



DEFENSORIA PÚBLICA
DO ESTADO DO RIO DE JANEIRO



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DO ESTADO DO RIO DE JANEIRO
Núcleo de Defesa
dos Direitos Humanos

Addressing Police Violence in Rio de Janeiro: A Practical Guide for Assisting Victims and Seeking Justice

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RIGHTS OF VICTIMS OF CRIME: A LEGAL FRAMEWORK IN BRAZIL

Relatively recent laws have ensured the rights of victims of crime in the course of a police investigation or prosecution.

The victim must not be seen as a means of obtaining evidence. On the contrary, they should be informed about their rights, about the direction of the investigation and the process, and about the forms of participation. All public agents involved in the investigation and prosecution must recognize the victim as a subject of rights.

Right to information

Right to be heard

Right to protection and confidentiality

Right to be referred to the protection program

Right to individualized professional treatment

Right to Legal Consultation or Assistance

Right to compensation for damage

Right to participate in criminal investigation and prosecution

1. Right to Information

Victims are entitled to **information about available legal, psychosocial, and health assistance measures**, as well as **updates on the progress and stages of criminal investigations and proceedings**. It is crucial that all involved public agents recognize victims as rights-bearing subjects in criminal proceedings.

2. Right to be Heard

Victims have the right to present their version of events and express concerns and anxieties to competent authorities. To prevent further harm and suffering, unnecessary repetition of the victim's statement should be avoided to **prevent re-victimization**. Particularly in proceedings related to crimes **against sexual dignity**, the victim must be safeguarded in their physical and psychological integrity. The following are expressly **prohibited by law**:

- I. Statement on circumstances or elements unrelated to the facts under investigation.
- II. Use of language, information, or material that offends the dignity of the victim or witnesses.

3. Right to Protection and Confidentiality

The judge must take measures to preserve the privacy, private life, honor, and image of the offended party. This may include **ordering the secrecy of justice concerning data**, testimonies, and other information in the records, aimed at protecting the victim's physical and moral integrity.

4. Right to be Referred to the Protection Program

The Program for the Protection of Threatened Victims and Witnesses (Provita) involves institutions such as the Bar Association, the Public Prosecutor's Office, the Public Defender's Office, and civil society entities.

5. Right to Individualized Professional Treatment

Victims have the right to receive support services and individualized professional treatment through multidisciplinary teams comprising professionals specialized in psychosocial and health areas. These services are generally provided by support networks integrating public services with those provided by civil society entities.

6. Right to Legal Consultation or Assistance

Victims have the right to receive **legal assistance** and technical clarifications on the law applicable to their specific case, **to be provided by a public defender** or lawyer. Basically, it consists of **filing a civil liability action and representing the victim in the investigation and criminal proceedings**.

7. Right to Compensation for Damage (Civil Liability)

Victims have the right to seek compensation for damages including pain and suffering, through a civil action filed by the Public Defender's Office or a lawyer.

8. Right to Participate in Criminal Investigation and Prosecution

Victims can actively participate in all stages of criminal investigation and legal proceedings, influencing the outcome. A landmark decision by the **Inter-American Court of Human Rights in 2017** emphasized the right of victims or their families to participate **formally and effectively** in criminal investigations conducted by the police or the Public Prosecutor's Office.

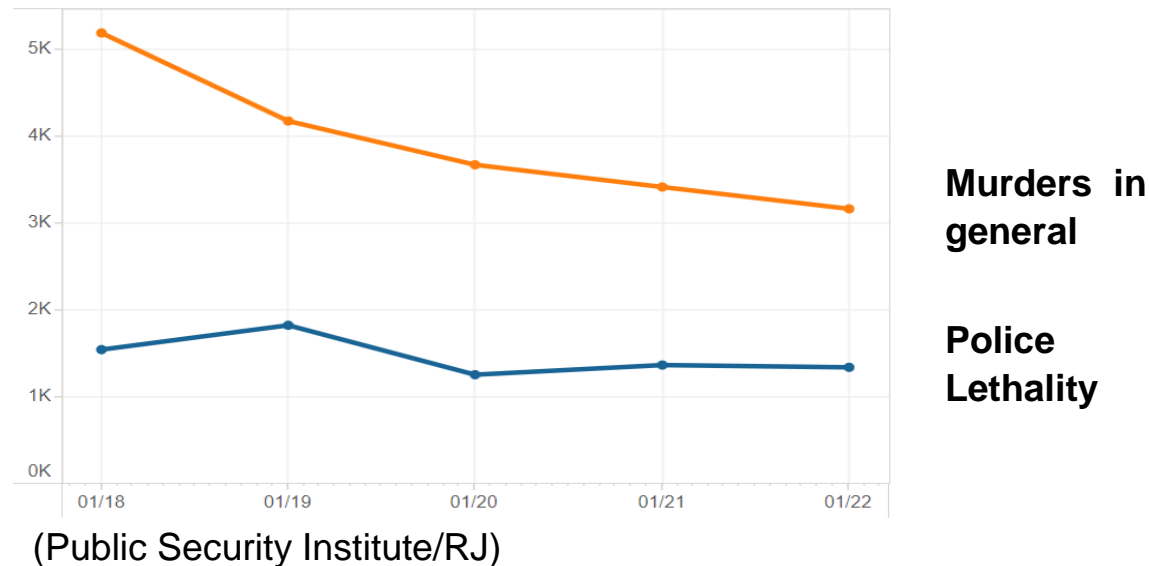


PUBLIC DEFENDER'S OFFICE: LEGAL ASSISTANCE TO VICTIMS

1. Cases of domestic and familial **violence against women** (Specialized Courts for Domestic and Family Violence against Women);
 2. Cases of death or assaults resulting from **state violence**;
 3. Cases of **victims of torture**.
- **Controversial point:** Public defenders to defend or to accuse?
 - These victims experience situations of **particular vulnerability**. Regarding victims of state violence and torture, **the vast majority of cases are closed without proper investigation**. The lack of investigation often serves as an **obstacle to filing a civil liability action** against the State due to a lack of evidence.

POLICE VIOLENCE

The Police of the State of Rio de Janeiro is one of the most lethal in Brazil. Only in 2022, 1.330 people were killed by the public security agents. This is a quite impressive and dramatic mark.



Until 2018, no data about torture, bodily injury or other cruel, inhuman or degrading treatment or punishment committed by the Police.

Annual Reports on torture: Rio de Janeiro

According to the annual Report on torture (2022) produced by the Public Defender's Office in Rio de Janeiro, between January 2022 and May 2023, there were at least 1,506 records of physical or psychological aggression:

- most alleged victims were **men** (96%), almost always **black or brown** (about 80%);
- more than half **aged between 18 and 40**, who did **not finish high school** (71%);
- report having been physically and/or psychologically assaulted **during arrest**, most often by state military police (85.6%).

Public Defender's Office: Protocol Against Torture


In 2018, the PDO of Rio de Janeiro issued a **Protocol for the Prevention and Combat of Torture**. Along with the assistance **Program for legal assistance for family members of victims of police Lethality**, they contain four axes:

Four Axes:

- **Monitoring;**
- **Strategic Litigation;**
- **Criminal defense;**
- **Protection, Reparation and Accountability of the perpetrators.**

When the public defenders interview arrested people presented at the pretrial hearing or inside the prisons, they must complete an online form noticing the occurrence of police violence.

These forms are sent electronically to the Human Rights Defense Unit of the Public Defender's Office, which examines case by case, for the adoption of individual measures, such as request for transfer to another unit, referral for medical examinations, request for initiation of investigation and, if there is sufficient evidence, lawsuit for compensation against the State).



29.33

991 20 13 8 8

ANDRÉ CASTRO

VERDE EM DADOS

MENU

Caixa de Entrada do Órgão

Filtro: CAIXA DE ENTRADA

Órgão: 3.ª DP DE DEFESA DOS DIREITOS HUMANOS

De:

Assunto:

Tipo: -

Buscar

+ Nova

	Data	Remetente	Assunto
<input type="checkbox"/>	21/06/2023 16:54	COORDENAÇÃO DO NÚCLEO DE AUDIÊNCIA DE CUSTÓDIA	Comunicado de Maus Tratos
<input type="checkbox"/>	21/06/2023 16:39	COORDENAÇÃO DO NÚCLEO DE AUDIÊNCIA DE CUSTÓDIA	Comunicado de Maus Tratos
<input type="checkbox"/>	21/06/2023 16:05	COORDENAÇÃO DO NÚCLEO DE AUDIÊNCIA DE CUSTÓDIA	Comunicado de Maus Tratos
<input type="checkbox"/>	21/06/2023 16:00	COORDENAÇÃO DO NÚCLEO DE AUDIÊNCIA DE CUSTÓDIA	Comunicado de Maus Tratos

The victim reports that the prison director assaulted her with a slap and other humiliating treatments.

This data is to feed the State Violence Panel, a business intelligence tool that allows you to carry out several analyses, with cuts by region, type of violence, gender, race, police district and even about each process and each police officer involved.

Data collected by the Public Defender's Office is automatically complemented with the Police Department's database, providing online and detailed information about the Police Register, especially identifying the police responsible for the prison and their respective districts.



FORMULÁRIO DO NÚCLEO DE ATENDIMENTO DE CUSTÓDIA

RG: 219164985	
[REDACTED]	
NÚMERO DE PROCESSO: 0 [REDACTED]-28.2023.8.19.0067	VARA: VARA CRIMINAL - COMARCA DE QUEIMADOS

ATIVIDADE POLICIAL

Ao Receber voz de prisão, foi informado sobre seus direitos, inclusive o de permanecer em silêncio (Advertência de Miranda)	Na rua, quando capturado, foi fotografado ou filmado por policiais?
-	-

TORTURA E MAUS TRATOS

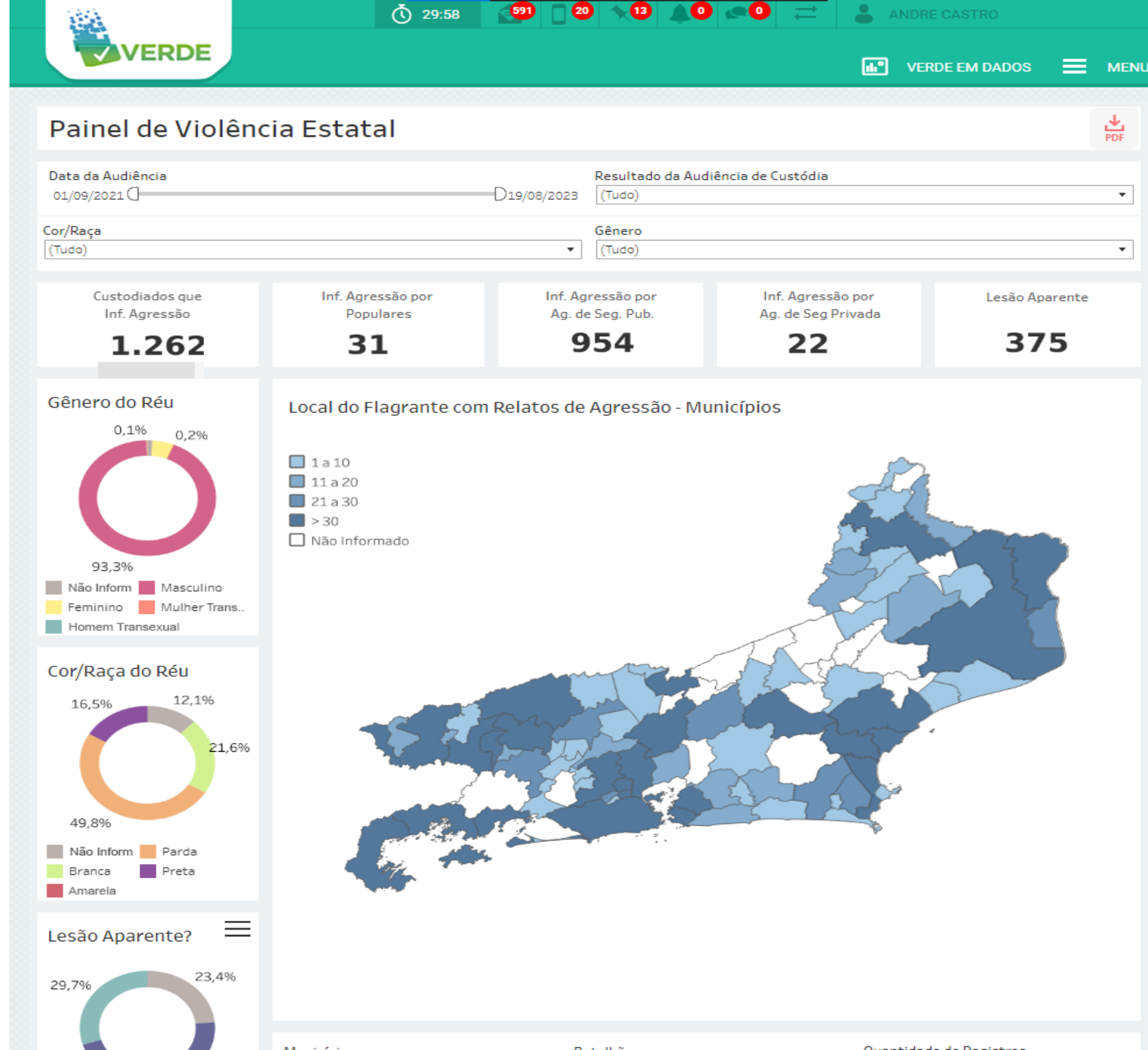
Sofreu maus tratos por ocasião da prisão ou posteriormente?

Sim	Lista de maus tratos Tapa/Chute/Soco (SLAP, KICK AND PUNCH)	
Local das agressões e/ou maus tratos Não informado.	Sobre o agressor Não informado.	
Lesão aparente? Não Informado.	Descreva: -	Foi submetido a perícia? Sim
Durante a perícia, informou sobre as agressões e/ou Sim		
Relato das agressões e/ou maus tratos de Custodiados tapa no rosto do diretor do Frederico marques; colocaram na roupa urina de rato;		

The map shows the cities with the highest number of reports. It can filter by police districts, period of analysis or cross with information about gender or race, type of aggression, existence or not of apparent bodily injuries and others.

Currently, we have been monitoring the occurrence of reports of violence by police districts, trying to identify the reason for the greater recurrence of cases.

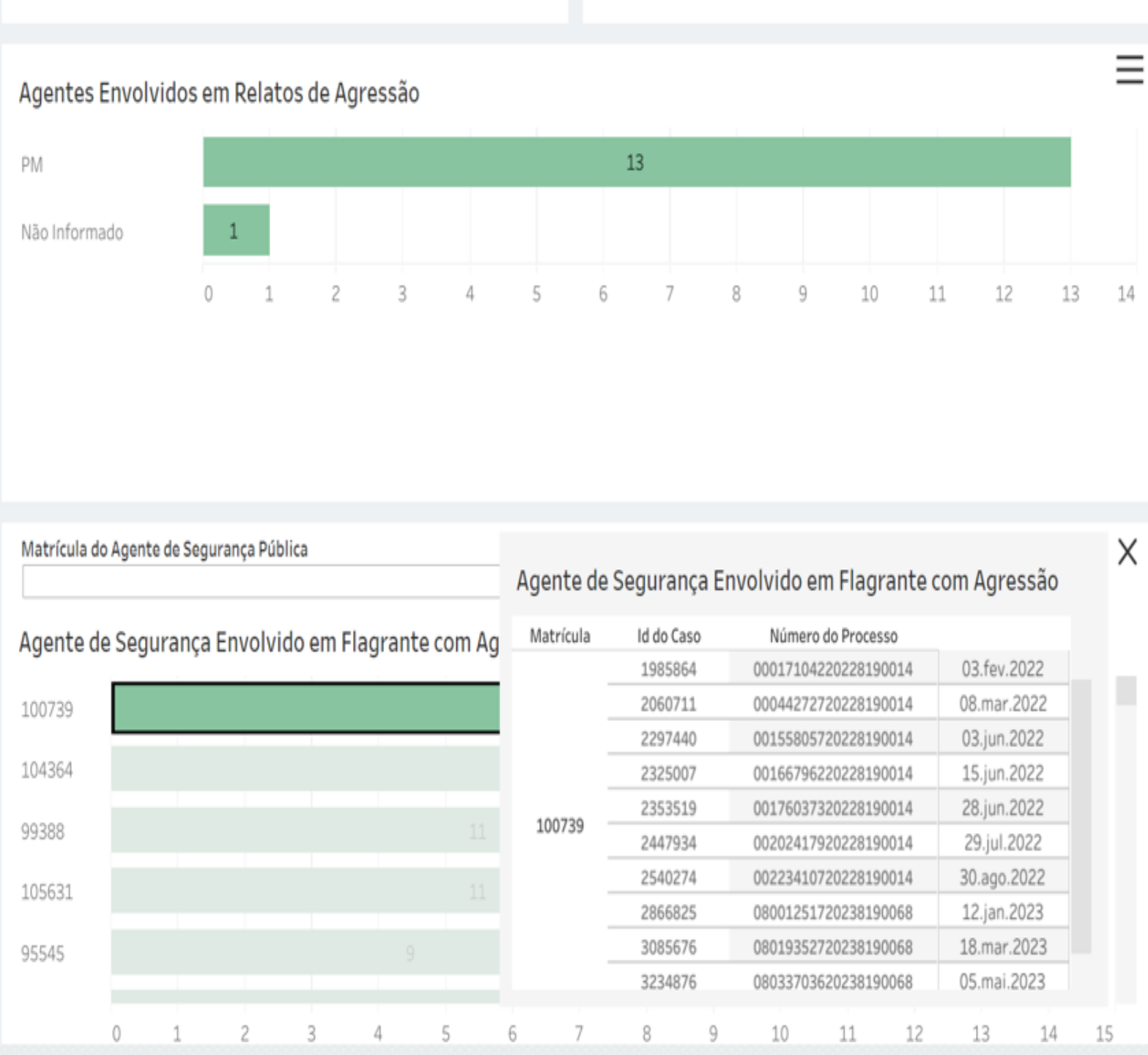
These are measures of a more collective, preventive and administrative nature, but which may result in legal measures and lawsuits.



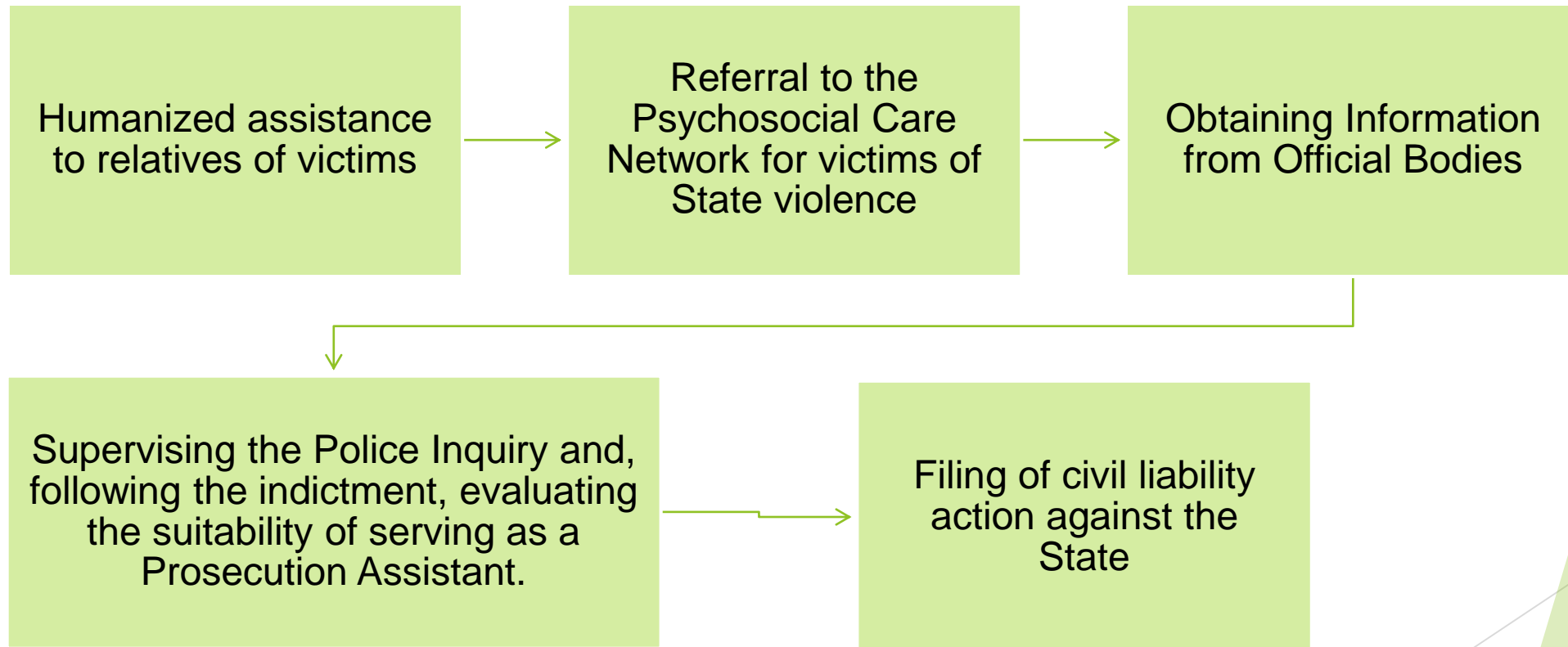
Panel of violence:

In this graph, each bar corresponds to a police officer.

On the left is the officer's identification number. Clicking on the bar opens the window on the right, which shows the number of cases and police records in which there were reports of torture.



Public Defender's Office: Legal Assistance Program for Family Members of Victims of Police Lethality



Obtaining Information from Official Bodies

- Requesting a full copy of the police investigation
- Requesting the Medical Care Bulletin
- Requesting information about the police intervention or operation
- Requesting autopsy report, schematic of lesions, and photos
- Requesting images from police officers' cameras
- Requesting the Public Prosecutor's Office to institute an autonomous procedure
- Access to evidence for relatives of victims

Inter-American Court of Human Rights Case favela Nova Brasilia v. Brazil (Judgment on 2017)

- ▶ 16. The State, within one year of notification of this judgment, shall establish the necessary legal mechanisms so that, in situations of presumed **deaths, torture or sexual violence resulting from a police intervention** in which prima facie it appears possible that police agents could be involved, immediately following the *notitia criminis*, **the investigation is entrusted to an independent body, distinct from the police force involved** in the incident, is put in charge of the investigation, such as a judicial authority or **the Public Prosecution Service**, assisted by police, criminalistic and administrative personnel unrelated to the law enforcement agency to which the possible perpetrator or perpetrators belong, pursuant to paragraphs 318 and 319 of this judgment.
- ▶ 17. The State shall take the necessary measures to ensure that the state of Rio de Janeiro establishes goals and policies **to reduce police lethality** and violence, pursuant to paragraphs 321 and 322 of this judgment.

Strategic Litigation: Supreme Court decisions

Lethality Reduction Plan

- ▶ The Federal Supreme Court ordered the State of Rio de Janeiro to install audio and video cameras in police uniforms and vehicles;
- ▶ The State of Rio de Janeiro must present a broad Lethality Reduction Plan.
- ▶ The investigation of homicide involving state agents must be conducted by the Public Prosecutor's Office (2021).

Civil Liability

State responsibility for the death of a victim shot during police operations in favelas due to inconclusive forensic evidence determining the origin of the gunshot (out/2023).