



PRELIMINARY FINDINGS OF THE ACLU HUMAN RIGHTS DOCUMENTATION RESEARCH IN PUERTO RICO

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Since 2004, the ACLU of Puerto Rico has documented numerous cases of police brutality in Puerto Rico. Between March and May 2011, the national office of the ACLU conducted fact-finding human rights research in Puerto Rico to further document allegations of police brutality. This document is a preliminary report of the ACLU researcher's initial findings. The ACLU's final research findings will be detailed in a full-length report to be released in September 2011.

I. About the ACLU's Fact-finding Human Rights Research

For two weeks in late March and early April 2011, and for one week in May 2011, the ACLU researcher conducted fact-finding research in San Juan, Puerto Rico to examine:

1. Excessive use of force by police against university students, union leaders, workers and other protesters at the University of Puerto Rico (UPR), the steps of the Capital Building, and elsewhere—including pepper spraying, shooting with rubber bullets and beatings with nightsticks.
2. Restrictions on freedom of expression and assembly, and restrictions on the freedom of the press.
3. Other instances of police brutality, including excessive use of force by police in low-income communities and communities of African and/or Dominican descent.

The research focused on the following categories of police violence and abuse:

1. Police violence against striking students at the UPR and student protesters at other locations.
2. Police violence against protesting union leaders and workers at various locations, including outside the Capitol building, governor's mansion, Supreme Court and outside a fundraiser for the governor.

3. Police violence against citizen demonstrators outside the Capitol building, protesting the closure of legislative sessions to the public and other issues.
4. Police violence and restrictions on press covering protests and legislative sessions.
5. Police abuse against low-income Afro-Puerto Ricans (in the towns of Villa Cañona, Loíza, and housing projects in other locations) and Puerto Ricans of Dominican descent (in Villas del Sol and other locations).
6. Lack of investigation and punishment for excessive use of police force in documented cases of officer shootings of unarmed civilians, resulting in the death or severe injury of the victim.

The researcher conducted 50 interviews in Puerto Rico and heard testimonies from 14 additional students during a town hall meeting at the University of Puerto Rico.

The ACLU researcher interviewed or heard testimony from 24 university students, five union leaders, and other citizens who experienced excessive force and police violence when they participated in peaceful protests over the past two years. The ACLU also interviewed seven professional journalists and three student journalists who faced police violence and other restrictions when reporting on these incidents.

In addition, the ACLU researcher interviewed people who had been victims of extreme police brutality over the past five years, and lawyers who have represented victims of severe police brutality. In the cases in which the police killed or caused serious brain damage to the victim, the ACLU interviewed the parents, widow, children or lawyer of the victim.

Lastly, as part of the delegation of eminent persons that traveled to Puerto Rico on May 2 and 3, the ACLU researcher met with eight representatives of the governor's office, including the governor's chief of staff, the Attorney General and the Secretary of State; five representatives of the University of Puerto Rico, including the resident and chancellor of the Río Piedras campus; five representatives of the Puerto Rico Police Department, including the superintendent of Police and several auxiliary or deputy superintendents; and four senators and representatives of the majority and minority parties.

The ACLU documented numerous cases of police abuse against protestors and the press. Among others, the ACLU interviewed:

- UPR students attacked by police during various non-violent protests on the UPR campus, outside the gates of the UPR campus, outside the offices of UPR administrators, outside the governor's fundraiser at the Sheraton Hotel, and outside the Capitol building over the past two years.
- The father of a UPR student attacked and arrested by police for bringing food to his son in support of the student strike.

- A mother and teenage daughter attacked by police at a protest at the Capitol building, where they marched to protest the closure of the legislative sessions and the firing of thousands of public workers.
- A man attacked by police while protesting the tearing down of a heritage site for a hotel.
- Labor leaders beaten with nightsticks, tear gassed, and pepper sprayed by police at protests at the Capitol building, Supreme Court, and the governor's mansion to protest the mass firing of 23,000 public workers, the majority unionized.
- Photojournalists, an independent radio journalist, and student journalists subject to police restrictions and/or violence while covering protests (e.g. police impeded access to cover police abuse of protestors; police used force on journalists wearing clearly displayed press credentials), including a journalist injured by riot squad officers who violently pushed him, causing a persistent arm injury.
- A minority party member of the Puerto Rican House of Representatives beaten and injured by police while trying to intervene when she witnessed riot squad officers beating and pepper spraying student journalists at the entry of the Capitol building.

The ACLU documented numerous cases of police brutality against low-income communities and communities of African and/or Dominican descent. The people interviewed by the ACLU include:

- A mother whose unarmed son was executed by police, shot seven times in the back while in police custody, following an incident in which he tried to enter his ex-girlfriend's workplace.
- A young black man whose unarmed brother was shot in the head by police, rendering him quadriplegic, after police arrived at a party they both attended.
- A young man savagely attacked by police during a coordinated drug raid in his neighborhood; police broke the unarmed man's jaw, knocked out his front teeth, and beat him in the back; although no drugs were found in his home he was later charged with a drug crime after he filed a complaint about their excessive use of force.
- Two teenage brothers beaten by police during a drug raid of their community, and their mother, who was threatened by police when she tried to come to their assistance.
- A mother whose developmentally disabled son has been repeatedly attacked by police in her predominantly black community.
- A woman who was savagely attacked by police during an attempted forced eviction of a predominantly Dominican community.

- Two young Dominican men beaten by police in separate incidents; in both cases the young men were unarmed and required lifesaving surgery for their injuries.
- The lawyer of a man executed while lying on the ground following an argument with a police officer.

II. Preliminary Research Findings

The numerous incidents documented by the ACLU demonstrate a pattern and practice of violent police misconduct against the citizens of Puerto Rico. These incidents raise troubling questions about the Puerto Rican government's commitment to First Amendment protections.

The incidents documented by the ACLU include the following civil liberties and human rights violations:

Starting in the summer of 2010, students of the University of Puerto Rico have been involved in protests in opposition to an enrollment fee imposed by the UPR administration, after massive administration cuts to the university's budget. In order to quash the largely peaceful protests, the government of Puerto Rico activated the riot squad unit and other police units, resorting to excessive force against student protesters on numerous occasions. Students have been beaten with nightsticks, maced with pepper spray, and shot at with rubber bullets and tear gas canisters. Police have also applied pressure-point techniques on immobilized student protesters, including application of pressure in the neck, eye and jaw of the protesters to provoke pain, sometimes even causing unconsciousness. Female students have reported being sexually harassed, groped and inappropriately touched by police.

Union leaders and workers protesting the mass firing of 23,000 public workers have also faced police violence, including beatings with night sticks, tear gassing and pepper spray at close range. Police, including riot squad police, have violently quashed numerous peaceful worker protests at various public locations that are traditional sites for protest and expression, including outside the governor's mansion, the Supreme Court of Puerto Rico, and the Capitol Building.

On June 25, 2010, the President of the Puerto Rico Senate cut off public access to legislative sessions, even though it is mandated that all sessions are open to the public. On June 30, 2010, at a protest outside the Capitol Building over the closing of access to legislative sessions, protesters were beaten with nightsticks, pepper sprayed, and tear gassed by the Puerto Rico police, including the riot squad. A member of the legislature's minority party was hit with nightsticks, pepper sprayed and a ligament in her arm torn by riot squad officers as she was trying to intervene when she witnessed the riot squad beating five student journalists at the entryway of the Capitol. In one case, police beat and dragged a mother who attempted to shield her young daughter from physical abuse.

Journalists attempting to cover these incidents have faced physical assaults by police and other government-imposed restrictions, including physical obstruction by police, restriction of areas for press coverage and refusal to give access to information and locations such as the Senate

chamber. These government actions have limited journalists' ability to cover significant news stories even though they were breaking no laws.

Civilians subjected to severe police brutality, including lethal force, face serious obstacles to securing justice. Their administrative complaints often yield no results, they face long delays, criminal cases are rarely initiated against the officers reportedly involved, and the officers involved in the cases documented generally were not sanctioned.

III. Preliminary Findings Regarding Puerto Rico Police Department Policies and Practices

To its credit, the Puerto Rico Police Department (PRPD) has acknowledged that there is need for reform of police policies and practice, and it has initiated a process of reform that is expected to include the issuance of new use of force policies, training of cadets and officers on these new policies, and other much-needed reforms. The ACLU has identified the following problematic PRPD policies and practices that require attention during this reform process:

- As of May 2011, the PRPD has no protocols on the use of force, on the use of chemical agents (pepper spray and tear gas), or on riot police and crowd control policy. Moreover, the PRPD has no catalogue of all existing written directives and orders governing police action. PRPD leadership has indicated that the department plans to address these gaps through the issuance and cataloguing of these much-needed protocols.
- The PRPD does not make public any statistics on unlawful use of force, civilian complaints filed about police misconduct, investigations initiated or concluded regarding officers' excessive use of force, or numbers of officers disciplined for excessive use of force.
- The PRPD's internal method of tracking statistics generates inaccurate statistics on reported incidents of excessive use of force:
 - The 13 areas of Puerto Rico send monthly reports of number of police discipline cases divided by cause. In these monthly reports, multi-issue complaints are recorded in a problematic way that makes maintenance of accurate statistics on excessive use of force impossible. For example, if a complaint includes a serious allegation such as violation of civil rights and a less serious allegation such as insubordination, it will be recorded for statistical purposes as insubordination only.
- The PRPD fails to adequately record and analyze officer-involved shootings, which is a contributing factor in the PRPD's systemic failure to adequately investigate and punish excessive use of force and other police abuse:
 - There is no specific record-keeping and analysis of officer-involved shootings.
 - There is no requirement of a report other than the preparation of a standard "Incident Report Memorandum," which is the same report filled out with respect to a crime alleged to have been committed by any civilian.

- There is no special treatment of complaints of officer actions resulting in the death of a civilian.
- In cases of officer-involved deaths of a civilian, if there is doubt about whether the shooting was in self-defense, or if the particular circumstances are not known, the Area Command prepares the standard incident report about the death of a person; no special reports are prepared, nor does the incident appear in police statistics.
- The ACLU documented numerous problems with the PRPD's complaint process that lead to impunity for excessive use of force and other police abuse, including:
 - Excessive delays: PRPD administrative complaints often take years to resolve, due in part to the many steps (there are 14 steps, including reviews by hearing officer, legal division, etc.).
 - Excessive delays after complaints are referred for criminal investigation of alleged crimes by police officers. Where there is evidence of criminality, a complaint is referred to the Special Investigation Bureau (NIE) of the Justice Department instead of administrative investigation within the PRPD. There are excessive delays in the NIE process.
 - Failure to interview witnesses to incidents of excessive use of force, including civilian bystanders and other police officer witnesses to incidents.
 - Refusal by officers to initiate and process complaints by civilians who approach officers about filing a complaint regarding excessive use of force or other police abuse.
 - Failure of the PRPD to follow up on complaints filed by civilians regarding excessive use of force or other police abuse.
- The ACLU documented numerous problems with the PRPD's police disciplinary sanction process that lead to impunity for excessive use of force and other police abuse. The ACLU has documented numerous examples of the breakdown of the disciplinary process:
 - Failure to disarm officers involved in excessive use of force, even lethal force, against unarmed suspects
 - Swift re-arming of officers following incidents
 - Pro-forma evaluations
 - Policies regarding officers who return from suspensions for disciplinary reasons are not followed
 - Lack of attention to repetitive conduct. Moreover, currently there is no process for monitoring officers' disciplinary files, to flag repetitive conduct or take action to remove repeat offenders from the police force. Disciplinary files are not computerized, so it is very time-consuming to access any officer's past disciplinary complaints. PRPD leadership has indicated that the department plans to address this issue by computerizing disciplinary files.
 - The CIPA (Comisión de Investigación, Procesamiento y Apelación) process for officers wishing to appeal a disciplinary sanction imposed by the Police Superintendent or his Associate Superintendent usually overrules disciplinary

sanctions and/or orders the reinstatement of officers who have been ordered discharged from the police force due to unlawful use of force.

- The ACLU documented significant gaps in the training and supervision of officers, including:
 - Failure of high-level supervisors to establish protocols to provide for adequate supervision of officers who have offended.
 - Inadequate follow-up training of field officers after their initial training in the police academy.
- The ACLU documented a systematic failure to ensure officers can be identified by civilians who wish to report complaints of excessive use of force:
 - Police dispatched to protests are not wearing identifying name tags (they are removable Velcro tags) or are concealing identifying name tags with the pocket flap of their uniform. Booking papers do not indicate name of arresting officer in the majority of the cases of arrested protestors. The ACLU has also received reports that officers are exchanging badges with other officers to discourage identification.

To its credit, the PRPD has already accomplished the following much-needed reforms:

- Until February 2011, the PRPD had no standard trigger weight for police-issued weapons. Weapons were set to standard factory setting, as low as 5.5 and 6 lbs. In response to the shooting of an unarmed civilian at a Burger King, in February 2011 the PRPD set the standard trigger weight to 8.5 lbs (NYPD and LAPD have a minimum requirement of approximately 12.5 lbs trigger weight). The PRPD has changed 1500 weapons to conform to the new trigger weight standard, but still has to change 5000 already-issued weapons.
- Until recently, the PRPD has been using CN tear gas, which is toxic. The PRPD prohibited the use of CN tear gas on January 31, 2011; prior to that date the PRPD used CN tear gas on unarmed, peacefully protesting civilians. CN tear gas is generally no longer used by police forces because of its greater toxicity than CS tear gas.

IV. Conclusions

The government's actions, and particularly the actions of the police, are quashing protestors' constitutionally protected expression.

The government's actions are also restricting the First Amendment rights of reporters by impeding their ability to cover news stories, thereby also impeding the rights of the public to be informed.

The government should take immediate measures to ensure the safety and First Amendment rights of protestors during future protests and of the media when covering future events.

There are inadequate protections to ensure that police do not use excessive force against protestors and journalists. Better training, supervision, control and monitoring of officers' use of force are needed.

There are gaps in the existing oversight and disciplinary mechanisms for police who use excessive force. The government's failure to hold officers accountable for misconduct or improper, unreasonable and excessive uses of force has created impunity for these officers.

For more information, please go to: www.aclu.org/puertorico