

**RIO Report:  
Police Violence and Public Insecurity**



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Rio de Janeiro, October 2004



## **Rio Report: Police Violence and Public Insecurity**

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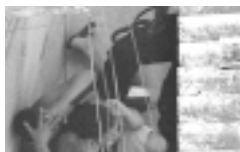
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# Introduction

Notwithstanding striking differences of opinion on the issue of violence in Rio de Janeiro—who are the victims, who is responsible, and what are the root causes—broad consensus exists as to the need to address what has become an everyday occurrence, and a constant source of fear and insecurity. But different interpretations of this violence often translate into different and even conflicting policy initiatives. Critical, fact-based analysis of theories as to the causes and consequences of violence in Rio is necessary both to an understanding of the government's policies to control this violence and to the acceptance by civil society of such policies.

The formulation of public policies to deal with violence should there be accompanied by ample public debates, as decisions taken by politicians have effects that ripple through the society as a whole. While well-constructed policies can have far-reaching positive results, misguided measures are likely to exacerbate a chaotic situation.

This report by the Global Justice Center seeks to contribute to a deeper debate on the question of violence and public safety in the state of Rio de Janeiro. We begin with the assumption that reflections on the

root causes of violence are the key to understanding both official policies aimed at its suppression and the public's support for these policies.

Through legal, academic and journalistic research, which included the interviews with victims and on-site visits to some of the areas most affected by the violence, the Global Justice Center obtained source material necessary to write report, whose focus is on the deterioration of human rights that has accompanied public policies to combat violence in Rio de Janeiro, especially among victims of police violence, and which is often characterized by the criminalization of poverty in the state.

The first chapter of the Report, **Aspects of Violence in Rio de Janeiro: Victims and Executioners**, articulates a reflective critique of the escalation of violence in the state over the past five years. The chapter is focused on the actions and omissions of public officials in conducting policies for public safety, the justifications for such policies, and their hierarchical relationship to social class.

In the second chapter, **Representative Cases of Police Violence in 2004**, we recount some of the human rights

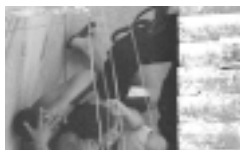
violations that have occurred in Rio de Janeiro in the past year. It is important to note that these violations, whose victims can generally be found within marginalized communities – such as those living in extreme poverty – have begun to affect the middle class as well.

The third chapter of the report, **Investigation Delays: Representative Instances of Impunity in Rio de Janeiro**, traces the relationship of cases that have been followed by the Global Justice Center in the past several years, revealing indifference and complicity on the part of the authorities with respect to public agents who perpetrate acts of violence.

Finally, in the Recommendations, we present a series of suggestions for the reduction of violence perpetrated by the state, in which we have attempted to identify new paths for public safety in Rio de Janeiro.

We sincerely hope that this report will serve to broaden the debate on violence, and that it will contribute to subjective and objective shifts in the public perception of violence and public safety in the state. In this way, we hope that it may lead to policies informed by the experiences of all citizens, regardless of social class, which are grounded in a commitment to respect for human rights.

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# Chapter I

## Aspects of Violence in Rio de Janeiro: Victims and Executioners

### A History: Authoritarian Rio de Janeiro

The year 2004 marks the 40<sup>th</sup> anniversary of the military coup that initiated more than 20 years of dictatorial rule in Brazil. The military period was marked by concentrated and arbitrary power in the executive, which used violence as the primary method of conflict resolution. Members of the military regime justified the increased use of violence as a necessary response to the threat of alleged communists, who supposedly endangered Brazil's future and national security. To quell the activities of these subversive groups, the State argued that violence against accused communists was "legitimate" and in the national interest.

The torture and executions employed during the military years were both investigative and punitive in nature. Their widespread use provided clear evidence that the Rule of Law during this time was little more than a façade to advance the military's interests. The military's stranglehold on civil society, both through violent and institutional means<sup>1</sup>, severely limited the civil liberties of all Brazilians. What

began as a political power struggle between the Left and the Right grew to encompass the suppression of freedom throughout the society. The vestiges of military rule in Brazil have created a "limited citizenship", such that social protest is still often seen as a threat to order and national security.

With the end of the dictatorship and the approval of the 1988 Constitution, democratic institutions were set up. These looked good on paper, but lacked clout in their day to day operations. Relationships between the state and civil society have slowly progressed, though they remain tarnished by the military period. One of the most important developments from the standpoint of civil society has been the emergence of social movements, particularly the human rights movement. Rio de Janeiro State is significant in this story, both for its fierce resistance to the dictatorship and its current human rights movement.

Having laid out the historical context, we will further discuss the current deterioration of civil liberties and increasing trend of human rights violations. In

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<sup>1</sup> For example, Institutional Act no. 5 was decreed by the military government, ushering in a hard-line era. The government was centralized, through the Executive branch, restricting civil liberties in the process and even legislating censorship and prohibiting larger gatherings of people.

our effort to reveal the arbitrary nature of the use of force in society, accompanied by the loss of democratic protections in Rio de Janeiro State, we will present a holistic analysis of the factors that contribute to constant and increasingly severe human rights violations as well as to the erosion of public safety in the state. It is worth noting that the military dictatorship is not the only cause of the deteriorating human rights situation in this state. The current model of social control is also attributable to the neo-liberal economic model introduced in the 1980s.<sup>2</sup> The criminalization of poverty is a direct result of the social exclusion inherent in neo-liberalism.

## Social Stratification in Rio de Janeiro State

Democracy should be based on respect for *all* citizens, since they all have a legitimate claim to power as voters.<sup>3</sup> Conceptually, democracy can be viewed as a process in which leaders are elected freely and all citizens are treated equitably. Therefore, while models of democracy may vary, there should always be a minimum level of rights in any democracy.

The widespread violence in Rio de Janeiro State and the authorities' reactions to such violence are emblematic of the unequal treatment of citizens in the state. This violence is so deeply-rooted in the day

to day of the state that it has been described as a civil war, between the state and the "parallel government" of the drug gangs. The stigmatization of the so-called enemy follows strict social and geographic criteria, equating poverty with criminal activity. Poor neighbourhoods are interspersed with wealthier ones in the Rio de Janeiro State, increasing fear among the middle class. Growing social inequality has meant that more and more people opt to work in illegal activities, leading many to equate poverty with criminality.<sup>4</sup> According to Zigmunt Bauman, "poverty is no longer a question of excess labour supply, but now is an endless phenomenon that must be isolated, neutralized, and deprived of power."<sup>5</sup>

Criminal theories in the state, originally based on the idea of correcting deviant behaviour to facilitate the individual's participation in society, have come to view criminals as wilful decision makers who prefer to be perpetually unlawful. Offenders are seen on one hand as ordinary citizens who have the freedom to choose their own destiny, and on the other hand as people motivated by greed, vengeance or revolt.<sup>6</sup> This rubric of free choice transfers the entire onus of responsibility to the delinquents who then are at risk of being the subjects of elimination efforts.

Therefore, in the face of pressure to "understand less and punish more", the state inadvertently focuses its public policy

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<sup>2</sup> Neo-liberalism has been introduced in Brazil since the 1980s, bringing extreme social inequality. For example, 1% of land holders own 46% of arable land, and 36.3% of workers earn the minimum wage or less, while 1.4% of workers earn at least 20 times the minimum wage. IBGE - Brazilian Institute for Geography and Statistics. [http://www.ibge.gov.br/brasil\\_em\\_sintese/tabelas/trabalho\\_tabela02.htm](http://www.ibge.gov.br/brasil_em_sintese/tabelas/trabalho_tabela02.htm)

<sup>3</sup> Democracy has its roots in Aristotle that defined it as "*a government of all citizens*".

<sup>4</sup> Rio de Janeiro has one of the highest indices of youth homicide in all of Brazil, (118.9 per 100,000 inhabitants), as well as an increasingly young prison population. See *Map of Violence IV* –UNESCO, 2004 and "*Jovens Vítimas*". O Globo, June 8, 2004.

<sup>5</sup> Bauman, Zigmunt. *Em busca da política*. Rio de Janeiro, Jorge Zahar, 2000.

<sup>6</sup> Garland, David: "As Contradições da Sociedade Punitiva". *Revista de Sociologia e Política*, No. 13, November, 1999, p. 59.

against the true victims – those who have opted against a life of crime. It is worth noting that it principally the supposed “potential” for criminal activity that informs this policy, rather than the actual commission of a crime. Consequently, equating poverty with criminality functions to include the poorest members of the population on the *list* of those who do not have rights – in spite of being the population that most suffers the effects of violence.

The human rights violations that occur in these communities respond to the perception of poverty as *danger*; criminals and the inhabitants of these locales are considered to be one and the same. The distinction between *citizen* and *criminal* is transmuted in public opinion to a distinction between *citizen* and *favela resident*, setting up the two sides of the “war”.

This perspective on favelas responds not to the needs of the society, but rather to the State’s unwillingness to accept its inability to change the situation in the short term. The profusion of sensationalist stories of violence on the radio, in the newspapers and on television, almost always in agreement with the already noted inclination to “understand less and punish more”, drives the society to a reactionary clamour for “justice”. This public sentiment is cleverly manipulated by the State in its perpetration of violence as the “answer” to criminality.

Moreover, in a state like Rio de Janeiro, where poverty is geographically distributed, even in affluent areas, the tension caused by this situation serves as pretence for justifying more social control. This is based on a tacit assumption that the

public, generally terrified, condones violent state actions. However, it would be an oversimplification to suggest that the conditions that aggravate the State violence are limited only to crime and media. It would not be possible without a careful “chess game” undertaken by the state, so as to subsume little by little the participation of civil society in Rio de Janeiro, ridiculing it and discrediting its demands. We should pay special attention to those actions by the State that seek to undermine the struggle for the full exercise of citizenship and equality in social treatment. In addition to effectuating policies that were objectively more and more violent, the state has used subtle actions that led to an increase in executions, torture, disappearances, illegal detentions and forced confessions, without opening space for larger participation by civil society.

### **A short history of state violence**

With the community still suffering the consequences of the period in which a police officer was rewarded with salary increases of 50 to 150% of his or her salary – each time that he or she made a kill – calls for a new security policy, as well as new police, were the principle issues of the 1998 electoral campaign in Rio de Janeiro.<sup>7</sup> A coalition between Anthony Garotinho’s Democratic Workers Party (PDT) and Benedita da Silva’s Workers Party (PT) came to power with a promise of “rehabilitating” the police and appointed sociologist Luiz Eduardo Soares, a resear-

<sup>7</sup> Soares, Luiz Eduardo. *Meu Casaco de General*. São Paulo, Companhia das Letras, 2000.

cher on violence, as Secretary of Public Security.<sup>8</sup>

Under Soares's plan, the group of police he called the "corrupt forces" (*banda podre*) were to be suppressed through rigorous investigations, the stopping of police cover-ups, immediate investigation of all claims of police misconduct and a study of the mechanisms of external control.<sup>9</sup> As a direct result of this initial reformulation, the outcome of Soares' first year in office was a 40% reduction in the number of civilian deaths caused by the police, as well as a reduction in the number of police deaths and a record number of weapons seized from the possession of criminals: 9,000.<sup>10</sup>

### The Year 2000

The arrival of the new year brought with it the hope of radical changes in the daily violence of Rio de Janeiro. For the first time in years, there had been a notable decline in the number of deaths arising from police action, and genuine efforts to combat corruption inside the police were underway.<sup>11</sup> Unfortunately, Luiz Eduardo

Soares was dismissed from his post as Secretary of Public Security, and the old policies of confrontation returned. The result was a higher number of deaths in police interventions: 427.<sup>12</sup> In the year 2000, 106 policemen were killed. That year also brought tragedy as a result of contempt and lack of preparedness by the police: the infamous incident on Bus 174, in which one of the hostages, Geísa was killed, and the hostage-taker, Sandro Nascimento, was executed extra-judicially.<sup>13</sup>

Two observations stand out. The first concerns the incompetence of the police to deal with a situation where something more subtle than mere brute force is required.<sup>14</sup> Lacking in training and equipment<sup>14</sup>, and without proper command or clearly defined responsibilities, the police action resulted in the officers themselves perpetrating many crimes. The second important observation concerns the history of Sandro Nascimento, a survivor of the 1993 Candelária Massacre<sup>15</sup>. Nascimento's subsequent role in the Bus 174 tragedy reveals the state's contribution in producing the criminals that increase the spread

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<sup>8</sup> The importance of the question of violence in the electoral campaign for the governor of the State of Rio de Janeiro became evident with the publishing of the book *Violência e Criminalidade no Estado do Rio de Janeiro*, a "joint" publication by Garotinho and Luiz Eduardo Soares – in addition to other specialists in criminality that, subsequently, occupied folders in the area of safety. Garotinho, Anthony: *Violência e Criminalidade no Estado do Rio de Janeiro*. Rio de Janeiro, Hama Editora, 1998.

<sup>9</sup> *Ibid.*

<sup>10</sup> [http://www.luizeduardosoares.com.br/docs/sergio\\_adorno\\_entrevista\\_les.doc](http://www.luizeduardosoares.com.br/docs/sergio_adorno_entrevista_les.doc), *Sérgio Adorno interview of Luiz Eduardo Soares*.

<sup>11</sup> As, for example, a 40% reduction in the number of civil deaths by police, as well as a reduction in the number of police deaths, in addition to a record apprehension of 9000 arms in the hands of criminals. [http://www.luizeduardosoares.com.br/docs/sergio\\_adorno\\_entrevista\\_les .doc](http://www.luizeduardosoares.com.br/docs/sergio_adorno_entrevista_les.doc), *Sérgio Adorno interview of Luiz Eduardo Soares*.

<sup>12</sup> Versus 289 deaths perpetrated by police in 1999. Source: Secretariat of Public Security of Rio de Janeiro State, Institute of Public Security. <[www.ssp.rj.gov.br](http://www.ssp.rj.gov.br)>

<sup>13</sup> See the Global Justice Center's report: Summary Executions in Brazil – 1997-2003, p. 36. See also a summary of this case in the "Impunity" chapter in the same report.

<sup>14</sup> In innumerable videos made during the "spectacle", police are shown communicating with each other both orally and through signals. The lack of radio transmitters, basic equipment for risk situations, denoting a precariedade with which the police forces have to work, where they risk not only their own lives, but as well as those that should be protected.

<sup>15</sup> Massacre executed by the Military Police of Rio de Janeiro, that opened fire against a group of more than 50 streetchildren that slept outside, near the Candelária church in the centre of Rio, leaving seven children and one young adult dead in the morning of July 23, 1993.

of violence. Sandro was eventually strangled by military police inside the police vehicle,<sup>16</sup> and killed. His murderers – all policemen – remain unpunished.

## 2001

In less than two years, the state's population saw the number of deaths resulting from police interventions practically double (from 289 civilian deaths in 1999, the number of deaths increased to 592 in 2001). The logic of punishment and repression seems to be winning: the then-Secretary of Public Security of Rio, Cel. Josias Quintal<sup>17</sup>, received the "Pedro Ernesto Medal", the most prestigious award in the city of Rio de Janeiro.<sup>18</sup> The changes in the state government's approach to policing can be seen numerically: 592 citizens died from police bullets in 2001, against 91 police deaths during the same period.<sup>19</sup>

## 2002

The execution of journalist Tim Lopes was, undoubtedly, one of the year's most tragic markers. Lopes was captured and tortured by traffickers supposedly linked to the Elias Maluco gang while reporting on the movement of drugs and sexual exploitation at dances inside of a *favela*. This case incited a full-scale manhunt for

members of gangs,<sup>20</sup> who, one by one, began turning up dead in fairly strange circumstances - evidence of the element of extermination characterizing the police's operation.

Under pressure from public opinion in an election year, and with the hope of capturing the drug trafficker, a state judge issued a "general search warrant" against the community where Maluco lived. As we will show, this instrument has become extremely popular in subsequent police operations where the legal requirement that the warrant be individual and specific has been arbitrarily suppressed and all *favela* residents have become potential suspects. At the time, the government of the state of Rio de Janeiro was under the direction of Benedita da Silva, of the Worker's Party (Partido dos Trabalhadores-PT). The same year, Carlos Minc, president of the Legislative Assembly's Commission against Impunity of the state of Rio de Janeiro (Comissão Contra a Impunidade da Assembléia Legislativa do Estado do Rio de Janeiro, ALERJ) received a cassette tape in which an officer from the Military Police taught his students how to transform an "accidental death" into one resulting from "resisting arrest."<sup>21</sup> The lack of investigations in cases of suspected police misconduct has contributed to the approxi-

<sup>16</sup> See details of the acquittal in the Report on Summary Executions in Brazil: 1997-2003, of the Center for Global Justice

<sup>17</sup> According to the group Tortura Nunca Mais from Rio de Janeiro, Josias Quintal was a member of DOI-CODI – old organ of investigation and repression from the military dictatorship.

<sup>18</sup> The recipient of the award was nominated by one time city Councilman Jerônimo Guimarães Filho, of the PMDB, a civil policeman who has been accused of involvement in a extermination group from the West Zone of Rio de Janeiro. Complaint filed by the group Tortura Nunca Mais on March 1, 2003. <http://www.torturanuncamais-rj.org.br/Noticias.asp?Codigo=75>.

<sup>19</sup> Lengruher, Julita. "Violence, Omission and Public Unsafety: our daily bread". Work presented in the Annual Meeting of Academics of the Brazilian Science Academy on June 1st, 2004.

<sup>20</sup> Tim Lopes was a journalist for the Globo newspaper and was assassinated on June 2, 2002 by drug traffickers, while conducting an investigative report in the *Complexo do Alemão*, a *favela* in Rio de Janeiro. See: "Direitos Humanos no Brasil 2002", Annual Report of The Global Justice Center, p.54.

<sup>21</sup> *Escola de Oficiais da PM estaria ensinando a praticar crimes*. [www.GloboNews.com](http://www.GloboNews.com), March 12, 2002.

mately 900 deaths by police officers during operations in 2002. The number of police officer deaths increased to 170 during the same period.<sup>22</sup>

### 2003

The year 2003 was emblematic with respect to police violence. In addition to the overall picture, in which the monthly average of civilian deaths resulting from police actions reached 100, many individual cases are particularly worrisome:

■ **January 10, 2003-** A police operation took place in the favelas of Rebu and Coréia, in Senador Camará. 250 civil and military police officers participated. Although the operation resulted in 14 deaths, it received little attention in the media and has had little impact on public opinion.<sup>23</sup>

■ **April 17, 2003-** Another massacre, this time of four workers who were assassinated in an ambush in the community of Borel, received attention from civil society. In spite of a series of complaints and reports, those accused of the crime have not yet been tried.<sup>24</sup>

■ **September 4, 2003-** A Chinese businessman is taken to jail by the Federal Police for trying to board a U.S.-bound plane without declaring the dollars he was

carrying. He was tortured to death.<sup>25</sup>

■ **November 5, 2003-** Two people, one from the office of the Police's Internal Affairs Department and João Luís Duboc Pinaud, the State Secretary for Human Rights, are fired after trying to push forward the investigation regarding torture in the Chang case.<sup>26</sup>

■ **November 5, 2003-** The Office of the State Secretary for Human Rights falls under the command of a colonel from the Military Police.<sup>27</sup>

■ **May 11, 2003-** The new State Secretary for Public Security, Anthony Garotinho, appoints Lieutenant Colonel Álvaro Rodrigues Garcia to head the 22<sup>nd</sup> Battalion of Military Police in Benfica. In 1997, Mr. Garcia – then still a Major – was caught by an amateur cameraman while leading a beating session in homes within the *favela* City of God (Cidade de Deus) in an area that later came to be known as the “wall of shame.”<sup>28</sup>

The year 2003 was also the year in which the then State Secretary of Public Security, Josias Quintal, stated: “Our group is on the street, and if there must be armed conflict, then so be it. If someone must die because of it, then let him or her die. We are going in.”<sup>29</sup> The declaration was made in reference to the implementation of

<sup>22</sup> Lengruher, Julita. “Violência, Omissão e insegurança pública: o pão nosso cada dia”. Paper presented at the Annual Academics Meeting at the Brazilian Academy of Sciences (Academia Brasileira de Ciências) June 1, 2004.

<sup>23</sup> *Extra* Newspaper, January 30, 2003.

<sup>24</sup> *O Globo* Newspaper, May 9, 2003.

<sup>25</sup> The Chinese citizen, Chan Kim Chang, was arrested by federal police officers in the International Airport of Rio de Janeiro, as he tried to head for the United States without declaring the dollars he was carrying. As a result, he was taken to the Federal Police's jail in the Ary Franco prison, where he suffered several beatings which resulted in his death. The official statement claims that Chang was the one that injured himself and as such was responsible for his own death.

<sup>26</sup> “Secretário do Rio acusa ex-colega por suborno”, *O Estado de S. Paulo* newspaper, section Cidades, November 6, 2003.

<sup>27</sup> “Briga entre secretaries no Rio vai para a Justiça”, *O Estado de S. Paulo*, section Cidades, November 6, 2003.

<sup>28</sup> “Tortura no Brasil: Implementação das Recomendações do Relator da ONU”, CEJIL, Rio de Janeiro, 2004.

<sup>29</sup> *O Globo* Newspaper, February 27, 2003.

Operation Safe Rio (Operação Rio Seguro) and it seems to have had an effect: in less than 15 days in office, Anthony Garotinho, Josias Quintal's successor in the Secretariat of Public Security, publicly celebrated the death of more than 100 people (supposed delinquents).<sup>30</sup> In 2003 there were 1,195 registered civilian deaths resulting from police operations in comparison to 45 police officer deaths.<sup>31</sup>

### 2004<sup>32</sup>

The first nine months of 2004 have seen a disturbing number of human rights violations and brought higher social classes face to face with the effects of violence from which they used to be more protected. That which used to be limited to poor communities, in *favelas* and their peripheries, has reached rich neighbourhoods, inciting unprecedented panic among the middle and upper classes of the state.

This was the case in the Rocinha community in the city of Rio de Janeiro. The terror caused by drug traffickers and police officers in the neighbourhood literally descended from the hills to unleash its effects on the streets. Instead of providing protection and dignity to the residents of the community, the government formulated a shameful proposal of containment: the construction of a wall surrounding the entire *favela*.<sup>33</sup> Although

the proposal was not implemented, it established a new paradigm for how the state would deal with issues of public safety; opting for the isolation and exclusion of a difficult area instead of working toward long-term *solutions*.

Another example of the way that crime and police abuse has started to affect the middle class more is seen in the victims' profiles – in the past, victims were exclusively from Rio's *favelas*; they now come from other social classes. In Cabo Frio, a coastal city of the state of Rio de Janeiro, Rômulo Batista de Melo, a 23-year-old university student, of relatively high social status, was a fatal victim of police brutality. Tortured for days, while suffering severe mental problems, Rômulo died while being transported to a hospital. His family suffered the same misfortunes that poor Brazilians are used to. Before any investigation whatsoever he was labelled as a drug-trafficker by the authorities.<sup>34</sup> A similar case is that of Cristiano Ríspoli Barros, a university student, who was assassinated by Military Police while driving his car. Police claim the victim resisted and was in possession of a weapon, the standard justification given when a poor person is killed.<sup>35</sup>

In a shocking display of impunity headed by the State, the beginning of this year saw the reintegration of 65 military police officers who have been accused of

<sup>30</sup> *O Globo* Newspaper, May 11, 2003.

<sup>31</sup> Human Rights in Brasil 2003: Annual Report of the Global Justice Center. Rio de Janeiro, Global Justice Center, 2004.

<sup>32</sup> The year 2004 will receive closer analysis in the following chapter, where some emblematic cases of violations will be described. The analysis found here attempts to present an overview with some of the most important changes seen in 2004.

<sup>33</sup> *O Globo* Newspaper, April 12, 2004.

<sup>34</sup> Statement given to The Global Justice Center on July 7, 2004 by Rômulo's mother, Márcia Batista de Melo.

<sup>35</sup> See a summary of the execution of Rômulo Batista de Melo and Cristiano Ríspoli Barros, in this report's chapter on the emblematic cases of 2004.

crimes such as torture, extortion, and homicide, among others. Among the accused were police officers who participated in highly notorious crimes, such as the massacre in Vigário Geral, where 21 workers were executed by police officers that still patrol those streets.<sup>36</sup>

Even without the direct participation of authorities, tragedies like the massacre in Benfica - where 30 prisoners and a prison guard died during a rebellion - also fall under this pattern of carelessness and contribute to an increase in violence. Months before this tragedy, various human rights organizations, including the Community Council, an independent organization permitted under the National Prison Law to monitor the prison system, warned authorities that combining criminal gangs in the same prison complex would incite a bloodbath. The authorities ignored the Council's advice.<sup>37</sup> The authorities claimed that mixing the gangs would reduce the power of each one, even though the policy of separation based on gang affiliation was originally introduced by the state government itself.<sup>38</sup>

The Benfica massacre was not thoroughly investigated, and those responsible were never punished. After civil society organizations denounced the

massacre in a public hearing carried out in the State Legislative Assembly's Commission Against Impunity, Astério Pereira, Secretary of Prison Affairs, issued one of the few official declarations made in the case. In it, Pereira indicated the journalists should "experience the same fate as that of the young Tim Lopes" - the reporter executed on June 2002 by drug traffickers in Rio de Janeiro. According to Pereira, it is the behaviour of some journalists that has contributed to the strengthening of criminal gangs in the state.<sup>39</sup>

Also in 2004, for the first time in the history of the ALERJ's Commission on Human Rights, there was an arbitrary change in the presidency. A maneuver removed State deputy Alessandro Molon of the Worker's Party from the presidency and brought the Commission under the governing party's direction - a clear example of the Governor's authoritarianism. This change was instituted in the midst of growing pressure from the Commission in relation to the investigation of various accusations of police violence, especially the torture that resulted in the death of Chinese businessman Chan Kim Chang- perpetrated by prison guards from the Ary Franco prison.<sup>40</sup>

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<sup>36</sup> According to material published by the O Globo Newspaper on January 13th and 14th of 2004 and reports issued by the military police, 65 military police officers were reintegrated into the corps, the majority of them having been accused and tried for crimes such as homicide, torture, theft, white collar crime, among others.

<sup>37</sup> Information obtained from the president of the Community Council of Rio de Janeiro and Global Justice Researcher, Marcelo Freixo. Marcelo says that the alert was made on June 5, 2004 in a meeting at the Supreme Court of the State of Rio de Janeiro which included the participation of the president of the State Supreme Court, Miguel Pachá and the judge from the Court of Criminal Executions, Carlos Augusto Borges.

<sup>38</sup> Upon entering a police station or prison, even those people who are not members of a gang and whose crime is in no way connected to drug trafficking, are forced by public authorities to declare their association with some criminal gang. In this way, they are labelled as such and sent to the prisons specifically delegated for their group.

<sup>39</sup> According to the Secretary, many times the behaviour of newspapers can contribute to the aggravation of violence in Rio given the "notoriety" that gangs receive from newspaper coverage, declaring that "some newspapers are already adopting a position that does not incite or support criminal gangs. And it seems to me that some (newspapers) would benefit from experiencing an episode like that of the young Tim Lopes". Source: Associação Brasileira de Imprensa, <http://www.abi.org.br/primeirapagina.asp?id=680>, June 17, 2004.

<sup>40</sup> "Mudança na Comissão de Direitos Humanos," *O Globo* Newspaper, May 4, 2004.

## The Criminalization of Poverty in Rio de Janeiro

The human rights situation in Rio de Janeiro, as in the rest of Brazil, has been a source of great concern for everyone who recognizes the universal importance of human rights. Even though human rights concern everyone, they do not always receive the attention they deserve. This does not necessarily suggest a lack of solidarity, but rather the attraction of achieving quick results to curb crime. In terms of public security, these “results” are often tabulated by the number of fatalities inflicted by the police in the “war on crime”. What is behind this association? Moreover, how can society overcome this misconception? How can the number of homicides committed by police rise year after year without putting society at risk? Before attempting to answer these questions, it is worthwhile to compare the number of civilian deaths by police officers with the number of police deaths while on duty during the last six years in the state: 1998 (397 : 99); 1999 (289 : 92); 2000 (427 : 106); 2001 (592 : 91); 2002 (900 : 170); 2003 (1.195 : 45).<sup>41</sup>

Our first observation with respect to the increase in violence perpetrated by state agents is seen both in the media and among public officials: the concept of *war*. Newspaper headlines in Rio de Janeiro State as well as official statements often characterize the current situation - crime and anti-crime efforts - as a situation of outright “war”. War is generally defined as, “*armed struggle between nations or*

*parties; combat, fight, struggle, conflict.*”<sup>42</sup> Thus it denotes opposition between two groups that fight for a territory and/or a cause. In Rio de Janeiro, the term also implies an armed conflict that envisions the destruction of the “enemy”.

The “enemy”, in this case, would be criminals and “suspects”, whose acts of violence or alleged acts of violence adversely affect “honest citizens” and incite a severe backlash. Supposing for a moment that this posture is reasonable, how does one identify the enemy and defeat it? The official rhetoric surrounding criminality has been developed to construct this enemy. Consistent with the patterns of policing in Rio de Janeiro, this internal enemy would reside in the *favelas*, be afro-descendent, and be dispensable to the middle and upper classes. The association between poverty and violence is the greatest justification for the extermination policy that has been practiced for years in the state’s urban areas.

According to our interpretation of “war”, police behavior is surprising. Given their legal mandate, police should, at all times, prioritize the resolution of conflicts and prevention of crimes in an effort to guarantee the protection of life. Any lethal police operation is thus unsatisfactory, in that it betrays the goal of preserving life. War implies some higher objective, which at times supercedes the value of human life. Militant and confrontational police activities represent a grave problem throughout Brazil, where the spoils of war-arms, death of the enemy and territory- are

<sup>41</sup> Source: Secretariat of Public Security of the State of Rio de Janeiro, Institute of Public Security (ISP).

<sup>42</sup> New Dictionary Aurélio of Portuguese Language, 2<sup>nd</sup> edition, Nova Fronteira.

valued more than human life. This interpretation of public security currently prevails and tarnishes the daily lives of poor residents all over the state.

With an increase in crime and organized crime in particular, the authorities have failed to confront their inability to obtain short term results<sup>43</sup>, preferring instead to adopt a hard line posture that polarizes the population.<sup>44</sup> Caught in a situation where any true change would necessitate expensive long term investments with no immediate political return, most public officials adopt a “criminal populism” – in which the “popular sentiment” unduly influences the institutions of public security. Aware of their incapacity to respond quickly to public pressure for greater safety, most politicians capitalize on the pain of victims of violence, promising “more repression”, “a hard line” toward criminals, and “longer terms”.

The state authorities have also demonized the “other”, who is constructed based on two assumptions. First, with respect to the circumstances that led the individual to become ostracized from society; criminal activity in this scheme is explained by individual choices such as greed, vengeance, vice or rebellion. Second, the criminal is seen as a monster, with no links to the society in question, and presented as a potential danger to all members of society. The individual viewed as a threat – an image carefully

constructed by the media and public discourse – has essentially given authorities licence to stop that individual at any cost. The final element of this scheme is drug trafficking, which aside from being associated with other types of crime raises a moral question, in public discourse as well as among the population. The slums, or *favelas*, are identified with drug trafficking and organized crime – which itself is attributable to the lack of state services in these neighborhoods. Of course most of the residents are honest and hardworking, but the association between living in *favelas* and drug trafficking is extended to all poor Brazilians, in effect criminalizing poverty. By stigmatizing the *favela* as the center of organized crime, this stereotype leads to a climate of “war” between good and evil. This dangerous association conflates poverty with criminality, making poor Brazilian targets of inhumane treatment on a daily basis.

It is worth commenting on the lethal use of force as well. The degree of “lethality” is often viewed as an indicator of progress in the effort to curb crime. This would not be possible without the concepts of “war” and “otherness” described above, for they tacitly imply that victory lies in destruction. Lethality, in spite of its commonplace use by police officers, is a function of pressures by commanding officers and politicians, as well as public sentiment and the media. Below are two examples of this logic, cited from newspapers in Rio de Janeiro:

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<sup>43</sup> Garland, David. *As Contradições da Sociedade Punitiva*, Revista de Sociologia e Política, No. 13, November 1999, p. 59.

<sup>44</sup> In the words of French Sociologist Loïc Wacquant, the effort to “cure with ‘more state’, in the addition of police and jails, the ‘lack of state’ for economic and social needs, which is the cause of the general insecurity in all countries, both in the First and Second World.” He affirms the omnipotence of the “Leviathan in the restricted domain of public order – symbolized by the struggle against crime – in the moment in which the state is incapable of containing the decomposition of salaried work and restraining the mobility of capital, which destabilize society.” Wacquant, Loïc: *As Prisões da Miséria*, Jorge Zahar Editor, Rio de Janeiro, 2001, p. 7.

*“With only one and a half years of experience in the police department, the inspector Elisete Abreu Santos, 39 years of age, who works in the 6<sup>th</sup> Police District (Cidade Nova), is going to be promoted for bravery. And she deserves it: last Saturday morning, the policewoman confronted a group of armed drug traffickers who had fled the operation being carried out in four neighborhoods – São Carlos, da Mineira, Zinco and Querosene – looking for the gangster Irapuan Davi Lopes, aka. Gangan. Of the five gangsters killed in the operation, four were shot [by Elisete Santos], who used two rounds of ammunition from her machine gun, along with some shots from her pistol. Seven gangsters were jailed and two policemen were lightly wounded. Elisete was with other policemen on Itapiru street, in Catumbi, when she saw the group of drug-traffickers walking down the steps. The shootout was intense. At the end, the policemen celebrated the fact that no innocent people were wounded.”*<sup>45</sup>

*“An act of bravery was enough to turn Lieutenant Catiane Marinho Ferreira of the 23<sup>rd</sup> Battalion, 25 years of age, into a celebrity... Wednesday, when Catiane, unarmed at the time, managed to get three criminals to surrender after they robbed the apartment building at 177 Desembargador Alfredo Russel Street, in Leblon, without firing a shot, left the building to the applause of the residents. Yesterday, between phone calls and radio messages congratulating her, Catiane got another taste of fame. When she left her Battalion,*

*a bus passenger shouted: ‘Hey Catiane, you are quite brave.’”*<sup>46</sup>

In the first case, the article is concerned with the officer’s promotion for “bravery”. The article mentions the police officers’ celebration, in which they congratulate themselves for the fact that no “no innocent people were wounded”. The notion of lethality as a positive result is clearly expressed in this article, so much so that it trumpets the officer’s promotion without explaining that the reason the other policemen did not fire was that they were worried about hitting innocent bystanders in the proximity.

In contrast, the second article shows the lack of institutional recognition for an employee who detained thieves without wounding them, though she was lauded by the general public and colleagues. Catiane’s work should be seen in light of another news story, which occurred one week after the incident that made her famous. It was right after a violent action of the Special Operations Battalion (Batalhão de Operações Especias, BOPE) in the Rocinha Community:

*“In disagreement with the last incursions by the Special Operation Battalion (BOPE) in Rocinha, which they thought were extremely violent, community leaders want police operations there to be commanded by the tenant Catiane Marinho Ferreira, 25 years old. The official of the 23rd Military Police Battalion (Leblon) became famous for detaining three bandits and stopping a robbery in a residence in Leblon without firing a single shot a week ago.”*

<sup>45</sup> “De salto alto e boa de tiro”, O Globo, June 22, 2004, p. 14.

<sup>46</sup> “Palmas para Catiane!”, O Globo, February 4, 2004.

This third report subtly suggest the fragility of the notions of “war”, of the demonization of the “other” and “lethality”.

The prevailing sentiment in these communities, in spite of stereotypes that depict a preference for lawlessness, is that of a necessity for policing, carried out within the limits of the law and with primacy given to human life. This comparison reveals another subtlety. In the news report on inspector Elisete, she appears in a photograph where her face is hidden in the shadows. Only her silhouette is identifiable, maintaining her anonymity – perhaps for security reasons. In the report on Catiane, her face is visible to the reader. Catiane can be publicly identified, for her life is not at risk.

This contrast touches on the issue of violence perpetuated against the police. Michel Misse has pointed out that, “*with the increase in violent solutions, many criminals respond with more violence. The devaluation of human life, implicit in these ideas, undoubtedly contributes to this spiral of violence that also affects the safety of the police – 160 of whom were murdered in the last year (2003) in the State of Rio de Janeiro*”.<sup>47</sup> Also, it is important to note that about 70% of these police officers were killed *outside of their working hours*, most while working at a second job.<sup>48</sup> The State is thus doubly guilty for the violence against police officers; first in relation to its insufficient

pay, and second for encouraging the violent resolution of problems. The risks faced by police officers are exacerbated by their substandard working conditions, including a lack of training and equipment, further illustrating the state government’s indifference to police safety.

The contrast in the two previously mentioned examples of policing strategies validates the suggested analysis, demonstrating the true dichotomy in the increase of violence in Rio de Janeiro. On the one hand is the official discourse, which is passed off as the general will and evokes the notion of “war”; on the other, the realization that respect for life and the rights of citizens is good policing and increases safety. Elisete was institutionally rewarded, while Catiane’s recognition and popular satisfaction brought no such reward. We thus question whether the police incentive structure corresponds with society’s needs. Are police being encouraged to induce confrontation and lethality or is the violence an unavoidable consequence of “war”?

In fact, the police brutality and lethality in the State of Rio de Janeiro are incentivized by authorities and portrayed as the keys to effectiveness. The Secretary of Public Security of Rio de Janeiro State, Anthony Garotinho, has repeatedly declared that the police have to be forceful in combating crime, they cannot be “soft on crime”.<sup>49</sup>

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<sup>47</sup> Misse, Michel. *Como desarmar a violência policial?* Desarme: Notícias/Opinião. Rio de Janeiro, March 4, 2004. Available at <http://www.desarme.org/publique/cgi/cgilua.exe/sys/start.htm?infoid=3139&tpl=printerview&sid=16>

<sup>48</sup> Lemgruber, Julita. “*Violência, omissão e insegurança pública: o pão nosso de cada dia*”. Source: [www.cesec.uam.edu.br/publicacoes/zip/Julita](http://www.cesec.uam.edu.br/publicacoes/zip/Julita).

<sup>49</sup> “A polícia não vai fazer papel de banana”. O Globo. April 24, 2004.

## The Restriction of the Functions of the State's Oversight Agencies

Public security policies in Rio de Janeiro are primarily concerned with the maintenance of public order and a rigid control over the city's poorest population. For this reason, many times, the consequences of these policies result in the violation of human rights by state agents. The lack of transparency that permeates public policies in the area of security and the absence of independent and autonomous oversight agencies, contribute to the present state of terror and discredit with regard to the government's actions aimed at combating violence. Today, the police in Rio de Janeiro promote fear instead of security.

The government's oversight agencies should perform visits to areas in conflict, where the reporting of abuses and irregularities can gain visibility and provoke a response from those responsible for the government's actions. The principal functions of these oversight bodies are: prevention, the direct protection of victims, the documentation of cases and an open dialogue with public authorities to demand solutions. Thus, institutions like the State Secretariat of Human Rights, the Legislative Assembly's Commission on Human Rights and Citizenship, the Community Council, the Office of the Public Defender, and the Office of the Public Prosecutor, as well as countless other types of governmental and civil society

organizations are fundamental for the monitoring of the government's actions in the public security sphere.

In this sense, the situation in Rio de Janeiro has worsened. Institutions that carry out the functions of oversight agencies suffer persecution from the government. The greater the number of investigations of human rights violations against poor communities, the more defiant the government's position in dealing with oversight agencies. We turn now to some concrete examples.

In 2003, when the current administration took office, João Luiz Duboc Pinaud became the State Secretary of Human Rights and thus assumed responsibility for the Military and Civil Police and Fire Department Unified Oversight Office of the state of Rio de Janeiro.<sup>50</sup>

On August 25, 2003, in the offices of the Ary Franco prison, Chinese citizen Chan Kim Chang<sup>51</sup> was cruelly tortured by prison guards and died a few days later. On August 30, 2003, Pinaud was contacted by Minister Nilmário Miranda, from the Special Secretariat on Human Rights of the President's Cabinet, and immediately headed for Souza Aguiar Hospital where he found Chang in serious condition. Witnessing the victim's drastic state and aware that the government had up until then defended the position that Chang had inflicted his own wounds, Pinaud photographed Chang's lesions and sent them to the Office of the Public Defender in order to be used as evidence of torture.<sup>52</sup>

<sup>50</sup> Information provided to the Global Justice Center in an interview with João Luiz Duboc Pinaud on October 5, 2004.

<sup>51</sup> Official correspondence JG/RJ no. 33/04 sent by the Global Justice Center to the Un Special Rapporteur on Torture.

<sup>52</sup> *Ibid.*

These photographs were instrumental in enabling the Office of the Public Defender, on October 8, 2003, to file a case against the prison guards involved in the episode. This same week, Pinaud suffered a brain ischemia and remained hospitalized until October 17, 2003. On that same day, the governor of Rio de Janeiro, Rosinha Garotinha, announced that the Unified Oversight Office would no longer be associated with the State Secretary for Human Rights. On November 5, 2003, after much pressure, Pinaud was relieved of his post.<sup>53</sup>

The changes undergone in the Legislative Assembly's Commission on Human Rights and Citizenship also merit attention. In 2003, state deputy Alessandro Molon directed the Commission. Competently fulfilling his legislative oversight role, the deputy gave special attention to the most prominent cases of human rights violations. At the beginning of 2004, three cases gained special notoriety in this area.

On January 27, 2004, a student, Rômulo Batista de Melo, was arrested and tortured at police station n<sup>o</sup> 126 in Cabo Frio. He eventually died on the way back to Rio de Janeiro.<sup>54</sup> On February 16, fifteen military police officers savagely tortured Nélis Souza at his house, in the Favela da Coroa neighborhood.<sup>55</sup> On February 22, three young men were executed by police officers from the Special Operations Battalion in the Favela da Rocinha. In all

of these cases, the state representative Alessandro Molon came to the scene of the crime, interviewed families and witnesses and granted innumerable interviews.<sup>56</sup>

A little while after these events, the president of the ALERJ (Legislative Assembly of Rio de Janeiro), a state body which would normally not be concerned with issues concerning the presidency of the Human Rights Commission, announced that there would be changes in the presidency of some commissions. State representative Alessandro Molon was removed from office and substituted by state representative Geraldo Moreira, who belonged to the governing party, leaving no doubt that the Human Rights Commission's mode of operation would be altered.<sup>57</sup>

Moreover, the penitentiary service centers ("núcleo de atendimento do sistema penitenciário") - established by the Office of the Public Defender - have become fundamental pillars for the protection of human rights as well as an ethical reference for all public agencies. Both the Office of the Public Defender and the Community Council were asked innumerable times by the public authorities to assist in the negotiations during prisons rebellions with hostages. In all cases where these agencies acted as negotiators, along with the representatives of the BOPE (Special Operations Battalion), there was never a need to invade a prison unit nor were there any deaths registered.

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<sup>53</sup> *Ibid.*

<sup>54</sup> Report bearing official number JG/RJ 33/04 sent by the Global Justice Center to the UN Special Rapporteur on torture, February 13, 2004.

<sup>55</sup> Report bearing official number JG/RJ 47/04 sent by the Global Justice Center to the UN Special Rapporteur on torture, March 8, 2004.

<sup>56</sup> E-mail sent by the Office of the State Representative Alessandro Molon to the Global Justice Center, October 4, 2004.

<sup>57</sup> *Ibid.*

Between May 29 and May 31, 2004, the rebellion in the Benfica prison took place. Benfica was a recently inaugurated detention center where the government mixed rival criminal gangs in the same unit.<sup>58</sup> Both the Office of the Public Defender and the Community Council had expressed their opposition to this policy of the state government. In this rebellion, the BOPE's negotiators once again requested the presence of the coordinator of the penitentiary service centers, Public Defender Eduardo Gomes, and of the president of the Community Council, Marcelo Freixo. The rebellion had a terrible outcome: a total of 30 prisoners and 1 guard died. The negotiators were removed during the rebellion and were replaced by an evangelical pastor sent directly by the State Secretary of Public Security. The Community Council and the Office of the Public Defender were not allowed to be present during the police review of the unit. Both the president of the Community Council and the coordinator of the Office of the Public Defender granted various interviews criticizing the way the negotiations had been conducted and the access restrictions imposed to the public agencies.<sup>59</sup> The next month, Eduardo Gomes was replaced as coordinator of the penitentiary service centers.

On July 10, 2003, the management of DEGASE<sup>60</sup> circulated an internal memorandum which mentioned that: "By express decision of His Excellency the Justice State Secretary, Dr. Sérgio Sveiter,

we inform the directors that ... the entrance of any authority, at whatever hour of the day or night, without the knowledge, express authorization or presence of His Excellency the Justice State Secretary or any other authority by him designated, is prohibited". This memorandum was circulated after the unannounced visit of the Public Prosecutor at the Escola Padre Severino, an internment unit for delinquent adolescents. In 2004, the coordinator for child and adolescent issues at the Office of the Public Prosecutor, Agnes Mussliner, who had been behind the aforementioned visit at the Escola Padre Severino, was removed from office.<sup>61</sup> Also, the Union of Prison Guards of Rio de Janeiro, which has frequently denounced the horrible working conditions of the guards, has suffered various attempts to restrict their activities.

The last election of the union leadership saw the opposition win. The opposition made public the misconduct of prison officials, the lack of equipment and the poor quality of the training for prison officials. At the beginning of 2004, the new leadership approved a work stoppage, that was halted before it could go into effect by a lawsuit from the Secretariat of Prison Administration (Secretaria de Administração Penitenciária, SEAP). Recently, the Governor sent a proposal to the Legislative Assembly for a supplemental law (PL no. 14/2004) that would create disciplinary guidelines for SEAP staff. Two articles of this proposal are noteworthy. Article 55 prohibits employees from disclosing to the

<sup>58</sup>Global Justice Center electronic Bulletin Nº. 10, June 2, 2004.

<sup>59</sup> *Ibid.*

<sup>60</sup> Sistema Estadual de Atendimento de Adolescentes em Conflito com a Lei (State System of Assistance for Delinquent Adolescents).

<sup>61</sup> E-mail sent by the Office of the State Representative Alessandro Molon to the Global Justice Center, October 4, 2004.

media facts or information about services or tasks in process in any part of the penitentiary system, unless approved by their superiors. Article 56 would impede employees from publicly agreeing or disagreeing with any authorities, as well as coercing or enticing employees with the objective of disturbing the normal operations of the prison system (such as encouraging them to join a strike), or meeting in locations near to prisons for that purpose. This proposal was already approved by the Constitutional and Judicial Commission of the Legislative Assembly and continues to make its way through the State Assembly.

It is important to underscore the persecution and censorship suffered by the Community Council of Rio de Janeiro County, which is an independent organization authorized by the National Prison Law created to oversee prison conditions.

In the City of Rio de Janeiro, the Council was created by the Criminal Court Judge in 1992, and includes 27 organizations. Recently, the Council added new organizations and has become one of the most active participants in the criminal justice system. Carrying out an average of three prison visits per month, the Council has become instrumental in denouncing human rights violations through its reports to the Criminal Court Judge. Prisoners, Prisoners' families as well as the media have come to view the Community Council as an ethical reference regarding prison issues.

In July of 2004, the Secretary of Prison Administration, Astério Pereira dos Santos,

sent an official letter<sup>62</sup> to the Criminal Court Judge, criticizing the number of media interviews granted by the Council President and questioning his legitimacy on the Council, as a resident of a neighboring municipality. This correspondence, from the highest levels of the state government, expressly asked the Judge to disband the current Council and nominate a new President who would make the Council more of an aid organization, providing personal hygiene products and mattresses for prisoners who are without.

Article 37 of the Brazilian Constitution states that “the direct or indirect Public Administration of the Federal Government, the States, the Federal District and the Municipalities shall follow the principles of legality, equal treatment, morality, openness and effectiveness.”

The principle of openness refers to knowledge regarding the government's actions, such that all can participate in public life. It is fundamental that all of the oversight bodies act autonomously and independently, so that the government be systematically monitored, guaranteeing improvements in government performance and democratic practices.

### **Distortion of legal instruments: an attempt for legal legitimacy**

The criminalization of poverty also finds accommodation in the judicial realm, in which “red tape” is overcome in order to heed the logic of the policies of safety in question, maximizing the “war”, the “other” and “lethality”. The judiciary is

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<sup>62</sup> Official Correspondence to Regular Judge of the Criminal Court, Carlos Augusto Borges, on July 23, 2004.

manipulated by authorities that seek better results through increasingly “hard-line” actions, without acknowledging questions regarding due process. The judiciary is often a willing partner to this undermining of the rule of law. Three legal instruments have been particularly prone to distortion in Rio de Janeiro and should be highlighted: *resisting arrest*, the crime of *association with drug trafficking*, and the *general search warrant*.

A more lengthy analysis of these three legal distortions follows:

### ● Resisting Arrest

The police document called “resistance to arrest” – a form used to register cases of armed resistance that occur during police activities<sup>63</sup> – consists, in practice, of a tool used by many police authorities to hide summary executions resulting from police abuse in the course of fulfilling their duties.

We will consider the various aspects of this tactic to show the breadth of the misrepresentation. The first factor is the distortion of its function, which is extended to its limits by the police authorities. While the form is to be used to register an occurrence of armed resistance, the “armed resistance” forms have fulfilled another role in the State of Rio de Janeiro: they are being used to register *any death* – the result of resistance or not – caused by a police officer. The overuse of this document not only obscures the circumstances that led

to the officer’s use of lethal force by placing all police shootings in the same category, but also contributes to the mischaracterization of homicides committed by the police. As Michel Misse has said, “*these deaths are not classified as a crime but rather as a result of legal security operations*”.<sup>64</sup>

Another factor relates to the characterization of the victim. In all cases of “*resisting arrest*”, the police officer is classified as the victim of a homicide attempt, even when it is used to explain killings by police. The wide acceptance and perpetuation of this practice demonstrates that it is enabled by those in higher positions within the state government of Rio de Janeiro.

It is worth mentioning a recent study conducted by Ignacio Cano on the use of lethal force by police. In about 50% of the cases he researched, the victims were found with four or more bullet perforations, with shots in the back or in the head, clearly indicating summary executions.<sup>65</sup>

Some police shootings are classified under other crimes, where the death is merely a side note in a report on a theft, for example.<sup>66</sup> This problem of lack of transparency is especially worrisome if we consider that the official statistic of police killings only accounts for those cases labelled as “*resisting arrest*”, and that that it does not include those that were registered as other crimes and the deaths that were not registered at all.

<sup>63</sup> Proceeding initially regulated during the military dictatorship by the Order of Service no. 803 of October 2, 1969, published in the Service Bulletin of November 21, 1969

<sup>64</sup> Misse, Michel. *Como desarmar a violência policial?* Desarme: Notícias/Opinião. Rio de Janeiro, March 4, 2004.

<sup>65</sup> CANO, Ignacio: *Letalidade da Ação Policial no Rio de Janeiro*, ISER, 1997, Rio de Janeiro.

<sup>66</sup> Cano, Ignacio: *Letalidade da Ação Policial no Rio de Janeiro*, ISER, 1997, Rio de Janeiro.

For these reasons, “resisting arrest” is a tool that has been used for years to cover up crimes committed by the police and to absolve them of criminal responsibility.<sup>67</sup> It also makes the construction of a more democratic process difficult by hindering transparency, and contributes to an oppressive and abusive relationship between the citizen and the State.

The paperwork that classifies a crime as “resisting arrest”, must be modified in favour of more precise documents, that allow each death that occurs following police action to be investigated and penalized where appropriate; as it stands now, it represents an impediment to justice.

### ● The Crime of Association with Drug Trafficking

With the context of state government efforts to establish tighter control over marginalized communities, it is impossible

to ignore arbitrary accusations of “association with drug trafficking.” Section 14 of Act 6368/76 prohibits:

*The association of 2 (two) or more persons with the purpose to commit, repeatedly or not, any of the crimes described in sections 12 or 13*<sup>68</sup>

By decision of the State Government<sup>69</sup>, the crimes committed during demonstrations by *favela* residents, which are often in response to police violence in the communities and include blocking road traffic, or eventually destroying buses, are usually classified as crimes of association with drug trafficking. This classification provides for a more severe punishment than the old one (property damage) – but also precludes the possibility of release on bail. This is yet another example of how the state government generalizes so as to link poverty to crime, characterizing all demonstrations by the *favela* residents as ones of solidarity and complicity with the

<sup>67</sup> The jurist Sérgio Verani is the author of a book that analyzed the “resistance to arrest” cases in the 70s and 80s, and who documented, already at this time, the same negative effects that we highlight in this report. Verani, Sérgio. *Assassinatos em nome da Lei*.

<sup>68</sup> Section 12. [translation] To import or export, remit, prepare, produce, fabricate, obtain, sell, show or offer, provide even if for free, have in storage, transport, carry with oneself, keep, prescribe, administer or deliver, by any manner, the consumption of substance with psychotic effects or which causes physical or psychological dependency, without authorization or contrary to legal or regulatory dispositions; Punishment – Jail for 3 (three) to 15 (fifteen) years, and payment of 50 (fifty) to 360 (three hundred and sixty) days-fine.

§ 1º Incurs the same punishment he or she who, unduly:

I – Imports or exports, remits, produces, fabricates, obtains, sells, shows or offers, provides even if for free, has in storage, transports, carries with oneself or keeps, primary material destined for the preparation of substance with psychotic effect or which causes physical or psychological dependency;

II – Sows, cultivates or collects plants destined to the preparation of substance with psychotic effects or which causes physical or psychological dependency.

§ 2º Incurs the same punishment also he or she who:

I – Induces, instigates or assists someone to use substance with psychotic effects or which causes physical or psychological dependency.

II – Uses property he or she owns, possesses, administers, guards or watches, or consents that someone uses such property, even if for free, for the undue use or illicit traffic of substance with psychotic effects or which causes physical or psychological dependency.

III - Contributes in any manner whatsoever to stimulate or spread the undue use or illicit traffic of substance with psychotic effects or which causes physical or psychological dependency.

Section 13. To fabricate, obtain, sell, provide even if for free, possess or keep, machines, apparels, instruments or whatever object destined to the fabrication, preparation, production or transformation of substance with psychotic effects or which causes physical or psychological dependency, without authorization or contrary to legal or regulatory dispositions:

Punishment: Jail for 3 (three) to 10 (ten) years, and payment of 50 (fifty) to 360 (three hundred and sixty) days-fine.

<sup>69</sup> On March 1, 2004, by decision of the State Secretary of Public Security, Anthony Garotinho, the district police stations started to inculcate all persons accused of stoning or setting fire to buses of the crime of association with drug trafficking, of the type without possibility of bail. Before, the prisoners were accused of causing damage to property, could pay for bail and served their sentence for the crime in the community. Source: Civil police of the State of Rio de Janeiro. See: <http://www.policiaacivil.rj.gov.br/noticia.asp?id=1088>

local drug traffickers. Even if these demonstrations were in fact linked with organized crime, it would not be reasonable to treat them similarly, since the protests generally result from the residents' pain and outrage following police incursions, which commonly end with summary executions.

Implicit in this decision is the intent to demobilize and discredit the public criticism of police actions and the groups organized to fight for justice, who are indiscriminately categorized as "baderneiros", or as belonging to a group of vagrants, criminals, associated with drug trafficking. Since this practice was implemented, the elasticity with which this article was applied by the police, judges and prosecutors leaves no doubt that its intent is to indiscriminately arrest desperate mothers and community leaders who denounce police brutality in their communities.

Needless to say, this new interpretation of Section 14 of Act 6368/76 provides authorities with a strong instrument of threat and coercion that could be utilized to regulate the private lives of residents of these communities. One example of this followed the death of drug trafficker Lulu da Rocinha at the hands of the Special Operations Battalion of the Military Police. The State Secretary of Public Security put together a special security scheme to accompany the funeral procession and burial; one hundred military police were deployed to police the event while agents from the civil<sup>70</sup> police infiltrated the group of residents.

This broadening of the definition of association with drug trafficking is illegal, since under Brazilian law, a legal norm cannot be interpreted more widely than it is generally understood, if doing so would be prejudicial to the person who is subjected to it. However, it is not within the power of the executive branch to interpret the law nor to influence a new application of it, as it is not the role of the Public Prosecutor, watchdog of the law, nor to the judiciary, who applies it, to keep silent or subject themselves to such an attitude of the executive.

What we can infer from this is that even amongst legal officers there is much prejudice and a tendency to label *favela* residents as having little or no moral integrity.

### ● General Search Warrant

The recent invention of the "general search warrant"<sup>71</sup>, is an example of the most significant departure from the norms of Brazilian procedural law.

The search warrant, be it general or collective, is one more distortion, among the many in the code of criminal procedure used by the police, with the support of the judicial authority and the silent complicity of the government of the state of Rio de Janeiro. This search warrant is formulated in such general or generic terms that it essentially allows the police to invade any residence or conduct searches of residents without individualization or specificity, even before a police investigation has been conducted.

<sup>70</sup> "Tensão e aplausos marcam enterro de traficante no Rio", Folha de S.Paulo newspaper, April 15, 2004.

<sup>71</sup> Also known as "collective search warrant".

The Brazilian legal system determined that a search warrant, pursuant to articles 240 and 340 of the Criminal Penal Code, entails a “residence or personal”<sup>72</sup> search, and, “as precisely as possible the house where the search will be conducted, or in the case of an individual search, the name of the person who is to be searched or signs that identify him,”<sup>73</sup> in addition to “mentioning the motives and ends of the search.”<sup>74</sup>

Through legal fiction, however, the specificity and purpose of the warrant has been distorted by making general references, commonly targeted against *the entire community*- which essentially means that any resident is considered a suspect by the warrant. The general warrants are only requested and granted in accordance with social stigmatization, the construction of the “other”, the basis of criminalization of poverty. It is impossible to imagine such warrants being executed in the luxurious condominiums, of Barra da Tijuca- a middle to upper class neighborhood that has long been a drug trafficking site for the elite.

The original justification for this warrant was publicly expressed by judge Alexandre Abrahão Dias Teixeira – currently a judge in the Military Court – who issued the first warrant of this type in response to an anonymous report received by a crime hotline against the Grota Community, in an effort to capture a drug trafficker Elias Maluco, suspected of murdering journalist, Tim Lopes.

The judge issued the warrant, calling for the search of “the Residents Association of Grota, two green houses in the *favela* with specific locations, all the homes-without exception- located in the town, with an iron door, close to the Residents Association of the German Complex, a room, a bar, and a blue wooden door.”<sup>75</sup> The following excerpt from the decision merits emphasis:

*“Lastly, we emphasize that this emergency warrant is based on several similar complaints, probably made by humble and honest citizens from the local community who, undoubtedly outraged by the excesses of Elias Maluco and his gang, as well as by the unfortunate involvement of a corrupt fragment of the police with these spurious elements, look for the only way to react to the growing impunity in this country; that is, anonymous complaints!*

*Thus, this cry for help and justice raised by the people should be answered WITH URGENCY and RIGOR, not just by honest police, but also and principally by the courts, who, conscious and aware of the difficulties the police face in investigations and of the fragility of the citizens who dare to “denounce” the genetic trash who frighten, silence and kill, cannot simply distance themselves in order to discuss mere judicial constitutional guarantees.*

*In sum, now is the time for the Judiciary to show a shared interest in the struggle for social reconstruction, demonstrating total sensitivity for the social anxieties, which will work if and only if we take*

<sup>72</sup> Brazilian Criminal Penal Code, art. 240.

<sup>73</sup> Brazilian Criminal Penal Code, art. 243, paragraph I.

<sup>74</sup> Brazilian Criminal Penal Code, art. 243, paragraph III.

<sup>75</sup> Decision in case 2002.001.084808-6 against Elias Maluco, before the 1<sup>st</sup> Jury Tribunal of the City of Rio de Janeiro, by judge Alexandre Abrahão Dias Teixeira, on August 28, 2002.

*effective, suitable and swift action in order to put an end to this public imbalance.*<sup>76</sup>

It is interesting to note how the collusion of the courts in relation to the abuses occurring in destitute communities comes, principally, from a distorted perception of the residents -- that frequently costs them their life, health or dignity.

Thus, like all measures adopted in a moment of crisis or because of a supposed "civil war," the warrants were generalized and ended up becoming part of the regular arsenal used by the Rio de Janeiro Police, with the judiciary's approval. There is no doubt that these warrants are not validated by the Brazilian Federal Constitution (Article 5) or criminal procedural law (Articles 240 to 250 of the Code of Criminal Procedure).

To demonstrate the arbitrary and illegal nature of the above judicial decision, we present another judicial decision, by judge Joaquim Domingos de Almeida Neto, of the 29<sup>th</sup> Criminal Court of Rio de Janeiro:

*"The procedural order has been reversed. Instead of investigating and afterwards granting an extremely limited warrant, the petitioner is trying to use the arrest to justify the investigation, which is impossible. You cannot give the investigator a blank check (a generic warrant), especially when you are dealing with constitutional guarantees. All evidenced derived from such a warrant will be void."*<sup>77</sup>

<sup>76</sup> *Ibid.*

<sup>77</sup> Reasons for judgment of Judge Joaquim Domingos de Almeida Neto from the 29th Criminal Court, dismissing the request from the Public Prosecutor for a generic warrant, in case 2003.001.090811-5, August 6, 2003. Judge Joaquim called the Prosecutor's evidence as imprecise as the warrant he requested. The request was baseless, and specified neither who was under suspicion nor what they were under suspicion of.

<sup>78</sup> "OAB repudia busca e apreensão em escritório de advocacia", *Expresso da Notícia*, October 9, 2003. See <http://www.expressodanoticia.com.br/conteudo.asp?Codigo=2093>

Unfortunately, many judges do not agree with this opinion and have contributed, by issuing such itinerant or generic warrants, to a policy of covering up police operation in the *favelas*. Apart from its illegality, the most worrisome aspect of this instrument is the support it has engendered among several members of the judiciary in the repression that occurs in the poorest communities of Rio de Janeiro. By allowing or supporting the issuance of these types of orders, these judges end up confer official approval upon the invasion of any *favela* residence or the search of any resident or citizen with no specificity. The judiciary therefore should assume responsibility for the damages suffered and the violations of rights that occur as a result of the warrants they issue, including the destruction of property, injuries and deaths. The spurious warrants also allow for the conviction of people based on illegally and unconstitutionally obtained evidence.

It goes without saying that when this type of policy affects members of the more privileged classes of society, the reaction is strong and immediate. On October 3, 2003, the Rio de Janeiro chapter of the Brazilian Bar Association ("OAB-RJ") issued a press release repudiating the generic search and arrest warrant issued against "a prestigious law firm where many lawyers work and whose clients include hundreds of individual and corporate clients."<sup>78</sup> In this

case, the OAB-RJ expressed its indignation that the judicial order “makes *tabla rasa* of the presumption of innocence and, without proving guilt, imposes on the legal community, on prosecutors and all of their associates, partners and employees, unprecedented constraints, which, in theory, should only tolerated against those who in fact have been involved in some illicit activity.”<sup>79</sup> The OAB-RJ mentioned that it was considering the possibility of filing a complaint against the federal judge who issued the search and arrest warrant.

\* \* \*

The state uses violence in large scale as a form of social control and in an effort to combat crime, but also manipulates law to carry out its goals. The legal distortions, imposed arbitrarily on the population, arise from the state’s attempt to legitimate its actions, which have no legal nor logical basis and highlight the absence of effective policies for public safety.

A study by Julita Lemgruber indicates that the policies on confrontation designed by the police of Rio de Janeiro State have no impact on the reduction of homicide.

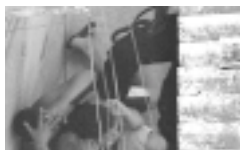
In 1999, the number of killings by police officers was 289, and the homicide rate in the state was 42.9 per 100,000 inhabitants. In 2003, the police killed 1,195 people and the homicide rate was 42.9 per 100,000 inhabitants.<sup>80</sup> In other words, the increase in the number of cases of resisting arrest had no impact on the homicide rate, which also continues to increase. Human rights violations in poor communities are still described as a natural result of a *different reality*, and not part of the larger picture. This is due to the fact that the police have the liberty to act with impunity in those neighborhoods.

The military dictatorship, which terrorized Brazil for 40 years, is today the object of embarrassment for the country. Despite the reforms targeted at the authoritarian practices imposed by the military government - demonization of victims, indiscriminate use of violence, redaction of documents without legal authorization- it is reasonable to conclude that these practices are being used in Rio de Janeiro today. The growing tendency to try to resolve social problems through the use of authoritarian force is very worrisome and should be fundamentally changed by public authorities.

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<sup>79</sup> *Idem.*

<sup>80</sup> Lemgruber, Julita. “*Violência, omissão e insegurança pública: o pão nosso de cada dia*”. [www.cesec.ucam.edu.br/publicacoes/zip/Julita](http://www.cesec.ucam.edu.br/publicacoes/zip/Julita)



## Chapter II

### Emblematic Cases of Police Violence in 2004

Conferring the status of “emblematic” on a case where human rights have been violated is generally problematic considering that the victims’ pain cannot be measured or qualified within any hierarchical framework. In that sense, to simply label a case as “emblematic” is to ultimately mischaracterize the victims, who are all equally important, and to contribute to a distorted understanding of the causes of violence.

However, the sense in which “emblematic” is used here does not refer to a previously and arbitrarily established order of importance but- given the frequency with which these violations occur on a daily basis in Rio de Janeiro-is representative of certain patterns of police action, which are discussed in the first chapter of this report. To that end, we made use of official statistics and documents, journalistic reports, procedural oversight of court cases, and extensive material obtained from interviews conducted by the Global Justice Center with victims, families and residents of the principal areas affected by violence in the State over the course of a year.



Fotos de Carlos Moraes, cedidas pelo Jornal O Dia, Rio de Janeiro

Operação policial no Morro da Providência,  
Rio de Janeiro, 27/09/04

Moreover, certain cases were also selected because they, in one way or another, had a significant impact in the media and among public authorities and civil society. Finally, the period contemplated in this chapter – January to September 2004 – not only allows for a discussion centered on real and concrete facts, but also serves as an update of cases of execution, torture and other forms of violence that have been presented in other reports published by our organization.<sup>81</sup>

<sup>81</sup> See the annual reports of the Global Justice Center: *Human Rights in Brazil 2000*; *Human Rights in Brazil*; *Human rights in Brazil 2002*; *Human Rights in Brazil 2003*; and the thematic report: *Report on Summary Executions in Brasil 1997-2003*, 2003.

■ **W. D. G. M., J. P. J., Flávio Moraes De Andrade, E. M. A. e José Manoel Da Silva – Caju – Rio de Janeiro, Capital**

On the night of January 6, 2004, the youths W. D. G. M., age 13, J. C. P. J., age 16, Flávio Moraes de Andrade, age 19, E. M. A., age 17, and José Manoel da Silva, age 26, were gathered playing a game of dominoes near a grocery store in the Parque da Alegria complex, located in the neighborhood of Caju in Rio de Janeiro, when two military police officers arrived suddenly and opened fire leaving the youths helpless and with no time to respond.<sup>82</sup>

According to information provided by family members, witnesses claim that the youngsters tried to identify themselves.<sup>83</sup> They asked to be taken to their homes so that they could provide their documents but were ignored. Evidence confirms that the execution took place in the same location where the youngsters were gathered.<sup>84</sup>

There was a sixth victim who survived the attack; William Borges dos Reis was also shot by the police, but managed to escape and was aided by neighbors.<sup>85</sup>

On the morning of January 7<sup>th</sup>, three of the five bodies were found in a swamp located behind the garage of a bus agency in the same community of Caju. This is a deserted locale, and an unlikely place for anyone to be present to witness when, or more importantly by whom, the bodies were left behind. The other two bodies were taken to Hospital Souza Aguiar and identified by police officers as suspected drug traffickers that were killed in an exchange of gunfire with police.<sup>86</sup>

The bodies of the victims left in the swamp remained exposed for many hours before they were taken to the Legal Medical Institute (Instituto Médico Legal, IML). During this time, family members waited by their sons' corpses when police officers arrived and appeared to be there to monitor them. Without regard for the pain and suffering of the families, one police officer remarked, "*One less pig for us to arrest.*"<sup>87</sup>

The incident was registered and, according to family members, the military police officers involved in the execution continue to work in the same community and were merely dispatched to different battalions.<sup>88</sup>

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<sup>82</sup> In total there were 11 military police officers involved in the events that took place that night in Caju. Global Justice Center's interview with Elizabete Maria de Souza on May 31, 2004.

<sup>83</sup> Id.

<sup>84</sup> "... in front of the grocery store Ribeiro...lots of blood spattered on the ground and pieces of brain and hair at the scene...walls smeared with blood..." Information provided by Elizabete Maria de Souza, W. M.'s sister, in a statement given at the 17<sup>th</sup> Police Station, May 04, 2004. Proceeding no. 017-00092/2004.

<sup>85</sup> Id.

<sup>86</sup> Global Justice Center's interview with Elizabete Maria de Souza on May 31, 2004

<sup>87</sup> Id.

<sup>7</sup> Id.

<sup>88</sup> Id.ked. , worked.Elizabete Maria de Souza on May 13, 2004y themselves.ajudicial, Summary, or Arbitrary Executions on July 20, 20

After the crime, some police officers from the 4th Battalion of Military Police visited the neighborhood's residents association where Elizabete Maria de Souza, Wallace's sister, worked.<sup>89</sup> Before the executions, police officers had never visited the association, which leads one to conclude that it was but another way to frighten Elizabete so that she would not denounce the actions of the police. She left her job at the association, preferring to protect her colleagues, who, justifiably, also felt threatened by the situation.

The sole survivor, William, gave his testimony soon after the incident. Initially he alleged that he was hit by a "stray bullet", but later, at the request of the families of the other victims, he returned to the 17<sup>th</sup> Police Station and recounted what had actually happened to him.<sup>90</sup> He confirmed that he had survived an execution carried out by military police officers. After his second deposition, William and all of his family moved from the neighborhood because they feared the constant presence of the same police officers. The last time that William was seen, in February 2004, he was still limping as a result of the shot fired at him on the night of the execution.<sup>91</sup>

Elizabete, W.'s sister, says that three months later during a march organized by the victims' mothers, police officers from the 4th Battalion of Military Police – the where the police involved in the execution work - attempted to stop the protest. They threatened neighbors so that they would not join the march and tore down flyers that had been posted by the protestors.<sup>92</sup>

The police inquiry started at the 17<sup>th</sup> Police Station,<sup>93</sup> but was transferred to the homicide division,<sup>94</sup> where, at the time of this publication, it is still being investigated. The proceedings for the administrative inquiry being conducted by the Joint Oversight Office of Civil and Military Police (Corregedoria Geral Unificada das Polícias Civil e Militar e do Corpo dos Bombeiros) is still in its investigatory phase.<sup>95</sup> The family members of the other youths who were killed continue to live in the neighborhood of Caju amidst the same police officers that executed their sons. The families have received no guarantee or protection whatsoever from the State for their lives or personal safety.<sup>96</sup>

The Global Justice Center sent an official notice (Official Correspondence JG/RJ no. 192/04) regarding this case to

<sup>89</sup> William undertook a forensic exam on his first visit to the police station. Information provided by Ms. Aldeci Andrade, mother of E. and Flávio Moraes de Andrade, to Global Justice during a visit to the State Secretary for Human Rights on August 7, 2004.

<sup>90</sup> William was shot in one of his legs. Information provided by Ms. Aldeci Andrade, mother of E. and Flávio Moraes de Andrade, to Global Justice during a visit to the State Secretary for Human Rights, on August 7, 2004.

<sup>91</sup> Global Justice Center's interview with Elizabete Maria de Souza on May 31, 2004

<sup>92</sup> Police Investigation no. 0092/20004.

<sup>93</sup> Police Investigation no. 027/20004.

<sup>94</sup> Military Investigation no. E-32/0674/0006/2004. Information provided by the Joint Oversight Office of Civil and Military Police (Corregedoria Geral Unificada)/ Secretary of Human Rights of the State of Rio de Janeiro (Secretaria de Estado de Direitos Humanos do Estado do Rio de Janeiro) Secretary of Human Rights of the State of Rio de Janeiro, protocol no. E-32/3281/0006/04

<sup>95</sup> Global Justice Center's interview with Elizabete Maria de Souza on May 31, 2004

<sup>96</sup> Information obtained from Police Inquisition no. 027/2004.

the Special Rapporteur for Extrajudicial, Summary, or Arbitrary Executions on July 29, 2004.

■ **Romulo Batista de Melo** – Cabo Frio, Rio de Janeiro.

On January 21, 2004, physical therapy student Rômulo Batista de Melo, 21 years of age, was imprisoned by the 25<sup>th</sup> Battalion of the Military Police, after being involved in a car accident in Cabo Frio, Lake Region municipality in Rio de Janeiro State. On January 27, 2004, he was transferred from the 126th Police Station to Rio de Janeiro City and died before making it to Rio.<sup>97</sup>

After the accident in Cabo Frio, Rômulo was imprisoned in the police station in São Pedro da Aldeia, a neighboring town. He was emotionally unstable at the time; to the extent that he attempted to commit suicide by standing in front of passing cars. The policeman<sup>98</sup> who tried to detain him had to ask for help from the firemen at the accident site because he was so perturbed and required special treatment.<sup>99</sup> The policeman decided to take Rômulo to the Municipal Hospital of São Pedro da Aldeia<sup>100</sup>, where he was given sedatives.

Later on, Rômulo was taken to the 126<sup>th</sup> Police Station in Cabo Frio, under

suspicion of car theft. His family was first allowed to see him two days after he was imprisoned. Rômulo appeared injured and exhausted, as if he had been drugged. According to the information of his mother, Márcia Batista de Melo, Rômulo had a cut on his forehead in addition to abrasions and scratches all over his body, knees, and wrists.<sup>101</sup>

The last time that Rômulo was seen by his lawyer, he was unconscious in the police station hall. When his lawyer asked why, the police responded that Rômulo was under the effect of a strong medication and needed to be taken to a more ventilated area.<sup>102</sup>

That same day, on January 27, 2004, Rômulo and another prisoner, Paulo César Fernandes de Souza, were transferred to the Psychiatric Hospital Heitor Carrilho, in Rio de Janeiro City. Renata da Silva Carreiro, another prisoner, was being transferred to the 124<sup>th</sup> Police Station in Saquarema, Rio de Janeiro State, and was in the same vehicle with the men. During the trip, the male prisoners were handcuffed and transported in the back of the truck and the female prisoner was in the back seat of the vehicle.<sup>103</sup>

Renata said that the policeman drove extraordinarily fast, even when passing over speed bumps and pot holes, which inflicted pain on Rômulo and Paulo since

<sup>97</sup> Military Policeman José Carlos S. de Andrade, R.G. 43, 111.

<sup>98</sup> Case no. 000520/0126/2004, 126<sup>a</sup> DP, Cabo Frio.

<sup>99</sup> São Pedro da Aldeia Municipal Hospital, patient no. 173, 21/01/04, 20:45.

<sup>100</sup> Information obtained by Rômulo's mother, Mrs. Márcia Batista de Melo, in a personal interview granted to the Center for Global Justice team on July 6, 2004.

<sup>101</sup> Ibid.

<sup>102</sup> Information obtained from Police Inquisition no. 027/2004.

<sup>103</sup> Report no. 218/04. Cited in Police Inquisition no. 027/2004.

they were in the back compartment with nothing to support themselves. According to her, Rômulo, screamed and shouted, and it seemed like he was “having a fit”.<sup>104</sup> The policemen drove so quickly that they got speeding tickets between Cabo Frio and Saquarema, as shown by the Department of Transportation (DETRAN). The policeman Jayro Alexandre Serrado Brito, who was driving, said that this was a way of “giving it” to Rômulo.<sup>105</sup>

According to the policemen, after stopping for lunch, they saw that Rômulo had a fever and claimed to be dizzy. They then moved him to the back seat of the vehicle. When they saw that his condition had not improved, they took him to the closest hospital, the Conde Modesto Leal Hospital in Maricá, Rio de Janeiro State. He was already in a coma when he was admitted to the Emergency Room, where he had two heart attacks and died.<sup>106</sup>

The physician’s report showed that the cause of death was head trauma with internal cranial hemorrhaging, probably stemming from accumulated causes, such as fever, dehydration, heat, and beating against the walls of the vehicle<sup>107</sup>. This shows complete disregard for the physical integrity of the prisoners who were being transported under the police officers’ care.

The policemen Jayro Brito, Francisco Mauricio, and Guilherme Casemiro were

denounced<sup>108</sup> for torture. At the point of publishing this report, the process is still awaiting judgement in the Criminal Court of the county of Cabo Frio. The officers have been in prison since September 17, 2004.<sup>109</sup>

On February 13, 2004, the Global Justice Center sent a bulletin (ofício JG/RJ n° 33/04) about the above case to the UM Special Rapporteur on Torture.

■ **Alexandre Firmino Souza , André da Conceição Oliveira and E. L. M., Pavão Pavãozinho, Rio de Janeiro.**

The *favela* Pavão-Pavãozinho is located next to the wealthiest area of Rio de Janeiro, between the neighborhoods of Copacabana, Ipanema, and Lake Rodrigo de Freitas, containing an estimated population of between 17 and 20 thousand residents and about 4,000 homes.<sup>110</sup> Like the majority of Rio de Janeiro’s *favelas*, it has always been a poor area, characterized by a lack of urban public works, the predominance of drug trafficking – selling posts for drugs are controlled by the gang “Red Command” (Comando Vermelho, CV) – and violent police behavior.

Back in May of 2000, when a police operation in the *favela* resulted in the execution of 5 youths and unleashed a revolt of thousands of residents that

<sup>104</sup> Police Inquisition no. 027/2004. Official Correspondence no 000194/2004-DRV-DETRAN/RJ.

<sup>105</sup> Police Inquisition no. 027/2004.

<sup>106</sup> Ibid.

<sup>107</sup> Process no. 2004011022760

<sup>108</sup> Information obtained by Rômulo’s mother, Mrs. Márcia Batista de Melo, in a telephone interview granted to the Center for Global Justice team, on Oct. 10, 2004.

<sup>109</sup> Information available at the Military Police website, <http://www.policiamilitar.rj.gov.br/gpae/historico.htm>.

<sup>110</sup> “O Descaso dos Governantes”, Ignácio Cano, April 13, 2004, available at [http://patricia.ead.fiocruz.br/elos/mural\\_msg.asp?tema=4&assunto=1](http://patricia.ead.fiocruz.br/elos/mural_msg.asp?tema=4&assunto=1)

descended to protest on the streets of Copacabana, terrifying the middle and upper class, the government of Rio de Janeiro was forced to launch a pilot program in Pavão Pavãozinho. This program discarded the old model of “flash” incursions by the police and provided permanent policing for the residents in these communities: the Police Unit for Special Areas (Grupo de Policiamento em Áreas Especiais – GPAE).<sup>111</sup>

Designed by the ex-State Secretary for Public Security, Luís Eduardo Soares, and coordinated, at the time, by sociologist and Chief of the Military Police, Antônio Carlos Carballo, the GPAE was established in the communities of Pavão-Pavãozinho and Cantagalo in September of 2000. The original purpose of the group was based on the continued effort to implement new strategies of prevention and introduce Community Policing.<sup>112</sup> Essentially preventative, and only later repressive, the group initially relied on the integration of services, the mobilization of institutions, community leaders and other personnel that could contribute to social development.<sup>113</sup>

In the first years of its existence, the commitment of the first leaders of the

GPAE enabled the project to obtain significant results. For months, shootings and fatal victims were practically non-existent, thus reducing the number of homicides and accidents from stray bullets to zero.<sup>114</sup> Approximately 50 police officers were fired because of strong evidence of corruption, and for police actions perpetrated against civilians, characterized by arbitrary violence, the excessive use of force and abuse of power.<sup>115</sup>

Meanwhile, the public authorities’ negligence and the first changes to the group’s leadership contributed to the initiative’s decline. The shootings picked up again and residents began to denounce abuses committed by officers of the GPAE: the invasion of homes, lack of identification and failure to wear Military Police uniforms; the use masks to hide the officer’s identity, and the carrying of heavy artillery; as well as extortion and mistreatment of residents. According to the President of the Residents’ Association of Pavão-Pavãozinho and Cantagalo, Maria Alzira Barros do Amaral, in February of 2004 a document listing complaints against the Military Police’s behaviour in the community was filed

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<sup>111</sup> Information also available from the Military Police website, <http://www.policiamilitar.rj.gov.br/gpae/doutrina.htm>, and <http://www.policiamilitar.rj.gov.br/gpae/historico.htm>

<sup>112</sup> “Um novo cotidiano para as favelas cariocas,” 2001, report retrievable from <http://www.comciencia.br/reportagens/violencia/vio03.htm>

<sup>113</sup> *Ibid.* From only January to September of 2000, 10 homicides were registered at this locale.

<sup>114</sup> <http://www.comciencia.br/reportagens/violencia/vio03.htm>. According to Major Carballo, through the GPAE, with attention given to the community’s demands and expectations and communication between the community and the general public, followed a reduction in residents’ fear of the police. A series of benefits were brought to the community such as, visible, regular and interactive police presence; reduction of the presence of firearms on the streets of the community; reduction of the number of children involved in criminal activity; reduction of the cases of police involvement in incidents of abuse, arbitrary violence and abuse of power; inclusion of more than 100 families in the State Government Food Program (Programa de Segurança Alimentar do Governo do Estado (Programa Cheque-cidadão); 180 youngsters were recruited and signed up, between the ages of 16 and 24, in Programs for the Increased Education and Professional Proficiency (Programas de Aumento de Escolaridade e Capacitação Profissional, Programa Todos pela Paz); construction of the Hope for Children Space (Espaço Criança Esperança), initiated by Unicef, in conjunction with Gpae, The State Secretary for Social Action (Secretaria de Estado de Ação Social) and Viva Rio.

<sup>115</sup> “Entidade fez queixas há duas semanas”, *Folha de São Paulo*, March 5, 2004.

with the Office for Public Security of the State of Rio de Janeiro, but no measures were taken to inhibit the illegal practices or capture the defiant police officers.<sup>116</sup>

The most devastating consequence of the GPAE's disparaging behaviour soon became apparent: on March 3, 2004: officers from the GPAE were accused by residents of inciting a shooting and executing three youths in the *favela* of Pavão-Pavãozinho.<sup>117</sup>

According to the secretary of the Association of Residents of Pavão-Pavãozinho, Maria Fernanda Duarte Faustino<sup>118</sup>, events began at approximately 7 p.m. on March 3, 2004 when residents heard the first fireworks<sup>119</sup>. Two minutes later, officers from the GPAE appeared with their guns shooting. Since they were already under investigation for misconduct, they were not in uniform, had their faces painted, wore black shirts and berets, and were heavily armed. The justification for the act, presented by Chief Marco Aurélio dos Santos and not confirmed by residents, lies in the claim that when police officers arrived at the 5<sup>th</sup> Police Station, traffickers armed with rifles, revolvers and guns immediately surrounded them.<sup>120</sup>

Afterward, officers from the 19<sup>th</sup> and 2<sup>nd</sup> Battalion of the Military Police and the Special Mobile Tactics Unit (Grupamento Especial Tático Móvel – GETAM) joined the officers from the GPAE and began climbing up to the *favela*. At that time, many officers were impeded from entering by residents who, fearful of a tragedy of even greater proportions descended the *favela* and blocked off its entrance in the neighbourhood of Copacabana, among them were many women and children.<sup>121</sup>

During the operation, youths Alexandre Firmino Souza, E. L. M. and André da Conceição Oliveira died. Alexandre was apprehended when he was drinking beer at a bar. The police arrived ordering everyone except Alexandre to evacuate. They then fired at Alexandre Firmino from point blank range. He did not die instantly, so they took his body to the woods, where they tortured and executed him.<sup>122</sup> Another resident confirmed that Alexandre Firmino was killed by beatings: “After sustaining one gunshot, police officers tied a black plastic bag around his head and began to beat him”.<sup>123</sup> Alexandre was 27 years old, worked as a janitor in a building in Copacabana and left behind two young children.<sup>124</sup>

<sup>116</sup> “Tiroeio deixa três mortos em Copacabana”, *Folha de São Paulo*, March 4, 2004.

<sup>117</sup> Maria Fernanda Faustino's testimony to the Global Justice Center on August 5, 2004 at the Association of Residents of Pavão-Pavãozinho and Cantagalo.

<sup>118</sup> In Rio's favelas, setting off fireworks is an alert signal used by traffickers to warn that police are entering the favela and drugs should be hidden. Because of the threat of shoot outs and stray bullets, the signal also serves as a warning for residents, who are not involved in drug trafficking, to evacuate the roads.

<sup>119</sup> “Oito PMs presos por mortes em Copacabana”, *O Globo*, March 3, 2004.

<sup>120</sup> “Terror em Copacabana”, *O Dia*, March 3, 2004.

<sup>121</sup> Maria Fernanda Faustino's testimony to the Global Justice Center on August 5, 2004 at the Residents of Pavão-Pavãozinho.

<sup>122</sup> “Terror em Copacabana”, *O Dia*, March 3, 2004.

<sup>123</sup> “Oito PMs presos por mortes em Copacabana”, *O Globo*, March 6, 2004.

<sup>124</sup> Selling post for drugs commonly known as “Boca de fumo”.

André Conceição de Oliveira, 26 years of age, was executed in front of a drug-selling post.<sup>125</sup> He was a former street cleaner in the community, the father of five children between the ages of 1 and 9 years old and was searching for a job at the time of his death. E. L. M., 17 years old, was shot near the 5<sup>th</sup> District Police Station. According to his mother, the artisan Josinete Araújo, he worked helping his parents in the Ipanema Fair and was survived by his girlfriend who was six months pregnant.<sup>126</sup> According to witnesses, there was no provocation by the victims to motivate this violent police behaviour.<sup>127</sup> After the shooting, the police officers walked down the *favela* carrying the three victims, already dead, to the Miguel Couto Hospital.<sup>128</sup>

According to the members of the GPAE, they allege that the three men had all provoked their own deaths. The commander of the GPAE at the time, Chief Marco Aurélio, argued that all three men were drug traffickers and that they were found to be in possession of two guns and a revolver. None of them had a criminal record, however, and Alexandre Firmino had no involvement whatsoever with drug trafficking, a point that was publicly admitted by the Secretary for Public

Security of Rio de Janeiro, Anthony Garotinho.<sup>129</sup>

On the following day, March 4, 2004, nearly 300 people participated in a protest against violence that essentially closed off Avenida Nossa Senhora de Copacabana. On the same day, a committee of residents met with the Secretary, Anthony Garotinho, and Under Secretary for Public Security, M. Itagiba, at around 4 p.m., to report the facts and request that immediate measures be taken.<sup>130</sup>

With regard to the residents' protest against the police operation and the death of the three youths, the Office of Public Security's response was illogical and only served to reinforce the already heated discourse against the *favela* residents. Instead of taking urgent and necessary measures, Anthony Garotinho's public statement in the press claimed that the protestors, identified through television footage, were to be accused for their association with drug trafficking.<sup>131</sup>

On the following day, March 5, 2004, the highest Police Inspector, Colonel João Carlos Ferreira was in the *favela* carrying out an investigation and listening to testimonies from residents and the victims' family members. On the same day, the Chief of the Military Police at the time,

<sup>125</sup> "Oito PMS presos por mortes em Copacabana", *O Globo*, March 6, 2004.

<sup>126</sup> Maria Fernanda Faustino's testimony to the Global Justice Center on August 5, 2004 at the Association of Residents of Pavão-Pavãozinho.

<sup>127</sup> *Ibid.*

<sup>128</sup> "Morto em tiroteio era inocente, diz garotinho", *Folha de São Paulo*, March 5, 2004.

<sup>129</sup> "Moradores descem morro para protestar", *Folha de São Paulo*, March 15, 2004. Maria Fernanda Faustino's testimony to the Global Justice Center on August 5, 2004 at the Association of Residents of Pavão-Pavãozinho.

<sup>130</sup> "Oito PMS presos por mortes em Copacabana", *O Globo*, March 6, 2004. Information provided by the Deputy Oversight Officer Sergio Antunes Barbosa to the Military and Civil Police Unified Oversight Office on July 13, 2004. The investigation set up by decision (Portaria) 140/2538-04 to investigate disorder in the neighbourhood of Copacabana, apparently promoted by residents of the Pavão Pavãozinho community. Both investigations are under way.

<sup>131</sup> Administrative imprisonment means that the police officers are imprisoned within their corporation, in this case the Military Police. This is not an arrest ordered by a judicial authority.

Colonel Renato Hottz, ordered the administrative imprisonment<sup>132</sup> of eight police officers of the GPAA upon the discovery of ninja-like masks and black shirts in their lockers which do not constitute part of their standard uniform.<sup>133</sup> There was a line-up at the Residents' Association office at which the residents recognized all eight Military Police officers.<sup>134</sup>

With regard to the investigations and the proceedings of the inquiry, on July 7, 2004 the Military and Civil Police Unified Oversight Office, replied to a Global Justice Center's official correspondence<sup>135</sup>, confirming that "*in consulting the Rio de Janeiro's Military Police report, n° 19, from 03/08/04, the punishment of the following military police officers was confirmed: 1<sup>st</sup> Lieutenant PM RG 63402 Antônio Ludogero da Silva Neto, Soldier PM RG 68181 Arnaldo Damião Cavalcanti, Soldier PM 60339, Marco Aurélio Régis, Soldier PM RG 74527, Rogério do Carmo Vieira, Soldier PM RG 79127, Vínicius Fernandes da Cunha Braga, Soldier PM RG 79155,*

*Wallace Simas das Neves, Soldier PM 68128, M. Rolemberg da Costa, Soldier PM RG 77833, Carlos Felipe Jacobs, Soldier PM RG 78402, Kleicy Iayangle de Castro Maia, Soldier PM RG 64021, Bruno César Pinheiro Cladeira, Soldier PM RG 65500, Maurício Ramos de Oliveira and Soldier PM RG 78746 Carlos Alberto Peixoto Filho, all from the GPAA, for unauthorized possession of unfit materials for use in the preservation of the public order, which culminated in the event noted by the newspaper O Dia, in the neighbourhood of Copacabana on 03/03/04."*

Regarding the investigation initiated by the 13<sup>th</sup> Police Station, and headed by Officer Ivo Raposo, no additional information was provided.<sup>136</sup>

According to the residents, a month later the same police officers were back on duty in the community.<sup>137</sup> Major Marco Aurélio of the GPAA was suspended, but was replaced by tenant Antônio Ludogero da Silva Neto, who was responsible for the operation on March 3 of this year.<sup>138</sup>

<sup>132</sup> *Ibid.*

<sup>133</sup> Maria Fernanda Faustino's testimony to the Global Justice Center on August 5, 2004 at the Association of Residents of Pavão-Pavãozinho and Cantagalo.

<sup>134</sup> Official correspondence JG/RJ no. 189/2004 to the Military and Civil Police Unified Oversight Office.

<sup>135</sup> Information provided by the Deputy Oversight Officer Sergio Antunes Barbosa to the Military and Civil Police Unified Oversight Office on July 13, 2004. The inquiry begun through the decision (Portaria) e-09/096/2558/04, investigated evidence obtained through the operation carried out by the Office of the Inspector General (SSP), in the GPAA's headquarters, which resulted in the observation of irregular practices by police officers of that group, culminating in the accusation of nine Military Police officers and the Military Police Inquiry in order to deepen the investigations related to the evidence collected. To our knowledge, two inquiries were initiated through the Portaria 139/2538-04, the first one to investigate the armed conflict in the favela of Pavão Pavãozinho, this first one being the most important for the issue being addressed by the Global Justice Center; and the second, through the Portaria 140/2538-04, to investigate the riots that took place on the streets of Copacabana, incited by residents from the favela Pavão Pavãozinho. Both investigations are currently under way. Finally, the third investigation, a Military Police Inquiry (IMP) that was initiated through the Portaria 0178/2538/2004 to investigate the military police officers' crimes is still under way.

<sup>136</sup> Deposition by Maria Fernanda Duarte Faustino to the Global Justice Center on August 5, 2004, in the Residents Association building of Pavão-Pavãozinho and Cantagalo.

<sup>137</sup> *Ibid.*

<sup>138</sup> "A Guerra do Rio - Zona Sul, campo de batalha – Confronta da PM com tráfico apavora Ipanema e Copacabana. Balas atingem prédios". O Globo, 04/09/04

On September 10, 2004, The Global Justice Center notified the UN Special Rapporteur for Extrajudicial, Summary or Arbitrary Executions (official correspondence JG/RJ no. 224/04).

Unfortunately, tragedy struck again shortly after this series of events in the Pavãozinho neighborhood. On August 23, 2004, policemen from the GPAE murdered a youth of 16 years, inciting protests from residents<sup>139</sup> and showing how far the current situation has drifted from its goals of Community Policing.

On September 4, 2004, another invasion by the military police tormented the residents of Pavãozinho. The operation began around 4 am and continued until 7 pm. Schools and day care centers were closed on this day. Shootouts followed by grenade explosions left the community in panic. There were about 466 military policemen summoned for the operation. The most shocking aspect was the way that the media and government depicted the action as legitimate. The objective of the operation was the protection of the surrounding upper middle class areas. In order to avoid stray bullets in the neighborhoods of Copacabana, Ipanema and Leblon, the shots were fired at random in the community of Pavão-Pavãozinho. All of the residents were put at risk, as if their lives were less important.<sup>140</sup>

At the time this report was written, investigations regarding the cause of death

of Alexandre Firmino Souza, André da Conceição Oliveira e E.L.M.<sup>141</sup> According to information provided, on October 6, 2004, in a phone conversation with the State Secretariat for Human Rights, the accused officers await the completion of the investigations at liberty.<sup>142</sup>

■ L.F.M., L.S.S. e J.A.C. - Rocinha, Rio de Janeiro.

In the early morning hours of February 22, 2004, teenagers L. F. M. (age 17), L. S. S. (age 16), J. A. C. (age 13), and M. R. S. (age 16), were returning from a party on Via Ápia street in the Rocinha neighborhood of Rio de Janeiro City when they were accosted by police from the Special Operations Battalion (Batalhão de Operações Especias, BOPE) who were carrying out an operation in the area. According to Edílson Ferreira, the stepfather of the youngest victim, Jean Alexandre, the police placed a plastic bag on L. S.'s head and made all of the boys walk down the hill they were climbing, saying that they were going to kill one of them. After that, the youngsters were brought to Travessa Gregorio Street near a ditch and were shot. L. M. and L. S. died at the scene and the other two were taken to public hospital Miguel Couto. Only M. R. survived. M., the only witness in the case, was in critical condition, under the watch of two military police.<sup>143</sup>

<sup>139</sup> "Tiroeio em favela tumultua Copacabana", *O Globo*, August 24, 2004.

<sup>140</sup> See note 70.

<sup>141</sup> Information provided by the Secretariat for Human Rights to the Global Justice Center on October 6, 2004.

<sup>142</sup> "PM sobe Rocinha e 3 adolescentes são mortos" (Military Police Enter Rocinha and Three Youths are Killed), *O Globo*, February 23, 2004, p.13

<sup>143</sup> *Ibid.*

According to neighbors, approximately 15 BOPE agents, some of them using ninja-like hoods and others with their faces painted, participated in the operation, which began at 4:00am. According to the President of the Rocinha neighborhood association (Associação de Moradores da Rocinha), William de Oliveira, the association was notified that BOPE would increase the police presence that day as a preventive measure to increase security at the party, but was not aware that the police would be taking offensive actions. If they had known, the festivities would have been canceled. Approximately 5,000 people were present in the *favela*, or slum, when the police began the operation that resulted in the death of the three youth.<sup>144</sup>

In the version of the events told by community members, the BOPE officers tried to remove a bullet from the leg of one of youth, since the bullet would have implicated BOPE in the killings. They also said that the radios and cell phones found next to the bodies were planted by the police in order to suggest that the youth were members of a drug trafficking gang.<sup>145</sup> No weapons were found with the victims and none of them had a history of criminal activity.<sup>146</sup>

Those close to the victims vehemently deny that the boys had any involvement with drug trafficking. According to these sources, at the time they were accosted

by the police, the boys were simply returning home after the party and that the next day they were going to work at the bazaar in the Jardim Botânico neighborhood, where they would do odd jobs such as carrying bags.

J. A.'s father affirmed that 13 year old J. was in the third grade, took care of his three younger sisters, and worked at the bazaar each weekend. L. studied information technology and had no reason to be involved with trafficking, according to his father, Dilson Madeira. L. S. was studying to be a mechanic.<sup>147</sup>

Disgusted by the actions of the police, the residents of Rocinha closed down the Lagoa-Barra Highway (which links the Barra da Tijuca neighborhood in the east to the rest of Rio), throwing stones at passing cars. They placed the bodies of L. M. and L. S. at the entrance to the *favela*. After five hours, the bodies were removed. During the entire time, the residents held a wake over the bodies.<sup>148</sup>

According to Police Chief Paulo Souto, in spite of the express prohibition of incursions by BOPE during Carnival by the State Secretary of Public Safety Anthony Garotinho, the fast-strike operation was motivated by repeated reports that drug traffickers were planning to use the Carnival parades to take control of locations where drugs are sold.<sup>149</sup> He affirmed that the members of the BOPE unit arrived to guard access points to the

<sup>144</sup> "Rocinha: deputados ouvem parentes" ("Representatives Listen to Families"), *O Globo*, February 28, 2004, p.21.

<sup>145</sup> *Ibid.*

<sup>146</sup> "PM sobre a Rocinha e 3 adolescentes são mortos", *O Globo*, February 28, 2004.

<sup>147</sup> *Ibid.*

<sup>148</sup> "Bocas-de-fumo"

<sup>149</sup> "Rocinha: deputados ouvem parentes" ("Representatives Listen to Families"), *O Globo*, February 28, 2004, p.21.

favela through the brush, while other police battalions from the neighborhoods of Leblon, Copacabana, Praça da República, Bandeira and units from the Tactical Mobil Operations Group (GETAM, Grupo Especial Tático Move) were guarding the other access points. But he claimed that the BOPE officers would have reacted only in the event that they had been fired upon.<sup>150</sup>

On February 26, 2004, the residents and those close to the victims met with Anthony Garotinho, the State Secretary of Public Security, who again prohibited any actions by the elite BOPE force in Rocinha for sixty days. Garotinho justified the decision based on the visible animosity of the community toward BOPE. The Secretary affirmed that he had given the order to the commander-general at the time the incident occurred, Col. Renato Hottz, that there were to be no actions by BOPE in Rocinha during Carnaval, and that this order was disobeyed. BOPE commander, Fernando Príncipe, claims that they had been asked by Col. Jorge Braga of the 23<sup>rd</sup> Military Police Battalion to strengthen the police presence because

of drug traffickers, and that the three youngsters killed had been traffickers.<sup>151</sup>

On February 27, 2004, one day after meeting with the families and promising an independent investigation of this case, the Secretary defended the police. He stated that he would not punish Col. Carlos Guedes, head of the Greater- State Military Police force who ordered the BOPE operation, and suggested that youngsters were traffickers and died in a gun battle. He claimed that the fact that community members took the bodies of the victims from the scene and exhibited them in protest on the street lead to the suspicion that they did not want to leave the crime scene intact.<sup>152</sup>

An inquiry is being conducted by the 15<sup>th</sup> Police Precinct (15<sup>a</sup> Delegacia Polí-cia)<sup>153</sup>. In response to a letter sent by the Global Justice Center to the Internal Affairs Administration (Corregedoria Geral Unificada) of the Police Department about the need to investigate the death of the victims, we were informed about the start of the inquiry.<sup>154,155</sup> The Assistant for Internal Affairs, Luis Carlos Castanheda, provided the names of those police who

<sup>150</sup> "BOPE proibido de pisar na Rocinha" ("BOPE prohibited from stepping foot in Rocinha"), *Journal O Dia Online*, February 27, 2004, <http://odia.ig.com.br/policiapl270201.htm> ; "Estado faz acordo com Rocinha" (The government reaches an agreement with Rocinha), *Journal do Brasil*, February 27, 2004, p.A24.

<sup>151</sup> "Garotinho não irá demitir coronel que ordenou operação na Rocinha" (Garotinho is not going to dismiss coronel who ordered operation in Rocinha"), *Folha de São Paulo*, February, 28, 2004, p.C4.

<sup>152</sup> "Polícia insiste que jovens mortos eram bandidos" ("Police insist that the dead youths were gangsters"), *O Globo*, February 24, 2004, p.13.

<sup>153</sup> Official Correspondence, JG/RJ 170/04, July 6, 2004.

<sup>154</sup> Case n. E-32/0612/0006/2004, February 26, 2004, investigation of the Internal Affairs Administration (Corregedoria Geral Unificada)

<sup>155</sup> Communication referencing case n° E-32/0612/0006/2004 of the Internal Affairs Department of the Military Police of Rio de Janeiro for the Internal Investigation Administration (Corregedoria auxiliary – PMERJ para a Corregedoria Geral Unificada), July 7, 2004. Military police from the BOPE unit that participated in the incursion in Rocinha: Major Fábio Almeida de Souza; 1<sup>st</sup> Lt. Alex Bevenuto Santos, 1<sup>st</sup> Lt. Alvaro Marques de Andrade Neto, 2<sup>nd</sup> Sgt. PM Joaquim de Souza Filhos, 3<sup>rd</sup> Sgt. PM Hélio Nascimento da Silva, Cpl. PM Jorge Luiz Pedro, Pvt. PM Jailton de Matos Fernandes, Pvt. PM Marco Aurélio Pires de Carvalho, Pvt. PM Alexandre da Silva Souza, Pvt. PM Renato Nunes de Almeida; Pvt. PM William Gomes Amado Ramos; Pvt. PM Flávio Flau Matos da Silva, Pvt. PM Peri da Silva, Pvt. PM Carlos Alberto de R. Cerqueira, Pvt. PM Hermes Marques da Silva Cordeiro, Pvt. PM Fabiano Santos de Jesus, Pvt. PM André Ricardo dos Santos; Pvt. PM Marcelo Sampaio de Menezes; Pvt. PM Jean Fábio Passos dos Anjos; Pvt. PM Gilberto de Souza Mouzinho Filho, Pvt. PM Antonio Maria Bezerra; Pvt. PM Adriano José de Souza Santos.

participated in the incursion in Rocinha and are being investigated.<sup>156</sup> On March 24, 2004, the case – no. 466 of the 15<sup>th</sup> Precinct- was forwarded to the 1<sup>st</sup> Internal Affairs Department (Central de Inqueritos), while hearings were pending and technicalities were being filed. On April 15, 2004 the proceedings returned to the 15<sup>th</sup> Precinct to carry out the procedural formalities within 90 days.<sup>157</sup>

The Internal Affairs Administration stated: “*at the present time, the military police that participated in the incursion in Rocinha remain at liberty to carry out their normal activities.*”<sup>158</sup> In other words, despite the strong evidence of criminal conduct, the police continue their impunity and were not suspended during the investigation, which is moving forward slowly.

According to information provided on October 6, 2004, in a phone conversation with the State Secretariat for Human Rights, the accused police officers await the completion of the investigations at liberty.<sup>159</sup>

On September 24, 2004, the Global Justice Center filed a complaint (Official Correspondence JG/RJ no. 234/04) to the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions.

■ **Nélis Nelson dos Santos**, Morro da Coroa, Rio de Janeiro.

On 16<sup>th</sup> February, around 7:30 am, motivated by the murder of a police officer from the 1<sup>st</sup> Battalion of the Military Police, a group of 11 members of the same Battalion -accompanied by an hooded informer- started an operation in the favela Morro da Coroa, in Rio de Janeiro.

Around 9:30 am, the police officers broke into the house of Nélis dos Santos seeking information on possible perpetrators of the assassination of the policeman.

Nélis was sleeping on the second floor of his residence. While 4 police officers and the hooded informer headed towards the second floor, sergeant Jorge and relatives of Nélis stayed on the ground floor, while the remaining police officers were standing outside the house. As Nélis was addicted to drugs, police officers thought he could provide the clues that explained the murder of the colleague, since they believed that local drug dealers had killed him.

The group of policemen that approached Nélis was composed of two uniformed officers -a 1<sup>st</sup> lieutenant and a 2<sup>nd</sup> lieutenant- a sergeant –identified by the relatives as sergeant Jorge P2- that kept talking to the brother of Nélis, another officer whose rank couldn’t be determined and a man wearing a outfit similar to the one used in the army, who was carrying a weapon of a high caliber<sup>160</sup>.

<sup>156</sup> *Ibid.*

<sup>157</sup> *Ibid.*

<sup>158</sup> Information provided by the State Secretariat for Human Rights to the Global Justice Center on October 6, 2004.

<sup>159</sup> Information obtained during the testimony of one of the relatives of Nélis, in a public hearing organized by the Commission on Human Rights of the ALERJ, followed by the Global Justice Center, on the 20/02/04.

<sup>160</sup> Some of the instruments used in the torture on Nélis were presented to the participants of the public hearing in the ALERJ, on the 20/02, including the iron made scale, which were smashed up due to the impact.

In accordance with the testimony of family members, sergeant Jorge allegedly reassured them, stating that “they only wanted to talk” to Nélis, even surprising the victim’s brother in showing him his knowledge on the degree of kinship, as well as the church that he frequented.

Afterwards, while the sergeant and Nélis’ brother stroke up a conversation, a loud noise followed by screams of the victim were heard. His brother begged them not to beat him up anymore, since the whole family was present, including a five-year-old child.

The sergeant went up to the room where Nélis, the four policemen and the informer were. Little after, the police officers went down one by one, warning the relatives that they should go away in order “not to be harmed”.

At last, the 1<sup>st</sup> lieutenant came down, breathing heavily, talking directly to the brother of the victim, asking “to find a solution” for Nélis. The brother said that they were arranging a recovery clinic for Nélis; however he had refused to be admitted. Considering his answer, the lieutenant stressed that “now he (Nélis) would be willing to go to the clinic”.

When the police officers left, the relatives headed towards the room where torture was practised and found Nélis unconscious on the floor, bleeding heavily, rolled up in a sheet. Upon the recovery of his senses, Nélis told that he had been brutally beaten up by the police officers. They reportedly stepped on his

genitals, administered electric shocks on his body, hanged him, inserted a broomstick in his anus, pierced his tongue, fingers and nose with pliers and also hit his head with an heavy iron made scale<sup>161</sup>. The session lasted approximately three hours and resulted, apart from wounds all over the body, in the destruction of the bladder and the rectum, which were later on reconstituted by a team of doctors from Miguel Couto Hospital<sup>162</sup>.

The Global Justice Center convened members of the Secretary for Public Security of Rio de Janeiro state, who stated that there was a suspension of police incursions in the community, the transference of the investigation to the office of internal affairs of the Police, and the protection of the victim and his relatives by the CORE (Coordenadoria de Recursos Especiais da Polícia Civil/Coordinator of special resources within the civil police).

The victim identified 5 police officers involved in the torture session, thanks to an album of photographs of the Military Police in Rio de Janeiro. The identification act took place at the hospital where Nélis was admitted and was attached to the inquiry dealing with the officers responsible for the aggression. The victim’s deposition -which was also annexed, after his authorization- took also place at the hospital and confirms the three-hour torture session under the command of police officers from the 1<sup>st</sup> Battalion of the Military Police.

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<sup>161</sup> These facts are included in the testimony given by relatives of Nélis, at the public hearing, followed by Justiça Global, and in the newspaper O GLOBO of February 19, 2004: “Horror em Santa Teresa”.

<sup>162</sup> “Victim identifies Military Police Officers as the ones who tortured him”, O GLOBO newspaper, February 28, 2004.

Nélis was also subjected to a medical examination, undertaken by expert Regina D’Onofre, from Carlos Eboli’s Institute of Criminology. According to the expert’s report, mistreatment is evidenced by wounds resulting from the practice of torture<sup>163</sup>.

Even though the delegate responsible for the inquiry -Ms. Valquíria Lucas, from the 6<sup>th</sup> Police Station- called for temporary custody for the 11 police officers, local justice denied it under the allegation of “lack of evidence”, despite the fact that a Military Police inquiry –which was established by the 1<sup>st</sup> Battalion of the Military Police- concluded that the 11 policemen had participated directly or indirectly in the torture session on Nélis. Still, according to a news article<sup>164</sup>, the delegate stated that she would further call for custody once she had new facts to add.

According to information provided by the Under Secretary, Paulo Baia, temporary custody was finally ordered against the policemen involved in the facts narrated above. The policemen were indicted of the crime of torture. At the closing of this report, the policemen were still in custody.

On March 8, 2004, the Global Justice Center sent a report of this case (bearing official number JG/RJ n.º 47/04) to the UN Special Rapporteur on torture.

### ■ E.A. M. and Ricardo Marques de Freitas – Manguinhos, Rio de Janeiro, Capital

On June 4, 2004, at about noon, E. A. M. was feeding his horse on the “Coreia” soccer field near his house. His nine-year-old brother, W.E.A.M., was also with him.<sup>165</sup> Mrs. Ana Cristina, E.’s aunt who lives near the soccer field, was at home when she heard a loud motorcycle noise and went outside to see what was happening. From her porch she was able to see the entire soccer field.<sup>166</sup>

She told her family that she saw a motorcycle entering the soccer field at high speed with two plainclothesmen on it, and three police cars behind them.<sup>167</sup> One of the policemen approached E. and shot him before he knew what was happening. He was shot three times, one time in each arm and once in the chest. His younger brother W.E.A.M., age 9, could not bear what he was seeing and fainted, only waking up several hours later.<sup>168</sup>

Ricardo, who at the time was also on the “Coreia” soccer field flying a kite with his eight-year-old brother M.A., saw the policemen arrive and execute E.. He became frightened and ran away. He was followed by the same plainclothes police

<sup>163</sup> Ibid.

<sup>164</sup> Global Justice Center’s interview with Mrs. Andréa Alves da Penha (E. A. M.’s sister) and Mr. Marcos Aurélio Marques de Freitas (Ricardo Marques de Freitas’ brother) at the CCAP/Manguinhos on July 8, 2004.

<sup>165</sup> Global Justice Center’s interview with Mrs. Andréa Alves da Penha (E. A. M.’s sister) at the CCAP/Manguinhos on July 8, 2004.

<sup>166</sup> The victims’ families believe that these men were plainclothes officers because they were continuously talking with the uniformed officers.

<sup>167</sup> Global Justice Center’s interview with Mrs. Andréa Alves da Penha (E. A. M.’s sister) at the CCAP/Manguinhos on July 8, 2004.

<sup>168</sup> Global Justice Center’s interview with Mr. Marcos Aurélio Marques de Freitas (Ricardo Marques de Freitas’ brother) at the CCAP/Manguinhos on July 8, 2004.

who shot E.. They cornered him in an alley and ordered him to his knees. A resident who had seen everything was warned to go inside her house and remain quiet about what she was witnessing.<sup>169</sup>

Ricardo's brother Marcos, who was returning from work, saw his brother on his knees with his back to the police, pleading for his life. Without paying any mind to what Ricardo was saying, the policemen fired two shots in his back.<sup>170</sup>

With Marcos still watching, the policemen put on latex gloves and placed a gun in Ricardo's lifeless hands and threatened Marcos, saying that he would be the next family member to die if he told anyone about what he had seen.<sup>171</sup>

After hearing the shots, E.'s family ran to see what had happened. The victim's mother and many others began to call the policemen murderers.<sup>172</sup> One of the police approached Elissandro's mother, placed a gun close to her head and shot it up into the air in an attempt to frighten her. The police later took the bodies to the Bonsucesso Hospital in the northern part of Rio de Janeiro.

Marcos proceeded to the 21<sup>st</sup> Police Station.<sup>173</sup> During the trip, he saw the police car that contained the bodies, and believes that the police were ensuring that

the victims were really dead; he noticed marks on his brother's face that were not visible when he was shot. Marcos stayed away from the car out of fear, but asserts that the car was stopped on the street for at least 20 minutes.<sup>174</sup>

At the police station, Marcos related the story to the police chief, who recorded his statement and then took Marcos to a room to wait during the processing. Two policemen entered the waiting room and threatened him. When he left the waiting room, he complained to the police chief about the threats he had received, who then said, "*That's how it is!*"<sup>175</sup>

E. A. M. and Ricardo Marques de Freitas were dead when they arrived at the hospital. Elissandro's sister, Andréa, said she went to the hospital because she thought that her brother may have survived. At the hospital she recognized the policemen who had taken her brother and overheard them saying that they had killed the wrong person. According to Andréa, her brother had a hair style and color that were very popular among young men in the community, a fact that could have confused the police, but which does not justify the approach utilized by the police or the summary execution they carried out.<sup>176</sup>

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<sup>169</sup> Ibid.

<sup>170</sup> Ibid.

<sup>171</sup> At that moment, the uniformed military police and the plainclothes officers were together.

<sup>172</sup> The 21<sup>st</sup> Police Station serves the Manguinhos community.

<sup>173</sup> Global Justice Center's interview with Mr. Marcos Aurélio Marques de Freitas (Ricardo Marques de Freitas' brother) at the CCAP/Manguinhos on July 8, 2004.

<sup>174</sup> Idem.

<sup>175</sup> Global Justice Center's interview with Mrs. Andréa Alves da Penha (E. A. M.'s sister) at the CCAP/Manguinhos on July 8, 2004.

<sup>176</sup> According to Marcos Aurélio, the last time that the policemen went to his work place was the morning of August 3, 2004. Global Justice Center's telephone interview with Mr. Marcos Aurélio Marques de Freitas, August 3, 2004.

Marcos went to the Coordinating Body of Special Resources of the Civil Police (Coordenadoria de Recursos Especiais da Polícia Civil, CORE) and described the appearance of the officers. Since then, he says that the policemen who were present when his brother was murdered constantly come to his work place, Fundação Oswald Cruz, and walk around as if they were monitoring him.<sup>177</sup> Andréa, who also works there, has also observed that they are continuously being monitored by the policemen.<sup>178</sup>

E. was only 16 years-old and had been living with his sister for four years. He had studied one year of secondary school, and worked odd jobs to help his family with money. Ricardo was 26 years old and worked as a garbage-collector; in fact he was in his uniform when he was executed. He is survived by two children, a three month-old and a seven - year old from his first marriage. His most recent wife has rented out their house and used the rent money to provide for her son.<sup>179</sup>

The incident was registered in the 21<sup>st</sup> Police Station on the same day, June 4<sup>th</sup>, 2004, by both families, however, at present, Andrea and the other witnesses – including the family of the second victim – have not been asked to give statements about the deaths of the two young men.<sup>180</sup>

According to information provided by police chief, Dr. Flávio Loureiro<sup>181</sup>, an

internal inquiry is already underway, *IP no. 021/04 132/2004*, and some individuals have already been called to testify. However, the information from the inquiry seems to contradict that provided by the families of the victims. Contrary to the statements made by members of the community, the inquiry is based in the assumption that two people had stolen a motorcycle and entered the community to kill the young men. At the time this report was written, the inquiry had not acknowledged that the two people on the motorcycle were plainclothes policemen who were accompanied by other uniformed police officers in vehicles.

On August 11, 2004, Global Justice Center sent a notice (Official Correspondence JG/RJ no. 202/04) regarding the case above to the United Nations Special Rapporteur for Extrajudicial, Summary, or Arbitrary Executions.

#### ■ Cristiano Ríspoli Barros – Engenho Novo, Rio de Janeiro

On Saturday night, June 4, 2004, Cristiano, a recent college graduate in computer programming who was in graduate school at The Pontifical Catholic University (Pontificia Universidade Catolica, PUC), was returning from a party at a friend's house. He was driving his car along with his girlfriend and another friend, Kátia Freitas Moreira.

<sup>177</sup> Global Justice Center's interview with Mrs. Andréa Alves da Penha (E. A. M.'s sister) and Mr. Marcos Aurélio Marques de Freitas (Ricardo Marques de Freitas' brother) at the CCAP/Manguinhos on July 8, 2004.

<sup>178</sup> Ibid.

<sup>179</sup> Global Justice Center's telephone interview with Mrs. Andréa Alves da Penha (E. A. M.'s sister) on October 2, 2004.

<sup>180</sup> Dr. Flávio Loureiro is one of the police chiefs who assigned to the 21<sup>st</sup> police station. Global Justice Center's telephone interview on July 28, 2004.

<sup>181</sup> "PM mata rapaz com um tiro de fuzil na nuca" *O Globo* Newspaper, June 7, 2004 and "Morte de analista de sistemas é investigadas" *Folha de São Paulo* Newspaper, June 7, 2004

At approximately 9:00 pm, after dropping off his girlfriend at her home, Cristiano turned onto Alan Kardec Street.<sup>182</sup> At the same time, his car jerked and there were at least three shots fired by two military police officers from the 3<sup>rd</sup> Battalion of Military Police. One of the shots injured Cristiano in the head causing his car to crash into a wall. He died instantly due to a shot from a 7,62 gun that entered through his head, just above his left eye and exited through his neck, fracturing many bones.<sup>183</sup>

Cristiano's friend, who was seated in the rear of the car, exited the car with her hands above her head and was detained by an armed police officer. According to her deposition, the police officer inquired whether there were guns in the car and removed her from the scene before she was able to respond in the negative.<sup>184</sup>

The two military police officers from the 3<sup>rd</sup> Battalion of the Military Police, Cléber Adriano de Oliveira and Anderson do Nascimento Seixas, stated that they were parked at the scene and moved in closer to the vehicle only after the car crash. According to their version, the car took off in a sudden jerk and they were unable to discern who was inside the car due to its tinted windows, they were then alarmed to hear a sound that resembled a

gunshot. In response, they fired and one of the shots killed Cristiano.<sup>185</sup>

After the incident, the forensics team arrived on the scene and discovered a bullet and a 38 caliber revolver inside the automobile, which according to one of the two police officers, had been used by Cristiano.<sup>186</sup> Nevertheless, all of Cristiano's friends and family affirmed that he had never used arms.<sup>187</sup> Witnesses who were present at the scene of the crime affirmed that the arms had been placed in the automobile by the police officers.<sup>188</sup>

An investigation from the Legal Medical Institute (Instituto Médico Legal, IML) disclosed by the organization's director, Mr. Roger Ancillotti, proved that there were no traces of gunpowder on Cristiano's hands. In addition, according to Ancillotti, Cristiano's window was open, which contradicts the police officer's version where they claimed to have been unable to see inside the car.<sup>189</sup>

On June 29, 2004, the Office of the Public Prosecutor filed suit against the military police officers Anderson do Nascimento Seixas and Cléber Adriano Porta de Oliveira, after having been identified in the investigation as being responsible for Cristiano Rispoli's murder.<sup>190</sup> The document presented by the prosecuting attorney explains that, according to accused

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<sup>182</sup> "Amiga de jovem assassinado desmente PMs" *O Globo* Newspaper, June 9, 2004

<sup>183</sup> "Amiga de jovem assassinado desmente PMs" *O Globo* Newspaper, June 9, 2004

<sup>184</sup> "PM mata rapaz com um tiro de fuzil na nuca" *O Globo* Newspaper, June 7, 2004

<sup>185</sup> "PM mata rapaz com um tiro de fuzil na nuca" *O Globo* Newspaper, June 7, 2004

<sup>186</sup> "Amiga de jovem assassinado desmente PMs" *O Globo* Newspaper, June 9, 2004

<sup>187</sup> "Amiga de jovem assassinado desmente PMs" *O Globo* Newspaper, June 9, 2004

<sup>188</sup> "Amiga de jovem assassinado desmente PMs" *O Globo* Newspaper, June 9, 2004

<sup>189</sup> Police Investigation no. 2391/2004-25th Police Station- Legal

<sup>190</sup> Penal Proceedings no. 2004.001.079475- Complaint

officers, they fired on him because his car bumped into the sidewalk and wall upon entering Alan Kardec Street, where the police offices were standing. Their explanation is no justification for firing at the victim, because even if it were true, Cristiano would have been immobilized by the car crash and could have been apprehended.<sup>191</sup>

The public prosecutor further states that the accused military police officers possessed, without in violation of the law, a Taurus 38 caliber revolver, with a scratched out serial number. After fatally wounding the victim, the military police officers tampered with the crime scene, framing Cristiano for possession of an illegal firearm.<sup>192</sup>

On June 30, 2004, the judge of the First Criminal Court of the , Fabio Uchôa Pinto de Miranda Montenegro, decreed the arrest of both police officers that were detained the same day.<sup>193</sup>

According to Cristiano's family, the accused police officers were already under investigation by the 9th Battalion of the Military Police, of which they were previously members. They were then transferred to the 3rd Battalion. Unfortunately, this is part of a pattern of policemen committing crimes, then being transferred to other Battalions, when they should be suspended from their activities during the investigation to prevent them from committing further crimes.<sup>194</sup>

As of the publishing of this report, the family was uncertain if the accused officers remained in detention. According to Leandro Ríspoli, Cristiano's brother, the family's lawyers is having trouble obtaining information about the case.<sup>195</sup>

On July 20, 2004, the Global Justice Center sent notice (Official Correspondence JG/RJ no. 186/04) about the case to the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions.

■ **T. S. M.O., L. C. R.e Vldir Borges Furtado Barbosa** – Morro do Fogueteiro, Rio de Janeiro.

On Saturday night, June 12, 2004, the youths T. S. M. O. , 15 years old, a 6<sup>th</sup> grade student at Franciso Cabrito municipal school, L. C. R., 16 years old and Vldir Borges Furtado Barbosa, 19 years old – all residents of the Fogueteiro community - went to a party on Barão de Petrópolis street, in the neighborhood of Catumbi, Rio de Janeiro City.

According to the police chief assistant of the 6<sup>th</sup> Police Station, Dr. Leandro Gontijo, the same night there was a hold up in a bar near this street, that was committed by three men. Gontijo explained that after the robbery there was some commotion and residents called the police. That night there were two Special Military Police Squad (Grupamento Especial Tático-Móvel da Polícia Militar, GETAM) teams

<sup>191</sup> *Ibid.*

<sup>192</sup> "Decretada a prisão de PM's acusados de matar analista". *O Globo*, July 1, 2004 and "Presos soldados que fuzilaram universitário". *O DIA* online, July 1, 2004.

<sup>193</sup> Provided by Cristiano Rispolli Barros' family in na interview with the Global Justice Center staff on July 22, 2004.

<sup>194</sup> Provided by Cristiano's brother, Leandro Ríspoli, in a telephone interview with the Global Justice Center staff on October 2, 2004.

<sup>195</sup> "Testemunhas acusam PM's" – O GLOBO newspaper, June 15, 2004

in the 1<sup>st</sup> Military Police Battalion area, with approximately 12 men each.<sup>196</sup>

Witnesses explain that the police arrived in the area looking for the thieves and already shooting, having passed by the Barão de Petrópolis street, shooting and looking for possible robbers. The three youths got scared and hid under a car. There they were found by Military Police who began to beat them up. A witness saw the group of police standing next to two vehicles, a Chevrolet Blazer and a Volkswagen Gol, each with the Special Military Police Squad identification, punching and kicking the three victims. The Military Police dragged one of the victims by the hair before throwing the three youths into cars<sup>197</sup> belonging to the Special Military Police Squad<sup>198</sup> and driving away.

On Sunday morning, June 13, 2004, the bodies of three young men were found on Dona Emília street, in the neighborhood of Inhaúma<sup>199</sup>, with 13 gunshot wounds, the majority in the head<sup>200</sup>. The death certificates confirm that the cause of death was these gunshots. The director of the Legal Medical Institute (Instituto Médico-Legal), Mr. Roger Ancilotti, stated that five

bullets from a 38 caliber revolver and from a 380 pistol were found in their bodies and that the shots were made at a distance of two to three meters.<sup>201</sup>

Two days after the murders, 26 Military Police from the Special Military Police Squad, who were suspects of the crime, were put imprisoned for 72 hours. All the accused denied that they had been making patrols in the Barão de Petrópolis street on that Saturday night. They claimed that at the time they were making rounds on Riachuelo street<sup>202</sup>.

It is essential that the State Government of Rio de Janeiro invest in equipment that enables the precise localization of police cars, instead of only purchasing more cars.<sup>203</sup> Official police vehicles should have GPS (Global Positioning System).<sup>204</sup> If the GETAM cars in this operation had this technology, any questions regarding the location of police officers at the time of the crime could be easily cleared up.

On June 21, the suspected policemen were all let free. For the time being – while the case is under investigation – they are doing internal administrative work, such as bureaucratic services in the barracks.<sup>205</sup>

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<sup>196</sup> “Prisão para policiais suspeitos” - O DIA online newspaper, June 16, 2004

<sup>197</sup> “Testemunhas acusam PM’s” - O GLOBO newspaper June 15, 2004

<sup>198</sup> “Policiais são acusados de sequestrar e matar três jovens no Rio de Janeiro” - Folha de Sao Paulo newspaper, June 15, 2004, and “Testemunhas acusam PM’s” – O GLOBO newspaper, June 15, 2004

<sup>199</sup> “PMs do Getam são presos” – O GLOBO newspaper, June 16, 2004

<sup>200</sup> Ibid.

<sup>201</sup> “PMs entregam armas particulares” – O GLOBO newspaper June 17, 2004

<sup>202</sup> “The State Government of Rio de Janeiro invested R\$ 1,248,909 (Approx. \$400,000 USD) in repairing 800 police cars which were out of service in the previous administration.” Civil Police website, December 23, 2003. < <http://www.policiaivil.rj.gov.br/noticia.html>>

<sup>203</sup> GPS is a navigation system which uses satellites to track position, velocity and time 24 hours a day. <<http://www.ancruzeiros.pt/anci-gps.html>>

<sup>204</sup> Information obtained in interview held on July 8, 2004, at the Global Justice Center with the lawyer representing the families of the victims, Dr. Marcos Diniz, and “Policias suspeitos de matar jovens são soltos” – O Globo newspaper, June 22, 2004

<sup>205</sup> Information obtained in interview held on July 8, 2004, at the Global Justice Center with the lawyer representing the families of the victims, Dr. Marcos Diniz

The witnesses who saw the police beating and punching the victims are scared of testifying. The principle witness was threatened by Military Police; told that if he testifies he would die, making the identification of the officers impossible.<sup>206</sup>

The results of the ballistic tests, which were conducted in order to find out if the bullets removed from the bodies of the victims were discharged by the weapons of the Military Police suspected of the crime, were negative.<sup>207</sup>

In the seven police patrol cars used by the police responsible for the operation, authorities found approximately 70 samples of material compatible with blood, that were sent by a private laboratory. With these samples a DNA exam will be conducted, in order to see if the blood belonged to one of the victims.<sup>208</sup>

As of the time that this report was written, the case is being investigated by the Homicide Department of the State Police<sup>209</sup> and the DNA tests had still not been carried out<sup>210</sup> the families of the victims and witnesses of the crime are frightened to speak of the case, since the accused officers remain in liberty.<sup>211</sup>

On July 20, 2004, the Global Justice Center sent notice (Official Correspondence JG/RJ no. 187/04) regarding this case to the UN Special Rapporteur for Extrajudicial, Summary or Arbitrary Executions.

■ **W. C. S., Morro da Pedreira, Rio de Janeiro**

On the night of June 26, 2004, W. C. S. was on his way to a party (which was part of the traditional festivities held each year in the month of June) with his cousin M., 15 years old, when he was assassinated by military policemen who entered the favela and shot him.

According to residents of the Favela da Pedreira, six policemen participated in the operation that led to W. death. They are attached to the 9<sup>th</sup> Military Police Battalion (Rocha Miranda).<sup>212</sup> According to W. sister, 19 years old, a policeman yelled: “*I will kill one today*”, looked at W., and shot.<sup>213</sup> The shot that killed the boy entered through the left side of his neck and got out between the nose and the superior lip, destroying the bones of his face.<sup>214</sup>

<sup>206</sup> It is worth noting that the exam cleverly was conducted in the official weapons presented by the suspects, however in the majority of assassinations committed by the police are used illegal arms, many times apprehended by themselves during operations, with scratched out numbers, and that are not the results of apprehension in the barrack, as would be appropriate.

<sup>207</sup> “Libertados integrantes do Getam suspeitos de participação na morte de rapazes” – O Dia online newspaper, June 22, 2004, and Information obtained in interview held on July 8, 2004, at the Global Justice Center with the lawyer representing the families of the victims, Dr. Marcos Diniz

<sup>208</sup> The number of the investigation is no. 030 June 17, 2004. The name of the Police Chief is Dr. Carlos Henrique.

<sup>209</sup> Provided by the victims’ families’ lawyer, Dr. Marcos Diniz, in a telephone interview with the Global Justice Center on August 9, 2004.

<sup>210</sup> “Ouvidor pedirá que morte de 3 jovens seja investigada pela corregedoria” - O Globo newspaper, June 23, 2004

<sup>211</sup> “PM’s presos após operação ilegal”, O Globo newspaper, June 28, 2004.

<sup>212</sup> “Políciais suspeitos de crimes”, O Dia Online, June 28, 2004.

<sup>213</sup> According to the director of the Technical Police and director of the Forensic Medical Institute (“Instituto Médico Legal), Roger Ancillotti, the damage caused by the projectile indicates a gunshot. Since no fragments of the bullet were found in W. body, the work of the police to determine from which weapon the shot was made could be inconclusive: *Tiro que matou rapaz da favela da Pedreira pode ser sido de fuzil*, O Globo Online, June 28, 2004.

<sup>214</sup> “Políciais suspeitos de crime”, O Dia Online, June 28, 2004.

According to colonel Murilo Leite, commandant of the battalion to which the military policemen involved in the execution are attached, the suspected men are from two different garrisons and were at the scene of the crime without authorization of the Operations Center.<sup>215</sup>

The six military policemen were temporarily imprisoned for 72 hours on the night of the crime. According to the general inspector of the Rio de Janeiro police, after this time the accused must do internal work in the police corporation until the closure of the investigation, which is sent to the office of the police ombudsman.<sup>216</sup>

According to the Auxiliary Oversight Officer, Colonel Jocimar da Silva Valeriano, the crime was processed by the 1<sup>st</sup> Delegation of the Military Police Judiciary through a summary investigation based on order E-09/284/2558/2004, which was concluded and sent to the Internal Oversight Office/PMERJ (CGIPM 15.260/2004). This proceeding is currently with the Rapporteur, to be concluded and published in the Bulletin.<sup>217</sup> The case was registered at the 39<sup>th</sup> Police Station of Pavuna under number no. 003953/0039/2004.

The suspected military policemen said in their deposition that when W. was shot they were patrolling in the streets of Rocha Miranda, close to the 9<sup>th</sup> Battalion.<sup>218</sup>

However the police confirmed, through a monitoring with GPS (Global Positioning System), that the six policemen accused of killing W. were in the favela at the time of the crime. The instrument confirmed that the two vehicles of the model Blazer used by the policemen were parked at a gas station on Martin Luther King Avenue, in the access to the favela.<sup>219</sup>

This information coincides with the version of one of the four witnesses who recognized three of the accused military policemen as those who were walking in the community on the day of the crime. This witness told that she was going down a ramp close to number 11.503 on Martin Luther King Avenue when two policemen, who would be the drivers of the patrol, caught her by the arm and advised her not to enter the favela so as to “*not be hit by a stray bullet*”. Right after this, she saw at a distance four military policemen passing by in the area. Other residents saw the agents searching residents.<sup>220</sup>

This witness told that she saw W. being tripped and fall. The shot that killed him would have been made when the adolescent would have already been down on the ground.<sup>221</sup> After shooting, one of the two policemen would have said: “*Gee, it was a resident. It was a child!*”.<sup>222</sup> A pastor gave to the police two bullets that he claimed to have found close to W. body.

<sup>215</sup> “*Reconhecidos policiais que estiveram em favela*”, O Globo Online, June 26, 2004.

<sup>216</sup> Official letter dated July 12, 2004, signed by Colonel Joscimar da Silva Valeriano - Auxiliary Oversight Officer.

<sup>217</sup> “*Rastreamento incrimina PMs em homicídio*”, O Globo newspaper, July 2, 2004

<sup>218</sup> Ibid., and “*Rastreador usado em patrulha confirma que PMs estiveram no local onde estudante foi assassinado*”, O Dia Online, July 2, 2004.

<sup>219</sup> “*Rastreador usado em patrulha confirma que PMs estiveram no local onde estudante foi assassinado*”, O Dia Online, July 2, 2004.

<sup>220</sup> “*Rastreamento incrimina PMs em homicídio*”, O Globo newspaper, July 2, 2004.

<sup>221</sup> “*Rastreador usado em patrulha confirma que PMs estiveram no local onde estudante foi assassinado*”, O Dia Online, July 2, 2004.

<sup>222</sup> “*Protesto violento fecha avenida em Acari*”, O Globo newspaper, June 27, 2004.

After W. death, on that same night, residents of the Favela da Pedreira closed the Martin Luther King Júnior Avenue, in protest against the death of the student. The manifestation lasted various hours and while it was going on, another adolescent was shot and a bus was burned.<sup>223</sup>

The demonstrators forbid access to the avenue, protested and attacked some buses that were passing by with rocks and sticks. They also lit fire to tires and pieces of wood, creating real barricades. A little while later, various military police cars arrived and the police would have used tear gas and shot in the air. A shooting followed the confusion and an adolescent was shot in the head.<sup>224</sup>

At the time this report was written we had yet to receive any information from the State Secretariat of Human Rights regarding the measures adopted in the investigation of this case.

■ **C. M. S. e Luciano Custódio Sales,**  
Morro da Providência favela, Rio de Janeiro

On September 27, 2004, officers from CORE (Coordenadoria de Recursos Especiais), an elite police unit, entered the Morro da Providência *favela* to aid another CORE unit which was onboard a police helicopter flying toward the northern zone of the city when it came under fire. The officers in the helicopter were accompanied

by a reporter and a photographer from *O Dia*, a daily newspaper in Rio de Janeiro, who were conducting research for a story on aerial police operations.<sup>225</sup>

The airborne unit which came under fire radioed the CORE unit on the ground calling for support and provided instructions to the CORE officers on the ground regarding the location of shooters. The airborne unit informed the unit on the ground of the location of two young men who had entered a house.<sup>226</sup>

The CORE officers invaded the house and found Luciano and C.M.S. and brought them outside to an alley.<sup>227</sup> The photographer accompanying the airborne police unit, Carlos Moraes, was able to capture on film the events that followed.<sup>228</sup>

According to Luciano's brother, when the gunshots began Luciano and C.M.S. were afraid of getting shot and went to hide in a neighbour's house to protect themselves.<sup>229</sup>

The first of a series of photos published in *O Dia* on September 28, 2004<sup>230</sup>, shows Luciano and C.M.S. immobilized by the CORE officers and made to lie on the ground with their hands on their heads. The next photo in the series shows a police officer standing above the immobilized youths with an automatic weapon pointed at them, indicating that the two suspects had been subdued by the CORE officers and no longer constituted a threat. The next

<sup>223</sup> *Ibid.*

<sup>224</sup> "Ataque a helicóptero: reação, fuga, e execução" ("Attack on helicopter: reaction, escape, execution"), *O Dia*, September 28, 2004, p. 1.

<sup>225</sup> *Ibid.*

<sup>226</sup> *Ibid.*

<sup>227</sup> *Ibid.*

<sup>228</sup> *Ibid.*

<sup>229</sup> Photos donated by *O Dia* also appear on the cover of this report.

<sup>230</sup> *Ibid.*

photo in the series shows the CORE officers carrying the bodies of the two suspects, who had apparently been shot numerous times. The two were then taken to Souza Aguiar hospital, where they were declared dead on arrival.<sup>231</sup>

This series of photos seem to strongly suggest that the police summarily executed C.M.S. and Luciano, both of whom were lying on the ground and under police control before they were apparently shot.

The acting-Secretary of Public Security, Marcelo Itagiba, ordered the Oversight Office of the Civil Police (Corregedoria da Policia Civil) and the Inspector's Office of the Secretariat of Public Security (Inspetoria da Secretaria de Segurança) to investigate the circumstances that led to the deaths of Luciano and C.M.S. In addition, Mr. Itagiba suspended the police officers involved in this incident: Roberto Macedo da Cunha, Rogério Bastos da Costa, Jair Pereira Freire Junior, Rodrigo José F. Rodrigues, and Marcos Antônio Agapito Teles de Matos, as well as the police chief head of CORE, Mr. Gláucio Santos, who was onboard the helicopter.<sup>232</sup>

On September 28, 2004, approximately two hundred people attended the burials of Luciano and C.M.S.<sup>233</sup> There was

a climate of outrage among the families of the young men, as well as neighbours who said that they could hear the victims pleading for their lives before they were killed. One resident of Morro da Providência who wished to remain anonymous affirmed that Luciano and C.M.S. were tortured before being executed, stating "The police stabbed Luciano in the face and cut Luciano from his chest to his groin."<sup>234</sup>

The initial report from the Forensic Medical Institute (Instituto Médico Legal) indicates that C.M.S. and Luciano were shot from above and at close range, at a distance of approximately one meter. Although the police insist that the young men were killed in an exchange of gunfire, the evidence from the experts leads to the suspicion that the two were executed.<sup>235</sup>

At the time this report was written, the police involved in this incident had been suspended until the investigation is finished.<sup>236</sup>

On September 29, 2004, the Global Justice Center sent an urgent notice (Official Correspondence 239/04) regarding the above case to the UN Special Rapporteur for Extrajudicial, Summary or Arbitrary Executions.

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<sup>231</sup> "CORE Chief suspended after operation in Morro de Providencia" ("Delegado da CORE é exonerado após ação no Morro da Providência"), O Dia Online, September 28, 2004, available at: <http://ultimosegundo.ig.com.br/materias/odia>.

<sup>232</sup> C.M.S. and Luciano were killed by shots fired at close range, at a distance of approximately one meter, (C.M.S. e Luciano foram mortos com tiros disparados a curta distância, aproximadamente a um metro das vítimas),"Shots fired at close range" ("Tiros disparados a curta distância"), O Dia, September 29, 2004, p.17.

<sup>233</sup> "Outrage and emotion by families and friends at the burial of the two youths in Caju, ("Revolta e emoção de parentes e amigos durante o enterro dos jovens, no Caju."), O Dia, 29 de setembro de 2004, p.17.

<sup>234</sup> "Signs of Execution" ("Sintomas de execução"), O Dia, October 1, 2004, p.14 .

<sup>235</sup> "Signs of Execution" ("Sintomas de execução"), O Dia, October 1, 2004, p.14 .

<sup>236</sup> "Signs of Execution" ("Sintomas de execução"), O Dia, October 1, 2004, p.14 .



## Chapter III

### Investigation Delays: Representative Instances of Impunity in Rio de Janeiro

The issue of impunity is especially relevant among the causes that have contributed to Rio de Janeiro's increase in violence. Public discussions almost always connect impunity with the lack of punishment of civilian criminals. Such an understanding of the issue serves to encourage discourse in favor of harshening penalties and repressive actions. However, although the inefficiencies and failures of the criminal justice system represent a serious problem for the implementation of justice, the impunity of "civilians" (used here to mean citizens that are not invested with public functions) is less important, in terms of direct social costs, than its public counterpart. In other words, impunity is particularly worrisome when public agents commit the transgressions, especially if such transgressions manifest themselves as human rights violations.

Far from representing a set of distant and diffuse metaphysical principles, human rights need social and political recognition. It is thus imperative to punish their violation according to legal principles enshrined in the constitution and other statutes.

In the state of Rio de Janeiro, the

complexity of urban violence is creating a social *schism*, perpetuated by panic and rooted in poverty. The excesses committed by agents responsible for maintaining order are a strong impediment to the growth – and indeed to the exercise – of citizenship, insofar as there is no accountability when the State exceeds the legal limits that constitute its foundational basis. This also characterizes the lack of equanimity in the preservation of individual rights and freedoms.

The main problem in the cases presented below is the combination of extensive procedural delay and the low quality of the investigations performed by the police themselves. In some cases, as in the killing of Wallace de Almeida in 1998, the police inquiry may take years to conclude. In others, as in the case of a fifteen-year-old killed in the Lapa neighborhood, dangerous police officers are routinely released on bail. In these circumstances, violent police frequently seize this opportunity to intimidate witnesses while awaiting trial.

In this context, the Global Justice Center documents in this chapter a representative sample of eleven cases of

the kind of impunity enjoyed typically by police officers who commit serious abuses. These cases, rather than exhausting the universe of official impunity, seek to provide a qualitative vision of one of the major causes of increasing violence in Rio de Janeiro - impunity.

**Wallace de Almeida,**  
Babilônia favela, Rio de Janeiro.

On September 13, 1998, military police assassinated Wallace de Almeida, a black 18-year-old army soldier, in the Babilônia favela located in the Southern Zone of Rio de Janeiro. The officers of the 19<sup>th</sup> Military Police Battalion committed the crime with excessive violence during an arbitrary police ambush.

On the day of the crime, Wallace was climbing up the hill into the favela. He had almost reached the door of his house when the police shot him. His mother and cousin, who witnessed everything, saw Wallace suffering in the backyard, and told military police that an army soldier had been shot and that he needed to be taken to a hospital immediately.

Though they appeared worried that the victim was a soldier, the police altered the scene of the crime by placing a gun in Wallace's hand to make it look like he had been participating in a shoot-out.<sup>237</sup> The officers hesitated to rescue Wallace; when they finally did so, it was already too late. He died in Miguel Couto Hospital from

external hemorrhaging, most likely due to the delay in medical assistance.<sup>238</sup>

Due to the Brazilian authorities' extreme slowness in investigating the case and pressing charges against the criminals, on December 20, 2001, the Global Justice Center, the Center for Black Studies (Núcleo de Estudos Negros - NEN), and the victim's family members filed a petition concerning Wallace's execution with the Inter-American Commission on Human Rights of the Organization of American States (Ofício JG/RJ 231/01).

More than six years have passed since Wallace's murder. As of the writing of this report, the police inquisition still has not concluded and displays a series of irregularities. The internal affairs office and the police station have shown no commitment to investigating the case, shuttling the files concerning the legal process back and forth between them. This negligence in identifying and trying the police that participated in causing Wallace de Almeida's death continues.

**Robson Franco dos Santos,** Bangu III,  
Penitentiary, Rio de Janeiro.

On May 2<sup>nd</sup>, 2000, at approximately 10:30 a.m., several guards from the Bangu III Penitentiary caught the prisoner Robson Franco dos Santos trying to escape, hiding in a garbage can to be removed from the prison. Upon catching him, the guards beat him severely, provoking serious injury.

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<sup>237</sup> This is an example of how falsified self-defense scenes are often times set up.

<sup>238</sup> Death Certificate, Rio de Janeiro, September 17, 1998

Hours later, public defenders met with Robson, whom they found crouched on the floor in a large pool of blood. They testified that he had injuries all over his body, including his face, head, shoulders, and back. He also had a broken arm, broken teeth, and other bleeding wounds. Robson did not receive medical attention until after 5:30 p.m., following the public defenders' insistence.

At the time this report was written, we were unable to obtain information regarding the investigation of the accused prison guards.

### **Sandro Nascimento**, Rio de Janeiro.

On June 12, 2000, Sandro do Nascimento, age 21, a former "street kid" (*menino da rua*) and survivor of the infamous Candelaria Massacre of 1993<sup>239</sup>, suffocated inside a military police vehicle. Sandro had tried to hold up a bus on the 174 line when police surrounded him in the Jardim Botânico neighborhood in the southern part of Rio de Janeiro.

After many tense hours during which Sandro held passengers hostage, he decided to turn himself in. He exited the bus using Geisa Gonçalves, a 21-year-old teacher, as a shield. At that moment, a military police officer shot at him but missed. Sandro then shot the hostage.

Police took him immediately into custody, still alive.<sup>240</sup> However, he died of suffocation in the patrol car on the way to Souza Aguiar Hospital in downtown Rio de Janeiro. This entire scene was broadcasted live on national television.

On December 11, 2002, the IV Jury Court of Rio de Janeiro acquitted military police officers Ricardo de Souza Soares, Flávio do Val Dias, and Márcio de Araújo David of Sandro Nascimento's homicide by a vote of four to three. The decision confirmed the theory that Sandro had strangled himself while inside the police vehicle, in spite of autopsy report no. 4151/00, which identifies the cause of death as "mechanical asphyxiation caused by constriction (pressure) to the neck by strangulation."<sup>241</sup>

On December 13, 2002, the Office of the Public Prosecutor stated its intention to appeal the decision.<sup>242</sup> On September 19, 2003, in a unanimous decision, the 8<sup>th</sup> Criminal Court denied the appeal.<sup>243</sup>

### **Alexandre Mandado Pascoal**, Muniz Sodré Provisional Detention Center, Bangu Penitentiary Complex, Rio de Janeiro.

On August 30, 2000, Nigel Rodley, the UN Special Rapporteur on Torture, visited the Muniz Sodré Provisional Detention Center<sup>244</sup>, one of the provisional detention

<sup>239</sup> On July 23, 1993, a group of masked police officers opened fire on more than 50 street kids sleeping near a church, resulting in the deaths of seven children and one young adult.

<sup>240</sup> After the Bus (Depois do ônibus), *Folha Online*, available at [www1.folha.uol.com.br/folha/ombudsman/omb\\_20000618\\_1](http://www1.folha.uol.com.br/folha/ombudsman/omb_20000618_1), June 18, 2000. Renata Lo Prete, "Ele ainda saiu vivo do local" ("Upon, leaving the scene he was still alive.").

<sup>241</sup> IP n° 165/2000 – 15<sup>th</sup> Police Station, Sentence, fl. 1865, of criminal proceeding no. 2000.001.092042-0.

<sup>242</sup> "Promotores anunciam que pedirão novo julgamento dos PMs do 174" *Tribuna da Imprensa Online*, available at [www.tribuna.inf.br/antiores/2002/dezembro/13/noticia.asp?noticia=pais04](http://www.tribuna.inf.br/antiores/2002/dezembro/13/noticia.asp?noticia=pais04), December 13, 2002.

<sup>243</sup> Appeal n° 2003.050.00664, pp.1876-1896, filed by the Office of the Public Prosecutor, available at: [www.tj.rj.gov.br](http://www.tj.rj.gov.br).

<sup>244</sup> Rodley was accompanied by members of Amnesty International, who also registered the detainees' stories and included them in their publication, *Tortura e Maus-Tratos no Brasil*.

centers of the Bangu Penitentiary Complex, in Rio de Janeiro. While there, some of the detainees described how about 50 prison staff members and special police units had beaten them severely for 5 or 6 hours in the patio of the detention center. The staff members and police used clubs and iron bars, some with barbed wire rolled around them.<sup>245</sup> These events followed a complaint the detainees had lodged regarding the disappearance of personal objects from their cells after penitentiary agents had searched them.

Prisoner Alexandre Mandado Pascoal suffered the worst injuries due to the torture that day. Alexandre fainted at least 4 times due to beatings. The other detainees also informed Rodley that the chief of security bit Alexandre's buttocks.<sup>246</sup>

On August 30, 2000, Alexandre went before a judge. According to the Amnesty International report, the judge refused to listen to Alexandre, ordering his immediate transfer to the emergency room. Alexandre was then transferred to the hospital, where a doctor ordered his immediate hospitalization. However, according to the Alexandre's own story, the prison guards would not allow him to be interned in the hospital. He received no medication, not even a painkiller. Alexandre was then taken to the Legal Medical Institute where his injuries were recorded. He recounts that he did not

mention the beating, fearing reprisals from the prison guards who were with him at all times.<sup>247</sup>

On the day of his interview with the UN Special Rapporteur, Alexandre showed signs of two large hematomas on his lower back, significant swelling on the back of the head, immobility in his right leg and left arm, cuts on his lips, burns all over his body (especially on his head), and what appeared to be broken fingers. He was also vomiting up blood. With help from officer Vieira Ferreira Neto, Alexandre was taken on a stretcher to the nearest health clinic. The clinic determined that he should be transferred to a hospital immediately.<sup>248</sup>

When the State Judicial Secretary of Rio de Janeiro informed them of the situation, the Undersecretary for Human Rights and the Chief of Security of the Penitentiary System accompanied the UN Special Advisor to register. Alexandre Pascoal's story. They guaranteed him medical treatment and protection from possible reprisals.<sup>249</sup>

The Judicial Secretary suspended the Director of Muniz Sodré Provisional Detention Center and the Chief of Security, pending the conclusion of the investigations. The prison guard who allegedly led the torture session was temporarily suspended from active duty, although he has since been moved to another division of the penitentiary's staff.<sup>250</sup>

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<sup>245</sup> Information taken from *Tortura e Maus-Tratos no Brasil* published by Amnesty International in October 2001.

<sup>246</sup> *Ibid.*

<sup>247</sup> *Ibid.*

<sup>248</sup> *Ibid.*

<sup>249</sup> Information taken from *Tortura e Maus-Tratos no Brasil* published by Amnesty International in October 2001.

<sup>250</sup> *Ibid.*

At the time this report was written, we were unable to obtain information regarding the investigation of the accused prison guards.

**Edson Roque and Alexandre Farias Lima**, Roberto de Medeiros Criminal Psychiatric Hospital, Rio de Janeiro.

On November 16, 2002, prison security agents beat and shot Edson Roque, an inpatient at the Roberto Medeiros Criminal Psychiatric Hospital. He died the following day.<sup>251</sup> Edson was trying to protect another patient, Wellington Chagas Braga, from being beaten by penitentiary guard Odnei Fernando da Silva.

Alexandre Farias was also trying to help Wellington avoid the beating. After the incident, Alexandre received constant threats. Because of this, he was transferred to Ary Franco Prison on December 13, 2002. However, at the end of January, Alexandre was found dead. Coincidentally, this occurred on the same day he was scheduled to present his statement at the 34<sup>th</sup> Police Station in Rio de Janeiro.

At the time this report was written, we were unable to obtain information regarding the investigation of the accused prison guards.

**Gil Alves Soares and Erivelton Pereira de Lima**, Rebu and Coréia favela, Senador Camará, Rio de Janeiro.

On January 10, 2003, a police operation took place in the favela of Rebu and Coréia, in the Senador Camará district of Rio de Janeiro. The operation involved 250 civil and military police from the 34<sup>th</sup> Police Station, the Police Station for Theft Investigation (Delegacia de Roubos e Furtos de Cargas-DRFC), and the 14<sup>th</sup> Battalion of the Military Police of Rio de Janeiro, as well as the use of two helicopters.

The objective of the operation was the arrest of 4 drug traffickers. It was backed by an “itinerant search warrant,” a legally questionable document that allows for the search of any person and/or home in the area.<sup>252</sup>

Though no arms or drugs were found in their possession, police apprehended Gil Alves Soares and Erivelton Pereira de Lima in their homes and took them to the DRFC’s car. Local residents commented that police beat the two men before locking them in the car for four hours in 40° C heat.<sup>253</sup> The police later reported the death of both men, alleging that they had both fallen ill in the cars as a result of a cocaine overdose and subsequently died in the Getúlio Vargas Hospital. However, police found neither man in possession of illegal substances.

No autopsies were conducted on the bodies of the deceased because the Legal Medical Institute said that it lacked the necessary chemical agents to run tests for illegal substances. A police inquiry

<sup>251</sup> Forensic Medical Institute (*Instituto Médico Legal* – IML) Report no. 7589/02. Edson was shot in the abdomen and head, the latter shot being fatal. In addition, marks on Edson’s corpse indicated that he had been beaten.

<sup>252</sup> This warrant is illegal under Brazilian law as explained in articles 240 and 243 of the Brazilian Law of Judicial Procedures. Regarding the use of generic warrants see the analytical section of this report.

<sup>253</sup> Interview with the father of Erivelton to the Human Rights Commission of the Legislative Assembly of Rio de Janeiro (ALERJ), February 12, 2003.

commenced at the 34<sup>th</sup> Police Station, which was thereafter transferred to the Police Station for the Theft Investigation.

At the time this report was written, we had not received any information from the State Secretariat of Human Rights regarding the investigation of this case.

**W.C.P.** (11 years old), Lapa, Rio de Janeiro.

On January 21, 2003, at approximately 5:00 p.m., military police officer Diogo da Silva Cunha shot and killed eleven-year-old W.C.P. in the Lapa neighborhood of Rio de Janeiro. W.C.P. died from single gun shot, which struck his heart and lungs.<sup>254</sup>

According to reports registered at the 5<sup>th</sup> Police Station, W.C.P. and his friend T.S.S. had gone out to buy milk when they noticed that two military police officers were following them.<sup>255</sup> As they approached the cathedral on Chile Avenue, one of the officers fired two shots at the children, one of which hit W.C.P. Shortly after the shooting, Da Silva Cunha radioed the police to say that the boy had been shot by criminals driving a white Gol, who then fled the scene.

Military police officers from the 13<sup>th</sup> Battalion discovered Diogo's coverup when they arrived at the scene and registered several witness' statements who had seen the shooting. Police arrested Diogo and took him to the 5<sup>th</sup> police Station.

As of the writing of this report, case no. 20030010101499 still awaits a decision from the 4<sup>th</sup> Criminal Court judge<sup>256</sup>. The police officer, Diogo da Silva, remains free.<sup>257</sup>

**H.S.G.S.** (16 years-old), Nossa Senhora da Guia favela, Rio de Janeiro.

On January 21, 2003, police from the 23<sup>rd</sup> Police Station and the 3<sup>rd</sup> Battalion of the Military Police shot and killed sixteen year old H.S.G.S. with a bullet to the heart.<sup>258</sup> H. was a student who had recently arrived from the state of Minas Gerais to live with his mother in Rio de Janeiro. Witnesses state that the youngster was approached by the police and taken to their vehicle, where they already had one man in custody. Witnesses further state that the police pretended to leave the *favela* but then came back and took the two to the top of the hillside, where they were killed.

The police claimed H. died in an exchange of gunfire with police and had been involved with drug trafficking in the area. The boy's mother, Márcia Jacintho, filed a homicide complaint against the police at the 25<sup>th</sup> Police Station.

According to information provided by Mrs. Jacintho in a phone conversation with the team from the Global Justice Center on September 8, 2004, the inquiry (IP no. 5332) is in its final stages. Testimony from the police officers has already been heard,

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<sup>254</sup> Death certificate no. 3924378, book 408-C, p. 267, no. 57926.

<sup>255</sup> Arrest Record, protocol no. 004054-1005/2003, procedure no. 005-00352/2003, 22/01/03. Witnesses: Marco Antônio Santos de Melo, Military Police, 13 BPM; David Nunes Ferreira, soldier in the Military Police em serving with Diogo Cunha.

<sup>256</sup> Information available at: [www.tj.rj.gov.br](http://www.tj.rj.gov.br) .

<sup>257</sup> Information provided by Pedro Roberto da Silva, Projects Coordinator at São Martinho Foundation, who is following the case along with the Office of the Public Prosecutor, in an telephone interview with the Global Justice Center on October 4, 2004.

<sup>258</sup> Death certificate no. 74473

leaving only the testimony of one witness who is living in another state for the investigatory phase to be completed and the Office of the Public Prosecutor to file a report.<sup>259</sup>

At the time this report was written, the military police responsible for the death of H. were free and on the streets working. Neighbors tell the victim's mother that the same police officers have killed other young men.<sup>260</sup>

**Carlos Magno de Oliveira Nascimento, Tiago da Costa Correia, Carlos Alberto da Silva Ferreira, Everson Gonçalves Silote** – Borel favela, Rio de Janeiro.

On the evening of April 17, 2003, four young residents of the Borel *favela* in Rio de Janeiro were killed in a military police operation involving sixteen officers from the 6<sup>th</sup> Battalion of the Military Police. The official account of the episode alleges that the four victims were local drug traffickers, and that they were killed in a shoot-out with the military police. None of the victims – three of whom were employed and one of whom was a student – had criminal records.<sup>261</sup>

Earlier that day, eighteen-year-old Carlos Magno de Oliveira Nascimento and nineteen-year-old Tiago da Costa Correia, went to have their hair cut at a local barber-shop. Nascimento was a student who lived and studied in Switzerland; he was on vacation visiting his grandmother in Brazil. Correia was a machine repairman.

As the two stepped out of the barber-shop, military police officers positioned on the roof of a nearby house, shot and killed them. Nascimento suffered six shots – three from the front and three from behind – which killed him immediately.<sup>262</sup> Correia, who suffered five shots,<sup>263</sup> lay on the ground for some time, crying for help and saying that he was an innocent worker.<sup>264</sup> The officers did not respond to his pleas for help, allowing the boy to die without aid.<sup>265</sup>

Carlos Alberto da Silva Ferreira, 21, worked as a painter, a stone-cutter, and, during carnival season, a float-builder. On his day off, on April 17, 2003, he went to play soccer on a local playing field and decided to get a haircut on his way home. As he approached the barbershop, he heard gunshots and ran. One of the bullets fired hit him in the head, and seven others hit him in the back. In total, Ferreira was

<sup>259</sup> The Global Justice Center, telephone interview with Márcia Jacintho, September 8, 2004.

<sup>260</sup> The Global Justice Center, telephone interview with Márcia Jacintho, September 8, 2004.

<sup>261</sup> *Military Police Accused of Killing 4 in Borel (PMs acusados de matar 4 no Borel)*, *O Globo* Newspaper, May 9, 2003. The sub commander of the 6<sup>th</sup> military police battalion, lieutenant-colonel José Luiz Nepomuceno informed the press that the victims were part of a drug cartel, and that they were found carrying drugs, weapons, and ammunition.

<sup>262</sup> Autopsy report no. 26258/2003 – Medical Forensics Institute (*Instituto Medico-Legal* – IML).

<sup>263</sup> Autopsy report no. 2659/2003 – IML. The autopsy report confirms that several of the shots were fired at point-blank range. Tiago did not die instantly. He suffered for approximately half an hour; the police having impeded him from seeking help.

<sup>264</sup> The agonizing nature of Correia's death was attested to by Pedro da Silva Rodrigues, a surviving victim of the Borel police operation. Rodrigues stated that he heard Correia crying out for medical attention, and heard one of the police officers reply that Correia was a "criminal" and was going to die. See *Survivor Becomes Witness (Sobrevivente vira testemunha)*, *O Dia*, May 19, 2003.

<sup>265</sup> "Encontro com a morte", *O DIA*, 18/05/03.

shot twelve times, including several times at point-blank range.<sup>266</sup>

Everson Gonçalves Silote, 26, was a taxi driver who had spent the day in the units of DETRAN in the neighborhoods of Tijuca and São Cristovão processing his vehicle registration. On his return to the favela, Silote parked his car on a nearby street, since police had blocked the access. He was returning on foot when he was confronted by the police. Silote attempted to identify himself, but received a blow that broke his right arm. He was killed before he had an opportunity to show documents establishing his identity.

According to information provided by the State Secretariat of Human Rights in Rio de Janeiro, the case was registered in the Military and Civil Police Unified Oversight Office, for it is already under investigation by the Military Police of the state of Rio de Janeiro.<sup>267</sup>

At the time this report was written, according to information given to Mrs. Dalva Correia, mother of Tiago Correia, by the Department of Human Rights of the Office of the Public Defender, the police officers involved in the operation are in jail accused of torture and awaiting sentencing.<sup>268</sup>

**Jeferson Ricardo da Paz**, Mandela II favela /Manguinhos, Rio de Janeiro.

Jeferson Ricardo da Paz, age 22, was in the doorway to his house on April 29, 2003, when he was shot in the heart by civil police officers carrying out an operation the area.<sup>269</sup> In the incident, five officers from the *Capturas do Norte* police station arrived in the neighborhood in a large covered truck. As they stepped out of their vehicle the officers began shooting, inciting a great panic.

The police were told by residents of the area that the injured man was a local worker, but the officers refused to provide first aid for him, which was instead given by his neighbors. Jeferson was dead upon arrival at Bonsucesso General Hospital. The police alleged Jefferson was a drug trafficker acting as a security guard for the leader of the local drug trade at the time of the operation. They also alleged to have found a 9mm in Jeferson's hand after the incident.

No forensic exams were conducted to determine whether there was gunpowder present on Jeferson's hands or on the gun that he was supposedly carrying.

At the time this report was written, the

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<sup>266</sup> Autopsy report no. 2657/2003 – IML. Five of the shots Ferreira suffered were to his arms and hands, suggesting that he tried to protect himself from the shots fired at him.

<sup>267</sup> Information provided by the State Secretariat for Human Rights to the Global Justice Center in official statement SEDH No 197/0004/2004, on August 11, 2004.

<sup>268</sup> Information by Mrs. Dalva Correia, the mother of Tiago Correia, in a telephone interview with the Global Justice Center on October 2, 2004.

<sup>269</sup> Death certificate n. 24947, fl.205, book no. 1SC-0055

Global Justice Center had yet to receive any information from the State Secretariat of Human Rights regarding the measures adopted in the investigation of this case.

**Geraldo Sant’anna de Azevedo Júnior, 21 years old, Bruno Muniz Paulino, 20 years old, and the two brothers Rafael, 18 years old, and Renan Medina Paulino, 13 years old, São João de Meriti, Rio de Janeiro.**

Rafael Medina Paulino, Renan Medina Paulino, Bruno Muniz Paulino and Geraldo Sant’anna lived in Jardim Santo Antônio, in the district of Guadalupe, in the state of Rio de Janeiro. They had been childhood friends. Bruno, an only child, was attending university where he studied mathematics. His cousins, Rafael and Renan, were still in secondary school and this was the first time that the family had permitted Renan, who was 13 years old, to go out at night with his older brother. Geraldo Sant’anna was a soldier in the army where he was the driver for the Commander of the 2nd Battalion of the Infantry. In Geraldo’s free time, he provided entertainment at children’s parties in Guadalupe, the neighborhood where he lived.<sup>270</sup>

On Friday, on December 5th night the friends went together to “ViaShow”, a nightclub in Baixada Fluminense. The

boys were last seen early Saturday morning by a friend, Wallace Lima, who had also been at the nightclub. He stated that he saw them in the nightclub parking lot at 4:40am.<sup>271</sup> That was the last time that the young men were seen alive.

An anonymous tip helped the police find four boys’ bodies on the morning of December 9, 2003. The bodies were at the bottom of a well at an abandoned farm, known as Morambi, in the Imbariê neighborhood of the Duque de Caxias district in Baixada Fluminense.<sup>272</sup>

According to chief police officer Renato Soares Vierra of the 62nd Police Delegation, the victims each had at least three gunshot wounds, principally in the head, which is typical of summary executions.<sup>273</sup> The advanced state of the bodies’ decomposition suggests the young men had been dead for at least two days before they were found. There were clear signs of torture and the skulls of the youths had been destroyed by gunshots.<sup>274</sup>

The case was transferred to the Homicide Department, under the responsibility of Herold Spíndola Filho. The police investigation<sup>275</sup> affirmed that one of the victims, the army soldier Geraldo Sant’anna, had been trying to steal the car of one of the police officers<sup>276</sup> who was working as a bouncer at the nightclub. For this reason Geraldo was supposedly accosted by that bouncer (off-duty military

<sup>270</sup> “Os rapazes eram amigos de infância”, *O Globo* Newspaper, December 6, 2003.

<sup>271</sup> “Policiais suspeitos de matança”, *O Dia* Newspaper, December 10, 2003

<sup>272</sup> “Amiga de jovens mortos suspeita de seguranças de casa de show”, *Tribuna da Imprensa* Newspaper, December 10, 2003.

<sup>273</sup> *Ibid.*

<sup>274</sup> “Policiais suspeitos de matança”, *O Dia* Newspaper, December 10, 2003.

<sup>275</sup> Police Investigation, IP no.77/03. Information provided by the State Secretary for Human Rights to Global Justice on July 8, 2004.

<sup>276</sup> A dark red colored car, model GM-Kadett, that belonged to Henrique Vitor Oliveira of the Military Police’s 15th Battalion, “PMs são acusados de morte na Baixada”, *Extra* Newspaper, March 3, 2004.

police) who called other police that were on duty to serve as reinforcement.<sup>277</sup>

According to Geraldo's family<sup>278</sup>, he tried to identify himself and pointed out the other three boys, explaining that he had just come to the nightclub with his friends to have a good time. The police apprehended the four youths and instead of taking them to the police station for questioning, they drove them to the abandoned farm where the bodies were found. In this location, they were executed.

On March 2, 2004, eight soldiers and one sergeant of the Military Police were temporarily imprisoned for suspected involvement in the deaths of the four young men. It was confirmed that on the night in question four of the nine imprisoned police worked as security at the nightclub ViaShow, and the other five were on duty.<sup>279</sup> On April 15, 2004, the

Court of Appeal of the state of Rio de Janeiro revoked the temporary prison sentences for all of the police officers, granting to the accused the right to respond to the proceedings at liberty.<sup>280</sup>

On July 31, 2004, the prosecutor Márcia Colonose of the Office of the Public Prosecutor of Duque de Caxias, filed the indictment with the judge of the 4<sup>th</sup> Criminal Court of Caxias, Paulo César Vieira de Carvalho, who seized himself of the petition. The accused policemen are: captain Ronald Paulo Alves, and privates Gilberto Ferreira de Paiva, Luiz Carlos de Almeida, Vagner Luís da Silva Victorino, Henrique Vitor de Oliveira Vieira, Fábio de Guimaraes Vasconcelos, Paulo César Manoel da Conceição and Eduardo Neves dos Santos.<sup>281</sup>

At the time this report was written, the policemen remained free, awaiting judgment.<sup>282</sup>

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<sup>277</sup> The military police officers on duty were from the Military Police's 21<sup>st</sup> Battalion.

<sup>278</sup> Information provided by Siley Muniz Paulino, Bruno Muniz Paulino's mother, and Elizabeth Medina Paulino, Rafael and Renan Medina Paulino's mother, in an interview with Global Justice on June 23, 2004.

<sup>279</sup> "PMs são acusados de mortes na Baixada", *Extra* Newspaper, March 3, 2004.

<sup>280</sup> Habeas Corpus no. 2004.059.01278; 2004.05901185; 2004.059.01342. Information provided by the State Secretary for Human Rights to Global Justice on July 8, 2004.

<sup>281</sup> "Divulgadas fotos de policiais suspeitos de mortes", *O Dia* Newspaper, September 14, 2004, p.14.

<sup>282</sup> *Ibid.*



## Recommendations

- ◆ **Pass the proposed law granting civilian courts increased jurisdiction over crimes committed by military police officers** while they are on duty. Include the crimes of involuntary manslaughter, assault and battery, and torture.
- ◆ **Grant full autonomy and independence to police internal affairs departments and ombudsmen** and provide financial resources for their training and general operations. The ombudsmen should be authorized to investigate all complaints, as well as recommend cases for prosecution. In addition, they should be empowered to subpoena documents and individuals. Authorities should guarantee the safety of ombudsmen and their staff.
- ◆ **Initiate cooperation between ombudsmen and prosecutors** that would allow ombudsmen to forward cases related to police violence to them.
- ◆ **Implement systems within Attorney General Offices to oversee police activity, and create independent oversight bodies.** The Brazilian authorities should create investigative divisions within the state and federal Attorney General offices. These bodies should have the power to subpoena and investigate individuals, documents, government offices and detention centers to enable thorough and independent investigations.
- ◆ **Guarantee independence and public oversight of Forensic Medical Institutes** by terminating their ties with the investigative divisions of police departments, as well as modernizing and improving their facilities.
- ◆ **Provide public access and access by police monitoring organizations** and other human rights organizations to the results of forensic examinations.

- ◆ **Emphasize preventative efforts**, expanding the capability of police to prevent crimes rather than simply reacting to crimes after they are committed.
- ◆ **Adopt a plan to reduce killings by police**. The plan should establish a semi-annual review system and utilize preventative efforts and continuous community policing, holding police accountable for misconduct and oversight and tracking of police weapons.
- ◆ **Expand the community policing model**.
- ◆ **Create programs to suspend police officers** that are involved in fatal shootings until they are evaluated for their psychological well-being and investigated.
- ◆ **Create strict regulations regarding the use of force in subduing suspects, in order to reduce the number of deaths during these procedures**.
- ◆ **Unify the police training academies**, establishing partnerships with universities for police training.
- ◆ **Increase police officers' salaries and seek alternatives or enhancements to the current system of payment, such as paying over-time**, so that officers are not tempted to work second jobs.
- ◆ **Train all officers in non-lethal techniques** (defensive shooting, subduing suspects, etc.).
- ◆ **Modify police regulations** so that officers who are attacked do not continue working on the same investigation, in order to reduce acts of vengeance.
- ◆ **Recognize police officers who resolve difficult situations without the use of force** and recognize battalions, police stations and teams that decrease the number of killings without compromising effectiveness.
- ◆ **Set up awareness campaigns promoting correct police practices** and carry out broad publicity about how to file complaints of police misconduct.

- ◆ **Create specific goals for the reduction of police violence in each state**, and tie distribution of federal funds for state law enforcement to accomplishment of those goals.
- ◆ **End the use of firearms in certain police operations**, such as dispersing land occupations and maintaining security at soccer games and public events.
- ◆ **Set up a more effective witness protection program** and prioritize the thorough investigation of all cases of attempted homicide against witnesses.
- ◆ **Provide financial compensation** to victims of police brutality and their families.
- ◆ **Facilitate complaints processes**. All human rights defenders and victims of human rights violations should have access to an effective complaint procedure that does not leave them vulnerable to reprisals. Complaints should be automatically forwarded to the human rights divisions of the state and federal Attorney General Offices (to be created where not already in place).
- ◆ **Abolish use of holding cells** in police stations and build new detention centers for short-term detention.
- ◆ **Guarantee investigation** and notification of the Attorney General for any and all cases of murder inside of prisons.
- ◆ **Adopt a discourse of respect for human rights and the law by law enforcement and prison authorities**, and hold public officials accountable for statements or actions that foster police brutality and the humiliation of suspects and convicts.
- ◆ **Impose the burden of proof on the prosecution** to demonstrate that a confession was not obtained illegally in cases where there is evidence of torture or mistreatment.
- ◆ **Expand the investigative capabilities of the police** by modernizing and training in technical and scientific policing, setting up systems to track weapons and vehicles, including those used by the police, through systems like GPS, ballistic identification, fingerprinting and photo-identification.

- ◆ **Set up a unified information and intelligence body, under the Governor's control with internal bylaws**, with the objective of combating organized crime, preventing state-sponsored violence and assisting in strategic police planning.
- ◆ **Investigate and censure** police officers that work for private security firms on the side.
- ◆ **Prioritize the reduction of involuntary manslaughter** with investigative and preventative policing and the combat of death squads.
- ◆ **Federalize human rights crimes**. The Brazilian government should guarantee federal jurisdiction (including federal police, prosecutors and judges) in cases of human rights abuses.
- ◆ **Immediately suspend prison officials** or police accused of torture, homicide or corruption during an investigation.
- ◆ **Involve external groups** (public defenders, community councils, human rights and religious organizations) in the periodic review of prisons, with the objective of preventing and denouncing violence against prisoners.
- ◆ **Open a record for each prisoner, indicating the time and reason for his or her incarceration and any subsequent transfers, and the responsible police officers**. This record should include information regarding a prisoner's release or transfer to any Forensic Medical Institute or temporary holding cell and should accompany the individual during any and all transfers.