

MASSACRE AT CARANDIRU PRISON

A REPORT FROM THE COMMISSION TO OBSERVE THE
CARANDIRU TRIALS

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The Commission to Observe the Carandiru Trials consists of:

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Thanks also to: Comissão de Direitos Humanos – Cidadania da Câmara Municipal de São Paulo.

Introduction

The 1992 massacre in Carandiru, São Paulo state, Brazil, has called into question the very foundations of Brazilian democracy and has laid bare many of the problems of the democratization process since the end of military dictatorship in 1985. In particular, the incapacity of the Brazilian judicial system to control public servants and hold them accountable for irresponsible and illegal actions in this case has exposed grave defects in the rule of Brazilian law and democracy. This report describes the results of the failure to rein in the repressive mechanisms of the state—more specifically, the Military Police—under the rule of law and equality and the need to bring those responsible to justice after more than eight years of willful ignorance.

The Facts of the Massacre

On October 2, 1992, Brazilian shock troops put a violent end to a prison rebellion in cell block nine of the Carandiru Detention Center by slaughtering 111 prisoners in the largest massacre in history inside a Brazilian prison. The disturbances began that morning when a fight broke out between two prisoners, known as “Barba” and “Coelho,” after an argument over an exercise space within the prison. Before guards could intervene, “Coelho” hit “Barba” with a wooden club, sending him to the prison infirmary. When guards finally did detain “Coelho,” they attempted to defuse what was rapidly becoming a tense situation by taking him out of the exercise yard and locking the doors. However, some of the other prisoners became so agitated by what they saw as “Coelho’s” cowardice that they broke through the locked doors seeking revenge. The guards were unable to control the violence, and shortly afterwards they evacuated the area and sounded the general alarm. By 2 p.m., the prisoners controlled the entire area, although they held no hostages and had made no attempts at escape.

At that time, prison officials notified Col. Ubiratan Guimarães (then Commander of Metropolitan São Paulo Police) of the situation at Carandiru. He immediately went to the prison grounds, where he surveyed the situation with Judges Ivo de Almeida and Fernando Antônio Torres Garcia and called for reinforcements from São Paulo shock troops under the command of Lt. Col. Luiz Nakaharada. Then-Governor of São Paulo, Luis Antônio Fleury Filho and his Secretary of Public Security, Dr. Pedro Franco Campos, were also notified of the situation. At 2:51 p.m., state officials declared the state of affairs at the prison grave and handed command of the situation over to the Military Police. Col. Guimarães’ superiors quickly decided that armed intervention was necessary, and by 3:30 p.m. had stationed Guimarães and his troops outside the prison walls.

According to a government report, by this time it was clear that despite the disorder within the prison, no prisoners could escape from the compound. The prisoners involved demonstrated their willingness to end the uprising and negotiate with the Military Police by

throwing their weapons out of the cell windows and hanging strips of cloth on the sides of the building in symbols of truce.

The commanders present decided to try to negotiate with the prisoners for the last time with a megaphone before intervening forcefully. Meanwhile, at 4:30 p.m., 325 shock troops (without uniform or identification) broke through the doors to cell block 9 and, before any negotiation could take place, pushed aside Chief Warden Dr. Ismael Pedrosa and invaded the cell block *under the direct and explicit orders of Col. Guimarães.*

According to all officers involved in the invasion save Col. Guimarães, the prisoners ran for cover as soon as the troops entered the cell block, offering no resistance. They quickly took the ground floor and moved up the building, shooting prisoners in the head and chest as they went with machine guns, assault rifles, and automatic pistols. Some officers also used dogs to attack already wounded prisoners. After the smoke cleared at 6:30 p.m., 515 shots had been fired, killing 103 prisoners, with another eight dead from wounds caused by knives and other objects. Another 130 prisoners and twenty-three policemen were left wounded. No policemen were killed.

The Political Context

The Carandiru massacre occurred on the eve of the municipal elections in São Paulo, a fact that greatly influenced the official response to the slaughter. At the time, the current leftist mayor of São Paulo, Luiza Erundina, was winding up a failed reelection campaign against the conservative Paulo Maluf. The elections and this conservative political trend themselves were set against the backdrop of the policies of Governor Fleury, whose administration was marked by the inability or unwillingness to fight police brutality and the unjustified use of lethal force. This lack of control is demonstrated by the 132% increase in civilian deaths by military police in the city from 1990 to 1992, up from 585 per annum to 1359 per annum.

The elections, combined with a state government relatively unconcerned with police brutality, likely led to the willful withholding of information regarding the killings at Carandiru. It is also likely that the failure to disclose information was aimed at preventing disruptions at the polls and aiding the campaign of the mayoral candidate of the governor's political party. It was only twenty-four hours after the incident that the government released information about the death toll, just as the elections were being concluded.

Nonetheless, the Brazilian press provided detailed coverage of the events at Carandiru despite attempts by the government and Military Police to prevent the release of further information. Even before the full story was known, the public of São Paulo was decidedly against the actions of the police; 53% of the public disagreed with the police intervention while only 23% supported the decision. Today, 53% consider the events a gratuitous massacre, while only 39% believe the official version of the killings as a violent battle between police and prisoners.

The Profile of the Victims

A study of the prisoners killed in the massacre revealed that 80% of them had not yet been convicted and sentenced by the judicial system, *i.e.* they were still in the process of trial and sentencing. Only nine of the 111 were imprisoned with sentences of more than twenty years. Almost half of those killed were younger than twenty-five at the time of their death and another thirty-five were either twenty-nine or thirty years old. Of those present in the cell block on the day of the massacre, 66% were imprisoned for assault, and only 8% were serving time for murder.

The Scene of the Crime – Destruction and Tampering of Evidence after the Massacre

Police began altering the crime scene immediately after the killing ended, focusing on evidence that would point to specific individuals. Civilians were not allowed to enter the upper floors of the cell block while police officers ordered the remaining prisoners to drag the dead bodies from the cells and corridors and pile them up on the second floor. Evidence-gathering was further impeded by the cleanup and illegal disposal of the dead bodies by the police as well as by the large number of corpses.

When the police forensics team finally arrived at the scene of the massacre at 9:30 p.m., they inspected only the first two floors of the building. On the second floor, they found a pile of approximately eighty to eighty-five bodies. The team did not photograph them individually, but only as a group. After this cursory examination, the group left and did not return for another week.

The forensics team concluded later that police killed eighty-five of the 111 prisoners while the inmates were inside of their cells. Police shot most of them in the head and chest, suggesting that officers shot to kill and not simply to disable, a theory supported by ballistics tests. Of the 103 prisoners killed by gunshot wounds, forensics specialists found 126 shots to the head, thirty-one shots to the neck, 223 shots to the chest, and seventeen shots to the buttocks. Further, many of the prisoners were kneeling or lying down when they were shot. Many prisoners had even thrown themselves into piles of corpses during the shooting in an attempt to feign death.

The Military Police contend that the prisoners were armed and exhibited numerous knives and thirteen firearms as evidence of their assertion. However, forensic tests showed that “all of the firearms show surface oxidation consistent with storage conditions in improper places,” suggesting that the weapons were planted at the scene by police. The police contention that there was an armed encounter between police and prisoners and that police were simply defending themselves is also disproved by the forensics report. The report concluded, “In all of the cells examined, the bullet trajectories indicate that the shooters fired from outside the cells and into the rear or sides of the cells.(...)There are no traces whatsoever of evidence showing that gunfire originated from within the cells or that would indicate any kind of confrontation between the victims of the shooting and those firing from outside the cells.” The report continued to point out that they were unable to make further

conclusions because “the area shows clear signs of evidence-tampering that interfered with forensics reporting.”

The Cast of Characters Involved in the Massacre

Ex-Governor Luiz Antônio Fleury Filho – Cleared of all involvement in the incident. Fleury claims to have been informed of the massacre at 6 p.m. on October 2, 1992. He withheld information regarding the death toll in the massacre until the next day, only minutes before the polls closed in the São Paulo city elections. Today, he is a federal representative for the state of São Paulo.

Pedro Franco de Campos – Secretary of Public Safety at the time of the massacre; Campos has been cleared of all charges against him. Campos authorized the raid on cell block nine and conferred with Governor Fleury. Today, Campos is a prosecutor.

José Ismael Pedrosa – Chief Warden of Carandiru, dismissed after the raid and transferred to the Taubaté Prison in the interior of São Paulo state, where he continues to work.

Colonel Ubiratan Guimarães – At the time of the massacre, Commander of Metropolitan São Paulo Police and commander of the police raid. After the massacre, Guimarães served as a reservist in the Military Police. In 1997, he was elected as a state representative, an office that he held for one year. Today, he runs a private security firm.

Colonel Antônio Chiari – As a Lt. Colonel at the time, Chiari commanded the ROTA (Rondas Ostensivas Tobias de Aguiar), the group of officers that killed eighty-nine of the 111 victims. Chiari has been indicted for aggravated assault. In 1994, he was promoted to Colonel on the merits of his work.

Major Wanderley Mascarenhas – Commanded the Special Tactical Operations Command (Grupo de Ações Táticas Especiais, GATE) in the raid. He has since been promoted from captain to major.

Lt. Colonel Luis Nakaharada – Commanded “Operation Cino,” in which Military Police dogs went cell-by-cell searching for prisoners. He is accused of five counts of homicide.

Major Valter Alves Mendonça – A Captain at the time, Mendonça oversaw police operations on the third floor of cell block nine during the massacre, where his troops killed seventy-three people.

Captain Ariovaldo Salgado – At the time, Salgado was a member of the Special Operations Command (Comando de Operações Especiais, COE), and oversaw police operations on the fourth floor of cell block nine.

Captain Ronaldo Ribeiro dos Santos – In the ROTA at the time of the massacre, Ribeiro dos Santos commanded the raid on the second floor of cell block nine, where police killed fifteen prisoners.

Wilton Brandão Parreira Filho – Commander of a group of shock troops that participated in the cleanup operation after the massacre. He is accused of aggravated assault and is currently a reservist.

The Aftermath of Carandiru – a Timeline

October 1992 – The Military Police begins an internal investigation into the massacre.

March 1993 – A Military Police prosecutor presses charges against 120 officers for their participation in the massacre. However, Governor Fleury is cleared of all charges.

February 13, 1996 – A military court decides to send the cases to the civil courts. The defendants object.

May 1996 – The cases are sent to the federal appellate courts (Superior Tribunal de Justiça, STJ) for a judgment regarding whether the cases should be tried in the civil or military courts. While the court is deliberating, some of those indicted are already escaping punishment: twenty-nine officers involved are cleared of assault and battery charges when the statute of limitations runs.

January 1997 – Col. Guimarães takes office as a state representative and receives parliamentary immunity from prosecution.

April 1997 – The STJ decides that based on law 9299/66 (which gives jurisdiction over all charges of homicide involving military personnel to the civil courts), the cases will be tried in the civil courts.

June 1997 – After gathering more facts from officers involved in the massacre, prosecutors indict other policemen and request that Judge Nilson Xavier de Souza grant a jury trial for these cases. The case against Guimarães is put on hold.

August 1997 – Federal appellate court Judge Mohamed Amaro requests that the State Legislature allow Guimarães to stand trial while he still holds office.

March 1998 – Guimarães is not reelected to office and loses his parliamentary immunity. His case returns to the courts, which is to be tried apart from the other cases. The cases of eighty-eight officers being tried for the 111 deaths are granted a trial by jury.

September 1998 – The judge indicts Guimarães for five counts of homicide and as the man ultimately responsible for all 111 deaths.

November 1998 – Guimarães requests a summary acquittal on the argument that he was just following orders.

March 1999 – The courts reject Guimarães' request and send his case before a jury.

June 1999 – The other defendants request that their cases be sent back to the military courts, but the military courts deny any jurisdiction over such cases. Based on what judges call “negative jurisdictional conflict” (which means that no court believes it has jurisdiction over the matter), the cases are sent to the STJ.

September 1999 – The STJ decided that the assault and battery charges are linked to the homicide charges and must also be brought before a jury.

February 2000 – The Brazilian Government declares that it will assume moral responsibility for the Carandiru Massacre before the Inter-American Commission on Human Rights. The Commission condemns Brazil for the massacre. At the same time, the STJ decides to include another twenty-seven defendants in the case.

March 2000 – The trial of Guimarães is slated for March 22, 2000 and is later postponed to July 18, 2000.

July 13, 2000 – Guimarães’ lawyer asks to postpone the trial further, citing health problems and the need for more time to analyze information provided by the government.

November 7, 2000 – The trial of Guimarães is scheduled for November 29, 2000. Guimarães will be the first Military Police colonel to be tried in the civil courts. Should he be convicted, his sentence could be as long as 1350 years.

November 29, 2000 – The trial begins. On the stand, Guimarães flatly denies the accusations, saying that he never authorized the killings and that if any police officer fired his weapon that it was strictly in self-defense. He added that the raid was meant to “save lives” from a fire started by prisoners inside the cell block. Parts of his testimony, however, conflict with Guimarães’ earlier statements during the initial Military Police investigation of the massacre.

November 30, 2000 – Other information is presented to the court, including depositions, police reports, and tapes. Five more witnesses testify for the prosecution, including four survivors of the massacre, and five testify for the defense. At this point, the trial is expected to last another five to ten days.

December 1, 2000 – A mistrial is declared because a juror becomes seriously ill with a throat abscess and is taken to the hospital for approximately five days. Since the juror is no longer sequestered as required, a new trial will be held with a new jury.

March 2001 – The new trial of Guimarães is slated for June 20, 2001.