

RESEARCH PAPER

‘Around here I am the law!’
Strengthening police officers’ compliance with the rule of law in
Costa Rica

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Introduction

In the quiet surroundings of delta 1, the police station of San José centre, I had just started interviewing an *alpha lima* – a police lawyer – when a police officer entered her office without knocking.¹ As he held his police radio he said: ‘there is a man in a bar with an *arma blanca* – a large knife.’ ‘Can we shoot him?’ he asked. The *alpha lima* responded: ‘when you shoot, you will have a problem!’ As he continued to listen to the incoming messages on the police radio, the police officer held his breath. The police lawyer suggested: ‘perhaps we should call the negotiators!’ The police officer and the police lawyer then left the office.²

The police officer was confronted with a situation that was rapidly developing into a crisis: the suspect proceeded to kill a man and took several hostages in the city centre of San José.³ He was seeking advice on the legitimacy of using firearms. By suggesting an alternative, namely contacting negotiators, the police lawyer questioned whether the use of firearms was necessary and proportionate.⁴ In a nutshell, the dialogue between the law enforcement official and the *alpha lima* reflects the potential effect of implementing police human rights strategies. The *Josefino* police officer faced a dilemma: on the one hand, he had to act, but on the other, he needed

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1 Police legal assistance in Spanish is *apoyo legal*. In police radio communications the first letter would be transmitted by means of a code system based on the phonetic alphabet of the United States Military a – alpha and l – lima: *alpha lima*. (<http://usmilitary.about.com/od/jointservices/l/blalphabet.htm>, accessed 2 January, 2006).

2 Recorded in the author’s research diary, 26 February 2004; Interview, 6 February 2004, by the author; ‘Gran movilización en la capital Policía mató a homicida que tomó rehén’, *La Nación*, 7 February 2004; ‘Policía descarta abusos’, *La Nación*, 8 February 2004.

3 Later on, after having negotiated with the Judicial Police and the Public Force, the hostages were released. As the suspect tried to flee in a van he was shot twice in the back by police officers of the judicial police force (the O.I.J.) and a special intervention unit of the National Intelligence and Security Service (the ‘DIS’) (see note 2, *supra*).

4 Art. 3. Police Code, Legislativa de la República de Costa Rica, *Ley General de Policía*. No. 7410, 1994; Art. 10(d), United Nations, *Code of Conduct for Law Enforcement Officials*, 1979.

specific legal expertise on how to do so.⁵ The fact that he consulted with the police lawyer suggests that he is open to seeking legal assistance. ‘Around here I am the law’ reflects the process of transforming non-professionally trained police officers into professionally trained public officials whose core business is the enforcement of the law.

Like any other police force, the Public Force in Costa Rica has the responsibility to protect society and enforce its laws. Definitions of the police or what policing constitutes often mention these elements of law enforcement and the maintenance of social control.⁶ In order to ensure this law enforcement officials have, as long as it is justified and legitimate, the right to use force.⁷ The Public Force is the largest law enforcement agency in Costa Rica. This preventive police force falls under the responsibility of the Minister of the Interior, the Police and Public Security. Its specific mandate consists of preventing crime, ensuring citizens’ security, and providing service to the community.⁸

In this paper I will try to discover what the effect is of implementing police human rights strategies. The reason for this is that even though police human rights strategies seek change, this does not necessarily mean that it influences increased police officers’ compliance with human rights. Socio-political and institutional factors play a role. Also police officers’ resistance to change affects the implementation process. The methods for this empirical research, which was conducted in San José, were both qualitatively and quantitatively orientated and assisted me in trying to understand which factors relate to the implementation process.⁹

After a brief exposé of police human rights strategies in section one and public security reform and the Costa Rican police system in section two, I begin in the third section by introducing two particular strategies: police legal training and police legal assistance. After this, I continue with a discussion of the socio-political and institutional context in sections four and five. In section six this is followed by an analysis of the experiences of law enforcement officials, thereby focusing especially on police officers’ compliance and resistance. Finally, in the last section, I reflect on the complexities of implementing police human rights strategies in a broader context of public security reform in Latin America.

5 *Josefino* is a nickname for residents of San José, the capital of Costa Rica.

6 See for example P.K. Manning, *Police Work: The Social Organization of Policing*, 1977/1989; E. Bittner, *The Functions of Police in Modern Society*, 1975; J.H. Skolnick, *Justice Without a Trial*, 1966.

7 P. Neyroud *et al.*, *Policing, Ethics and Human Rights*, 2001; Arts. 1 and 3 UN Code, *supra* note 4.

8 Art. 4 Police Code, *supra* note 4.

9 During 2003-2004 fieldwork was conducted at the Costa Rican Ministry of the Interior, the Police and Public Security and the Public Force in San José. The Minister, then Rogelio Ramos Martínez, gave permission for the research. Two-and-a-half months were spent at the delta 11 police station, located in Hatillo, a low-class residential suburb in San José and two months at the ‘Charlie Delta’ police station, which is a subdivision of the Public Force of delta 1 in the centre of San José. Although most of the participant observation was conducted at the aforementioned police stations and the police school, I also visited other police deltas in San José. I read files at the Ministry of Public Security, the Judiciary, and the Ombudsman’s Office. After each interaction or other relevant encounter, I recorded what I saw, read, and remembered in my field notebook. Throughout the fieldwork period, I conducted approximately 72 open interviews and 22 semi-structured interviews with police officers, public officials of the Ministry of Public Security, representatives of the Judiciary, and the Ombudsman’s Office, as well as other experts including academics, journalists, politicians, lawyers, and embassy personnel. In November and December 2004 a questionnaire on the perception of the Public Force was conducted amongst the population of the metropolitan area (definition of the National Statistical and Population Census Institute, Population Census 2000). With the assistance of Olmer Núñez Sosa, Agustín Gómez Meléndez, and Paola Omodeo Cubero during 3 weekends a total of 516 adults were interviewed at their homes by 20 trained interviewers. The sample was semi-stratified on socio-economic criteria and the total no response rate was 15.3 percent. Between September and December 2004, a questionnaire was conducted amongst police officers of the police station Charlie Delta in San José’s centre and police officers taking the Police Legislation II Examination of the ‘Basic Police Validation Course’ and attending the firearms retraining course held on 28 September 2004 at the Central Dependence of the National Police School, Francis Orlich B. In total there were 193 participating police officers. The sample was non-stratified and the no response rate was 9.38 percent.

1. Police human rights strategies

The dialogue in the introduction shows the potential effect of police human rights strategies. In order to understand the effect of implementing human rights within police systems, it is important to learn what social change they generate. The objective is to increasingly have law enforcement officials comply with human rights norms, values, and standards. Implementing human rights is primarily done through legal structures; however establishing a direct relationship between law and changes in the behaviour of law enforcement officials is complex. Law, including human rights law, only indirectly relates to social change.¹⁰ In contemporary Latin America, for instance, governments have initiated public security reform that seeks to prevent or deal with police involvement in human rights violations.¹¹

In order to deal with police human rights violations, reform strategies are implemented to change police systems. They vary, among other things, between: professionalizing police recruitment and selection standards, police training, (re)training, to developing community policing programmes, codes of conduct, protocols on the use of force, police gender and equality policies or strengthening police accountability mechanisms etc. Although the objective of the state is to influence the conduct of law enforcement officials, it is far more realistic to acknowledge that the majority of these police reform strategies are not initiated with the sole objective to improve police officers' compliance with human rights. Latin American governments, for example, have multiple reasons for desiring change. They want to improve the effect of crime control or professionalize their security forces.¹² Nonetheless, as some of these strategies have implications for human rights, they may be considered to have a relationship with police officers' compliance with human rights.¹³ As a result of the social change these reform initiatives generate law enforcement officials who are stimulated directly or indirectly to comply with human rights norms, values and standards, and therefore they are referred to as police human rights strategies (hereinafter 'PHRS').¹⁴

Particular PHRS emphasize police officers' compliance with the rule of law. In this context, the concept of the rule of law is understood as 'whatever law exists is written down and publicly promulgated by an appropriate authority before events meant to regulate it, and is fairly applied by relevant state institutions...'.¹⁵ This suggests that the police as a state institution are expected to enforce laws fairly and independently. As part of a larger effort to reform public security, the Costa Rican government is implementing police legal training, and police legal assistance within its preventive police organization, the Public Force. These two PHRS have as their main objective to improve police officer compliance with the rule of law.

In summary, to improve police officers' compliance with human rights norms, standards, and values, police human rights strategies are implemented within police systems.

10 Y. Dror, 'Law and Social Change', in: J.B. Grossman *et al.*, *Law and Change in Modern America*, 1971; R. Cotterrell, *The Sociology of Law: An Introduction*, 1992.

11 P. Chevigny, *The Edge of the Knife*, 1995; N.S. Rodley, 'Torture and the Conditions of Detention in Latin America', in: J.E. Méndez, *The (Un)Rule of Law and the Underprivileged in Latin America*, 1999.

12 D. Bayley, *Police for the Future*, 1994; The Washington Office on Latin America, *Citizen Security Monitor. Sustaining Reform: Democratic Policing in Central America*, 2002.

13 The Washington Office on Latin America, *From Peace to Governance: Police Reform and the International Community*, 2002.

14 S. Husain, 'Are we There Yet? On the Long Road to Demilitarizing and Professionalizing the Police in Brazil', Paper presented at the Police Human Rights in Latin America Conference in Utrecht, 7-8 April 2006, p. 2; Q. Eijkman, *The Long Road Towards Community Policing: Citizens' Perspectives and Police Officers' Experiences with the Implementation of a Police Human Rights Strategy in Costa Rica*, LASA (Latin American Studies Association) Paper 2006, pp. 3-4.

15 G. O'Donnell, 'Why the Rule of Law Matters', 2004 *Journal of Democracy*, no. 4, p. 33.

2. Public security reform and the Costa Rican police system

At the end of the last decade Costa Rica, like many other countries in Latin America, initiated public security reform that included PHRS. Improving police officers' compliance with the rule of law is part of an international development to increase police adherence to human rights law. Before introducing the Costa Rican context, I will elaborate briefly on the concept of public security and public security reform in Latin America.

After a period of authoritarian rule the majority of Latin American democracies have replaced their national security doctrine with a security doctrine that is more directed towards the public itself. The priority is no longer civil-military relations, but has become internal security focused on the prevention of crime. Thus in the region there are historical reasons for distinguishing between national security and public security.¹⁶ Although security remains a state responsibility, the main objectives of national security and public security differ.¹⁷ National security is about the maintenance of the unity of the state, the protection of territorial sovereignty, to keep watch over the equitable economic, social and political development, and to guarantee the social peace of the population. While public security focuses on the unity of society itself, it is related to the protection of inhabitants through criminal control and prevention mechanisms, the defence of citizens with mechanisms to administer justice, and to guarantee overall security. Thus for national security the prime entity to be protected is the state, while public security concerns itself with crime prevention and the internal order of society itself.

There are several relevant aspects to the concept of public security. According to Tibiletti, public security is a duty of the state and primarily consists of the protection and guarantees of the political, social and civil rights of inhabitants, while concurrently demonstrating respect for democratic institutions.¹⁸ This reference to the duty of the state and to democracy is relevant, because in Latin America the recent history of authoritarian rule and the current rhetoric of 'wars against crime' threaten democratic processes.¹⁹ The criminal justice system and the police have the duty to prevent crime, enforce the law and maintain public order. Respect for the rights of inhabitants relates to public security, because the prevention of crime and internal order affects the entire society. Thus stressing the relationship between the duty of the state to protect its people as well as their right to security²⁰ The definition of public security in the El Salvador Peace Agreement, for example, specifically refers to human rights.²¹ It also mentions public

16 L. Zuñiga Rodríguez, 'Libertad Personal, Seguridad Publica y Sistema Penal en la Constitución de 1993', 1994 *Derecho Penal*, p. 6.

17 Upeace, *Educación para la Paz*, 2004; H. Frühling et al. (eds.), *Crime and Violence in Latin America: Citizen Security, Democracy, and the State*, 2003; A.M. Salazar, *Seguridad Nacional Hoy, el Reto de las Democracias*, 2002.

18 L. Tibiletti, *Los Conceptos de Seguridad y Defensa en América Latina*, <http://www.resdal.org/Archivo/d0000165.htm>, 2001, p. 5.

19 Méndez, *supra* note 11.

20 Human security and citizen security are frequently mentioned in relation to the concept of public security. Human security concerns the conditions which enable individuals to have a life of freedom and dignity (A. Hammerstad, 'Whose security? UNHCR, Refugee Protection and State Security After the Cold War', 2000 *Security Dialogue*, no. 4, pp. 391-403). The main focus of citizen security is people's personal security. It is mostly associated with the absence of physical threats or risks, and the availability of income, housing, health and education (M. Duce et al., 'Citizen Security and Reform of Criminal justice system in Latin America', in: Frühling et al., *supra* note 17). The concept of public security is more limited than human or citizen security. It does not state the causes of insecurity, the particular rights of individuals or the duty of the state to create the conditions that enable people to lead a secure life. Human security is a term often used by the United Nations, for example the UN Development Program refers to it as 'Human security can be said to have two main aspects. It means, first, safety from such chronic threats as hunger, disease and repression and second, it means protection from sudden and hurtful disruptions in the patterns of daily life – whether in homes, in jobs or in communities. Such threats can exist at all levels of national income and development' (Zuñiga Rodríguez, *supra* note 16, p. 6). For more information see, for example, Upeace, *supra* note 17; Frühling et al., *supra* note 17.

21 Chapter II, Article 2a 'The legal regime, staff training, organisational lines, operational guidelines and, in general, the institutional definition and operation of the National Civil Police shall accord with democratic principles; the concept of public security as a service provided by the State to its citizens, free from all considerations of politics, ideology or social position or any other discrimination; respect for human rights; the effort to prevent crime; and the subordination of the force to the constitutional authorities. Citizens' exercise of their political rights

security as a civilian and non-military matter.²² Thus the state's internal security is clearly separated from its external security. Public security is therefore the responsibility of the state to maintain public order, prevent crime and protect society by means of the criminal justice system and the police, while demonstrating respect for democratic institutions and human rights.

2.1. Public security reform

There are different reasons why most Latin American states are reforming their public security systems. Since the 1990s, crime and violence are becoming pressing societal problems and citizens desire change. Average homicide rates, which are an indication of crime levels, are rising drastically. In 2000, the worldwide average homicide rate was 10.0 per 100,000 inhabitants, while in Latin America it was 19.3.²³ These developments cause great feelings of insecurity amongst the regional population. They also influence the expectation of democracy, lead to arbitrary violence by governmental institutions, and weaken the overall belief in the political system.²⁴ In combination with this, citizens are losing confidence in their governments' ability to effectively tackle public security issues.²⁵ A survey conducted in 2003, for example, found that 36 percent of the Latin American population and 41 percent of the Central American population have 'no trust' or 'little trust' in the state public security forces.²⁶ This lack of faith in the police has led to the proliferation of private security guards and an increasing flow of private financing for police forces.²⁷ These societal developments press Latin American states to reform their public security systems.

Even though, in comparison, crime and violence are less of a problem in Costa Rica than in Latin America, the perception of insecurity is similar to the rest of the region.²⁸ During the last 20 years in Costa Rica, crime indexes have increased. Citizens structurally report their sense of insecurity.²⁹ Many Ticos perceive their government as being ineffective in controlling crime or guaranteeing public security.³⁰ In a recent survey, 94 percent of the respondents reported that, on a national level, they felt insecure.³¹ These insecurity feelings relate to higher crime rates. Between 1993 and 2003, the homicide rate rose from 4.9 to 7.0 per 100,000 inhabitants.³² Security has become an important topic within the Costa Rican public debate.

Simultaneously Costa Rican society demands police reform. In the early 1990s citizens had become frustrated with police abuse of authority such as the illegal use of force, illegal arrests, arbitrary detentions, and police corruption.³³ Ultimately there was an inquiry by the Legislative

may not be impaired by police activities'. Chapter 1, article 1f 'The maintenance of internal peace, tranquillity, order and public security lies outside the normal functions of the armed forces as an institution responsible for national defiance. The armed forces play a role in this sphere only in very exceptional circumstances, where the normal means have been exhausted, on the terms established in the constitutional reform approved in April 1991' (El Salvador Peace Agreement, 1995).

22 C. Basombrio, 'The Militarization of Public Security in Peru', in: Frühling *et al.*, *supra* note 17.

23 World Health Organisation, *World Report on Violence and Health*, Geneva 2002.

24 Méndez, *supra* note 11.

25 P. Mesquita Neto, *Crime, Violence and Democracy in Latin America*, Paper presented at the Integration in the Americas Conference, 2002.

26 Latinobarómetro, *Opinión Pública Latinoamericana*, Santiago, Chile 1996-2004.

27 Frühling *et al.*, *supra* note 17.

28 M.A. Seligson (ed.), *The Political Culture of Democracy in Mexico, Central America and Colombia*, 2004.

29 Latinobarómetro 2004, *supra* note 26; United Nations Development Program, *Democratic Governance Project for Central America*, 1997.

30 A nickname for Costa Ricans (M. Biesanz *et al.*, *The Ticos: Culture and Social Change in Costa Rica*, 1999).

31 J. Vargas Cullell *et al.*, *The Political Culture of Democracy in Costa Rica*, 2004.

32 E. Carranza *et al.*, 'Seguridad Frente al Delito en Costa Rica: magnitud y manifestaciones de la violencia delictativa en las últimas dos décadas, 1983-2003', Ponencia preparada para el Décimo Informe Estado de la Nación. San José, ILANUD and *Estado de la Nación*, 2004. The homicide rate is the number of intentional and non-intentional violent deaths per 100,000 inhabitants in a country. It is an indicator of the amount of violence in a society.

33 United States of America Department of State, *US State Department Human Rights Report: Costa Rica Country Report, 1998-2004*; Ombudsman's Office, *Informe Annual*, 1999-2004.

Assembly. In combination with several rulings by the Constitutional Court *Sala IV*,³⁴ this led to public security reform that addressed police professionalization as well as respect for human rights.³⁵

Thus similar to developments in other Latin American countries Costa Rica's public security system has been subjected to extensive reforms, which were caused by rising insecurity feelings, crime and violence rates as well as public dissatisfaction with the police.

2.2. *The Costa Rican police system*

Traditionally, the organization of the Costa Rican police had been somewhat fragmented and politicized.³⁶ In the 1990s there were several factors that contributed to the need to reform the police system. They included police inefficiency in handling rising crime rates, their militaristic style of policing, the lack of labour stability, the lack of cooperation between different police forces, the poor labour conditions of police officers, and a general lack of professional skills. The main objective was to professionalize policing, to affirm the civilian character of policing, to create a uniform police accountability structure, and to set selection and recruitment standards. In order to stabilize labour conditions a police statute was established.³⁷ It was proposed to have 25 percent of police officers participate in basic police training over a 16-year phase and to improve police salaries.³⁸ Also the reform attempted to create more stability between the different police forces. This was done by codifying police responsibilities in one single law: the Police Code, 1994. These reforms have affected the police system and especially the Public Force.

Due to the non-existence of an army the Costa Rican police is the state agency that is responsible for public security and, in the case of emergency, for national security. As can be seen in Figure 1 below, the organization of the Costa Rican public security system is fragmented. It consists of 11 different police forces, which are accountable to five Ministers, municipal governments as well as the judiciary.

On an organizational level each police agency has its own mandate. In a certain manner this institutional framework is one of Costa Rica's *idiosincrasias*.³⁹ There is a cultural pattern of expressing distrust in concentrated authority.⁴⁰ This partly explains why there is not one specific governmental body in charge of policing.⁴¹ Another explanation is the fear of creating a militarized state. By having one police agency, there is the potential of it becoming too powerful.⁴² As

34 Amongst others: la Sala IV, No. 240-1990; la Sala IV, No. 450-1990; Sala IV, No. 734-1990; la Sala IV, No. 1926-1990, la Sala IV, No. 2239-1990; la Sala IV, No. 365-1991; la Sala IV, No. 755-1991; la Sala IV, No. 1177-1991, la Sala IV, No. 94-1992, del 17 de enero de 1992; la Sala IV, No. 456-1992; la Sala IV, No. 1700-1992; No. 2007-1992; la Sala IV, No. 862-1992; la Sala IV, No. 868-1992; la Sala IV, No. 1700-1992; La Sala IV, No. 253-1993; La Sala IV, No. 627-1993; La Sala IV, No. 669-1993; La Sala IV, No. 1111-1993; La Sala IV, No. 1974-1993; La Sala IV, No. 2082-1993, La Sala IV, No. 2720-1993; La Sala IV, No. 3318-1993; La Sala IV, No. 3399-1993; La Sala IV, No. 4320-1993; La Sala IV, No. 3013-1994; La Sala IV, No. 0083-1994; La Sala IV, No. 3311-1994; La Sala IV, No. 782-1995; La Sala IV, No. 3020-2000; la Sala IV, No. 6506-2003.

35 Costa Rican Human Rights Commission, *Informe 4: Situación de los derechos humanos en Costa Rica, Comisión Costarricense de Derechos Humanos*, 1990-1992, p. 35.

36 J.M. Rico, 'Datos Mundiales Sobre Los Sistema de Justicia Criminal', in: *The World Factbook of Criminal Justice Systems*, 2003.

37 D. González *et al.*, 'La Policía en el Estado de Derecho Latinoamericano: el Caso Costa Rica', in: K. Ambos *et al.* (eds.), *La Policía en los Estados de Derecho Latinoamericanos: un proyecto internacional de investigación*, 2002; C. Urcuyo, 'Análisis y Perspectivas de la Seguridad Pública en Costa Rica', 1998 *Diálogo Centro-americano*, no. 28. The police statute regulates labour stability for police officers as civil servants, and the professionalization of police forces (arts. 41/59 Police Code, *supra* note 4).

38 Committee Against Torture, *Concluding observations of the Committee Against Torture: Costa Rica*, 2001, Distr. GENERAL, CAT/A/56/44, paras. 130-136.

39 'Ticos have long insisted that foreign influences be valued carefully as to whether they fit into 'our idiosyncrasies'... Rejecting or accepting innovations according to this criteria have to some extent controlled the degree and direction of change to create their own version of modern society' (Biesanz *et al.*, *supra* note 30, p. 285).

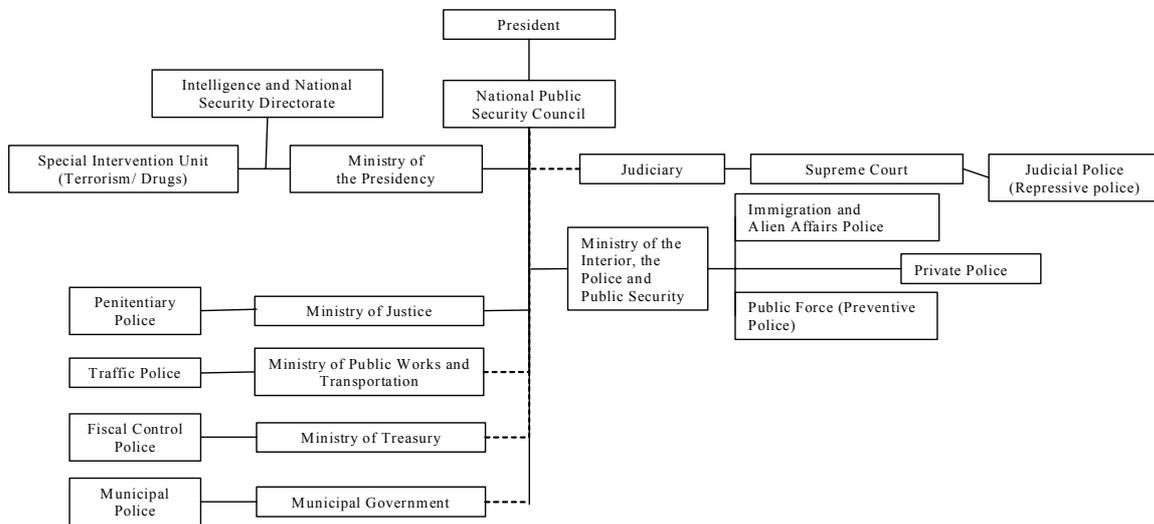
40 Biesanz *et al.*, *supra* note 30.

41 This fragmentation is also present in Costa Rican politics and in governmental institutions (C. Urcuyo *et al.* (eds.), *Modernización del Estado Costa Rica*, 2004).

42 Rico, *supra* note 36; C. Urcuyo, *La Policía de Costa Rica: Informe preparado para el Estudion Sectorial sobre Justicia en Costa Rica*, 1986.

is shown in figure 1, this fragmented organization of policing also applies to the structure of the Public Force. The Public Force or the administrative police, is the largest preventive police force and falls under the responsibility of the Minister of Public Security. Its specific tasks are: to prevent crime, ensure citizens' security, and provide service to the community.⁴³ As can be seen in figure 1, it consists of many different units. In this paper, however, I focus on the police departments that are responsible for operational policing in the capital San José. In 2001, there were, in total, 15,239 law enforcement officials of whom 70 percent worked for the Ministry of Public Security.⁴⁴ This is approximately 381 police officers per 100,000 inhabitants. The Public Force is one of the most important police forces of Costa Rica and in the last decade has been subjected to intense public security reforms, which included the implementation of PHRS.

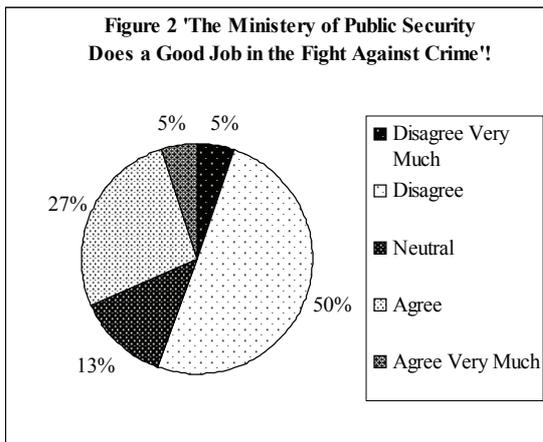
Figure 1: The Costa Rican police system



Sources: Website Ministry of Public Security, accessed 19 February 2005; Rico, 2003; Police Code, 1994.

43 Art. 4 Police Code, *supra* note 4.

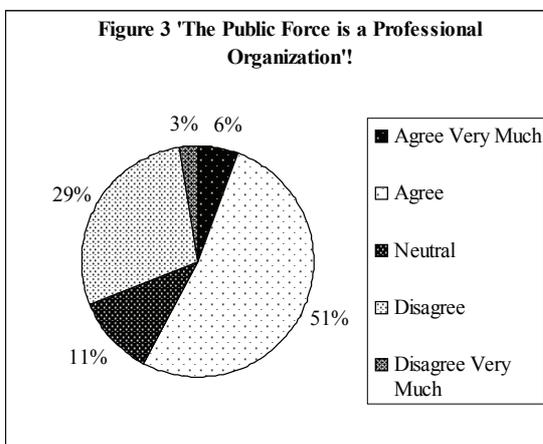
44 Rico, *supra* note 36.



Source: Questionnaire on the Perception of the Public Force in the Metropolitan area of San José, November and December 2004, by the author.

Despite these extensive reforms only a modest part of the Costa Rican population appear to be satisfied with the state institutions that are in charge of public security. This especially relates to citizen perception of the Ministry of Public Security and the Public Force. As shown in Figure 2 above, a small majority of 55 percent of the residents of San José agree that the Minister of Public Security is doing a good job in the fight against criminality.

This suggests that people living in the capital are somewhat content with the efforts of the Ministry of Public Security to tackle crime. Subsequently figure 3 reflects the fact that 57 percent of the inhabitants of San José consider the Public Force to be a professional organization.



Source: Questionnaire on the Perception of the Public Force in the Metropolitan area of San José, November and December 2004, by the author.

Both figures indicate that residents of the metropolitan area feel that despite widespread reform, the most important state institutions for public security are fulfilling their tasks moderately. This conclusion is consistent with a 2004 national survey in which 58 percent of the population said

that they trusted their police forces.⁴⁵ These results are surprising because it seems as if reform does not tremendously influence public opinion about public security institutions.

Although in the 1990s the police system was reformed, Costa Ricans appear to be dissatisfied with the largest state institutions that are responsible for public security.

3. The law and nothing but the law

In the 1990s the Costa Rican government initiated PHRS that aimed to improve police officers' compliance with the rule of law. In this context public security reform focused on legal training and legal support for police officers. Thus the government began to advocate the development of police legal expertise within the Public Force. They did so by implementing two PHRS: police legal training and police legal assistance. Below I will briefly introduce police legal training and police legal assistance.

3.1. Police legal training

Before the public security reform of the 1990s police legal training for the preventive police had not been a priority within the Costa Rican police system. In the former Civil Guard, for instance, there were no courses on law except for writing police reports, whereas in the Rural Guard there was only one.⁴⁶ Nowadays, police legal training has become more important.

Approximately 18 percent of the basic police training course is reserved for the legal training of police officers of the Public Force.⁴⁷ This is subdivided into four courses: police legislation I, police legislation II, human rights, and the formation of police reports. All these courses are taught by instructors with a legal background and end with written examinations.⁴⁸ Many police candidates and police officers, who participate in the basic police validation course⁴⁹, have great difficulties in passing the legal exams, especially those on the subjects of police legislation I and police legislation II.⁵⁰ This is related to their educational backgrounds, the frequent cancellation of classes as well as the technicality of the legal courses.⁵¹ Additionally, in the two-week long basic police co-validation course police officers are taught a two-hour class on each legal subject of the basic police training course. Whereas in the basic police training course police officer students receive a total amount of 190 hours of legal training.⁵² Also, because in 2003 only one third of the Public Force had passed the basic police training course, the majority of police officers have, from a legal perspective, not been properly trained for their task as a law enforce-

45 Vargas Cullell *et al.*, *supra* note 31, p.73.

46 Urcuyo, *supra* note 42, p. 59.

47 In total there are 190 hours out of a total of 1050 hours (Website of the Ministry of Public Security, accessed on 19 December 2005).

48 Recorded in the author's research diary, September and October 2004.

49 In the two-week basic police co-validation course experienced police officers study the same subjects as the police officer students in the basic police training course. These courses are held two or three times a year. Between May 2002 and May 2003 there were 273 graduates of the basic police training course of whom 112 had participated in the basic police co-validation course (Recorded in the author's research diary, 27 and 28 September 2004; Ministry of Public Security, *Memoria Institucional 2002-2003, Ministerios de Gobernación y Policía y Seguridad Pública*, 2003, p. 53).

50 Recorded in the author's research diary, 20 September 2004.

51 Interview, 1 October 2004, by the author; Recorded in the author's research diary, September and October 2004; Interview, 26 February 2004, by the author.

52 If these non-professionally trained police officers pass all the examinations then they are considered to be a graduate of the basic police training course and can try to obtain labour stability by applying to become part of the police statute (González *et al.*, *supra* note 37; Arts. 52-53, Police Code, *supra* note 4; Recorded in the author's research diary, 20 September 2004; Website of the Ministry of Public Security, accessed on 19 December 2005).

ment official.⁵³ This implies that although there is an effort to train police officers, a fair amount of the Public Force has not been sufficiently taught the basics of the Costa Rican legal system. Furthermore, to have any lasting effect, police legal training must be taught as well as reinforced.⁵⁴ As this non-professionally trained police officer who lacked his colleagues' awareness of human rights explained:

'Because within the police one is only partly prepared. In the area of law there is a lack of training. You do not know, because nobody has told you so! Laws emerge, for instance the Law on Sexual Discrimination was signed in 2000 and only a very small number of police officers know about this law. The Law on Domestic Violence is new too! Many have taken courses in all the processes related to domestic violence, but the law is going to change, going to be updated. It would be good if the same police officers who were taught about domestic violence would also learn more about the rest and new developments.'⁵⁵

In other words, not only should the legal knowledge of police officers be developed, but also updated, further enhanced as well as reinforced. To a certain extent the value of this is recognized by the police organization. Hence, specialized or refresher courses are taught at the police academy as well as at a police station level. In percentages, the total amount of legal training during refresher or specialized courses at the police academy is between five to 35 percent.⁵⁶ The same applies to most police rank courses. Generally, all these courses are also taught by instructors with a legal background, external judicial experts, and end with written examinations.⁵⁷ In recent years, for example, intra-family violence has become a socio-political priority. As a consequence of this societal development both professionally and non-professionally trained police officers have participated in specialized workshops on how to implement the Law on Domestic Violence.⁵⁸ In addition to these specialized and refresher courses, police lawyers and other legal experts provide workshops on specific legal topics on a police station level.⁵⁹

3.2. Police legal assistance

The police legal assistance unit and its police lawyers, who are also referred to as *alpha limas*, advise police officers on legal matters relevant to their work. In the 1990s a revision of the 1994 Police Code was recognized by law in 2001.⁶⁰ The police legal assistance unit is a unit of the Public Force and is located at the police headquarters in the premises of the Ministry of Public Security.⁶¹ It consists of approximately 50 to 60 police officers with a legal background, who

53 '125 Policía Graduados', *La Nación*, 24 March 2003; Obando cited in Estado de la Nación, *Proyecto Estado de la Nación en Desarrollo Humano Sostenible*, 2003, p. 96.

54 D. Bayley, *Democratizing the Police Abroad: What to do and How to Do It*, 2001; The Washington Office on Latin America, *Themes and Debates in Public Security Reform: a Manual for Civil Society*, 1998. This is true for most police training (Interview, 1 October 2004, by author).

55 Interview, 9 March 2004, by the author.

56 Website of the Ministry of Public Security, accessed on 19 December 2005.

57 Recorded in the author's research diary, September and October 2004.

58 Code Against Domestic Violence, 1996. Two important public campaigns were: the Ministry of Public Security and CONAMAJ inter-family violence campaign for the Public Force and the Ombudsman's Office in cooperation with the Finnish Government '*Conozcamos la ley contra la violencia doméstica*', which was part of the Project to Promote and Spread Human Rights within Costa Rican communities (Comisión Nacional para el Mejoramiento de la Administración de Justicia, *Agentes en contra de la violencia intrafamiliar*, 2003).

59 Art. 38i Police Code, *supra* note 4; Interview, 9 March 2004, by the author; Interview, 2 March 2004, by the author; Interview, 26 February 2004, by the author.

60 Arts. 37-39 Police Code, *supra* note 4; Civil Police Code, Legislativa de la República de Costa Rica, *Ley de Fortalecimiento de la Policía Civilista*, a modification of Arts. 37-38 of the Police Code, *supra* note 4.

61 Website of the Ministry of Public Security, accessed on 19 December 2005.

have a special status within the Public Force.⁶² This is symbolized by the fact that although these police lawyers wear police uniforms, they do not have an official police rank.⁶³ Instead they attach a label with a special legal symbol on their uniform. Furthermore, because of their professional status as Law graduates they enjoy benefits such as special working conditions and a relatively high salary in comparison to other police officers.⁶⁴ Some of the police lawyers whom I interviewed had also been police station chiefs; one explained that he preferred being a police lawyer because it was less stressful and he had considerably more spare time.⁶⁵ Another returned to being an *alpha lima*, because of the salary and as she explained: 'when you are a chief you don't have time to be a police lawyer'.⁶⁶ Although all the police lawyers have the same responsibilities, they are distributed differently over the various police regions. In urban areas, almost every police station has its own police lawyer, whereas in rural areas they tend to work on a police regional level.⁶⁷ On a station or region level, police lawyers work independently from the local police hierarchy.⁶⁸ They report to the centralized bureaucracy of the Ministry of Public Security.

Police lawyers have a variety of responsibilities. According to law their tasks are to: advise police officers on legal and policing issues, to develop technical criteria related to policing, to give legal advice when the circumstances reasonably require this, to advise police officers in criminal, *habeas corpus*, or *amparo* procedures and to draw conclusions from this, to give legal and technical training when necessary, to recommend how to respect constitutional safeguards while maintaining social order, and to advise the police management in legal and police issues.⁶⁹ In the day-to-day reality of policing, the tasks of the *alpha limas* are diverse. As these two police lawyers explain:

'You help police officers to make up police reports. This is a very important part! If there is a good police report, there will be perhaps success at the Public Prosecutor's Office. You teach the police official that for contraventions, you cannot detain anybody! You take the personal data and make the police report on the spot... I review the books of the radio operator and the police station guard, so I can tell the police supervisors what is missing. Read all the police reports, so that you are able to teach each police officer... In disciplinary issues we do not have any responsibility, but in case there is a disciplinary fault we have the duty – in our personal capacity – to communicate this... Besides this, the obligation is to always be alert: if there are people in the cells, who are these detainees? How many reports exist? Have the drugs been taken to the public prosecutor? All this is the work of the police lawyer....'⁷⁰

'To help the police in the sense that there is not only someone who supports them legally, but also whether the police action was good, it limits the possibilities that there will be problems: abuses of authority, illegitimate detentions, *amparo* proceedings, administrative issues, and disciplinary measures afterwards... We can counsel citizens who have problems with the

62 Art. 38 Police Code, *supra* note 4; P. Chávez, *La Policía en Costa Rica*, 2002 (unpublished).

63 Art. 56 Police Code, *supra* note 4.

64 Arts. 37/39 Police Code, *supra* note 4. Recorded in the author's research diary, 28 November 2003.

65 Interview, 1 March 2004, by the author; Recorded in the author's research diary, 23 February 2004.

66 At the police station in San José, where the station chief is a lawyer, there is no separate police lawyer. Recorded in the author's research diary, 10 February 2004.

67 Interview, 3 March 2004, by the author; Interview, 11 December 2003, by the author; Recorded in the author's research diary, 28 November 2003.

68 Interview, 1 March 2004, by the author; Recorded in the author's research diary, 10 February 2004.

69 Art. 37 Police Code, *supra* note 4.

70 Interview, 2 March 2004, by the author.

police. In police citizen contact we can say ‘we are lawyers and because it is established by law the case is such or such’. When this is clear, they calm down, because what is done is legal.’⁷¹

Police lawyers have different tasks, but their advice on the legality of police actions is the most crucial. It involves assisting, supervising, and educating police officers to improve everyday compliance with the rule of law. In addition to this there are other responsibilities such as supporting police-citizens contact, preventing systematic police errors, and facilitating contact with other actors in the criminal justice system. For instance, police lawyers regularly consult with public prosecutors.⁷² From a legal perspective, the role of the *alpha lima* is to advise police officers on how to improve the quality of law enforcement.

By implementing the two PHRS, the Costa Rican government emphasizes the development of police legal expertise within the Public Force. Police legal (re)training develops and reinforces basic legal expertise, whereas police legal assistance facilitates specialized legal assistance to law enforcement officials.

4. Depth versus breadth: political priorities in strengthening law enforcement

In order to increase police officers’ compliance with the rule of law, the Costa Rican government advocated the improvement of police legal expertise. The Ministry of Public Security has implemented police legal training and police legal assistance. Nonetheless, continuous political support for these two PHRS has been ambiguous. Similar to other countries in Latin America there is political resistance towards the consequences of public security reform in Costa Rica.⁷³ For historical and cultural reasons politicians question the necessity of police training.⁷⁴ During a conversation with a Member of Parliament and her political advisor on police professionalization they stated:

‘Policing in Costa Rica has become more repressive! The Ministry of Public Security is educating police officers by having them trained by Chileans and Israelis, but we are not the *Carabineros!* They are incorporating military elements! Repressiveness is not part of Costa Rican culture, it is imported from outside!’⁷⁵

They associate police training with the historical repressive character of policing.⁷⁶ Traditionally, in Costa Rica the absence of *militarismo* has shaped the national vision on policing as well as security. In this respect the abolition of the army in 1949 was crucial.⁷⁷ According to the Member of Parliament and her political advisor in the above quote, international police training interferes

71 Recorded in the author’s research diary, 6 February 2004.

72 Interview, 2 March 2004, by the author; Interview, 26 February 2004, by the author.

73 Frühling *et al.*, *supra* note 17.; C. Call, *Sustainable Development in Central America: The Challenges of Violence, Injustice and Insecurity*, Central America 2020 Working Paper 8, 2002.

74 Biesanz *et al.*, *supra* note 30; T. Høivik *et al.*, ‘Demilitarization in Costa Rica: a Farewell to Arms?’, in: A. Maislinger Herausgeber *et al.* (eds.), *Costa Rica: Politik, Gesellschaft und Kultur eines Staates mit ständiger aktiver und unbewaffneter Neutralität*, Studien zur Politischen Wirklichkeit, 1986.

75 Recorded in the author’s research diary, 22 September 2004.

76 Urcuyo, *supra* note 42.

77 Art. 12, Constitución Política de la República de Costa Rica, 1949; F. Lehouq, *Instituciones Democráticas y Conflictos Políticos en Costa Rica*, 1998.

with the anti-militaristic culture of Tico society.⁷⁸ Between 1999 and 2003, for instance, the United States army through their Southern Command trained 1,243 Costa Rica law enforcement officials.⁷⁹ Although in some respect this type of bilateral training is crucial for police professionalization, it also affects Costa Rican cultural perceptions.

Some politicians support PHRS, while others simultaneously continue with clientelist practices.⁸⁰ This is expressed through political favours or appointments within the Public Force. During my fieldwork I spoke with police officers who said that one needed political connections to be sent to international police training courses.⁸¹ Others, who while working as police officers had obtained their Law Degrees, found it difficult to have this diploma officially recognized or to become *alpha limas*.⁸² They attributed this to having little political support. These developments reflect how political processes can hinder the implementation of PHRS in Costa Rica.

Additionally, the Ministry of Public Security appears to prefer short-term to long-term approaches to improving police officers' compliance with the rule of law. As the process of training all Public Force police officers would take at least 16 years, investing in police legal assistance was more likely to produce immediate results. From a short-term perspective it was more attractive to the Ministry of Public Security to recruit and train a relative small number of professionals *i.e.* Law graduates, than the long-term commitment of professionalizing the entire Public Force. In 2001, under the second administration PUSC Minister Rogelio Ramos Martínez (2002-2006), the continuity of the police legal assistance unit was guaranteed by means of the Civilian Police Code, 2001. Also, by May 2003, 3,063 police officers had passed the basic police training course.⁸³ Despite the fact that, as a result of this development, in general terms the Public Force has never had such a high number of professionally trained police officers, 65 percent of police officers remain to be taught the basics of Costa Rican law.⁸⁴ As is the case in neighbouring countries, Costa Rica seems to invest scarcely available resources in the depth rather than in the breadth of the police organization.⁸⁵

To a certain extent this investment in the depth of the police organization is stimulated by external factors. International donors and civil society support the development of specialized police legal expertise. Both advocate workshops and courses on specific legal topics, often related to human rights.⁸⁶ In 2001, for instance, in its concluding observations in the country report of Costa Rica, the Committee Against Torture expressed its concern about the inadequacy of law enforcement official training concerning the prohibition of torture.⁸⁷ In recent years societal developments have led to specialized legal training in, amongst other subjects, the rights

78 Biesanz *et al.*, *supra* note 30; 'Costa Rica: Primer Congreso Nacional de Seguridad Pública: Encuentro Sociedad Civil y Policía', 1998 *Diálogo Centro-Americano*, no. 28 Amongst other countries, Costa Rican law enforcement officials have been internationally trained by the American, Spanish, Taiwanese, Japanese and Israeli governments (The Washington Office on Latin America, *Erasing the Lines: Trends in U.S. Military Programs with Latin America*, 2005; Rico, *supra* note 36).

79 The Washington Office on Latin America, *Blurring the Lines: Trends in U.S. Military Programs with Latin America*, 2004, p. 2.

80 C. Bermúdez, 'Ni improvisación ni ocurrencias: La política de seguridad debe rebasar los intereses cortoplacistas y egoístas', in: M. Sobrado *et al.* (eds.), *Soluciones para Costa Rica*, 2004, p. 201; M. Arroyo, 'Los partidos políticos en los procesos de cambio en Costa Rica', in: J.M. Villasuso, *Procesos de cambio en Costa Rica: reflexiones al inicio del siglo XXI*, 2003, p. 220; Recorded in the author's research diary, 13 and 16 September 2004.

81 Recorded in the author's research diary, 15 and 16 September 2004.

82 This while the combination of police experience and professional training is considered by many to be an advantage. Recorded in the author's research diary, 3 December 2004; Recorded in the author's research diary, 28 November 2004; Interview, 1 October 2004, by the author.

83 Ministry of Public Security, *supra* note 49, p. 43.

84 Bermúdez, *supra* note 80; *Estado de La Nación*, *supra* note 53, p. 96.

85 WOLA, *supra* note 13.

86 Bayley, *supra* note 54; Call, *supra* note 73.

87 Committee Against Torture, *Costa Rica Country Report*, Distr. GENERAL, CAT/C/24/Add.7; 13 November 2000: para. 135b.

of sex workers, inter-family violence, rights of migrants with HIV-AIDS, and child sex crimes.⁸⁸ Even though most international donors prefer to allocate their resources for Latin America to transitional societies like Guatemala or El Salvador, bilateral police cooperation does play a role in Costa Rica's public security reform.⁸⁹ The effect of this kind of specialized legal training is however limited if law enforcement officials have not participated in the basic police training course.

In summary, the Costa Rican government's efforts to improve police officer compliance with the rule of law appear to be guided by short-term rather than long-term priorities. This explains why they seem to invest their resources in PHRS such as police legal assistance rather than police legal training. In other words, PHRS that focus on the depth of the police organization are preferred over those that invest in the breadth of the police organization.

5. All for one and one for all! Institutional factors

Competing institutional interests hinder and facilitate the implementation of PHRS within the Costa Rican preventive police. Primarily, the Public Force is one of many actors in the criminal justice chain. In order to ensure public security and to enforce the law it has to cooperate with other actors in the criminal justice chain. This especially relates to police legal training and police legal assistance, because these kinds of PHRS involve several different actors. As the organization of the Costa Rican criminal justice system is fragmented, institutional cooperation and coordination is at times complex (see figure 1). This fragmented organization of Costa Rican policing influences the Public Force's relations with other institutions and this affects the implementation of police legal assistance and police legal training.

5.1. Inter-institutional coordination within the criminal justice chain

One of the effects of implementing PHRS police legal training and police legal assistance is that they improve the possibilities for inter-institutional cooperation. In order for the criminal justice system to function properly it requires inter-institutional coordination between the police, the public prosecutor, and the judiciary.⁹⁰ Police legal expertise is believed to increase the quantity and quality of input to criminal proceedings as well as its efficiency. A police lawyer reflecting on this process stated:

'We came out of a necessity: not so much of the police, but of the judicial system. Why? Due to poor police action or in the follow-up to police action, legal issues arose on many occasions. As a consequence of which the criminal process was hindered. For many reasons a

88 UNAIDS Website, accessed on 28 June, 2005; 'Police Combat Sex Crimes', *Tico Times*, 2 December 2004; Comisión Nacional para el Mejoramiento de la Administración de Justicia, *Agentes en contra de la violencia intrafamiliar*, 2003; Ombudsman's Office, 2000, *supra* note 32, p. 170.

89 R. Neild, 'Lesson of Police Reform From Central America and Haiti', in: L. Lindholt *et al.* (eds.), *Human Rights and the Police in Transitional Countries*, 2003; O. Marenin, 'The Goal of Democracy in International Police Assistance Programs', 1998 *Policing: International Journal of Police Strategies & Management*, no. 1, pp. 159-177; USAID and the US State Department, for instance, have transferred the funds for police reform to the United States Justice Department's International Criminal Investigative Training Assistance Program (ICITAP). Between 2000-2003, Costa Rica received US\$ 400,000 for a programme on sex tourism and child prostitution, whereas Guatemala was given US\$ 4,173,000 and El Salvador US\$ 3,085,000. ICITAP focuses primarily upon police training and institution building (United States Department of State, *Congressional Presentation for Foreign Operations; Fiscal Year 2000*, 2000, pp. 936-937; United States Department of Justice, *ICITAP in Latin America and the Caribbean*, US Department of Justice, 2003).

90 O'Donnell, *supra* note 15.

person was never tried: the maltreatment of evidence, the incomplete identity of the detainee etc.'⁹¹

Thus police legal assistance, but also police legal training, was implemented to strengthen the rule of law during preventive policing. Police officers of the Public Force in their day-to-day work are increasingly expected to enforce and comply with laws, as well as to facilitate criminal prosecution. To function properly, the criminal justice system requires police input. In this context PHRS are implemented to improve police officers' compliance with the rule of law and human rights.

Police legal assistance increases the possibilities for successful inter-institutional coordination between the Public Force and other actors within the criminal justice chain.⁹² These other institutions include, but are not limited to, the public prosecutor and the judiciary. As this police lawyer explained:

'Firstly, because now the judiciary, the courts, attach a little more value and interest in police reports. There have been various meetings and numerous encounters, where we met with public prosecutors and judges and they explained to us what they expect from the police. They, on the one hand, more or less indicate what they would like to be written in police reports and how we, without affecting the subsequent criminal process according to the law, could comply with our police duties. We, on the other hand, explain to the judges about policing and the delicacy of working on the street. They also do not know about numerous situations that are happening on a daily basis in the streets. Sometimes they only apply the law. These encounters bring the two closer and improve the work. There is also this confidence and credibility towards the judiciary and towards the police.'⁹³

According to this police lawyer, inter-institutional contact between the Public Force and the judiciary, as well as the public prosecutor, has been established. Probably due to this increased form of inter-institutional contact between the Public Force and the judiciary, he feels that there is more respect for police input such as police reports. While this is true, during my fieldwork I also learned that the quality of police reports and the lack of proper basic education continues to be an issue. This is related to the considerable number of non-professionally trained police officers, a lack of proper police (re)training, the position of police lawyers within the Public Force, and police officers' resistance to PHRS. Furthermore, there is little coordination between what is taught by the police and other institutions.⁹⁴ This suggests that although the first steps towards inter-institutional coordination have been taken more should be done to intensify this. In Costa Rica, despite extensive public security reform, police resistance towards inter-institutional cooperation persists. As in the rest of Central America, law enforcement agencies find it difficult to cooperate with the other actors in the criminal justice chain.⁹⁵ This is partly explained by institutional priorities. As the main mission of the Public Force is to protect public security, serving the rest of the criminal justice chain is not their only task. They also have to prevent crime, ensure citizens' security, and provide overall service to the community. In other words,

91 Interview, 26 February 2004, by the author.

92 Interview, 2 March 2004, by the author.

93 Interview 1 March 2004, by the author.

94 Interview, 1 October 2004, by the author.

95 L. Chinchilla, *Public Security in Central America*, 2001 Working Paper of the Research Project Public Security and Police Reform in the Americas of Georgetown University Department of Government, p. 16.

as an institution the Public Force's interests are broader than serving the criminal justice system. Developing police legal expertise is one of many professional challenges for the Public Force. In Costa Rica police resistance towards inter-institutional cooperation has been acknowledged, but it continues to affect effective coordination within the criminal justice chain. By improving the legal expertise within the Public Force, the Costa Rican government has created a basis for strengthening inter-institutional cooperation. Nevertheless, there is some institutional resistance towards coordination with other actors in the criminal justice system.

5.2. *Inter-institutional cooperation within the police system*

The implementation of PHRS, which aim to strengthen police officers' compliance with the rule of law, is influenced by cooperation between different actors within the police system (see figure 1). Police legal assistance and police legal training affects the Public Force's relationship with other police agencies. Although in Costa Rica the different police agencies cooperate, there is also competition. Generally speaking, it is the task of the preventive police forces to protect security, and of the judicial police ('hereinafter' the O.I.J.) to investigate crime.⁹⁶ Subsequently the O.I.J. is considered to be a repressive police force, because they, under the supervision of the public prosecutor, on behalf of the judiciary, investigate crime after it has occurred.⁹⁷ In theory, the two police agencies complement each other. In practice, however, because their work overlaps, inter-institutional cooperation is necessary. This especially relates to law enforcement. The Public Force is, for instance, usually the first to arrive on a crime scene and thereby influences the O.I.J.'s collection of evidence.⁹⁸

Once during my fieldwork I accompanied a police chief who that particular night was the commander in charge of San José. We visited a crime scene, where a man had died after he had tried to cross a highway. When we arrived a Red Cross ambulance and a patrol car of the Public Force were already there. The police chief instructed the Public Force police officers to protect the crime scene against bystanders and the press. By then I had witnessed several people, including a Public Force police officer, walking towards and looking at the deceased. Within an hour or so three cars of the Traffic Police, a special section of the O.I.J., the voluntary Public Force and another public official had arrived. I observed all police officers except those of the O.I.J. collecting the names of each other as well as the witnesses. I wrote down in my research diary: to me as an outsider it appeared as if each police agency performed its own task: the Public Force protected the crime scene, the traffic police regulated traffic, and the O.I.J. collected evidence.⁹⁹ To me it seemed as if there was a lack of coordination between the different law enforcement agencies. All the police officers present did what by law their police agency required them to do.¹⁰⁰ Nonetheless, they made sure that they interacted with other police agencies only when strictly necessary. It led to a situation where witnesses talked to different police officers. Except for the collection of each other's names, there was no apparent effort between the police agencies to collectively deal with the situation. Instead, each police agency collected what was necessary from their own perspective.

On the one hand, the development of police legal expertise within the Public Force facilitates the quality of cooperation with other police agencies. Due to improved police legal training, police officers of the Public Force are being taught the basics of preventive and repressive policing.

96 J.M. Tijerino, 'Policía Judicial: Una Perspectiva Latinoamericana', 1994 *Revista Ciencias Penales*, no. 8.

97 González *et al.*, *supra* note 37; Art. 3 Law of the Judicial Investigation Organization, 1973.

98 González *et al.*, *supra* note 37

99 Recorded in the author's research diary, 18 March 2004.

100 Police Code, *supra* note 4.

Public Force police officers, for example, participate in specialized courses taught by the O.I.J. The Public Force and the O.I.J. both recognize the importance of cooperation between the two law enforcement agencies.¹⁰¹ On the other hand, because the Public Force is increasingly professionally empowered, it fuels existent rivalries. Due to the improved police legal training and police legal expertise the differences between the O.I.J. and the Public Force are becoming less apparent. This emancipates the Public Force as an institution, which for legal expertise is no longer solely dependent on others. As, for instance, the recent efforts to combat child sex crimes shows, the Public Force as well as the O.I.J. is developing specialized legal knowledge in this field. Even though the Ministry of Public Security recognizes the importance of cooperation, in the joint effort against child sex crimes there is a gap between the efforts of the O.I.J. and the Public Force.¹⁰² It indicates that internal competition within the Costa Rican police system influences inter-institutional cooperation.

Although since the commencement of public security reform inter-institutional cooperation has become obligatory, it is complicated for the Public Force to do so effectively.¹⁰³ Inter-institutional cooperation is hindered by traditional rivalries between the police agencies.¹⁰⁴ This influences the management of different police responsibilities. It is expressed by police officers fulfilling tasks according to the organizational sub-culture they are accustomed too.¹⁰⁵ During a patrol with three police officers of the Fiscal Control Police, I asked a 25-year-old professionally trained police officer: 'are you a driver'? The police officer behind the steering wheel laughed and responded:

'No, in the fiscal control police we are equal, I do the same work as they do'. He pointed at one of his two colleagues. 'Today, I am just driving. ...' 'What is your rank?' I asked the police officer who sat next to him. He responded: 'in the fiscal control police it is not like the administrative police, it does not matter that we do not use police ranks.¹⁰⁶ Here we value education!' Later the third police officer – a police captain who had worked for the Ministry of Public Security – remarked: 'it is common practice within the Public Force that police officers have a job as a driver.'¹⁰⁷

This dialogue shows that the *modus operandi* in the Public Force is different from the Fiscal Control Police. On a police station level most Public Force police officers have designated tasks such as cooks, drivers etc.¹⁰⁸ Thus, for example, on patrol one police officer acts as a driver, while the other is in charge of policing. Only when strictly necessary do they they cooperate.¹⁰⁹ As the quote above shows, the police officers of the Fiscal Control Police do not have these specific divisions of tasks. Instead they work as a team towards a common goal. This approach is part of a more holistic and integral philosophy towards law enforcement. If it would also become the *modus operandi* in the Public Force, then the possibilities for successful cooperation

101 González *et al.*, *supra* note 37, p. 266.

102 *Tico Times*, *supra* note 88; Ministry of Public Security, *supra* note 49.

103 Art. 75k Police Code, *supra* note 4.

104 González *et al.*, *supra* note 37.

105 Bayley, *supra* note 54; Manning, *supra* note 6.

106 According to the law, all the police agencies except for the O.I.J. and the municipal police have the same civilian ranks (art. 56 Police Code, *supra* note 4). From this perspective there is no difference between the fiscal control police and the Public Force (Arts. 21-22 and 27-28 Police Code, *supra* note 4). The educational requirements to enter the fiscal control police are higher than those of the Public Force (Rico, *supra* note 36).

107 Recorded in the author's research diary, 7 December 2004.

108 Recorded in the author's research diary, 6 February 2004.

109 Interview, 18 March 2004, by the author; Recorded in the author's research diary, January-March 2004.

with like-minded police agencies would increase. In other words, the different law enforcement agencies would speak the same professional language. This is related to the necessity for the Costa Rican government to define an integral long-term strategic vision on public security. Due to institutional resistance, inter-institutional cooperation within the Costa Rican police system is complex.¹¹⁰ As in the rest of Latin America, this kind of police reform is hindered by a lack of political will, adequate resources and strategies directed towards reforming police subculture.¹¹¹ In the long run, more cooperation between the Costa Rica's police agencies would probably facilitate more successful inter-institutional coordination. This would create a public security climate that would strengthen the possibilities for successful PHRS.

5.3. Competing interests: police leadership support

Like any other public security reform related to policing, the implementation of PHRS is dependent on the support of the police leadership.¹¹² This concerns police leaders on all levels of the police hierarchy. For the enforcement of any PHRS the role of a committed leadership is important. They are able to enforce change throughout the police institution.¹¹³ When the police leadership considers police legal expertise to be an asset to policing, they are more likely to support PHRS that stimulate police officers' compliance with the rule of law.

In Costa Rica continuous support of police leaders for public security reform including PHRS is ambiguous. The Minister of Public Security is politically responsible for Costa Rica's largest preventive police force (see figure 1).¹¹⁴ He has the right to appoint the most powerful police chiefs, thereby de facto exercising civil-political control over the police institution.¹¹⁵ Nonetheless, probably due to political alliances and institutional dynamics, the Minister may sometimes accept police leaders who in reality resist his authority. This is checked and balanced by the possibility of transferring people to different positions within the Public Force. Furthermore, in contrast to other public officials, politically appointed staff and police officers who do not enjoy the special labour protection of the police statute can be easily made redundant. Traditionally, the Ministry has been considered an institution that is susceptible to political influence.

Since the public security reform, the police leadership is slowly but surely becoming more professional. During the 1990s the Ministry of Public Security attracted higher educated staff, developed police training, improved labour stability, and introduced a problem-orientated style of policing.¹¹⁶ Yet the high turnover of police chiefs persists.¹¹⁷ One of the reasons for this being that the majority of law enforcement officials, including police leaders, do not undergo the basic training course and therefore lack an important requirement to enter the Police Statute.¹¹⁸ The paradox of the Public Force is that most of the higher educated and trained staff are found amongst the middle and lower ranks.¹¹⁹ Likewise, because of this, labour stability predominately affects rank and file police officers. The reason for this development is that initially the police

110 Chinchilla, *supra* note 95.

111 H. Frühling, *Policía Comunitaria y Reforma Policial en América Latina ¿Cuál es el Impacto?*, 2001.

112 Frühling, *supra* note 111; Bayley, *supra* note 54.

113 Bayley, *supra* note 54; S.D. Mastrofski, 'Policing For People', 1999 *Police Foundation Ideas in American Policing*.

114 In Costa Rican society the Minister of Public Security is considered to be Costa Rica's top police officer. The Ministry and the Public Force are often referred to as one and the same institution. Thus when people talk about the 'Ministry of Public Security', they often mean the Public Force or vice versa.

115 Chinchilla, *supra* note 95; Art. 140(1) Constitution, *supra* note 77, in conjunction with Art. 58 Police Code, *supra* note 4.

116 M. Zamora, 'El Programa de Seguridad Comunitaria en el Contexto de la Policía Costarricense: Apuntes y comentarios frente a su Décimo Aniversario', <http://www.derechopenalonline.com>, 3 September 2005; Rico, *supra* note 36; González *et al.*, *supra* note 37.

117 Chinchilla, *supra* note 95.

118 Arts. 44/59 Police Code, *supra* note 4.

119 Interview, 6 October 2004, by the author; Interview, 5 October 2004, by the author.

hierarchy was not subjected to professionalization.¹²⁰ Throughout the 1990s and early 2000, a majority of high and many middle-rank police officers continued to be appointed through political patronage.¹²¹ Thus although the politicization of the Costa Rican police system has become less pervasive, it persists in terms of the appointment of police leaders. The political scientist Urcuyo explains that some clientelism is considered to be a way of maintaining civil-political control over police autonomy.¹²² Costa Ricans fear police autonomy and therefore they want to prevent the police from becoming too powerful. Hence clientelism is believed to serve a particular function and subsequently political patronage continues to affect the police system. Despite this trend in continuing with politically appointing police leaders, there are efforts to professionalize the police leadership. In 2001, for example, the minimum requirements for becoming a police commander were raised.¹²³ Consequently, some senior police leaders were replaced. In 2004 specially trained commanders replaced nine regional directors of the Public Force, who did not meet the necessary requirements.¹²⁴ Additionally, for each police rank special criteria and courses have been developed.¹²⁵ As these efforts to professionalize the police leadership only affected a small group of police leaders and occurred during one particular government period, their lasting effect remains uncertain. Because the implementation of PHRS challenges police leaders' authority, they resist the development of police legal expertise. Police leaders, for example, have boycotted professionally trained police officers. As a former Minister of Public Security explains:

'The police reform ... did not include the superior ranks. The professionalization began from below and not from above. This process created a conflict. We had people who entered with a new vision, with a new doctrine, truly with disciplinary elements, who were different and we had an old guard of commanders who resisted accepting this change. Thus they boycotted, let us say, the youngsters who left the academy and they assigned them to tasks which did not correspond and did not authorize their training, these types of conflicts...'¹²⁶

In comparison to non-professionally trained police officers, professionally trained police officers are more highly educated, receive more police training, and enjoy better labour conditions (salary, training possibilities etc.). As many police leaders do not meet the new criteria, the process of professionalization threatens their authority. Having authority relates to one's position within the authority or power structure of the police organization as well as having individual authority.¹²⁷ Professionally trained police officers are believed to question the police chief's decision-making capacity. Also some professionally trained police officers in San José have become police leaders. In other words, police leaders experience professionally trained police officers as a potential threat to their position within the police system.

120 Bermúdez, *supra* note 80.

121 US State Department Human Rights Report, United States of America Department of State, *Costa Rica Country Report, 2002*; Chinchilla, *supra* note 95. In the late 1990s, for instance, the Legislative Assembly rejected a proposal to end the practice of having the governing political party appoint middle and high-ranking police commanders (Call, *supra* note 73).

122 Interview, 17 November 2004, by the author.

123 Art. 57 Civil Police Code, *supra* note 60.

124 'Policiales con alta preparación', *La Nación*, 10 December 2004.

125 Website of the Ministry of Public Security, accessed on 21 June, 2005; Civil Police Code, *supra* note 60.

126 Interview, 5 October 2004, by the author.

127 E. Reuss-Ianni *et al.*, 'Street cops and management cops: the two cultures of policing', in: M. Munch (ed.), *Control in the Police Organization*, 1983, p. 304.

The fear of professional competition also influences the relationship between police leaders and police lawyers. An *alpha lima* found that police leaders resisted police legal assistance in the beginning:

‘On the part of the police chiefs there was some resistance.... Because a person came who perhaps knew a little bit more in the professional field. Some commanders, some chiefs, felt a little jealous. Instead of helping them, they believed we came to remove them from their posts, to take away or control their decision-making powers.’¹²⁸

Police leaders’ resistance was based on the potential threat of police lawyers becoming police chiefs and their perception of a police leader’s authority. As in recent years police lawyers have become police chiefs, the suspicion of police leaders is somewhat well founded.¹²⁹ Also, due to the creation of police legal advice the decision-making power of chiefs has become less absolute. Police legal advice interferes with a police chief’s sense of having the ultimate authority on a police station level. This police station chief explained how he felt about *alpha limas*:

‘Still a lot has to change. The role of the police lawyers is to give advice. But there are some police lawyers who give the impression that they want to be chiefs, carry responsibility... They are professionals, but the police perspective is different! Reality is what happens in the streets and not behind an office desk! First and foremost they have to be police officers and then lawyers, but they claim to be lawyers and then police officers.’¹³⁰

This police chief resents what he experiences as interference from police lawyers in policing. Also he questions the loyalty of *alpha limas* towards the police. He feels that police lawyers are primarily concerned with the enforcement of laws and not really with police reality. Although he acknowledges their professional status, by saying that they should be police officers and then police lawyers, he questioned their loyalty to the Public Force. One of the reasons for his resistance to police lawyers is that his authority within the police organization is no longer absolute.

In addition, on a police station level police lawyers operate relatively independently. They are advisors who, because they are accountable to the Police Legal Assistance Unit, are not subjected to the internal hierarchy of the police station. In comparison to other police officers, this makes it more difficult for police chiefs to exercise control over *alpha limas*. Yet despite their relative independence, it is in the interest of police lawyers to have a good relationship with police leaders. For the successful implementation of police legal advice the police leaders’ support is essential. As this police lawyer stated:

‘Everything depends on the mentality of the chief. For me, this is the central idea in whatever police station. If the chief feels legal advice is necessary then you can do great work. But if the chief does not take the police legal advice into account, then you are marginalized behind your office desk. You do nothing more than arrive at seven o’clock in the morning and leave at five o’clock in the afternoon.’¹³¹

128 Recorded in the author’s research diary, 26 February 2004; Interview, 6 February 2004, by the author.

129 Recorded in the author’s research diary, 10 February and 20 September 2004.

130 Interview, 2 December 2004.

131 Interview, 2 March 2004, by the author.

Hence, for the successful implementation of police legal assistance the support of the police leadership is necessary.¹³² On a police station level, the police chiefs determine whether police legal assistance is accepted and this affects the role of the *alpha limas*.

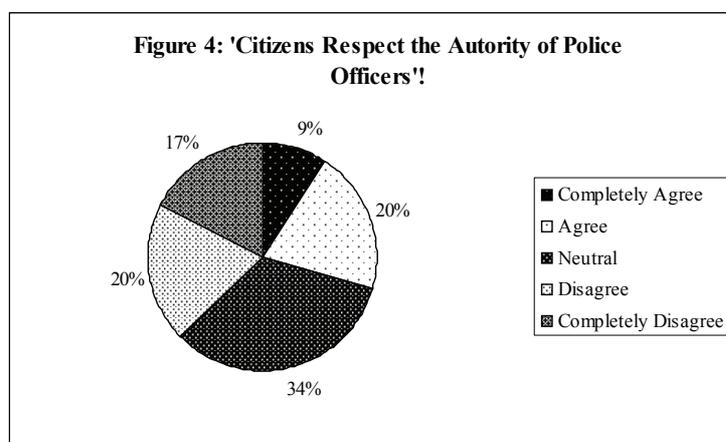
The implementation of PHRS such as police legal training and police legal assistance is dependent on the support of the police leadership. Resistance to the development of police legal expertise by police leaders is related to what is experienced as a threat to police officers' authority within the police system.

6. Do not tell me how to do my job! A police officers' perspective

A police officers' perspective influences how PHRS, which stimulate the development of police legal expertise, are implemented. The goal of the PHRS, police legal training and police legal expertise, is to improve law enforcement officials' compliance with the rule of law. Whether this is successful depends on how police officers relate to the process of implementing PHRS. In this section, I will address police legal training and police legal assistance from a police officer's point of view, thereby focusing on police officers' compliance and resistance to the implementation of PHRS.

6.1. The relevance of developing police legal expertise

Police officers of the Public Force are, in general terms, open to developing legal expertise. As the diagram in figure 4 shows, 70 percent of police respondents agree with the statement that law or legal regulations are important for the work of a police officer of the Public Force.¹³³



Source: Questionnaire on the Implementation of Human Rights within the Costa Rican Police, September and December 2004, by the author.

This suggests that although in this question an aspect of social desirability plays a role, a majority of the police officers value the role that laws or legal regulations fulfil in their work. During the interviews both professionally and non-professionally trained police officers indicated that more police legal expertise is necessary in the Public Force. This related to police legal training as well

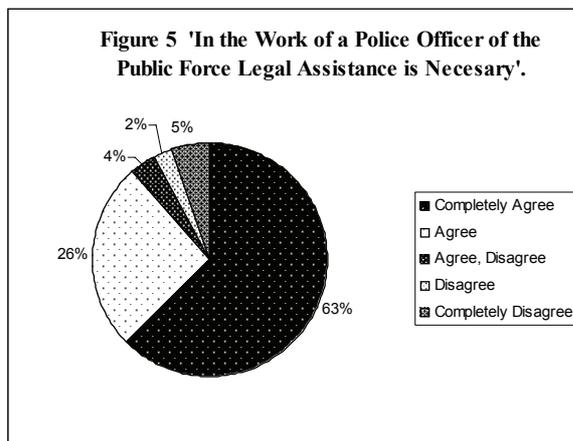
¹³² Bayley, *supra* note 54.

¹³³ When citizens were asked the same question 80 percent agreed with the statement (Questionnaire on the Perception of the Public Force in the Metropolitan area of San José, November and December 2004, by the author).

as police legal assistance. Specialized legal assistance is, for instance, valued by many rank and file police officers. When talking about police lawyers, this 45-year-old professionally trained police officer, who had a bachelor's degree and three and a half years experience in the Public Force, stated:

'I think that her presence – the police lawyer – is important. In reality there are many different legal topics that we do not always deal with the way we should. You have a general understanding of police situations, but sometimes in certain situations you have make a more careful study, be more specific in relation to which articles or how to apply the law.'¹³⁴

He acknowledges the assistance of police lawyers in his work as a police officer. According to him, police officers have a basic understanding about laws, but for technical legal issues they rely on the expertise of the police lawyer. This perception is supported by figure 5, in which 90 percent of the police respondents agreed that police legal assistance is necessary in the work of a police officer of the Public Force.¹³⁵



Source: Questionnaire on the Implementation of Human Rights within the Costa Rican Police, September and December 2004, by the author.

Hence rank and file police officers value the role of police legal assistance in police work. Nonetheless, during the interviews police officers mentioned that although they appreciate the assistance of police lawyers, what they really needed was more police legal training. In relation to this a 33-year-old non-professionally trained police officer, who had five years experience in the Public Force, remarked:

'The police lawyer, the *Licenciada*, is always there to rapidly consult about law and new laws. Sometimes it is good, because she helps us to prepare, to act better in terms of knowing the law and serving society. I think what is lacking is more legal training courses for us!'¹³⁶

134 Interview, 8 March 2004, by the author.

135 When citizens were asked the same question 95 percent agreed with the statement (Questionnaire on the Perception of the Public Force in the Metropolitan area of San José, November and December 2004, by the author.)

136 Interview, 9 March 2004, by the author.

Just as other law enforcement officials, he valued technical legal assistance, but concurrently wants more police legal training.

In terms of developing legal expertise within the Public Force, there are differences between professionally trained police officers and non-professionally trained police officers. Both participate in special legal (re)training courses such as the firearms retraining course. Non-professionally trained police officers, however, have a handicap. They lack an integrated and coordinated introduction into the Costa Rican legal system. This is something which professionally trained police officers have enjoyed in the basic police training course. This was frequently mentioned as a problem by police academy staff as well as police lawyers.¹³⁷ During a firearms retraining legal course I attended at the police academy, a considerable amount of the class were not professionally trained.¹³⁸ Consequently, the legal instructor had to manoeuvre between updating the knowledge of some police officers, while introducing others to the basics of Costa Rican law as well as the regulations on the use of firearms.¹³⁹ One of the consequences is that retraining classes are delayed and focus on basic rather than specialized legal knowledge. Furthermore, non-professionally trained police officers become aware of specialized topics without having the opportunity to sufficiently link them to a general understanding of the legal system. This 31-year-old non-professionally trained police officer, who had three years experience in the Public Force, said: 'what they teach you at the police academy is nothing more than superficial... There are very few courses. They come and name things, but there is not enough time...'.¹⁴⁰ He feels that the few police retraining or specialized courses at the police academy are superficial and rushed. Although in some cases this is true, another explanation could be his low educational level – a number of non-professionally trained police officers are *de facto* illiterate, and that he did not participate in the basic police training course.¹⁴¹ This situation exists because of the slow implementation of public security reform.

Professionally trained police officers who have participated in the basic police training course generally value legal training, but simultaneously feel that the police academy does not prepare law enforcement officials adequately. Like so many of their international colleagues, police officers of the Public Force believe that police work is learnt on the streets and not at the police academy.¹⁴² When I asked this 29-year-old professionally trained police officer with nine years experience in the Public Force, what kind of training was important, she replied:

'For me as a police officer, when I did the basic – police training course –, it was becoming a professional police officer! At the Academy they, perhaps, do not so much teach you to be a police officer, no, a police officer you become on the streets! It is the theoretical part, the law, human rights, violence and other things that in certain situations are worthwhile. The

137 Interview, 4 October 2004, by the author; Interview, 1 October 2004, by the author.

138 In July 2004, in response to the killing of three Chilean diplomats by an untrained 54-year-old police officer on embassy duty, the Costa Rican government reinforced participation in the police firearms retraining course ('Ministerio de Seguridad Crea Unidad para proteger embajada', *La Nación*, 16 December 2004). This did not occur structurally. By law it is obligatory to participate every two years in the police officers' firearms retraining course (Recorded in the author's research diary, 27 September 2004).

139 The firearms retraining course for 22 police supervisors from the San José police district lasted for two days: with a theoretical and a practical part. The legal class lasted two hours and included basic international human rights law such as the UN Code of Conduct, *supra* note 4, the Costa Rican Constitution and the Criminal justice system. This was followed by case studies, a written examination and police technical training: safe measures, using and firing firearms. Interview, 1 October 2004, by the author; Recorded in the author's research diary, 27 and 28 September 2004.

140 Interview, 9 March 2004, by the author.

141 'Unen esfuerzon para frenar violencia', *Semanario*, 4 November 2004.

142 Bayley, *supra* note 54, p. 20.

basic police training course is to train police officers in professional quotation marks – ‘ ’ –: you do not become a professional police officer in nine months!...’¹⁴³

Although she acknowledges the role of the long and tedious police legal training courses, she insists that police work is essentially learnt while doing it. One of the consequences of the value that law enforcement officials attach to police experience is that the role that peers have in teaching police work is important.¹⁴⁴ When policing the streets you work with colleagues and they socialize with new police officers concerning what they think he or she must know. As this non-professionally trained police officer, with 5 years experience in the Public Force, explained: ‘I think you learn police work on the streets, you learn from your colleagues. I have learnt police work from my colleagues...’¹⁴⁵ He thereby emphasizes that he has learnt the job by interacting with his colleagues. In relation to the law, this implies that it is translated by the organizational subculture into a tool for policing. This has implications for police legal training, because to a police officer the law becomes whatever a colleague says it is.

Although police officers support the development of police legal expertise, they value police legal training more than police expertise. Both professionally and non-professionally trained police officers would like to have more legal training, but simultaneously they do not hold police training in high esteem. Legal courses are considered to be a technical introduction to work that a police officer essentially learns by doing it.

6.2. Rationalizing compliance and resistance

Even though law enforcement officials support the development of police legal expertise, this does not necessarily mean that the change generated by PHRS leads to increased police officers’ compliance with human rights. As police legal training is temporary and *alpha limas* are only advisors, it is up to the individual police officers to comply with the laws and legal regulations while policing.¹⁴⁶ In the reality of day-to-day policing, law enforcement officials are ambiguous about changes within the police organization.¹⁴⁷ Police officers’ resistance to change has multiple reasons. In relation to the implementation of PHRS it is very likely that the change generated by PHRS is not perceived to be in their interest.¹⁴⁸ For instance, interaction with police lawyers could reveal police officers’ low educational level. The amount of compliance and resistance to the implementation of police legal training and police legal assistance relates to police officers’ perspectives of PHRS.

The aim of implementing police legal training and police legal assistance is to increase police officers’ compliance with the rule of law during operational policing. Police officers’ compliance is expressed by police officers adhering to human rights standards, norms and values. This entails that they consider the just enforcement of laws as an important part of their day-to-day work. Other motives for complying with these two particular PHRS include: improving the quality of policing and police reports, inter-institutional cooperation, adhering to ethical standards, police leader support, and professional development. This professionally trained police officer summarized his motive for cooperating with the *alpha lima* as problem prevention:

143 Interview, 10 March 2004, by the author.

144 Bayley, *supra* note 54; Reuss-Ianni *et al.*, *supra* note 127.

145 Interview, 9 March 2004, by the author.

146 Interview, 1 March 2004, by the author; Recorded in the author’s research diary, 23 February 2004.

147 Bayley, *supra* note 12; H. Goldstein, *Problem Orientated Policing*, 1990.

148 Bayley, *supra* note 54; R.C. Trojanowicz *et al.*, *Community Policing: A Contemporary Perspective*, 1990.

'Very good, because in some police zones due to legal ignorance they make many mistakes and when it goes to court it is practically rejected ... It is very important, the police lawyer helps you when you write the police report: to qualify the criminal offence, a good redaction – of the police report –, writing down what happened. This helps officially when I pass on the detainee. If it is well received, there are possibly less problems at the courts. With the police lawyer there are less police errors, less problems when it goes to court. They will not refuse the report.'¹⁴⁹

To him, the PHRS police legal assistance is a success, because it prevents problems with other actors in the criminal justice system. Problems in this context relate to the court rejecting police input. As a consequence of the poor quality of police reports cases are dismissed. Improving the quality of police reports, therefore, contributes to more successful inter-institutional coordination. For a rank and file law enforcement official this has direct and indirect advantages. Directly, if his arrest leads to a follow-up, he feels that he is supported by the criminal justice system. It contributes to more professional self-esteem, increased efficiency, and effectively leads to less external complaints about police officers. Indirectly, because of these reduced complaints there are fewer issues with police leaders who face less external criticism about the quality of police reports. This could lead to increased possibilities for a positive assessment or promotion. Thus PHRS could prove to be individual benefits for police officers who do not immediately relate to compliance with human rights.

Despite these benefits, there are also many reasons why police officers of the Public Force resist the implementation of police legal training and police legal expertise. These relate to police officers' experiences with change as well as their individual interests. In relation to the implementation of these two particular PHRS, police officers' motives were, amongst others : a lack of citizen respect for police authority, gaps between theory and practice, and a lack of resources, education, training or support from the criminal justice system. Even though some of these problems relate to more structural societal and institutional issues, they are an everyday reality for law enforcement officials of the Public Force. Hence they influence how they relate to change. Other experiences are influenced by the powerful informal subculture of policing (see the case study on police legal assistance in the next section).¹⁵⁰ In relation to police legal training this 25-year-old professionally trained police officer remarked:

'When we are at the Academy they instil a different world: 'we are the authority, etc.', but when we enter the streets, you see a completely different world, where you work with limited resources! You work, like some units do, with little material resources, any sort of protection for us such as weapons. Most importantly there is the law. In Costa Rica the law says: 'you can protect life or defend the rest! If you have to eliminate a person to protect others, because this person is going to harm various people, then we have to kill the person. Ok, if you always do it like a police officer, you are going to find yourself in tedious legal processes, where the government does not give you a lawyer who is going to defend you, you get a public lawyer, who already has so many cases, and you are seen as just an extra case. The police officer remains alone with his problems, he has to live without psychological help, any support for

149 Interview, 8 March 2004, by the author.

150 Goldstein, *supra* note 147; J.H. Skolnick, 'A Sketch of the Policeman's Working Personality', in: T. Newburn (ed.), *Policing Key Readings*, 2005.

his problems. Due to this I think that police officers in some places are sometimes scared to act.¹⁵¹

When talking about this particular PHRS, his resistance to the change becomes apparent. He expresses it by rationalizing resistance, by not doing it according to the book and passively by refraining from action. Police officers' resistance according to him is primarily caused by institutional factors such as the gap between police training and police reality. The difference is that on the streets you do not have the kind of authority that exists within the artificial environment of the police academy. As a result of police training at the police academy he had expected more citizen respect for his authority as a public official. This can be translated into what Skolnick refers to as the police officer's resentment for being taken for granted and not being respected by the same society he serves.¹⁵² This suggests that, amongst other things, police legal training is seen as not preparing police officers adequately for the realities of police work. In the quote the police officer mentions other factors such as the limited availability of resources. He cites Costa Rican law as a source of protection for police officers, thereby perceiving it as extra help for police officers in the fight against crime.¹⁵³ On the one hand, he acknowledges the importance of maintaining the rule of law and protecting society. On the other hand, he experiences the system as being unfair towards police officers. Feeling let down by the society they serve as well as the system is a common motive which is cited for police officers' resistance to change. With this justification of not always doing it the way a police officer should, he rationalizes police officers' active resistance towards PHRS, which seek increased compliance with the rule law and human rights. In order words, by not doing things according to the law or legal regulations, he finds he has less trouble in getting the job done.

The passive resistance of police officers towards the effect of implementing PHRS is expressed by police officers refraining from action. Van Maanen refers to this in the context of rank and file officers and describes it as to 'lay low and don't make waves'.¹⁵⁴ They, as the police officer in the above quote indicated, become scared to act, because they fear the consequences. The result is that police officers become indecisive and avoid people or areas. In certain situations they do not want to carry individual responsibility and project this towards others within the police organization. A 31-year-old non-professionally trained police officer's avoidance of responsibility became clear when he explained why he always wanted to have the police lawyer present:

'The police lawyer should always be there... Firstly, because not all the cases are the same, there are small details that you perhaps do not see and for them this could be important. You understand, at the police academy they teach you superficially nothing more than how you should treat certain cases and therefore it is good to have a *Licenciado* – police lawyer – or someone who is specialized in that particular area. More or less how to act in particular cases, let us say in aggressive situations, there is especially a great deal of emphasis on domestic violence cases, but these are delicate cases that perhaps you don't really know what to do about.'¹⁵⁵

151 Interview, 22 November 2004, by the author.

152 Skolnick, *supra* note 150, pp. 270-274.

153 Bayley, *supra* note 54.

154 J. Van Maanen, 'Observations on the Making of Policemen', 1973 *Human Organization*, no. 4, pp. 407-418; J. Van Maanen, 'Police Socialization: A Longitudinal Examination of Job Attitudes in an Urban Police Department', 1975 *Administrative Science Quarterly*, pp. 207-222.

155 Interview, 9 March 2004, by the author.

He wants to cooperate with the police lawyer, but also shows signs of the dependency on police legal assistance. By arguing that the police academy does not adequately prepare a police officer he justifies his desire to have a police lawyer present at all times. Even though police lawyers are there to advise police officers, there are limits to their potential to give advice and the main goal is to give specialized advice. Furthermore, to a certain extent police officers, especially after having been taught in specialized legal courses, should take responsibility for basic law enforcement issues. Although the content of his justification is supported by police lawyers as well as the police academy staff and there is not enough coordination between what is taught at the legal courses of the basic police training course and in specialized and/or refresher courses, it still amounts to passively resisting the implementation of PHRS.¹⁵⁶ By relying strongly on police legal assistance, he avoids taking responsibility for his own actions and on a long-term basis there is no increased police officer awareness of compliance with human rights.

Yet for rank and file police officers passive resistance to PHRS is a way of protecting individual interests. By refraining from action in particular situations there is less potential for problems. These vary between public complaints about an abuse of authority or a note by a police leader in the personal file of a police officer. Consequently, this personal file will not be contaminated and this is in the interest of the police officer. Having a clean record is, for instance, a requirement for becoming part of the police statute or to apply for promotion courses. In other words, promotion is more likely when a police officer is careful in applying the rule of law during operational policing.

6.3. *They are lawyers, not police officers! A case study of police officers' resistance*

'They are lawyers, not police officers' is a common expression among police officers who resist police legal assistance.¹⁵⁷ By qualifying *alpha limas* as outsiders in the world of policing, at the police station level they acquire a different status. On the one hand, law enforcement officials appreciate the assistance of police lawyers, but, on the other, they want to protect policing as they know it. This 25-year-old professionally trained police officer explained why he felt *alpha limas* were not really police officers:

'I feel that the people who give legal assistance in the Public Force are recent graduates who indeed have knowledge about the law, but have little experience and often don't know when it really matters how to help the police officer, how to advise him. They are only and exclusively there to advise the police... Normally when there is a situation where a police officer has already acted, he does not know if he has committed a criminal offence or infringed the law in such a way that it amounts to an abuse of authority, that is where I say that legal advice should also be there to help us with our problems, and not to cause problems for us... Let us say, at night, this lawyer should be a police officer who is there with us. He, however, says: we are not going to do this, don't enter, don't detain this person, but the police officer has the experience. Do you understand? We can't do anything with a person from university who has learnt heaps of materials... We know how to act in certain situations. If you fetch such a person, the only thing they bring with them is theory, theory and theory! They don't have anything practical to say! ... I feel that police lawyers should be police officers, not only lawyers.'¹⁵⁸

156 Interview, 1 October 2004, by the author; Interview, 26 February 2004, by the author.

157 Recorded in the author's research diary, 10 February 2004.

158 Interview, 10 March 2004, by the author.

Essentially he questions police lawyers' solidarity towards fellow police officers. Police solidarity reassures police officers that they stick together against external threats or investigations.¹⁵⁹ Legal assistance sometimes interferes with what law enforcement officials, on the basis of their police experience, believe is the right thing to do. In theory, every decision is the individual responsibility of a police officer, but in practice police lawyers, especially if they are supported by the police hierarchy, are powerful and law enforcement officials are more often told to obey the advice of an *alpha lima*. At one of the police stations where I carried out my fieldwork, for example, I frequently witnessed supervisors ordering police officers to consult with police lawyers.¹⁶⁰ In the above quote this kind of interaction is summarized by the police officer as being told what to do by a university educated professional without police experience. It annoys him, because he experiences it as interference with his individual authority as a police officer. A non-professionally trained, experienced police chief clarified this point of view:

‘Within the police, there is something sacred: the principle of authority. This means that absolutely no one interferes or questions an arrest made by a police officer or his version of what happened. A police lawyer, who tells a police officer, ‘don’t do it like this, but like that’ discredits his authority... Many police lawyers try to change the police version of what happened, but this is the responsibility of the police officer! He was the one who was there... Many police lawyers take decisions that do not correspond... They should never tell a police officer: ‘put it down like that’ and say: ‘it is a contravention’... Older police officers, like myself, know the difference between a contravention and a criminal offence, but even if it is a contravention, I am not going to release the person – the suspect. That is the job of the public prosecutor... Many police lawyers have the barbarity to change this! That’s taking away the authority of the police officer.’¹⁶¹

This police chief experiences police legal assistance as potentially threatening to his individual authority to make decisions. To him, law enforcement officials – at least the older ones – have sufficient knowledge about criminal law and *alpha limas* – just like all other police officers – should not question seniority within the Public Force. It is as if he is saying: ‘don’t tell me how to do my job’! The police lawyers’ advice interferes with the informal codes of police culture.¹⁶² Police culture in this context includes, as Chan suggests, not only internalized rules and values, but also the structural conditions of policing.¹⁶³ Many non-professionally trained police officers feel that they are experienced enough to know about the rule of law and this should not be questioned, especially not by younger professionally trained colleagues or inexperienced police lawyers. It implies that during police work one is at all times expected to support one’s colleagues. Hence, in the quote the issue is not whether it was a contravention or a criminal offence, what is relevant is the police officer’s version of what happened. This point of view reflects the police officer’s perspective, which communicates ‘around here I am the law’. The process of implementing PHRS reveals the complexities of trying to improve police officer compliance with the rule of law. It suggests that the implementation of PHRS is strongly influenced not only by

159 A. Goldsmith, ‘Raising the Social Capital of Policing Nations: How Can Professional Policing and Civilian Oversight Weaken the Circle of Violence?’, in: E.P. Mendes *et al.* (eds.), *Democratic Policing and Accountability: global perspectives*, 1999, pp. 93-94.

160 Recorded in the author’s research diary, October and November, 2004.

161 Interview, 2 December 2004, by the author.

162 For more information on the police sub-culture see J. Chan, ‘Changing Police Culture’, in: T. Newburn (ed.), *Policing Key Readings*, 2005; Manning, *supra* note 6; Reuss-Ianni *et al.*, *supra* note 127.

163 Chan, *supra* note 162, p. 360.

social and institutional contexts, but that police culture is an integral part thereof.¹⁶⁴ The police chief's expectations of respect for individual authority and respect for seniority are based on the informal working rules of policing. Consequently, if the change that police legal assistance creates interferes with these kinds of attitudes, beliefs, or values then police officers are very likely to resist this type of PHRS.¹⁶⁵

Furthermore, as mentioned earlier the success of police legal assistance depends on police leaders, police lawyers as well as the police officers' willingness to cooperate. Generally speaking, during my fieldwork I learned that rank and file police officers who seek legal assistance do not directly turn to *alpha limas*. While encountering problems during law enforcement they are more likely to request help from police leaders or colleagues. When I asked this professionally trained police officer who, on a police station level, contacts the police lawyer, he replied:

'The one who is in control of the situation is the one who at that moment has the highest command. If there is a group of colleagues, in the case when it has not defined who has the command, it is the supervisor and also the operational commander. Automatically in this case the operational commander is in charge of realizing the procedures, the calls, and he is in control of a range of things. Thus the one in charge is the one who has the highest rank. The other colleagues always come to you to ask for advice.'¹⁶⁶

His explanation is that police officers following the internal hierarchy of the police organization are more likely to ask police leaders and colleagues for advice. This is the way policing is organized and in his perception this applies to police legal assistance as well. The contradiction of the Public Force is that the majority of professionally trained law enforcement officials are found amongst the rank and file police officers and that many police leaders have not participated in the basic police training course. In one of the police stations where I carried out my fieldwork all three police supervisors were experienced police officers, but none were professionally trained. This is a problem because, as the quote suggests, police officers turn to colleagues and police leaders for advice.

There are several other reasons why police officers resist *alpha limas*. These relate to power relations and educational differences. Most police officers perceive police lawyers as highly educated professionals, who enjoy tremendous labour benefits.¹⁶⁷ For instance, the salary of a police lawyer is approximately three to four times what a rank and file police officer earns. Others see a lack of power relations between the police lawyer and police officers. This is especially expressed in terms of legal knowledge. Many police officers would prefer *alpha limas* to focus more on legal education rather than simply telling others what to do.¹⁶⁸

In summary, even though in theory it might appear to be self-evident that police officers support the development of police legal expertise, reality is more ambiguous. Police officers both comply

164 *Ibid.*

165 M. Marks, 'Shifting the Breaks or Slamming the Gears?: A Review of Police Behavioural Change in a Post-Apartheid Unit', 2003 *Policing and Society*, no. 3, pp. 235-258.

166 Interview, 8 March 2004, by the author.

167 Police salaries are higher than before, but in comparison to the rest of society they are still relatively low. The minimum wage in 2001 for government services was US\$ 297 a month. In the same year a police officer who entered the Public Force earned approximately US\$ 273 a month, with a 25 percent increase if he or she had passed the basic training course and entered the police statute (Rico, *supra* note 36). The salary, furthermore, increases according to the academic level of a police officer (Arts. 52-53 Police Code, *supra* note 4). Recorded in the author's research diary, 28 November 2003.

168 M. O'Rawe, 'Human Rights and Police Training in Transitional Societies: Exporting the Lessons of Northern Ireland', 2005 *Human Rights Quarterly*, no. 3, p. 945. Interview, 22 November 2004, by the author; Interview, 1 October 2004, by the author.

as well as resist the implementation of the PHRS: police legal training and police legal assistance. Many police officers feel that, on the one hand, the development of police legal expertise is necessary, but, on the other hand, they find police legal training to be insufficient. Even though police legal assistance is appreciated and to a certain extent improves the quality of law enforcement, *alpha limas* are resisted because they interfere with the informal organization of policing.

Reflections

Police human rights strategies are part of a larger effort to reform public security in Latin America. Even though Costa Rica has no recent legacy of authoritarianism or civil war, during the 1990s the government initiated widespread public security reform. This included the implementation of several police human rights strategies. Police human rights strategies aim to directly or indirectly increase police officers' compliance with human rights norms, values and standards. The effect of implementing these strategies is dependent on the socio-political and institutional context, in combination with police officers' compliance and resistance to change. With the police human rights strategies: police legal training and police legal assistance, the Costa Rican government emphasized the development of police legal expertise within the Public Force. Police legal (re)training and specialized training develops and reinforces basic legal expertise amongst law enforcement officials. From a legal perspective police legal assistance relates to the quality of law enforcement. This is done by police lawyers who advise police officers on specialized legal issues.

By developing police legal expertise within the Public Force the Costa Rican government attempts to improve police officers' compliance with the rule of law. 'Around here I am the law' reflects the process of transforming non-professionally trained police officers into professionally trained public officials whose core business is the enforcement of laws including human rights. Perhaps the most fundamental question is the following: has the implementation of police legal training and police legal expertise led to improved police officer compliance with the rule of law? In recent years laws and legal regulations have become a more integral part of day-to-day policing within the Public Force in San José. A couple of years ago there were hardly any professionally trained police officers. Nowadays more police officers have participated in the basic police training course and have therefore been taught about the Costa Rican legal system. On a police station level police legal assistance is available, at least in the capital. Due to the police lawyers, inter-institutional cooperation has intensified and contacts with other actors in the criminal justice system have slightly improved. On the one hand, acknowledging the necessity to have *alpha limas* reflects a more professional approach towards law enforcement, while, on the other, it diverts attention from what the Public Force so desperately needs: adequate resources, more professionally trained police officers, an integrated and coherent approach towards reform, and a stable and professional police leadership. Although the public security reform initiatives have addressed these issues, on an institutional level within the Ministry of Public Security an adequate strategic vision on how to realize this is lacking. This affects the potential success of the police human rights strategies: police legal training and police legal assistance.

For rank and file police officers, resistance to the change police human rights strategies generate is a way of protecting individual as well as group interests. Due to their active and passive resistance they preserve the status quo of policing as they know it. Police legal assistance is, for instance, resisted by some police officers because although it improves the quality of the work, it also interferes with the familiar way of working. Compliance with informal codes of police

subculture guarantees, especially for non-professionally trained police officers, continuity and stability in their work. The new generation of professionally trained police officers are, generally speaking, more highly educated and better prepared for their task as law enforcement officials. However, most law enforcement officials, irrespective of their background, view policing as something that is learnt on the streets. As a result of this on a police station level, experienced police officers have a certain status and tend to be powerful actors of change as well as resistance. In combination with the support of police leaders, they influence the extent to which police human rights strategies can be implemented. Thus increased police officers' compliance with the rule of law seems to relate to police legal training and specialized legal advice, but perhaps the most important factor is the sustained institutional support of key actors on a police station level.

By focusing on socio-political and institutional factors as well as police officers' resistance, the complexities of implementing police human rights strategies become apparent. The Costa Rican government struggles with an adequate long-term follow-up to the public security reform they initiated during the last decade. Rather than assigning responsibility to a relatively small number of police lawyers, the mainstreaming of legal expertise within the police requires more sustained and thorough institutional support. Whereas police lawyers fulfil an important need, for continuous police officers' compliance with the rule of law, improving and updating police legal training is required. Despite the pressures of fluctuating public demands and limited resources, the priority should become the public security reform initiatives that stress police legal (re)training. Furthermore, the trend to appoint police leaders on the basis of their merits rather than political connections requires commitment from all political actors. This in combination with adapting police human rights strategies to the realities of day-to-day policing would probably create the necessary conditions for strengthening police officers' compliance with the rule of law. In Costa Rica the effect of police human rights strategies is apparent; however, long-term sustained socio-political and institutional commitment towards public security reform is desired.

Fieldwork

The fieldwork for this research was conducted during 2003-2004 in San José, Costa Rica. The Minister, then Rogelio Ramos Martínez, gave permission for the research at the Ministry of the Interior, the Police and Public Security as well as within the Public Force. Two-and-a-half months were spent at the delta 11 police station, located in Hatillo, a low-class residential suburb in San José and two months at the 'Charlie Delta' police station, which is a subdivision of the Public Force of delta 1 in the centre of San José. Although most of the participant observation was conducted at the aforementioned police stations and the police school, I also visited other police deltas in San José. Additionally, I read files and interviewed public officials at the Ministry of Public Security, the Judiciary and the Ombudsman's Office. After each interaction or other relevant encounter, I recorded what I saw, read, and remembered in my field notebook.

Interviews

Throughout the fieldwork period, I conducted approximately 72 open interviews and 22 semi-structured interviews with police officers, public officials of the Ministry of Public Security, representatives of the Judiciary, and the Ombudsman's Office, as well as other experts including academics, journalists, politicians, lawyers, and embassy personnel.

Questionnaire on the perception of the public force in the metropolitan area of San José

In November and December 2004 a questionnaire on the perception of the Public Force was conducted amongst the population of the metropolitan area (definition of the National Statistical and Population Census Institute, Population Census 2000). With the assistance of Olmer Núñez Sosa, Agustín Gómez Meléndez, and Paola Omodeo Cubero during 3 weekends a total of 516 adults were interviewed at their homes by 20 trained interviewers. The sample was semi-stratified on socio-economic criteria and the total no response rate was 15.3 percent.

QUIRINE A.M. EIJKMAN

Questionnaire on the implementation of human rights within the Costa Rican police

Between September and December 2004, a questionnaire was conducted amongst police officers of the police station Charlie Delta in San José's centre and police officers taking the Police Legislation II Examination of the 'Basic Police Validation Course' and attending the firearms retraining course held on 28 September 2004 at the Central Dependence of the National Police School, Francis Orlich B. In total there were 193 participating police officers. The sample was non-stratified and the no response rate was 9.38 percent.