, how the justification and legitimization of lethal repression operates. According to Bakhtin (2010), the justification lies in recognizing that the sign has different meanings, what he calls the prevalence of signs, and can be tributary to other meanings in the sign's relationship with other social classes. The dynamics of the sign and discourse support the argument for accessing the concrete and particular discourse as an object of study - in our case, the legal discourse of the criminal justice system, delivered by a specific set of fractions of the bureaucracy.

Its importance also lies in its specificity as a discourse. We cannot fail to point out what we call the Criminal Justice System, made up of the police, the Public Prosecutor's Office, Criminal Justice, and the prison complex, which corresponds to an institutional network with particular functions within the Brazilian state. However, these signs, the signs of the laws, the legal, constitutional, and procedural statements, are also shared by various other institutions, which confirms their particularity within a totality. Within this system, there is a form of interaction through discourse that is unique in its generality: the need to use the law and due process of law, even if invisible, to legitimize and justify the RPL. To this end, we tried to demonstrate the regularities of the arguments that make up the final verdict, which are agglutinated around the discourse of self-defense, as researched by the authors in their dissertations (GROTTI, 2022; SCHIO, 2022). Below is a table on police lethality, compared with the victimization of police officers killed on and off duty for the Brazilian case:

Table of Data on Police Lethality and Police Victimization in Brazil and Paraná according to the Public Security Yearbooks 2007-2021

	Police Lethality		Vitimização de policiais civis e militares mortos em serviço		Victimization of civilian and military police killed off duty	
Year	Brazil	Paraná	Brazil	Paraná	Brazil	Paraná
2007*	1820	S/d	72	S/d	S/d	S/d
2008*	2060	S/d	156	S/d	S/d	S/d
2009*	2177	S/d	78	S/d	186	S/d
2010	2434	119*	101	19	186	S/d
2011	2042	147*	91	10	191	S/d
2012	2332	167	160	23	287	30
2013	2202	178	98	2	309	3
2014	3146	198	79	4	336	5

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2015	3330	246	80	6	288	13
2016	4240	265	93	1	293	11
2017	5179	267	82	4	301	5
2018	6175	321	81	3	232	3
2019	6351	288	52	0	114	1
2020	6416	373	51	2	131	0

*Source: Author, based on data from the Public Security Yearbooks published between 2007 and 2020. In the years with an asterisk, several states did not provide the requested statistics. *The data available was only from the Military Police.*

Lethality, as we can see, has been on an upward trend since 2007, except for the fact that several states did not provide data on PCs, with a jump in growth from 2014 onwards. From 2010 to 2013, the national and Paraná scenarios remained relatively stable. The jump for the former occurred in the 2013-2014 biennium, with an increase of approximately 50%, and for the latter from 2014 to 2015, with an increase of approximately 25%. The upward trend is confirmed in the following years for the RPL scenarios, while police victimization, both on and off duty, peaked between 2012-2017 and has been falling sharply ever since. In Paraná, for every police officer killed in 2017, there were around 30 civilians; in 2018, the ratio increased to around 1 to 53; in 2019, only one police officer was killed for 288 civilians, and in 2020, a ratio of 186 civilians were killed for every police officer. The national picture for the same period was a ratio of 13 to 1 in 2017, 20 to 1 in 2018, 38 to 1 in 2019, and 35 in 2020. If there is a possible correlation between police deaths and cases of RPL, it is inversely proportional. The fact is that the constant and regular growth of RPL since 2007 is confirmed for both scenarios. The figures are truly absurd.

For comparison, in a joint effort by the Guardian and Washington Post newspapers, 1,100 police killings were documented in 2014, 991 in 2015, and 1,080 in 2016 in the USA (VITALE, 2021). The newspapers have kept the project going ever since and have an online site that can be found under the name Police Shooting Database 2015-2022. In 2021, 853 people were killed by the police in the USA, while in Brazil, in 2020, there were more than 6.4 thousand. As for the profile observed in the US, blacks and Latinos are relatively the most victimized, making up 2,500 of the just over 6,800 cases of RPL recorded between 2015 and 2021 in the US (VITALE, 2021). Around 3,000 were white, and the vast majority were men aged between 15 and 44. Compared to Brazil, the profile of the MVIs in Brazil is poor, with little schooling, young, male, black, and living on the outskirts of large urban centers (WAISELFISZ, 2014; AZEVEDO: In SOZZO, 2017).

As specific members of the bureaucracy, the ones in charge of repression, it is necessary for the police to rationalize their actions, to give them a veneer of legitimacy, announcing their impersonal character and strict compliance with a legal duty, supported to this end by the principles, bourgeois in essence, that the law carries. As we have already pointed out, various types of repression and modalities can or are exercised daily in police work. For our purposes, we will only give examples of the discourses that legitimize cases of lethal state repression while recognizing the importance of the discourse that legitimizes other repressive modalities, which also reach the judicial system daily and accumulate by the thousands. From our perspective, all these discourses form a much more complete picture of the entire neoliberal ideological discourse of repression, order, and social control. Our selection goes even further; for example, the number of cases of lethal state repression in Paraná between 2010 and 2020, according to the table above, accumulated more than 2,500 registered cases. In the national case, there are more than 30,000 registered deaths for the same period, representing a higher number than in some wars. It is no coincidence that another current discourse, which helps legitimize the policy, is that this is a war, so the treatment that is given and should be used is that of the enemy. Watching the newspapers and listening to comments from friends, acquaintances, and relatives, there always seems to be a duality between glorifying the action as a bitter but necessary remedy and proportional to the strength of the "disease", or discrediting and disbelieving in the police institution and police officers, but with reservations about the criminal action of those who are the target of repression.

Our discussions and presentations of the problems involving police records and statistics point to higher figures in almost every state. We are faced with a genuinely terrifying scenario where execution, the easy trigger, is demonstrated as a state policy in its dealings with what is identified as crime in its neoliberal form in the current regime of full accumulation and in its discretionary phase, where we are witnessing a tendency to tighten the social control policies necessary for capitalist reproduction. Such large numbers of RPLs, even though countless other discourses support them, have a specific and, in our view, crucial legal form, as they sacramentalize the almost inevitable invisibilization of such deaths through archiving such cases. In their everyday manifestations, normalized and backed by the force of law, they are often seen as isolated cases, bad apples, lack of training, human errors, and such.

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It is precisely in the wake of the question of how police inquiries into lethal repression are closed that, through discourse analysis, we obtain some elements about how the legal form presents its legitimizing discourse, carried out in the interaction between the police, through the police report and the report of what happened, the Public Prosecutor's Office, whether or not it accepts the complaint, whether or not it requests further investigation and whether or not it upholds the filing of the case. The Judiciary, which accepts or rejects the arguments, evaluates them in terms of the coherence and legality expressed in the written discourse concerning the body of law and passes judgment. In some cases, lawyers and public defenders come into play, but these are rare. Witnesses appear, but usually to confirm legitimacy. The contradiction is never raised in constructing the IPM and textually materialized in the Report. It is this triad that makes up the consummation and formatting of the discourse. In this sense, Souza states, "before the soldier pulls the trigger, it has already been pulled by the judge" (2020, p. 322). Or rather, by the criminal justice system. Judges or prosecutors who, for some reason, swim against the tide and oppose the filing of cases or question the hegemonic discourse are rare, and their existence, for us, more confirms the rule than points to a possible solution.

The police investigation, therefore, ascertain the authorship and materiality of a crime. The definition of a crime is a description of certain conduct or acts that are criminalized and serve, in advance, as a justification for police investigative action. If killing is a crime, then the repressive forces are authorized and required to investigate and find out who did it, and constitutionally so in cases of intentional homicide. However, as we have seen in our analysis, in practice, Military Police Inquiries (IPM) are launched, and the investigation and final report are the responsibility of the commander or head of the battalion where the MP(s) involved are stationed. With insignificant changes for our purposes, the IPM fulfills the same role as the IP, which would be the responsibility of the police chief. It is worth mentioning that in these situations, which account for the vast majority, the MPs are the perpetrators of the RPL cases. In the letter of the law, all these cases should be investigated by the police, just like homicides committed by civilians. However, in practice, there is an "invasion" of the police's powers by the Military Police about cases of RPL. This is a point of contention between the two police forces and is of significant legal debate, but we will only mention it here. In addition, in such situations, when MPs are the perpetrators, the Military Public Prosecutor's Office is involved since Brazil has a dual justice system: common and military - there is even a Superior Military Court and a structure that more or less mirrors the institutional structure of common justice - and MPs are considered military, so at first they are evaluated by the military justice system and in such cases, as is legally stipulated, they are referred to non-military prosecutors, who in almost all cases ask for the investigations to be closed.

We can see the importance of the interactions between the bodies that make up the SJC for regularizing bourgeois sociability through lethal state repression. This occurs especially through discourse formulated by the police to justify the homicide committed by their agents, duly legitimized by the Public Prosecutor's Office and the Judiciary. This formulation is very much in line with what is legally and factually expected by the other institutions of the SJC, revealing a great deal of overlap between the arguments put forward by the police and those assumed by the prosecutor in charge of the case. The contradiction does not exist in these cases, and a unisemic discourse about what happened prevails, rounding off the discourse within the legal boundaries and resulting in the filing of these cases as a rule (GROTTI, 2022; SCHIO, 2022). This is undoubtedly a facet of state repression, just like incarceration and its spectacular increase since the 1990s, or the confusion and overlapping competencies of the different police forces, as can be seen with the PRF participating in massacres in the city of Rio de Janeiro alongside the PM's special detachments.

III. Conclusion

Neoliberalism, an ideology created in the first half of the 20th century, was only implemented in the central countries at the end of the 1970s and consolidated in the following decade. In countries with subordinate capitalism, such as Brazil, neoliberalism was solidified in the 90s. This ideology preaches the absence of obstacles to the market, even if this is done by force. The minimum state needs a maximum state precisely to guarantee it. In this context, the police appear as an essential state institution that seeks to regularize the new social conditions by using repression.

In order to legitimize lethal state repression, everything needs to be rounded off, i.e., the discourse about each homicide needs to be framed within a legal "permissive", such as self-defense, so that the Public Prosecutor's Office and the Judiciary can analyze the fact and dismiss it, exempting both the state and the police officer from responsibility.

This round-up begins during the investigative phase of Police Inquiries. Despite being rigidly regulated by law, there are several possibilities for discursive creation, allowing the police to construct a specific narrative about what is being investigated. The institution itself prepares the police officer to present a version that is consistent with the primary legal remedy accepted by the courts: self-defense. To build this

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perspective, the idea of a police confrontation or the dead man's reaction to a police approach is the most frequent story. Added to this is the criminalization of the person killed by the police to emphasize their danger to the police team.

In this way, the investigative discourse of lethal state repression is constructed by the police themselves in order to legitimize their actions. The conclusion of the investigation is approved by the Public Prosecutor's Office and the Judiciary, reinforcing the legitimacy of the repressive action.

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