



Original communication

Police shootings against civilians in Portugal: Contextual, forensic medical and judicial characterization

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ARTICLE INFO

Article history:

Received 24 July 2014

Received in revised form

14 January 2015

Accepted 20 April 2015

Available online 28 April 2015

Keywords:

Forensic medicine

Legal medicine

Gunshot wounds

Lethal force

Police

Judicial sentence

ABSTRACT

The aim of this study was to analyse the circumstances, the forensic assessment and the legal assessment of police shootings of civilians, according to the severity of the victim's injuries. Sixty-nine cases tried in Portuguese criminal courts were analysed. Of the 32 cases that resulted in death, 16 were on the public thoroughfare and 13 were in the victim's vehicle or in third-party vehicles. The majority of the lethal cases occurred when the region of the body hit was the thorax/abdomen. The firearm most frequently used was a semi-automatic 9 mm pistol. In cases resulting in death police officers involved were convicted whilst those involved in non-lethal cases were acquitted. The results of this study can be taken into account by Portuguese authorities for the implementation of policies that will allow the restriction of firearms use by police officers to situations of imminent danger of death or serious injury and that will make it possible to avoid shooting at fleeing civilians.

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1. Introduction

The duties assigned by law to the police mean that police officers may use the force when civilians do not comply voluntarily with their obligations arising from the law or with legitimate orders from the authorities, or when they jeopardise the legal property of the police officers themselves or of third parties. However, the United Nations Code of Conduct for Law Enforcement Officials states that the use of force shall only take place when this is strictly necessary and as required for police officers to do their duty.¹

In regards to the use of force by the police, discharging firearms at the bodies of civilians stands out. For this to be legitimate, firearms may only be discharged as an extreme measure to protect the life or essential physical integrity of the police officer or of third

parties, as stated in the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.² Although the Code of Conduct for Law Enforcement Officials has no mandatory direct application in any country, Portugal was the only European country that expressly adopted these principles as can be demonstrated in the Portuguese Decree-Law n.º 457/99 of 5 November.

Several studies have shown the actual circumstances under which police officers shoot at civilians, of note being defence against assault^{3–10} and making arrests.^{5,10–13}

The use of firearms against civilians is the most severe coercive mean used by the police. This severity arises from the high morbidity and mortality associated with it. Taking only the death consequence into account, we have the following data: in Australia, between 1 January 1990 and 30 June 1997, 41 deaths;⁵ and only in Victoria, between 1991 and 1996, 18 deaths,¹¹ and between November 1982 and February 2007, 48 deaths¹⁴; in Germany, between 2000 and 2003, 28 deaths¹⁵; in France, between 1995 and 1999, 20 deaths¹⁶; in Spain, between 1999 and 2003, 5 deaths, only by the Guardia Civil¹⁷; in England and Wales, between 1998 and 2001, 9 deaths,¹⁸ and between 2004 and 2013, 23 deaths¹⁹; in the

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United States of America, in New York alone, between 1 January 2003 and 1 April 2007, 42 deaths¹²; in Canada, between 1 January 1999 and 31 December 2009, 139 deaths, and in British Columbia, between 1 January 2000 and 31 December 2009, 30 deaths²⁰; in the Netherlands, between 2000 and 2009, 19 deaths.²¹

The consequences of shooting civilians, in terms of the severity of the injuries, depend on the part of the body hit.^{12,22–24} If the shooting results in death, this can be immediate when the brain or the spinal cord are hit,^{12,23} or the heart, even though the effect tends to be less immediate in this case.^{12,23,24}

The aim of this study was to analyse the circumstances, the forensic assessment and the legal assessment of shootings of civilians, according to the severity of the injuries, using the criminal proceedings brought against police officers and taken to court.

2. Materials and methods

The Portuguese Public Prosecutor's Office (PGR) and the General Inspectorate for Home Affairs (IGAI) operate as formal bodies for monitoring police activity in Portugal and keep records of lethal and non-lethal cases arising from Portuguese police officers discharging firearms at civilians in the line of duty.

In order to carry out this study, we asked the PGR and the IGAI for a list with the identification of all of the criminal proceedings brought against police officers suspected of killing or injuring civilians after discharging firearms in the line of duty, where the cases had been brought to trial, as well as the identification of the courts where we could go through these proceedings.

We received a list of 90 criminal proceedings related to facts occurring between 1991 and 2012. Next, we requested authorisation to go through these cases from the presiding judges. We received permission to go through 70 criminal proceedings but one of these was excluded from our analysis as it was not possible to assess the severity of the injuries. We were not able to consult the other 20 cases: 11, because they could not be found in the courts, and 9, because no reply was received from the courts. Thus, this analysis took the information from 69 cases into account.

The information was collected by actually going through the criminal proceedings in each court. A form specifically designed for the purpose was used. It was based on collecting the information from the forensic pathology and clinical forensic reports used by the National Institute of Forensic Medicine and Forensic Sciences, Public Institution (INMLCF, I.P.). The following information was collected: socio-demographic characteristics of the victim (gender, age, marital status, occupation, prior criminal records) and of the officer (gender, age, marital status, police force, professional category, criminal record, disciplinary record); contextual characteristics of the shooting (region of the country, time of occurrence, place, type of incident, no. of officers involved, no. of officers shooting, no. of shots, no. of civilians involved, no. of civilians hit, distance of the shot(s), type of weapon, calibre of weapon, projectile used, victim's movements at the time of the shooting, position of the victim relative to the officer, aggression/attempted aggression on the officer or a colleague, type of aggression on the officer); data related to the forensic medical examination (whether or not there was a forensic medical examination, existence or not of injuries), no. of parts of the body affected, identification of the parts of the body affected, internal organs affected, direction of the shots in the victim's body, angle of the shots in the victim's body, need for medical assistance/hospitalisation, severity of the injuries; judicial decision (conviction, acquittal).

Based on the classification that was adopted to the Portuguese Institute of Forensic Medicine and Forensic Sciences,^{25,26} the severity of the injuries arising from the shootings was classified as non-lethal and lethal. Non-lethal severity includes the following

degrees: degree 0 – absence of injuries; degree 1 – minimal injuries (e.g., abrasions, broken skin); degree 2 – injuries of medium severity (e.g., laceration, fracture not requiring surgical treatment); degree 3 – severe injuries (requiring surgical treatment); degree 4 – very severe injuries (potentially lethal). Then, the lethal injuries were classified as degree 5.

A descriptive analysis was carried out. The chi-squared test was used to compare proportions and the Mann–Whitney test to compare continuous variables.

The statistical software used to handle the data was IBM SPSS Version 21.

3. Results

3.1. Characteristics of victims and officers involved

The victims were mainly male ($n = 67$), with only 2 female victims. There were no statistically significant differences in the socio-demographic characteristics of the victims according to the degree of severity of the injuries ($p > 0.05$) (Table 1).

The police officers involved in the shootings were all male. The police officers who fired the lethal shots were on median (μ) older ($\mu = 35$) than those who fired non-lethal shots ($\mu = 31$) ($p = 0.008$) and the majority ($n = 25$; 86.2%) lived with a partner ($p = 0.006$) (Table 1). It was seen that most of the records describe situations with officers from the National Republican Guard (GNR) and the Public Security Police (PSP). An officer from the Criminal Police (PJ) was involved in only one incident. It was found that the majority of the police officers were involved in carrying out policing duties (91.3%). Only 7.2% were in intermediate positions and 1.4% in leading positions. Only one case was found where the police officer involved had a criminal record. The GNR officers caused lethal injuries in 10 (35.7%) of the 28 cases where they discharged their weapons and the PSP did so in 22 (55%) of the 40 cases where they fired their weapons.

3.2. Contextual characteristics of the officer-involved shooting

Of the 32 cases that resulted in death, 16 were on the public thoroughfare and 13 were in the victim's vehicle or in third-party vehicles.

The type of firearm most commonly used was the semi-automatic pistol ($n = 59$), calibres 7.65 mm ($n = 27$) and 9 mm ($n = 32$). Of note is one case of a lethal shooting where the weapon used was a shotgun (calibre 12) loaded with cartridges with rubber buckshot.

No differences were found between non-lethal and lethal shootings as to the part of the country where they occurred (North, Centre, South), the time of the occurrence, the number of civilians and officers involved, the type of incident, the aggression or attempted aggression on the officer or a third party, the number of shots, the distance of the shot and the position of the victim relative to the officer at the time of the shooting ($p > 0.05$) (Table 2).

3.3. Forensic medical examination results according to injury severity

A forensic medical examination was carried out in all of the lethal cases ($n = 32$). Of the total of non-lethal cases ($n = 37$), a forensic medical examination was carried out on all but 8 of them.

The existence of bodily injuries on the victim was confirmed at a trial in all of the cases analysed, even if there was no examination.

No differences were found in the severity of the injuries and the direction of the shot in the victim's body ($p = 0.196$) (Table 3).

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