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## **A global lethal force monitor: comparative opportunities and challenges**

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### **Citation**

Rappert, B., Adang, O., Paepe, J. de, Dymond, A., Easton, M., & Probert, T. (2022). A global lethal force monitor: comparative opportunities and challenges. *Homicide Studies*.  
doi:10.1177/10887679221121146

Version: Publisher's Version

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Downloaded from: <https://hdl.handle.net/1887/3483815>

**Note:** To cite this publication please use the final published version (if applicable).

# A Global Lethal Force Monitor: Comparative Opportunities and Challenges

Homicide Studies

1–17

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DOI: 10.1177/10887679221121146

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## Abstract

Comparison across jurisdictions is one way of assessing the appropriateness of lethal force resulting from the actions of law enforcement agencies. This article sets out a vision for a global use of force monitor that can enable meaningful comparisons between law enforcement agencies. It examines some of the opportunities and challenges associated with developing such a monitor in relation to (i) the legal frameworks in place governing use of lethal force; (ii) how official state agencies record and respond to deaths; and (iii) the contexts for the use of lethal force.

## Keywords

lethal force, law enforcement agencies, accountability, data, comparison

As illustrated by other contributions to this special issue, today various efforts are underway to determine when, and how often, law enforcement officials (LEOs) use force that leads to death. Despite promising local and national initiatives, however, there has been little international comparative analysis to date.

This article examines some of the opportunities and challenges associated with international comparisons between law enforcement agencies (LEAs) and aims to set

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out the case for, and possibilities around, a global lethal force monitor. After setting out a general case for the potential of comparative force assessments in the second section, we examine how a monitor could make meaningful comparisons related to: (i) the legal rules in place governing LEAs use of lethal force (section 3); (ii) the policies and practices in place in LEAs and other official state agencies for recording and responding to deaths (section 4); and (iii) the contexts for the use of force (section 5). This vision for what is needed derives in significant part from two pilot studies undertaken by the authors across six jurisdictions (Belgium, England & Wales, France, the Netherlands, Kenya, and South Africa) to assess the policies and practices designed to ensure the accountability of LEAs vis-à-vis lethal force. The penultimate section sets out further opportunities and challenges associated with the creation of a global monitor. As such, while we draw on two previous reports *Police Lethal Force and Accountability: Monitoring Deaths in Western Europe* (Rappert et al. 2021) and *Toward a Lethal Force Monitor* (Gandhi et al. 2021) in Section 4, we extend these publications by putting them in the context of other comparative work and setting out a more comprehensive rationale for, and next steps toward, the creation of such a monitor.

## Lethal Force: Knowns and Unknowns

There are a range of initiatives at the national level to document and analyze lethal force resulting from law enforcement agencies. While much of the academic work is concentrated on the United States of America (e.g., Arseniev-Koehler et al., 2021; Degue et al., 2016; Delehanty et al., 2017; Jacobs & O'Brien, 1998; Jennings & Rubado, 2017; Nicholson-Crotty et al., 2017; Shah, 2019; Shane, 2018; Taylor, 2020; Zimring, 2020), civil society organizations, community groups, concerned citizens and others are working in a variety of countries to document deaths and enhance police accountability following the use of lethal force (e.g., see Authors; Knoetze, 2022; The Nation, 2021). There have also been attempts to compare official statistics with unofficial data (e.g., media reports), and to facilitate the collection of the latter (see Nguyen & Nguyen, 2018; Ozkan et al., 2018). Broader research has also been conducted on the differences in, and predictors of, the type, degree, and proportionality of force used by officers (Alpert & Dunham, 1997; Chaney & Robertson, 2013; Klockars, 1995; Kuin et al., 2020; McCarthy et al., 2021; McCluskey et al., 2005; Miller, 1998; Noppe, 2019; Stanley, 2004; Terrill & Mastroski, 2002; Terrill & Reisig, 2003; Timmer & Visser, 2015; Worden, 1995), and officer views on use of force (Noppe & Verhage, 2017; Phillips, 2010). However, these strands of work have not always looked explicitly at lethal force per se and have again tended to be national in remit with an emphasis on the USA.

With a few notable exceptions (including Chevigny, 1990; Flores et al., 2021; Osse & Cano, 2017), there are relatively few efforts to look at such issues internationally, and to compare trends and practices across countries. This is, perhaps, surprising as efforts have been made to monitor civilian deaths within and across armed conflicts (see, e.g., [www.everycasualty.org](http://www.everycasualty.org)) as well as deaths worldwide from violence (see, e.g., <https://grevd.org>) as part of efforts to track progress toward the Sustainable

Development Goals. While the World Health Organization (WHO) Classification of Diseases has a code for deaths due to “legal interventions,”<sup>1</sup> concerns have been raised around definitional issues (both in the WHO’s definition and more broadly<sup>2</sup>), inconsistencies between countries around what may constitute a legal intervention, as well as under-reporting (Small Arms Survey, 2015).

We contend that country comparisons are useful for (1) *normative*, (2) *programmatic*, and (3) *analytical* reasons.

- (1) From a *normative* perspective, such work is important because any use of lethal force by the state against an individual may amount to a violation of the right to life, and must be investigated. This is not to say that every such event is a human rights violation—in some cases LEOs may be justified, indeed even required, to use lethal force in order to protect life—but every incident involves the possibility that a violation has taken place. International human rights law is very clear: in such cases there must be a prompt, independent, and thorough investigation. At a minimum, comparisons across countries can identify similarities and differences in how LEAs translate the overall imperatives of international human rights law into national laws, policies, and local investigations of deaths. This, in turn, is important given the evidence showing that, despite concerns about the ability of laws and policies to influence police action on the streets, shifts in administrative policies can and do result in reductions in overall number of shootings, deaths, and use of so-called “less lethal” weapons (Terrill & Paoline, 2017).
- (2) From a *programmatic* perspective, relating varied LEA practice to the outcomes for affected parties sets a basis for identifying good practice. More generally, comparative analysis enables answers to be formulated to important questions that might be difficult to assess in relation to one jurisdiction alone; for instance: Are there particular policing tactics that are frequently associated with a lethal event? Is the deployment of a particular kind of “less-lethal” weapon resulting in a pattern of deaths? However, this potential comes with a significant disclaimer since it is vital that data is collected in a format that allows for comparisons. While information about the legal status of the use of force (for instance, whether a domestic court or other disciplinary body adjudicates the conduct of the LEO to have been appropriate or not) can also be extremely interesting to researchers, such information is likely to be influenced by a host of other factors.<sup>3</sup> Therefore the base data about the incidence of deaths following police contact, rather than interpretations of lawfulness, is the most plausibly comparable.
- (3) Formulating assessments to answer important questions about lethal force as well as realizing the opportunity for “learning lessons” about the recourse to the use of force by police requires knowing how many such incidents occur (United Nations, 2016, para. 16; United Nations, 2019, para. 27). More than this, learning lessons requires the collection of granular data about the circumstances of

each death and its investigation. From an *analytic* perspective, comparative work directs attention to the particulars and adequacy of data gathering at this granular level through bringing to the fore the contingencies associated with the historically-derived conventions operating within individual jurisdictions.

In light of these possibilities and qualifications for comparative analysis, the following three sections set out a vision for a global monitor in relation to three key areas: (i) the national legal frameworks in place governing LEAs use of lethal force; (ii) the official policies and practices in place for recording and responding to deaths, and (iii) the contexts for the use of force (section 5).

## Comparing Legal Frameworks

A first strand of our vision for a monitor consists of the analysis of domestic rules on the use of force by law enforcement agencies worldwide, as these rules constitute some of the most direct determinants of how LEAs use force. As discussed above, the international standards that guide the use of force and firearms by state agents are relatively clearly established (especially with respect to lethal force). However, in many instances the national legal frameworks predate those standards, and the national frameworks have not necessarily been updated. The wide variance between national legislation on this topic has long been recognized as an international concern (Heyns, 2014). Building upon that insight, a first dimension of a global lethal force monitor could be to compare and contrast the national legislative frameworks for every country in the world. This task has been undertaken by one of the authors in collaboration with others as part of the creation of the *Law on Police Use of Force Worldwide* database. The creation of this database did not entail generating new information—the laws and policy documents should already be public—but bringing them all together in one place, and in some cases translating laws into English, to facilitate reference and comparison that would otherwise be burdensome.

In addition to uploading the original text of the law, the database contains a commentary, produced by researchers at the University of Pretoria and their partner organizations, that compares the available information about the national framework in each case to the prevailing international standards, across a number of recurring reference points. These points include: whether the national law limits the use of potentially lethal force to those circumstances involving an imminent threat to life; whether, if that is not the case, the law permits the use of potentially lethal force in the defence of property, or to prevent the escape of a detained person; whether national legislation includes specific standards for the use of firearms; whether the law provides for some kind of immunization of LEAs from civil or criminal liability for their use of force in the line of duty. Where such mechanisms exist, the database also includes information about, and legal foundations for any independent oversight mechanism.

The database was initially intended as a reference point for researchers or policy-makers with an interest in the legal provisions of a particular country, rather than as a tool for direct comparison. However, as a secondary step, a set of “traffic-light” indicators has been added to each country-profile to provide a broad categorization. Of the

countries upon which further research has been conducted (see below) one was “green” (United Kingdom), while five were “amber” (Belgium, France, Kenya, the Netherlands, and South Africa). The data collected by *Law on Police Use of Force Worldwide* thus provides a solid (and relatively level) foundation to inform a comparative global database on police use of force.

## Comparing Recording and Responses

A second strand of work that could inform a global lethal force monitor has been concerned with comparing the policies and practices in place for recording and responding to deaths. For the sake of brevity, attention in this section will be with the policies and practices of LEAs and other related *official* agencies.

We can begin by noting that international standards and principles—most notably the *UN Code of Conduct for Law Enforcement Officials* and the *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*—task states to effectively report incidents of force, especially when they result in death. The *Basic Principles*, for instance, stipulates that law enforcement officials must promptly report internally to their superiors any incident in which an injury or death is caused by police use of force (Principle 6), indeed any incident in which a firearm is used, regardless of its consequence (Principle 11(b)). They moreover require external reporting, stipulating that in cases of death and serious injury, “a detailed report shall be sent promptly to the competent authorities responsible for administrative review and judicial control” (Principle 22). More recently, soft law in the form of the *UN Human Rights Guidance on Less-Lethal Weapons in Law Enforcement* has gone into more detail on the steps required beyond internal or external reporting. This *Guidance* makes clear that states must monitor the use and effects of all weapons used for law enforcement purposes (s. 4.3.1). This should include collecting contextual information about the circumstances of their use, and data about persons against whom force is used (disaggregated, e.g., by age, sex/gender, disability, and ethnic group; s. 4.3.2). Importantly, the *Guidance* establishes that the results of this monitoring should be made public, including, as a minimum, national statistics on deaths and serious injuries relating to different categories of less-lethal weapons (s. 4.3.2). A key responsibility of LEAs is the requirement to account for how they implement and comply with the duties set in international standards and principles as well as elsewhere.

In light of the scant comparative analysis of LEAs implementation of such responsibilities, the authors and other colleagues produced two reports in 2021 through funding by an Open Society Foundation (with additional support from the Oak Foundation):

\* *Police Lethal Force and Accountability: Monitoring Deaths in Western Europe* assessed the policies and practices in place for recording deaths resulting from or connected with law enforcement activities, as well as the availability and reliability of relevant official data, in four jurisdictions: Belgium, England & Wales, France and the Netherlands (Rappert et al. 2021).

\* *Toward a Lethal Force Monitor* extended the previous report by conducting a parallel analysis of Kenya and South Africa (Gandhi et al. 2021).

Both reports broke down the analysis of *official* agencies' activities in relation to four categories of concern: (i) data collection and publication, (ii) data quality,<sup>4</sup> (iii) investigations, and (iv) data analysis and lessons learnt. These four categories were derived from an initial comparison of the procedures, policies, and practices in each of the jurisdictions covered, as well as consulting the secondary literature. Provisional assessments and classifications of countries against these criteria were initially made by the country lead researcher and subsequently discussed by the research team and, where necessary, adjusted to ensure consistency across countries. A number of key stakeholder organizations and experts also provided comments on the factual accuracy of the country case studies. Due to considerable time delays associated with how official data becomes public, the analyses of the jurisdictions focused on either the year 2018 or 2018 to 2019.

While identifying elements of good practice in many jurisdictions, both reports argued the policies and practices for recording, investigating, and disclosing information on lethal force were wanting. Rather than summarize the findings of these reports, this section provides a cross-cutting thematic review of them in relation to what both suggest about the opportunities and challenges of devising a global lethal force monitor.

### *Use of Force Data*

Given the aforementioned strong normative requirement that deaths potentially linked to LEAs must be investigated—and that basic information about them should therefore be publicly available—it is striking how little consistency there was between even the six jurisdictions covered. France was the extreme outlier. In 2018, only the total number of recorded injuries and fatalities associated with the National Police were made public by its General Inspectorate. This was done without any supplementary information about the recorded fatalities (name, location, ethnicity, age, sex, and type of force used) as well as without elaboration of the methodology used for data recording. For the other main LEA in France, the National Gendarmerie, no information about injuries and deaths during its operations was made public.

Another outlier relates to how data was collected. In five of the six jurisdictions examined, data collection on use of force was mainly based, initially, on reports from either the individual police officer or their superiors made to an internal or external body. In the sixth, Kenya, this was also meant to be the case, but levels of compliance with this requirement have precipitously declined in recent years. Any gaps in self-referral are partly filled by the possibility for citizen complaints to an oversight body in each jurisdiction. The complaints procedure can shed additional light on a specific case, or add nuance to a possible over- or underreporting of police lethal force. Nevertheless, it is often unclear to what extent citizen complaints are integrated into the data collection.

From an analytic perspective, the diversity in what kinds of information is available across jurisdictions makes cross-national comparison extremely challenging. In order

to enable meaningful comparisons, some basic requirements are necessary. For instance, there are certain categories of information that need to be presented in any data so as to avoid duplication (for instance, dates, places, and basic biographic details of the victim). In order for LEAs and other stakeholders to learn lessons from the data, further details are required. This includes listing the cause of death, the specifics of the weapon or equipment involved, and the policing context (such as before or during arrest, in custody, or in crowd-control).

However, the mere availability of accurate data about lethal force instances is not sufficient to address concerns in the police and in civil society. Instead, data must be accessible in such a manner that it can be readily utilized. Take the case of England & Wales. This jurisdiction provides something of an opposite case to that of France in the amount of information that has been made available about the use of force as well as about the methodologies employed. Although it is not a legal requirement, two official agencies publish aggregate statistics on police use of force: the Independent Office for Police Conduct (IOPC) and the Home Office. Following the introduction of the new Home Office collated use of force reporting system for police forces in England & Wales in 2017, at least 30 police services have made some changes to their policies and practices. However, despite such initiatives there were, and remain, limitations with regard to the kinds of data produced. The Home Office itself noted that its figures do not represent the number of deaths caused following use of force due to the way in which data is collected. While the Independent Office for Police Conduct (IOPC, 2018) annual publication titled *Deaths During or Following Police Contact* included details on relevant instances, deaths following police use of force fell under multiple headings of the IOPC's analysis. As a result, identifying cases in which force was used requires detailed analysis of multiple sections of the report. Taking stock of the previous points in this paragraph, a distinction needs to be acknowledged between data that is notionally available and data that can be accessed in a manner that serves to promote analysis and accountability. In other words, any future monitor will need to address the "useability" of data.

### *Accountability and Independence*

States are obliged to ensure that law enforcement officials are held accountable for their actions. To that end, LEAs must establish sufficiently independent and effective internal accountability mechanisms. In addition, the aforementioned *UN Human Rights Guidance on Less-Lethal Weapons in Law Enforcement* notes that "States should consider the establishment of an adequately resourced external oversight body, in the absence of which an ombudsman or national human rights institution should fulfil this external oversight function" (s. 3.1). In addition to referrals from police officers, such mechanisms will usually have a means of receiving complaints from members of the public, either directly or through intermediaries. Given the role that these bodies can play in producing trusted statistics and publicising data, and the



important role they can play in fostering accountability, we examined the potential and challenges with such bodies' independence.

Three of the six case studies examined—England & Wales, South Africa, and Kenya—have dedicated external police oversight mechanisms. Those institutions have clearly established legal mandates to investigate or to oversee the investigation of a range of potential offences committed by police officers, and all incidents resulting in death. For these three jurisdictions the relevant police service is under a legal obligation immediately to refer all such cases to an independent body. These bodies though have their own working remits that both underpin and delimit their activities. For instance, when the IOPC conducts its investigation, it determines whether there are grounds for (gross) misconduct and/or criminal conduct to answer for, but does not control the answers issued. The IOPC can pass a case to the national prosecution service and require that police forces hold a misconduct hearing. However, again, the outcome of such processes are removed from the IOPC. All three independent bodies across England & Wales, South Africa, and Kenya produce reports at least once a year outlining the number of cases and investigations they conducted, but with varying detail.<sup>5</sup>

Despite their formal independent status, oversight bodies are often reliant on cooperation from other agencies—in relation to expertise, materials, or funding—so as effectively to perform their functions. In South Africa, the Independent Police Investigative Directorate (IPID) is legally mandated to investigate and report on various allegations of police misconduct, but it has been vulnerable to significant levels of political interference. There can also remain concerns about “functional independence” (and impartiality) of external bodies, linked to questions such as the profile of investigative staff.

In the three remaining jurisdictions, the responsibility to investigate deaths following police contact fall to an LEA internal department or one closely related. The Inspection Générale de la Police Nationale in France is composed exclusively of police officers. Not only are investigative inspectorates for the National Police and the Gendarmerie for all intents and purposes done within the existing law enforcement architecture, their investigations and reports (as well as the reports of judicial inquiries) are not made public.<sup>6</sup> While the inspectorate for the National Police has started to produce limited information on judicial and disciplinary investigations, there was no such information available for the National Gendarmerie. In addition, no official information was published on court cases involving officers from either policing body. In Belgium, there are multiple mechanisms that are able to supervise police use of (lethal) force. Each police force has an Internal Supervision Service which is an integrated part of the internal police hierarchy. These services function as a first contact point in handling complaints, conducting proactive investigations and supporting policy. The General Inspection Service and the parliamentary Committee P are outside the formal police institutional hierarchy and can carry out independent investigations of the use of force on their own initiative, though they partially rely on seconded officers.

Beyond the organizational status of oversight bodies, the involvement of relatives of the bereaved is another important characteristic of the accountability

of investigations, and one which also speaks to the credibility of, and trust in, the oversight bodies themselves. This consideration displayed marked variations across the countries examined too. Again, France represented one extreme. Relatives of the deceased were not involved in any meaningful way in the investigations of the police inspectorates. Instead, their roles were limited to that of potential complainant or witness. Elsewhere, relatives were given more significance. At least according to the formal policies in place, in South Africa those investigating deaths should visit the deceased's next-of-kin within 24 hours. However, it was not obvious how often this requirement was followed. Likewise, in Kenya the relatives or friends of a deceased person were meant to be notified by the independent police oversight agency of any use of force that leads to death. From that point of time on, families of the deceased should be involved in the early stages of official investigations and updated regularly. The adequacy of actual updates has been a matter of some concern. In recent times, the Kenyan oversight agency has developed a training curriculum for Victim Support that covers interviewing families as well as communications about the status of the investigation.<sup>7</sup> The existence of such training speaks to the manner in which the appropriateness of family involvement depends heavily on the quality of interactions between law enforcement-related agencies and others. This person-to-person quality is not something that can simply be read off from the formal policies and, therefore, requires considered efforts to assess.

### *Learning Lessons?*

Data analysis and the scope for learning lessons from incidents of fatalities are the most serious concerns across the board for the six jurisdictions examined. While some of the jurisdictions have processes in place for learning from past deaths and adjusting strategies and policies, the extent to which this happens in practice is questionable and each still has room for improvement.

Take the Netherlands. Each year the public prosecutor's office publishes a list of incidents involving the use of a firearm that have been investigated by the State Criminal Investigations Department (*Rijksrecherche*) and how many deaths have resulted following police use of a firearm. More detailed data are not published and not publicly available. Until 2021, there was no publication of the number of deaths following other types of police use of force (or deaths in police custody). However, over the past decades the minister responsible for the police and the Dutch police both commissioned a large number of independent studies into police use of force, including police use of firearms. Thoonen et al. (2015) undertook a study on the deaths of 78 people that occurred under the responsibility of the Dutch police in the period 2005 to 2010. They concluded that several factors—such as differences in police and justice systems, the diverging inclusion criteria used in studies on this subject and the fact that the total number of people taken into police custody are often not centrally registered—hampered an international comparison of available data and the learning of lessons. Most recently, an independent study was started into fatal incidents involving police use of force (De Boer et al., 2022). These studies have been used explicitly to

change the official instruction on the use of force (*Ambtsinstructie*), to adjust force training, and to make decisions about (the need to) acquire new weapons. This does not imply that recommendations from these studies are always acted upon. In recent years, after the formation of a national police force, police also carry out their own (limited) analyses of use of force data (not specifically on deaths as a result of police use of force). Since 2019, a formal attempt has been made to decouple accountability procedures from learning processes with the specific aim to improve learning, both at individual, local, and regional level.<sup>8</sup>

Concerns elsewhere can be noted. What recommendations have been made by the Independent Policing Oversight Authority (IPOA) in Kenya into deaths caused by the police have been largely ignored, and cooperation from the National Police Service remains a significant challenge. Similarly, while IOPC (2018) data for England & Wales does provide some analysis of deaths following police contact, including tables detailing the ethnicity, age, and gender of those who died, the IOPC annual report contains no recommendations for preventing future deaths.<sup>9</sup> It is also noteworthy that an Independent Review of Deaths and Serious Incidents in Police Custody (the so-called *Angiolini Report*), found that there had been a “failure to learn lessons and to properly consider and implement recommendations and advice from . . . interested organizations and from previous reports and studies” (Angiolini, 2017, p. 13). Overall, this failure arguably remains to this day.

Based on the *Police Lethal Force and Accountability* and the *Toward a Lethal Force Monitor* reports, this section spoke to the diversity and extremes of how official agencies record and respond to lethal force. As an overall upshot, it seems clear that comparative analysis can highlight important matters about the operation of LEAs and others, but also that there are challenging demands in assessing the operation of LEAs and oversight agencies (see below).

## Comparing Contexts

While some analysis, such as that discussed in the previous section, has attempted to assess and compare the reliability of statistics on lethal force, other work has attempted to use statistics to compare the incidence and patterns of use of force across countries. Such work could inform a third strand of a global lethal force monitor. For example, *The Monitor of Use of Lethal Force* was launched by several institutions in Latin America (Bergman et al., 2020), and has recently been extended to cover South Africa (Cano, 2021). This work aims to calculate overall indexes of use and abuse of lethal force in order to assess whether, and to what extent, overall levels of force are excessive, and to explore how lethal force is patterned.

These assessments, which have been conducted in Brazil, Colombia, El Salvador, Mexico, Venezuela, and South Africa, have thus far focused on the intentional use of firearms by on-duty LEOs, due to difficulties in data collection around other lethal force incidents. Two sets of indicators have been developed. The first set of indicators aims to assess the incidence of lethal force both in *absolute* terms—that is, by calculating the total number of people killed by on duty LEOs by gunshot, and the number of

on-duty LEOs killed by gunshot—and in *relative* terms. Relative indicators assess the rate of civilians killed in relation to the overall population of the country in question, the number of LEOs, the arrest rate, and the number of firearms seized and so on. The second set of indicators aims to assess the abuse of lethal force. It does so by comparing the number of people killed by LEOs in the circumstances indicated above to a number of measures, including the total number of homicides in the country in question; the number of on-duty LEOs killed by gunshot; and the number of people wounded by gunshots fired by on-duty LEOs. It also calculates the average number of civilians killed in an individual incident. This methodology is not intended to assess whether the use of force in any particular instances was (or was not) excessive, but rather is intended to assess the proportionality of deaths overall, taking into account the various indicators listed above (Cano, 2021, p. 12), and to allow international comparisons.

On this basis, the analysis done so far indicates that, in general terms, issues around the use and abuse of lethal force are more acute in the Latin American countries studied when compared to South Africa. However, this offers little comfort, not only because the Latin American countries studied were selected on the basis of their high levels of lethal force but also because the ratio of civilians to law enforcement officers killed in South Africa is concerning both in absolute and relative terms (Cano, 2021, p. 20).

In seeking to derive comparative indicators, this line of assessment is critically dependent on the quality of the data underlying it. As indicated in the previous section as well as in wider literature about police lethal force, official data can be wanting both in relation to its comprehensiveness and its comprehensibility. Therefore, a global force monitor would need to consider the advisability and possibility for drawing on non-official data (see Nguyen & Nguyen, 2018; Ozkan et al., 2018).

## **Toward a Global Lethal Force Monitor**

The previous sections examined some of the lines of work that could inform a comparative lethal force monitor. In particular, three different bases for comparability have been identified: assessments of the legal frameworks in place governing use of lethal force; assessments of how official state agencies record, collect, and publish data, and respond to deaths and, finally, assessments of the contexts for lethal force.

To date these three strands of work have been running in parallel, with each focusing, separately, on an important aspect of LEA lethal force. Yet, far from being separate, these strands are closely interlinked. Just as oversight bodies are often reliant on co-operation from other agencies, so too are assessments of one element of lethal force often reliant on assessments, calculations, and assumptions produced for other elements. For example, assessments of data recording and publication, in and of themselves, cannot provide definitive calculations of deaths, while calculations of such deaths, and death rates, using official statistics would almost certainly benefit from further critical assessment of the process by which these statistics are produced. As Cano's (2021) work illustrates, gaps in, and issues with, the data that is collected have

complicated efforts to assess the incidence and proportionality of lethal force (p. 18). Furthermore, assessments of proportionality and legality can only be understood in relation to the legal regimes in each jurisdiction. Yet, assessing the laws and policies around the use of lethal force is necessary, but not sufficient, to understand and address the use of lethal force in practice. Ultimately, it is very limiting to take any of the three strands examined previously in isolation.

As such, there is an opportunity for future work to build on these complementary initiatives by producing a combined lethal force monitor that brings together these strands to develop a more comprehensive understanding of lethal force. This type of approach could provide benchmarking standards, comparative indicators, and evidence based recommendations, nationally, regionally and globally, around such matters as: the legal framework on the use of lethal force; how, and how often, lethal force is used in practice (in both absolute and relative terms); what information is collected, produced, and published on lethal force by official agencies and non-official sources; what analysis, if any, is conducted based on such data; as well as the extent to which lessons are learnt following fatal incidents. It is clear from the previous sections that comparative analysis can highlight important variations in practice. At minimum, the identification of these variations underscores the need to press questions about LEAs' practices and their openness about those practices.

However, the ambitions for a global monitor raise a number of questions and challenges. Remaining at the analytic level of how a monitor could make meaningful comparisons, this article ends by mentioning some of the pressing but not insurmountable challenges. One includes how best, if at all, to combine a focus on measuring, and assessing data around, police use of lethal force at the national level—and the international comparisons this might make possible—with a focus on pushing for truly global sources of data collection that might be spearheaded by international agencies such as the WHO, UNODC, and others. So, too, a monitor should be seen as complementing, not detracting from, the core responsibilities of States, and police forces.

Definitional issues and reporting thresholds would also need close examination. While lethal force may, at first, appear self-explanatory, once the category is examined more closely, complications become apparent. These include, for example, whether the focus is restricted to firearms deaths or all uses of force; if so, how use of force is to be defined (e.g., would traffic collisions be included); how, if at all, to include deaths at the hand of off-duty officers and how, if at all, to include cases where people are “disappeared” by the State.

Similarly, another issue would be to what extent, when, and how to broaden the geographical scope of any monitor, particularly in states without a prior tradition of external oversight of police use of force. All of the six jurisdictions given extended attention in this article have a dedicated oversight architecture for their law enforcement agencies. With the exception of France, that architecture includes agencies with some kind of independence from their corresponding police force. It is such institutional similarities that have enabled broad comparative evaluations. In the absence of a dedicated oversight architecture, comparative assessment will be much more difficult. Moreover, as the monitor expands there is a balance to be struck between

providing common standards for assessment—based on the three strands discussed above—while allowing for flexibility in light of different country concerns.

In addition, a global monitor would also need to acknowledge how police forces are organized within a country. In general, a differentiation can be made between three different systems: a unified system (a single hierarchically organized police force), a territorially divided system (two or more police forces, but highly similar structure, often with similar competences) and a historically diverse system (two or more police forces, structured differently, often with different competences). The manner in which police forces are structured can influence the appropriateness of accountability mechanisms and oversight bodies and may, in turn, affect the kind of data a monitor can collect. Even across the limited range of jurisdictions examined in section 4, it was clear that a diverse range of accountability mechanisms exist; (ii) some mechanisms can be questioned in relation to their status as independent or external; (iii) accountability for lethal force is poorly understood by examining individual oversight agencies in isolation; (iv) assessing accountability can be challenging since it is secured by the quality, rather than the mere existence, of activities.

Finally, another related challenge would be how best to ensure the relevance and utility of a monitor for a wide range of stakeholder groups, including police agencies, oversight bodies, civil society groups, those with lived experience of the issue and others, while simultaneously ensuring that the monitor has its own value and identity independent of any one national or international constituency and is seen as a credible resource by all. Further, just as one strand of the monitor may wish to assess the extent to which bereaved families are involved in investigations, and the extent to which relevant agencies are learning lessons from previous incidents, so too these are important points of reflection and challenges for the monitor itself. How should a monitor best involve those with direct experience of use of force—be those the family of those that have died, close friends, witnesses, officers involved in fatal incidents—and how can it best reflect on lessons learned and points for improvement for the monitor itself? Such processes and on-going commitments are, arguably, made more difficult by the nature of many funding sources which, while valuable, tend to be shorter term in nature, contrasting with the desire for a monitor that is sustainable and capable of contributing to change in the longer term.

## Conclusion

Against international standards and principles tasking states to effectively report incidents of use of force, especially when they result in death, this article has put forward an initial vision for a global monitor of lethal force by LEAs. That vision has included the articulation of why a monitor would be useful for normative, programmatic, and analytical reasons, as well as some of the challenges involved. The vision set out has included regard for national legal frameworks, official policies, and practices in place for recording and responding to deaths, as well as the contexts for the use of force. A starting rationale for proposing such a monitor is that systematic international com-

parisons enable contrasting how individual states interpret, implement, and complement national and international legal requirements.

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### **Declaration of Conflicting Interests**

The author(s) declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

### **Funding**

The author(s) disclosed receipt of the following financial support for the research, authorship, and/or publication of this article: Background research underpinning this article has been provided by an Open Society Foundations project titled "Toward a Lethal Force Monitor" (R2019-64456). Supplementary financial assistance was also given by the Oak Foundation.

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### **Notes**

1. Which is defined as "action by police or other law enforcement personnel" (WHO, 2021).
2. For example, whether and how deaths involving the use of force by off-duty officers, and deaths following road traffic accidents should be included within definitions.
3. Including, but not limited to, the domestic legal regime regulating the use of force.
4. With this category broken down into along four dimensions: (i) How reliable are the sources used to produce official statistics about deaths? (ii) Is there an internal quality assurance and is this data verified? (iii) Is the methodology used for data collection publicly specified? (iv) How reliable are the overall figures produced?
5. There remain contested cases at the margins of their mandate, including the review of cases of use of force by other state actors exercising a law enforcement function (such as immigration enforcement).
6. In addition to the official investigations of the inspectorates, there were also investigations carried out by an Ombudsman and their findings were made public. However, the opinions set out were advisory and rarely enacted by authorities.
7. See APCOF et al. (2020).
8. This was done partly in response to a critical report by the National Ombudsman on police use of force published in 2013 that concluded that the police were insufficiently reflective. In addition, an NGO, ControleAltDelete, consistently draws attention to police use of force and ethnic profiling by police. Based on information in the media, they compile lists of individuals that died as a result of police use of force or in police custody.
9. The IOPC note that, as it is intended as a purely statistical report, it is not the appropriate mechanism to do so. Instead, the IOPC argue that recommendations can be found in a variety of other places, but recommendations that have been made following a death pursuant

to a use of force are not always immediately apparent.

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