

# **BRAZIL**

## **FIGHTING VIOLENCE WITH VIOLENCE**

### **Human Rights Abuse and Criminality in Rio de Janeiro**

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*"The problem of trafficking will only be resolved with blood. It's the only language they understand."*

—Mario Azevedo, Chief of Police, 21st Police Precinct, Rio de Janeiro

*"Police institutions are in a tragic situation for society. People have more trust in traffickers than the police."*

—General (retired) Nilton Cerqueira, Secretary of Public Security

*"We're not a battalion of social workers, and that is why it is impossible to avoid one excess or another."*

—General Roberto Jugurtha Camara Senna, commander of Operation Rio forces

## I. INTRODUCTION AND RECOMMENDATIONS

One of the most beautiful cities in the hemisphere, Rio de Janeiro today is most often described as a city under siege. There is no question that violent crime has increased significantly over the past decade. The homicide rate for Rio, for example, has tripled in the last fifteen years, rising from 2,826 murders in 1980 to 8,408 in 1994.<sup>1</sup> Public concern has grown apace. The press, prominent civil leaders, and politicians have focused particularly on violence related to criminal gangs and drug trafficking.

Unfortunately, law enforcement efforts to control crime have relied on flagrant and numerous human rights abuses. Despite the good intentions of some public officials, most of Rio de Janeiro's police remain abusive, violent, and corrupt. In this report, Human Rights Watch/Americas documents instances of police brutality, including two massacres in which twenty-seven residents of one of Rio's infamous hillside slums, or *favelas*, were killed. We also document the human rights violations that accompanied the largest assault to date on Rio's drug gangs, Operation Rio, from November 1994 to mid-1995.

In recent years, Brazil has emerged as an increasingly important transit country for cocaine en route from the Andean countries to Europe and the United States and as a market for domestic consumption. Much of the Brazilian drug trade is concentrated in Rio de Janeiro, where the lower levels of trafficking hierarchy are dominated by organized crime gangs ensconced in the favelas.

Battles for turf and control among the gangs are frequent and, thanks to a thriving illegal arms trade, violent. Confrontations between the police and traffickers are often marked by indiscriminate shooting. Innocent bystanders, primarily favela residents but also including some from Rio's middle and upper class neighborhoods, have fallen victim to the deadly gunfire. Mounting public furor over violence by the drug gangs and the police, jockeying by gubernatorial candidates, and steady pressure by the press led in late 1994 to an agreement between the state of Rio de Janeiro and the federal government to bring in federal military troops to assist the police.

The agreement launched an unprecedented joint military-police effort, dubbed Operation Rio, to sweep away Rio de Janeiro's criminal gangs. Operation Rio forces engaged in dozens of occupations—many lasting several days—of the favelas in the city of Rio as well as outlying areas, including the Baixada Fluminense and Niterói. In its first two and a half months, Operation Rio's most intense period, troops and police detained and arrested more than 500 people, seized some 300 firearms, and captured seventy-four kilos of marijuana and more than seven kilos of cocaine. Drug trafficking in the favelas was temporarily disrupted. Most observers believe, however, that drug traffickers resumed business as usual as soon as the troops withdrew from the favelas.

Operation Rio was punctuated by torture, arbitrary detentions and warrantless searches and at least one unnecessary use of lethal force. Some of these abuses, such as subjecting entire neighborhoods to house-by-house searches, were expressly authorized and, indeed, were demanded by the strategic goals adopted for the operation. Other abuses, such as torture, were not openly included in Operation Rio's design. Nevertheless, the failure of civilian and military authorities to respond swiftly and decisively to complaints of abuse as Operation Rio unfolded, as well as public statements by officials commonly understood to condone "excesses" during the operation and the absence to date of convictions for the abuses endured by many favela residents suggest appalling indifference by Brazilian authorities to the violation of human rights. At worst, they suggest tacit acquiescence in those violations.

In Operation Rio, the army was deployed to help in the fight against drug trafficking gangs precisely because of the notorious violence and corruption of Rio's police. Unfortunately, Operation Rio did not include any effort by state or federal authorities to address human rights violations committed by Rio de Janeiro police. As we document in this report, Rio police have continued to violate fundamental human rights in the course of their routine law enforcement duties. If the federal government of Brazil is to contribute meaningfully to the fight against crime in Rio, its focus must

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<sup>1</sup> Alba Zaluar, "The Drug Trade, Crime and Policies of Repression in Brazil," *Dialectical Anthropology*, Vol. 20, the Netherlands, 1995, p 96

include the lawlessness of the police -- the uniformed violence that mirrors private criminality. It must also ensure that military troops do not themselves employ the abusive methods prohibited by international human rights treaties ratified by Brazil.

The perception that violence is out of control in Rio, that the city is overrun by criminals, has fostered irresponsible public policy that tolerates aberrant police conduct and promotes further official violence. One year after the launching of Operation Rio, Human Rights Watch/Americas seeks to stimulate increased public attention to the human rights record of Rio's law enforcement activities and of Brazil's largest counternarcotics campaign. Drug trafficking and the violence that has accompanied it may constitute a growing threat for the citizens of Rio and other areas in Brazil. But counternarcotics efforts that do not respect human rights subvert the rule of law. Human Rights Watch/Americas calls on the Brazilian federal, state, and local governments to adhere to international human rights standards ratified by the state as they pursue their crime control policies. We urge public officials to use their institutional authority and their political and moral influence to promote respect for human rights by the police and armed forces, to unequivocally and publicly condemn illegal violence by public agents, and to ensure that those agents who violate the law are brought to justice.

Drawing on our review of Operation Rio and on our several years of research into the conduct of Rio's police, we also offer the following recommendations:

### **Recommendations**

1. Law enforcement strategies are needed to incorporate national and international standards against abusive searches and arbitrary arrests, standards which protect the rights of those in favela shacks as well as those who live in luxury apartments. House-to-house searches in broadly defined geographic areas violate residents' rights of liberty and privacy; no home should be searched absent particularized evidence pointing to its inhabitants' connection with criminal wrongdoing. Similarly, arrests must comply with constitutional and international requirements for warrants or for apprehension in the course of criminal conduct. Warrantless detentions should not be undertaken as a means of facilitating interrogations for evidence-gathering purposes or to intimidate neighborhood residents.

2. Serious abuses by police and by armed forces personnel assisting police in domestic law enforcement efforts should be promptly and vigorously investigated and prosecuted. Neither the importance of the law enforcement objectives, nor political considerations, nor the armed forces' involvement should obstruct efforts to ensure that state agents who abuse civilians are brought to justice. As of this writing, investigations into numerous cases of torture and homicide by police and military personnel are stalled or have been dismissed. Human Rights Watch/Americas calls on Brazil's political, judicial and military authorities to insist on accountability for abuses and to ensure that investigations and prosecutions proceed expeditiously and with all the necessary resources.

3. The system of military justice for crimes committed by the military police and by armed forces personnel accused of abuses against civilians facilitates impunity. Brazil's military courts, composed of four military officers and one civilian attorney, have only rarely convicted government forces in cases of human rights violations against civilians. Civilian courts should be given jurisdiction over all cases involving murder, torture, or other serious human rights abuses of civilians by police officers or armed forces personnel.

4. The federal government should assume direct responsibility for prosecuting serious cases of human rights violations by state police as well as members of the armed forces. As this report shows, state authorities have a generally poor record of prosecuting state officials for crimes against civilians. The federal courts have proven less vulnerable to political pressures to appear tough on crime.

5. Legislation is needed to codify the crime of torture, in accordance with Brazil's obligations under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. At present, the only criminal offense applicable to torture is that of *lesão corporal* (bodily harm), the same offense committed when one

person punches another. The crime carries minimal penalties and is subject to the statute of limitations. Codifying the crime of torture would demonstrate the nation's firm rejection of human rights abuses as a police practice.

6. Brazilian law should be reformed to eliminate vagrancy laws and revise provisions permitting temporary detention so as to avoid arbitrary detentions in violations of international human rights norms ratified by Brazil.

Brazilian criminal law prescribes up to three months' imprisonment for "vagrancy," defined as "habitual idleness" by those fit to work and not sufficiently wealthy to support themselves. As demonstrated during Operation Rio, this discriminatory legislation lends itself to wide-scale abuse by providing a pretext for detaining favela residents who lack proof of employment even absent other evidence of criminal conduct. This law should be repealed.

Human Rights Watch/Americas is also concerned that a 1990 law permitting thirty-day police detention of individuals suspected of involvement in drug trafficking, along with certain violent crimes, leaves room for abuse, including arbitrary detention. The law permits thirty-day police detention without the right to provisional liberty even absent formal charges. Such detention may be ordered by a judge based on a very low standard of evidence. Human Rights Watch/Americas recommends that the Brazilian government carefully evaluate the compatibility of this legislation with international human rights standards.

7. Although Human Rights Watch/Americas recognizes the importance of protecting police and soldiers involved in anti-drug efforts, security measures must not impede accountability. All uniformed police and troops should wear name identification tags. All police officers and troops should identify themselves when requested to do so by persons they detain or by family members or attorneys seeking information about detainees.

8. Over the years, Human Rights Watch/Americas and other organizations have recommended a consistent set of measures to promote adherence to international human rights treaties by the police and to ensure accountability. An increasing number of analysts and observers of the Rio de Janeiro Civil Police believe that corruption and the use of violence have become so entrenched that nothing less than a radical overhaul of the institution is required. Human Rights Watch/Americas believes state authorities should give serious consideration to such a proposal. In the absence of a major review and restructuring of the police, we continue to urge adoption of the following measures:

*Control of Deadly Force.* Authorities should take decisive steps to ensure police agents use deadly force only as a last resort to protect life. It should not be used to control or eliminate persons simply because they are seen as undesirable or may be criminals nor should it be used when to do so unnecessarily endangers uninvolved third parties.

*Police Investigations.* Investigations into even the most serious cases of police abuse of civilians, for example, killings, are superficial, incomplete and often performed in bad faith. The investigative procedure should be reformed to ensure that members of a division or precinct are not assigned to investigate abuses allegedly committed by officers of the same division. In addition, human rights councils composed of a majority of civilian representatives from nongovernmental human rights organizations and other independent groups should be established to oversee the police and to receive civilian complaints of police abuse. The victims and their representatives should be given access to investigation records and be kept apprised of the status of criminal proceedings against police officers accused of human rights abuses, consistent with protecting the efficacy of the investigation and the rights of the accused officers.

*Witness Protection.* Many witnesses to police abuse are afraid to testify for fear of retaliation. A comprehensive national program to protect witnesses by permitting their geographic relocation with altered identities is essential. Special procedures, such as the use of videotaped or recorded testimony, should also be considered to speed investigations and protect witnesses from direct exposure to violent officials.

*Data Gathering and Publication.* As urged previously by Human Rights Watch/Americas, public authorities have begun to compile and make available data on homicides by Rio de Janeiro's police. Oversight of the police would further benefit, however, if the data were gathered and organized in such a way as to facilitate review of police conduct

within each precinct. The authorities should also periodically inform the public regarding the number of administrative and criminal investigations of alleged police abuses that are underway and the status and disposition of those cases.

*Administrative discipline.* In addition to formal criminal prosecution, police authorities should carry out vigorous internal reviews to identify and discipline police officers who engage in abusive conduct or who fail to take appropriate action to prevent or uncover criminal conduct by others. At a minimum, police accused of homicide should be placed on unarmed duty until the investigation is completed.

## II. RIO DE JANEIRO: DRUG TRAFFICKING AND OFFICIAL VIOLENCE

Rio de Janeiro police<sup>2</sup> have a history of violating fundamental human rights.<sup>3</sup> Although the use of torture may have declined in recent years, the unlawful use of deadly force remains all too frequent. As Human Rights Watch/Americas has previously reported, efforts by concerned government officials to control police abuse have not succeeded in curbing homicides of suspected criminals, street children, and other “social undesirables” by on-duty police as well as by death squads often composed of off-duty and former police. According to figures provided to Human Rights Watch/Americas by the Rio de Janeiro secretary of public security, in the first seven months of 1995 Rio police killed 191 civilians, whom they categorized as vagrants. When compared with other cities with similar overall levels of criminal violence, the number of civilians killed by the Rio police forces is startling. In New York, for instance, the police killed twenty-four civilians in 1992 and twenty-five in 1993.

Police abuses are increasingly linked to the growth of drug trafficking in Brazil. In Rio’s infamous shantytowns or favelas (crowded and impoverished communities where makeshift dwellings are crammed along dirt roads framed by raw sewage ditches and public services are conspicuous by their absence) drug trafficking gangs have established their dominion. Police efforts to suppress these heavily armed gangs have been accompanied by summary executions and the unnecessary and careless use of lethal force.

Prior to the 1980s, the illicit drug market in Brazil was almost exclusively marijuana, a drug of limited economic importance and one whose sale—principally from distribution points in the favelas—and use was generally ignored by law enforcement agencies. With the development of an international market for cocaine, the nature and impact of drug trafficking in Brazil changed significantly. Brazil functions primarily as a transit country: cocaine produced in Colombia, Bolivia, and Peru enters Brazil by land, air, and river; it is shipped from major transportation hubs such as Rio de Janeiro and São Paulo to consumer markets in Europe and the United States. There is also an important internal market for cocaine, largely within the urban middle and upper classes and for tourists.

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<sup>2</sup> Police in Brazil are organized on a state-wide basis and split functionally between the military police, who do the patrolling and law enforcement on the streets, and the Civil Police, who run the station houses and investigate crimes.

<sup>3</sup> See Human Rights Watch/Americas, *Final Justice: Police & Death Squad Homicides of Adolescents in Brazil*, (New York: Human Rights Watch, February 1994); Americas Watch, “The Killings in Candelária & Vigário Geral: The Urgent Need to Police the Brazilian Police,” *A Human Rights Watch Short Report*, vol. 5, no. 11, November 1993; Americas Watch, “Urban Police Violence in Brazil: Torture & Police Killings in São Paulo & Rio de Janeiro after Five Years,” *A Human Rights Watch Short Report*, vol. 5, no. 5, May 1993; Americas Watch, *Police Abuse in Brazil: Summary Executions and Torture in São Paulo and Rio de Janeiro* (New York: Human Rights Watch, November 1987).

Although there are no reliable measures, by all accounts the drug trade in Brazil is a multi-million dollar business, and growing. In 1994, the Brazilian Federal Police Drug Division seized 11.8 metric tons of cocaine, up from seven metric tons in 1993 and 1.7 tons in 1989.<sup>4</sup> Earnings from cocaine trafficking have been estimated at US \$4,000 a day in one actively trading favela and at US \$1 million daily taken in by a king-pin for the entire state of Rio de Janeiro.<sup>5</sup> One study estimates that trafficking in Rio generates 9,000 jobs.<sup>6</sup> The Second Section of the Rio de Janeiro Military Police (Segunda Seção da Polícia Militar) estimated there were 11,340 persons involved in drug trafficking in Rio de Janeiro in 1994, including 4,800 leaders, 4,400 armed "soldiers," 1,400 "lookouts" and 740 sellers.<sup>7</sup> According to the police, the traffickers operate approximately 344 drug sale sites in the state of Rio; the fifteen principal trafficking points in Rio de Janeiro are all located in favelas in the city's less prosperous northern zone.<sup>8</sup>

Organized criminal gangs of varying size and structure control the lower echelons of the cocaine distribution hierarchy. Long based in the favelas, the gangs are loosely connected through alliances with either of the two largest and oldest groups, the Comando Vermelho and the Terceiro Comando.<sup>9</sup> Trafficking in cocaine has replaced the gangs' traditional reliance on bank robberies and kidnapping. It has also given them the incentive to arm themselves with sophisticated weapons.<sup>10</sup> According to estimates by the Military Police of Rio de Janeiro, the 5,000 weapons possessed by the gangs include AR-15, M-16, FAL (used by the military) and HK-223 rifles, twelve caliber rifles, machine guns, pistols, hand grenades, grenade-launchers and even anti-aircraft missiles that can shoot down helicopters from up to 1,000 feet.<sup>11</sup>

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<sup>4</sup> United States Department of State, Bureau for International Narcotics and Law Enforcement Affairs, "International Narcotics Control Strategy Report," March 1995, p.73.

<sup>5</sup> Elizabeth Leeds, "Cocaine and Parallel Politics in the Brazilian Urban Periphery," to be published in *Latin American Research Review*, Vol. 31, no.3, 1996, pp. 9-10.

<sup>6</sup> See Juliana Resende, *Operação Rio*, (Rio de Janeiro: Editora Página Aberta Ltda., 1995), p.207. The study was undertaken by State Representative Carlos Minc, the Federal University of Rio de Janeiro, and community leaders.

<sup>7</sup> Ibid., p. 46.

<sup>8</sup> The fifteen points are: Complexo do Alemão, the Morro do Dendê, Morro do Adeus, São José Operário, Jacarezinho, Vila Cruzeiro, Parque Rubens Vaz, Nova Holanda, Vila Esperança, Vila Carioca, Praia da Rosa (Governor's Island), Parada de Lucas, Favela de Acari, Morro do Juramento and Manguinhos. See Resende, *Operação Rio*, pp. 61-64.

<sup>9</sup> Leeds, "Cocaine and Parallel Politics . . .," pp. 6-9; See also, Carlos Amorim, *Comando Vermelho*, (Rio de Janeiro: Editora Record, 1993).

<sup>10</sup> Weapons are stolen from armed forces munitions deposits or imported illegally into the country. Some police officials in the State of Rio de Janeiro believe that arms smuggling and trafficking are a greater law enforcement challenge than drugs. Leeds, "Cocaine and Parallel Politics . . .," p.31, fn.19.

<sup>11</sup> Resende, *Operação Rio*, p.46

Competition between the gangs for control over lucrative drug distribution points and for “turf” is constant and violent. It is widely believed that many of the homicides committed in Rio de Janeiro occur in inter-gang battles. The toll from gang warfare has included innocent bystanders killed by stray bullets. Bystanders have also been killed in armed confrontations between the gangs and the police. While most of the bystanders’ deaths take place in the favelas, in a few well-publicized cases stray bullets have reached those living in wealthy parts of the city, provoking an escalating furor within more influential sectors.<sup>12</sup>

The emergence of cocaine as a revenue source for the gangs “has given drug-trading an unprecedented prominence in the economic and political life” of the favela communities.<sup>13</sup> In many favelas, the gangs offer important employment income opportunities. Moreover, within the favelas, the gangs are “either revered, grudgingly respected, or feared.”<sup>14</sup> The personality and business practices of some “donos” turns them into local heroes perceived to be concerned about the community and earning its respect.<sup>15</sup> The gangs traditionally provide the community benefits that include charitable financial assistance and services. For example, when a particularly poor favela dweller dies, the local drug boss may pay the funeral costs. Drug bosses often pay for medicine or other medical costs that *favelados* are unable to afford and provide transportation to the hospital in cars they own or control.<sup>16</sup> The absence of public services in most favelas includes a lack of police presence. In the absence of the police, the drug traffickers also perform internal security and crime control functions. Traffickers judge and punish thieves and other delinquents, meting out punishments that can include beatings, non-fatal shootings in the extremities and even summary execution.<sup>17</sup> The traffickers also control access to many favelas, permitting entry only to those who live in the favela or who have some “legitimate”—as they determine—basis for being there.<sup>18</sup>

To some extent, criminal gangs have been able to embed themselves within favela communities because of the threat of violence they wield. The traffickers insist—and back their demands with force—that communities abjure

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<sup>12</sup> On September 20, 1994, seven-year-old Mariana Lacerda was killed by a stray bullet fired by Sgt. Gilson Lessa, a police officer from the 6th Battalion in the middle-class neighborhood of Tijuca. The Brazilian press reported numerous cases of stray-bullet shootings and killings including the following: Erika Gomes Salvador, fifteen years old, killed by a bullet in the left eye in the Bangu section of Rio on October 26, 1994, during an operation of the 14th Military Police Battalion; Rogério Marques Freitas, fourteen, killed on November 1, 1994, with a shot in the face in the Manguinhos favela; according to his father, the bullet was fired by police from the 22nd Military Police Battalion; Liliane da Silva, thirteen, was killed during a shootout between police and suspected drug traffickers in the Morro da Mineira favela on November 11, 1994; Ademir Rodrigues Pinheiro, forty-eight, was killed during crossfire between police from the 17th Military Police Battalion and suspects on Governor’s Island on March 5, 1995.

<sup>13</sup> Leeds, “Cocaine and Parallel Polities. . .,” p.9.

<sup>14</sup> Leeds, “Cocaine and Parallel Polities . . .,” p.10

<sup>15</sup> For instance, when military police killed the trafficking boss of the Vigário Geral favela, Flávio Negão, in January 1995 hundreds attended his funeral. See, “Centenas acompanham enterro de traficante,” *Folha de S. Paulo*, January 23, 1995, p. 1-9; “Tráfico enterra ‘Negão’ como herói,” *O Dia*, January 23, 1995. Sociologist Caio Ferraz, raised in the Vigário Geral favela, summarized the reaction to Negão’s death as follows: “It’s not by accident that Flávio Negão’s funeral was what it was—the most important funeral of the favelas: forty wreaths of flowers, I don’t know how many thousand people, speeches, in other words, Flávio Negão was a hero” “Entrevista: A Operação Rio foi uma maquiagem,” *IBASE: Democracia*, Jan.-Feb. 1995.

<sup>16</sup> Numerous favela dwellers have described to Human Rights Watch/Americas the help that drug lords provide their communities. See Leeds, “Cocaine and Parallel Polities . . .,” for a more extensive discussion of the reciprocal relations between drug gangs and the communities in which they are based.

<sup>17</sup> See, for example, the interview with Vigário Geral drug boss Flávio Negão contained in Zuenir Ventura, *Cidade Partida*, (São Paulo: Companhia das Letras, 1994) pp. 183 - 210. According to Flávio, rapists and those who steal gas containers may be shot through the hand or foot as punishment. See also, Human Rights Watch/Americas, *Final Justice*, pp. 30-31.

<sup>18</sup> Because most of Rio de Janeiro’s favelas are located in the hills scattered throughout the city, entry to them is relatively easy to control



cooperation with the police. Suspected police informers are dealt with harshly. But even absent such pressure the favelados have little incentive to cooperate with the police, who have traditionally treated them with abuse and violence.

Police presence in the favelas typically occurs in the context of heavily-armed incursions in search of gangs and/or drugs. Few witnesses to Rio police killings are willing to come forward publicly to contradict official versions that the deaths occur from the lawful use of lethal force. Nevertheless, investigations by the press and by human rights organizations, and occasionally by government officials, establish police culpability in some cases. In the two cases described below, which involved the killings of twenty-seven people, the police clearly exceeded the lawful boundaries for the use of deadly force and wantonly killed favela residents. Human Rights Watch/Americas' research into these cases also reveals that officials have shown little interest in determining responsibility and punishing the police agents responsible for the crimes.

### **Nova Brasília I**

On October 18, 1994, some 120 heavily armed Civil Police officers, primarily from the Anti-Drug Division (Divisão de Repressão a Entorpecentes-DRE), stormed the Nova Brasília favela.<sup>19</sup> The police officers divided into six groups, and in the course of a few hours killed a total of thirteen residents, four of them minors. According to the police version of events, the thirteen victims died in an intense gun battle which they initiated.

The police invasion on October 18 was apparently the official response to an assault by drug traffickers three days earlier on the 21st Police Precinct in the Bonsucesso neighborhood that left three police officers injured by machine-gun fire. After the assault, Mário Azevedo, chief delegate of the precinct, proclaimed, "This was just the beginning. They want war, and they'll get war. The problem of trafficking will only be resolved with blood. It's the only language they understand."<sup>20</sup>

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<sup>19</sup> According to court records, the DRE had fifty-nine detectives and six detective-inspectors, sixteen clerical workers, four police delegates, eleven jailers, and a handful of other staff at the time of the massacre. Even if the full contingent of personnel participated in the assault, about half of those involved in the incident came from other divisions. Some of the participants were military police.

<sup>20</sup> *O Dia*, October 20, 1994, p. 10.  
Human Rights Watch/Americas

Although press reports initially described the attack on the favela as a shootout between police and traffickers, subsequent investigations revealed it to be a slaughter characterized by “cruelty and sadism.”<sup>21</sup> Sixteen-year-old Evandro de Oliveira was shot through his eyes. Although no eyewitnesses to his killing have come forward publicly, favela residents claim they learned from witnesses that a police agent made sarcastic comments to de Oliveira about his “attractive, light-colored” eyes before deliberately executing him with a shot in each.<sup>22</sup> Another victim, identified only as “Paizinho,” was the boyfriend of sixteen-year-old Juliana Ferreira de Carvalho. Ferreira de Carvalho testified that at about 5:00 a.m. police invaded her house, beat Paizinho, and then led him away in handcuffs. Paizinho’s body appeared at the morgue.<sup>23</sup> Two young women saw police take André Luiz Neri Silva in handcuffs from the house where he had been sleeping. His body was among eleven corpses that police dragged to the favela’s main plaza, and is among those accounted for in the police report of the event.<sup>24</sup> Another victim, Ranilson de Souza, was shown handcuffed under police custody in a television report that day, yet his body later appeared at the morgue.<sup>25</sup>

The coroners’ reports attest to summary executions: de Oliveira was shot through each eye; another victim was shot seven times in the back of the head; another had been shot twice through the head. Most of the remaining victims also received numerous shots to the upper body and head.

According to residents and survivors, the police committed other grave abuses during their incursion into the favela, including the sexual abuse of three young women. One of these three, a sixteen-year-old, told authorities that the night of the assault she and two friends were spending the night together at her house. Ten police entered the house and forced the three to lie on their stomachs on the bed. One police officer beat the three on their buttocks. Then another officer:

pointed a pistol at the declarant’s head, saying that he would kill her if she refused to enter [the bathroom] and take off her clothes; the declarant was forced to undress, and the policeman forced her to have anal sex; the declarant said repeatedly that she had never had sex that way, to which the officer responded by threatening to kill her if she refused [to cooperate] . . .<sup>26</sup>

One of the other women was assaulted by another policeman who tried to force her to perform oral sex. When she resisted, he masturbated and ejaculated on her face.<sup>27</sup>

In addition to the police investigation by the counternarcotics division (No. 187/94 of the “Divisão de Repressão a Entorpecentes—hereinafter “DRE investigation”), a parallel police investigation was opened in the Special Precinct for Torture and Abuse of Authority (Delegacia Especial de Tortura e Abuso de Autoridade—hereinafter

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<sup>21</sup> Resende, *Operação Rio*, p. 83.

<sup>22</sup> See, Statement of Juliana Ferreira de Carvalho, Case No. 52/1994 Delegacia Especial de Tortura e Abuso de Autoridade (Special Precinct on Torture and Abuse of Authorities—hereinafter DETAA), Rio de Janeiro, November 12, 1994, referring to her neighbor’s version of the killing.

<sup>23</sup> Ibid. Paizinho was not accounted for among the thirteen victims in the police report of the incident.

<sup>24</sup> See, Statement of C.S.R. in Case No. 52/1994, DETAA, Rio de Janeiro, November 11, 1994; statement of L.R.J., Case No. 52/1994 DETAA, Rio de Janeiro, November 12, 1994. These individuals are underage victims of sexual abuse and are therefore identified only by their initials.

<sup>25</sup> “Parentes acusam polícia de execução,” *Folha de S. Paulo*, October 20, 1994, p. 3-1.

<sup>26</sup> Statement of C.S.R., Case No. 52/1994 DETAA, Rio de Janeiro, November 12, 1994.

<sup>27</sup> Statement of L.R.J., Case No. 52/1994 DETAA, Rio de Janeiro, November 12, 1994.

“DETAA investigation”).<sup>28</sup> As part of the DETAA investigation, the governor of the state of Rio de Janeiro named a special commission, composed of then Secretary of Public Security Arthur Lavigne, Chief of the Internal Affairs Division Martha Rocha, Director of the Department of Specialized Police Luiz Mariano dos Santos, and a representative of the Brazilian National Conference of Bishops, Pastor Caio Fábio de Araújo. The commission's report, dated December 1, 1994, concluded that there was no doubt that at least some of the deaths were summary executions. Nevertheless, more than a year after the incident, the official police investigation has not concluded. None of the eight police officers identified as participants in the massacre by witnesses was called to testify in either the DRE or the DETAA investigations.<sup>29</sup> In the DRE investigation, none of the eyewitnesses was called to testify. To date, no one has been arrested or charged with any crimes in connection with the October 18 killings.

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<sup>28</sup> The DETAA was established in 1991 by Decree 17.030/9 to investigate cases of police abuse and human rights violations committed by police in Rio de Janeiro.

<sup>29</sup> Not even the three police officers whose photographs were recognized by more than one witness were asked to give statements

Human Rights Watch/Americas has met with Hamilton Carvalhido, the state attorney general for Rio de Janeiro, as well as Maria Inês Pimentel, the assistant district attorney responsible for prosecuting cases arising from the October 18 attack. Neither official expressed a determined commitment to ensuring that police guilty of abuses would be brought to justice. Indeed, both displayed skepticism about the allegations of witnesses and survivors and a marked prejudice in favor of the police version of the events.<sup>30</sup>

## **Nova Brasília II**

Seven months after the October assault, the Nova Brasília favela was again the site of multiple killings by the police. In the dawn hours of May 8, 1995, Civil Police from the Division of Suppression of Robberies and Thefts Against Financial Institutions (Divisão de Repressão a Roubos e Furtos Contra Estabelecimentos Financeiros—DRRFCEF) entered the favela in an effort to capture a drug trafficker who was reportedly expecting a large shipment of drugs and arms. The chief delegate of this police division was Mário Azevedo, who had previously been the chief delegate of the 21st Precinct at the time of the first massacre in Nova Brasília.

The invading police force was composed of fifteen officers under the command of Police Delegate Marcos Reimão. It was supported by two helicopters holding police armed with rifles and machine guns. During the operation, the police killed fourteen young men; no police were wounded by gunfire or killed.<sup>31</sup> The police loaded the bodies—which they later claimed were still alive—onto a sanitation department van and took them to the Getúlio Vargas Hospital, where the young men were pronounced dead on arrival.

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<sup>30</sup> The three police officers who gave statements in the DRE investigation allege that there was an intense gun battle and that the police responded in self defense. Six police officers gave statements as part of the *Auto de Resistência*, an appendix to the DRE investigation. These six officers assume responsibility for the killings of the victims, all alleging self-defense as part of an intense gun battle. Nine police officers gave statements in the DETAA investigation. All nine officers denied having participated in or witnessed any abusive acts committed by police.

<sup>31</sup> One article notes the names of twelve of those killed as follows: Alex Sandro Alves dos Reis, nineteen; Cosme Rosa Genoveva, twenty; Ciro Pereira Dutra, twenty-one; Márcio Félix, twenty-one; Jacques Douglas Melo Rodrigues, twenty-five; Anderson Abrantes da Silva, eighteen; Alex Fonseca Costa, twenty; Wellington Silva, seventeen; Nilton Ramos de Oliveira Junior, seventeen; Renato Inácio da Silva, eighteen; Fábio Ribeiro Castor, twenty; Eduardo Pinto da Silva, eighteen. The police report of the incident includes the coroners' reports for ten of these men by name. (All those listed above except Nilton Ramos de Oliveira Junior and Eduardo Pinto da Silva are identified in the coroners' report). Three other victims are included in the coroners' reports without identification. See, "Polícia omite laudos sobre mortos," *Folha de S. Paulo*, May 11, 1995; Case No. 61/95 (Delegacia de Repressão a Roubos e Furtos Contra Estabelecimentos Financeiros), Rio de Janeiro, 1995.

According to Police Delegate Reimão, the police were received with gunfire and were forced to respond. Reimão also suggests in his report on the incident that some of the victims killed each other in crossfire. Witnesses present a different version. They claim that police killed one man with a shot in the head fired from helicopters,<sup>32</sup> that they killed two more men in a shootout in an alleyway, and that shortly thereafter, police surrounded a house in which eight men chased by the police had hidden.<sup>33</sup> The men reportedly cried out to police that they were unarmed and pleaded for their lives. The police entered the house shooting and killed the eight men on the first floor of the house.<sup>34</sup> The police then dragged their bodies to a van belonging to the sanitation department, which took them to the hospital. Several hours later, the police killed three more men in a locale known as “Inferno Verde.”<sup>35</sup>

Although the police investigation in this case was opened by the 27th Precinct, it was forwarded to the Division of Robberies and Thefts, the division responsible for the fatal action. The investigation into the deaths has been cursory and clearly intended to corroborate the police participants’ version. The police report relies heavily on nearly identical, self-exculpatory declarations by the police involved; it fails to include statements by the eyewitnesses who assert that police executed eight individuals who had surrendered; and it fails to address the forensic evidence. Although the police report eschews eyewitness testimony, it does include a statement by one favela resident claiming that the thirteen victims were drug traffickers and that traffickers pay thousands of dollars for each policeman killed in a shootout.<sup>36</sup>

In an interview with Human Rights Watch/Americas, Assistant District Attorney Pimentel displayed greater interest in the background of the victims than in the conduct of the police. She stated that she was certain the thirteen victims were drug traffickers because investigations showed that twelve of them did not live in the favela. Although the men lacked arrest records, Pimentel attributed this to their youth, discarding the possibility that the men had no criminal background. Pimentel failed to order the police to take statements from a credible number of witnesses.<sup>37</sup> She also failed to order ballistic tests or other exams of the crime scene. At the time this report was written, some six months after the incident, no police officer had been indicted or even arrested for his role in the massacre.

The absence of police casualties from gunfire or wounded civilians also calls into question the official version. Generally, in an exchange of gunfire, the number of wounded (whether civilian or police), will surpass the number killed. Moreover, no matter how expert the police, when large numbers of civilians are killed in a gun battle, the police

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<sup>32</sup>See, “Polícia mata 14 traficantes em Ramos,” *O Globo*, May 9, 1995, p. 14.

<sup>33</sup> “Polícia mata 14 em Nova Brasília,” *O Dia*, May 9, 1995; “Polícia mata 14 traficantes em Ramos,” *O Globo*, May 9, 1995; “Polícia mata 14 em favela do Rio,” *Folha de S. Paulo*, May 9, 1995.

<sup>34</sup> “Polícia mata 14 traficantes em Ramos,” *O Globo*, May 9, 1995; “Polícia mata 14 em favela do Rio,” *Folha de S. Paulo*, May 9, 1995.

<sup>35</sup> Witness accounts and press reports indicate that fourteen people were killed. The police investigation, however, refers to thirteen deaths. Thirteen bodies were brought to the coroner, and thirteen autopsy reports are included in the official records.

<sup>36</sup> Statement of Carlos Henrique de Oliveira, Case No. 61/95 (Delegacia de Repressão a Roubos e Furtos Contra Estabelecimentos Financeiros) Rio de Janeiro, June 13, 1995.

<sup>37</sup> The police did take the statement of the owner of the house in which eight of the victims had hidden. The owner stated to the press that he heard the cries of the victims, surrendering to the police, before they were executed. He requested that he not be identified. See, “Eles pediram para não morrer”, diz morador,” *Folha de S. Paulo*, May 9, 1995. In his statement in the police investigation, however, this same witness indicated that he was unable to hear anything due to gunfire.

almost always suffer losses as well.<sup>38</sup> Yet on May 8 the only victims were civilians, all fatalities. No civilians were wounded; no police were killed or were wounded by gunfire.<sup>39</sup>

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<sup>38</sup>Americas Watch, *"Urban Police Violence."*

<sup>39</sup> Only one policeman was injured, Officer Moyses de Castro. According to the police report, de Castro was wounded by the explosion of a grenade. The medical report performed on de Castro, shows that he suffered from "parallel, linear abrasions . . . on the right side of the torso." Official Medical Exam (*Auto de Exame de Corpo de Delito*) No. 5.292/95, Rio de Janeiro, May 10, 1995

Perhaps the most powerful challenge to the police version of the events is provided by the coroners' reports. Those reports show the thirteen victims received a total of forty-seven gunshot wounds, thirty of these in the head and torso. Fourteen shots entered the victims' backs from behind. The angles of bullet entry and exit also suggest that several of the victims were lying on the ground when shot.<sup>40</sup> These patterns of bullet wounds are more consistent with summary execution than a shootout.

Rather than leaving the crime scene intact to facilitate investigation, the police removed the victims on the back of a sanitation truck. The officers contended in their statements that they were unable to tell who was injured and who was dead, and thought it best to take all thirteen to the hospital. This explanation is suspect: several of the victims were shot so many times they must have died minutes after the shootings; one victim had the better part of his cranium blown off. This practice of removing bodies from the crime scene is one that Human Rights Watch/Americas has noted in earlier reports and in a May 1993 report we cited the research of journalist Caco Barcellos:

When a person is shot, either simply because he flees from the police, or when he is killed more deliberately, . . . he will often be shot repeatedly until he is dead. Even though dead, then, he will be taken to the hospital, thus suggesting that the police were making an effort to keep the victim alive and also making the forensic investigation of the scene of the shooting more difficult.<sup>41</sup>

### **Shopping Center Rio Sul**

Police violence is by no means restricted to the favelas nor do the police always take care to keep it hidden from public view. The summary execution of Cristiano Moura Mesquita de Melo suggests what should perhaps be characterized as arrogant indifference on the part of some police, at least, to abiding by the law and respecting life.

On March 4, 1995, Moura Mesquita de Melo and two others robbed a pharmacy located in the Rio Sul Shopping Center, in Rio's upper-middle class Botafogo neighborhood. Police arrived, and one of the three men fled successfully, on foot. Another was shot to death by the police as he attempted to flee in a mini-van. The third, Moura Mesquita de Melo, was wounded, detained, and searched by the police officers. In front of dozens of onlookers Corporal Flávio Ferreira Carneiro then dragged Moura Mesquita de Melo behind the mini-van and shot him three times, killing him. What makes this case exceptional is that the incident happened to be filmed by a television crew from Brazil's leading TV Globo network. The images of the killing were shown on Brazilian and international television broadcasts, including CNN and BBC.

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<sup>40</sup> See Case No. 61/95 (Delegacia de Repressão a Roubos e Furtos Contra Estabelecimentos Financeiros) Rio de Janeiro, 1995. In several cases, for example, bullets entered the victim below the waist and exited above the shoulder blade. This trajectory is consistent with a victim's being shot while lying down but with practically no scenario that would occur in a shootout.

<sup>41</sup> Americas Watch, *"Urban Police Violence,"* p. 8, citing Caco Barcellos, *Rota 66: A história da polícia que mata* (São Paulo: Editora Globo, 1992) which details this method as employed by police in São Paulo

On September 15, by a four-to-one vote, a military court convicted Corporal Ferreira Carneiro of the murder of Moura Mesquita de Melo, sentencing him to a term of twenty years.<sup>42</sup> That court also convicted the officer who held Moura Mesquita de Melo and acquitted three others. The corporal's attorney argued to the five-judge court that Moura Mesquita de Melo had assaulted a pharmacy in a crowded shopping mall, intending to spread terror and panic, and was thus a terrorist; his elimination furthered a "relevant social value" and warranted a severe reduction in sentence.<sup>43</sup> One judge accepted the "social value" defense theory. Fortunately, the majority of the judges did not accept this theory and insisted on applying the twenty-year sentence.

### Public Response to the Police

Rising crime, extensively reported stray-bullet killings of bystanders, and pitched battles between drug traffickers and the police have led, on the one hand, to efforts to excuse police violence as inevitable, even necessary, in a city in a "state of war."<sup>44</sup> Public opinion polls suggest considerable public support for harsh treatment of criminal suspects.<sup>45</sup> Rather than decrying the excessive or unlawful use of force by the police, government officials all too often appear to condone and even encourage it. For example, in the aftermath of the televised street execution of Moura Mesquita de Melo, Gov. Marcello Alencar explained to the press that the incident had to be understood in the context of "difficult and direct combat between police and criminals in circumstances of extreme tension."<sup>46</sup> Alencar also indicated that the killing was an "isolated event"—a startling characterization in light of the nearly 200 homicides committed by police in the first half of 1995 alone. Similarly, the day after the killing of thirteen suspected drug traffickers in the Nova Brasília favela on May 8, the governor declared that he did not want any of the police involved in the incident to be criticized or punished.<sup>47</sup> Secretary of Public Security Nilton Cerqueira has also made statements that appear to encourage the police under his command to ignore the basic norms that should guide police conduct. On May 19, 1995, Cerqueira told the press that "the first shot by police has to be fatal." "The father of a family and soldier of the law cannot be killed by criminals."<sup>48</sup>

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<sup>42</sup> Corporal Ferreira Carneiro had been involved in other fatal incidents since joining Rio's military police. In 1992, a group of Military Police led by Ferreira pursued assailants in the Cachambi neighborhood. The police killed one of the assailants (Mauro Sérgio da Silva), and also killed salesman Eurípedes Leite da Silva. Leite da Silva was returning when the taxi he was riding in stopped between the police car and the car that at least one of the assailants was occupying. The police took Leite da Silva from the taxi, beat him, and then shot him twice in his back and head, killing him. See "Cabo é acusado de executar outro homem," *Jornal do Brasil*, March 7, 1995, p.18. On July 14, 1995, after Ferreira Carneiro's much-publicized execution of Moura Mesquita de Melo but before his conviction for that crime, a court convicted him of Leite da Silva's killing and sentenced him to twenty-four years.

<sup>43</sup> See Brazilian Penal Code Art. 65, Section III: "A criminal sentence must be reduced when the agent has committed the crime for a relevant social or moral value."

<sup>44</sup> According to Security Chief Gen. Nilton Cerqueira, "The State of Rio de Janeiro today is the site of true war in which one of the sides is composed of criminals, drug traffickers, kidnappers, in sum, by all those who produce the violence which victimizes society." "O Rio de Janeiro esta em guerra," *O Globo*, May 21, 1995.

<sup>45</sup> See, for example, "Enquete feita por emissoras de rádio e TV revela apoio à execução sumária," *Jornal do Brasil*, March 7, 1995, which reported strong public support for the execution of Moura Mesquita de Melo. Other polls, however, indicated a majority of Rio's residents opposed the killing. See "Maioria condenou morte de bandido," *O Globo*, September 16, 1995.

<sup>46</sup> *O Dia*, March 6, 1995.

<sup>47</sup> "Marcello assume comando do combate à criminalidade," *O Dia*, May 9, 1995.

<sup>48</sup> "Secretário defende que polícia atire primeiro," *Folha de São Paulo*, May 20, 1995.



On the other hand, the inability of the police to control the gangs and their own reputation for corruption and violence have led to declining public confidence in them.<sup>49</sup> According to Cerqueira, "Police institutions are in a tragic situation for society. People have more trust in traffickers than the police."<sup>50</sup> Police in Rio have long been corrupt. But in the past dozen years, according to former State Attorney General Antônio Carlos Biscaia, corruption has become endemic throughout the poorly paid forces.<sup>51</sup> Rio's Civil Police chief Hélio Luz has stated publicly that "nothing is trafficked in this city without the *conivência* [acquiescence or collusion] of the police."<sup>52</sup> The former secretary of public security, Arthur Lavigne, reportedly maintains that nine out of ten police in Rio are corrupt.<sup>53</sup> The current secretary, Nilton Cerqueira, agrees: "The Civil Police appear to be contaminated from within, with criminals occupying positions of authority."<sup>54</sup> In an interview with Human Rights Watch/Americas, Cerqueira pointed out that 304 of the 362 police officers killed since 1994 in the state of Rio were off-duty at the time they were killed. He believes the high number of off-duty deaths reflects police corruption and participation in the violent criminal underworld.<sup>55</sup>

### III. OPERATION RIO

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<sup>49</sup> In March, 1995, a public poll indicated that seventy-seven percent of Rio's population believe the police are both corrupt and violent and more than sixty percent do not feel protected by the police. See "Cariocas acham que acao militar foi ineficaz," *Jornal do Brasil*, March 20, 1995.

<sup>50</sup> See "Cerqueira dá prazo final para a Polícia Civil," *Jornal do Brasil*, August 3, 1995.

<sup>51</sup> Human Rights Watch/Americas interview with Antonio Carlos Biscaia, Rio de Janeiro, October 3, 1995. The majority of Civil Police officers in Rio de Janeiro earn approximately US \$300 per month; military police salaries are similar. The low salaries are not commensurate with the dangers and responsibilities inherent in police work.

<sup>52</sup> "Hélio Luz: o tira-cabeça," *Revista da Folha*, October 8, 1995.

<sup>53</sup> Resende, *Operação Rio*, p.76.

<sup>54</sup> "Cerqueira dá prazo," *Jornal do Brasil*.

<sup>55</sup> Human Rights Watch/Americas interview, Rio de Janeiro, June 10, 1995. According to Elias Gomes Barbosa, a Civil Police investigator, Rio's infamous death squads engage in a range of crimes, including kidnapping, extortion, assassinations for hire, and weapons smuggling, in addition to the murder of criminal suspects, street children and "social undesireables." Documents confiscated from death squad members reportedly contain information about payments to them from drug dealers. See *Human Rights Watch/Americas, Final Justice*, p. 93, fn. 17.

Throughout 1994, public concern over stray-bullet killings, drug gangs and corrupt, violent police escalated, and military intervention was increasingly championed as the only solution.<sup>56</sup> The cries that Rio had become a city overwhelmed by lawlessness reached a crescendo in the months preceding the November elections. Partisan politics played a role. In the gubernatorial race between Anthony Garotinho of the Democratic Labor Party (Partido Democrático Trabalhista—PDT), and Marcello Alencar of the Brazilian Social Democratic Party (Partido da Social-Democracia Brasileira—PSDB), those critical of the PDT and its liberal policies encouraged an intense press campaign to depict Rio as impossibly violent, unsafe and unpoliced, seeking to blame Gov. Nilo Batista and his predecessor, Leonel Brizola (both of the PDT) for this state of affairs.<sup>57</sup> In October the city's police were involved in the high-profile Nova Brasília favela killing of thirteen residents. These killings provoked a barrage of media reports critical of the police and calling for military intervention.<sup>58</sup> By the end of the gubernatorial campaign, both candidates vowed support for military involvement.

Although Governor Batista, concerned about the potential for massive violations of individual rights, initially opposed such intervention, the political momentum in favor of a military “solution” to Rio’s crime rate proved overwhelming. On October 31, the governor, on behalf of the state of Rio de Janeiro, and President Itamar Franco, on behalf of the federal government, signed an accord providing for joint operations by the army and the police to suppress the traffic of drugs and arms in Rio. Almost immediately, the press termed the agreement and actions taken pursuant to it, “Operation Rio (*Operação Rio*).”

The October 31 agreement sought to address the illegal traffic of drugs and arms by criminal gangs. The text of the accord states, in part:

Considering that the illegal traffic of narcotics and the contraband of arms is today fundamentally an international matter, and thus of the direct responsibility of the Federal Union; [and]

Considering the situation of criminality in the State of Rio de Janeiro, with heavily armed groups of delinquents supported by the local traffic of drugs generating anxiety and insecurity among the population . . . the present agreement seeks to strengthen . . . collaboration between the [federal government] and the State of Rio de Janeiro for the preservation of law and public order and the

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<sup>56</sup> Proponents of military intervention pointed to the 1992 United Nations Conference on the Environment and Development in Rio. During the conference, heavily armed military troops took control of the city’s streets to provide security for the thousands of visiting foreign dignitaries, journalists, non-governmental organization representatives and others. The military’s success at containing crime during the two week conference was cited as proof of their ability to provide a lasting solution to Rio’s violence.

<sup>57</sup> For example, Rubem César Fernandes, the head of Viva Rio, an influential organization of business and community leaders, criticized both Brizola and Batista for liberal policies that cut back police presence in the favelas in an attempt to reduce police violence. According to Fernandes, the absence of police in the favelas created a power vacuum in which criminality thrived. Human Rights Watch/Americas interview, Rio de Janeiro, October 19, 1995.

<sup>58</sup> See, “A roda da intervenção”, *Jornal do Brasil*, October 25, 1994. In this editorial championing federal intervention, the authors note:

The case of the police is illustrative. Left to their fate, free from any control, they formed a formidable corporativism that has allowed them in the past few years to do what they know well, to sell themselves, to become corrupt, to extort, to protect numbers runners and drug traffickers, to participate in major [criminal] gangs. . . What is worse, they undermine any attempt at reform. . . [T]he only solution is intervention in the police, today the source of the worst evils. [Translation by Human Rights Watch/Americas]

security of the citizenry, especially with regards to the suppression of contraband weapons and the traffic in drugs.<sup>59</sup>

The agreement was quite brief, containing only six clauses in addition to the introductory paragraphs. It authorized an entity to be created by the State of Rio de Janeiro and directed by the Chief of the Military Command of the East, that would “plan, coordinate, and unify [the actions] of the State Secretariats of Justice, the Civil Police, and Civil Defense to combat criminality.” The federal government agreed to intensify patrols of the air, sea, and land access routes to Rio de Janeiro to combat the traffic of arms and illegal drugs and to reinforce federal police and federal transit police actions toward this end. The agreement did not detail the nature of the actions to be taken within Rio to combat drug trafficking and crime. The accord also made no reference to the problem of police violence.

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<sup>59</sup> See, “A íntegra do convênio,” reprinted in *O Globo*, November 1, 1994. [Translation by Human Rights Watch/Americas]

On November 18,<sup>60</sup> troops moved into five favelas, three in the city's prosperous southern zone and two in the city's northern zone.<sup>61</sup> These initial actions established the pattern that would be repeated in dozens of favelas throughout the Rio municipality in the following months. In the early morning, hundreds of troops wearing ski masks or camouflage face-paint entered a favela and established guarded control posts at the favela entrances. Soldiers and officers involved in the actions routinely refused to identify themselves; uniform name tags were covered or torn off. The stated purpose of this secretiveness was to protect the personnel involved in the actions from reprisals by drug traffickers.

Soldiers guarded the entrances during the entire occupation, requiring all those entering or leaving to present identification. Numerous residents, who failed to present identification documents, were detained. Troops occupied the building or buildings with the best infrastructure (in most cases, the community's school or church), as provisional operations centers. Once control of the favela was established, the troops and police then undertook massive house-by-house searches, detaining residents they considered suspicious. The detainees were taken to the operations center; some were immediately released after questioning, others were held. Most occupations lasted one or two days before the troops and police withdrew.

In the first two months of Operation Rio (November and December 1994), troops engaged in actions in dozens of favelas, including Dendê, Mangueira, eleven favelas in the Alemão complex of favelas, the Família and Dezoito favelas in the Água Santa neighborhood in the northern zone, the Urubu favela in Pilares, the São Carlos, da Mineira, Zinco and Querosene favelas in Rio Comprido and Catumbi, in the city's northern zone, as well as favelas on nearby Governor's Island and in the neighboring city of Niterói. During this period, Operation Rio forces entered more affluent sectors only once, searching 370 apartments with specially trained dogs on Sá Ferreira Street in Copacabana.

At the beginning of Operation Rio, authorities denied the press access to the occupied favelas. Anyone not a resident of that favela, including representatives of Human Rights Watch/Americas and other human rights organizations, were prevented from entering to monitor the military and police actions. Later, members of the press were selectively allowed to enter the favelas during occupations. But in general, reporters were provided with a quite limited vision of the operations. Then, after press reports about torture in the Borel and Chácara do Céu favelas (see below), the military cut off reporters' access to Operation Rio commanders by closing the press room at the Eastern Military Command headquarters and prohibiting reporters from coming within 200 meters of the command's property.

Hostility toward the media was most egregious during the January 12 occupation of eleven favelas in the Alemão complex. During this operation, reporter Nelson Carlos and photographer Alaor Filho of the Rio daily *Jornal do Brasil* were beaten. Soldiers also punched José Luis Vilhena, reporter for *O Globo*, in the face and stomach. According to the reporters, the troops dismissed their complaints by stating, "You can go tell the governor if you like, but it won't help. We're in charge here."<sup>62</sup>

### **Extensions of Operation Rio**

The accord establishing Operation Rio expired on December 31, 1994. On January 1, newly elected federal and state officials signed an agreement extending the terms of the agreement for an additional month. Many of the favelas occupied during November and December were reoccupied. At the end of the month (January 23), Gen. Roberto Jugurtha Senna resigned as head of Operation Rio and returned to Brasília. General Euclimar da Silva, Governor Alencar's secretary of public security, assumed primary responsibility for Operation Rio. By means of a second extension, federal and state authorities prolonged Operation Rio until March 3.

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<sup>60</sup> According to public statements by both military and civilian officials, the federal troops were awaiting Brazil's second round of elections on November 15 before engaging in operations.

<sup>61</sup> The five favelas were Dona Marta in Botafogo, Chapéu Mangueira in Leme and Pavão-Pavãozinho in Copacabana-Ipanema, all in the prosperous southern zone of Rio, and Turano in Rio Comprido and Andaraí, in the northern section of the city.

<sup>62</sup> See, "Forças Armadas usam violência no Alemão," *Jornal do Brasil*, January 13, 1995.

On April 4, state and federal authorities began "Operation Rio II." General Abdias da Costa Ramos, the head of the Eastern Military Command; Gen. Euclimar da Silva, secretary of public security; Delegate Eleutério Parracho, federal police superintendent; and João Bernardo de Souza, superintendent of the Federal Highway Patrol were jointly responsible for the direction of Operation Rio II. The Secretary of Public Security stated publicly that there were no plans to occupy any favelas during Operation Rio II. Troops and police were to be dispersed throughout the city, rather than concentrated *en masse* in only a few locations at a time. According to Governor Alencar, Operation Rio II was "for real . . . [C]rooks that use guns will die."<sup>63</sup> Despite this belligerent rhetoric, Operation Rio II was undertaken with relatively little popular reaction or news coverage.

In this second stage of Operation Rio, the role of federal military forces was significantly reduced, limited to such activities as manning checkpoints on highways believed to be used for trafficking drugs and weapons.<sup>64</sup> The civil and military police assumed primary responsibility for public security and crime control in the favelas. In May, three events marked the resurgent role of the police. On May 8, fifteen Civil Police, covered by two helicopters, attacked the Nova Brasília favela, killing at least thirteen residents (See above). On May 24, some 150 military and Civil Police officers invaded four *morros* or hills that house favelas—the Alemão, Coroa and Mineira morros (in Catumbi) and the Andaraí morro—killing five persons and arresting one suspected drug trafficker. On May 28, about 300 military police stormed the Alemão morro, killing four alleged members of the "Marcinho da Vila Norma" drug trafficking gang and arresting eight others.

In May, Governor Alencar replaced his secretary of public security, General da Silva, with Gen. Nilton Cerqueira, a retired army general and congressman.<sup>65</sup> During the early 1970s in Salvador, Bahia, Cerqueira had directed the DOI-Codi, a governmental entity responsible for the torture of political detainees, during the military dictatorship. His appointment as secretary of public security was widely viewed as a manifestation of Governor Alencar's hard-line position on battling crime in Rio.

In the months following Cerqueira's appointment as security chief, the military's presence in Rio de Janeiro declined steadily. In late June, Cerqueira began dismantling the apparatus established for Operation Rio. Cerqueira also instituted a policy of establishing a permanent police presence in particularly conflictive favelas. An example of this sort of permanent operation is the headquarters established by the Military Police in the Morro do Alemão favela complex in the city's northern zone.

By late October, however, as crime continued unabated, the public authorities turned again to the possibility of renewed federal military intervention in Rio to control crime. On November 3, President Fernando Henrique Cardoso and Governor Alencar reached an agreement to combat violence in Rio that included the direct involvement of the armed forces in the control of drug and arms trafficking. As of early January, when this report was finalized, no military activities had been publicly announced.

## Human Rights Violations

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<sup>63</sup> "Eu sou o xerife do Rio," *Jornal do Brasil*, April 2, 1995.

<sup>64</sup> "Exército está de volta às ruas do Rio," *O Globo*, April 4, 1995.

<sup>65</sup> The last straw for da Silva was the kidnapping of Paula Zamboni in the city of Além Paraíba, on the border of Rio de Janeiro and neighboring state Minas Gerais. The group of kidnappers responsible for the crime consisted of former policemen from the city and state of Rio de Janeiro. An elite force of the Civil Police of the state of Minas Gerais invaded the hideout of the Rio police-kidnappers, rescuing Zamboni without injuries

Encouraged by the public clamor for a military solution to violence and given license to act by civilian authorities, the commanders of Operation Rio proved willing to authorize and condone a wide range of human rights abuses by their troops. In favela after favela, Operation Rio forces deliberately engaged in a pattern of illegal searches, arbitrary and prolonged detentions, and abusive treatment of detainees. The standard nature of these abuses was tacitly recognized by first head of Operation Rio, Gen. Roberto Jugurtha Câmara Senna. In a meeting with members of the Rio de Janeiro City Council shortly after Operation Rio began, General Câmara Senna stated, "We're not a battalion of social workers, so it is impossible to avoid one excess or another."<sup>66</sup> Abuse of some detainees included torture. After investigating allegations of torture and abuse, Nilo Cairo Lamarão, prosecutor for the 20th Criminal Court of Rio, concluded: "The Armed Forces and the Special Operations Battalions of the Military Police turned the morros they occupied into concentration camps."<sup>67</sup> Human Rights Watch/Americas has not been able to uncover a single instance in which soldiers or police guilty of human rights abuses during Operation Rio have been punished.

### **Illegal Searches and Arbitrary Detentions**

A key tactic of Operation Rio was to cordon off a favela and to conduct house-to-house searches for drugs, weapons or other evidence of criminality. Brazilian law requires searches to be authorized by a judicial warrant that specifies, with the greatest degree of precision possible, the house to be searched.<sup>68</sup> Subverting the intent of the law to protect the rights of privacy and liberty, the commanders of Operation Rio obtained warrants authorizing searches in vast, poorly described areas. Favelados' homes were searched not because there was a reasonable basis for suspecting specific individuals of wrongdoing, but because they lived in a particular neighborhood. Many of the searches were conducted in an aggressive, even violent fashion. In many cases, belongings and furniture were broken or destroyed. Individuals on the streets were also subjected to warrantless searches. At the entrances to some favelas, troops searched everyone passing through, including small children.

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<sup>66</sup> See, *Folha de S. Paulo*, November 23, 1994.

<sup>67</sup> "Promotor faz denúncia de torturas," *O Dia*, Feb. 7, 1995.

<sup>68</sup> Article 243 of the Brazilian Code of Criminal Procedure requires that search warrants either name the person to be searched, or detail her or his identifying characteristics. According to the text of this article, a warrant to search (a house) does not authorize the search of persons

In flagrant disregard for the legal standards governing arrests, Operation Rio forces detained hundreds of people without warrants and without having apprehended them in *flagrante delicto*.<sup>69</sup> Favela residents were detained simply for failing to present proper identification,<sup>70</sup> or because the troops wanted to conduct interrogations. The flimsiest reason—or no reason at all—sufficed to subject an individual to detention and interrogation.

One of the first and most widely publicized cases of arbitrary arrest was that of Edson José de Jesus, a resident of the Dendê morro who was arrested on November 20 by Navy troops. De Jesus's nickname, "Tatu," is also the nickname of a young man suspected of killing an officer. This "Tatu," however, had been killed three years earlier. Although de Jesus was carrying identification documents establishing his identity as someone other than the "Tatu" being sought (as well as his status as an employed worker), naval troops detained him and held him incommunicado in a military unit.

One favela resident told Human Rights Watch/Americas that he was detained for eight hours because the police, in a search of his house, discovered a spent shell which he had found and saved as a souvenir. Another notorious case was that of Ubiraci de Oliveira (known as Master Bira), president of the residents' association in his neighborhood within the Mangueira favela and a famous samba percussionist. He and Antônio Rodrigues da Costa, the association's vice president, were detained solely because Operation Rio forces had discovered a large amount of cash in a makeshift building used by the association and others. After their arrest, interrogation and transfer to the Inter-State Detention Center (known as the "Polinter") in downtown Rio de Janeiro, they were presented with an arrest warrant which had been issued *after* their arrest. Both were held for thirty days without charges ever being brought.<sup>71</sup>

### Unreasonable Periods of Detention

Many of those arrested during Operation Rio were released after a few hours. In other cases, like that of Master Bira, detainees were held for thirty days without charges, according to the terms of temporary detention orders.

Under Brazilian law (Law No. 7.960/89 and Law No. 8.072/90), a judge may order a person's preventive detention for up to thirty days if there are *"fundadas razões"*—the rough equivalent of probable cause in Anglo-American law—concerning the person's participation in one of several enumerated crimes, including drug trafficking.<sup>72</sup> According to the terms of the law, such detention is justified only when necessary to assist the conduct of an official police investigation. Absent an investigation, a temporary detention order should not be issued.

In practice, however, during Operation Rio persons were detained for thirty days even though no criminal investigations were opened. For example, Human Rights Watch/Americas investigated the cases of seven detainees arrested in the Morro do Alemão on January 13 and 14, 1995. Although all were held for thirty days pursuant to

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<sup>69</sup> Article 5, Section LXI of the Brazilian Constitution states that "no one may be arrested except *in flagrante delicto* or by a written, competent judicial order specifying its basis, except in cases of military transgressions and military crimes as defined by law." Article 7 of the American Convention on Human Rights provides that "No one shall be subject to arbitrary arrest or imprisonment." [Translation by Human Rights Watch/Americas] The article also provides that "no one shall be deprived of his physical liberty except for the reasons and under the conditions established beforehand by the Constitution of the State Party concerned or by a law established pursuant thereto."

<sup>70</sup> The most common form of identification is a work card issued by an employer. While the failure to carry identification does not itself constitute a crime in Brazil, favela residents without work cards risk being accused of vagrancy, which Brazilian law defines as habitual idleness while lacking the means to support oneself. See Law of Penal Infractions (Misdemeanors) of October 3, 1941 (Chapter VII, article 59).

<sup>71</sup> Master Bira remained detained despite outrage and pressure for his release from city councilmen, congressmen, and others.

<sup>72</sup> In practice, this "probable cause" is little more than suspicion on the part of the authorities soliciting the order.

temporary detention orders, we found no record of any police investigation, either before or after arrest, in any of their cases. In some cases, temporary detention orders were issued only after the arrest (See, for example, the cases of Master Bira, above, and André Melo do Nascimento, below).

Detention of suspects for thirty days without being brought before a judge and formally charged with a crime may be incompatible with international law. Both the International Convention on Civil and Political Rights<sup>73</sup> and the American Convention on Human Rights<sup>74</sup> protect the right to personal liberty by requiring detainees to be charged and brought before a judge promptly.

Once arrested, Operation Rio detainees were held for several hours or longer in the makeshift operations centers the military established in the favelas. Detainees often passed several hours or more without receiving any food, and they were denied access to lawyers or family. Those detainees who were not then released were transferred to more permanent detention facilities. In one of these centers, the Polinter, prisoners were kept in conditions significantly below the minimum standards required by international law. As many as thirty to fifty prisoners were maintained in cells designed to accommodate a half-dozen detainees. Sanitary facilities consisted of a water spigot over a hole in the ground that served as shower, wash basin and toilet. The cells were so crowded that the detainees had to take turns sleeping because there was insufficient space for them all to lie down at once.<sup>75</sup>

### **Torture and Physical Abuse**

Throughout Operation Rio, favela residents reported physically abusive conduct by military troops and the police. Some of this abuse occurred at the moment of detention. The most serious abuse, including torture, occurred during interrogation. A number of these instances of torture are detailed in the victims' and witnesses' testimony to public authorities.

#### **Torture in the Borel Morro**

In the dawn hours of November 25, 1994, troops occupied the Borel morro, consisting of the Borel favela and the Chácara do Céu favela in the northern section of Rio de Janeiro. The troops seized control of the São Sebastião church and daycare facility, the largest and best equipped structures in the favela, and turned them into their makeshift operations center. Within the church, a large room on the second floor was converted into an interrogation center. During that day, the troops detained dozens of residents and brought them to the church. The troops forced at least one favela resident to wear a hood and accompany them through the neighborhood identifying residents as drug traffickers.<sup>76</sup> Although reports vary, it appears that at least fifteen detainees were tortured in the church.<sup>77</sup> Several people stated under oath they could hear screams coming from the interrogation room. Several witnesses noted that one of the benches in the interrogation room was stained with blood.

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<sup>73</sup> Article 9, sections 1-3.

<sup>74</sup> Article 7, sections 1-4.

<sup>75</sup> Human Rights Watch/Americas visited the Polinter detention facility during the course of Operation Rio on December 29, 1994, and spoke with a half-dozen persons detained during operations.

<sup>76</sup> In this regard, see the statement of Maria do Rosário dos Santos given to Procurador da República (Federal Assistant Attorney General) Gustavo Tepedino.

<sup>77</sup> Human Rights Watch/Americas visited the favela on three occasions and was thus able to confirm the location and relation among the places noted in this report. For instance, Human Rights Watch/Americas was able to confirm the precise vantage point that permitted at least two eyewitnesses to view the near-drowning of several detainees (*submarino*), and various others to hear the cries of those being tortured



When residents and church personnel realized that the troops were abusing detainees in the church, they contacted Father Olinto Pegaroro, the permanent priest. Father Pegaroro, who was teaching at the Federal University of Rio de Janeiro, returned to the favela and demanded that the troops leave the church. Nevertheless, the troops remained until 9:00 the following night. In statements to the press on November 28, Father Pegaroro denounced the torture by military troops in the church.<sup>78</sup> In a letter to the commander of Operation Rio, general Câmara Senna, Father Olinto wrote:

The 25th of November was a sinister date for the Morro do Borel and especially for Chácara do Céu. The congregation's two community centers were taken over, including the church, which was converted into a [place] where prisoners were subjected to moral and physical coercion. Torture was practiced to the point where blood was lost, as we could tell when we entered the areas. Screams and cries were heard all over, especially in the water tank.<sup>79</sup>

- *Claudio Rodrigues Pereira and Carlos Eduardo Rodrigues da Silva*

On November 25, 1994, at about 6:20 a.m., Pvt. Rodrigues Pereira left his house to report to work and was stopped by the military blockade at the Bananal exit of the favela.<sup>80</sup> Despite identifying himself as military personnel, Rodrigues Pereira was ordered to return to his house and remain there until the end of the military operation in the favela. After waiting two more hours, Rodrigues Pereira tried to leave his house again. This time he was stopped by three soldiers and one military police officer who asked him for identification, searched him and his eighteen-year-old cousin, Carlos Eduardo Rodrigues da Silva, and asked to enter and search his house. After the search, Rodrigues Pereira and Rodrigues da Silva were taken to the São Sebastião church, apparently because the soldiers did not believe that Rodrigues Pereira's military identification was authentic.

On the way to the church, Rodrigues Pereira was beaten by a soldier named Bolivar who took his identification documents. At the church, troops formed a gauntlet which he and his cousin were forced to run. During his interrogation, Rodrigues Pereira was beaten repeatedly and forced to remain kneeling the entire time. Although there was no evidence to suggest Rodrigues Pereira was involved with drug trafficking, soldiers forced him to undress to be searched, requiring him to spread his buttocks to prove that he was not hiding drugs.

Carlos Eduardo Rodrigues da Silva also testified that he was beaten by soldiers after he and his cousin had been detained. An official medical examination performed on da Silva verified the injuries he suffered.<sup>81</sup>

- *Francisco José Reis de Oliveira*

Reis de Oliveira, a twenty-five-year-old florist who lived in the Borel morro, was returning home to the favela on November 27 at about 9:00 p.m. when he was stopped by soldiers. Reis, who had worked for years in a florist shop

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<sup>78</sup> Father Olinto reiterated these charges in an interview with Human Rights Watch/Americas, Rio de Janeiro, March 31, 1995.

<sup>79</sup> Letter dated November 30, 1994, from Father Olinto Antônio Pegaroro to Gen. Câmara Senna, then-Commander of the Military Command of the East and Operation Rio.

<sup>80</sup> This section is drawn from testimony provided by Claudio Rodrigues Pereira to the Procurador Federal (Federal Attorney General-Ombudsman) for Rio de Janeiro and to military police investigators.

<sup>81</sup> However, the medical form is incomplete: there is no answer to the required questions regarding whether there are signs of torture, whether the victim is likely to suffer effects beyond thirty days, whether his life is at risk, whether he may lose a limb, etc.

in the Tijuca section of Rio, was carrying the proceeds from that day's sales, roughly 300 reais (about US\$350). The soldiers found his possession of this large sum of cash to be suspicious. Reis was taken to the child care center/school in the Chácara do Céu community. There he was beaten and tortured to force him to admit the money came from drug trafficking.

Reis described his torture to journalist Juliana Rezende as follows:

They argued that I should talk, otherwise they would mistreat me . . . [T]hey punched me, tripped me, and in one of those falls I cut open my chin, staining my t-shirt with blood ... [I]n the school, my head was submerged in a tank for washing clothes . . . since I had nothing to say I was placed on the ground, because I was weak . . . From there, they gave me electric shocks in the ear; it was a wire attached to a socket and they placed one end on my ear. They threatened me with weapons . . . [T]hey forced my head again into the tank, and I passed out.<sup>82</sup>

The official examination performed on Reis confirmed the existence of physical marks consistent with torture.<sup>83</sup> When Human Rights Watch/Americas interviewed Reis de Oliveira on December 13, his wrists still bore marks from having been tied by the troops.

- *Leo and "Carecaço"*

Sister Maria do Rosário Porto dos Santos of the São Sebastião church gave a statement in the Secretariat of Justice on November 28, 1994, in which she detailed the abuses suffered by two favela residents that she knew only by the names Leo and Carecaço.

According to her statement, on November 25, 1995, at 9:00 a.m., Porto dos Santos saw a group of troops and military and Civil Police with a hooded man who was pointing out residents supposedly involved in drug trafficking. Among the residents pointed out was a young man that Porto dos Santos knew only as Leo. Porto dos Santos saw the troops and police take Leo to the church. A couple of hours later she saw Leo taken from the church toward the house of a woman known as Geralda. Later in the day, Porto dos Santos saw a bruised, bloody, and mud-covered Leo on the street being kicked by a Civil Police officer who was asking whether he had thought about what the officer had said. A group of military police officers then took Leo back to the church, from where Porto dos Santos heard screams of pain.

Porto dos Santos also indicated in her statement that she was alerted by a neighbor that a man known by the nickname "Carecaço" (Baldy) was being subjected to water torture in the water tank near Geralda's house. Just before entering Geralda's house, Porto dos Santos saw four Civil Police officers<sup>84</sup> submerging Carecaço's head in the water tank.<sup>85</sup> Shortly thereafter, she overheard one of the police saying that they would have to apply electric shocks to Carecaço. Porto dos Santos was able to see something being applied to Carecaço's back that caused one of his legs to move. Porto dos Santos also stated that one of the police officers saw her at this point, and asked what she was doing at the house.

- *Marco Aurélio da Silva*

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<sup>82</sup> Resende, *Operação Rio*, p. 127. De Oliveira gave his bloody t-shirt to the 19th precinct and it subsequently disappeared. Resende suggests that responsibility for the missing shirt rests with the precinct chief, Roberto Blanco dos Santos. According to the group *Tortura Nunca Mais*, dos Santos was one of forty-four doctors denounced and identified in the authoritative study *Brasil Nunca Mais* for collaborating with torture sessions during the Brazilian military dictatorship.

<sup>83</sup> The examination found a wound measuring 1.4 x 1.2 centimeters under his chin, and other wounds on his left wrist. The report concluded that the wounds were the result of "blunt action (beating)." See, Official Medical Exam (*Auto de Corpo de Delito*) No. 5575/94, Rio de Janeiro, November 28, 1994.

<sup>84</sup> Porto dos Santos stated that she was able to identify the men as Civil Police because all four were wearing Civil Police vests.

<sup>85</sup> Human Rights Watch/Americas spoke with two residents who saw this water tank being used to torture detainees.

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On December 19, 1994, Marco Aurélio da Silva, who had been charged with possession and distribution of narcotics, came to the office of Nilo Cairo Lamarão, prosecutor of the 20th Criminal Court, to give his statement.<sup>86</sup> According to da Silva, on November 25 he had been awakened by army soldiers and taken to the church for questioning. Troops provided a different version of da Silva's detention. According to them, da Silva was walking in the favela when he noticed the troops, tossed a bag containing cocaine on the ground, and unsuccessfully attempted to flee.

The troops took da Silva to an interrogation room in the the São Sebastião church where they punched and kicked him. Da Silva could not subsequently identify his aggressors because they forced him to look at the floor throughout his ordeal. According to da Silva there were many soldiers in the room, and other detainees were tortured in his presence.

Observing that a medical examination performed on the same day of his arrest had established that da Silva had a cut on his upper lip consistent with a sharp blow, Prosecutor Lamarão decided to hear other witnesses regarding the alleged torture. Wanderley Batista Bispo, testified to Lamarão that he had been leaving the favela on November 25 when a soldier ordered him to stop and show his identification. Although Batista presented his identification, the soldiers nonetheless took him to the church. On his way up the hill, Batista recognized his neighbor da Silva being taken to the same church. Batista stated that within the church the military had set up a room in which the detainees were forced to remove their clothes and then were tortured. Batista claims he was punched, kicked and given *bandas* (a kick designed to knock the recipient to the ground). Batista also stated that he heard da Silva's cries while da Silva was being tortured.

During the course of his investigation, Prosecutor Lamarão twice cited the four soldiers whose names appeared on the arrest report filed in da Silva's case (Sgt. Fernando Cesar da Silva, Pvt. Eduardo Paulino Lopes, Pvt. Marcelo Santana Moreira and Pvt. Ademar Queiroz Baltar) to render statements.<sup>87</sup> The soldiers failed to appear. On January 19, 1995, the judge in the case, Luiz Carlos Peçanha, sent a letter to the minister of the Army formally requesting that the minister order the Military Command of the East to require these troops to appear and to justify their failure to appear on prior occasions. On January 31, 1995, the four soldiers gave statements denying having abused da Silva.

Prosecutor Lamarão requested that da Silva be acquitted of drug trafficking charges because his confession had been obtained under torture and was therefore invalid. In her March 27 decision acquitting da Silva, Judge Marcia Maria Calainho wrote: "The criminal investigation resulted in the revelation of a practice that we had believed buried since the establishment of a democratic regime after almost thirty years of of bloody and arbitrary dictatorship, the recollection of which embarrasses and humiliates us... Regretting that systems in which the population places its trust, are, in practice, subject to abuse, undermining the judicial system's ability to fulfill its duty, . . . I acquit the accused."<sup>88</sup>

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<sup>86</sup> The description of da Silva's case is based on interviews with Nilo Cairo Lamarão by Human Rights Watch/Americas and on review of court documents, including the testimony of the accused da Silva before the 20th Criminal Court of Rio de Janeiro, December 19, 1994.

<sup>87</sup> The prosecutor was able to identify the soldiers who arrested da Silva from the arrest report they had filed.

<sup>88</sup> See Judgment Order of March 27, 1995, Case No. 46.870/95, 20th Criminal Court, Rio de Janeiro, pp. 104-05.  
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Lamarão also forwarded copies of da Silva's statement, the medical exam, the report of da Silva's arrest, and the indictment against da Silva to the federal military justice system. Nonetheless, Military Justice Prosecutor Walter Motinho Montenegro, having received the information forwarded by Prosecutor Lamarão, recommended that the case against the soldiers be dismissed, presumably for lack of evidence.<sup>89</sup> Motinho Montenegro's determination is recorded in a brief letter which fails to explain the basis for his conclusion.<sup>90</sup>

### **Torture in the Morro do Alemão**

#### **• *André Melo do Nascimento***<sup>91</sup>

Nineteen-year-old André Melo do Nascimento was arrested by soldiers during the occupation of the Alemão morro on January 12, 1995, while at his girlfriend's house. According to Melo do Nascimento, he was arrested because he possessed four pairs of tennis shoes and did not have a sales receipt.<sup>92</sup> The soldiers took Melo do Nascimento to a church in the favela that they were using as an operations center, to see if informants could identify him as a criminal. They could not do so. Troops and military police took him back to his girlfriend's house, where they punched and kicked him in an attempt to force him to identify where the "thing" or "business" was.<sup>93</sup> They then took Melo do Nascimento to the downstairs level of the church and tortured him. The transcript of Melo do Nascimento's statement to the prosecutor describes his torture as follows:

[I]n the church they began to beat the declarant [Melo do Nascimento] . . . ; those who beat him there were army soldiers who punched and kicked him; the declarant was taken to the downstairs level where military police were dressed in black; they ordered the declarant to take off his clothes; they tied up the declarant and placed him head down in a barrel filled with water; while they were doing this they beat him with a stick on his back; they placed a plastic sack on his head and tightened it to prevent his breathing; they connected two electrical wires and attached them to the declarant while he was wet. . . .<sup>94</sup>

During the torture session, the police interrogated Melo do Nascimento about the location of weapons. They then led Melo do Nascimento outside to look for weapons. After failing to find any, the police took Melo do Nascimento to an empty house, where they applied electric shocks to the handcuffs that he was wearing and beat him. Then they dragged him back to the church. Although he had difficulty walking, he was forced to run up the stairs by a policeman with a knife pointed at his back. At least once, the police stabbed Melo do Nascimento, piercing his left buttock.

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<sup>89</sup> Under Brazilian law, a case is ordinarily dismissed when the prosecutor believes there is insufficient evidence of the existence of the crime or the responsibility of those suspected.

<sup>90</sup> See letter dated February 2, 1995 from Dra. Maria Aparecida de O. A. Melo of the 1st Military Court to the 20th Criminal Court, informing the court of Motinho Montenegro's decision to dismiss the case. [Translation by Human Rights Watch/Americas]

<sup>91</sup> This summary is based on sworn statements given by both Melo do Nascimento and his girlfriend, Andréia Souza Silva, to the 20th Criminal Court of Rio de Janeiro in Case No. 46.293/95 on February 10, 1995, and February 13, 1995, respectively, as well as Human Rights Watch/Americas interviews on October 17, 1995, with Nilo Cairo Lamarão, prosecutor of the 20th Criminal Court and Marcos Ramayana, prosecutor of the Second Division of the State Military Justice System of Rio de Janeiro.

<sup>92</sup> Statement of Melo do Nascimento. According to Andréia Souza Silva's statement, troops claimed to have found a bag of marijuana behind her house yet they never showed this bag to either her or Melo do Nascimento.

<sup>93</sup> The troops asked him where the "*negócio*" was. "*Negócio*" literally means "business" but connotatively may refer to almost anything.

<sup>94</sup> Statement of André Melo do Nascimento, Case No. 46.923/95, Rio de Janeiro, pp. 1-2

A medical exam performed more than two weeks after his detention confirmed that Melo do Nascimento had abrasions on his chest, arms, back and shoulders, cuts on both buttocks, marks on his wrists compatible with handcuffs, and an inflamed hip.<sup>95</sup> When Melo do Nascimento gave his statement to the court on February 10, 1995, he appeared in a wheelchair.<sup>96</sup>

• *Sérgio Silva do Nascimento*<sup>97</sup>

On January 12, 1995, Sérgio Silva do Nascimento, a former soldier who had deserted in November 1994, was sleeping at his girlfriend's house. Naval *fuzileiros* (the equivalent of Marines in Brazil) entered and searched the house. On finding a gun, they informed do Nascimento that he was under arrest for drug trafficking and illegal possession of a weapon. The *fuzileiros* first took Silva do Nascimento to a soccer field which they had converted into a makeshift detention area. There, they forced Silva do Nascimento to kneel on rocks while they stepped on his calves. From there, the *fuzileiros* took Silva do Nascimento to the community public school (Centro Integral de Educação Popular --CIEP), which had been converted into an operations center by Navy, Army, and Police troops present during the operation.<sup>98</sup>

Once in the CIEP building, the *fuzileiros* took Silva do Nascimento to their triage center. Because he had been found with a weapon and a police report had to be completed, the *fuzileiros* transferred Silva do Nascimento to the triage center of the Army on the third floor of the CIEP building. There, army troops beat Silva do Nascimento, slapping him on his neck and back, and placed a plastic bag or sheet over his face to the point of near suffocation.

Afterwards, several soldiers took him to a room on the second floor of the school and forced him to sign a confession before the Civil Police.<sup>99</sup> The Civil Police filed an arrest report (*Auto de Prisão em flagrante*) in which the names of the five military personnel present during Silva do Nascimento's questioning appear.

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<sup>95</sup> Official Medical Examination (*Auto de Exame de Corpo de Delito*) No. 6136/95, Rio de Janeiro, February 8, 1995. The report fails to answer fully the mandatory question as to whether the documented injuries were the result of torture.

<sup>96</sup> Melo do Nascimento's lawyer reported to Prosecutor Lamarão that his client had been tortured. On January 26, 1995, Lamarão, two doctors, a photographer, and Marcos Ramayana (a prosecutor in the military justice system), visited the Central Army Hospital to perform an official medical examination on Melo do Nascimento pursuant to a judicial order. A lieutenant colonel who identified himself only as "Alex" refused Lamarão and the others access to Melo do Nascimento, in violation of Brazilian law. Judge Gabriel de Oliveira Zéfiro then ordered Melo do Nascimento transferred to the Penitentiary Hospital, where the medical exam was performed. On May 22, 1995, federal prosecutor Silvana Batina Goes indicted Lt. Col. Jorge Alex Carneiro and his superior, Col. Hilton Correa Lampert for disobedience and abuse of authority in conjunction with their refusal to permit the medical exam. Attorneys for the defendants brought an action in federal court in Brasília to determine whether jurisdiction should be exercised by a military or civil court. As of the writing of this report, this jurisdictional dispute has not been decided.

<sup>97</sup> This summary is based on the testimony of Silva do Nascimento and the five military personnel involved in his detention and subsequent questioning, as well as the Medical Examination and other documents on record in Case No. 15/95 in the 4th Division, Court of Federal Military Justice, Rio de Janeiro.

<sup>98</sup> The Morro do Alemão complex consists of eleven favelas in Rio de Janeiro's northern zone. During the January 12, 1995 operations there, troops and police established several operations centers in the various favelas under control.

<sup>99</sup> Silva do Nascimento's confession states that he has been a cocaine addict since the of age fifteen and that he had robbed two pharmacies to purchase drugs. The confession also states that Silva do Nascimento used the weapon found in his girlfriend's house to commit these robberies

An official medical examination performed on Silva do Nascimento indicated that he had an extended bruise along the back of his neck and ten bruises on his knees and on his right foot.<sup>100</sup> In his statement, Silva do Nascimento was unable to identify those responsible for his torture because they had stayed behind him.

One of the two fuzileiros who detained Silva do Nascimento confirmed many of the details that he recounted in his statement. Although he denied that the fuzileiros engaged in any abuses, Corporal Ubirajara da Silva Narciso, stated to authorities investigating these allegations that army troops slapped Silva do Nascimento and that a plastic bag had been placed over Silva do Nascimento's head,

but for only a short while, simply to intimidate him . . . that the bag was placed on the detainee's head and had the lower part pulled toward the back of his neck . . . this act was repeated two or three times.<sup>101</sup>

Based on this evidence, on August 17, 1995, Maria Terezinha Cauduro da Silva, a prosecutor in the Fourth Federal Military Court of Rio de Janeiro filed a formal complaint against the two captains supervising the interrogation of Silva do Nascimento for *lesões corporais* (injuries caused). On October 5, the two captains (Eduardo Rebouças dos Anjos and Álvaro Roberto Cruz Lima) gave their statements in which they admitted questioning Silva do Nascimento but denied the use of violence against him. On October 26, the three other military personnel present gave testimony. Two denied the use of any violence. A third, Sgt. Alexandre Costa Viana, admitted that those present used violence against Silva do Nascimento. His statement indicates that the interrogation included:

techniques to break the will of the detainee; that the interrogations had more or less certain rules, but that with [Silva do] Nascimento there was something specific to break his will; . . . that [Silva do Nascimento] knew how to conduct himself in these situations, having taken a course to become a Sergeant . . . [that] they slapped [Silva do Nascimento] on his neck and his back . . . ; that he thinks that it was not a plastic bag, but a piece of plastic that was placed on his face and nose and tightened."<sup>102</sup>

On December 18, based on this testimony and other evidence accrued during the proceedings, Prosecutor Maria Ester Henriques Tavares requested that the two captains be convicted, either for ordering and directing, or failing to prevent the abusive interrogation session that produced the injuries suffered by Silva do Nascimento. At the time this report was concluded, no sentence had yet been issued.

### **Abuse at the Naval Hospital**

On December 7, 1994, a number of favela residents were taken to the Marcílio Dias Naval Hospital for interrogation. The questions included torture and physical abuse. The residents were transferred later to the Polinter detention facility.<sup>103</sup>

- Rogério Alves da Luz, twenty-two years old. Naval fuzileiros and military police arrested him in the Cachoeirinha favela in the Lins Vasconcelos morro. Four soldiers interrogated him about weapons, punching him in the kidneys and slapping him in the face.

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<sup>100</sup> Official Medical Exam (*Auto de Exame de Corpo de Delito*) (unnumbered), January 18, 1995, performed on Sérgio Silva do Nascimento by Dr. Hek de Oliveira Carvalho.

<sup>101</sup> Statement of Corporal Ubirajara da Silva Narciso, March 6, 1995, pp. 81-84, in Case No. 15/95, 4th Division, Federal Court of Military Justice. [Translation by Human Rights Watch/Americas]

<sup>102</sup> Statement of Sgt. Alexandre Costa Viana, October 26, 1995, in Case No. 15/95, 4th Division, Federal Court of Military Justice, Rio de Janeiro, pp. 414-15. [Translation by Human Rights Watch/Americas]

<sup>103</sup> The account of abuse at the Naval Hospital is based on interviews by Human Rights Watch/Americas with the victims on December 29, 1994.

- Cristiano da Silva Cipriani, twenty-eight years old. He was arrested in the Cachoeirinha favela in the Lins Vasconcelos morro. Troops beat him after handcuffing him. Later, he was slapped, punched, and kicked while being questioned.
- Jorge Sebastião Barbosa Caetano, thirty-four years old. More than twenty troops came to the house where he was working. The troops searched the house, and although they did not find anything they took him in handcuffs to the Marcílio Dias Naval Hospital. He was kept there along with about one hundred other detainees, handcuffed for more than an hour, and interrogated. Barbosa Caetano stated that naval troops kicked, punched and slapped him during his interrogation.
- Marcos André Barbosa Caetano, eighteen years old. Ten naval fuzileiros (marines) searched his sister's house, where Marcos Barbosa Caetano was staying. They detained him and brought him to the Marcílio Dias Naval Hospital where, naval troops questioned him, kicking him in the back and punching him in the stomach.
- Edson Lourenço da Silva, twenty-three years old. A large group of naval troops detained da Silva and took him to the Marcílio Dias Naval Hospital where they interrogated him. They slapped da Silva and stepped on his handcuffed hands.

### **Unnecessary Violence**

There were also numerous complaints of soldiers treating favela residents with unnecessary violence at the moment of detention. The case of Jorge Marques Varella (Filho) is illustrative of abuse and of the belligerent attitude of the troops towards civilians who protested it.

On December 16, 1994, during the occupation of the Pavão-Pavãozinho favela in Copacabana, a group of soldiers detained Marques Varella, apparently suspecting him of having vandalized a public telephone in the area. In front of nearly two dozen onlookers, including Joel Bueno and his wife, attorney Sandra Cunha de Albuquerque, the soldiers beat Marques Varella severely and smacked his head on the pavement.<sup>104</sup>

Bueno and Cunha de Albuquerque protested the beating to the troops and asked the soldiers, who wore no identification, to identify themselves. The men refused. They then took Marques Varella to the operations center at 151 Saint Roman Street.<sup>105</sup> Bueno and Cunha de Albuquerque accompanied the troops, along with other concerned residents. At the center, Cunha de Albuquerque and Bueno requested permission to speak with Marques Varella. While they waited, the troops standing guard mocked the couple and deliberately handled their weapons in a threatening manner. After an hour, officials at the center refused to grant them access to the detainee. Troops then forcibly removed Cunha de Albuquerque and Bueno from the operations center.

After the couple left, Marques Varella was taken to the Army Police barracks on Barão de Mesquita Street. Although the soldiers had promised to take him to an emergency room to have his head injuries treated, they did not do so. At the Army barracks, officials forced Marques Varella and his brother to sign confessions to the effect that Jorge Marques Varella had damaged a public telephone, resisted arrest, and assaulted the troops. The brother's confession stated that he was responsible for the injuries to Marques Varella's head.

### **Unnecessary Use of Lethal Force**

During the months of Operation Rio, the press in Rio de Janeiro reported the deaths of at least three dozen city residents at the hands of the civil and military police. Human Rights Watch/Americas has not been able to ascertain whether any of these killings resulted from actions undertaken as part of Operation Rio. Some, such as the thirteen

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<sup>104</sup> Human Rights Watch/Americas interview with Joel Bueno and Sandra Cunha de Albuquerque, Rio de Janeiro, December 20, 1994.

<sup>105</sup> The Cantagalo favela is located on a hill which is directly accessible from the middle class neighborhood of Copacabana, via Saint Roman Street

deaths in the May 8, 1995 police assault on the Nova Brasília favela, clearly occurred during independent police operations. However, Human Rights Watch/Americas investigated one case in which Operation Rio military troops employed deadly force without adequate basis, causing the death of a civilian.

On December 6, 1994, Alex Alexandre Teles Pacheco left work at about noon and had lunch with his father, attorney Orli Pacheco. After lunch, Teles Pacheco ran into his childhood friend Eduardo Maia. Maia had stolen a car and invited Teles Pacheco to go for a ride to buy charcoal for a barbecue. Teles Pacheco accepted the offer and asked to drive. While driving through the neighborhood, the two young men ran into a barricade set up by Army troops at the entrance to the Urubu morro.<sup>106</sup>

Frightened by the possibility of being arrested for auto theft, punishable by two to eight years in prison,<sup>107</sup> the two youths decided to attempt to evade the blockade by driving through it. In the process they punctured the car's tires on nails placed in the road by the troops. They then lost control of the vehicle and plowed into a taxi. Despite the presence of several passers-by in the area,<sup>108</sup> military troops fired at the fleeing car with automatic weapons. Teles Pacheco was struck by five shots, and killed. Maia was injured by three shots but survived.

The day after the incident, the Military Public Ministry, the authority charged with prosecuting military crimes, indicted Eduardo Maia for resisting arrest and attempted murder.<sup>109</sup> The military claimed that Maia fired on the troops as the car ran the blockade. No troops were injured. At Maia's trial no civilian witnesses testified to having seen either of the two young men fire on the troops. The only evidence offered that either occupant of the car fired any shots was the testimony of one witness who claimed to have heard "noises that sounded different than those made by [military] rifles." When Human Rights Watch/Americas asked Maia whether he or Teles Pacheco ever fired on the blockade, Maia responded, "I'm not crazy enough to take on the Army with rifles."<sup>110</sup>

After a remarkably swift prosecution, on March 7 the military court convicted Maia of both crimes and sentenced him to three and one half years in prison. No investigation has been opened into the death of Alexandre Teles Pacheco to ascertain the lawfulness of the use of lethal force to respond to his attempted escape. According to Brazilian law, it is a crime for public agents to use force superior to that necessary to repel threatened aggression or in a manner that is not moderate.<sup>111</sup>

#### IV. CONCLUSION

Human Rights Watch/Americas takes no position on the soundness of Operation Rio's strategy for combatting crime and drug trafficking nor as to whether massive temporary armed incursions into individual favelas are effective crime control measures. Our research indicates, however, that Operation Rio reflected the pattern of abusive law enforcement that has long characterized Rio's response to crime. Larger in scale, and involving the military, Operation Rio magnified the disregard for fundamental rights and liberties that occurs during routine police work.

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<sup>106</sup> This account is based on Human Rights Watch/Americas's interviews of Orli Pacheco, Eduardo Maia, a public defender involved in the case, and police authorities charged with investigating the case, as well as review of court documents.

<sup>107</sup> See Article 157 of the Brazilian Penal Code.

<sup>108</sup> Court records establish that at least two residents were hiding behind the taxi into which the young men's car plowed. Residents also stated that they were forced to take refuge behind parked cars to avoid being shot.

<sup>109</sup> Maia also faces a separate prosecution for car theft in state court.

<sup>110</sup> Human Rights Watch/Americas interview with Eduardo Maia, Rio de Janeiro, August 25, 1995.

<sup>111</sup> The Brazilian Supreme Court has repeatedly reiterated the standards to be applied in determining whether force is excessive, emphasizing that force must not be greater than necessary and may not be applied in an immoderate manner. See decisions of the court reported in RTJ 85/466; RTJ 119/648; RTJ 612/430; RTJ 108/1061



Human rights abuses undermine the legitimacy of crime control efforts, sabotaging public respect for law enforcement agencies and crippling their effectiveness. Abusive, violent and corrupt police, acting in willful disregard of the national and international legal strictures on their conduct, weaken the very rule of law they purport to uphold. If Rio's public authorities are to combat crime successfully, they must begin with combatting the crime committed by those charged with enforcing the law.

## V. ACKNOWLEDGMENTS

This report on Operation Rio is based on research by James Cavallaro, director of the Human Rights Watch/Americas Brazil office, and Anna Claudia Monteiro, a Human Rights Watch/Americas researcher. Research included visits to numerous favelas; interviews with state and federal government officials, human rights groups, representatives of residents' associations, witnesses, victims, detainees and academics; and review of extensive court documentation and other public records. The report was written by Cavallaro and Monteiro. It was edited by Jamie Fellner, Human Rights Watch associate counsel. Celso de Arruda França, an attorney in the Human Rights Watch/Americas Brazil office, contributed significant legal research and analysis. Steven Hernández provided production assistance.

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