

# **POLICE BRUTALITY IN URBAN BRAZIL**

**Human Rights Watch / Americas**

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*Human Rights Watch/Americas*

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## I. SUMMARY AND RECOMMENDATIONS

*"These violent criminals have become animals . . . They are animals. They can't be understood any other way. That's why encounters with them can't be civilized. These people don't have to be treated in a civilized way. They have to be treated like animals."*

- Marcello Alencar, governor of Rio de Janeiro state, May 11, 1995, three days after state civil police officers killed thirteen suspected drug traffickers in the Nova Brasília *favela*.

Since 1970, the number of Brazilian cities with populations over one million has grown from five to eleven. Rapid, unplanned growth of these urban centers has been accompanied in most cases by soaring crime rates and parallel public dissatisfaction with the inefficiency of the criminal justice system. As we document in this report, many authorities have responded to this public concern about criminality with policies that tolerate or promote grave violations of the rights of criminal suspects. This report considers the gravest of these violations—extrajudicial executions, near-fatal shootings, and forced disappearances of civilians—and the inadequate response of political, prosecutorial, and judicial authorities to these crimes.

This report focuses on seven cities, six of which are among Brazil's ten largest. Although significant differences may be noted both in the practice of police in these seven cities and states, as well as the role played by governmental authorities in responding to them, certain elements remain constant throughout. Police in Brazil's major urban areas often kill without justification. When they do so, they frequently file false reports describing extrajudicial executions as shootouts with dangerous criminal elements. In many cases, these homicidal police take the corpses of their victims to emergency rooms so that "first aid" may be administered. By removing bodies from the crime scene, in violation of Brazilian law, these police effectively undermine the possibility that experts will be able to investigate cases adequately. In some states, police continue the abhorrent practice of forced disappearances utilized under Brazil's former military regime. This practice, which usually includes an unacknowledged detention or failure to disclose the fate or whereabouts of the victim, followed by extrajudicial execution and secret disposal of the corpse, is an aberration which should be immediately eradicated by Brazilian authorities.

The police, ordinarily responsible for the initial inquiries into their own crimes, rarely investigate police killings with diligence. Once transferred to prosecutors, these poorly documented cases are almost never given priority. When presented with indictments, Brazilian courts, particularly those in the military justice system, fail to fulfill their legal obligation to convict and sentence violent police. Bias against criminal suspects is nearly as pervasive in the courts as on police forces and in society at large. As one judge wrote in acquitting police officers charged with torturing several detainees and abducting another, "These so-called human rights exist only to protect criminals from the law, when in truth they should exist to protect the honest citizen from the actions of crooks."

In several states, authorities charged with overseeing public security have adopted policies that appear to actually foster human rights abuse. For example, in Rio de Janeiro, in November 1995, the state governor signed a decree authorizing salary bonuses for officers demonstrating "bravery." At the same time, the secretary of public security revived a dormant provision that allows for promotions of police involved in acts of bravery. In practice, these bonuses and promotions have been used to reward officers that have killed criminal suspects, regardless of the circumstances. We examined ninety-two incidents resulting in recommendations for promotion between 1995 and 1996. In those instances of "bravery," Rio de Janeiro military police killed seventy-two civilians while suffering six deaths. According to press sources, these policies have led to a six-fold increase in the number of civilians killed by military police in the city of Rio. Faced with criticism from nongovernmental organizations, Secretary of Public Security Gen. Nilton Cerqueira has assailed his detractors as fronts for drug traffickers.

A special commission formed within the Rio Grande do Norte state prosecutor's office and the Human Rights Commission of the lower house of the federal Congress reported in July and August 1995 respectively that Deputy Secretary of Public Security Maurílio Pinto de Medeiros supervised a death squad within the state civil police. Nonetheless, authorities maintained Pinto de Medeiros in his position as the effective chief of the state's police force for more than a year after the release of those reports. This support for Pinto de Medeiros—already indicted for his role in several crimes—fostered the impression that violent police would not be punished in Rio Grande do Norte. It was only after human rights lawyer Francisco Gilson Nogueira de Carvalho was killed by machine-gun fire in Macaíba, Rio Grande do Norte, on October 20, 1996, that Pinto de Medeiros was finally suspended from his post. Nogueira had been actively investigating the participation of local police in the death squad reportedly coordinated by Pinto de Medeiros.

At the same time, various state authorities have launched encouraging efforts to address the problem of police violence. In São Paulo, the secretary of public security has implemented a program to remove temporarily from active duty police officers involved in killings and to provide them with psychological counseling. The secretary has also established an ombudsman's office to hear complaints of police violence. In Belo Horizonte, the public prosecutor's office has established a special division to prosecute human rights violations. That division has indicted nearly 500 officers for abuse of authority and causing bodily injury—the crimes for which police officers who engage in torture can be prosecuted under Brazil's penal code. In Pernambuco, the state government has provided financial support for a witness protection program run by one of the state's leading nongovernmental organizations. In several cases examined in this report, authorities have succeeded in prosecuting police responsible for extrajudicial killings. While clearly the exception, these cases illustrate that the cycle of impunity can be broken, particularly in those instances in which nongovernmental organizations serve as assistants to the prosecution or otherwise press authorities to prosecute violent police.

This report concludes that impunity—the product of the combined failure of a number of Brazilian institutions—is the single factor that most contributes to the continuation of abusive police practices. The report also highlights a series of measures, detailed below, that have helped to reduce the incidence of police violence in Brazil and elsewhere, and which offer the promise of a less violent future.

On May 13, 1996, President Fernando Henrique Cardoso released the National Human Rights Plan (the Plan), a comprehensive set of more than 200 measures intended to address a broad range of human rights problems in Brazil. The Plan was the result of eight months of joint efforts by the Ministry of Justice and nongovernmental organizations, human rights advocates, and other members of civil society.

The Plan includes several measures that we support and which we believe are critical to ending the problem of impunity for police violence. However, virtually all of the measures in the Plan require passage by both houses of the Brazilian Congress before they take effect. Many of the measures in the Plan address the problem of police violence, including the criminalization of torture, the transfer of jurisdiction to ordinary courts for crimes committed by military police officers and the extension of federal jurisdiction over grave human rights crimes. At this writing, however, except for legislation transferring a limited set of cases from the

military to the ordinary justice system, none of these measures had passed both houses of Congress.

### **Recommendations**

#### *1. Prosecute Violent Police Officers*

Serious abuses by police forces should be promptly and vigorously investigated and prosecuted in accordance with the international standards codified in the United Nations' Principles on the Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions. Neither the importance of the law enforcement objectives nor political considerations should obstruct efforts to ensure that state agents who abuse civilians are brought to justice. As of this writing, investigations into numerous cases of unjustified police killings of civilians remained stalled or have been dismissed. Human Rights Watch/Americas calls on Brazil's political, prosecutorial, and judicial authorities to insist on accountability for abuses and to ensure that investigations and prosecutions proceed expeditiously and with all the necessary resources.

#### *2. Establish Federal Jurisdiction for Human Rights Crimes*

The federal government should assume direct responsibility for prosecuting serious cases of human rights violations by state police. As this report shows, state authorities have a poor record of prosecuting state police officials for crimes against civilians. The federal courts have proven less vulnerable to political pressures to acquit law enforcement agents who commit abuses.

There are several avenues available to establish federal jurisdiction over human rights crimes. One proposal pending in Brazil's Congress calls for expanding the authority of the Federal Council for the Defense of the Rights of the Human Person (Conselho de Defesa dos Direitos da Pessoa Humana, CDDPH), which currently operates under the Ministry of Justice. This legislation would authorize the CDDPH, among other powers, to determine which cases should be investigated by federal police and prosecuted in the federal courts.

Another means of enhancing federal authority in the area of human rights abuse involves the determination, *per se*, of cases over which the federal government would retain authority to investigate and prosecute. We support the federalization of violent crimes that violate international human rights norms in which initial investigations indicate the participation of police officers. However, if crimes of police violence are federalized as a class, it is critical that adequate resources be devoted to the federal authorities who will be charged with their prosecution. At present, the federal police force in Brazil consists of 5,000 agents and 7,000 employees, including administrative personnel. Federal prosecutors number

approximately 400 in all of Brazil. These numbers are not sufficient to handle the additional caseload that federalization of determined crimes implies.

### *3. Independently Investigate Police Misconduct*

The current method of police investigation of crimes committed by police is perhaps the single factor that most facilitates impunity. Revised procedures should include the following elements:

- *Investigations by the Public Prosecutors' Office*  
The public prosecutors' offices should routinely investigate credible allegations of police violence without having to rely on the police to take witness statements, visit the scene of the crime, or provide other technical support. Brazil's constitution allows the public prosecutors' offices to proceed with criminal investigations even if a police inquiry is not opened. In practice, however, prosecutors rarely undertake such investigations independently. Human Rights Watch/Americas calls on the Attorney General and the chiefs of the public prosecutor's office in each of Brazil's states to order prosecutors to make use of their constitutional powers to investigate and prosecute cases of police violence. Moreover, we recommend that legislation be enacted to require such independent investigations whenever police are implicated in killings, torture, or forced disappearance.
- *Create Independent Investigators within the Public Prosecutors' Offices*  
Brazilian authorities should enact legislation that would create a staff of investigators within the public prosecutors' offices. These investigators would be authorized to subpoena documents, summons witnesses, and enter the premises of police facilities in order to conduct thorough and independent investigations.
- *Establish Special Human Rights Divisions within the Public Prosecutors' Offices*  
Human Rights Divisions should be created within the public prosecutors' offices in each state to pursue investigations of crimes committed by police. As documented in this report, in the instances in which such special subdivisions have been established on either a permanent or *ad hoc* basis, they have played critical roles in bringing abusive police officers to justice. We urge state governments to establish these human rights subdivisions, and to provide them with an adequate number of prosecutors trained in the area of human rights.

- *Make Technical Experts Independent*

In the overwhelming majority of Brazilian states, the coroner's office (Instituto Médico Legal, IML), and other experts, such as ballistic analysts, are subordinated to the police department or to the secretary of public security who controls the police. As a result of this lack of independence, mandatory examinations of detainees are often not performed and medical examinations, including autopsies, are often not carried out with sufficient detail, particularly in cases in which the victims are suspected of involvement with drug trafficking or other criminal behavior. If the IML were independent of the police, the public prosecutors' offices could more effectively supervise police investigations by comparing police reports with coroner's reports. The independence of the IML is also critical to the maintenance of accurate statistics on homicides, because it would allow police data on lethal use of force to be cross-checked with IML figures on the cause and manner of death in cases when police kill civilians.

#### 4. *Eliminate Military Jurisdiction over Crimes Against Civilians*

The prosecution before military tribunals of police and armed forces personnel accused of abuses against civilians facilitates impunity. Brazil's military courts, each composed of four military officers and one civilian judge, have 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. Legislation recently passed by the Brazilian Congress and signed into law by President Fernando Henrique Cardoso shifts jurisdiction to the ordinary courts in cases of murder (*homicídio doloso*), a positive, albeit limited step. Unfortunately, this allows the military police to retain control of the initial police inquiry, a provision which may preclude serious and independent investigations.

#### 5. *Codify the Crime of Torture*

Legislation must be passed 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, a treaty ratified by Brazil in 1989. Article 4.1 of that treaty requires that governments make all acts of torture "offences punishable by appropriate penalties which take into account their grave nature." At present, the only criminal offenses applicable to torture are *lesão corporal* (bodily harm), the same offense committed when one person punches

another, and abuse of authority, if the offender is a police officer. These crimes carry minimal penalties. Codifying the crime of torture with appropriate penalties would demonstrate the government's firm rejection of human rights abuse as a police practice. At this writing, bill number 4.716/95, which criminalizes the crime of torture, is pending before the Senate's Justice Commission, having already passed the lower house of Congress. We urge the Senate to pass this or similar legislation to criminalize torture swiftly.

#### *6. Create Ombudsmen/Human Rights Councils*

Human Rights Watch/Americas has long supported the creation of civilian review boards to oversee the police and receive complaints of police abuse in Brazil and elsewhere, including the United States. We are encouraged by recent efforts in the state of São Paulo, where the secretary of public security has established an ombudsman (*ouvidoria*) to receive and follow complaints of police abuse. State legislatures should promote legislation to establish such ombudsman's offices as permanent institutions. These institutions should be given full subpoena powers, and should be allowed to enter police facilities to conduct examinations as required for their investigations.

#### *7. Protect Witnesses*

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. Legislation is currently pending in the Brazilian Congress that would create a federal witness protection program.

Until a comprehensive federal program has been established, Human Rights Watch/Americas encourages the development of witness protection programs at the state level. In this regard, an instructive example is the witness protection program jointly run by the Office of Legal Assistance for Popular Organizations (Gabinete de Assessoria Jurídica às Organizações Populares, GAJOP), a Recife-based non-governmental organization (NGO) and the government of the state of Pernambuco. The Ministry of Justice, GAJOP, and the United Nations Development Program plan to sign an agreement in early 1997 to implement similar programs in five other states. All states should implement similar programs to protect witnesses to incidents of police violence, among other crimes in which prosecution has traditionally failed due to the unwillingness of witnesses to testify.

#### *8. Impose Administrative Discipline*

Notoriously abusive policemen should be removed administratively from the force or, at the very least, suspended from active duty until criminal charges have been resolved. At a minimum, police accused of homicide should be placed on unarmed duty until investigations are completed. The practice, followed in several states, of waiting for the courts to convict officers before removing them administratively should be abandoned. In addition to prosecuting abusive police officers criminally, police internal affairs divisions should carry out vigorous 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. Since 1995, the São Paulo police have instituted a program designed to identify police involved in incidents of homicide and remove them, at least temporarily, from street duty. This program appears to have caused a significant reduction in the rate of police killings and should be implemented in other Brazilian states as well.

The Brazilian Constitution contains at least two provisions (art. 41, sec. 1 and art. 42, sec. 7 and sec. 8) that guarantee tenure to certain civil servants, both military and non-military, even despite convictions entered against them. These provisions have been interpreted in such a way as to undermine legitimate efforts to dismiss abusive police officers. To the extent that the Brazilian Constitution guarantees police officers their positions notwithstanding their involvement in grave human rights violations, it should be amended. Police officers are public servants who must be subject to removal for violation of basic human rights.

#### *9. Modify the Appointment of Assistants to the Prosecution*

One of the ways in which Brazilian NGOs have pressed for prosecutions in homicides committed by police is by acting, when they have the consent of the families, as assistants to the prosecution (*assistente da acusação*). However, these NGOs are not permitted to intervene when the victims of violence are not identified, or when the family members, fearing reprisals, do not authorize them to act as assistants. The Brazilian Congress should approve legislation empowering non-governmental organizations to act as assistants to the prosecution, in appropriate circumstances, without requiring the authorization from the family of the victim.

#### *10. Control Deadly Force*

Authorities should take decisive steps to ensure police agents use deadly force only as a last resort to protect life. Deadly force should not be used to control or eliminate persons simply because they are seen as undesirable or involved in criminal activity, nor should it be used when uninvolved third parties will be

unnecessarily endangered. Brazilian police should respect international standards in this regard. In particular, the United Nations' Basic Principles on the Use of Force or Firearms by Law Enforcement Official provides that "Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting authority or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life" (Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, U.N. Doc.E/AC.57/DEC/11/119, 1990, Annex, Paragraph 9 (Special Provisions), p. 146.)

### *11. Control Firearms Discharges*

Police forces—both civil and military—must keep tighter controls on the use of firearms. One means of guaranteeing a rigorous control is to require that an incident report be filed for each weapon discharge. Such a reporting requirement would underscore the extremely grave nature of firearm use and discourage the careless and criminal use of weapons.

### *12. Absolutely Prohibit the Use of Non-Official Weapons*

It is critical that police authorities be able to control the use of firearms by their subordinates. Under no circumstances should police be authorized to carry firearms not registered to the police department while on duty. In prior reports, Human Rights Watch/Americas has documented cases in which non-official weapons were placed on victims to create the appearance of a shootout. Moreover, shots fired from these weapons may never be traced to a particular officer's gun, thus enhancing the possibility that unlawful police killings remain unpunished.

### *13. Discourage Armed Encounters*

Public security policies should discourage armed conflicts with criminal suspects. Bravery should only be rewarded when police officers face grave risk to protect human life, without killing. As currently implemented in Rio de Janeiro, the promotion and the pay bonus for bravery invite abuse by providing police with incentives to execute criminal suspects rather than arrest them in accordance with the law. Programs that confuse bravery with summary executions are irresponsible

and dangerous. We urge Gov. Marcello Alencar to limit bravery incentives to actions in which no civilians are killed.

*14. Provide More Intensive Training*

Nongovernmental organizations concur with many chiefs of civil police forces, commanders of state military police forces, and secretaries of public security we interviewed on the need for enhanced police training. In several states, recruits begin service as armed, uniformed police after only three months at a police academy. The training necessary to convert a high school graduate into a public servant equipped to enforce the law is intensive and time consuming. State authorities must not let their interest in economizing or in filling vacancies abbreviate the requisite training process. One area of particular concern is weapons training. Before being entrusted with firearms, including machine guns, police officers should undergo intensive training and should be required to pass rigorous standardized tests of proficiency.

*Ensure Training in Non-Lethal Means of Controlling Dangerous Situations:*

Police work is necessarily fraught with life-threatening situations. In many of these situations, the only means of avoiding the loss of life is through the employment of deadly force. However, in many others, less violent methods of arresting armed and dangerous suspects may be employed. Brazilian police must be trained in the use of non-lethal methods and encouraged to employ those methods.

*15. Pay Higher Salaries for Police Officers*

Police work demands an enormous personal and psychological commitment and also provides innumerable opportunities for graft and corruption. All these factors weigh in favor of paying police officers a salary that is commensurate with the responsibilities and risks that come with the job. In many states considered in this report, officers beginning careers in the police earn less than U.S. \$ 300 per month.

Pay raises must be accompanied by intensive internal review procedures designed to eliminate violent and corrupt officers from police forces.

*16. Gather and Publish Data on Abuses*

As urged previously by Human Rights Watch/Americas, public authorities in some states have begun to compile and make available data on homicides by police. Those states which have not made these figures available should do so immediately. In addition, authorities should gather and organize data on a precinct-by-precinct basis to facilitate more detailed review of police conduct. Authorities should also periodically inform the public regarding the number of administrative and criminal investigations of alleged police abuse that are underway and the status and disposition of those cases.

*17. Seek International Assistance to Reform Justice and Police Systems*

The international community should assist Brazil with the fight against violence by funding programs to improve the police, prosecutorial, and judicial systems. Particular attention should go to establishing a nationwide system of monitoring police violence and of evaluating the response of the public prosecutors' offices and the judiciary to this violence. This system should maintain accurate records of such crucial information as the number of reported incidents of torture and homicides committed by the police, the number of police inquiries successfully concluded, and the percentage of police convicted. Funds could also be targeted to assist several of the reforms suggested by Human Rights Watch/Americas, such as witness protection programs (as the United Nations Development Program has recently done) and special oversight commissions (*ouvidorias*) designated to receive complaints of police violence. These programs should establish concrete goals and guidelines to assure that the funds are used to produce concrete results.

## II. URBAN POLICE VIOLENCE IN BRAZIL: HOW AND WHY?

The present report is Human Rights Watch/Americas' broadest to date on the problem of police violence in Brazil, addressing police homicides in seven Brazilian cities. In prior reports we have compared police violence in Rio de Janeiro and São Paulo,<sup>1</sup> addressed police violence in Rio de Janeiro alone,<sup>2</sup> and considered police and death squad violence against adolescents in four Brazilian states.<sup>3</sup> The seven cities chosen for this report represent three of the major regions of Brazil—the south (Porto Alegre), the southeast (Rio de Janeiro, São Paulo, and Belo Horizonte), and the northeast (Salvador, Recife, Natal), and illustrate the national nature of the problem of police violence. Six of the cities are among Brazil's largest urban centers, each with a population in excess of one million

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<sup>1</sup> In 1987, we released our first report on Brazil, a comparative study of police violence in Rio de Janeiro and São Paulo. See Americas Watch, *Police Abuse in Brazil: Summary Executions and Torture in São Paulo and Rio de Janeiro* (New York: Human Rights Watch, November 1987). This report considered abusive police practices in the first years of transition to democracy in Brazil and concluded that the ". . . torture of ordinary suspects, not only by beatings, but by relatively sophisticated methods, is endemic in the [police] precincts of São Paulo and Rio de Janeiro." In 1993, together with the Center for the Study of Violence (Núcleo de Estudos da Violência) of the University of São Paulo, we published a follow-up study entitled, "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). That report found that although the incidence of torture had apparently declined in these two cities, police homicides had risen dramatically, at least in São Paulo.

<sup>2</sup> In 1993, Human Rights Watch/Americas (then Americas Watch) published a special report on the Candelária and Vigário Geral massacres of July and August 1993. In these two incidents which brought vast national and international attention to police violence in Brazil, Rio de Janeiro police killed twenty-one residents of the Vigário Geral favela (shantytown) and eight sleeping street children in the downtown Candelária plaza, respectively. See 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. In January 1996, we released a report addressing the violence of the police and military forces during Operation Rio. See Human Rights Watch/Americas, "Fighting Violence with Violence: Criminality and Human Rights Violations in Rio de Janeiro," *A Human Rights Watch Short Report*, Vol. 8, No. 2(B).

<sup>3</sup> In a February 1994 report, we addressed police and death squad violence directed against minors in four states—Rio de Janeiro, São Paulo, Pernambuco, and Espírito Santo. See Human Rights Watch/Americas, *Final Justice: Police & Death Squad Homicides of Adolescents in Brazil*, (New York: Human Rights Watch, February 1994).

inhabitants. We included a smaller city, Natal, due to the extremely severe problem of police violence in that northeastern state capitol.

Police violence is by no means limited to these seven cities. Urban police violence also affects the capital cities in the Amazon region of Brazil. In 1996, reports of death squads with ties to state police surfaced in Rio Branco, Acre, and in Manaus, Amazonas. The group in Rio Branco was reportedly coordinated by the state's highest elected officials. The group in Manaus is said to have killed more than twenty people including a state prosecutor in the months of May and June.<sup>4</sup>

### **Public Security Policies and Police Violence**

Human Rights Watch's experience throughout the Americas and in other areas of the world has demonstrated that police violence is not an inevitable response to criminality, nor is it irrevocably linked to poverty or unequal wealth distribution. Without doubt, poverty and social injustice are important factors that help explain the context in which police violence arises, but cannot alone explain significant differences in the incidence of police abuse, not only among nations, but also among the political subdivisions within given nations. In this regard, the recent experience of Rio de Janeiro and São Paulo is illustrative; different policies in these two states have produced vastly different results in the area of police violence and its control. In São Paulo, throughout the late 1980s and early 1990s, Human Rights Watch/Americas documented a steady increase in the rate of civilians killed by on-duty military police officers. During this period, Rio de Janeiro state authorities did not release figures on the number of civilians killed by police, thus rendering a precise numerical comparison impossible. However, other indicators suggested that São Paulo police were killing civilians at a rate substantially higher than their Rio de Janeiro counterparts. Indeed, by 1992—the record year for military police killings in São Paulo—the number of civilians that these police killed reached 1,470, one-third of the total number of homicides in the state of São Paulo that year. By way of comparison with another notoriously violent city, the São Paulo figure represents more than sixty-one times the number of civilians—twenty-four—that the

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<sup>4</sup> André Muggiati, "Polícia é acusada de tortura em Manaus," *Folha de S. Paulo*, May 28, 1996; and André Muggiati, "Câmara pede investigação federal de violência no AM," *Folha de S. Paulo*, May 29, 1996.

New York City police killed in 1992, and more than fifteen times the number of police killings per capita when compared with New York.

The watershed mark in the escalation of military police violence in São Paulo was the incident at the Carandiru (Casa de Detenção) prison on October 2, 1992. On that date, a riot broke out in Pavilion Nine of the prison. After a cursory attempt to dialogue with the prisoners, military police shock troops stormed the prison and killed 111 detainees. Subsequent investigations demonstrated that the police summarily executed dozens of their victims, many after they had been forced to strip naked and return to their cells. In the aftermath of the Carandiru massacre, in large part due to the pressure exerted by Brazilian and international human rights organizations and the domestic and international press, São Paulo authorities took significant steps to reduce the shocking rate of police homicides. In 1993, the number of civilians killed by the military police, according to official figures, fell from 1,470 to approximately 400, demonstrating how attitudes at the top could affect events on the street.

In the past few years, São Paulo authorities have taken further steps to control the violence of the military police. One of the first measures adopted by Secretary of Public Security José Afonso da Silva upon taking office in January 1995 was the temporary removal of police officers involved in repeated instances of homicide. Reviewing the records of active military police, Secretary da Silva found that some 200 military police warranted such removal based on repeated allegations of involvement in homicides. Secretary da Silva explained to Human Rights Watch/Americas that in many cases he would have liked to dismiss violent officers from the police force.<sup>5</sup> However, article 42 of the Brazilian Constitution guarantees tenure to officers (including those in the military police) despite valid convictions until they are dismissed by the appropriate military tribunal.<sup>6</sup>

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<sup>5</sup> Human Rights Watch/Americas interview with São Paulo Secretary of Public Security José Afonso da Silva, August 23, 1995.

<sup>6</sup> Brazilian Constitution, art. 42, secs. 7 and 8.

Another important measure in the battle to curb police violence in São Paulo was the creation of an ombudsman (*ouvidoria*) to hear complaints of police abuse. The appointment of long-time human rights activist Benedito Domingos Mariano of the human rights group Centro Santo Dias of the Archdiocese of São Paulo demonstrated that Secretary da Silva was serious about his commitment to the ombudsman's office. In its first six months the ombudsman's office responded to 1,241 complaints, including 246 complaints of police violence. In its 1997 annual evaluation of human rights practices around the world, the U.S. Department of State credited the ombudsman's office with increasing the number of internal criminal investigations opened by the São Paulo police from an annual average of some forty to more than one hundred between November 1995 and June 1996.<sup>7</sup>

Largely as a result of these programs, the number of civilians killed by the military police in the state of São Paulo has continued to fall, dropping from roughly 500 in 1995 to slightly over one hundred for the first six months of 1996.

By contrast, authorities in Rio de Janeiro have implemented a series of policies that have produced a dramatic increase in killings committed by the military police. Among the most worrisome of these public policies are the "bravery promotion" and the "bravery pay bonus." Under the terms of these two programs, officers who engage in acts of "bravery" are eligible for pay raises and promotions. In practice, however, evidence suggests at a minimum that "bravery" is often confused with the summary execution of criminal suspects, frequently referred to in Brazil as "*marginais*" (lowlives or crooks).

The practical result of these policies is evident. In the city of Rio de Janeiro, press figures based on analysis of police reports noted a nearly six-fold increase in the number of civilians killed by military police from just over three (3.2) per month

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<sup>7</sup> U.S. State Department, "Country Reports on Human Rights Practices for 1996," [database online] (Washington, D.C.: Bureau of Democracy, Human Rights and Labor, 1997 [cited February 20, 1997]), URL [http://www.state.gov/www/issues/human\\_rights/1996\\_hrp\\_report/brazil.html](http://www.state.gov/www/issues/human_rights/1996_hrp_report/brazil.html).

to more than twenty (20.55) per month since Gen. Nilton Cerqueira took over as head of the police in the State of Rio de Janeiro in May 1995. According to press sources, from January 1995 through February 1996, the military police killed 201 people in the city of Rio.<sup>8</sup> The Ninth Battalion alone killed seventy-five civilians in one seven-month period from August 1995 through February 1996, roughly four times the number of civilians killed by police in New York during a comparable period of time.<sup>9</sup> Examination of the police and coroners' reports in many of these cases suggest that rather than shoot-outs, these are cases of summary executions.

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<sup>8</sup> Renato Fagundes e Wilson Aquino, "PM mata cada vez mais," *Jornal do Brasil*, April 7, 1996.

<sup>9</sup> "Francisco Luis Noel, "A filial carioca da Rota," *Jornal do Brasil*, April 7, 1996.

Nonetheless, Secretary Cerqueira defends the measure as a means of promoting "productivity" among his police forces. In an August 1996 interview, General Cerqueira refused to consider our recommendation that the pay raise and promotion for bravery only be available in cases with no civilian fatalities. Cerqueira told Human Rights Watch/Americas during that interview that "crooks are not civilians" and that "crooks are crooks, dead or alive."<sup>10</sup>

### **The Scope of this Report**

The cases documented in this report vary in nature in several ways. First, although many of the cases are quite recent, a number of others profiled here occurred five or more years ago. In order to analyze the success and failure of the justice system in prosecuting these cases, it was necessary to include cases that have passed through all phases of prosecution. The inclusion and analysis of these cases are critical in light of the key role that impunity—the failure on the part of authorities to investigate, prosecute, and punish those responsible—plays in the continued commission of grave offenses. In many of the cases documented in this report, despite significant publicity and pressure from local and international human rights groups, prosecutions drag on without success. For instance, in one case documented in the chapter on Salvador, on January 25, 1990, a group of ten military police detained two youths, aged fifteen and seventeen, whom they mistook for gang members. The police forced the youths to lie down on the asphalt, beat and tortured them, mutilated their bodies, amputated their genitals, and finally executed both with three gun shots each. Despite pressure from the federal public prosecutor's office and local human rights groups, the case has yet to come to trial after seven years.

However, in a minority of cases, particularly those in which nongovernmental organizations pressured local authorities, violent police have been successfully brought to justice. Under Brazilian law, the relatives of homicide victims may designate attorneys to serve as assistants to the prosecution, who are then authorized to participate in criminal proceedings. In Recife, for example, the diligent efforts of two leading nongovernmental organizations as special assistants to the prosecution have helped produce results in important cases of police violence detailed in this report.

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<sup>10</sup> Human Rights Watch/Americas interview, Rio de Janeiro, August 19, 1996.

### Types of Cases of Police Violence Documented

The chapters that follow document four roughly defined categories of police homicides and near-fatal shootings. A fifth category involves instances in which persons detained by police officers subsequently “disappeared” from official custody under circumstances that justify the presumption of police responsibility. The first subset involves police use of deadly force in the course of massive raids into *favelas* (shantytowns). These raids, according to official versions, are often designed to carry out legitimate police actions, such as the apprehension of criminal suspects or preventive sweeps.<sup>11</sup> In the course of these operations, however, police have repeatedly engaged in unjustified fatal shootings of criminal suspects.

A second subset of cases documented in this report involves individual instances of police killings that suggest, at least, the inappropriate use of deadly force. Although police incident reports of these shootings—often in the form of a police “resisting arrest form” (*auto de resistência*)—invariably present accounts of lawful police response to the unlawful use of deadly force by the victims, these incidents are often poorly disguised extrajudicial executions.

Another common form of extrajudicial executions reported in the pages that follow results from the use of extremely excessive force to respond to potentially criminal, though not life-threatening situations. In these instances, the use of deadly force violates both Brazilian and international law. Nonetheless, authorities charged with investigating these cases rarely impose criminal or even administrative sanctions on offending officers.

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<sup>11</sup> Human Rights Watch/Americas has expressed concern about the methods sometimes employed in these sweep operations even when they do not result in unjustified killings. In the absence of exceptional circumstances, warrantless searches of entire neighborhoods and detentions without adequate suspicion, for instance, violate international human rights norms. See generally, Human Rights Watch/Americas, “Fighting Violence with Violence.”

In still another sub-category of cases, police kill while off-duty, either to resolve personal vendettas or in response to some minor provocation or inconvenience. Although police authorities rarely treat these cases as incidents of their concern (more than one police chief told Human Rights Watch/Americas that off-duty police killings were not considered by internal disciplinary boards), we include several such cases in this report due to our conviction that off-duty police killings of civilians must be treated as problems that result from inadequate control of police forces. Official failure to investigate and prosecute vigorously off-duty police violence stimulates further official lawlessness. This presents a public danger and a threat to the security and human rights of all citizens.<sup>12</sup>

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<sup>12</sup> The deprivation of the right to life violates several international obligations binding on the government of Brazil, including article 6.1 (right to be free from arbitrary deprivation of life) of the International Covenant on Civil and Political Rights (ICCPR) and article 4.1 of the American Convention on Human Rights (same).

Finally, another extremely worrisome category of cases treated in this report are those in which criminal suspects “disappear” from police custody. In these cases, police typically detain criminal suspects who are brought to precincts for processing, only to later claim the detainee escaped. In several cases documented in this report, evidence suggests this story has been devised to cover up an extrajudicial execution and prevent an investigation into the death.<sup>13</sup>

During the military dictatorship (1964-1985), Brazilian security forces forcibly disappeared at least 136 persons whose bodies were never found. Close to 200 others were summarily executed for political motives or killed while in state custody. In recent years, “disappearance” has resurfaced as a security force practice, now employed against common criminal suspects. This report examines several cases of “disappearance” from the state of Minas Gerais and its capital, Belo Horizonte as well as a case from Rio de Janeiro. Local human rights organizations and press reports suggest this practice occurs in other parts of Brazil as well, including the northeastern state of Alagoas.

#### **The Police Process and Criminal Procedure in Brazil**

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<sup>13</sup> The forced disappearance of persons violates a series of international obligations recognized by Brazil, including the right to be free from arbitrary detention (article 9.1 of the ICCPR), and the right to life (article 6.1 of the ICCPR), among others.

Police in Brazil are organized primarily at the state, rather than the national or local level. Although Brazil does have a federal police force, as well as specialized federal police authorities for highways, railways, and ports of entry, the Brazilian Constitution assigns responsibility for the vast majority of criminal activity to state police forces. The duties of the federal police, a relatively small force, include prevention of interstate and international drug trafficking and smuggling, protecting Brazil's borders, and exercising the functions of a federal judicial police (executing arrest warrants for those indicted on federal offenses, for example).<sup>14</sup> In Brazil, the state police are divided into two nearly autonomous entities, the civil and military police.<sup>15</sup> Both forces are under the control of the state governor, though the military police are also auxiliary and reserve units of the army. The two police forces are divided along functional lines. The military police is a uniformed force that patrols the streets, maintains public order, and may arrest suspects caught in the act of committing crimes (although in practice, they arrest suspects beyond this legitimate legal basis). Under Brazilian law, criminal suspects may only be arrested if they are caught in the act of committing a crime (*in flagrante delicto*) or pursuant to an arrest warrant issued by a judge.<sup>16</sup> It is usually the military police who respond to crimes while they are in progress; the civil police investigate crimes once they have occurred. Once the military police arrest a suspect they are required to transport him to the appropriate civil police precinct (*delegacia*) for processing. At this point, the military police ordinarily have no further participation in the related criminal investigation. The civil police are authorized to perform investigations, and in practice, oversee the operation of precincts. Each precinct is run by a precinct chief or *delegado*, who by law, must hold a law degree. In some rural areas, however, these police precinct chiefs have no legal training.

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<sup>14</sup> According to the Brazilian Constitution, federal police are authorized to investigate crimes that "have interstate or international repercussion and require uniform repression, as codified by law." Constitution of Brazil, article 144, sec. I. (Translation by Human Rights Watch/Americas). In theory, crimes that violate international human rights law could be classified as having international repercussion and requiring uniform repression. However, Brazilian jurists agree that legislation expressly determining that human rights crimes constitute federal offenses in accordance with article 144 of the Constitution is necessary to alter the jurisdiction of the nation's various police forces.

<sup>15</sup> Although larger cities have municipal guards, their functions are minimal. The Brazilian constitution limits the powers of municipal guards to the protection of public buildings, property, and installations. (Constitution of Brazil, art. 144, sec. 8.)

<sup>16</sup> Constitution of Brazil, art. 5, para. LXI.

A police inquiry (*inquérito policial*), conducted by the civil police, may be initiated by written orders of the appropriate police authority *de ofício*, at the request of the victim or the offended party, or by orders of the judge or the public prosecutor's office. Inquiries must be opened whenever the police are informed of a possible violation of the penal code.<sup>17</sup>

Once an investigation is opened, the police must collect as many facts as possible about the crime, conduct all necessary examinations of the crime site, and, if there is enough evidence, state who they think is responsible. The police must take a statement from the victim and may undertake any investigations that they deem necessary, including interviewing witnesses and collecting physical evidence of the crime. Searches of homes may only occur by written orders of the judge with jurisdiction over the matter, and must occur during daytime. The prosecutor can require the police to conduct additional investigations at any time.<sup>18</sup>

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<sup>17</sup> Brazilian Code of Criminal Procedure, art. 5.

<sup>18</sup> Brazilian Code of Criminal Procedure, arts. 395, 399.

The civil police have thirty days to conclude an investigation if no one is being held in detention, and ten days if a suspect has been arrested.<sup>19</sup> If this time limit is exceeded, the judge (usually at the request of the prosecutor) can extend the investigation for an additional thirty days. In practice, the time limits established by law for the completion of the inquiry are virtually never met. The cases documented in this report include numerous instances in which police inquiries were delayed for months and even years. Whether intentionally or not, these delays render successful prosecution extremely difficult. Under Brazilian law, if a person is not convicted within a certain period of time after the beginning of criminal proceedings, the statute of limitations runs, and the state may no longer punish the offender. This time period varies according to the severity of the crime. The initiation of criminal proceedings against a defendant does not stop ("toll") the statute of limitations. Thus, because the passage of time benefits the accused, police and other authorities not interested in prosecuting violent police need only delay procedural steps to guarantee the impunity of the accused.

Once the police have concluded their investigations they must deliver a detailed written report to the judge. This report is passed on to the prosecutor to determine whether a suspect should be indicted (*denunciado*). An indictment (*denúncia*) may be issued whenever the prosecutor determines there is sufficient *prima facie* evidence to so justify. If the prosecutor or the judge believe that further police investigations are necessary, they may order them. Police investigations may only be shelved (*arquivado*) by order of the judge, ordinarily at the request of the prosecutor.

In the case of homicides, the prosecutor's indictment may be rejected by the judge if he or she determines that insufficient proof of the existence of a crime (*materialidade*) or individual responsibility (*autoria*) has been presented. In the case of homicide in the ordinary courts, on submission of an indictment, the judge may order that a case proceed to a trial, which under Brazilian law is held before a jury composed of seven citizens. In this case, the judge issues an indictment (*pronúncia*). In this report, we refer to the initial indictment submitted by the prosecutor as the prosecutorial indictment or simply the indictment. The indictment that has been ratified by the judge we term the judicial indictment.

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<sup>19</sup> Brazilian Code of Criminal Procedure, art. 10.

### **Police Violence and Impunity**

Perhaps the factor that most fuels police violence against criminal suspects and others is the persistent impunity that prevails for those officers who commit grave human rights abuses against this class of victims. Impunity results from the general inefficiency of the Brazilian judicial system, compounded by several important factors that come into play when the victims are poor favela residents with possible involvement in crime and the suspects are police.

One important factor that promotes police impunity is the legacy of violence that continues to shape the prevailing ethos within the police. This legacy of violence is particularly acute within certain divisions of the military police. During Brazil's military dictatorship the military police were under the direct control of the army. Specialized mobile "shock units," such as the São Paulo military police's Tobias de Aguiar Patrol Squad (Rondas Ostensivas Tobias de Aguiar, ROTA), were established to prevent "terrorism" and wage urban war against subversives.<sup>20</sup> These battalions remained in operation after politically motivated armed dissent was crushed, though control of the military police has, at least nominally, reverted to the democratically elected state governors. In addition to maintaining the military police shock units after the dictatorship, as a result of a 1979 amnesty law no army or military police personnel were prosecuted for human rights violations committed during the dictatorship. Consequently, abusive policemen remained on the force.

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<sup>20</sup> Paulo Sérgio Pinheiro, "Police and Political Crisis: The Case of the Military Police," in Martha K. Huggins, ed., *Vigilantism and the State in Modern Latin America: Essays on Extralegal Violence* (New York: Praeger, 1991), p. 169.

The existence of a specialized military justice system has in many ways contributed to the impunity afforded crimes committed by uniformed police officers. In October 1969, the military government established rules of procedure for these specialized tribunals, charging them with primary responsibility for prosecuting common crimes committed by military police officers.<sup>21</sup> The 1988 Constitution preserved this separate system of criminal justice, instituted under the dictatorship, for the discipline of military police.<sup>22</sup> A 1969 decree—still in force—provides that all crimes committed by military police while on duty and those crimes committed by military police while off-duty but with weapons registered to the military police, are military crimes.<sup>23</sup> As a result, incidents of police violence ranging from beatings to torture and manslaughter fall within the exclusive jurisdiction of the military courts.

As we have noted in past reports, the military justice system is administered in such a way as to make convictions of policemen for violent crimes against civilians almost impossible. Crimes committed by military policemen are investigated by the military police themselves who, not surprisingly, almost always determine that homicides were the result of shoot-outs.<sup>24</sup> In addition, the military justice system is over-burdened and inefficient. Despite the best efforts of prosecutors, who are frequently serious and committed professionals, they are so overloaded that cases

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<sup>21</sup> Decree-Law No. 1.002 of October 21, 1969 (establishing the Brazilian Code of Military Criminal Procedure).

<sup>22</sup> Constitution of Brazil, art. 124.

<sup>23</sup> Decree-Law No. 1001/1969, art. 9.

<sup>24</sup> For more information on the military justice system see Americas Watch, "Urban Police Violence in Brazil: Torture and Police Killings in São Paulo and Rio de Janeiro after Five Years," *A Human Rights Watch Short Report*, vol. 5, no. 5 (Human Rights Watch, New York, 1993).

are effectively buried in the system. It is not uncommon for homicide prosecutions to take ten years in military courts. Crimes such as abuse of authority or assault are frequently not prosecuted at all, as the statute of limitations often runs out before the case comes to trial. As a result, military justice prosecutors often do not even bother to file cases less serious than homicide, leaving them completely immune from prosecution. (These same delays also undermine prosecutions in ordinary courts, although the situation is generally considered less severe.)

On August 7, 1996, President Cardoso signed into law a bill that shifts jurisdiction to ordinary courts in cases of murder by military police and soldiers.<sup>25</sup> The final legislation, a substantially modified version of a bill that sought to shift jurisdiction to civilian courts for all non-military offenses committed by military personnel and police, represents a step in the right direction. However, all crimes less serious than murder committed by military police against civilians—including manslaughter (*homicídio culposo*)—will remain in the military justice system. Further, the initial determination of whether a killing may be characterized as murder rather than manslaughter remains in the hands of the military police investigators.<sup>26</sup> These factors limit significantly the potential impact of the legislation in reducing impunity.

In the case of crimes committed by both military and civil police, the path to impunity is often traced from the act of police violence itself. After killing a suspect or suspects, police often take their victims to nearby hospitals to receive “first aid.” This practice undermines investigation of the crime scene, while promoting the appearance of police concern for the well-being of their shooting victims. In Rio de Janeiro, in dozens of instances which resulted in promotions, police officers brought victims of shootings to local hospitals, where they were pronounced dead. In July 1996, Dr. Maria Emilia Amaral, director of the Souza Aguiar Hospital in downtown Rio, reported that in a period of twenty days police

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<sup>25</sup> Law No. 9.299, August 7, 1996.

<sup>26</sup> Federal Deputy Hélio Bicudo described the recently passed legislation in the following terms:

In addition to crimes committed against military authority, crimes against the person, such as manslaughter, assault and battery [*lesão corporal* or causing bodily injury, in Portuguese] and crimes against property, among others, remain under the jurisdiction of the military justice system. One sees, therefore, that the jurisdiction of the military justice system, remains, in essence, intact.

Hélio Bicudo, “Problema ainda não resolvido,” *Folha de S. Paulo*, August 13, 1996. (Translation by Human Rights Watch/Americas).

had brought ten dead bodies to her hospital's emergency room. Dr. Amaral wrote to Secretary of Public Security Nilton Cerqueira requesting that he order his police to stop their practice of delivering corpses to the emergency area of the hospital for first aid.<sup>27</sup>

Several cases documented in this and prior reports involve this practice, including the May 1995 massacre in the Nova Brasilia favela. In that incident, despite newspaper photographs and television images of police officers dumping obviously dead bodies onto the back of a sanitation truck, these same officers in their statements explained in the police inquiry that they had brought the victims to the hospital to receive first aid. As this report was being prepared, the public prosecutors' office had not brought charges against these police.

A study performed by Rio de Janeiro criminal judge Sérgio Verani analyzing dozens of cases of police killings over the course of two decades describes how the path to impunity often begins with the decision to complete a "resisting arrest form" rather than immediately opening an inquiry into the homicide committed by police. This form, designed for instances in which individuals resist lawful arrest orders, is employed to shift responsibility from the police to the deceased:

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<sup>27</sup> "Pólicia deixa cadáveres na emergência de hospital," *O Globo* (Rio de Janeiro), July 11, 1996.

The procedure adopted by police authorities, in the situation analyzed, is uniform: instead of arresting the police officers responsible for the homicide *in flagrante*, a “resisting arrest form” is completed, and the matter is closed. A police inquiry is opened which investigates and verifies nothing, since generally the police who signed the resisting arrest form are heard [as witnesses]. No one is indicted. When someone is indicted, it is the victim himself.<sup>28</sup>

When a resisting arrest form is not employed (and, in some cases even when it is), the next step toward impunity is the police inquiry. In instances of police violence, as with all crimes, the police themselves oversee the inquiry into their abuses: both military and civil police investigate their own ranks. Predictably, these police inquiries are often cursory, intended to comply with a legal requirement, rather than to investigate and corroborate police misconduct or identify individual responsibility for abusive behavior. In numerous cases described below, police failed to undertake even the most basic measures in the course of the police inquiry. In these cases, as in others that we have documented in prior reports, few witnesses other than the police involved in the homicides were heard. Witnesses critical of the police version often simply were not interviewed. In many of the inquiries, however, serious efforts were made to determine the criminal background (if any) of the victim. Once having established that the victim was a “marginal,” the investigations were effectively closed. Implicit in this procedure is the idea that the police may kill criminals without fear of any consequences. As a result of the routinely deficient nature of these investigations, among the most important recommendations included in this report is that the police not be permitted to oversee investigations into their own misconduct. Human Rights Watch/Americas believes that this initial investigative authority should be in the hands of the public prosecutors’ office or a separate and more independent police force, such as the federal police.

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<sup>28</sup> Sérgio Verani, *Assassinatos em nome da lei*, (Rio de Janeiro: Adelarã, 1996), p.33.  
(Translation by Human Rights Watch/Americas)

Brazilian law permits prosecutors to perform their own investigations and to indict police officers involved in violent crime without having to wait for police to open or to complete the policy inquiry.<sup>29</sup> Indeed, this is precisely what a special subcommission of the public prosecutors' office in the state of Rio Grande do Norte did in mid-1995 in response to increasingly serious complaints of police violence in which the deputy secretary of public security was implicated. Similarly, the Human Rights Division of the public prosecutors' office in Belo Horizonte has indicted hundreds of police officers for involvement in torture and many others for homicide and forced disappearance usually without relying on police inquiries to investigate police misconduct. Unfortunately, many prosecutors do not consider police killings of criminal suspects a priority and, consequently, rarely investigate complaints of this practice unless presented with a completed police inquiry. While it may be difficult for a prosecutor to gather the evidence necessary to indict violent police without some level of police cooperation, a significant portion of the responsibility for the absence of indictments against homicidal police reflects the inaction or negligence of the state public prosecutors' offices.<sup>30</sup>

Another serious impediment to diligent investigation and prosecution of cases of police abuse is the lack of autonomy of forensic experts. In most Brazilian states, forensic pathologists are subordinate to the police, even though the Brazilian Society for Forensic Pathologists has supported independence for forensic pathologists since 1989. A recent example of the poor investigations done by these subordinated experts involves the July 1993 police massacre of twenty-one residents of the Vigário Geral favela in Rio de Janeiro. Three years after the

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<sup>29</sup> Constitution of Brazil, art. 129, sections VII and VIII.

<sup>30</sup> As noted above, Human Rights Watch/Americas recommends the creation of an investigative staff within the public prosecutors' offices to facilitate these independent inquiries into police misconduct. Recently, the public prosecutor's office in São Paulo, for instance, promulgated regulations for oversight of police conduct.

killings, a judge ordered seventeen of the twenty-one victims' bodies exhumed. The October 7, 1996 exams performed on the exhumed corpses uncovered nine bullets and two fragments that the initial forensic team had failed to remove from the corpses prior to burial.<sup>31</sup>

The judiciary itself bears some responsibility for the impunity of abusive police officers. In many cases, even when all other obstacles have been overcome, judicial biases in favor of police violence favor impunity. This is particularly true in the military courts whose poor record of convicting officers that commit human rights violations is a matter of public record. Many ordinary court judges are also biased in favor of police, especially when their victims are common crime suspects.

Other problems undermining successful prosecution of violent police include the lack of adequate protection for witnesses and victims, who often suffer violent reprisal for daring to speak out.

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<sup>31</sup> See "Vigário: juiz exige que os corpos sejam exumados," *O Globo*, September 11, 1996; "Exumação traz novas balas," *Jornal do Brasil* (Rio de Janeiro), October 8, 1996; "Peritos deixaram 9 balas nos corpos de chacinados," *O Globo*, October 8, 1996; and "Exumados corpos de vítimas de chacina," *Folha de S. Paulo*, October 8, 1996.

Brazil's relatively limited witness protection programs are often run by the police themselves. The principal exception to this rule is the recently created Program of Support and Protection for Witnesses, Victims and Relatives of the Victims of Violence (Programa de Apoio e Proteção a Testemunhas, Vítimas e Familiares de Vítimas da Violência, PROVITA) run by the prestigious Recife-based human rights group GAJOP in combination with the state government of Pernambuco. In its first year of existence, the PROVITA program has made it possible for numerous witnesses to come forward and denounce death squad, police, and organized criminal violence without fear of reprisals. At this writing, the Ministry of Justice, GAJOP, and the United Nations Development Program are moving towards the establishment of witness protection programs modeled on PROVITA in five other Brazilian states to be followed by the nationalization of the PROVITA program.<sup>32</sup>

Perhaps the most notable example of the failure of Brazilian authorities to protect witnesses of police violence adequately is the case of Wagner dos Santos, the key witness to the July 1993 police killing of eight sleeping street children in the downtown Rio de Janeiro's Candelária plaza. Dos Santos survived the initial massacre, despite being shot three times. Then, in December 1994, while living under the protection of the state-run Witness Safe House (Casa da Testemunha), dos Santos was attacked a second time. In this second attack, a group of off-duty military police officers allegedly forced dos Santos off a bus, and shot him several times. Miraculously, he survived. Shortly thereafter, dos Santos fled to Switzerland, where, with the assistance of Amnesty International, he remained until he appeared as the prosecution's star witness against the police officers responsible for the Candelária massacre.

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<sup>32</sup> Human Rights Watch/Americas telephone interview with GAJOP, February 19, 1997.

One of the methods used by human rights organizations and those with sufficient economic resources to try to pressure Brazil's notoriously slow judicial system into quicker action is to designate an assistant to the prosecution. Brazilian law permits the victim or the immediate family to appoint a prosecution assistant. This individual (who could also be the victim) can propose arguments about the evidence, request questions to be put to witnesses, participate in the oral debate in the case, and participate in the appeals made by the public prosecutor's office or advance his or her own appeals.<sup>33</sup> In the military justice system, however, the powers of the assistant to the prosecution are more limited. For example, only the public prosecutors' office is authorized to appeal decisions adverse to the prosecution.<sup>34</sup>

Brazilian human rights groups have used this tactic successfully to press for action in specific cases when the family of the victim has so requested. However, when the victim is a suspected criminal, the immediate family often lacks the interest or is too afraid to make effective use of the assistant to the prosecution figure. Because police killings present a threat to society as a whole and not merely the victim and his relatives, the Brazilian Congress should pass legislation authorizing nongovernmental organizations to participate as assistants to the prosecution regardless of whether the victim's family is willing—or financially able—to become involved by designating an assistant.

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<sup>33</sup> Brazilian Code of Criminal Procedure, arts. 268-273.

<sup>34</sup> Brazilian Code of Military Criminal Procedure, art. 65.

One of the clearest signs that impunity promotes police violence is the fact that a handful of violent police account for a significant portion of the total number of cases of police violence. In São Paulo, for example, our 1993 report on police violence highlighted the case of Gilson Lopes, a military police officer in that state involved in forty-four homicides, all of which were reported as shoot-outs and none of which resulted in disciplinary action against Lopes. Indeed, as the 1993 report noted, Lopes had been promoted within the ranks of the São Paulo military police. This report documents the cases of other abusive police officers who have been permitted to kill and torture with impunity. The chapter on Natal, Rio Grande do Norte State, focuses on Jorge Luis Fernandes, known locally as "Jorge Abafador" (Jorge the smotherer), who is allegedly involved in a dozen homicides. Interestingly, many of these homicides, though denounced to civil police authorities at the time of their commission, were investigated only after the public prosecutors' office created a special commission in response to the popular outcry that followed a March 1995 incident in which Fernandes killed two people and wounded three others. In 1995 in Rio de Janeiro, military police Lt. Marcelo Moreira led or participated in eleven police operations that claimed the lives of eighteen victims, all in purported shoot-outs. Moreira was recently promoted and continues to work in Rio's northern sector. In Belo Horizonte, civil police officer José Maria de Paula has been denounced for his involvement in several cases of torture and "disappearance" of detainees dating back to the military dictatorship and documented in the definitive study of the topic, *Brasil Nunca Mais*.<sup>35</sup> De Paula's recent alleged involvement in several cases of "disappearance" and summary executions is documented in this report.

Other factors not directly within the control of the government also contribute to the prevalence of police violence. Among these is the popular support that violent police often receive from urban residents, worried about alarming rates of criminal violence in Brazil's major cities. As discussed in the first pages of the chapter on São Paulo, public outrage in the aftermath of the brutal killing of two young adults in a bar hold-up in an affluent neighborhood of São Paulo in August 1996, the police quickly detained nine young men who they contended were responsible for the killings. Two months later the prosecutor in the case released the young men, several of whom alleged having been brutally tortured, due to the lack of evidence against them other than their allegedly coerced confessions. Despite the revelation

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<sup>35</sup> Archdiocese of São Paulo, *Brasil Nunca Mais*, (São Paulo: Archdiocese of São Paulo, 1985).

of the barbarities that the men suffered in detention and the weak case against them, many São Paulo residents opposed the men's release.<sup>36</sup>

### **Police Torture in Brazil**

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<sup>36</sup> Despite the allegations of torture and the weak case compiled by the police, in the week following the release of the detainees, community leaders in the affluent Itaim Bibi organized a dinner to honor João Lopes, chief of the precinct where the detainees were allegedly tortured, and to repudiate the prosecutor's decision to release the suspects. Haya Hohagen, president of the Society of Neighborhood friends, told the *Folha de S. Paulo* that Lopes "was the best precinct chief that [the neighborhood] ever had." See "Acusado de tortura recebe homenagem," *Folha de S. Paulo*, October 29, 1996; see also "Reage, São Paulo participa de passeio," *Estado de S. Paulo*, October 26, 1997; Renato Lombardi, "Caso Bodega acirra disputa entre polícia e MP," *Estado de S. Paulo*, October 16, 1997.

On July 2, 1996, the lower house of the Brazilian Congress approved legislation to criminalize torture, an obligation that Brazil had assumed internationally when it ratified the Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment in 1989.<sup>37</sup> As the chamber was approving this legislation, security guards for that legislative body detained and severely beat *Veja* magazine salesman Severino de Araújo Maciel—to force him to sign a false confession—until he passed out nearly eight hours later. Indeed, Brazil's leading news magazine, *Veja*, termed such abuse “the Brazilian method of police investigation” in a November 1, 1995 cover story.<sup>38</sup> At this writing, legislation to criminalize torture was still pending before the Brazilian Senate.

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<sup>37</sup> The convention against torture, in its article 4, requires governments to “ensure that all acts of torture are offences under its criminal law....Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.” Torture is defined under the convention as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity....”

<sup>38</sup> Statement of Severino de Araújo Maciel and Eduardo Jorge Pereira de Rezende to the Human Rights Commission of the Chamber of Deputies, July 5, 1996; See letter of Deputy Hélio Bicudo, president of the Commission of Human Rights, to Chamber President Luiz Eduardo Magalhães, July 10, 1996 (ofício no. 519/96-P); see also, “Tortura: O método

Although the individual cases documented in the chapters that follow focus almost exclusively on extrajudicial executions and near-fatal shootings, this report would not fairly address the problem of police violence if it did not at least consider the practice of torture. Our previous reports on police violence addressed the issue of torture in police precincts in Rio de Janeiro and São Paulo. Our research for this report confirms that torture is still a routine practice in police precincts throughout Brazil, a practice that is widely accepted, particularly when the victim is a poor, criminal suspect. Torture is practiced by members of all police forces in Brazil—state civil and military police as well as federal police. Although the federal police have a better human rights record than their state counterparts, the October 1995 death of José Ivanildo Sampaio de Souza after his detention and torture by federal police in Fortaleza, capital of the northeastern state of Ceará, illustrates that even this unit engages in torture.

In the course of investigating police homicides, Human Rights Watch/Americas received credible reports of physical mistreatment and torture in each of the seven states considered in this report. According to the staff at the human rights office of the municipal government of Belo Horizonte, between two and five cases of torture and beatings by police are reported to them every week. Indeed, two crusading prosecutors in the Human Rights Division of the public prosecutors' office in Belo Horizonte told Human Rights Watch/Americas they had indicted 500 of the roughly 3,500 civil police officers in the city on charges of abuse of authority or assault and battery. These are the only crimes for which police may be prosecuted for torturing criminal suspects, as long as torture is not specifically codified as a crime.

The reasons for this widespread practice are varied. Most analysts agree that the lack of adequate training often leads police to use torture rather than more sophisticated investigation techniques. Also, no doubt, the impunity that police torturers frequently enjoy plays a key role in the continued practice. In this regard, the Brazilian Congress, which has repeatedly failed to pass legislation to criminalize torture, must be afforded its due share of responsibility. Whatever the causes, torture is common in police precincts, and survivors' testimony in this regard is shocking. One victim provided the Human Rights Commission of the Legislative Assembly this statement about the torture he suffered at the hands of a policeman in a precinct in Bahia on April 13, 1995:

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brasileiro de investigação policial," *Veja*, vol. 28, no. 44, November 1, 1995.

[...]The guy grabbed me and hit me twice, on Friday. He put me with my hands over the table, curved, this way, and cut my finger here and here. Afterwards he put me standing against the wall and threw a knife to see if it would get stuck on the door. Afterwards he put me in there with a prisoner named Dudu, who beat me. On Friday I didn't sleep; they kept on giving me showers every twenty minutes, and they kept beating me. On Saturday, policeman Joaquim put me this way and beat me, he broke a nightstick on my back, took another one, and kept beating me. Afterwards he commanded me to spread a cream, like those used on toilet seats, over the head of the nightstick. Then he introduced the stick into my [anus] three times, I kept falling down and he kept beating me. I went to the bathroom to defecate, I was going to defecate in the toilet when he said : "You're not going to defecate in the toilet, you're going to do it on the ground so that you can eat it." Then I defecated on the ground and he made me eat it. Afterwards he beat me, I was cleaning the walls which were dirty with blood and he was beating me. Afterwards he put me in there, my legs were all washed with blood, he threw alcohol at them and set them afire, I was going to put the fire out and he said: "Don't do it, you son of a bitch!"<sup>39</sup>

The chapters that follow consider the practice of police violence in seven capital cities throughout Brazil. We first present Rio de Janeiro and São Paulo, the two cities in which we have concentrated the majority of our previous work in this area. We also highlight these two cities—Brazil's largest and most important—because of the sharp contrasts between the policies in the area of public security since our last comparative study, released in May 1993. In the chapters that follow, we consider cases of police violence in five other Brazilian cities.

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<sup>39</sup> Statement of João Nascimento Santos Filho to the Human Rights Commission of the State Legislative Assembly of Bahia, May 6, 1995 (translation by Human Rights Watch/Americas).

### **III. RIO DE JANEIRO**

On September 20, 1996, Luís Paulo da Silva Garcia mugged Francisca Maria Lopes Farias, a thirty-year-old waitress in the Méier neighborhood in the northern section of Rio de Janeiro. Shortly after the robbery, military police officers Lt. Paulo Lavareda Veloso and Cpl. Valdemar Rangel Brandão arrested Silva Garcia. The police took Silva Garcia as well as Lopes Farias and her husband, Raimundo Juracy Abreu Farias, to the 23rd police precinct in Rio de Janeiro in police car number 54-1717.<sup>40</sup>

After processing the arrest at the headquarters of the Secretariat of Public Security, the two policemen took Silva Garcia, Lopes Farias, and Abreu Farias back to the 23rd police precinct. According to press reports, while the car was in motion,

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<sup>40</sup> According to press sources, the police beat Silva Garcia at the precinct. Abreu Farias told the press that Lt. Paulo Lavareda Veloso went so far as to bite Silva Garcia's ear. (Gustavo Goulart, "Ladrão foi espancado e até mordido antes de ser morto," *O Globo*, October 4, 1996.)

and in the presence of the two victims and his fellow officer, Lieutenant Lavareda placed his gun to the back of Silva Garcia's head and fired.<sup>41</sup> The bullet passed through Silva Garcia's head and exited through his eye, killing him.<sup>42</sup>

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<sup>41</sup> José Luiz de Pinho, "Execução dentro de carro da PM," *O Globo*, October 3, 1996.

<sup>42</sup> On seeing the body of Silva Garcia, the police chief charged with investigating the case told the press that "the bullet entered in the back of the head and exited through [Silva Garcia's] eye. In addition to killing him in a cowardly manner, the same bullet could have hit Francisca [Lopes Farias] who was in the line of fire." *Ibid.* (Translation by Human Rights Watch/Americas)

The detention and execution of Silva Garcia was only revealed two weeks later when an anonymous caller reported the incident to the “Disque Denúncia” (abuse hotline) operated by the secretary of public security. Official investigations corroborated the caller’s report, and subsequent press investigations uncovered more details of the incident. Milton Correa da Costa, spokesman for Secretary of Public Security Nilton Cerqueira, characterized the killing to the press as “an isolated incident.”<sup>43</sup> However, our research attests to the incident’s banality. Both the initial violence committed by Silva Garcia against Lopes Farias and the brutal and illegal response of Rio de Janeiro police are increasingly common events. Indeed, a recent increase in police homicides in Rio has not resulted so much from the failure to control abusive police but rather from state policies that foster official violence.

### **The Context of the Violence**

In the past two decades, drug related violence has become an increasingly serious problem 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 have been frequent and, thanks to a thriving illegal arms trade, violent. Confrontations between the police and traffickers have often been marked by indiscriminate shooting. Innocent bystanders, primarily favela dwellers but also including some residents of Rio’s middle- and upper-class neighborhoods, have been killed in crossfire. Nonetheless, despite significant popular support for violent police, Rio de Janeiro state authorities implemented several programs in the early 1990s, documented in a 1993 Human Rights Watch/Americas report to curb police violence.<sup>44</sup> That report concluded that although the incidence of police officers’ off-duty participation in death squads was quite high, uniformed police killings by Rio police were low, at least in comparison to their counterparts in São Paulo. Unfortunately, since the publication of our 1993 report, much has changed for the worse in the policing of Rio de Janeiro.

In late 1994 the state of Rio de Janeiro and the federal government agreed to bring in federal military troops to assist the police. The agreement was the product of mounting public furor over violence by the drug gangs and the police, jockeying

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<sup>43</sup> Ibid.

<sup>44</sup> Americas Watch, “Urban Police Violence in Brazil: Torture and Police Killings in São Paulo and Rio de Janeiro after Five Years,” *A Human Rights Watch Short Report*, vol. 5, no. 5, May 1993.

by gubernatorial candidates, and steady pressure by the press. 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 of the favelas in the city of Rio as well as outlying areas. Human Rights Watch/Americas's January 1996 report, "Fighting Violence with Violence," concluded that Operation Rio was punctuated by torture, arbitrary detentions, and warrantless searches and at least one case of unnecessary use of lethal force.

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 curb human rights violations committed by Rio de Janeiro police. As we documented in our report on Operation Rio, during the period of federal military intervention, state police forces continued to violate fundamental human rights in the course of their routine law enforcement. In the year since the release of that report, as we document below, Rio de Janeiro military police forces have continued to intensify their use of illegal violence in their battle with criminal suspects and favela residents.

### **Bravery Pay Bonuses and Promotions**

Since Gen. Nilton Cerqueira assumed control of the Secretariat of Public Security in May 1995, two policies—the bravery promotion and the bravery pay raise—have contributed to the increase in military police violence in the state of Rio de Janeiro. The first policy, the promotion for bravery, was introduced in the military police in 1975. For several years after its enactment, this promotion was used only when the police officer involved served as an auxiliary to the army in wartime. In 1981, state legislation expanded the ambit of the promotion to include all public security operations, including routine police actions. This norm was codified by gubernatorial decree in 1985, but was rarely used until General Cerqueira came into office.

According to the bulletin establishing the procedures for evaluating candidates for the bravery promotion, eleven factors must be met in order for a policeman to be eligible. A special commission composed of three commissioned officers evaluates each application in light of the eleven factors, several of which are highly subjective. One of the eleven factors is the existence (or not) of two or more

uninterested witnesses. Another is the detention—not the execution—of all criminals involved.<sup>45</sup>

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<sup>45</sup> According to the military police bulletin that establishes the guidelines for authorizing bravery promotions, the special summary investigation commission must consider eleven factors: 1. the correctness of the action of the military police officer; 2. the observance of legal and regulatory requirements; 3. the existence of selfless effort; 4. the demonstration of limitless courage; 5. the numerical superiority of the criminals; 6. the inferiority of weaponry (by the police); 7. the detention of all criminals involved; (analysis of) gunfire exchanged; 8. the complete and effective termination of the criminal act; 9. the existence of at least two impartial witnesses to the act (of bravery); 10. The existence of statements by these witnesses in the record; 11. the existence of extensive documentary evidence [the bulletin elaborates a number of documents which should be attached]. Bulletin No. 114, supplement, Military Police, Rio de Janeiro, August 6, 1982.

Human Rights Watch/Americas gained access to the official police records authorizing the promotions of 179 police officers between May 25, 1995, and April 16, 1996. These ninety-seven reports evaluated a total of ninety-two incidents.<sup>46</sup> Our examination of those documents established that in the vast majority of cases, the special commission authorized promotion despite the fact that one or more of the formal requirements for the promotion were not met. In less than one quarter of the cases did police report having detained the criminals involved. Another factor routinely disregarded was the need for two or more independent witnesses. Even when two or more witnesses existed, in several cases authorities failed to include their statements in the official documentation. The table below demonstrates the frequency with which promotions were authorized despite the failure to meet the independent witness category.

**Table 1: Percentage of Promotions Approved with and without Witnesses**

Incidents without two witnesses		Incidents with two witnesses and no statements		Incidents with two witnesses and witness statements as part of the process		Total Incidents	
74	80.4%	8	8.7%	10	10.9 %	92	100 %

A third requirement frequently disregarded by the commission was the numerical inferiority of the police forces demonstrating bravery. On October 11,

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<sup>46</sup> In eight reports, one or more police officers were recommended for promotion without having engaged in any particular act of bravery. In one case, an officer was recommended for promotion based on his participation in four specific police operations.

1995, for example, twenty-four police officers were promoted.<sup>47</sup> In one case, according to the police form, five police officers engaged in a shootout with two men, killing both. The full description justifying the promotion of the five police officers is reproduced below:

On September 9, 1995, at about 7 p.m., a group of five officers [Nadelson José Dias, Ricardo Silva Reis, Renato Cezar dos Santos Silva, Djalmir Santos, Gilcinei da Cunha Abreu] were patrolling the Jockey Club neighborhood in [the] São Gonçalo [section of Rio de Janeiro] when they saw a car with two men inside. Suspecting these two individuals, they gave an order for the car to stop, which was not heeded. The driver of the car accelerated. The police officers followed the car. On Anaia road and Xavier Curado street, the occupants of the vehicle exited and began firing at the police, who responded energetically, injuring the two outlaws who arrived dead at the Alcântara Emergency Room.

The outlaws [*marginais*] were found to be in the possession of a .38 caliber revolver and a .12 gauge shotgun and the vehicle they were using proved to be stolen from the area of the 77th precinct.

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<sup>47</sup> In one of the incidents rewarded on October 11, eight police officers arrested a man who had committed a robbery and all were promoted for bravery, suggesting the possibility that the promotions may be used to advance the careers of police officers based on criteria other than those in the official form.

The efforts of these police serve as an example for the other members of the force; they spared no efforts to eliminate from among us two dangerous outlaws.<sup>48</sup>

In many cases the physical evidence, including coroners' reports, is inconsistent with the police version of events. The case of the death of Saul Santos de Araújo is exemplary in this regard. According to the police incident report, at 4:00 p.m. on June 26, 1995, a group of police officers under the command of Cpl. Joel do Amaral Soares was passing by the Shalimar Hotel on Niemeyer Avenue when it encountered "eight heavily armed elements, who, on seeing the police vehicle, fired numerous shots from firearms."<sup>49</sup> The police called for reinforcements; shortly thereafter, a group of police led by Cpl. Paulo Cesar Carvalhido arrived. The police report then describes a shootout between the police forces and the "elements." According to the police, in the course of the shootout, the police wounded one of the suspects. The police took this individual (later identified as Saul Santos de Araújo) to the Miguel Corto Municipal Hospital, where he died.<sup>50</sup>

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<sup>48</sup> Military Police Bulletin Supplement No. 167, Rio de Janeiro, September 2, 1996. (Translation by Human Rights Watch/Americas)

<sup>49</sup> Police Incident Report No. 000828/95, 15th Police Precinct (Gávea), Rio de Janeiro, June 26, 1995.

<sup>50</sup> Ibid.

On October 18, 1995, a special investigation commission recommended the promotion for bravery of Corporals Soares and Carvalhido.<sup>51</sup> The summary of events in the commission's report reiterates the brief summary included in the police incident report.<sup>52</sup> The coroner's report on this case concludes that Saul Santos de Araújo received three bullet wounds to the temple, all within a circumference of no more than two inches. Forensic experts consulted by Human Rights Watch/Americas found the description of the wounds in the coroner's report consistent with an execution, not a shootout.<sup>53</sup>

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<sup>51</sup> Once the special commission recommends a promotion, a decree is issued ordering the promotion, unless the Bar Association or the public prosecutors' office protest, something which to the best of our knowledge has never occurred.

<sup>52</sup> Special Summary Investigation Commission, military police, Rio de Janeiro, October 18, 1995 (Promotion of Cpl. Paulo Cesar de Carvalhido and Cpl. Joel do Amaral Soares).

<sup>53</sup> The proximity of the bullets to each other is highly unlikely to result even at close range, according to a coroner consulted by Human Rights Watch/Americas who requested anonymity. The most likely method of producing such an aperture, he said, would be by firing a weapon placed against the victim's head. Moreover, the upward angle of entry and exit of the bullets is also consistent with a gun placed against the head, according to the same source. Despite this physical evidence suggesting execution, as well as the absence of witnesses to corroborate the police version of shootout, no officers were indicted, and two were recommended for promotion.

In another case, two police were recommended for promotion based on an incident in which the police (along with an unspecified number of other officers) killed four individuals in a vehicle that failed to stop when ordered to do so. The conclusion of that report suggests that eliminating criminal suspects—rather than detaining them—may well be the motivating factor behind many promotions for bravery:

The police action was fully legal and legitimate, having been crowned with success and reaching excellent results, eliminating 4 (four) known outlaws from circulation. . . This characterizes an act of bravery, by unanimous decision of this Commission.<sup>54</sup>

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<sup>54</sup> Military Police Command, Special Commission of Summary Investigation, Rio de Janeiro, May 25, 1995. (Translation by Human Rights Watch/Americas)

The second program that has marked Cerqueira's tenure as head of public security forces has been the bravery pay raise. On November 8, 1995, Gov. Marcello Alencar signed a decree authorizing pay raises for civil and military police officers and firefighters who demonstrate "special merit" as determined by the state's Secretariat of Public Security.<sup>55</sup> According to the terms of the decree, the pay raises authorized range from 50 to 150 percent of the officer's base salary.<sup>56</sup>

In an interview with Human Rights Watch/Americas, Col. Ivan Bastos, president of the Military Police and Firefighters Officers' Club, explained how the pay bonuses distort hierarchy within the military police.<sup>57</sup> For example, the salary of a sergeant receiving the maximum 150 percent pay raise for bravery may surpass that of a first lieutenant. The salary of a corporal, adjusted by 150 percent, may equal that earned by a captain. Bastos explained that the bonus system has created disciplinary problems within the military police and produced perverse incentives for non-violent police to kill to compete financially with their peers. Below, we reproduce a table of monthly salaries, with and without pay raises, according to the Military Police and Firefighters Officers' Club.

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<sup>55</sup> Executive Decree No. 21.753, Rio de Janeiro, Nov. 8, 1995.

<sup>56</sup> Ibid.

<sup>57</sup> Human Rights Watch/Americas interview, August 2, 1996.

**Table 2: Monthly Salaries of Military Police in Rio de Janeiro with and without Bravery Bonuses in Brazilian Reais**

Officer's Rank	Total	50%+	75% +	100% +	125% +	150% +
Colonel	2,696.96	4,045.44	4,045.44	5,393.92	6,068.16	6,742.40
Lieutenant-Colonel	2,275.56	3,413.34	3,982.23	4,551.12	5,120.01	5,688.90
Major	1,803.34	2,705.01	3,155.85	3,606.68	4,057.52	4,508.35
Captain	1,436.17	2,154.26	2,513.30	2,872.34	3,231.38	3,590.43
1st Lieutenant	1,079.86	1,619.79	1,889.76	2,159.72	2,429.69	2,699.65
2nd Lieutenant	893.50	1,340.25	1,563.62	1,787.00	2,010.38	2,233.75
1st Sergeant	937.16	1,405.74	1,640.03	1,874.32	2,108.61	2,342.90
2nd Sergeant	821.37	1,232.06	1,437.40	1,642.74	1,848.08	2,053.43
3rd Sergeant	646.53	969.80	1,131.43	1,293.06	1,454.69	1,616.33
Corporal	595.63	893.45	1,042.35	1,191.26	1,340.17	1,489.08
Soldier	267.50	401.25	468.13	535.00	601.88	668.75

Source: Club of Officers of the Military Police and the Fire Service [COPMCB]

Through March 1996, according to Colonel Bastos, the military police had authorized 257 pay bonuses based on bravery. According to press reports, of the twenty-three police officers honored for bravery in a March 29, 1996 ceremony, sixteen had participated in shootings that claimed a total of nine lives.<sup>58</sup> According to Colonel Bastos, "Many policemen go for [the bravery rewards] to be promoted and make more money. They are true bounty hunters. Since they're unprepared, the result is an increase in the number of deaths on both sides."<sup>59</sup>

Secretary of Public Security Cerqueira considers his critics "poor souls." As he told the *Folha de S. Paulo*, "In all activities there are rewards for those who produce the most. Why should the police professional be discriminated against?"<sup>60</sup> In an August meeting with Cerqueira, Human Rights Watch/Americas requested that he consider the possibility of limiting the bravery promotions and pay raises to officers involved in incidents with no civilian fatalities. Secretary Cerqueira rejected the proposal, asserting emphatically that "crooks are not civilians" and that he wanted his police to capture criminals "dead or alive."<sup>61</sup>

The Ninth Military Police Battalion—which covers the outlying area known as Rocha Miranda and includes numerous favelas including Acari, Parada de Lucas, and Vigário Geral—has committed a disproportionately large number of police homicides of civilians in Rio de Janeiro. Its commanders have been rewarded with bravery promotions. Ninth Battalion commander Lt. Col. Marcos Paes has reportedly attributed the deaths of seventy-five people from August 1995 (when Paes assumed command of the Ninth Battalion) to February 1996 to his unit.<sup>62</sup>

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<sup>58</sup> "Participação em tiroteio aumenta salário em 150%," *Jornal do Brasil*, April 7, 1996.

<sup>59</sup> Human Rights Watch/Americas interview, August 2, 1996.

<sup>60</sup> Sérgio Torres, "Cerqueira rejeita críticas a prêmio," *Folha de S Paulo*, July 25, 1996.

<sup>61</sup> Human Rights Watch/Americas interview, Rio de Janeiro, August 19, 1996.

<sup>62</sup> Francisco Luiz Noel, "A filial carioca da rota," *Jornal do Brasil*, April 7, 1996.

Paes assured the press that the deaths attributed to the Ninth Battalion occurred in legitimate gun battles with criminal suspects: "They were marginals who fell during confrontation. All the dead had weapons and were firing at the police. . . .They had heavy weaponry."<sup>63</sup> According to the Rio de Janeiro daily *Jornal do Brasil*, the Special Commission of Summary Investigation of the Military Police approved Paes's promotion—for bravery—to the post of colonel. The *Jornal do Brasil* reported that this promotion is the highest ever for bravery in Rio.<sup>64</sup>

Arrest reports filed by 1st Lt. Marcelo Moreira Malheiros of the Ninth Battalion—also promoted for bravery in 1996—include eleven cases between September 9, 1995, through February 18, 1996, in which eighteen civilians died. Malheiros led eight of the eleven operations and participated in three others. In the eleven cases documented, the police arrested only one person. All the actions took place in poor neighborhoods in Rio de Janeiro. In no case were crime scene investigations performed to determine the circumstances of the killings. Malheiros was promoted for bravery by decree on August 21, 1996. The form authorizing this honor described Malheiros as a "brave officer . . . whose actions are always directed toward the preservation of public order [and] . . . whose dedication [is] . . . demonstrated in his brilliant actions."<sup>65</sup>

#### **Authorization to Carry a Second Weapon**

In addition to the policies concerning bravery, the Secretariat of Public Security has promoted other measures which may stimulate illegal violence. One such

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<sup>63</sup> Ibid.

<sup>64</sup> Wilson Aquino, "Comandante de batalhão matador será promovido," *Journal do Brasil*, September 24, 1996.

<sup>65</sup> Military Police Bulletin Supplement No. 167, Rio de Janeiro, September 2, 1996 (Translation by Human Rights Watch/Americas).

measure is the authorization for police officers to carry a second weapon, not licensed to the military police. By official note of July 6, 1995,<sup>66</sup> the military police of the state of Rio de Janeiro authorized officers to carry a second weapon, owned by the particular police officer, while on duty. The note that authorizes the use of the second weapon is justified, in part, by the fact that "military police officers must, necessarily, be technically, physically and emotionally prepared for the full exercise of their mission."<sup>67</sup>

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<sup>66</sup> Military Police, State of Rio de Janeiro, Note No. 131, July 6, 1995.

<sup>67</sup> Ibid.

This justification, however, pales in light of the potential for abuse that the authorization to carry a second weapon brings with it. In prior reports, Human Rights Watch/Americas has noted how corrupt, violent police officers in Brazil often use a second weapon to make an extrajudicial execution appear to have been a shootout. As we wrote in 1993, "the police will often corroborate their claim that there was armed resistance by producing a weapon attributed to the victim. People who are knowledgeable about the military justice system say that it is common for the police to plant such weapons, which are called in slang 'cabritos.'<sup>68</sup> Authorization to carry a second weapon facilitates this process, by enabling police officers to openly carry weapons other than those registered to the police (and other than the second weapon permitted by the military police).

#### **Military Police Inquiries and the "Averiguação"**

According to Brazilian law, crimes committed by military police officers, or involving military police officers, must be investigated by means of a military police inquiry. According to the Military Code of Criminal Procedure, the "military police inquiry is the summary investigation of facts which, in legal terms, constitute military crimes."<sup>69</sup> The Military Penal Code defines military crimes to include all incidents in which military officers kill, injure or are killed or severely injured themselves.<sup>70</sup> Under Brazilian law, the military police inquiry should include witness statements, expert examinations of the crime scene, ballistic tests and other documents relating to the investigation. When completed according to the law, military police inquiries often include hundreds of sheets of documentary evidence.

An official note of November 3, 1994, issued by the Rio military police, established the appropriate procedure for opening military police inquiries in cases of armed encounters between military police and criminal elements:

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<sup>68</sup> Americas Watch, "Urban Police Violence," p. 9.

<sup>69</sup> Brazilian Military Code of Criminal Procedure, art. 9.

<sup>70</sup> Brazilian Military Penal Code, art. 9, para. II.

The Command [of the military police] determines . . . that in all police actions in which there are encounters with criminal elements which result in the death of military police or civilians: a military police inquiry must be opened, even though the fact has been presented to a [civil] police precinct, and notwithstanding the completion of a resisting arrest report [*auto de resistência*].<sup>71</sup>

On October 4, 1995, however, the Rio military police altered this policy, eliminating the military police inquiry and replacing it with an investigation report (*averiguação*). The official note authorizing this change states:

This Command determines . . . that in all police actions in which there are encounters with criminal elements which result in the death of military police or civilians, that an investigation report (*averiguação*) be opened, in which all statements must be reduced to written form, which should be concluded within thirty days.<sup>72</sup>

The *averiguação* procedure does not require the same degree of investigation as the military police inquiry, nor does it require that crime scene evidence or other tests (such as ballistic tests) be performed. According to Colonel Bastos, the *averiguação* is a rapid and superficial process used to guarantee the impunity of the police involved.<sup>73</sup>

### **Resisting Arrest Reports and the Killing of Civilians**

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<sup>71</sup> General Command of the Military Police, Judicial and Disciplinary Sector, Note 3110, November 3, 1994. (Translation by Human Rights Watch/Americas)

<sup>72</sup> General Command of the Military Police, Note No. 3156, October 4, 1995. (Translation by Human Rights Watch/Americas)

<sup>73</sup> Human Rights Watch/Americas interview, November 12, 1996.

The resisting arrest report is the form that the police should complete when, in the course of their lawful activity, they encounter armed resistance. In practice, however, the form is routinely used by police to mischaracterize suspicious incidents in which they kill civilians. A recent study of the history of the resistance form by a Rio de Janeiro judge demonstrates how police in the state have used the form as a means of undermining investigation into their illegal homicides for two decades.<sup>74</sup> According to the Rio de Janeiro daily, *Jornal do Brasil*, which performed a study of 147 resistance reports registered between January 1995 and February 1996, the military police in Rio de Janeiro have killed increasingly more civilians since Cerqueira assumed control of the Secretariat of Public Security in May 1995, and have increasingly made use of these resisting arrest reports to document the killings.<sup>75</sup> Analysis of these police reports in the city of Rio de Janeiro demonstrated a nearly six-fold increase in the number of civilians killed by military police—from just over three (3.2) per month to more than twenty (20.55) per month since General Cerqueira took over.

Cerqueira has acknowledged that not all the deaths reported in the resisting arrest reports were legitimate: "We are not so naive as to say that all the resisting arrest reports have strictly complied with the law," he told the *Jornal do Brasil*.<sup>76</sup> From January 1995 through February 1996, according to press sources, the military police killed 201 people in the city of Rio. The monthly homicide rate that these figures represent—more than fourteen—is roughly six times the figure for another notoriously violent city's police force, that of New York City.<sup>77</sup> The population of

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<sup>74</sup> Sérgio Verani, *Assassinatos em nome da lei*, (Rio de Janeiro: Adelarã) 1996, p.33.

<sup>75</sup> "Cerqueira reconhece excessos da PM," *Jornal do Brasil*, April 16, 1996.

<sup>76</sup> Ibid.

<sup>77</sup> This comparison is based on the monthly average figure of civilians killed by New York City police during 1993 and 1994, roughly 2.4.

Rio de Janeiro is roughly 35 percent smaller than that of New York. Thus, based on these data, the Rio de Janeiro military police killed roughly eleven times as many civilians per capita as their counterparts in New York during a similar time period.<sup>78</sup> The figure of fourteen civilians per month killed does not include those civilians killed by the civil police.

#### **Disappearance: Jorge Antônio Careli**

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<sup>78</sup> According to 1995 U.S. census figures, the population of New York City is 8,546,846. The Brazilian Institute of Geography and Statistics documents the population of Rio de Janeiro as 5,480,768 as of 1991.

Since the end of the military dictatorship in Brazil, instances of politically motivated forced disappearances of persons have virtually ceased. Nonetheless, cases of police arrests of ordinary criminal suspects followed by detainees' subsequent "disappearance" continue to occur. A series of reports by the Rio de Janeiro daily *O Dia* contends that dozens of criminal suspects have been "disappeared" in Rio since Brazil's return to democratic rule in 1985. However, reliable non-press figures on the frequency of this occurrence are not available. At a minimum, a shocking number of corpses--victims of homicides--are uncovered in the state of Rio de Janeiro each year under circumstances which are never clarified. For example, former State Attorney General Antônio Carlos Biscaia told Human Rights Watch/Americas that in roughly 30% of the nearly 8,000 homicides reported in the state in a given year, the victim is never identified.<sup>79</sup> Below, we consider the case of Jorge Antônio Careli, "disappeared" since August 1993.

At about 8:00 p.m. on August 10, 1993, a group of twenty-three heavily-armed police from the Anti-Kidnapping Division (Divisão Anti-Seqüestro, DAS), and an unidentified number of civilians, raided the Varginha favela in the Manguinhos section of Rio de Janeiro. The raid was apparently intended to investigate the recent disappearance of Marco Antônio de Moraes de Souza Rocha.<sup>80</sup> Jorge Antônio Careli, a thirty-year-old employee of the Fundação Oswaldo Cruz Hospital complex in Rio de Janeiro, was in a bar in the Varginha favela waiting to use a

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<sup>79</sup> Human Rights Watch/Americas interview, Rio de Janeiro, October 3, 1995

<sup>80</sup> Prosecutorial Indictment, 17th Division, Public Prosecutor's Office, Rio de Janeiro, October 14, 1993 (indictment of Rubens de Souza Paladini and others).

public telephone when the police arrived.<sup>81</sup> When the phone became available, Careli placed a phone call to Marly da Silva. At this point, several officers seized, beat, and detained Careli, placing him in a white van and leaving the favela. Since then, Careli has remained disappeared.<sup>82</sup>

Shortly after Careli's detention, several phone calls were placed to Marly da Silva from two cellular phones that were later established to belong to the DAS police division. In those calls, according to court records, the callers solicited information about Careli and threatened Marly da Silva.

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<sup>81</sup> According to the indictment filed in the case, the payphone is widely known as a communication point for kidnappers. *Ibid.*

<sup>82</sup> Sentence, Case No. 8.549, 6th Criminal Court, Rio de Janeiro, May 19, 1994. The detention of Careli by police is established by the statements of several eyewitnesses to Careli's presence in the bar in the favela that evening, to his detention, as well as the statement of Marly da Silva, with whom Careli was speaking from the payphone in the favela at about 8:00 p.m. when their call was interrupted abruptly. Telephone records cited in the case confirmed that a phone call had been placed to Marly da Silva's home from the payphone in the favela at about that time.

Based on the statements of witnesses to Careli's detention, as well as telephone records and other evidence, the public prosecutors' office indicted twenty-three police officers involved in the DAS raid on the Varginha favela on August 10, 1993, for the illegal detention of Careli as well for causing injuries to a three-year-old boy in the course of the raid.<sup>83</sup> After trial, on May 19, 1994, Judge Heraldo Saturnino de Oliveira issued his sentence, acquitting all of the indicted officers. De Oliveira's sentence found that the evidence in the case demonstrated conclusively that the police involved had in fact detained Careli. However, because the individual responsibility of the police involved had not been established, de Oliveira acquitted all the defendants.<sup>84</sup>

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<sup>83</sup> During the raid in the favela, the police fired at least one shot which struck three-year-old Luiz Henrique do Nascimento Silva. Several men who did not identify themselves took the boy to receive treatment, arriving at the hospital at 8:45 p.m. Later that evening, one of the defendants in the case, Gilberto Pestana Fontoura, gave Luiz Henrique's mother 500.00 cruzeiros, the equivalent of about US \$6.50. These facts helped to establish the presence of the officers in the favela at the time of Careli's disappearance. In the criminal proceedings against them, the officers maintained that their raid of the favela occurred several hours later and that Careli had been detained by others.

<sup>84</sup> Sentence, Case No. 8.549, 6th Criminal Court, Rio de Janeiro, May 19, 1994.

More than a year later, in August 1995, Lindalva Tereza dos Prazeres, in prison on kidnapping charges, told the press that she had seen Careli shortly after his August 1993 detention in the DAS police precinct, bleeding badly and barely able to speak. Dos Prazeres' told the press that she had been forced to clean blood from the van in which Careli had been transported. Her statement prompted the Internal Affairs Division of the civil police to reopen the case.<sup>85</sup> In connection with this new investigation, Dos Prazeres identified, from photographs, five police officers from the DAS that she contended were involved in the mistreatment of Careli in the DAS precinct.<sup>86</sup> However, at this writing, according to a source close to the case, the police inquiry remains stalled and is unlikely to result in anyone's indictment. Careli remains "disappeared."

#### **Public Perception of the Police in Rio de Janeiro**

According to a survey performed by Datafolha, the research division of the *Folha de S. Paulo* newspaper, and published in that daily in January 1996, 88 percent of those polled in Rio and São Paulo believed the police are involved in organized crime. Among those interviewed, 76 percent believed that policemen are active in death squads. Sixty-five percent of those polled believed that police torture suspects to obtain confessions.<sup>87</sup>

In August 1996, a survey performed by the Getúlio Vargas Institute (Fundação Getúlio Vargas - FGV) and the Institute of Research on Religion (Instituto de Estudos da Religião - ISER) revealed the strikingly low level of confidence that

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<sup>85</sup> See, Letter from Antônio José Campos Moreira, Chief, Inquiries Center, to Civil Police Chief Hélio Luz, Rio de Janeiro, August 28, 1995.

<sup>86</sup> "Presidiária acusa 5 policiais por tortura," *Folha de S. Paulo*, August 29, 1995.

<sup>87</sup> Kennedy Alencar and Marcelo Godoy, "Polícia dá medo e é corrupta, diz pesquisa," *Folha de São Paulo*, January 14, 1996.

most Rio de Janeiro residents have in their police. In the past two years, according to the survey, only 12 percent of those who were robbed reported the crime to the police.<sup>88</sup> Of those victims who reported incidents of theft to the police, the survey showed that 33 percent were from the upper classes. In the lower classes, the proportion of theft victims that sought police assistance reached only 11 percent. In all, while 8 percent of all those polled had been subject to some form of theft in the past two years, only 15 percent of that subgroup had reported these thefts to the police.<sup>89</sup>

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<sup>88</sup> "Pesquisa revela descrédito da polícia," *Jornal do Brasil*, September 9, 1996.

<sup>89</sup> Ibid.

#### IV. SÃO PAULO

In the dawn hours of August 11, 1996, five armed men entered the Bodega bar in the upscale Moema neighborhood of São Paulo and proceeded to rob the bar's patrons. One young man in the bar, a student named Milton Bertoline Neto, delayed in removing his wristwatch. One of the gunmen shot him in the arm. While the men were robbing other patrons, a twenty-five-year-old dentist, José Renato Tahan, entered the bar. The robbers fired two shots, killing him instantly. The gunmen fled the bar, but not before firing a few shots back through its front window. One of these shots fatally wounded Adriana Ciola. She died on the way to the hospital.

Although São Paulo residents are accustomed to news reports of robberies and killings, they were not prepared to see the violence that afflicts the city arrive in its most affluent neighborhoods. In the weeks following the killings, the Brazilian media provided ample coverage to the outraged reaction of city residents. In response to the Bodega killing, influential sectors of São Paulo society joined to form "React São Paulo" (Reage São Paulo), a civic organization modeled on "React Rio," a group founded in late 1995 in response to three highly publicized kidnappings. At the same time, the São Paulo and national media gave increasing coverage to one unfortunate aspect of the public reaction to the Bodega incident: the hostility of many crime victims toward human rights and their defense.<sup>90</sup>

On August 27, 1996, the police arrested nine young men in connection with the crime: Luicano Francisco Jorge, Valmir da Silva, Natal Francisco dos Santos, Marcelo Nunes Fernandes, Jailson Ribeiro dos Anjos, Benedito Dias de Souza, Valmir Vieira Martins, Marcelo Silva, and a minor, identified as C.A.S, aged

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<sup>90</sup> The *Folha de S. Paulo* reported that Francisco Iandoli, father of victim Rodrigo Iandoli, criticized distinguished human rights activist and Cardinal Dom Paulo Evaristo Arns as more concerned about the human rights of criminals than of victims. In response, Cardinal Arns told the *Folha de S. Paulo*, "[E]ither the media is committing an error when it tries to associate the wave of violence to human rights, or it is [intentionally] doing harm to people." Carlos Eduardo Alves, "Polícia é fraca contra bandidos, diz. d. Paulo," *Folha de S. Paulo*, August 21, 1996.

sixteen. State Secretary of Public Security José Afonso da Silva appeared in the 15th precinct to congratulate the police on their speedy work in solving the case.

Two months later, however, prosecutor Eduardo Araújo da Silva filed his final report on the case, concluding that there was not sufficient evidence to indict any of those detained. Araújo criticized the unprofessional nature of the police work done in the case. None of those detained, for example, had been identified by the bar's patrons. More worrisome, Araújo revealed to the press that the detainees had all given credible statements to the judge overseeing the case detailing the abuses, including torture sessions, to which they had been subjected to force their confessions. Benedito Dias de Souza told the press, “[T]hey beat me and gave me electric shocks and they left me for five days without food.”<sup>91</sup> Luciano Francisco Jorge reported having been tortured on several occasions in the precinct, including by the assistant precinct chief.<sup>92</sup> In the weeks following the release of the nine original suspects, the police arrested four other men under suspicion of participation in the Bodega robbery. In contrast with the case against the original suspects, which rested exclusively on extrajudicial confessions apparently extracted by torture, evidence against the second group included identification by witnesses from the bar and the seizure of items stolen on the night of the assault in the possession of two of the detainees.

The Bodega case, the public response that it triggered and the gross abuses by police that allegedly ensued provide insight into the dynamics of violence and police abuse in São Paulo, which, like Rio de Janeiro, is a violent city. Criminal violence in São Paulo provides the fuel that many citizens convert into support for violent police behavior. This support, in turn, is viewed by many violent police authorities as license to commit abuses. Even after the revelations of how the case was mishandled, including the alleged use of torture, the Association of Police

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<sup>91</sup> “Preso diz ter levado socos na barriga: libertados fazem acusações de mau-tratos,” *Folha de S. Paulo*, October 25, 1996.

<sup>92</sup> Ibid.

Precinct Chiefs criticized the prosecutor's decision not to indict the nine detainees, and community leaders honored the police accused of torture.

### **Police Violence in São Paulo: Recent Trends**

Human Rights Watch/Americas has reported on police violence in São Paulo in several publications since 1987.<sup>93</sup> Our last report to focus exclusively on police

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<sup>93</sup> Since 1987, we have traced the incidence of police violence in São Paulo in three separate reports. Our first report on Brazil, released in 1987 jointly with the Center for the Study of Violence (Núcleo de Estudos da Violência) of the University of São Paulo, addressed the problems of torture and police homicides in the first years of transition from dictatorship to democracy. Whereas in the past torture had been used as an investigative technique against political detainees, the report concluded, now it was being employed in a widespread fashion against common crime suspects. The report also considered homicides committed by the Rio and São Paulo police, particularly those carried out by specialized forces such as the Rondas Ostensivas Tobias Aguiar, known in Brazil by its acronym "ROTA." Americas Watch, *Police Abuse in Brazil: Summary Executions and Torture in São Paulo and Rio de Janeiro*, (New York: Human Rights Watch, 1987).

In 1993, we revisited the issue of police violence in "Urban Police Violence in Brazil: Torture and Police Killings in São Paulo and Rio de Janeiro after Five Years," (*A Human Rights Watch Short Report*, vol. 5, no. 5, May 31, 1993). Finally, in 1994 we published a

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violence in São Paulo and Rio de Janeiro, released in 1993, noted a dangerous upward spiral in the number of civilians killed by the state's military police.<sup>94</sup>

In the past several years, however, the dangerous trend of police killings has been reversed in São Paulo. Beginning in 1993, the year after military police homicides in the state of São Paulo reached their peak, the number of civilians killed by the military police has fallen consistently. The reduction in military police homicides began almost immediately after the October 1992 massacre at the Casa de Detenção (House of Detention) within the Carandiru prison facility, as the figures below demonstrate.

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report on police and death squad homicides of adolescents in four Brazilian states. Human Rights Watch/Americas, *Final Justice: Police and Death Squad Homicides of Adolescents in Brazil* (New York: Human Rights Watch, 1994).

<sup>94</sup> From 1988 through 1992, according to figures from the secretary of public security, the São Paulo military police killed civilians with increasing frequency, with figures running from 294 civilian deaths at the hands of the military police in 1988 to 1,470 in 1992.

**Table 3: Killings and Woundings of Police and Civilians  
in the State of São Paulo for January-August 1993**

São Paulo	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Total
Civilians Killed	57	41	39	35	25	20	24	16	257
Civilians Wounded	15	11	32	16	12	19	21	24	150
Military Police Killed	2	3	2	2	1	5	1	4	20
Military Police Wounded	24	15	19	13	10	8	6	8	103

Source: São Paulo Military Police, Police Intelligence Unit

Since 1992 the number of civilians killed by São Paulo military police in the Greater São Paulo metropolitan area has fallen in a fairly consistent manner.

**Table 4: Civilians Killed by military police in the Greater São Paulo Metropolitan Area**

Year	Number of Deaths
1992	1190
1993	243
1994	333
1995	331
1996	106

Source: Secretary of Public Security, São Paulo.

One of the programs to which state authorities attribute this drastic decrease in the incidence of police homicides is the Program to Retrain Police Involved in High Risk Situations (Programa de Reclicagem de Policiais Envolvidos em Situação de Alto Risco—PROAR). Through the PROAR program, police officers involved in fatal shootings are removed from the area in which the killing occurred and assigned to different duties. The officers also undergo psychological counseling and evaluation. The period of evaluation lasts three months.<sup>95</sup> After this period, PROAR authorities determine whether the police officer is fit to return to his prior duties.<sup>96</sup>

A second program that is widely believed to have played a key role in the reduction of civilians killed has been the creation of an ombudsman for the police in São Paulo. Demonstrating his commitment to the position, Secretary of Public Security José Afonso da Silva named respected human rights activist Benedito Domingos Mariano of the Santo Dias Human Rights Center to assume that post.

The complaints received by the ombudsman demonstrate that police violence persists in São Paulo. In its first three months of existence, the ombudsman received 678 complaints, 126 regarding police violence. Of these 126 complaints, fifty-four reported instances of abuse of authority, fifty-one cited beatings or torture and eleven police homicides. According to the ombudsman, these three areas constituted his priority. In these cases, upon receipt of the complaints, the ombudsman requested further information from the appropriate authorities.

In its second three months of operation, the ombudsman received 563 complaints, of which 120 reported police abuse (fifty-six instances of abuse of authority, forty cases of beatings or torture, and twenty-four police homicides). In

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<sup>95</sup> Initially, the period of evaluation lasted six months.

<sup>96</sup> São Paulo police authorities implemented a similar, though significantly more limited program in the wake of the Carandiru massacre. Under that program, police involved in fatal shootings were taken off active duty for a thirty-day period of retraining, during which time they were to receive psychological and religious assistance. See, Human Rights Watch/Americas, *Final Justice*, p. 54.

its second report, the ombudsman reproduced figures for these three areas of police abuse by police department:

**Table 5: Complaints Received by the Ombudsman**  
**March-May 1996**

	<b>Military Police</b>	<b>Civil Police</b>
<b>Abuse of Authority</b>	21	35
<b>Beatings/Torture</b>	16	24
<b>Homicide</b>	20	4

**Source: Police Ombudsman of the State of São Paulo, Reports on Activities, December 1995 - May 1996 (São Paulo, 1996)**

These figures suggest that while both forces engage in beatings and torture, the military police are more likely to kill suspects than the civil police. This conclusion is consistent with figures from the state secretary of public security on the number of civilians killed by the two police forces.<sup>97</sup>

In its 1997 annual evaluation of human rights practices around the world, the U.S. Department of State credited the ombudsman's office with increasing the number of internal criminal investigations opened by the São Paulo police from an annual average of some forty to more than one hundred between November 1995 and June 1996.<sup>98</sup>

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<sup>97</sup> In the state of São Paulo in 1996, the military police killed a total of 249 civilians while the civil police killed forty-seven.

<sup>98</sup> U.S. State Department, "Country Reports on Human Rights Practices for 1996," [database online] (Washington, D.C.: Bureau of Democracy, Human Rights and Labor, 1997 [cited February 20, 1997]), URL [http://www.state.gov/www/issues/human\\_rights/1996\\_hrp\\_report/brazil.html](http://www.state.gov/www/issues/human_rights/1996_hrp_report/brazil.html).

Secretary da Silva told Human Rights Watch/Americas that he and Governor Covas were studying plans to make the ombudsman a permanent office through legislation at the state level.<sup>99</sup> At this writing, such legislation had not yet been approved by the São Paulo Legislative Assembly.

Despite the advances noted above, serious cases of human rights violations continue to occur in São Paulo. Even in those cases followed by the ombudsman, authorities charged with responsibility for investigating and prosecuting violent police often fail to do so adequately. The cases below are examples of homicides and near-fatal shootings that have occurred in São Paulo in the past few years.

**Anderson dos Santos Tossato**

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<sup>99</sup> Human Rights Watch/Americas interview, São Paulo, August 23, 1996.

On November 21, 1996, fourteen-year-old Anderson dos Santos Tossato and a friend were playing with cap guns in the streets near Tossato's house in São Bernardo do Campo, on the outskirts of São Paulo. After the caps ran out, the two boys stopped by a local shop to buy more caps. The shop had none.<sup>100</sup> The two boys then proceeded to the local soccer field. As they approached the field, two military police officers in a squad car, Alexandre Dimopolous and Walter Novo, stopped them. Officer Dimopolous asked Tossato what he was carrying in the pocket of his shorts. Tossato lifted his shirt, his father later told us, to show the police officer that he was carrying his wallet and a toy gun and then placed the toy gun in his hand to show that it was a cap gun and not a real revolver. Before Tossato could explain that the gun was a toy, according to this version, Officer Dimopolous shot him twice.<sup>101</sup>

Shortly afterwards, the two officers drove Tossato to a local medical clinic. Tossato's father told Human Rights Watch/Americas that the police inexplicably arrived at the clinic twenty-six minutes after the incident, though the ride should have taken between five and ten minutes.<sup>102</sup> When they finally got to the clinic, Tossato was already dead.

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<sup>100</sup> Nilza Vitória Bottechi, forty-five, who was in the shop at the time, confirmed that the two boys entered with a toy gun seeking to buy caps. Human Rights Watch/Americas interview, São Bernardo do Campo, November 29, 1996.

<sup>101</sup> This version of events is based on what Anderson Tossato's friend told his father, Reinaldo Tossato, before leaving São Bernardo do Campo for security reasons. Human Rights Watch/Americas spoke with Reinaldo Tossato on November 29, 1996, but was unable to interview the friend who was present during the incident.

<sup>102</sup> Human Rights Watch/Americas completed the trip from the crime scene to the clinic in nine minutes.

According to the police, Officer Dimopolous fired at Tossato only after the boy fired on the police with a revolver. The police produced a pistol which they contended Tossato had fired at them. On the day of Tossato's death, Júlio César Parruca, the lieutenant assigned responsibility for the military police inquiry, told the press that he had no doubt that Tossato "fired at the police with a real weapon."<sup>103</sup>

However, several witnesses told Human Rights Watch/Americas that they had heard two and not three shots. One witness also told us that when the policemen left, they did not activate the squad car's siren and drove at a normal speed,<sup>104</sup> an observation reiterated by witnesses during the civil police inquiry as well. The civil police precinct chief investigating the case, Wagner Lombisani, told Human Rights Watch/Americas that moments after the shooting, the police officers retrieved the spent shells from the crime scene, thus further delaying medical treatment for Tossato. Lombisani also told us that the police washed the vehicle before submitting it to authorities for the appropriate tests.<sup>105</sup>

The official medical exam performed on Tossato raised further questions about the military police account. The bullet that killed Tossato passed through his right pinky finger before entering his chest. However, no gun powder was found on the pistol that police contended Tossato had fired at them. Chief Lombasini told Human Rights Watch/Americas that based on the proximity of the police officers to

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<sup>103</sup> Fábio Zanini, "Garoto de 14 anos é morto por policial," *Folha de S. Paulo*, November 22, 1996.

<sup>104</sup> Only one of the witnesses agreed to be identified. Human Rights Watch/Americas interview with Nilza Vitória Bottechia, São Bernardo do Campo, São Paulo, February 27, 1997.

<sup>105</sup> Human Rights Watch/Americas interview with Police Chief Wagner Lombisani, Third Precinct, São Bernardo do Campo, São Paulo, February 27, 1997.

Tossato and the upward trajectory of the shots fired, the bullet that passed through the pinky finger of the hand with which Tossato would have fired a real weapon would also have struck the butt of the gun or the palm of his hand. Instead, the bullet entered Tossato's chest without leaving any such marks. Lombisani considered this evidence consistent with witnesses' statements that Tossato was holding his right hand palm up, showing the officers that his gun was a toy.<sup>106</sup>

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<sup>106</sup> Ibid.

Even before the medical exam results, based on witness testimony, Lombisani told the press that he suspected that Officer Dimopolous shot Tossato without being provoked.<sup>107</sup> One of the witnesses said he heard two shots, rather than three or more.<sup>108</sup>

Still more damning for the police officers involved was ballistic evidence showing that the weapon police claim Tossato fired at them had not been fired and was in fact incapable of firing at all.<sup>109</sup>

Police Chief Lombisani completed his inquiry on December 10, 1996, concluding that the police officers' version of events conflicted with witness statements and physical evidence. As a result, the public prosecutors' office indicted Officer Dimopolous for murder. At this writing, a military police inquiry had been opened and was pending. It remained for the Jury Tribunal of São Bernardo do Campo to determine whether the ordinary or military justice system should retain jurisdiction over the case.

### **Carlos da Silva**

On February 25, 1995, Carlos da Silva stole an automobile in the Santo Amaro neighborhood in São Paulo and was pursued by a military police vehicle. As a result of the chase, da Silva's car flipped. Da Silva exited his vehicle with his hands in the air, surrendering to the police. Nonetheless, the police fired at him and hit him with one shot. According to da Silva, the police took him to a barren field where they tortured him. Among other forms of torture, the police beat da Silva's penis with their nightsticks. Four military police officers pointed their guns at da

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<sup>107</sup> Fábio Zanini, "Para delegado, rapaz morto não reagiu," *Folha de S. Paulo*, November 27, 1996.

<sup>108</sup> Statement of Adriano Dias Santos, 66th Precinct, São Paulo, November 28, 1996.

<sup>109</sup> Secretariat of Public Security, Criminalistic Institute, Exam No. 02/140/19346/96, São Paulo, December 3, 1996.

Silva's head and stepped on his fingers. Two civil police officers were also present at the torture session.<sup>110</sup>

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<sup>110</sup> Interview of Carlos da Silva with Sandra Carvalho, Comissão Teotônio Vilela, São Paulo, April 3, 1995.

The São Paulo daily, *Folha de S. Paulo*, reported that as a result of the torture allegations the military police command had relieved from their ordinary duties two police officers, a private and a sergeant, from the Second Company of the 22nd Military Police Battalion.<sup>111</sup> Human Rights Watch/Americas wrote to the São Paulo state secretary of public security to express its concern at the grave violations alleged by da Silva, and to request the case be investigated thoroughly and that those responsible be brought to justice. On April 25, 1995, the secretariat responded that the police inquiry failed to disclose illegal conduct on the part of the police involved, although the military police were continuing to investigate the circumstances of da Silva's shooting.<sup>112</sup> At this writing, the case had been transferred to the military justice system.

#### **Romildo da Silva and Antônio Carlos Silva**

On August 28, 1995, according to witnesses who spoke to the mother of one of the victims but chose not to identify themselves, five military police officers stopped Romildo da Silva (Romildo) and Antônio Carlos Santana Silva (Antônio Carlos), who were driving a Caravan automobile belonging to Alberto Aparecido da Silva, Romildo da Silva's brother. Romildo and Antônio Carlos were on their way to drop off the car at Alberto Aparecido's house. According to the unidentified witnesses, the military police stopped and apprehended Romildo and Antônio Carlos on the road to Guaviruba. The bodies of the two with gunshot wounds were later found at the first-aid clinic in Campo Lindo.

The 100th precinct reported that the two were killed after stealing an automobile and resisting arrest.<sup>113</sup> Eliza Rosa Santana Silva, the mother of Antônio Carlos, recognized the body of her son at the morgue. She later told the São Paulo

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<sup>111</sup> Cláudio Júlio Tognoli, "PM afasta 2 acusados de torturar estudante," *Folha de S. Paulo*, April 4, 1995.

<sup>112</sup> Military Police Inquiry Number 22 BPMM - 017/06/95.

<sup>113</sup> Police Report No. 002627/95, 100th precinct, São Paulo, August 28, 1995.

police ombudsman that Romildo's body had been disfigured.<sup>114</sup> A military police inquiry is underway in the first section of the military justice system.

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<sup>114</sup> Statement No. 80/95, São Paulo Military Police Ombudsman, São Paulo, November 27, 1995, (Statement of Elza Rosa Santana Silva).

On August 12, 1996, the public prosecutors' office petitioned for the case to be transferred to the ordinary courts in accordance with Law 9.299/96.<sup>115</sup> On September 23, 1996, the military justice system authorized the transfer to the ordinary courts. Although the case file was transferred to the Regional Court of Santo Amaro on December 11, 1996, the prosecutor had not yet offered an indictment in this case as of late January 1997.<sup>116</sup>

#### **Marcos Paulo Coura de Souza**

On July 5, 1994, nineteen-year-old Marcos Paulo Coura de Souza left school and got into a car with three friends. The car headed toward the Carandiru metro station. At the station, military police officers Paulo Sérgio Oliveira, Cesar Augusto Fernandes, and Samir Adolfo Kalil, all from the Fifth Military Police Battalion of São Paulo, ordered the vehicle to stop. The car's driver attempted to pull his vehicle alongside the curb. The police responded by firing on the vehicle. The driver, frightened, tried to flee.<sup>117</sup> The police then fired on the car with a machine gun. One of the bullets struck one of de Souza's vertebrae, causing serious injury. De Souza was treated at the Mandaqui Hospital but died eight days later of a heart attack. De Souza's parents went to the Ninth Battalion to register a complaint on the day of the incident, but the colonel in charge did not permit them to do so.

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<sup>115</sup> Law 9.299/96 authorizes the transfer of murder cases from the military to the ordinary courts.

<sup>116</sup> Human Rights Watch/Americas telephone interview, São Paulo Police Ombudsman, January 24, 1997.

<sup>117</sup> Statement of Margaret de Souza to the Brazilian Bar Association, São Paulo section, August 29, 1994.

Instead, de Souza's aunt, an attorney in São Paulo, registered a complaint with the São Paulo Bar Association. At this writing, criminal prosecution into the incident is pending in the fourth section of the military justice system of São Paulo, docketed as case number 7597/94.<sup>118</sup>

**Antônio Marcos Teles Pinheiro**

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<sup>118</sup> Because the incident occurred before law 9.299/96 was enacted, shifting jurisdiction for all murder cases by the military to civilian courts, it has not yet been transferred. If the military court determines the case constitutes murder, it will be obliged to transfer it to the ordinary court system.

On May 28, 1993, seventeen-year-old Antônio Marcos Teles Pinheiro was at his sister Magali Teles Pinheiro's home in the Butantã section of São Paulo when two friends, Jimmy Billafranca and Carlos Roberto Amaral Lima, arrived in a Verona and invited him to go for a ride. Pinheiro accepted, and the young men left in the Verona. Shortly thereafter, while in a plaza, a military police vehicle belonging to the specialized ROTA division (car number 91-108) stopped the car. The police in the ROTA vehicle ordered the youths to exit their car and enter a police wagon. One of the police officers entered and drove the Verona. Both cars headed toward the Raposo Tavares highway. Pinheiro's mother, Elza Teles Pinheiro, went to the Bandeirantes First-Aid Clinic in the Piri-Piri neighborhood as soon as she heard of the incident. There, she found the bodies of the three young men. Elza Pinheiro told the São Paulo Bar Association that her son's body showed signs of drowning, that some of his teeth had been broken, and that there were holes which appeared to be bullet wounds in his chest and head.<sup>119</sup>

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<sup>119</sup> Statement of Elza Teles Pinheiro to the Brazilian Bar Association, São Paulo section, June 3, 1993.

Witnesses reportedly told Elza Pinheiro they saw the police stop the Verona and treat the young men violently. In particular, they noted that the police beat Billafranca's head against the police car until he passed out.<sup>120</sup> The State Police Ombudsman's Office informed Human Rights Watch/Americas that the military prosecutor indicted eight military police officers for three counts of murder. Despite the statements given by five civilians that confirmed the detention of the three youths, the military court acquitted the defendants, accepting the officers' version that the young men had resisted arrest and died in the course of the legitimate police response.<sup>121</sup> In light of the evidence against the police, the military prosecutor appealed the acquittal on March 18, 1995. On September 19, 1996, while this appeal was pending, the case was forwarded to the state appellate court in the ordinary justice system in accordance with Law 9.299/96. The case was docketed in the ordinary justice system as number 218.579.3/7 and the appeal was pending at this writing.<sup>122</sup>

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<sup>120</sup> Ibid.

<sup>121</sup> Ouvidoria da Polícia do estado de São Paulo (São Paulo Police Ombudsman), *Relatório Trimestral de Prestação de Contas*, March - May 1996, p. 42.

<sup>122</sup> Human Rights Watch/Americas telephone interview, São Paulo Police Ombudsman, January 24, 1997.

## V. PORTO ALEGRE

The frequency with which the police in Rio Grande do Sul and its capital, Porto Alegre, use deadly force against civilians appears, by virtually all accounts, to be lower than in other cities and states studied in this report, reflecting the relatively high level of professionalism of both the military and civil police in the state. Nonetheless, both forces commit violent abuses, including severe beatings, shootings, and homicides. When they do, competent authorities often fail to investigate and prosecute those responsible with the appropriate zeal.

Perhaps one of the reasons for the professional nature of the police forces in Rio Grande do Sul is the fact that they are well paid in comparison to their colleagues in other states. While in several states beginning military police officers earn less than the equivalent of US\$300 per month, in Rio Grande do Sul young officers earn approximately US\$630 per month, including bonuses.<sup>123</sup> Beginning civil police officers in Rio Grande do Sul earn approximately US \$750 per month, more than twice as much as their counterparts in many other Brazilian states.<sup>124</sup> Also important is the intensity of the training required of police recruits. The basic course in the Civil Police Academy consists of 960 class hours. The military police require a minimum training period of seven to eight months. Corporals must spend an additional four to six months in training; sergeants spend eight to ten months beyond the initial period.<sup>125</sup> By contrast, in other states, military police often

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<sup>123</sup> Human Rights Watch/Americas interview with Dr. Djalma Galtério, Deputy Secretary of Public Security, Rio Grande do Sul, Porto Alegre, July 18, 1996.

<sup>124</sup> Human Rights Watch/Americas interview with Mário Wagner, civil police, Rio Grande do Sul, Porto Alegre, July 18, 1996.

<sup>125</sup> Human Rights Watch/Americas telephone interview with General Command, State Military Police, Rio Grande do Sul, January 28, 1992.

require only three months training. Further, in Rio Grande do Sul, military police have been required to study human rights in their academy since 1983.<sup>126</sup>

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<sup>126</sup> Human Rights Watch/Americas interview with Col. Otomar José Antônio Konig, military police commander, Rio Grande do Sul, Porto Alegre, July 18, 1996.

In its first two annual reports on human rights violations in the state of Rio Grande do Sul, the Human Rights Commission of the State Legislative Assembly documented thirty-three cases of human rights violations committed by military police against civilians during 1994 and 1995.<sup>127</sup> These violations included severe beatings, shootings, and killings. The commission found that in these instances of police abuse, police investigators tended to close ranks rather than seriously investigate violations.

Research done by the staff of Rio Grande do Sul State Deputy José Gomes—in particular by his assistant, sociologist and former military policeman Gilmar Nunes Corrêa—offers a clue to the violence of the military police in Rio Grande do Sul. According to this study, military police themselves are subjected to degrading and violent conditions in their training, which they in turn reproduce in their daily interaction with citizens. One of the concrete and measurable results of this mistreatment and the failure to address adequately the stress involved in the work assigned to military police is the extraordinarily high rate of suicide among these police, particularly among the low ranking officers. According to the study, forty-eight military police officers committed suicide between January 1983 and June 1995, while fifty-one were killed in the line of duty. According to that same study, the per capita suicide rate for military police exceeded that of the general population by 61.3 percent.<sup>128</sup> None of those who took their own lives were commissioned

<sup>127</sup> See Comissão de Cidadania e Direitos Humanos, Assembléia Legislativa, Rio Grande do Sul, *Relatório Azul: Garantias e Violações dos Direitos Humanos no Rio Grande do Sul*, 1995 (Assembléia Legislativa, Rio Grande do Sul, Porto Alegre), 1996 (hereinafter, *Relatório Azul*, 1995), pp. 53-62; Comissão de Cidadania e Direitos Humanos, Assembléia Legislativa, Rio Grande do Sul, *Relatório Azul: Garantias e Violações dos Direitos Humanos no Rio Grande do Sul*, 1994 (Assembléia Legislativa, Rio Grande do Sul, Porto Alegre), 1995 (hereinafter, *Relatório Azul*, 1994), pp. 163-175.

<sup>128</sup> The suicide rate for military police officers during the period examined was 13.44 per 100,000 while that of the population as a whole was 8.24 per 100,000.

officers in the military police. Based on these figures, as well as interviews with dozens of military police officers, the author of the study notes:

the danger is not only in service calls, in the combat against criminality, but also in the mechanisms of repression and control where the force of the disciplinary regulations persists independently of the democratic advances that society has achieved and the individual rights guaranteed by the Constitution. Several . . . [military police regulations] exclude fundamental liberties, like the freedom of expression, of movement and circulation (military police officers may be detained for the most foolish reasons), of political association, of labor organization, etc. . . . The vertically structured social relations within the military police permits the possibility of legal violence . . . Isolated and impotent to face this repressive structure, the police officer reacts, often aggressively, against third persons or against his own life. As such, police violence is tied to the bureaucratic, authoritarian nature of the [military police] institution.<sup>129</sup>

#### **Luís Carlos Chagas da Rosa**

On July 30, 1995, security agent Luís Carlos Chagas da Rosa and his friend Protásio Mack were pushing da Rosa's motorcycle on a street in the city of Guaporé, when military policemen João Ludovico and Enrique Joel Gonçalves de Moraes approached them in a police car and demanded to see the motorcycle's documents. Da Rosa told the policemen that he did not have the documents with him, but that he could retrieve them at home. The policemen refused the offer and searched the two men. Da Rosa, who was carrying a gun, explained that, as a security agent, he was allowed to carry a weapon. The policemen took the gun from da Rosa and told him to push the motorcycle to the police station.

On passing an automobile repair shop, da Rosa asked if he could leave the motorcycle there and go to his house to get the documents. The policemen refused this request and instead beat da Rosa with the butt of a rifle. At this point, Mack left the police car and entered a nearby house to make a telephone call, as a second police car approached.

The policemen entered the house and ordered Mack to return to the police car, where da Rosa was waiting. The police then drove the car to the headquarters of the

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<sup>129</sup> *Relatório Azul*, 1995, p. 176 (Translation by Human Rights Watch/Americas).

military police in the nearby city of Parobé, where they remained for about fifteen minutes. The officers then took the two men to a medical clinic where da Rosa was treated and released with the “diagnosis” of drunkenness. The officers then headed to the police station in Parobé. From there, the police sent da Rosa to the Caridade Hospital.

On arriving at the hospital, the attending physician, faced with the seriousness of da Rosa’s injuries, transferred him to a hospital in Porto Alegre. Twenty days later, da Rosa died from the injuries suffered at the hands of the police.

#### **Luiz Alex Marins Nunes**

On December 17, 1994, police shot Luiz Alex Marins Nunes dead as he hid in a house after escaping from the Central Prison of Porto Alegre. According to testimony from witnesses, Nunes had a history of drug use since the age of fourteen. Since that time, according to his mother, police had repeatedly extorted his family. They would often come asking for the daily income of the snack bar that the family owned, threatening to arrest the boy if the family failed to give them the money. The police often followed through with their threat, arresting the boy and releasing him a few hours later. Frightened, the family hired a lawyer to end the repeated abuses, but never succeeded in stopping the police from extorting the family.

Nunes escaped from prison on December 7, 1994. During the ten days between his escape and his execution, he contacted his mother and asked her to provide him with ten thousand *reais* (approximately US\$11,000) with which to pay the police agents who had facilitated his escape. Those agents threatened to kill Nunes if he did not pay them the amount demanded. His family did not have the sum required.

According to the coroner’s report, the three shots entered Nunes’s body from behind. This corroborates the family’s version, provided to the Human Rights Commission of the State Legislative Assembly, that eyewitnesses saw the police shoot Nunes while lying on the ground defenseless.<sup>130</sup> As late as September 1995, no police inquiry had been started on the case. After a request from the Human Rights Commission of the State Legislative Assembly, authorities opened a police inquiry into the case.

On December 18, 1995, the Civil Police Internal Affairs Division sent the inquiry to the First Criminal Court of Porto Alegre. On February 14, 1996, that tribunal returned the inquiry for further investigations, including taking statements of additional police officers. On April 11, 1996, the civil police returned the

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<sup>130</sup> *Relatório Azul*, 1995, p. 164-65.

inquiry once again to the First Criminal Court of Porto Alegre. The civil police report concluding the inquiry failed to determine responsibility for Nunes's death and did not recommend that any of the police involved be indicted. The civil police preparing the inquiry report relied on the fact that no bullets had been retrieved from the body of the victim, thus rendering pointless ballistic tests on the weapons used by the police involved as the prime basis for its inconclusive determinations.

#### **Jorge Siqueira de Oliveira**

On the night of March 8, 1995, four people—Vitor de Oliveira, Isabel de Oliveira, Vera Lúcia de Oliveira, and Jorge Siqueira de Oliveira—were riding in a bus going from Porto Alegre to the suburban town of Alvorada. During the trip, they started playing jokes on each other.

At one point, Vera Lúcia placed an object under her shirt, pretending that she was pregnant and that Jorge was her husband. As she did so, she bumped into a nearby passenger, a candy seller who complained that he found their humor offensive. The group started an argument with the candy seller. Shortly thereafter, two military policemen intervened in the discussion. Only one of the two, Paulo Ricardo Bueno do Canto, was uniformed. After a heated discussion, Bueno ordered the driver to stop the bus and told the group to exit immediately. As they did so, Bueno fired his revolver; the bullet struck Jorge in the chest. The two police officers took the victim to a hospital, where he died shortly thereafter.

The Legislative Assembly's Human Rights Commission sent a letter to the commander of the state's military police on March 23, 1995, requesting information about this case and urging the military police to investigate the matter thoroughly. Over time, the Assembly's Human Rights Commission lost contact with Jorge's family. Without the support of the family, the commission has been unable to press authorities to investigate this case by means of an inquiry or to bring the officers involved to justice.<sup>131</sup> On February 3, 1997, the state military police reported that a

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<sup>131</sup> Human Rights Watch/Americas telephone interview with Virginia Feix, attorney with the Human Rights Commission of the Legislative Assembly of Rio Grande do Sul, September 23, 1996.

case had been opened against officer Bueno in the first criminal court of Alvorada, but Bueno continues to serve as a police guard in the Ninth Battalion.<sup>132</sup>

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<sup>132</sup> Letter from Col. Arlindo Pereira, Military Police Command, Rio Grande do Sul to Human Rights Watch/Americas (No. 042/702/97), Porto Alegre, February 3, 1997.

## VI. BELO HORIZONTE

Belo Horizonte has a long history of violent police. According to the Mayor's Office for Human Rights and Citizenship in Belo Horizonte (Coordenadoria de Direitos Humanos e Cidadania da Prefeitura de Belo Horizonte):

The police in [Belo Horizonte] work almost exclusively outside of "formal," not to say "legal" limits. Arbitrary practices, such as searches and raids of homes that include police brutality; the systematic application of torture as a means of investigation; and the proliferation of illegal detentions are routine. The government's policy of public security is one of "watch and punish," of explicit repression, of increase in the police apparatus and its ferocity.<sup>133</sup>

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<sup>133</sup> Human Rights and Citizenship Division, Office of the Mayor of Belo Horizonte, *Dossiê Violência Policial, Minas Gerais*, (Belo Horizonte, March 1996), p. 3.

Representatives of the Mayor's Office for Human Rights and Citizenship told Human Rights Watch/Americas they receive several credible complaints of torture each week.<sup>134</sup> In the past seven years, the human rights division of the public prosecutors' office in Belo Horizonte has indicted more than 500 civil police officers—nearly 15 percent of the force—for battery or abuse of authority. In the past three years alone, the Human Rights Division has filed indictments against 439 civil police officers and an additional 116 military police officers for these crimes.<sup>135</sup> Under Brazilian law, these are the two crimes that officials commit when they torture detainees. Torture itself is not a crime under the Brazilian penal code.<sup>136</sup>

### **The Taquaril Massacre**

In the dawn hours of March 15, 1996, a group of civil police officers calling itself the *Grupo Reação* (Reaction Group) kidnaped Jamil Martins Romão, fifteen, Júnior Sandro Marques Leal, sixteen, and Gilmar Ferreira de França, fourteen, from the Taquaril plaza in downtown Belo Horizonte. Shortly afterwards, an unidentified man called the Belo Horizonte daily *O Estado de Minas* and informed the paper that he had just seized three street children and killed them. The man told the paper where they could find the bodies and a letter regarding the incident. In that four-page letter, written with pieces of newspaper, *Grupo Reação* assumed the authorship of the crime, complained about the low salaries of policemen, insulted

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<sup>134</sup> Human Rights Watch/Americas interview with the Human Rights and Citizenship Division, Office of the Mayor of Belo Horizonte, March 28, 1996.

<sup>135</sup> Human Rights Division, Public Prosecutors' Office, "Indictments Against Military and Civil Police in the Ordinary Courts 1995, 1995, and 1996," Belo Horizonte, February 3, 1997. Because some police officers are the subject of more than one indictment, the number of police officers against whom indictments have been filed is somewhat less than these figures indicate. Although crimes committed by military police are ordinarily prosecuted in military courts, prosecutions for the crime of abuse of authority, which does not exist in the Military Criminal Code, may be filed against military police officers in the ordinary courts.

<sup>136</sup> The Children's and Adolescents' Statute criminalizes torture when committed against those under the age eighteen. See Law No. 8.069/90, article 233. The human rights division of the public prosecutors' office used this provision to prosecute successfully six civil police officers involved in the torture of a minor on April 13, 1993. See Sentence, Criminal Appeal No. 54.187/0, State Appellate Court, Belo Horizonte, August 30, 1996.

the secretary of public security of the Minas Gerais, Santos Moreira, and promised further killings.

The newspaper informed the police, who then found the bodies of three boys. The youths, whose hands were tied with nylon cords, had been executed with shots to the head.

After several months, the police investigation focused on former police officer Eduardo Alves Salgado whose pretrial detention was ordered by the Second Criminal Court of Belo Horizonte in August 1996. But according to witness statements given to the human rights division of the public prosecutors' office—as well as the prosecutor investigating the case—at least four men were involved in the victims' detention. After thirty days, Salgado was released. At this writing, no one is being held in pretrial detention and the police inquiry has not been completed.<sup>137</sup>

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<sup>137</sup> Human Rights Watch/Americas telephone interview with Wagner Vartulli, prosecutor, First Jury Tribunal, Belo Horizonte, January 21, 1997.

The Taquaril incident is not unique in the recent history of police unrest in Belo Horizonte. A year earlier, on the morning of February 13, 1995, a bomb was thrown into the garage of retired military police Col. Felisberto Egg, in the city's Nova Suiça neighborhood. An anonymous phone call to the *Estado de Minas* claimed responsibility for that attack in the name of the Grupo Reação. The bombing was widely believed to be a reaction to Egg's role in the arrest of a civil police officer who had assaulted a military police officer.<sup>138</sup>

### **Carlos Fontecilla**

On June 9, 1992, Horácio Antonio Alfaro, an Argentine citizen, was walking in downtown Belo Horizonte, when he heard two men speaking Spanish with Argentine accents and approached them. The two Argentines, Carlos Fontecilla Bustos and Luiz Goni, introduced themselves and their Brazilian friend, José Maria Santana de Souza. According to Alfaro, the four men were conversing on the street corner, when a group of civil policemen arrested them.<sup>139</sup> The police took the four

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<sup>138</sup> According to press accounts of events, Egg handcuffed and detained civil police detective Valério Schetino Valente of the Division of Crimes against Life. Schetino Valente had arrived at a local hospital, driving at a high speed, thus provoking a hostile reaction from a group of civilians near the hospital. To prevent conflict, two military police officers escorted Schetino Valente through the crowd. After Schetino Valente punched one of the officers in the face, Egg ordered him handcuffed. Civil police officers who witnessed the incident responded indignantly, telling the local press that "police don't arrest police." See "Detectives radicais assumem atentado a bomba," *Estado de Minas* (Belo Horizonte), February 13, 1995.

<sup>139</sup> Statement of Horácio Antonio Alfaro to human rights division, public prosecutors'

men to the Robberies and Thefts Precinct. According to the police, Alfaro, who lived in Belo Horizonte, was the scout for the other three robbers, who lived in Rio de Janeiro. Alfaro's job was to discover vulnerable stores, which Fontecilla, the leader of the group, would then strike. Goni and Souza would accompany Fontecilla as armed escort. According to press reports, the men were arrested in connection with the robbery of a tourist agency in Belo Horizonte four days earlier.<sup>140</sup>

According to Alfaro, at one point during their first days in custody, the police removed Fontecilla from his cell and brought him back four hours later, thoroughly soaked with water, unable to walk, his body covered with wounds and welts. When Fontecilla began to vomit blood, his three cell mates asked the police to bring a doctor, but the police refused. Fontecilla's condition steadily deteriorated. His body swelled up, and his breathing came in painful gasps. The police finally brought a small water heater into the jail cell, and Alfaro tried to comfort Fontecilla by placing hot water bandages on his wounds. In the early morning hours of June 17, 1992, the police took Fontecilla to the João XXIII Hospital, where he died shortly after arriving.

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office, Belo Horizonte, August 24, 1993.

<sup>140</sup> "Policiais denunciados por tortura," *Diário da Tarde* (Belo Horizonte), August 24, 1994.

Alfaro told the public prosecutors' office that he remained in detention for three months after Fontecilla's death. During this time, the police repeatedly tortured, beat, and humiliated him. Even after Alfaro was finally released without charges, he continued to suffer persecution. A civil policeman whom Alfaro could identify only by the nickname "China," who had participated in Alfaro's arrest, went repeatedly to Alfaro's home to extort money from him. Alfaro stated that China stole his passport and other identification documents and demanded increasingly larger sums of money to return them to him.<sup>141</sup>

Officers from the Robberies and Thefts Precincts, the same precinct where the police involved in the detention of the four men and death of Fontecilla worked, began a police inquiry into the case. Their inquiry report concluded that Fontecilla had committed suicide. However, the police who completed the report never submitted it to the supervising judge, as required by Brazilian law.<sup>142</sup>

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<sup>141</sup> Statement of Horácio Antonio Alfaro to Human Rights Division, Public Prosecutor's Office, Belo Horizonte, August 24, 1993; and statement of witness Marcelo Castro, Human Rights and Social Assistance Commission, City Council, Belo Horizonte, July 27, 1994.

<sup>142</sup> Human Rights Watch/Americas interview, Belo Horizonte, March 28 and 29, 1996, and telephone interview, October 10, 1996, Antônio Aurélio Santos, prosecutor, Human Rights Division, Public Prosecutors' Office, Belo Horizonte.

The Argentinean consulate, Amnesty International, and several local NGOs demanded a full investigation.<sup>143</sup> On August 12, 1994, Maria Caiafa, the president of the Human Rights Commission of the Belo Horizonte City Council, demanded that the public prosecutors' office take action to prosecute those responsible for Fontecilla's death and to investigate Alfaro's complaints of extortion. The human rights division of the public prosecutors' office also demanded that the police open a second investigation into the case. In response, the civil police's internal affairs division reexamined the matter. On October 3, 1995, that division reported that their investigation determined that Fontecilla died a natural death, and after hearing statements by policemen and deputy sheriffs, it "could not indict the policemen involved."<sup>144</sup> This investigation relied on the conclusion of the coroner's report, which despite documenting numerous injuries to Fontecilla's body, termed the cause of death "natural."<sup>145</sup>

On February 5, 1996, as a response to the internal affairs division's conclusions, the public prosecutors' office wrote to the judge presiding over the case, and requested that he order a more complete police investigation. The human rights division of the public prosecutors' office asked that the internal affairs

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<sup>143</sup> "Policiais denunciados por tortura," *Diário da Tarde*, August 24, 1994; and letter from city council member, Maria Caiafa to public prosecutors' office, Belo Horizonte, August 12, 1994.

<sup>144</sup> Report of the Internal Affairs Division, Civil Police, Belo Horizonte, October 3, 1995 (investigation of the death of Carlos Fontecilla).

<sup>145</sup> Official Medical Exam No. 13.036/92, Medico-Legal Institute, Belo Horizonte, June 17, 1992. In response to a subsequent request for information on the case, the head of the morgue reported that the cause of death was undetermined pending further tests. However, prosecutors told Human Rights Watch/Americas these tests were never performed.

division take statements from doctors, witnesses, and suspected torturers, and that all documents relevant to Alfaro's detention be released.

In response to these requests, a second police inquiry into the case was opened. The inquiry was divided into two separate cases. Police inquiry number 024.95.092.173-4 was opened to investigate the death of Fontecilla, and is proceeding in the First Jury Tribunal of Belo Horizonte. The prosecutor in the case, Antônio Aurélio dos Santos, told Human Rights Watch/Americas that he is hopeful that his office will be able to offer an indictment, since the seven police officers involved are easily identifiable. All seven—two precinct chiefs and five detectives—work in the Robberies and Theft Precincts.

In the case involving Alfaro, the two prosecutors in the human rights division of the public prosecutors' office presented an indictment for abuse of authority, illegal use of violence, and extortion in the Second Criminal Court of Belo Horizonte (in Case number 0249.6055.101-8).

Due to the diligent work of the human rights division, these matters may still be prosecuted. However, the passage of more than four years and the failure of police authorities to investigate adequately the illegal violence employed against the four detainees and the homicide of Fontecilla, makes successful prosecution quite difficult.

#### **Luiz Antônio Barbosa, Ivani Rosa Lipriman, and Son<sup>146</sup>**

On October 21, 1995, a group of civil policemen shot dead Luiz Antônio Barbosa, reportedly a local drug dealer, in Belo Horizonte, apparently in revenge for Barbosa's killing of Carlos César de Lima, a police detective, the night before. After Barbosa's death, the policemen placed his body in a highly visible place on a popular public road, where it was discovered the following morning.

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<sup>146</sup> In keeping with Brazilian law, we will not identify the name of the minor involved.

According to Ivani Rosa Lipriman, Barbosa's common-law widow, Detective de Lima sexually assaulted her at her home on October 20. In the midst of this sexual assault, Barbosa returned home. Ivani Barbosa told the press that her husband, who was armed at the time, fired three shots, killing Detective de Lima.<sup>147</sup> Regardless of the circumstances of de Lima's death, the killing of a fellow officer infuriated the civil police. Led by Inspector José Maria de Paula, who had been a close friend of Detective de Lima's, the civil police raided the Barbosa residence. Finding no one at home, the police ransacked the home and reportedly stole the equivalent of U.S. \$400.<sup>148</sup> Inspector de Paula then initiated a massive search for Barbosa's family. De Paula told the press that more than 300 civil policemen participated in this search,<sup>149</sup> although prosecutors at the Human Rights Division told Human Rights Watch/Americas they believed the number to be closer to a few dozen. The police caught up with Ivani Lipriman, who was hiding at a friend's house, and took her and her twelve-year-old son to the local precinct. According to the press and her statement to the Human Rights Division of the public prosecutor's office, Lipriman was subjected to several hours of beatings and near-drownings by Inspector de Paula until she finally confessed her husband's whereabouts.<sup>150</sup> These sources also contend that the civil police tortured Lipriman's son. The press reported that the police taped a plastic bag over his head, beat him, and threatened to place him in a cell to be raped by other adolescents unless he revealed his father's hideout. Inspector de Paula denied that he used torture to obtain information. However, reporters who interviewed and photographed Lipriman the following day reported that she bore visible signs of torture.<sup>151</sup>

On March 29, 1996, Lipriman provided a detailed statement to authorities describing her torture. On May 10, 1996, she identified four police officers

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<sup>147</sup> "Mulher desmente versão da Polícia," *Estado de Minas*, October 24, 1995.

<sup>148</sup> "Mulher é torturada para revelar paradeiro de Luiz," *Estado de Minas*, October 24, 1995.

<sup>149</sup> "Inspetor nega as denúncias," *Estado de Minas*, October 26, 1995.

<sup>150</sup> Statement of Ivani Rosa Lipriman, Secretariat of Public Security, Belo Horizonte, March 29, 1996. Near-drowning is a technique where the victim's head is completely submerged under water repeatedly and for extended periods, causing the pain and fear of drowning without killing the victim.

<sup>151</sup> "Mulher é torturada para revelar paradeiro de Luiz", and "Mulher desmente versão da Polícia," *Estado de Minas*, October 24, 1995.

involved in the torture sessions. Among those four officers, Lipriman identified José Maria de Paula as having been present and instructing the other officers to slap her.<sup>152</sup>

### **“Disappearances”**

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<sup>152</sup> Secretariat of Public Security, Transcript of Identification Session, Belo Horizonte, May 10, 1996.

The cases described below indicate that this cruel practice, the forced disappearance of detainees by police, has survived in parts of Brazil, and especially in Belo Horizonte, even after almost twelve years of civilian rule. While the nature of the victim has changed from political opposition to suspected common criminal, the practice involves, as it did in the past, illegal detention, torture, extrajudicial execution, and a cover-up. According to the human rights division of the public prosecutors' office, in the past seven years, their office has received close to one hundred complaints of "disappearances" of persons from Belo Horizonte in which the police are allegedly involved. In the majority of these cases, the persons "disappeared" were criminal suspects.<sup>153</sup>

Continuation of the practice of forced disappearance is a shocking aberration in democratic Brazil which should be addressed urgently by state and federal authorities. In particular, the government should ratify the Inter-American Convention on the Forced Disappearance of Persons and incorporate into its criminal code the crime of forced disappearance, assigning penalties which reflect the gravity of the offense. Those responsible should be aggressively prosecuted and punished.

**Dary Pereira Mota**

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<sup>153</sup> Human Rights Watch/Americas telephone interview, Human Rights Division, Public Prosecutors' office, Belo Horizonte, March 13, 1997.

On February 11, 1991, a squad of three armed civil policemen from the Robberies and Thefts Precinct, with neither a search nor arrest warrant, entered the home of Dary Pereira Mota in the Jardim América section of Belo Horizonte. The policemen suspected Mota of having been involved in a recent rape and wanted to take him in for questioning. According to Mota's family and several neighbors,<sup>154</sup> the police "dragged Mota like an animal" to the police car.<sup>155</sup> Mota had a reputation as an honest and hard-working young man, and many neighbors strongly protested his arrest, believing that the police must have made a mistake.<sup>156</sup> At the local precinct, police beat Mota with nightsticks. Mota's neighbor, Fernando José de Lima, who spent two days at the precinct, witnessed police beating Mota and stated that Mota was "very beat up, especially on the face and right arm." Less than a month after Mota's detention, de Lima told the public prosecutor that he was certain that he had seen Mota, whom he knew well, at the precinct.<sup>157</sup> De Lima told prosecutors that he feared for his life and requested that his statement not be released by the public prosecutors' office. According to Mota's father, Ailton Pereira Mota, de Lima was killed after giving this statement to authorities.<sup>158</sup>

<sup>154</sup> Ratification of statement of Ailton Pereira Mota (father of Dary Pereira Mota), Human Rights Division, Public Prosecutors' Office, Belo Horizonte, January 11, 1996. In his statement on January 11, 1996, Ailton ratified his prior statements given on February 2, 1991, August 27, 1991, and February 19, 1992. Ailton Pereira was accompanied in his January 11, 1996 statement by his wife, Maria Mendes Pereira (Dary's mother), his daughter, Emy Moreira Mota, and a neighbor, Silvio Lopes Ferreira. See also, statement of Silvio Lopes Ferreira, Human Rights Division, Public Prosecutors' Office, Belo Horizonte, January 17, 1996; statement of José Ornelas de Oliveira, Human Rights Division, Public Prosecutors' Office, Belo Horizonte, January 17, 1996; statement of Joaquim Calixto Filho, Human Rights Division, Public Prosecutors' Office, Belo Horizonte, January 17, 1996; and statement of Edmilson Mendes de Carvalho, Human Rights Division, Public Prosecutors' Office, Belo Horizonte, January 17, 1996.

<sup>155</sup> See statement of José Ornelas de Oliveira to the human rights division, public prosecutors' office, Belo Horizonte, January 17, 1996.

<sup>156</sup> See statement of José Ornelas de Oliveira, Human Rights Division, Public Prosecutors' Office, Belo Horizonte, January 17, 1996; and statement of Joaquim Calixto Filho, Human Rights Division, Public Prosecutors' Office, Belo Horizonte, January 17, 1996.

<sup>157</sup> Statement of Fernando José de Lima, March 11, 1991.

<sup>158</sup> Less than a year later Dary Mota's brother, Nercy Mota, was killed, apparently in circumstances unrelated to his brother's "disappearance." Ratification of statement of Ailton

During the next three weeks, Mota's father tried in vain to obtain information about his son. On March 1, 1991, the chief of the Robberies and Thefts Precinct informed the human rights division of the public prosecutors' office that Dary Mota had been detained, questioned about the rape of Luciléia Maria Batista, and released.<sup>159</sup> However, Mota never returned home, and no one has seen or heard from him since the week of his arrest. Mota's father began to fear that a charred body discovered shortly after his son's disappearance, with the words "I will never rape again" scrawled on it, might be the corpse of his son.

In the weeks after his detention, Mota's mother, father, sister, and neighbors reported the case to authorities. Mota's father gave statements about the illegal detention and subsequent abuses suffered by his son to the human rights division of the public prosecutors' office on February 27, 1991, August 27, 1991, and February 19, 1992. In those statements, Ailton Mota identified the precinct (Robberies and Thefts) to which the officers who detained Dary Mota belonged. He also provided the vehicle identification number of the car used in his son's detention as either 2208 or 0822. The civil police Internal Affairs Division forwarded its police inquiry into the case on August 19, 1991, to the Fifth Criminal Court of Belo Horizonte. After this, the prosecutor in the case requested that the inquiry be returned to the internal affairs division for further investigation.

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Pereira Mota, Human Rights Division, Public Prosecutors' Office, Belo Horizonte, January 11, 1996.

<sup>159</sup> Letter from Precinct Chief Antônio João dos Reis, Human Rights Division, Public Prosecutors' Office, Belo Horizonte, March 1, 1991.

Since that date, the police inquiry itself has disappeared. At this writing, the Internal Affairs Division was in the process of reconstituting the police investigation in inquiry number 19.689/96. According to prosecutor Aurélio dos Santos of the human rights division of the public prosecutors' office, when the inquiry is concluded, it will be forwarded to the Fifth Criminal Court of Belo Horizonte. At that point, the public prosecutors' office will be able to offer a prosecutorial indictment. Dos Santos told Human Rights Watch/Americas that he suspects that he will not be able to indict the officers involved for homicide because Mota's body was never found. Further, because the statute of limitations for the crime of abuse of authority has already expired, and because Mota's body was never found, dos Santos expects to indict the officers involved only for the crimes of illegal entry (burglary) and the arbitrary use of violence (battery).<sup>160</sup> Despite the efforts of the human rights division of the public prosecutors' office in this case, the failure of the police to investigate the matter in a timely and diligent fashion, in combination with Brazil's criminal statute of limitations, has seriously undermined the possibility of successfully prosecuting the police involved in the "disappearance" of Dary Pereira Mota.

#### **Ronilson Ribeiro Alves**

On August 20, 1992, the military police arrested Ronilson Ribeiro Alves, a twenty-two-year-old man, along with two seventeen-year-olds and three other men, in the Taquaril neighborhood of Belo Horizonte, on suspicion of illegal weapons possession and forming a criminal organization. The military police took the men to the Robberies and Thefts Precinct in Belo Horizonte, where they transferred custody to the civil police who put them in separate jail cells. Alves was locked up in Cell 15 with two of his friends, Vandercil José Ferreira Prudente and Juracy Gonçalves Silva. About five days after their detention, Silva was transferred from Cell 15.

Prudente stated to investigators from the Civil Police Internal Affairs Division that two officers took him from the cell to a small room especially equipped for torture. That room had a *pau de arara* (parrot's perch), a bar on which detainees

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<sup>160</sup> Human Rights Watch/Americas interviews, March 28 and 29, 1996 and telephone interview, October 10, 1996, Antônio Aurélio Santos, Human Rights Division, Public Prosecutors' Office.

are tied during torture sessions. On August 24, 1992, the police beat and kicked Prudente and placed him on the parrot's perch where he was subjected to electric shocks and near-drownings. On September 1, the two policemen went to Cell 15 and took Alves.

The following day, a police officer that Prudente knew as "Marquinhos" returned to Cell 15 and told the prisoners there that Alves had escaped. Alves's cellmates refused to believe this story; the previous day Alves had been too weak even to stand up straight. His cellmates believed that Alves had died as a result of the torture to which he had been subjected. Prudente later heard from other prisoners that Alves had died on the parrot's perch.<sup>161</sup> A month later, a police detective, who wished to remain anonymous, confirmed this allegation in an interview with the press.<sup>162</sup>

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<sup>161</sup> Ibid.

<sup>162</sup> "Ele foi preso com outros cinco jovens," *Hoje em Dia*, Belo Horizonte, October 2, 1992.

On the day Alves "disappeared," September 1, at about 7:00 p.m., two civil police cars went to his parents' home in the Alto Veracruz section of Belo Horizonte to report that their son had escaped from police custody during investigations.<sup>163</sup> The policemen searched the house and questioned the family.<sup>164</sup> Alves's family did not believe the story of their son's escape that the police told them, in particular because the details of a version told them on September 10 differed significantly from that afforded them on September 1. According to the first version, Alves had been left without handcuffs and had escaped shortly before the police arrived at the Alves's residence at 7:00 p.m. In the second version, told on September 10, Alves escaped at 5:00 a.m., handcuffed and in the midst of an interrogation session. In addition, on September 3 or 4, a civil policeman identified only as "Toninho" told Vanilda Ribeiro Alves, the victim's sister, that Alves had not escaped from the precinct and that he was still being held there.<sup>165</sup> On September 17, the police returned once again to the Alves's home to question the young man's father and to serve him with a summons to testify regarding his son's escape.

On September 28, 1992, Prudente and Silva were released. The two men informed Alves's family, as well as the public prosecutors' office, of the torture suffered by the prisoners of Cell 15, and of Alves's apparent death. The two men also requested governmental protection, fearing for their safety after denouncing the civil police.

According to the human rights division of the public prosecutors' office, the civil police officers involved in the case are currently under prosecution in the First Criminal Court of Belo Horizonte for the crime of assisting an escape, in case number 024.930.974.77-9. The more serious crimes attributed to the officers, including torture and forced disappearance, are not being prosecuted.

#### **Mauro Cândido da Silva**

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<sup>163</sup> In his first statement, on September 17, 1992, Paulo Cesar Ribeiro Alves, Ronilson Ribeiro Alves's brother, placed the time of the police arrival at 7:00 p.m. In his second statement, on October 1, 1992, Paulo Alves placed the time of arrival at 8:30 p.m.

<sup>164</sup> Statement of Paulo César Ribeiro Alves to the public prosecutors' office, Belo Horizonte, September 17, 1992; and Statement of Paulo César Ribeiro Alves to Civil Police Internal Affairs Division, Belo Horizonte, October 1, 1992.

<sup>165</sup> Ibid.

On the morning of December 20, 1994, civil police detectives Amilze Cristina de Souza and Jair José Sabino were robbed in the Independência neighborhood of Belo Horizonte.<sup>166</sup> As a result of this robbery, the civil police organized a police operation, termed Operation White Beard, to find the robbers. Both military and civil police forces were mobilized for the operation, which included a helicopter to assist the ground forces.

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<sup>166</sup> Statements of Marta Cândida Silva de Oliveira, Telma Cândida da Silva, and Zilda da Silva Ferreira, Human Rights Division, Public Prosecutors' Office, Belo Horizonte, May 24, 1995.

That afternoon, Mauro Cândido da Silva was walking on a street by a soccer field near his house in the Independência neighborhood. Da Silva visited Belo Horizonte once a month to help his father and sister, who were ill and receiving medical treatment at home.<sup>167</sup> At 3:00 p.m., as da Silva crossed the soccer field in the midst of Operation White Beard, a group of police encircled the field and closed off the streets leading to it. Detective de Souza approached da Silva and asked him to present some identification. Da Silva explained that he had left his identification documents at home, prompting Detective de Souza to arrest him and take him to the local precinct.<sup>168</sup> Several witnesses confirmed da Silva's arrest and the fact that he was taken to the precinct in a police vehicle with license plate GMG-5607.<sup>169</sup> Da Silva never returned home again.

According to Police Precinct Chief José da Silva Filho, no one by the name of Mauro Cândido da Silva was ever taken to any police stations or precincts in Belo Horizonte. Chief da Silva Filho denied the participation of the car with license plate GMG-5607 in Operation White Beard, contending that the car was in repairs that day.<sup>170</sup> Two years later, the *Estado de Minas* reported that this vehicle had

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<sup>167</sup> Statement of Marta Cândida Silva de Oliveira, Human Rights Division, Public Prosecutors' Office, Belo Horizonte, December 26, 1994.

<sup>168</sup> Statement of Warley Júnior da Silva, Human Rights Division, Public Prosecutors' Office, Belo Horizonte, January 9, 1995.

<sup>169</sup> Statement of Herculane Marcos Dutra, Human Rights Division, Public Prosecutor's Office, Belo Horizonte, January 9, 1995.

<sup>170</sup> Letter by Police Precinct Chief José da Silva Filho to Prosecutor Nelson Rosenvald, Belo Horizonte, January 9, 1995. Attached to the letter by da Silva Filho is a memorandum by José Maria de Paula of the Robberies and Thefts Precinct affirming that car GMG-5607

been involved in the March 15, 1996 killing of three youths in the Taquaril neighborhood of Belo Horizonte, and published a photograph in which the car's license plate may be seen clearly.<sup>171</sup>

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did not participate in Operation White Beard due to mechanical problems.

<sup>171</sup> "Polícia cerca os matadores," *Estado de Minas*, March 19, 1996.

On December 26, 1995, Antônio Aurélio Santos of the public prosecutor's office wrote to the judge presiding over the case, requesting that the police officers from the vehicle with licence GMG-5607 be identified and subpoenaed to testify in the inquiry. The letter also requested that Detective de Souza, the last person to be seen with da Silva before he "disappeared," be subpoenaed for questioning.<sup>172</sup> At this writing, the judge's failure to compel Detectives de Souza and Sabino to provide information on the case and the civil police failure to carry out further investigations have paralyzed the case. A police inquiry has been filed with the Thirteenth Criminal Court to determine the identity of the police involved in the December 20, 1994 operation.<sup>173</sup>

On November 29, 1996, prosecutors from the Human Rights Division of the public prosecutors' office filed an indictment against four police officers, including José Maria de Paula. The indictment charged the officers with false imprisonment, battery, and abuse of authority.<sup>174</sup> Because da Silva's body was never located, the

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<sup>172</sup> Prosecutorial Motion to Compel Testimony, Police Inquiry No. 9778/95 (Prosecutor Antônio Aurélio Santos and Afonso Henrique de Miranda Teixeira), Belo Horizonte, December 26, 1995.

<sup>173</sup> Human Rights Watch/Americas telephone interview with Afonso Henrique de Miranda Teixeira, prosecutor, Human Rights Division, Public Prosecutor's Office, Belo Horizonte, October 25, 1996.

<sup>174</sup> Prosecutorial Indictment, Thirteenth Criminal Court, Belo Horizonte, November 29, 1996 (defendants: Jair José Sabino, Amilze Cristina de Souza, André Luiz da Rocha and José Maria de Paula).

prosecutors told Human Rights Watch/Americas, prosecution for homicide would have been nearly impossible under Brazilian law.<sup>175</sup>

**Aldair José Barbosa de Almeida**

On November 22, 1990, civil police in the Justinópolis neighborhood of Belo Horizonte responded to a telephone call from Maria de Fátima Costa that a thief had been or was still present in her apartment. The police arrived and confirmed that a burglary had occurred. Suspecting the burglar to be a young orphan boy named Aldair José Barbosa de Almeida, the police went to his house to look for him. When the police arrived there, Aldair was not home. Frustrated, the police asked Aldair's guardian, Luiza Firmino de Santo Agostinho, where they could find him. Agostinho told the police that she did not know where Aldair was. In response, five police officers allegedly beat her. Their patience exhausted, the police seized several hardware items which they claimed belonged to Costa, as well as other household goods belonging to Agostinho. The police then took Agostinho, against her will, to the police station for questioning.

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<sup>175</sup> Human Rights Watch/Americas interview with Antônio Aurélio Santos and Afonso Henrique de Miranda Teixeira, prosecutors, Human Rights Division, Public Prosecutors' Office, Belo Horizonte, February 25, 1997.

At the police station, according to Agostinho, Inspector José Maria de Paula,<sup>176</sup> punched and whipped her, until she revealed where Aldair could be found. The police then arrested Aldair, who had been with Agostinho's young daughter Cléria, and brought the two children to the police station. There, according to Agostinho, three police officers led by Inspector de Paula punched and whipped the children.<sup>177</sup> Agostinho and her daughter were released the following morning, but Aldair remained in detention, purportedly for further questioning.<sup>178</sup> Aldair, however, was never officially released and has since "disappeared." The police contended that Aldair had escaped while being transferred to the special precinct for minors.

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<sup>176</sup> Inspector de Paula is widely regarded as having a history of abuse of detainees. According to Rev. Jaime Wright, responsible for the classic compilation on torture in Brazil, *Brasil Nunca Mais*, de Paula is among those police cited as participants in cases of torture during the military dictatorship including the case of student Angelo Pezzuti, documented in court records from cases nos. 38.903 and 39.394 before the Brazilian Military Appellate Tribunal in Brasília in 1970. (Human Rights Watch/Americas telephone interview, January 24, 1997.)

<sup>177</sup> Statement of Luiza Firmino de Santo Agostinho, Belo Horizonte, December 7, 1990.

<sup>178</sup> Statement of Luiza Firmino de Santo Agostinho, Human Rights Division, Public Prosecutor's Office, Belo Horizonte, December 7, 1990.

Inspector de Paula and three other civil policemen were indicted for abuse of authority, false imprisonment, and torture of a minor on June 17, 1992. Three years later, on May 18, 1995, Judge José Luís Gouvéa Rios of the Ninth Criminal Court of Belo Horizonte acquitted the four men. According to the judge, there was insufficient evidence to convict them. The prosecution's case was undermined by the sudden reversal in the testimony offered by the witnesses. Agostinho and her daughter, when questioned during trial, denied all of their previous allegations against the policemen. The judge refused to "hypothesize" as to why the witnesses denied their previous accusations.<sup>179</sup> In his opinion, Judge José Luís Gouvéa Rios took the opportunity to reveal his personal feelings toward human rights. "These so called 'human rights' exist only to protect criminals," he opined "when, in truth, they should exist to protect the honest citizen from the action of bandits."<sup>180</sup>

On June 13, 1995, the prosecutors from the Human Rights Division of the public prosecutors' office appealed. On February 29, 1996, the State Appellate Court denied the appeal and confirmed the acquittal of the police officers.<sup>181</sup>

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<sup>179</sup> Sentence, Case No. 92.883.403-5, Ninth Criminal Court of Belo Horizonte, May 18, 1995 (Judge José Luciano Gouvéa Rios).

<sup>180</sup> Ibid.

<sup>181</sup> Sentence, Criminal Appeal No. 54.390/0, State Appellate Tribunal, Belo Horizonte, February 29, 1996.

## VII. SALVADOR

Much of the deadly police violence in Salvador, Bahia, is believed to be committed by off-duty police officers acting in so-called extermination groups and targeting suspected criminals for execution.<sup>182</sup> In addition, Salvador's uniformed police have also committed serious human rights violations in recent years. According to local nongovernmental organizations and to the State Assembly's Human Rights Commission, the military police is responsible for the lion's share of on-duty police violence. The president of the State Legislative Assembly's Human Rights Commission, Nelson Pellegrino, has been active in the fight to eliminate corrupt police from the force and told Human Rights Watch/Americas that in the past few years, military police authorities in the state—with the prodding of civil society and the commission—have succeeded in removing more than 200 corrupt and violent officers from the police.<sup>183</sup>

Nevertheless, in the past few years, police in Salvador have employed deadly force to eliminate suspected criminals on several occasions. The most violent incident of this kind occurred on January 16, 1996, when more than one hundred police from several divisions raided the Jaguaripe favela, killing nine suspected gang members. This case, and several other incidents of police killings of civilians are detailed below.

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<sup>182</sup> Figures from the State Secretariat of Public Security, the Archdiocese of Salvador's Justice and Peace Commission, the Human Rights Forum of Bahia, and the Human Rights Commission of the Bahia State Legislative Assembly show a growing number of execution-style killings in recent years. Victims of these killings are usually shot in the head and are frequently poor, black criminal suspects. In some cases, hit lists have been posted on the outskirts of Salvador and individuals on the lists have subsequently been murdered. In the handful of cases in which extermination groups have been disbanded, police officers have been found to have participated.

<sup>183</sup> Human Rights Watch/Americas interview, Salvador, June 11, 1996.

### **Jaguaribe**

On the evening of January 16, 1996, more than one hundred police from the Automobile Robbery and Theft Division, the Twelfth Precinct of Itapuã, the Fourth Precinct of São Caetano, and other police units raided the Jaguaribe favela in Salvador, seeking members of the criminal gang led by Amaro da Silva Rodrigues, known as “Amadinho.”<sup>184</sup> According to press reports, the police had planned the operation for two months prior to the date of the raid and entered the favela at night, detaining dozens of favela residents.<sup>185</sup> In the course of the raid, the police killed nine people in what they contended were gun battles. They also stormed numerous residences, ransacking them and mistreating those whom they found. The Justice and Peace Commission of the Archdiocese of Salvador took the following statement from one Jaguaribe resident, who witnessed some of the abuses but who asked not to be identified:

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<sup>184</sup> Silva Rodrigues was reputed to be the leader of the “Bebê a Bordo” (Baby on Board) gang, believed to be responsible for several bank robberies in Bahia.

<sup>185</sup> See, for example, “Operação policial: Nove assaltantes mortos durante tiroteio,” *A Tarde* (Salvador), January 17, 1996.

On that day, as I came home, around 4 p.m., the community was full of policemen (around 150 of them). Later, I found out that they were from the Automobile Robbery and Theft Precinct, from the Vehicle Thefts Precinct, and from the police stations of Liberdade and Cajazeiras. When I entered my home, my wife had been beaten and the whole house was a mess. A policeman hit me twice in the face, asking me about two brothers of mine who are involved with crime. We couldn't answer because we feared not only the police, but also the local criminals. The policemen then dragged my wife by her hair to the front of the church where other residents were also arrested. My sons were desperate because they saw their mother being beaten by the police at home and being violently dragged afterwards. About fifty-five people were arrested in front of the church. None of them had any involvement with the criminals wanted by the police. These people were taken to the Automobile Robbery and Theft Precinct where they were processed and photographed, and had their fingerprints taken. There, they were also tortured with electric shocks and beaten with broomsticks on the head and with a wooden board with nails. As long as the police action lasted, during the whole afternoon, many houses were raided and people were beaten for no reason whatsoever. The policemen screamed, cursed, insulted women, and shot their weapons in the air.<sup>186</sup>

The civil police opened an inquiry into the events of the January 16, 1996 police operation of the Jaguaribe favela. However, according to local human rights groups following the case, the inquiry, performed by the same police precinct in which the majority of police involved in the raid worked (Automobile Robbery and Theft), concluded that the police acted legitimately and that all the deaths occurred during gun battles between police and criminal suspects.

#### **Luis Cláudio Santos Pereira (Lula) and Jeová Pires dos Santos**

On January 25, 1990, a group of ten military police officers arrested seventeen-year-old student Luis Cláudio Santos Pereira ("Lula") and fifteen-year-old student Jeová Pires dos Santos, believing in error they belonged to the local Bebê a Bordo gang. The misidentification resulted in part from a wound on dos Santos, caused by a dog bite, which the officers believed to be the result of a scuffle with the police.

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<sup>186</sup> Statement to the Justice and Peace Commission, Archdiocese of Salvador, from a resident of Jaguaribe who wished to remain anonymous, September 1996.

The police also knew “Lula” to be the nickname of a gang member.<sup>187</sup> The officers handcuffed the two youths, forced them into the trunk of a car, and took them to the back of Superbox, a supermarket on the outskirts of Salvador.

Once there, the police let the boys out of the car and ordered them to lie down on the asphalt. The police beat and tortured the boys, mutilated their bodies, amputated their genitals, and finally executed both youths with three gun shots each.<sup>188</sup>

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<sup>187</sup> “Lula” is a common nickname in Brazil.

<sup>188</sup> Judicial Indictment (*Sentença de Pronúncia*), First Jury Tribunal, Salvador, April 11, 1995.

This case provoked significant national attention. The Federal Attorney General (Procuradoria Geral da República), the Public Prosecutors' Office's Investigation Center (Central de Inquéritos do Ministério Público), and the Center for the Defense of Children and Adolescents (Centro de Defesa da Criança e do Adolescente da Bahia, CEDECA, an NGO that defends the rights of children and adolescents in the state of Bahia) all followed the proceedings in the case. In all, over forty witnesses testified. Because the police were off-duty, the case was prosecuted in the ordinary, rather than the military, courts. On April 11, 1995, Judge José Cicero Landin Neto determined that sufficient evidence of the criminal responsibility of the ten military police suspects existed to forward the case to trial by jury.<sup>189</sup> According to the judicial indictment, one witness testified that the policemen who apparently fired the fatal shots, Adilson Pereira Nepomuceno and Josemário Batista Duarte, had participated in other murders and police abuses. The other eight military police suspects, according to several witnesses, were involved as accomplices to the torture and murder of Pereira and dos Santos. The defendants challenged the judge's decision to forward the case to the jury on February 22, 1996. On June 13, 1996, this appeal was denied. The judge, however, did not set a specific date for the jury trial, nor did he order the pretrial detention of the indicted military police.<sup>190</sup> No one is currently in custody in connection with this offense. According to CEDECA's legal staff, many pre-trial motions must still be resolved, and only then will the judge be able to set a trial date.<sup>191</sup>

### **The Lobato Massacre**

On August 26, 1993, two military police officers, Carlos Augusto da Silva Gallo and Jurandir Santos Franco, and a third unidentified man believed to be a civil police detective nick-named "Rambo," killed four adolescents on an overpass near the Central Train Station in Salvador. The four adolescents—Luiz Fernando da

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<sup>189</sup> Judicial Indictment, First Jury Tribunal, Salvador, April 11, 1995.

<sup>190</sup> Ibid.

<sup>191</sup> Human Rights Watch/Americas telephone interviews with CEDECA, August 9 and October 31, 1996.

Conceição, José Jorge da Silva, Edmilson Pereira da Silva, and Gilmar Oliveira dos Santos—were on their way to school when they were killed.

As José and Gilmar walked to night school, the three policemen stopped them and forced them to lie down. The police then called to Luiz and Edmilson, who were hanging out underneath the overpass, and ordered them to come and lie down next to the other two adolescents. The police stepped on the boys, searched them, and killed them with several shots from their .38 revolvers.

The inquiry and proceedings in this case advanced relatively rapidly, in large part due to the horrible nature of the crime and the fact that it occurred just one month after the widely condemned July 1993 Candelária massacre in Rio de Janeiro.<sup>192</sup>

On September 13, 1995, Judge Carlos Roberto Santos Araújo determined that there was enough evidence linking military policemen Gallo and Franco to this “cruel crime ... which exterminated defenseless adolescents,”<sup>193</sup> and ordered a jury trial. Judge Araújo also ordered the pre-trial detention of the two officers, Gallo and Franco, who await trial in detention. On October 29, 1996, the defendants’ challenge to the judge’s decision to forward the case to a jury trial was denied. At this writing, no date had been set for the trial.

#### **Valter Pimentel Souza Hufnagel**

On January 21, 1992, at 11:00 p.m., the military police carried out an operation in the Santo Antônio de Jesus neighborhood of Salvador to arrest those responsible for graffiti throughout the city. Seventeen-year-old Valter Pimentel Souza Hufnagel was driving with two friends named Michel Soares Silva and Fabiano Diniz, in Diniz’s Volkswagon, when the police ordered the car to stop. When the car ignored the police order, and fled, Sgt. Izaias Tupinambá Araújo fired his machine gun. Four officers, Jorge Galdino Barbosa Alves, Pedro Almeida de Jesus, Edvaldo Teixeira da Silva, and Luis Carlos de Brito Cunha also opened fire. All three

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<sup>192</sup> Human Rights Watch/Americas interview with CEDECA, October 31, 1996.

<sup>193</sup> Judicial Indictment, Case No. 0689/93, Salvador, September 13, 1995, p. 5.

adolescents were shot. Silva and Diniz suffered minor wounds, but Hufnagel died before he reached the hospital.<sup>194</sup>

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<sup>194</sup> Prosecutorial Indictment, Military Police Inquiry No. 090/92, Salvador, July 14, 1993.

The police contended that they had stopped the car because the licence plate was covered by a piece of rag and the boys inside looked "suspicious." According to the police, Sergeant Tupinambá fired because the boys did not promptly obey his order to stop.<sup>195</sup>

On July 14, 1993, Prosecutor Maria Christina Andrea Bastos indicted the five policemen, who face charges in the military, rather than the ordinary courts because they were on duty on the night of the incident. According to the prosecutor's indictment, Lieutenant Buziel of the military police command immediately took the Volkswagen to military police headquarters rather than waiting for the competent criminal experts to examine it for evidence as required by law.<sup>196</sup> We are unaware of any disciplinary measures taken against the police involved. The military court did not order the officers' pretrial detention.

According to Cerise Hufnagel Gonçalves, mother of the victim, hearings were held in the case on December 20, 1993 and December 27, 1994. The police also performed a reenactment of the crime as part of the investigation. There have been no hearings since December 1994. All seven police officers continue to serve on the force. The case remains pending in the military court jurisdiction, with no date set for trial.<sup>197</sup>

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<sup>195</sup> Ibid.

<sup>196</sup> Code of Criminal Procedures, art. 6.

<sup>197</sup> Human Rights Watch/Americas telephone interview with Cerise Hufnagel Gonçalves, February 25, 1997.

## **VIII. NATAL**

Police violence in the state of Rio Grande do Norte, and in particular its capital, Natal, became national news in mid-1995 when local human rights groups denounced the participation of Deputy Secretary of Public Security Maurílio Pinto de Medeiros in the coordination of a death squad known as the "Meninos de Ouro" or Golden Boys. According to these reports, the Golden Boys, a group of civil police officers and employees of the Secretariat of Public Security under the direction of Pinto de Medeiros, committed a series of crimes including torture and murder. The revelations about the group's operation surfaced after a particularly gruesome incident in which one member, police officer Jorge Luiz Fernandes, known by his nickname "Jorge Abafador" (Jorge the Smotherer), killed two people and wounded three others in the dawn hours of March 5, 1995. Three surviving witnesses recounted to Human Rights Watch/Americas the details of what became known as the Mãe Luiza massacre.

### **The Mãe Luiza Massacre**

On March 3, 1995, according to the public prosecutor's investigation, Fernandes and another police officer killed Marconi Barroca Paixão, a friend of Roberto Nascimento Ferreira (nicknamed "Pezão"). At Paixão's funeral, Ferreira commented to Paixão's wife that police officer Fernandes had killed her husband.

Having apparently learned of Ferreira's comment, Fernandes showed up at Ferreira's home at about 1:30 a.m. on March 5, shouting that he was a police officer and the occupants should immediately open the door. Ferreira's wife, Maria Lúcia Costa (Maria Lúcia), opened the top-half of a split door, and the police officer kicked in the door's bottom half. Although Fernandes was wearing a hood, Maria Lúcia recognized him by his voice and his body. "I want Pezão (Ferreira)," Fernandes told Maria Lúcia, who responded, "Jorge, you want my husband at this hour?" Fernandes then pointed a revolver at Maria Lúcia's face and fired. The bullet entered her left cheek and exited through her right ear. After shooting Maria Lúcia, Fernandes lifted his hood briefly (at which point Maria Lúcia, injured but not

dead, confirmed his identity) and then entered the bedroom. Maria Lúcia managed to escape to a neighbor's house.<sup>198</sup>

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<sup>198</sup> Human Rights Watch/Americas interview with Maria Lúcia Costa, Natal, December 14, 1995.

In the bedroom, Ferreira (Pezão) was sleeping. In beds nearby were sixteen-year-old Marlon Silva da Costa (Marlon), his eighteen-year-old sister Ana Carla Melo da Costa (Ana Carla), and Magaly Helena Pinheiro (Magaly). Not finding Ferreira in the bedroom, Fernandes shot Ana Carla, Marlon, and Magaly, hitting Ana Carla twice in the arm and once in the hip, and Marlon twice, once in the face. When Fernandes found Ferreira sleeping behind a curtain, he fired eight shots into his body, killing him. Fernandes then left the apartment.<sup>199</sup> Marlon, Ana Carla, and Magaly all survived the shooting.

Once outside, Fernandes passed the neighbor's house where Maria Lúcia was hiding. Fernandes shot into the house and unsuccessfully tried to kick in the door. At this point he noticed Lucimar Alves da Silva, who appeared to be watching what was happening from the window of an adjacent apartment. Fernandes shot her twice, killing her. After this, Fernandes left running.

The Mãe Luiza massacre provoked indignation in Natal and significant reaction from the local media. The coverage given to the incident and those involved prompted witnesses to Fernandes's other crimes to come forward. Many of these crimes had prompted police inquiries which had never been completed. In light of the growing number of complaints against Fernandes and other civil police officers, the public prosecutors' office on May 12, 1995, established a special commission of five prosecutors to investigate numerous allegations of police involvement in death squad activity.<sup>200</sup> Fernandes was arrested and his pretrial detention was ordered for the killing of Ferreira and Alves da Silva and the injuries to Marlon, Ana Carla, and Magaly. As described later in this chapter, despite this pretrial detention order, Fernandes has been released on several occasions since mid-1995.

### **The Special Commission: Investigations and Findings**

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<sup>199</sup> Human Rights Watch/Americas interview with Marlon Silva Costa and Ana Carla Melo da Costa, Natal, December 14, 1995.

<sup>200</sup> See Document Number 077/95, State Public Prosecutors' Office, Natal, May 12, 1995.

The special commission heard over one hundred witnesses and issued two reports. Prior to the release of its first interim report, the commission investigated nine incidents of homicides involving one or more victim each, one torture case, and one forced disappearance. The commission concluded that police had committed all the crimes investigated and that "the civil police named...form part of the group called the Golden Boys and are directly tied to Deputy Secretary Maurilio Pinto de Medeiros."<sup>201</sup>

In response to the gravity of the conclusions contained in the special commission's interim report, the Human Rights Commission of the Federal Chamber of Deputies (hereinafter the federal commission) visited Natal to hear witnesses and investigate the allegations of abuse committed by police in Rio Grande do Norte.

On December 18, 1995, the special commission of the state public prosecutors' office issued its second interim report in which it reiterated the conclusion that Deputy Secretary of Public Security Maurílio Pinto de Medeiros led a group known as the Golden Boys composed of civil police officers and staff of the Secretariat of Public Security, and that this group was involved in homicide, one case of "disappearance," torture, and other violations.

The special commission investigated thirty-one crimes attributed to the civil police and to staff of the Secretariat of Public Security in Rio Grande do Norte. By December 18, 1995, the commission had concluded its investigations into nine cases; investigations into twenty-two others remained pending.

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<sup>201</sup> Public Prosecutor's Office, Special Commission, Interim Report, July 31, 1995.

One of the cases investigated by the special commission concerned the torture of a suspect in the very offices of the deputy secretary of public security. Arivone Gonçalves da Silva, who survived that torture session, told the Center for Human Rights and Popular Memory in a signed and notarized statement forwarded to Human Rights Watch/Americas that two police officers and a third man brought him (da Silva) into Pinto de Medeiros's office for questioning in April 1993. The three men, one of whom was Pinto de Medeiros's son, interrogated da Silva. Dissatisfied with his answers, they kicked and beat him. When those measures were insufficient to obtain a confession, Pinto de Medeiros handed them an electric torture device, directing the men to use it on da Silva. The officers plugged in the device and clipped wires to da Silva, sending electric shocks through his body. They began by clipping the wires to his back. In the course of the interrogation, they moved the wires to his face, his tongue, his teeth, and finally to his testicles.<sup>202</sup>

In a televised interview broadcast throughout his home state of Rio Grande do Norte, Pinto de Medeiros responded to a question regarding his support for violent police in these terms:

As I've always said, I've never hid from anyone. I've always been notably in favor of my police . . . when it's beatings against lowlifes . . . Beatings of lowlifes I've always favored. When, on the other hand, decent people are beaten I look to take violent measures and investigate vigorously. Now, I'm not going to hide. I would be a moron if I came here and said I'm not in favor of my police. I'm in favor of my police, my way is that way, and nobody is going to change it.<sup>203</sup>

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<sup>202</sup> Signed statement of Arivone Gonçalves da Silva to attorneys from the Center for Human Rights and Popular Memory, Natal, Rio Grande do Norte, September 29, 1995.

<sup>203</sup> Television interview, TV Ponta Negra, Natal, Rio Grande do Norte, June 26, 1992, translation by Human Rights Watch/Americas.

Twenty-one-year-old Hamilton Fernando Faria appeared on the same television program, showing bruises and contusions on his face, shoulders, chest, and back. The youth identified a member of the Golden Boys as having tortured him.<sup>204</sup>

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<sup>204</sup> Ibid.

The special commission investigated more than thirty cases from among the fifty crimes reported by the Center for Human Rights and Popular Memory, ranging from aggravated assault and battery (*lesões corporais graves*) to homicide. As a result of its investigations, the special commission filed seven prosecutorial indictments against members of the Golden Boys death squad. The public prosecutors' office also filed two indictments against Deputy Secretary Pinto de Medeiros. In one case, the public prosecutors' office indicted Pinto de Medeiros, his son, two civil police officers, and one military police officer for their role in the illegal detention of João Maria Targino da Silva. In the course of the illegal detention, Targino (whom the police had tied up with his own shirt) managed to free himself and attempted to escape. One of the two civil police officers, Júlio Cézar Rodrigues Furtado, shot the fleeing Targino from behind, wounding him in his right leg and the left side of his chest.<sup>205</sup> In the other case, Pinto de Medeiros ordered four men—three of whom were not police—to arrest a suspect in the neighboring state of Paraíba. The four men arrested two suspects and raided the house of another, Valdemir Tavares de Souza, fatally shooting him as he fled from his home (see the case of Valdemir Tavares de Souza, below).

### **Impunity**

Unfortunately, shortly after its December 18, 1995 report, the commission was disbanded. The cases under investigation by the commission were redistributed to prosecutors within the public prosecutors' office, where they were effectively dropped, apparently because of a lack of institutional support within the public prosecutors' office and death threats against several of the prosecutors.

On July 4, 1996, Human Rights Watch/Americas met with Rio Grande do Norte's Secretary of Public Security, Col. Sebastião Américo in Natal. Despite the evidence accumulated against Pinto de Medeiros, Colonel Américo told us that he had no intention of removing his deputy secretary because "there was nothing on him."<sup>206</sup> Américo added that Pinto de Medeiros—who had served in the civil police for nearly twenty years before Américo's appointment—was a "great police officer

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<sup>205</sup> Prosecutorial Indictment, Public Prosecutor's Office, Nísia Floresta, Rio Grande do Norte, November 13, 1995 (of Maurílio Pinto de Medeiros, Maurílio Pinto de Medeiros Júnior, Júlio Cézar Rodrigues Furtado, José Delfino de Souza, and Claudécio Gomes de Medeiros).

<sup>206</sup> Human Rights Watch/Americas interview, July 4, 1996.

and a hard worker." He explained to Human Rights Watch/Americas, "when I took this position, I said, 'He is a state treasure.' The people support him."<sup>207</sup>

#### **The Murder of Gilson Nogueira de Carvalho**

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<sup>207</sup> Ibid.

One of the people whose diligent efforts brought the crimes of the Golden Boys to light was Francisco Gilson Nogueira de Carvalho, attorney for the Center for Human Rights and Popular Memory.<sup>208</sup> In the midst of this climate of impunity, on October 20, 1996, Nogueira was gunned down as he returned to his home in Macaíba, outside Natal, in Rio Grande do Norte. Reports indicated that seventeen bullets were fired at Nogueira from a passing vehicle. Medical exams established that Nogueira's wounds were caused by rounds fired from a twelve-gauge shotgun and a 9 mm. rifle.<sup>209</sup>

One of the thirty-one cases investigated by the special commission of the public prosecutors' office concerned death threats against Nogueira by civil police officer Jorge Luiz Fernandes, whose involvement in the several gross violations of human rights is described above. Because of these threats, Nogueira had been provided federal police protection since September 6, 1995. However, by decision of the Ministry of Justice, this protection had been withdrawn on June 4, 1996.<sup>210</sup>

Nogueira's killing provoked an outraged response from local, national, and international human rights groups, as well as federal authorities. Representatives from the Human Rights Commission of the Federal Chamber of Deputies traveled to Rio Grande do Norte during the week of October 28, 1996, to investigate the incident and to press local authorities to investigate the case fully and to prosecute

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<sup>208</sup> Nogueira had been serving as assistant to the prosecution in the cases of violence committed by civil police in Rio Grande do Norte.

<sup>209</sup> Police Technical-Scientific Institute, Autopsy Report No. 01.00.754/96, Natal, October 20, 1996.

<sup>210</sup> See Document No. 811/96-CRP/SR/DRF/RN, letter of Hider Antunes Silva, federal police agent, to Luiz Gonzaga Dantas, Center for Human Rights and Popular Memory, Natal, June 3, 1996 (revoking federal police protection for Francisco Gilson Nogueira de Carvalho as of June 4, 1996).

those responsible. Investigations undertaken during the visit of the Federal Chamber's Human Rights Commission revealed that even though Fernandes had been under arrest for his role in a dozen homicides, he was released on the evening of October 19, returning to custody on October 21.<sup>211</sup>

Federal police agent Plácido Medeiros de Souza told Human Rights Watch/Americas that his investigations at the Firefighters and Military Police Center where Jorge Luiz Fernandes was being detained demonstrated that Fernandes had been released from detention on several occasions prior to Nogueira's killing. In a signed statement provided to Human Rights Watch/Americas and to the Inter-American Commission on Human Rights, agent de Souza stated that as part of his investigation into the death of Nogueira, he visited the detention center where Fernandes was being held. On October 27, agent de Souza inquired about Fernandes and was told that Fernandes had left. Probing further, agent de Souza was shown a registry in which Fernandes's departures from the detention center were registered. In his statement, de Souza wrote:

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<sup>211</sup> See, "Deputado crê em ação de extermínio," *Diário de Natal*, October 30, 1996.

[In the registry] I verified that [Jorge Luiz Fernandes] constantly left, always accompanied by Mr. Francisco Gomes de Souza, and on other occasions, accompanied by Mr. Maurílio Pinto Júnior. The first of these two is the driver and the second the son of Dr. Maurílio Pinto de Medeiros, currently the deputy secretary of public security, and the person accused by Dr. Gilson Nogueira [de Carvalho] as being the head of the extermination group responsible for twenty-eight homicides.<sup>212</sup>

Agent de Souza also noted in his statement that the registry book included an entry confirming Jorge Luiz Fernandes's temporary release from prison the day before Nogueira's death (October 19), and his return the day after (October 21).

Fernandes's background indicates he clearly represented a danger to society and should not have qualified for pre-trial release. Moreover, the unfortunate coincidence between the dates of his brief release in late October and the murder of a lawyer investigating his crimes, Nogueira, strongly suggests some involvement in the murder. Following a profound investigation, all those responsible for Fernandes's repeated releases and for Nogueira's assassination, should be prosecuted and punished.

On October 31, 1996, Pinto de Medeiros was removed from his position as deputy secretary of public security pending the completion of the investigation into Nogueira's death.

### **The Nova Natal Massacre**

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<sup>212</sup> Signed statement of Plácido Medeiros de Souza, November 6, 1996, prepared for the Inter-American Commission on Human Rights at the request of Human Rights Watch/Americas and the Center for Justice and International Law (CEJIL).

On January 29, 1993, then-Deputy Police Chief Maurílio Pinto de Medeiros ordered four police officers led by Jorge Luiz Fernandes to go to the José Sarney favela, a shantytown in Nova Natal. Pinto de Medeiros sent several officers, widely believed to be part of the Golden Boys death squad, to arrest two men, Maurício Ferreira da Silva (known as "Catombo") and Mário César Silva de Lima (known as "Cat-Eye Beto").<sup>213</sup> Catombo, twenty-two, and Beto, eighteen, were suspected of having robbed a couple and stolen their car. Pinto de Medeiros sought to bring them in for questioning and obtained a valid warrant for their arrest. Apparently, the warrant was based on the similarity between Beto and Catombo and the description of the robbers given by the victims, as well as the fact that the stolen car was found in the vicinity of the José Sarney favela, where the men resided.<sup>214</sup>

At about 4:30 a.m., Fernandes, accompanied by Ranulfo Alves de Melo, João Gilvan de Araújo, and Admilson Fernandes de Melo, arrived at Catombo's house. According to Fernandes, the police announced their presence, after which the occupants of the house opened fire. The police fired back, and when the gun battle was over, three people in the house—Catombo, Cat-Eye Beto, and one other man named Flávio Roberto de Assis—had been killed. A fourth person in the house, Jeane Souza de Lima, was badly wounded and taken by police to the Santa Catarina Hospital. Souza de Lima died shortly after arriving at the hospital. None of the police involved was killed or wounded.

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<sup>213</sup> Statement of Admilson Fernandes de Melo, Sixth Police Precinct, Natal, October 26, 1993.

<sup>214</sup> Police Resistance Report of Civil Police Officer Admilson Fernandes de Melo (witnessed by Ranulfo Alves de Melo Filho and Jorge Fernandes), Natal, January 29, 1993.

The investigation at the scene of the crime found a .32 revolver in Catombo's hand, with five empty cartridges, which suggests that Catombo might indeed have shot at the police.<sup>215</sup> Alternatively, the gun may have been planted at the scene of the crime. A bullet hole was also discovered in the front door. Because the hole was not properly examined, it is impossible to determine the origin of the shot that produced it. Catombo, was shot four times,<sup>216</sup> apparently as he tried to escape through the back door.<sup>217</sup> No other guns were found in the house. De Assis was found in bed, shot four times from point-blank range, suggesting a deliberate execution, rather than death in crossfire.<sup>218</sup> Beto was found in the living room; he had been shot twice.<sup>219</sup> Jeane Souza de Lima was hit by at least five different fragments, which the police ballistics expert concluded were probably caused by a "single shot from a high-caliber weapon"<sup>220</sup> and could have come from the assault rifle that Fernandes admitted he was carrying that night.<sup>221</sup>

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<sup>215</sup> Secretary of the Interior, Justice and Public Security, Scientific Technical Institute, Criminal Analysis Unit, Multiple Homicide Crime Scene Report, Report No. 01.0030/93, Natal, January 29, 1993 (exam performed by criminal investigators Jorge Anselmo da Silva and Marcelino Souza de Albuquerque), para. III(1)(a) [hereinafter "Crime Scene Report"].

<sup>216</sup> See, Crime Scene Report, para. III (3)(a); Secretary of the Interior, Justice and Public Security, Scientific Technical Institute, Coroner's Office, Official Medical Exam No. 01.00.67/93, January 19, 1993 (performed by Drs. Manoel Marques de Melo and José Valério Cavalcanti on the corpse of Maurício Ferreira da Silva).

<sup>217</sup> "Polícia mata quatro suspeitos," *Diário de Natal*, January 30, 1993

<sup>218</sup> See, Crime Scene Report, para. III (2); Secretary of the Interior, Justice and Public Security, Scientific Technical Institute, Coroner's Office, Official Medical Exam No. 01.00.68/93, January 19, 1993 (performed by Drs. Manoel Marques de Melo and José Valério Cavalcanti on the corpse of Flávio Roberto de Assis).

<sup>219</sup> Secretary of the Interior, Justice and Public Security, Scientific Technical Institute, Coroner's Office, Official Medical Exam No. 01.00.66/93, January 19, 1993 (performed by Drs. Manoel Marques de Melo and José Valério Cavalcanti on the corpse of Mário Cézar Silva de Lima).

<sup>220</sup> Secretary of the Interior, Justice and Public Security, Scientific Technical Institute, Coroner's Office, Official Medical Exam No. 01.00.070/93, January 19, 1993 (performed by Drs. Tarcísio José de Almeida and Abelardo Rangel Monteiro Filho).

<sup>221</sup> Statement of Jorge Fernandes, First Criminal Court of Natal, February 8, 1994 (Judge Célio de Figueiredo Maia).

The civil police investigation was entirely inadequate. The police officers involved were not asked to explain contradictions in their statements, the walls of Catombo's home were not properly examined for bullets, and the bullets found in and around Catombo's home were not properly examined to determine their origin (the police used .38 caliber weapons, the weapon found in Catombo's hand was a .32 caliber revolver).

On December 10, 1993, the public prosecutor's office indicted the four police involved in the killings. The prosecutor in the case, Luiz Lopes de Oliveira Filho, pointed to the extraordinary number of wounds on the victims as indicative of the policemen's use of excessive force.<sup>222</sup> According to the defense papers submitted by attorney Francisco Dantas, the police officers' precinct chief praised their action, stating that "the police unit acted rigorously within the law."<sup>223</sup>

After the indictment was filed, however, the case remained stalled until August 7, 1995, when the Center for Human Rights and Popular Memory formally assumed the role of assistant to the prosecution (*assistente da acusação*). As the center has

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<sup>222</sup> Public Prosecutors' Office, Rio Grande do Norte, Prosecutorial Indictment of Admilson Fernandes de Melo, Ranulfo Alves de Melo Filho, Jorge Luiz Fernandes, and João Gilvan de Araújo, First Criminal Court of Natal, December 10, 1993 (Reg. No. 4.930/93, book no. 006).

<sup>223</sup> Pretrial Motion to Dismiss (*Defesa Prévia*) of Jorge Luiz Fernandes, Ranulfo Alves de Melo Filho, Admilson Fernandes de Melo and João Gilvan de Araújo, Natal, April 19, 1994 (First Criminal Court, Natal).

pressed the public prosecutor's office to move the case along, a trial date was set for September 1996. However, shortly before the trial date, Luis Lopes de Oliveira Filho, the prosecutor in the case, withdrew. At this writing, no new trial date had been set.

#### **Walderley Dantas Marques and Jefferson do Nascimento<sup>224</sup>**

For many years, Alberto Guedes da Silva, known as "Manoelzinho," had a tumultuous relationship with his wife, Maria de Lourdes Marreiros. He often beat her because he believed that she was unfaithful to him. One day, Guedes da Silva received an anonymous letter, telling him that his wife had a lover named Walderley Dantas Marques, a neighbor who lived down the street. Guedes da Silva decided to put an end to this relationship and began making public death threats against Marques. Marques, meanwhile, was wanted for car theft and as an accomplice to the murder of a man known as "Beto Barbudo."

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<sup>224</sup> This summary is based on the following sources: Human Rights Watch/Americas interview with Jeane do Nascimento, Natal, July 4, 1996; Human Rights Watch/Americas interviews and correspondence with the Center for Human Rights and Popular Memory; Statement of Maria Socorro Dantas to the Public Prosecutor's Office, March 8, 1995; Prosecutorial Indictment of Ranulfo Alves de Melo Filho, Jorge Luiz Fernandes and Adalberto Guedes da Silva, Registry No. 5.047/95, Book No. 006, Natal, August 7, 1995; Interim Report of the Special Commission of the Special Prosecutor's Office, Natal, July 31, 1995; and press reports.

The relationship between Maria de Lourdes and Marques apparently continued and became notorious throughout the neighborhood. Guedes da Silva allegedly hired civil police officers Ranulfo Alves de Melo Filho and Fernandes to kill Marques—for a fee of 200,000 *cruzeiros*—and to make it appear to be related to his involvement in other crimes.<sup>225</sup>

On December 16, 1993, Marques spotted Fernandes following him but managed to escape. Two days later, Marques was followed again, this time by a white Gol automobile with Fernandes and de Melo Filho inside. At about 9:00 p.m., de Melo Filho parked the car and Fernandes got out, walked around the block, and surprised Marques, who screamed “*sijou*” (Oh, no!) and tried to run back inside the game room he had just left. Fernandes allegedly drew his gun and shot Marques in the head. Fernandes is said to have walked slowly to Marques’s fallen body and fired two more shots.

According to various sources, Fernandes then looked back up the street, saw a group of people eating *churrasco* (Brazilian-style barbecue) in front of a house, and allegedly fired at them, the bullet missing them and lodging harmlessly in a wall. The group of people ducked their heads in cover, except for Jefferson do Nascimento, a seventeen-year-old boy, who, in panic, ran across the street. Fernandes reportedly shot do Nascimento once. The bullet went through the youth’s right arm and into the side of his body. Fernandes put his pistol back in the holster and ran down the street to where de Melo Filho was waiting in the white Gol. Fernandes got inside the car, and the two men drove off.

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<sup>225</sup> The equivalent on December 16, 1993, the day of the first attempt on Marques’s life, of US\$ 770.15.

Jefferson do Nascimento and Marques were taken to the nearest hospital, where they died shortly after arrival. Jeane do Nascimento, Jefferson do Nascimento's sister, informed the police on duty at the hospital of the homicides, but the police did not investigate the incident. No one visited the scene of the crime, no evidence was collected, and no interviews were conducted with witnesses. According to Jeane do Nascimento, her cousin attempted to report the incident to the local precinct without success, and a month or two after the incident, Marques's mother reported the incident to the Secretariat of Public Security. Apparently these authorities failed to investigate the case. No police inquiry into the case was opened.<sup>226</sup>

After the Mãe Luíza incident, more than a dozen homicide cases were brought together, and Jorge Luiz Fernandes was identified as the killer in most of them. Jeane do Nascimento told Human Rights Watch/Americas that she saw Francisco Gilson Nogueira de Carvalho, attorney for the Center for Human Rights and Popular Memory, on television and reported the case to the center. Other witnesses had already identified the same white Gol automobile with the same two people in it, driving around.<sup>227</sup> Due to pressure by the Center for Human Rights and Popular Memory, some two years after the crime public authorities finally took statements from the same witnesses who had sought the assistance of the police and the Secretariat of Public Security at the time of the killing. On August 7, 1995, the public prosecutor's office indicted de Melo Filho and police officer Fernandes and requested their pre-trial detention, which was ordered. Four months later, Alves de Melo Filho was released. Fernandes, however, has remained in pre-trial detention in connection with this and two other cases, although he has been permitted to leave periodically. Though both prosecutorial and judicial indictments were filed against Guedes da Silva, pre-trial detention was not ordered, and no trial date has been set.

### **Luiz Carlos de Lima Nascimento**

According to the special commission within the public prosecutors' office, on December 29, 1992, Jorge Luiz Fernandes killed Luiz Carlos de Lima Nascimento

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<sup>226</sup> Human Rights Watch/Americas interview with Jeane do Nascimento, Natal, July 4, 1996.

<sup>227</sup> Ibid.

with three shots. The following account of events is taken from the prosecutorial indictment brought by the public prosecutors' office against Fernandes:

The crime happened because the victim had previously robbed the accused [Fernandes] and his girlfriend, a few months earlier, in the Ponta Negra neighborhood of Natal. In the months between the above-mentioned robbery and the victim's death, the accused, together with other civil policemen, raided the victim's residence three times, arresting him and keeping him in police stations for several days. In addition, [Fernandes] beat the victim [Nascimento] several times.

On the day of the homicide, the victim was talking with his relatives on the sidewalk near his home, when he saw a green Gol automobile pass by, with two men inside. [Nascimento's] relatives noticed that Luiz Carlos was apprehensive [as this vehicle passed], leaving the sidewalk and returning only a few minutes later.

Meanwhile, the car stopped a few meters ahead of where the group was talking. . . A few minutes later, [Fernandes] came from inside the car, wearing a motorcycle jacket which he used to attempt to hide his face. [Fernandes] then walked alongside a barbed wire fence, towards the group where [Nascimento] was standing.

Those who saw [Fernandes] approach [Nascimento] from behind thought he was a friend playing a joke. However, Fernandes pulled out a revolver and shot [Nascimento] in the neck. After [Nascimento] fell down, Fernandes shot him twice more in the head, and left immediately afterwards.

Although the witnesses at that time did not know the identity of the killer, in spite of having seen him clearly, one of them, upon watching a television program, recognized civil policeman Jorge Luiz Fernandes as the author of the shots that caused the death of Luiz Carlos Nascimento.<sup>228</sup>

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<sup>228</sup> Prosecutorial indictment, Reg. No. 5.066/95, Book No. 006, Natal, September 18, 1995, (Anísio Marinho Neto, Fernando Batista de Vasconcelos, José Augusto Peres Filho, Luis Lopes de Oliveira Filho, and Paulo Roberto Dantas de Souza Leão, prosecutors).

Although Fernandes had initially been ordered detained pending trial, a Natal judge ordered his partial release once per week for conjugal visits. Although Brazilian law does allow for prisoners to receive conjugal visits while in detention,<sup>229</sup> it does not authorize detainees to leave detention facilities to make such visits. Local human rights groups told Human Rights Watch/Americas of reports that Fernandes made use of his partial release to intimidate witnesses and others involved in the prosecutions against him. Clearly a bending of the rules was not merited in this case, in which the detainee, Fernandes, represented a danger to society. On June 5, 1996, a jury acquitted Fernandes of Nascimento's homicide. He remains under arrest pending trial in at least six other criminal actions, including three with judicial indictments charging him with homicide.

#### **Valdemir Tavares de Souza**

On October 14, 1994, Maurílio Pinto de Medeiros issued an order authorizing several men to travel into the neighboring state of Paraíba to arrest Marcos Antônio Ribeiro. Three of the four persons named in the order were not police officers. When the group of three civilians and one police officer (hereinafter "Pinto de Medeiros's agents") arrived in Paraíba, they sought the assistance of the local police. Jointly with three police from Paraíba, Pinto de Medeiros's agents arrested Ribeiro and another man and then proceeded to the house of a third suspect, Valdemir Tavares de Souza.<sup>230</sup>

The public prosecutor in the state of Rio Grande do Norte filed a prosecutorial indictment against Pinto de Medeiros for the crime of falsifying public documents. Below, we reproduce excerpts from that indictment:

02. Consistent with the above-mentioned document, the indicted [Maurílio Pinto de Medeiros], in his capacity as General Coordinator of the Secretariat of the Interior, of Justice and of Public Security, emitted on October 14, 1994, a document termed, "Mission Order," inserting in this, a false statement . . . written in the following terms:

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<sup>229</sup> See Law 7210 (A lei de Execuções Penais), July 11, 1984, art. 41, para. X.

<sup>230</sup> Statement of Luiz Carlos da Silva Batista, Fourteenth Police Precinct, Santa Rita (Paraíba), November 7, 1994; and statement of Francisco de Assis Pereira, Fourteenth Police Precinct, Santa Rita (Paraíba), November 7, 1994.

MAURÍLIO PINTO DE MEDEIROS, Esq., General Coordinator of the Secretariats of the Interior, of Justice and of Public Security, determines that civil police officers Admilson Fernandes de Melo, José Nunes da Silva, Luiz Pedro de Souza and Carlos Patrício Macedo de Melo, shall travel to the city of João Pessoa, PB [State of Paraíba] to arrest and take into custody of the individual MARCOS ANTÔNIO RIBEIRO, a.k.a., "Marcos Baleia [the whale]"....

03. Three of the four persons to whom the accused attributed the status of civil police officers, are not, in fact, employed by the civil police of the State of Rio Grande do Norte, to wit: Admilson Fernandes de Melo, Luiz Pedro de Souza and Carlos Patrício Macedo de Melo.

04 In carrying out the "mission order" referred to above, Valdemar Carvalho de Souza [sic] was killed by the false police designated by the indicted, a crime which occurred in the city of Santa Rita, PB [State of Paraíba]. A criminal action for this homicide is in progress in that city and county, in which Prosecutor Suammy Braga da Gama Carvalho, who signed the indictment, affirms, among other things, that:

The facts show that shots were fired from various revolvers at the lower extremities of the victim, as well as in his back, indicating that in fact, the victim was fleeing the police and that what, in fact, occurred was an execution.<sup>231</sup>

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<sup>231</sup> Prosecutorial Indictment, Twenty-Seventh Division, Public Prosecutor's Office, Natal, November 22, 1995 (Translation by Human Rights Watch/Americas) (emphasis in original).

Cícera Garcia de Souza told authorities that she and her husband, Valdemir Tavares de Souza, were at home on the morning of October 15, 1994, at about 6:30 a.m. when a group of police officers kicked open the door. According to her statement, her husband fled from the house running, and the police shot him as he ran.<sup>232</sup> According to statements given by all four of Pinto de Medeiros's agents, de Souza fired at the officers and then fled. Pinto de Medeiros's agents stated that they pursued de Souza and eventually caught up with him, wounded from their gunfire. When the men approached, de Souza threw his gun into some bushes nearby. Pinto de Medeiros's agents, as well as two police from Paraíba, in nearly identical statements, contended that they were unable to find this weapon, which was not made part of the investigation.<sup>233</sup>

The public prosecutor's office filed an indictment against José Nunes da Silva, Admilson Fernandes de Melo, Luiz Pedro de Souza and Carlos Patrício Macedo de Melo. A jury trial of the men was expected in 1997. The criminal action against Pinto de Medeiros was still pending in the state of Natal at this writing.

#### **João Ricardo Dantas Capistrano and Alexandre Batista da Silva<sup>234</sup>**

On November 5, 1995, seventeen-year-old student João Ricardo Dantas Capistrano was at a gathering near the community center in the Santa Catarina neighborhood in the northern zone of Natal. Capistrano and his girlfriend and another couple were dancing in front of a neighborhood dance bar. At about 8:00

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<sup>232</sup> Statement of Cícera Garcia de Souza, Robberies and Thefts Precinct, João Pessoa, December 28, 1994.

<sup>233</sup> Statement of Admilson Fernandes de Melo, Sixth Police Precinct, Santa Rita (Paraíba), October 16, 1994; Statement of Luiz Pedro de Souza, Sixth Police Precinct, Santa Rita (Paraíba), October 16, 1994; Statement of José Nunes da Silva, Sixth Police Precinct, Santa Rita (Paraíba), October 16, 1994; Statement of Carlos Patrício Macedo de Melo, Sixth Police Precinct, Santa Rita (Paraíba), October 16, 1994; Statement of Luiz Carlos da Silva Batista, Fourteenth Police Precinct, Santa Rita (Paraíba), November 7, 1994; and Statement of Francisco de Assis Pereira, Fourteenth Police Precinct, Santa Rita (Paraíba), November 7, 1994.

<sup>234</sup> This summary is based on a Human Rights Watch/Americas interview with Luciano Fábio Dantas Capistrano, Natal, July 4, 1996. Luciano was at the community center about 200 meters from where the shooting took place. He ran outside when he heard the shots, and saw his brother and Batista da Silva shot. Others who witnessed the events, including Alex, told Luciano what happened.

p.m., a car pulled up nearby. As it did, the car bumped into Capistrano's friend, Alexandre Batista da Silva, who was dancing close to Capistrano and Capistrano's girlfriend. When that happened, the driver and two passengers, both of whom were military police officers, got out of the car. One of the two military police officers began beating Batista de Silva. The other drew his weapon and shot Batista da Silva in the chest. Capistrano ran across the street to help his wounded friend. In response, one of the police officers shot Capistrano, also in the chest.

The shots alarmed people in the community center, who ran out to see what was happening. When they arrived on the scene, they found Capistrano and Batista da Silva, both wounded, and took them to the Santa Catarina Hospital, roughly a half mile from the scene of the shooting. Capistrano arrived at the hospital already dead; Batista da Silva survived the shooting. According to Capistrano's brother, the military police inquiry into the case resulted in the expulsion of one of the two officers.

## **IX. RECIFE<sup>235</sup>**

In recent years, Pernambuco authorities have taken steps to address the problem of pervasive police criminality. Most significant among these measures has been the state-sponsored witness protection program. In several prior reports, Human Rights Watch has noted that central to the problem of impunity in cases of police violence is the unwillingness of witnesses to testify against officers they know to be responsible for grave crimes for fear of retaliation.

In response to these concerns, the state government of Pernambuco took an important step forward by creating the Protection and Support Program for Witnesses, Victims, and Families of Victims of Violence (Programa de Proteção e Apoio a Testemunhas, Vítimas e Familiares de Vítimas da Violência, PROVITA) in January 1996. The program is financed by the state, but is operated entirely by the Office of Legal Assistance to Community Organizations (Gabinete de Assessoria

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<sup>235</sup> Recife is the capital of the state of Pernambuco. Human Rights Watch/Americas reported on police violence in Pernambuco in our 1994 report, *Final Justice: Police and Death Squad Homicides of Adolescents in Brazil*. That study analyzed four states, including Pernambuco, and documented several cases of police killings in and around the state capital. In those cases, particularly those instances involving military police, we documented a lack of effort on the part of authorities to investigate rigorously police involved in crimes committed against children living or working on the streets. Several of the cases in the 1994 *Final Justice* report are updated in this chapter.

Jurídica às Organizações Populares, GAJOP), one of the most respected nongovernmental human rights organizations in Brazil. The PROVITA program protects witnesses to incidents of police abuse, as well as witnesses to violence committed by *grupos de extermínio* (extermination groups or death squads), and organized crime. PROVITA works with a network of nongovernmental organizations, including community associations and churches throughout the state, to provide temporary shelter for witnesses in danger. The PROVITA network includes fifteen professionals and thirty-four volunteers, and comprises three protection centers situated in rural areas in the state of Pernambuco.

By September 1996, GAJOP had signed two agreements—one with the executive branch and another with the public prosecutor's office—to prioritize cases with witnesses in the PROVITA program. These agreements seek to minimize the length of time between the commission of the crime under prosecution and the trial date to assure that the witness will be able to testify. In 1996, the program provided protection for fifty-two witnesses and victims. Although figures are not yet available on the results in criminal prosecutions—largely due to the time-consuming nature of criminal procedure in Brazil—initial results seem to indicate that the program has been successful. To the best of our knowledge, no witnesses in the program have been killed, and anecdotal information suggests the program has inspired the confidence necessary to encourage fearful witnesses to come forward. At this writing, GAJOP, the Ministry of Justice, and the United Nations Development Program are implementing a plan to develop programs modeled on PROVITA in five other states.

Since October 1996, GAJOP and the Dom Helder Câmara Human Rights Center (Centro Dom Helder Câmara de Direitos Humanos, CENDHEC) have been leading two week human rights courses for military and civil police. The courses consist of forty class hours and address international human rights norms, individual rights protected by the Brazilian Constitution, proper police procedure, and the special rights of children and adolescents. The courses also include visits to NGOs and analysis of cases of human rights violations. Through January 1997, more than 132 police officers had taken the courses. Though an important step, this figure represents less than 1 percent of the state's police forces.

Civil and military police authorities told Human Rights Watch/Americas that they had dismissed violent police from the force only to have these administrative decisions overturned by the courts.<sup>236</sup> In Brazil, police officers are among those

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<sup>236</sup> In response to our request for information, the Director of civil police Manoel Carneiro Soares Cardoso noted that this police force had dismissed seventy-nine of its 4,556 officers between 1994 and 1996. Soares Cardoso's letter noted the bases for these

civil servants guaranteed tenure—despite participation in criminal acts—pending completion of lengthy administrative proceedings.<sup>237</sup> The figures provided by state authorities, however, did not allow for a thorough evaluation of the percentage of cases in which police charged with human rights violations were dismissed.

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dismissals, which range from battery to homicide against minors, sexual offenses, crimes against property, and military discipline infractions. The chief of the state civil police force's internal affairs division (Corregedoria da Polícia Civil), the division responsible for investigating and punishing misconduct by civil police, assured Human Rights Watch/Americas that the civil police were taking measures to hasten proceedings against violent police officers, but that police authorities are hamstrung in their efforts to dismiss abusive police by constitutional guarantees provided to police as civil servants. Letter of Manoel Carneiro Soares Cardoso, director of civil police, State of Pernambuco, to Human Rights Watch/Americas, August 13, 1996.

Widely considered more violent, the state's military police force consists of three times as many officers as the civil police force, totaling 17,278 in mid-September 1996, according to the *Jornal do Commercio*. According to the newspaper, the military police had dismissed 111 officers in 1995 and forty-eight more through mid-1996. The bases for these dismissals, however, were not provided. "PM diz que não acoberta infratores," *Jornal do Commercio* (Recife), September 17, 1996.

<sup>237</sup> Articles 41 and 42 of the Brazilian Constitution.

Despite these reform efforts, police brutality persists, and 51 percent of 507 Recife residents polled in September 1996 told the leading daily *Jornal do Commercio* that they lacked confidence in the police. Thirty-one percent responded that they had confidence in the police, while 17 percent responded that they had some confidence.<sup>238</sup>

Preliminary reports suggest police may have been involved in the extrajudicial execution of several criminal suspects early this year. According to press sources, at about 4:00 a.m. on January 14, 1997, a group of approximately twenty police officers from the Robberies and Thefts Precinct entered the Alto São Sebastião neighborhood in Jaboatão seeking to arrest the men they believed to be responsible for the killing of Moises Francisco de Melo Júnior, an officer from the Robberies and Thefts Precinct, and José Carlos Passos, a police informant, two days earlier.

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<sup>238</sup> "Recifense não confia na polícia," *Jornal do Commercio*, September 15, 1996.

The chief of the Robberies and Thefts Precinct, Eduardo Porto, told the press that the police responded to gunfire, killing five men, all of whom were dangerous criminals sought by the police. No police were injured.<sup>239</sup> Relatives of those killed, however, told the press that there was no exchange of gunfire and that the officers handcuffed at least three of the victims and then executed them in the middle of the street. According to GAJOP, the police failed to open an inquiry into the crime immediately (as required by law). Despite this, the day after the incident, the state secretary of public security reiterated the official version of a shootout.<sup>240</sup> A police inquiry was subsequently opened and was expected to be completed by mid-February.<sup>241</sup>

In older pending cases, courts have failed to prosecute abusive police for unjustified killings and near-fatal shootings of civilians. In more recent incidents of police violence, attorneys from human rights groups based in Recife have served as assistants to the prosecution, effectively pressing authorities in both military and ordinary courts to prosecute violent police.

The following cases illustrate the pattern of homicides and unjustified shootings by police in and around Recife, Pernambuco.

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<sup>239</sup> Press sources identified the victims as Wilson Santos de Souza, Walmir Barbosa da Silva, José Alexandre da Silva, Edmilson José de Oliveira, and Antônio Gerônimo da Silva Júnior. "Polícia mata cinco suspeitos de crime," *Jornal do Commercio*, January 15, 1997; "Matadores de agente são assassinados," *Diário de Pernambuco*, January 15, 1997; and "Moradores denunciam abuso policial," *Diário de Pernambuco*, January 15, 1997.

<sup>240</sup> Human Rights Watch/Americas telephone interview with GAJOP, January 16, 1997.

<sup>241</sup> Human Rights Watch/Americas telephone interview with CENDHEC, January 28, 1997.

**Carla Gomes do Nascimento**

On May 7, 1995, Robson Batista da Costa (Robson) and his brother Roberto Batista da Costa (Roberto) went to the Bar da Mira in the Barra de Jangada neighborhood of Recife. According to the brothers, they were having drinks with their girlfriends when a young man at the bar asked Paulo Sérgio Monteiro, a military police officer, for a cigarette. Monteiro refused, and told the young man to "beat it."<sup>242</sup> Roberto, who was sitting nearby, called the young man over and gave him a cigarette.<sup>243</sup> This infuriated Monteiro, who thought that Roberto was trying to show him up. Monteiro, who appeared to be intoxicated, stood up and approached Roberto. An argument between the men soon began in which each insulted the other. At some point in the discussion, Monteiro drew his gun. According to the statements of witnesses, Roberto, to defend himself, slapped Monteiro across the face, causing him to lose his balance. Before Roberto could disarm him, however, Monteiro fired several shots, hitting Roberto in the arm and leg.<sup>244</sup> Robson came to his brother's defense, and Monteiro shot him twice in the abdomen and pubic area at point-blank range,<sup>245</sup> after which Monteiro fled the bar. Roberto's wounds were not

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<sup>242</sup> Statement of Roberto Batista da Costa, Fourteenth Police Precinct, Recife, Pernambuco, February 1, 1996.

<sup>243</sup> Statement of Roberto Batista da Costa, Fourteenth Police Precinct, Recife, Pernambuco, May 23, 1995.

<sup>244</sup> Statement of Henrique Gomes do Nascimento, Fourteenth Police Precinct, Recife, Pernambuco, January 29, 1996.

<sup>245</sup> Official Medical Exam N.O.F. 175/95, Persivo Cunha Medicolegal Institute, Hospital Santa Joana, Recife, Pernambuco, May 12, 1995.

serious, but Robson went to the hospital in critical condition. Although he survived the shooting, Robson has been left permanently paralyzed.

The Batista brothers initiated a civil law suit against Monteiro. The family also retained an attorney to act as assistant to the prosecution in the criminal matter. In conjunction with the latter action, the chief witnesses, bartender Carla Gomes do Nascimento, and her sister, Patrícia Gomes do Nascimento, were scheduled to testify on January 31, 1996. On several occasions prior to that date, Monteiro's brother, Valdemar Monteiro (Valdemar), visited the Batista brothers to discourage them from bringing the law suit. In these meetings, Valdemar explained that "*cachaça*" (a popular Brazilian liquor) was to blame for the incident. When these attempts at persuasion failed, Valdemar resorted to threats. Valdemar and his sister Auta Cecília Monteiro also visited the Gomes do Nascimento sisters and threatened to kill them if they ever testified against Monteiro.<sup>246</sup>

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<sup>246</sup> Preventive Prison Order, Case No. 10.896196, First Criminal Court, Jaboatão, April 10, 1996.

On January 27, 1996, four days before the Gomes do Nascimento sisters were scheduled to testify, an unidentified man entered the Bar da Mira and ordered a cognac. As Patricia Gomes do Nascimento went to fix this drink, the stranger shot Carla Gomes do Nascimento in the back of the head, then again in the abdomen as she fell to the ground.<sup>247</sup> The man then ran quickly out the door and escaped in a brown Chevette that had been waiting for him. Carla Gomes do Nascimento died of her injuries. According to witnesses' statements, the brown Chevette looked like the brown Chevette owned by Monteiro's brother, Valdemar. An official car examination performed on Valdemar's vehicle found damage to the paint on the rear licence plate, which the examiner believed was probably caused by the insertion of a false license plate.<sup>248</sup> The civil police precinct chief in charge of the police inquiry concluded in his March 15, 1996 report that Monteiro and his family had hired a gunman to assassinate Gomes do Nascimento. The precinct chief recommended that Monteiro and his two siblings be indicted.<sup>249</sup>

Since April 1996, shortly after the murder of her sister, Patrícia Gomes do Nascimento has been under the protection of PROVITA.<sup>250</sup> On April 8, 1996, the public prosecutor's office indicted Monteiro and his brother Valdemar for murder in connection with the death of Gomes do Nascimento.<sup>251</sup> On April 10, 1996, Judge Edvaldo José Palmeira ordered the pre-trial detention of Monteiro, Valdemar, and their sister, Auta Cecília.<sup>252</sup> The fact that Valdemar and Auta Cecília had threatened to kill Carla Gomes do Nascimento and her sister as well as the fact that the escape car was quite similar to Valdemar's car, served to implicate Monteiro and his family as those responsible for the murder.

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<sup>247</sup> Police Incident Report No. 0404037/96, Fourteenth Police Precinct, Recife, January 28, 1996 (Statement of Eládio Eufrásio da Silva); Statement of Gilvan Dias da Silva, Fourteenth Precinct, Recife, February 1, 1996.

<sup>248</sup> Police Inquiry Report, Delegado Evaristo Ferreira, Fourteenth Precinct, Recife, Pernambuco, March 15, 1996.

<sup>249</sup> Ibid.

<sup>250</sup> GAJOP Letter No. 29/96, April 1, 1996.

<sup>251</sup> Prosecutorial Indictment, Case No. 10.896, First Criminal Court, Jaboatão, April 8, 1996.

<sup>252</sup> Preventive Prison Order, Case No. 10.896196, First Criminal Court, Jaboatão, April 10, 1996.

On January 31, 1996, Monteiro and four other military police officers, armed but not wearing uniforms, went to the courthouse and tried to intimidate the witnesses testifying against Monteiro. As a result of this incident, a military police review board (sindicância) punished Monteiro with thirty days in prison for having solicited other police to accompany him in intimidating the witnesses. The four other military police officers received between fifteen and twenty-one days in prison.<sup>253</sup>

To date, the response of the military and ordinary courts in this case has been relatively swift. In this, as in other matters in which human rights NGOs have worked as assistants to the prosecution, investigations and judicial proceedings have been accelerated.

#### **Romualdo dos Santos**

In our 1994 report, *Final Justice*, we documented the police killing of Romualdo dos Santos, as follows:

. . . [O]n October 12, 1991, the police raided the home of Rosinaldo Sátiro dos Santos, in the Nova Descoberta section of Recife. During the raid the police shot and killed one of Mr. Santos's sons, Romualdo Sátiro dos Santos, seventeen years old, and beat and arrested his two other sons, Ronaldo, sixteen years old, and Rosenildo, twenty five years old.

The raid, which was conducted by military police from the Eleventh Battalion, appears to have been in retaliation for an argument between Romualdo and the nephew of one of the policemen. Several days before the shooting, Romualdo accused a twelve-year-old boy named Emerson of stealing some fruit. Emerson complained about this to his mother, who in turn told her brother, a military policeman named Tadeu de Farias. The policeman threatened to kill Romualdo, and the following day participated in the raid on his home.

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<sup>253</sup> Resolution, Military Police Internal Investigation No. 002/96, Garanhuns, Pernambuco, March 25, 1996.

After firing sixteen bullets from a machine gun and killing Romualdo, one of the policemen reportedly hit Ronaldo with the hot barrel of the gun. Ronaldo was then arrested and taken to the juvenile detention center (Centro de Acolhimento Provisório, CAP) while Rosenildo was taken to an adult jail. The father complained to the Dom Helder Câmara Human Rights Center (Centro Dom Helder Câmara de Direitos Humanos, CENDHEC) about the incident, and said that he had seen Rosenildo in poor physical condition at the jail. After several days CENDHEC was able to secure the release of both Ronaldo and Rosenildo.<sup>254</sup>

The Recife-based group, CENDHEC has participated in this case as assistants to the prosecution since shortly after the October 1991 incident. In this role, CENDHEC has pressed military justice prosecutors to investigate the case vigorously. Official investigations into the killing revealed that three officers participated in the crime. The first, Gilson Francisco do Nascimento, was arrested shortly after the incident and was detained at the Military Police Reeducation Center (Centro de Reeducação da Polícia Militar). On April 2, 1994, do Nascimento was transferred to the Aníbal Bruno Penitentiary in Recife, where he has been held since in pre-trial detention. According to CENDHEC, do Nascimento has been dismissed from the military police.

On May 14, 1993, the public prosecutors' office filed an indictment in the military courts against do Nascimento. In April 1994, the military court authorized CENDHEC's participation in the case as assistants to the prosecution. On April 25, 1996, the court took do Nascimento's initial statement. On July 11, 1996, the military court held hearings to receive the testimony of prosecution witnesses. On September 17, 1996, further hearings were scheduled in the military court.

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<sup>254</sup> Human Rights Watch/Americas, *Final Justice*, pp. 63-64.

Five years after the incident, the case remained stalled in the military justice system. However, in light of the passage of Law 9.299 of August 7, 1996 (removing jurisdiction to the ordinary courts for cases of murder committed by military police), further hearings in the military courts were suspended by order of the judge presiding over the case and at this writing, the case was in the process of being transferred to the ordinary courts.<sup>255</sup>

#### **Carlos Pablo de Holanda**

On January 19, 1994, José Gomes da Silva (Gomes) and a military officer, David José da Silva (da Silva), killed Carlos Pablo de Holanda and seriously wounded André Luiz de Souza (de Souza) and José David Gonzaga da Silva (Gonzaga). Court records include close to 300 pages of statements and investigation, yet the circumstances preceding the crime and its motive are not clear. What is clear, however, is that the two killers were drinking in a bar in the São José neighborhood, at about 4:30 p.m., heading afterwards to the train bridge on Sul Avenue, in the Afogados neighborhood.

There, they came across the three boys, who may have been sniffing glue. Gomes ordered Gonzaga to the ground and shot him three times, in his left shoulder, his chest, and his stomach. Gomes then pushed Gonzaga from the bridge, which is about ten feet above the river. Gonzaga managed to flee, despite his injuries. Shortly after Gomes shot Gonzaga, da Silva shot de Holanda, killing him and pushing him from the bridge as well. Afterwards da Silva shot de Souza three times. Gomes shot de Souza once more, and pushed him from the bridge. De Souza survived, in spite of his injuries.

Attorneys for GAJOP participated in this case as assistants to the prosecution. David José da Silva and José Gomes da Silva were charged with aggravated murder by the judicial indictment signed by Judge Roberto Ferreira Lins on September 15, 1994. David José da Silva unsuccessfully appealed the judicial decision forwarding the case to trial. On October 10, 1996, the public prosecutors' office submitted its summary of the charges for the jury (*libelo acusatório*) against military officer David José da Silva. Attorneys for GAJOP expect his trial to be set for this year.

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<sup>255</sup> Human Rights Watch/Americas telephone interview with CENDHEC, November 11, 1996; and correspondence from CENDHEC to Human Rights Watch/Americas, November 13, 1996.

On March 23, 1996, after a jury trial before the Second Jury Tribunal of Recife, José Gomes da Silva was convicted and sentenced to twenty-five years in prison. He did not appeal the conviction and is serving his sentence at the Anibal Bruno prison facility.<sup>256</sup> His conviction marks an important step forward in the joint efforts to end impunity undertaken by state authorities and nongovernmental organizations in Pernambuco.

#### **Alexandre Marcolino dos Santos**

On June 21, 1994, thirteen-year-old Alexandre Marcolino dos Santos (Alexandre) and his friend, sixteen-year-old Ionildo Fagundes dos Anjos (Ionildo), stole a package of cookies from the Economia supermarket, on Barreto de Menezes Avenue.

The boys were followed to a second supermarket by Maciste Roque da Silva, a soldier in the military police. Although state law prohibits police from holding other jobs, da Silva worked as a security agent for the Economia supermarket. Da Silva grabbed the boys and took them to a small room in the back of the second supermarket. After beating them brutally, da Silva forced the boys to kneel and shot Alexandre at point-blank range. Ionildo escaped and ran to Alexandre's house to inform his family. Alexandre died later at the hospital.

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<sup>256</sup> Human Rights Watch/Americas interviews with CENDHEC, November 13, 1996 and January 13, 1997.

On August 11, 1994, the civil police concluded their inquiry, forwarding it to the appropriate tribunal and to the public prosecutor's office. Five days later, on August 16, 1994, the public prosecutor's office filed an indictment against da Silva, as well as against Ivan José da Silva (the manager of the supermarket), and Bartolomeu Guilherme dos Santos (the owner of the supermarket) for the death of Alexandre and the injuries suffered by Ionildo. Prosecutor Marina Gadelha Simas Accetti summarized the facts and their implications as follows: "The crime happened because the accused—who, although a police officer, was working as a security agent for Economia supermarket—caught the minor Alexandre with a pack of cookies which he had stolen from that store. For this reason, the accused . . . violently seized the victim in order to kill him."<sup>257</sup>

A judicial indictment was issued against all three defendants, ordering their trial before the Second Jury Tribunal of Jaboatão dos Guararapes. All three defendants appealed to the State Appellate Court (Tribunal de Justiça do Estado de Pernambuco). At the time of the judicial indictment, the judge authorized the pre-trial release of da Silva, who has continued to serve as a military police officer in Pernambuco. The State Appellate Court dismissed the charges against Bartolomeu Guilherme dos Santos, and those against Ivan José dos Santos, on January 19, 1995. At this writing, the State Appellate Court had not yet decided da Silva's appeal from the judicial indictment. According to attorneys at CENDHEC, Alexandre's father plans to file a civil suit against the supermarket based on his son's death at the hands of their security guard.<sup>258</sup> That da Silva has continued to serve as a police officer underscores the need for swift administrative means of removing violent police officers from active duty pending criminal prosecutions.

#### **Cases Brought to the Inter-American Commission on Human Rights**

In both of the cases summarized below, initially reported in our 1994 report on police and death squad homicides of adolescents in Brazil, military police officers shot and severely wounded adolescents without just cause. Although the victims

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<sup>257</sup> Indictment, Fourth Division, Public Prosecutor's Office, Jaboatão, August 15, 1994.

<sup>258</sup> Human Rights Watch/Americas telephone interview with Pedro Libonati, attorney, CENDHEC, October 29, 1996.

survived, both were paralyzed from the waist down as a result of the wounds suffered. Due to the failure of the military justice system in Pernambuco to prosecute those responsible, Human Rights Watch/Americas, together with the Center for Justice and International Law (CEJIL), forwarded these cases for adjudication to the Inter-American Commission on Human Rights, where both are pending.

#### **Roselândio Borges Serrano**

On the evening of January 17, 1991, Roselândio Borges Serrano and a friend were riding horses in the Peixinhos favela on the outskirts of Recife when they came across some military police. Serrano later told Human Rights Watch/Americas that the policemen ordered them to stop. One officer shot Serrano as he was trying to stop his galloping horse. Serrano's friend jumped off the other horse and ran away, but that horse was shot and killed.<sup>259</sup>

Several military police officers stated in the police inquiry that they had heard two bursts of gunshots from a machine gun and that when they arrived at the scene they saw military police officer Sandro Tadeu da Silva with a machine gun and two empty machine gun cartridges in his hands. According to these police officers's statements, da Silva told them, "I take responsibility for what I did."<sup>260</sup> However, Officer da Silva initially told police investigators that he had heard several gunshots and had come upon a young man on the ground near a wounded horse. When da Silva asked the young man on the ground who had shot him, he responded, "The guys."<sup>261</sup>

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<sup>259</sup> Human Rights Watch/Americas interview with Roselândio Borges Serrano, June 16, 1993, Peixinhos, Pernambuco.

<sup>260</sup> Ibid.

<sup>261</sup> Human Rights Watch/Americas, *Final Justice*, p. 66.

The investigation into the incident, in which GAJOP served as assistants to the prosecution, produced a key piece of evidence: one of the bullets that struck the horse belonging to Serrano's friend had been fired by a 9 mm. machine gun, a weapon used by the military police and prohibited to civilians. In light of this evidence, da Silva altered his version of events. In his statement during the police inquiry, da Silva reported that two individuals mounted on horses galloped toward him, disobeyed orders to stop, and shot at him; da Silva returned fire with his machine gun.<sup>262</sup>

The military police investigation into the incident concluded on May 16, 1991 and recommended the indictment of da Silva (for the shooting of Serrano) and of Hugo Tadeu dos Santos, his commanding officer (for failing to take action to report or investigate the incident).

The prosecution itself took only seventy days. Despite evidence that surfaced during the investigation that commanding officer Hugo dos Santos told a subordinate to perjure himself during the inquiry, the prosecutor failed to indict him for obstruction of justice. Worse still, the prosecution called just two witnesses—the defendant da Silva and a resident of the favela who had accompanied the police. The judges returned a verdict of not guilty by virtue of legitimate defense.

GAJOP filed a request for appeal along with supporting documentation with the State Appellate Court (Tribunal de Justiça do Estado de Pernambuco) on November 25, 1992. This request for appeal detailed the errors and contradictions in the initial sentence of the military court. In its decision issued on April 27, 1994, the appellate court denied GAJOP's appeal and confirmed the sentence of the military court.

Human Rights Watch/Americas filed a petition with the Inter-American Commission on Human Rights denouncing violations of the American Declaration of the Rights and Duties of Man and the American Convention on Human Rights on February 22, 1994. The Inter-American Commission, by determination of June 10, 1994, opened case number 11.290 against Brazil, which is still pending as of this writing.

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<sup>262</sup> Ibid, p. 67.

**Edson Damião Calixto**<sup>263</sup>

Edson Damião Calixto, a fourteen-year-old runaway who lived and worked at a scrap yard, told Human Rights Watch/Americas that on December 28, 1991 he was returning home from a party when another boy came running toward him. This boy gave him a package containing a gun and then jumped over the wall by the side of the road and ran off into the woods. Moments later, a group of military policemen approached and interrogated Calixto about the gun and about money from a supermarket robbery. They searched Calixto, kicked and beat him, and subsequently took him to a scrap heap where they questioned him further. Then the policemen forced Calixto to kneel facing a wall, shot him three times and drove away. The police vehicle returned some time later. One of the officers, noting that Calixto was still alive, shot him two more times before the car drove away. Returning yet again several hours later, the police took what they thought to be Calixto's dead body to a trash heap. Some time later, a different group of police found Calixto, still alive, and took him to the hospital.

On December 30, 1991, the civil police opened an investigation into the shooting. By late January 1992, they had collected enough evidence to indicate the involvement of the military police and thus transferred the case to the military police system.<sup>264</sup> The military police investigation concluded October 18, 1993, indicting three military policemen: Antônio Pedra da Silva, Edvaldo Santiago de Azevedo and Josenildo José Caldas Lins.

Almost five years after the near-fatal attack on Calixto, proceedings in the military courts are in the relatively preliminary phase of hearing witnesses. As of

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<sup>263</sup> The summary of what happened to Calixto is based on the version he told Human Rights Watch/Americas during an interview on June 25, 1993, at the La Salle Center in Brasília. The details of this testimony are consistent with several statements that he gave to police authorities. See Human Rights Watch/Americas, *Final Justice*, pp. 68-71.

<sup>264</sup> "Soldados da PM tentaram matar menino," *Jornal do Commercio*, Pernambuco, January 22, 1992.

this writing, two hearings to take witness testimony set for July 16, 1996, and August 30, 1996, have been postponed, and, no trial date has been set.

On February 22, 1994, Human Rights Watch/Americas filed a petition with the Inter-American Commission on Human Rights against Brazil based on the shooting of Calixto and the government's failure to provide the victim with a judicial remedy.

On May 20, 1994, the commission opened case number 11.285 against the state of Brazil. At this writing, the commission was still considering this case.