

**PUERTO RICO'S POLICE DEPARTMENT PRACTICES:
A CLOSER LOOK AT THE U.S. DEPARTMENT OF JUSTICE'S REPORT**



Hosted by The Puerto Rican Bar Association,
CUNY's Center on Latino and Latina Rights and Equality (CLORE)
and
The National Lawyers Guild International Committee

NY County Surrogate's Court, 5th Floor, Room 503
31 Chamber Street, New York, NY

Tuesday, November 15, 2011
6:30 – 9:00 PM

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PANEL PROGRAM

November 15, 2011

6:30 – 9:00 pm

6:30 – 6:35	WELCOME	Diana Sanabria Chief Clerk Surrogate’s Court NY County Jenny Rivera Director, CLORE Rosevelie Marquez Morales President, PRBA National Lawyers Guild
6:35 – 8:00	PANEL PRESENTATION	
6:35 – 6:40	PANEL INTRODUCTIONS	
6:40 – 7:00	DOJ REPORT SUMMARY	Jonathan Smith Chief Special Litigation Section Civil Rights Division US Department of Justice
7:00 – 7:15	RESPONSES TO THE DOJ REPORT AND POLICE VIOLENCE	Jennifer Turner American Civil Liberties Union
7:15 – 7:30	DOMESTIC VIOLENCE IN PUERTO RICO	Jodie Roure Assistant Professor John Jay College of Criminal Justice
7:30 – 7:45	PUERTO RICO COMMUNITY’S STRUGGLE FOR JUSTICE AND CASE EXAMPLES	Judith Berkan Civil Rights Attorney Berkan/Mendez
7:45 – 8:15	QUESTION AND ANSWER	
8:15 – 8:20	CLOSING	Jenny Rivera Director, CLORE

8:20 – 9:00

RECEPTION

PANELISTS' BIOGRAPHIES
(Alphabetical Order)

Judith Berkan, Esq. is a Civil Rights Attorney and a partner in the San Juan law firm of Berkan/Mendez. Ms. Berkan was the President of the Human Rights Commission of the Puerto Rico Bar Association in the mid-1990's and a member of the Commonwealth Supreme Court's task force on gender discrimination. Berkan has won many significant jury awards in civil rights cases and has argued several leading First Circuit cases including *Gutierrez Rodriguez v. Cartagena* (standards for supervisory liability of high-level officers, including the island-wide superintendent of police), *Camilo Robles v. Hoyos* (supervisory liability and qualified immunity issues), *Zambrana v. Suarez* (color of law and off-duty officers), and the *Lipsett v. Blanco* and *Rodriguez-Hernandez v. Miranda* decisions (dealing with attorneys fees in civil rights cases). Ms. Berkan is a graduate of Yale University and Harvard University Law School.

Jenny Rivera (Moderator) a Professor of Law at the City University of New York School of Law and the Founder and Director of the Law School's Center on Latino and Latina Rights and Equality (CLORE). Professor Rivera teaches administrative law, civil procedure, property, legal writing and courses on antidiscrimination and Latinas/os and the Law. She has authored several articles on civil and women's rights including, "An Equal Protection Standard for National Origin Subclassifications: The Context that Matters," "Extra! Extra! Read All About It: What a Plaintiff 'Knows Or Should Know' Based On Officials' Statements and Media Coverage of Police Misconduct for Notice of a § 1983 Municipal Liability Claim," "The Violence Against Women Act and the Construction of Multiple Consciousness in the Civil Rights and Feminist Movements," "Domestic Violence Against Latinas by Latino Males: an Analysis of Race, National Origin, and Gender Differentials," and "Puerto Rico's Domestic Violence and Intervention Law and the United States Violence Against Women Act of 1994: The Limitations of Legislative Responses." She is also the author of two studies on the availability of domestic violence services for Latinas in New York State.

Prior to joining the legal academy, Professor Rivera clerked in the Second Circuit Court of Appeals *Pro Se* Law Clerk's Office, served as a lawyer for the Legal Aid Society's Homeless Family Rights Project, was an Associate Counsel for the Puerto Rican Legal Defense and Education Fund (renamed LatinoJustice/PRLDEF) and clerked for the Honorable Sonia Sotomayor in the Southern District of New York. Professor Rivera is a former Administrative Law Judge of the New York State Division of Human Rights, a former member of the New York City Commission on Human Rights, and served as the Special Deputy Attorney General for Civil Rights for the New York State Attorney General. She graduated from Princeton University, and received her J.D. from New York University School of Law and her LL.M. from Columbia University School of Law, where she concentrated on Constitutional and Feminist Theory.

Jodie G. Roure, JD, PHD is an Associate Professor in the Latin American and Latina/o Studies Department at John Jay College of Criminal Justice, CUNY, where she teaches in the areas of domestic violence/gender rights, criminal justice, international human rights, international criminal

justice, race, class and ethnicity in the United States, and Latina/o studies. She is also the John Jay Director of the St. John's Law School Prep Program. She has conducted extensive research in the area of human rights including violence against women in Brasil, Puerto Rico, Dominican Republic, Cuba and the United States. Professor Roure's recent publications include: Gender Justice in Puerto Rico: Domestic Violence, Legal Reform and International Human Rights. *Human Rights Quarterly Law Journal* (August 2011); Domestic Violence in Brazil: Examining Obstacles and Approaches to Promote Legislative Reform, *Columbia Human Rights Law Review* (Fall 2009); Domestic Violence in Latin America: Implementing International Human Rights Law and Principles. (University of Pennsylvania Press Human Rights Series under book contract). Her doctoral dissertation is entitled *International Human Rights Law as a Resource in Combating Domestic Violence: Transcending Legal, Social and Cultural Obstacles in Brasil and the United States*.

Professor Roure graduated from Douglass College, Rutgers University with a Bachelor's of Arts in English and a minor in Spanish. She obtained her Juris Doctor from Western New England College School of Law and her Ph.D. at the University at Buffalo-SUNY in American Studies with a major in Intercultural Studies and International Human Rights. She is a former Arturo A. Schomburg Fellow and a former United States Supreme Court intern.

Jonathan Smith is Chief of the Special Litigation Section in the Civil Rights Division of the Department of Justice. He has served in that position since November, 2010. Prior to joining the Department of Justice, Mr. Smith has spent his career working in the public interest, beginning with his work at the Alexandria, Virginia civil rights firm of Victor Glasberg and Associates. In 1989, he joined the D.C. Prisoners' Legal Services Project as its first staff attorney, later becoming the Executive Director, and from 1998 until 2002, he served as the Executive director of the Public Justice Center in Baltimore, Maryland. He served as the executive director of the Legal Aid Society of the District of Columbia from 2002 - 2010.

Jennifer Turner, Esq. is the Human Rights Researcher in the ACLU's Human Rights Program. Prior to joining the ACLU, she was a fellow in the Women's Rights Division of Human Rights Watch, where she researched and reported on abuses against Asian migrant domestic workers in the Middle East. She has also worked in the asylum program of Human Rights First assisting refugees seeking asylum in the US to obtain pro bono legal representation, at the Latin American Workers Project in Brooklyn, N.Y., and worked as a law student in the NYU Law School Immigrants' Rights Clinic. Ms. Turner has also worked at the Office of the Prosecutor at the UN International Criminal Tribunal for Rwanda, and the Defense Office of the Special Court for Sierra Leone. She is a graduate of Yale University and New York University School of Law.

Department of Justice
Office of Public Affairs
FOR IMMEDIATE RELEASE
Thursday, September 8, 2011

Department of Justice Releases Investigative Findings on the Puerto Rico Police Department

WASHINGTON – Following a comprehensive investigation, the Justice Department today announced its findings that the Puerto Rico Police Department (PRPD) has engaged in a pattern and practice of misconduct that violates the Constitution and federal law. The investigation, launched in July 2008, was conducted in accordance with the Violent Crime Control and Law Enforcement Act of 1994 and the Omnibus Crime Control and Safe Streets Act of 1968.

The Justice Department found reasonable cause to believe that a pattern and practice of unconstitutional conduct and/or violations of federal law occurred in several areas, including:

- Use of excessive force;
- Use of unreasonable force and other misconduct designed to suppress the exercise of protected First Amendment rights; and
- Unconstitutional stops, searches and arrests.

In addition to these findings, the investigation uncovered other serious concerns. In particular, the investigation uncovered troubling evidence that PRPD frequently fails to properly investigate and document sex crimes and incidents of domestic violence, and that PRPD engages in discriminatory policing practices that target individuals of Dominican descent. At this time, the division has not made a formal finding of a pattern and practice violation in these areas, in part because PRPD does not adequately collect data to evaluate these issues.

The Justice Department found a number of long-standing and entrenched systemic deficiencies that caused or contributed to these patterns of unlawful conduct, including:

- A failure of PRPD to implement policies to guide officers on lawful policing practices, including the application of force;
- Tactical units that have been permitted to develop violent subcultures;
- Insufficient pre-service and in-service training;
- Inadequate supervision;
- Ineffective systems of complaint intake, investigation and adjudication;
- An ineffective disciplinary system;
- Limited risk management; and
- A lack of external oversight and accountability.

“The Puerto Rico Police Department is broken in a number of critical ways. The problems are wide ranging and deeply rooted, and have created a crisis of confidence that makes it extremely difficult to develop police-community partnerships that are a cornerstone of effective policing,” said Thomas E. Perez, Assistant Attorney General for the Civil Rights Division. “Our findings should serve as a

foundation to transform the police department and to help restore the community's trust in fair, just and effective law enforcement. The problems within the PRPD have been present for many years and will take time to fix, but we look forward to continuing our work with the people of Puerto Rico, Governor Luis Fortuño, Superintendent Emilio Díaz Colón and his officers to create and implement a comprehensive blueprint for sustainable reform."

The Justice Department's thorough and independent investigation involved an in-depth review of PRPD practices, as well as extensive community engagement. Department attorneys and investigators conducted exhaustive interviews with command staff and rank-and-file officers at PRPD headquarters and 10 of PRPD's 13 police areas; participated in ride-alongs with officers and supervisors; attended training courses at the police academy; and reviewed thousands of pages of documents. The division also met with and interviewed external stakeholders, including community members and local civil rights organizations.

Throughout the investigation, the division provided feedback and technical assistance to PRPD, and PRPD has taken a number of remedial measures. To create lasting reform, Puerto Rico must act decisively, transparently and immediately. PRPD must develop and implement new policies and protocols, and train its officers in effective and constitutional policing. In addition, PRPD must implement systems to ensure accountability, foster police-community partnerships, improve the quality of policing throughout the commonwealth and eliminate unlawful bias from all levels of policing decisions.

The department will seek to obtain a court enforceable agreement and will work with PRPD, the Commonwealth of Puerto Rico and the community to develop and implement a comprehensive reform plan with the judicial oversight needed to address the violations of the Constitution and federal law.

"The findings are an outgrowth of a transparent, inclusive process in which we heard critical feedback from police officers, community leaders, governmental officials and other key stakeholders. We will continue to actively engage all stakeholders in the process of developing and implementing a comprehensive blueprint for sustainable reform that will reduce crime, ensure respect for the Constitution and restore public confidence in the Puerto Rico Police Department," continued Assistant Attorney General Perez.

This investigation was conducted by the Special Litigation Section of the Civil Rights Division with the assistance of law enforcement professionals, including former police chiefs and supervisors who provided in-depth knowledge and expertise.

The executive summary and full report can be found at www.justice.gov/crt/about/spl/pr.php . For more information on the Justice Department's Civil Rights Division, please visit www.justice.gov/crt . If you have any comments or concerns, please feel free to contact us at community.prpd@usdoj.gov .

**Investigation of the
Puerto Rico Police Department**



United States Department of Justice
Civil Rights Division

September 5, 2011

EXECUTIVE SUMMARY

The Puerto Rico Police Department is Puerto Rico's primary law enforcement agency. Its mission is critical: To protect and serve the residents of Puerto Rico by designing and implementing policies and practices that control crime, ensure respect for the Constitution and the rule of law, and enable the Department to enjoy the respect and confidence of the public.

Many hard working and dedicated PRPD officers serve the public with distinction under often challenging conditions. Unfortunately, PRPD is broken in a number of critical and fundamental respects that are clearly actionable under the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141 ("Section 14141"). Based on our extensive investigation, we find reasonable cause to believe that PRPD officers engage in a pattern and practice of:

- excessive force in violation of the Fourth Amendment;
- unreasonable force and other misconduct designed to suppress the exercise of protected First Amendment rights; and
- unlawful searches and seizures in violation of the Fourth Amendment.

In addition to these findings, our investigation uncovered other deficiencies of serious concern. In particular, there is troubling evidence that PRPD frequently fails to police sex crimes and incidents of domestic violence, and engages in discriminatory policing practices that target individuals of Dominican descent in violation of the Fourteenth Amendment, the Safe Streets Act, and Title VI. At this time, we do not make a formal finding of a pattern and practice violation in these areas, in part because PRPD does not adequately collect data to evaluate these issues. However, we are quite concerned that PRPD lacks basic systems of accountability to ensure that all individuals are treated equally by PRPD officers, regardless of race, ethnicity, national origin, or sex as required by federal law. Furthermore, our investigation raises serious concerns that PRPD policies and practices are woefully inadequate to prevent and address domestic violence committed by PRPD officers. We find that these deficiencies will lead to constitutional violations unless they are addressed. PRPD's continued failure to keep necessary data in light of our findings and despite knowledge of these indicators of a very serious problem, may constitute a pattern and practice that violates federal law.

We recognize that PRPD faces significant challenges as Puerto Rico's primary law enforcement agency. The unconstitutional acts that we have identified arise at a time of crisis in public safety. Contrary to national trends, violent crime increased overall in Puerto Rico by 17% from 2007 to 2009. In 2010, Puerto Rico saw the second highest number of murders in its history, a trend that is escalating in 2011. The clearance rate for murders remains below the national average. Some Puerto Rico officials maintain that drug trafficking and social deterioration are fueling the wave of violent crime. However, increasing crime cannot be used to justify continued civil rights violations or the failure to implement meaningful reforms. Constitutional policing and effective law enforcement are inextricably bound. Public safety depends on the trust and cooperation of the community, which in turn depends on constitutional police practices that respect civil rights. Our previous efforts in working with large police departments strongly suggest that by addressing the civil rights concerns we raise in this report, the Commonwealth will not only meet its constitutional duty, but also reduce crime, improve public safety, and increase community confidence.ⁱ

For many years, victims' families, civic leaders, legislators, and civil rights advocates have voiced concerns over chronic mistreatment by police. For example, over the past decade, various legislative measures have called for comprehensive investigations of police misconduct, greater education and training, and an accounting of public funds spent on civil rights lawsuits against the Commonwealth. Other grass-roots and advocacy organizations have sent letters to Puerto Rico officials denouncing allegations of discrimination against people of Dominican descent, and civic and professional organizations have issued investigative reports detailing numerous civil rights violations at the hands of police. PRPD officers have also called for agency reforms. One police affinity group representing thousands of officers attributed widespread low morale among officers to verbal abuse from supervisors, indifference to officers' personal problems, lack of support and training, absence of motivational and educational activities, deficient equipment and materials, and late payment.

The public's demands for remedial action are fueled in part by the appalling number of officer arrests and convictions for serious misconduct and criminal activity. Among these are: the killing of family members by two police officers in the "Massacre of Las Piedras" in 2007; the videotaped shooting of a civilian by a Tactical Operations Unit ("TOU") officer during a birthday celebration in Humacao in 2007; the shooting death of a PRPD lieutenant by a sergeant at a police station in Yabucoa in 2007; the conviction of multiple officers assigned to the Mayagüez Drug Unit for planting drugs in 2008; the conviction of the director of the Special Arrests and Extraditions Unit and several of his officers on drug-related charges in 2009; the conviction of a lieutenant directing the weapons registry at PRPD headquarters as part of an illegal gun licensing scheme in 2009; the indiscriminate use of batons and chemical irritants against protesters at the Capitol in June 2010; the shooting death of an unarmed young man who was reportedly aiding police following a robbery in September 2010; and the arrest of 61 PRPD officers as part of the largest police corruption operation in the Federal Bureau of Investigation's ("FBI") history in October 2010.

In the report that follows, we discuss the wide range of issues that were the focus of our investigation and the findings that result from our review. In sum, our investigation reveals the following:

- **The constitutional violations we uncovered are pervasive and plague all levels of PRPD.**

Our investigation concluded that a longstanding pattern and practice exists of PRPD officers violating the Constitution by using force, including deadly force, when no force or lesser force was called for. As a result, PRPD officers have unnecessarily injured hundreds of people and killed numerous others. PRPD's overreliance on such tactics is evident in its regular deployment of heavily armed tactical units on routine patrols or "preventive rounds," usually in public housing complexes or low-income neighborhoods. These units, relying almost exclusively on extreme displays of force and actual force, rather than on more contemporary problem-solving approaches, were neither intended nor trained to perform such patrol functions. Indeed, the marked disconnect between residents and tactical officers, who routinely enter neighborhoods en masse with high-caliber rifles drawn amid children, seniors, and other bystanders, reveals PRPD's reliance on law enforcement strategies that run counter to widely accepted models of community-oriented policing. Distressingly, an officer assigned to one of these units told us openly and without objection from his supervisors that officers *need* to violate civil rights to fight crime and meet the goals set by government officials.

This conduct deprives the people of Puerto Rico of their rights guaranteed by the Constitution and federal law.

Officers' use of excessive force also chills speech in violation of the First Amendment. While some individuals may engage in unlawful activity during protests and civil demonstrations, only a fraction of the force used by PRPD is directed at specific threats or criminal behavior, as evidenced by the dearth of arrests supported by probable cause. Instead, PRPD officers regularly rely on the indiscriminate use of force or threat of force well beyond what is necessary to protect public safety when engaging with crowds. Specifically, PRPD indiscriminately used chemical agents, batons, and physical force against demonstrators and other individuals on University Avenue in August 2009, at the Sheraton Hotel in May 2010, and at the Capitol in June 2010. PRPD officers also used choke holds and pressure techniques against protestors who were passively resisting or otherwise not posing any significant threat as recently as December 2010 and January 2011. In February 2011, officers pushed, struck, and sprayed protestors at a university campus, and officers threw rocks and other objects at individuals who likewise posed no significant threat. The use of excessive force by PRPD officers in these instances, along with other tactics aimed at intimidating demonstrators, has garnered significant public attention and discouraged residents of Puerto Rico from engaging in protected First Amendment activities. While we recognize that prolonged strikes and civil demonstrations strain PRPD personnel and resources, Puerto Rico must not waver in its duty to uphold the fundamental rights of all residents, even when their viewpoints or affiliations may be disagreeable.

We also found a pattern and practice of illegal searches and seizures in violation of the Fourth Amendment. Specifically, our investigation revealed a pattern and practice of PRPD officers conducting searches of civilians' homes without a warrant or consent and in the absence of any exigent circumstance or exception that would render such a search constitutional. Too frequently, PRPD officers plant evidence during searches, rely on excessive force and intimidation as search aids or tools, and proceed with searches even when knowing that the address, identity of the individual, or other pertinent information is incorrect. The evidence we uncovered further demonstrates that PRPD officers engage in a regular pattern of detaining, arresting, and searching individuals without reasonable suspicion or probable cause in violation of the Fourth Amendment, and that supervisors and members of specialized units are often involved in these unlawful acts.

- **The staggering level of crime and corruption involving PRPD officers must be addressed in systematic fashion.**

The amount of crime and corruption involving PRPD officers further illustrates that PRPD is an agency in profound disrepair. From January 2005 to November 2010, there were more than 1,709 arrests of PRPD officers. The charges varied widely, from theft and simple assault to rape, drug trafficking, and murder. Hundreds of officers have also engaged in domestic violence; many have been arrested multiple times for harming their partners.

- **There are many contributing factors to the constitutional violations.**

PRPD has failed to provide officers with the basic understanding and tools they need to safeguard the rights of the people they serve. Basic systems of accountability are non-existent or profoundly broken, and have been for years. Although our report focuses on recent constitutional

violations, the systemic deficiencies that underlie the misconduct developed over a much longer period. These systemic deficiencies include the following:

1. **Policies fail to guide officers on lawful policing practices.** PRPD's policies and procedures on use of force and searches and seizures are out-dated, disorganized, and omit contemporary legal standards. Officers are not provided with copies of PRPD's policies, or access to policies through other reliable means, to reference as they carry out their day-to-day duties. As a result, officers develop their own informal practices, and the operations of similar units or components throughout PRPD vary widely. Officers also expressed a fundamental misunderstanding of critical aspects of their duties. For instance, officers in different areas and units routinely defined "force" differently. Many other officers were unfamiliar with the parameters of temporary investigatory detentions, or *Terry* stops, which may, when performed unreasonably, constitute Fourth Amendment violations. These and other essential concepts are not communicated effectively and consistently to officers on an ongoing basis through policy.
2. **Pre-service field training is insufficient.** Cadets review PRPD's policies and procedures while attending pre-service training, but are not provided with post-academy field training to prepare them for real-life policing. This training is particularly essential in developing the practical skills, judgment, and understanding necessary to lawfully employ force, effect arrests, treat all persons equally, and solve problems effectively as partners with the community. Instead, new officers are simply armed and released into the streets and neighborhoods of Puerto Rico. In many cases, they never return to the academy for regular in-service training.
3. **In-service training is virtually non-existent.** Effective law enforcement agencies reinforce their expectations on use of force and searches and seizures through consistent and sufficient in-service training. However, many PRPD officers reported that they do not return to the University College of Criminal Justice ("University College") for in-service training for years, or ever, after completing the pre-service program. In 2010, the Puerto Rico Legislature confirmed these reports and passed legislation requiring PRPD to provide at least 12 hours of annual in-service training. The Legislature found the training was "necessary and urgent" in light of domestic violence, corruption, and numerous instances in which officers failed to exercise self-control with civilians. Even with the new legislation, PRPD still requires less than half the average number of annual training hours required by police departments across the country.
4. **No external oversight of officer standards and training.** Unlike every state except Hawaii, Puerto Rico does not have a state-wide authority that establishes minimum law enforcement standards and training requirements, such as Peace Officer Standards and Training ("POST") boards, commissions, or academies. Instead, Puerto Rico vests sole authority for officer recruitment, hiring, training, and development of core competencies on the discretion of the Superintendent. PRPD Superintendents, subject to budget and political pressures, have reduced the length of pre-service training programs, authorized deployment of cadets on patrol duties before cadets completed critical training, and changed the criteria used to identify at-risk officers who engage in repetitive misconduct, without any accountability for outcome.

5. **Tactical units have been allowed to develop violent subcultures.** PRPD has been on notice for years that officers assigned to tactical units routinely employ excessive force when interacting with civilians. These units all too frequently rely on intimidation, fear, and extreme use of force to manage crowds and are often deployed to low-income and minority communities on routine patrols. These units operate with insufficient training and guidance on the lawful exercise of police power.
6. **Supervision is lacking.** PRPD has too few qualified supervisors to effectively supervise. PRPD has not filled many of the 2,100 supervisor vacancies it reported in 2009. In some instances, supervisors must supervise 18 or more officers, nearly double the generally accepted ratio of 1:10. In the field, supervisors are not required to independently review the use of force of their subordinates. As a result, officers engage in multiple incidents of misconduct over prolonged periods, without effective intervention from supervisors.

Many officers expressed concern that PRPD's promotion practices are driven more by one's affiliations than talents. For instance, although agency regulations indicate that objective examinations should be used to select candidates for promotion, we found that the vast majority of promotions were carried out as excepted "merit" promotions under special authority granted to the Superintendent. Only five percent of officers were promoted by examination from January 2008 to September 2010. Many officers reported that the prevalence of discretionary promotions reinforced their concerns about the quality of supervision.

7. **Internal investigations take years to complete.** Profound deficiencies in the conduct of administrative investigations leave misconduct unaddressed, decimate officer morale, and foster the public's mistrust. We found that administrative investigations routinely take years to complete – in some cases, 10 or more years – well beyond the 180-day timeframe required by existing Puerto Rico regulations.
8. **Discipline is seriously deficient.** In 1989, the First Circuit upheld punitive damages against the Superintendent and other supervisors for federal civil rights violations, relying on evidence that PRPD's disciplinary system was "grossly deficient." As evidence of the dysfunction in PRPD, many aspects of this seriously broken disciplinary system remain unchanged. For example, immediate supervisors are not involved in the disciplinary process, disciplinary sanctions are too limited in scope, and officers are permitted to refuse to testify or give a statement to internal investigators. Discipline is also ineffective because administrative investigations take years to complete, or are never resolved. In many instances, officers develop pronounced patterns of serious misconduct and face removal only after they are charged with a crime. Other problem officers, sometimes referred to as "parachuters," are simply transferred from one component to another, without any effort to address their underlying problems, because of the extreme delays in completing internal investigations.
9. **Inoperable risk management system.** Effective risk management systems help commanders and supervisors take early corrective action when officers exhibit potential problem behaviors. Interventions typically include targeted training, education, and counseling. These

It would be an enormous mistake to continue attributing the widespread and ongoing police misconduct that infects PRPD to an isolated group of individual officers or a seemingly intractable crime problem. Doing so not only forestalls the implementation of critical reforms, but also prevents PRPD from regaining the credibility and respect it needs and deserves to fight crime effectively and uphold the rule of law.

- **Prior efforts to reform PRPD have been sporadic and superficial, all too often spawned by public outcry over the latest tragic event.**

The Government of Puerto Rico has recognized the public's diminishing confidence in PRPD following tragic and violent incidents involving police corruption and misconduct. However, the implementation of corrective action has been sporadic and superficial. In 2007, former Superintendent Pedro Toledo Dávila established an external evaluating committee to assess violence, corruption, and misconduct within PRPD. The committee issued reports finding patterns of civil rights violations and corruption, and recommended dozens of remedial measures.ⁱⁱ In its December 2007 report, the committee urged Puerto Rico to establish a fully resourced commission to develop long-term solutions to PRPD's complex and institutional deficiencies, an endeavor they projected would take up to two years.ⁱⁱⁱ No such commission was ever created, and many recommendations were not implemented. Governor Luis Fortuño acknowledged the need for reform in September 2010 when he called on the Civil Rights Division to "expand its investigation to incidents of possible use of excessive force or other possible violations of civil rights by the Police of Puerto Rico that may have occurred during [his] administration . . ."^{iv} Despite longstanding calls for external reviews and investigations, basic reforms have not been implemented and the necessary effort to openly restore the public's trust remains long overdue.

For too long, PRPD has failed to provide its officers with meaningful systems of support and accountability to ensure that officers discharge their duties lawfully and effectively. Policies do not delineate the limits of lawful exercise of police power; training is insufficient; supervision is too unquestioning and sparse; and civilian complaints languish for years. The lack of meaningful external oversight of PRPD policies and actions exacerbates these issues. The problems outlined in this report are chronic and pervasive. The public lacks confidence in PRPD at a time when Puerto Rico faces significant public safety challenges. While Puerto Rico has taken some initial steps to detect, correct, and deter the problems we highlight in this report, it has failed to adequately address the institutional causes that contribute to both its unconstitutional law enforcement and ineffective policing. It is imperative that Puerto Rico act decisively, openly, and transparently to restore the public's trust and ensure that PRPD becomes an institution that exemplifies the rule of law for all residents in Puerto Rico.

The path toward lasting reform will require nothing less than federal judicial intervention. We believe a court-enforceable agreement will provide the structure, transparency, and

accountability that will be necessary to achieve sustainable reform. Accordingly, we look forward to working with Puerto Rico, rather than engage in contested litigation, to craft a meaningful and collaborative reform plan with judicial oversight that will ensure constitutional policing, improve public safety, and restore the public's confidence.

The report that follows is an account of our findings. Section II provides background information concerning PRPD, the University College (which serves as PRPD's training academy), public safety, and crime and corruption within PRPD. Section III discusses the patterns and practices of civil rights violations involving use of excessive force, use of unreasonable force to suppress speech, and unconstitutional searches, detentions, and seizures. We also include illustrative cases demonstrating the deprivation of federal rights and discuss specific deficiencies that cause the pattern and practice for each type of violation. Section IV evaluates additional systemic deficiencies that are common causes and contributing factors for all the violations we uncovered. Finally, Section V provides recommendations for remedying PRPD's systemic deficiencies.

ⁱ Nagourney, Adam, *In Los Angeles, A Police Force Transformed*, New York Times, Aug. 11, 2011, <http://www.nytimes.com/2011/08/13/us/13lapd.html?pagewanted=1>

ⁱⁱ Arturo Negrón García et al., *Report of the External Evaluating Committee of the Puerto Rico Police* (Dec. 21, 2007); Arturo Negrón García et al., *Report of the External Evaluating Committee of the Puerto Rico Police: Corruption in the Puerto Rico Police* (May 1, 2008).

ⁱⁱⁱ Arturo Negrón García et al., *Report of the External Evaluating Committee of the Puerto Rico Police* at 20 (Dec. 21, 2007);

^{iv} Press Release, La Fortaleza, "Gobernador nombra Monitor Independiente para supervisor a la Policía," Sept. 24, 2010, available at http://www.fortaleza.gobierno.pr/2011/news.php?cnt_id=562.

**CONSTITUTIONAL PROVISIONS, AND FEDERAL AND PUERTO RICAN LAWS CITED
IN THE DEPARTMENT OF JUSTICE, CIVIL RIGHTS DIVISION REPORT**

US CONSTITUTION

- U.S. Const. amend. I
- U.S. Const. amend. IV
- U.S. Const. amend. XIV

FEDERAL LAWS

- Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141
- Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d-2000d-7
- Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. § 3789d

PUERTO RICO LAWS

- Functions, 1 L.P.R.A. § 172(1)
- General Order 2004-3
- General Order 2008-2
- General Order 2010-14
- General Order 68-14
- General Order 98-16
- General Order 98-6
- Law No. 102 of June 28, 1965, *as amended*
- Law No. 184 of August 3, 2004, 3 L.P.R.A. §1461 et seq.
- Law No. 23 of July 11, 1992
- Law No. 32 of May 22, 1972, *as amended*
- P.R. Laws Ann. tit. 25, § 3102 (2008) *et seq.*
- P.R. Laws Ann. tit. 25, § 3102 (2008), *as amended*
- PRPD Regulation 6506
- Special Order 90-5

CASES CITED IN DEPARTMENT OF JUSTICE, CIVIL RIGHTS DIVISION REPORT

1. *Agosto-de-Feliciano v. Aponte-Roque*, 889 F.2d 1209 (1st Cir. 1989).
2. *Alexander v. Sandoval*, 532 U.S. 275, 121 S. Ct. 1511, 149 L. Ed. 2d 517 (2001).
3. *Alexis v. McDonald's Restaurants of Massachusetts, Inc.*, 67 F.3d 341 (1st Cir. 1995).
4. *Barton v. Clancy*, 632 F.3d 9 (1st Cir. 2011).
5. *Bastien v. Goddard*, 279 F.3d 10 (1st Cir. 2002).
6. *Beck v. State of Ohio*, 379 U.S. 89, 85 S. Ct. 223, 13 L. Ed. 2d 142 (1964).
7. *Bell v. State of Md.*, 378 U.S. 226, 84 S. Ct. 1814, 12 L. Ed. 2d 822 (1964).
8. *Bd. of County Com'rs, Wabaunsee County, Kan. v. Umbehr*, 518 U.S. 668, 116 S. Ct. 2342, 135 L. Ed. 2d 843 (1996).
9. *Brenes-Laroche v. Toledo Davila*, 682 F. Supp. 2d 179 (D.P.R. 2010).
10. *Calvi v. Knox County*, 470 F.3d 422 (1st Cir. 2006).
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49. *Whren v. United States*, 517 U.S. 806, 116 S. Ct. 1769, 135 L. Ed. 2d 89 (1996).
50. *Willoughby v. Town of Tisbury*, 750 F. Supp. 2d 374 (D. Mass. 2010).
51. *Wilson v. City of Boston*, 421 F.3d 45 (1st Cir. 2005).



The Puerto Rican Bar Association, Inc. (PRBA) was founded in 1957 by a group of Puerto Rican and Latino attorneys who began gathering socially to offer one another both personal and professional support in an era when it was difficult for attorneys of color to be accepted as members in established bar associations. The PRBA at that time focused its efforts on addressing the concerns of a rapidly growing Latino community and the legal services it required. Today, the PRBA has grown from a handful of attorney to over 500 members representing the interests of attorneys, judges, law professors and students of Latino descent who share a common interest in fostering professional development in the legal community and addressing issues that are important to other Latino communities as a whole.



CUNY Law School's Center on Latino and Latina Rights and Equality (CLORE) focuses on issues impacting the Latino community in the United States, with the goal of developing progressive strategies for legal reform. It seeks to educate lawyers, law students, scholars, and the general public on the status of Latinos and Latinas. CLORE advocates for expanded civil rights in the areas that most affect the growing Latino population through a multitude of different mediums.

For more information, please visit the CLORE webpage, <http://www.law.cuny.edu/clinics/JusticeInitiatives/clore.html>. To join our mailing list and receive announcements of CLORE events, e-mail clore@mail.law.cuny.edu.



The NLG International Committee (IC) supports legal work around the world "to the end that human rights shall be regarded as more sacred than property interests." As lawyers, law students, and legal activists, we seek to change U.S. foreign policy that threatens, rather than engages, or is based on a model of domination rather than respect. The Guild provides assistance and solidarity to movements in the United States and abroad that work for social justice in this increasingly interconnected world.

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