



‘SHUT UP IF YOU DON’T WANT TO BE KILLED!’

HUMAN RIGHTS VIOLATIONS BY POLICE
IN THE DOMINICAN REPUBLIC

AMNESTY
INTERNATIONAL



Amnesty International is a global movement of more than 3 million supporters, members and activists in more than 150 countries and territories who campaign to end grave abuses of human rights.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

AMNESTY
INTERNATIONAL



First published in 2011 by
Amnesty International Ltd
Peter Benenson House
1 Easton Street
London WC1X 0DW
United Kingdom

© Amnesty International 2011

Index: AMR 27/002/2011 English
Original language: English
Printed by Amnesty International,
International Secretariat, United Kingdom

All rights reserved. This publication is copyright, but may be reproduced by any method without fee for advocacy, campaigning and teaching purposes, but not for resale. The copyright holders request that all such use be registered with them for impact assessment purposes. For copying in any other circumstances, or for reuse in other publications, or for translation or adaptation, prior written permission must be obtained from the publishers, and a fee may be payable. To request permission, or for any other inquiries, please contact copyright@amnesty.org

Cover photo: Police officers on patrol during demonstrations in the Capotillo and Cristo Rey neighbourhoods of Santo Domingo, July 2003. The protests were sparked by a rise in the cost of basic foods following an agreement between the government and the International Monetary Fund (IMF).

© EFE/Orlando Barria

The parents of José Luis Estévez with a picture of their son. He was killed by police in front of his house in Capotillo, Santo Domingo, on 19 February 2010.

© Amnesty International

amnesty.org

CONTENTS

| | |
|--|----|
| Methodology | 5 |
| 1. INTRODUCTION | 6 |
| 2. THE NATIONAL POLICE | 9 |
| Overview | 9 |
| An institution lacking public trust..... | 10 |
| Widespread corruption | 10 |
| Low salaries | 11 |
| 3. THE PUBLIC SECURITY CONTEXT | 13 |
| Police corruption and abuse stokes crime and violence | 14 |
| 4. POLICE ABUSES | 16 |
| Killings and injuries | 16 |
| Unlawful killings..... | 18 |
| Torture and other ill-treatment | 25 |
| Enforced disappearances..... | 31 |
| Arbitrary arrest | 33 |
| 5. BARRIERS TO JUSTICE | 35 |
| Unclear investigation procedures..... | 35 |
| Failure to investigate when there is no official complaint | 37 |
| Discriminatory investigation practices | 37 |
| Inadequate investigations | 38 |
| Shortcomings in forensic services..... | 40 |
| Inadequate protection for victims and witnesses | 41 |

| | |
|--|----|
| Lack of reparation..... | 43 |
| 6. INDEQUATE OVERSIGHT OF THE POLICE | 44 |
| Poor oversight from the state institutions..... | 44 |
| Lack of independent oversight mechanisms..... | 45 |
| Oversight by civil society | 46 |
| 7. FAILURE TO IMPLEMENT REFORMS | 47 |
| Previous attempts at police reform..... | 48 |
| Current programme of police reform..... | 48 |
| Police opposition to the creation of a technical investigation service | 50 |
| Resistance to change | 51 |
| 8. CONCLUSIONS AND RECOMMENDATIONS | 52 |
| Conclusions | 52 |
| Recommendations | 54 |
| ENDNOTES | 59 |

METHODOLOGY

This report covers issues related to human rights violations by the National Police in the Dominican Republic between 2005 and July 2011. During this time, three different chiefs of police were in post: Bernardo Santana Páez (August 2005 to August 2007); Rafael Guillermo Guzmán Fermín (August 2007 to August 2010) and José Armando Polanco Gómez, the current Chief of Police. This period also largely coincides with the two consecutive governments of President Leonel Antonio Fernández Reyna who was elected on 16 May 2004 and re-elected on 16 May 2008.

The report is based on interviews and research carried out in October 2009, October 2010 and March 2011 in the Dominican Republic. Amnesty International's delegates visited the capital, Santo Domingo, and the towns of Santiago, Navarrete and San Juan de la Maguana. They interviewed the families of 20 men killed by the police and of four young men who were shot by the police and survived. Delegates also met relatives of other victims of human rights abuses by the police, including the families of two men feared to be victims of enforced disappearance and of several people who alleged that they were tortured in custody.

In Santo Domingo, Amnesty International visited three low-income communities with high levels of crime (Gualey, Guachupita and Tres Brazos) and spoke to residents about policing in these neighbourhoods. The names of those who spoke to Amnesty International have been withheld to protect their security and privacy.

Delegates met police officials; representatives of the Office of the Prosecutor General; provincial prosecutors; the Minister of the Interior and Police; and representatives of the National Institute of Forensic Pathology and the National Institute of Forensic Sciences. Delegates also spoke to journalists, lawyers, academics, former police officers and prosecutors and a wide range of civil society groups, including human rights organizations, think-tanks, NGOs working on governance issues, community-based organizations, social movements, youth movements and professional organizations. Discussions were also held with representatives of international organizations and bilateral donors.

Amnesty International's researchers are grateful to those police officials, prosecutors and other state officials who made themselves available to the organization. However, at the time of writing Amnesty International had not received some crucial information, such as statistics on the number of police officers under investigation, charged with or tried for human rights violations; information on investigations in a number of cases detailed in the report; and relevant police documents.

Amnesty International would like to thank all the civil society organizations and individuals who provided information and documentation for their generosity in setting aside time to discuss the issues highlighted in this report.

Amnesty International wishes to thank above all the survivors of human rights abuses, the families of victims, and the witnesses to human rights violations who agreed to come forward and share their experiences and insights. This report bears witness to their steadfast and determined quest for justice and for fundamental and lasting reform to end human rights violations by the police.

1. INTRODUCTION

JUNIOR TONTON SANTIAGO

Junior Tonton Santiago (called Salivita) was shot by police in a motel in Cristo Rey, Santo Domingo, on 28 September 2010. He died a few hours later. The police claimed that he was wanted in connection with the killing of a doctor on 3 August 2010. They also said that they arrested two other members of a criminal gang responsible for “several crimes” and confiscated several firearms from them.¹

A friend of Junior Tonton Santiago, who was in the motel room with him and witnessed the killing, told Amnesty International what he saw:

“At about 9am, four police officers broke in the room. As soon as Junior saw them, he cried: ‘Don’t kill me’, but the captain answered ‘Shut up! Shut up!’ and shot him. He shot him three times. Another officer shot him as well. They put a firearm in his hand and then took it with them to use as evidence that he shot at them. When Junior was being dragged on the stairs, he begged the police officers: ‘Don’t let me die’. But one of them just swore at him... They loaded him into the car with which they had come and put me into a pick-up truck. We were both taken to hospital. There, I saw that Tonton had arrived alive at the hospital. I heard one of the officers saying: ‘He is still alive’, and the captain ordering him to put his fingers in Junior’s injury to push the bullet inside and make him suffer... From the hospital, the police took me on a car tour around Cristo Rey because they wanted me to show them where we had hidden some illegal weapons and to tell them why Tonton had killed the doctor [...]. In the car I heard the captain saying on the phone ‘I killed Salivita’, so that I knew that he had died.”

Another witness interviewed by Amnesty International said he was in the motel when a police patrol arrived. He heard a police officer shouting: ‘Open the door, we have to arrest somebody and kill a man!’ He said he ran and hid on one of the other floors where he could hear shots being fired.

Junior Tonton Santiago’s family reported the shooting to the National Commission of Human Rights, a local NGO, which publicized the case in the press and called for an investigation.

At the time of writing, the Chief Prosecutor of the National District had not responded to Amnesty International’s request for information about the investigation. However, there are grounds to believe that there has been no significant progress. For example, one eyewitness to the shooting held in pre-trial detention told Amnesty International in March 2011 that he had never been questioned by any prosecutor about the killing of Junior Tonton Santiago.

Hundreds of people are shot and killed every year by members of the National Police. Officers are responsible, on average, for 15 per cent of all homicides in the Dominican Republic, according to statistics provided by the Office of the Prosecutor General. The vast majority of these fatal shootings are described by the police as “exchanges of gunfire” with criminal suspects. The police claim that the high number of such killings is a direct result of an increase in preventive policing. However, in many cases killings by police have been shown to be unlawful. In some cases the courts have established that police officers deliberately shot to kill. However, only a fraction of cases reach the courts. In many cases where the evidence suggests the killings were deliberate, officers are not held to account because of flawed, ineffective or corrupt investigations. As a result the families of victims are denied justice and a deep public distrust of the police is further entrenched.

The same impunity for abusers extends to other human rights violations by police. Torture and other ill-treatment of criminal suspects by police during interrogation persist and in the past three years at least two people last seen in police custody are feared to have been the victims of enforced disappearance. People continue to be arbitrarily detained, especially during mass arrests following police raids on low-income communities with high crime rates. These large-scale police operations are often seen as an opportunity for extortion by officers. Widespread corruption within the national police force and aggressive policing methods have undermined public trust and exacerbated the public security crisis in a country where levels of violent crime have increased significantly in recent years.

Yet the police authorities, and indeed most state officials, have largely failed to acknowledge the extent of the human rights violations committed by the police, as well as the State's responsibility for that. The official view continues to be that abuses are committed by a few corrupt or unprofessional officers who are swiftly dealt with and held accountable.

Significant progress has been made in bringing to justice police officers responsible for human rights violations, especially since the abolition of separate police and military courts. However, obstacles to justice remain. In particular, there are no official national guidelines for investigating allegations of human rights abuses by police officers. As a result, cases are dealt with differently, depending on a variety of factors, including whether the victim or their family lodges an official complaint, the level of publicity a case attracts, or the political pressure exerted on prosecutors. Many investigations lack the independence and thoroughness required by international standards.

An attempt to radically reform the National Police initiated in 1999 failed, largely as a result of resistance from the police. The latest reform process, which began in 2005, is continuing, but has so far not produced the profound changes needed both in terms of the structure of policing institutions and the way they work.

This report details numerous cases of human rights violations by police and analyses the barriers to justice faced by victims and their families. It also examines the weaknesses of oversight mechanisms, which have allowed human rights abuses by the police to persist and flourish. The report ends with a series of recommendations to the Dominican authorities.

Amnesty International is calling on the Dominican government to initiate a process of reform to transform the police into an effective, trustworthy institution that is respectful of human

8 “Shut up if you don’t want to be killed!”
Human rights violations by the police in the Dominican Republic

rights and subject to effective internal and external oversight. Increased respect for human rights by the police should be one of the main drivers of this reform. Amnesty International is also calling on the Dominican government to adopt other reforms that could help reduce the scope for police abuses and, ultimately, enhance police capacity to prevent and fight crime.

2. THE NATIONAL POLICE

“I would rather be with a criminal than with a police officer”

Representative of a community-based organization, Santo Domingo, March 2011

OVERVIEW

The National Police was founded in 1936 during the dictatorship of Rafael Leónidas Trujillo Molina under whose 30-year regime some 50,000 people are believed to have been killed, including thousands of political dissidents.² Many others were tortured, disappeared or forced into exile. The National Police and the army were responsible for serious human rights violations during this period.

Since then, the National Police has grown considerably and undergone significant restructuring. According to police statistics, as of October 2010, there were 29,759 officers in the 13 regional departments that make up the National Police.

The National Police retains aspects of the military ethos of its founding years. However, progress has undoubtedly been made in demilitarizing the force. For example, the professional career structures for police officers and for members of the military are now separate;³ the National Police now comes under the authority of the Minister of the Interior and the Police rather than the Armed Forces Ministry; and clear distinctions have been drawn between military and police functions.⁴

The current structure, organization and powers of the National Police are set out in the Institutional Law on the National Police (2004), in Decree No. 731-04 regulating the application of the Law and in the Constitution that came into force in 2010.⁵

The 2010 Constitution defines the mission of the National Police. It states that the objective of the force is “to safeguard the security of citizens; to prevent and control crime; to investigate criminal offences, under the direction of the Prosecution Service; and to maintain public order in order to protect free exercise of individuals’ rights and maintain social harmony in accordance with the Constitution and the law” (Article 255).

The Code of Criminal Procedure, which entered into force in 2004, sets out the role and responsibilities of different bodies in criminal investigations. The Prosecution Service is in charge of criminal investigations and the National Police has a supporting role; its officers have a duty to comply with orders and requests from prosecutors and judges relating to the investigation process.⁶

The President has the authority to make appointments to the National Police and to make decisions about assignments, transfers, retirements, dismissals, territorial organization and the distribution of police officers, based on proposals submitted to him by the Minister of the Interior and Police. The Ministry of the Interior and Police is responsible for the operational supervision of the National Police.

The Police High Council is responsible for developing police policies, regulating the way the National Police functions, and providing guidance based on the Constitution and the law. The Council is chaired by the Minister of the Interior and Police and is composed of the Prosecutor General, the chief and deputy chief of the police and the directors of all central departments of the National Police, which provide operational and administrative support, training and internal control functions.

Two special police units have been created in recent years to respond to exceptional situations. The so-called LINCE was created in 2005 as a motorized rapid-response unit for patrolling in volatile and violent situations. The Special Weapons and Tactics Unit (SWAT) is composed of highly trained and heavily armed officers and is deployed to deal with situations such as kidnappings and riots.

AN INSTITUTION LACKING PUBLIC TRUST

The National Police aspires to be “the leading institution in providing public security, through professional, competent, trustworthy, transparent and effective work, founded on the support and the collaboration of the community; committed to abide by the Constitution, in order to ensure peace and social harmony”.⁷ However, Amnesty International’s research found that the police still have a long way to go in order to fulfil this vision. Despite several attempts at internal restructuring and reform, and numerous ongoing external communications initiatives,⁸ the National Police is still widely perceived as an authoritarian, repressive, corrupt and ineffective body that is responsible for many human rights violations.

Interviewees from a wide range of communities and representing diverse perspectives – representatives of civil society organizations, religious leaders, human rights activists, academics, journalists, people living in marginalized communities, and victims of police abuses – voiced negative views about the National Police. Statements such as: “I would rather be with a criminal than with a police officer”; “The police are not helpful” or “The only thing the police look for is money”, were typical of the views expressed.

The 2010 Americas Barometer/Latin America Public Opinion Project (LAPOP)⁹ revealed that the Dominican Republic was among the countries in the region with the lowest level of trust in the police. When asked about levels of public trust in 10 institutions, respondents in the Dominican Republic put the police ninth. Respondents also identified the police as primarily responsible for their lack of trust in the ability of the justice system to punish the guilty.¹⁰

WIDESPREAD CORRUPTION

The perception of widespread corruption among the National Police, including collusion with criminals, is one of the main factors contributing to the erosion of trust in the force. According to the results of the 2010 Americas Barometer/LAPOP survey, 59.2 per cent of

respondents felt that the police were involved in crime, while only 29.6 per cent said the police protected members of the public.

Extortion by police officers is widely believed to be common. In city neighbourhoods with high crime rates, community leaders and residents told Amnesty International that many petty criminals pay “fees” to the police to avoid arrest and carry on their illegal activities. A survey conducted in 2008 on youth and crime in the Guaricano neighbourhood of Santo Domingo¹¹ also confirmed that police and the National Drug Control Department either tolerated or were complicit in the setting up of drug sales points. Young people reported that by paying a “fee” they could be sure that they would not face arrest or have their drugs confiscated.

Mass round-ups are also reportedly often seen as opportunities for extortion by the police. Typically, scores of young men are arrested at night or at the weekend, ostensibly in connection with an investigation. They are then released after paying a bribe or after well-connected relatives or friends intervene on their behalf.

Criminal investigations are in general considered to be an opportunity for extortion and bribery. This perhaps helps to explain at least in part why the police have resisted all attempts to put the Prosecution Service in charge of investigations and relegate police to a subsidiary role.

The government and judicial officials have acknowledged that there are high levels of corruption and collusion with criminals in the police force. The President has referred more than once to the fact that members of the National Police and the army are involved in drug trafficking and other crimes.¹² In June 2009, the Chief Prosecutor of the National District declared to the press that he was not discounting the possibility that members of the National Police and the army were part of bands of killers operating in the country.¹³

The National Police has adopted a “zero-tolerance” approach¹⁴ in fighting against internal corruption. Between 2007 and 2010, this resulted in the dismissal of approximately 12,000 officers.¹⁵ Cases of corruption are internally investigated by the police’s Central Department of Internal Affairs, which also carries out preventive activities, such as awareness raising workshops.

The public acknowledgement by officials of corruption within the police force and the concrete action taken following reports of corruption are important first steps. Nevertheless, the effectiveness of the measures implemented so far has yet to be properly assessed. In particular, it has been reported that very few dismissed officers have been prosecuted and some were subsequently re-hired.¹⁶

LOW SALARIES

Low salaries are generally held to be one of the main contributing factors to widespread police corruption. The lowest ranking officers, who represent about 45 per cent of the force, earn around 5,300 pesos (approximately US\$140) per month. This is extremely low; the minimum wage set down in law for workers in private security companies is 8,356 pesos (US\$221).¹⁷ In order to meet their families’ basic needs, most low and middle-ranking officers need to have one or more additional jobs to supplement their salaries. In many cases,

they work as private security guards, using police uniforms and police weapons in their second job.¹⁸ Doing a second job necessarily has an impact not only on their family and personal lives, but also on their effectiveness and motivation as police officers.

Although the issue of poor salaries has been raised by police staff and by international donors on many occasions, the government has always refused to increase them, citing lack of financial resources and the need to prioritize professionalization and capacity building over increases in salaries. As a consequence, members of the police force continue to be denied the right to enjoy a fair rate of pay that provides them and their families with a decent living.

3. THE PUBLIC SECURITY CONTEXT

“In order to eradicate violence you must stop using violence as a crime-control mechanism...”

Tahira Vargas in *Hoy Digital*, “Los ‘ajusticiamientos’ y sus huellas de miedo” (“Executions and their legacy of fear”), 17 March 2008

The National Police operate in a difficult and dangerous environment. In the past decade, levels of violent crime have soared in the Dominican Republic, largely as a result of an increase in drug trafficking, a proliferation of firearms and growing social inequality.

There has been a sharp rise in the homicide rate from 13 per 100,000 of the population in 1991 to 25.01 in 2010; the rate peaked in 2005 at 26.41 per 100,000 of the population.¹⁹ Although the Dominican Republic’s homicide rate is about average for Latin America and the Caribbean,²⁰ it is well above the rate considered “normal” by the Pan-American Health Organisation (5 per 100,000 of the population).²¹ Over half of homicides are committed in the course of other crimes, such as robbery or drug trafficking.²² The majority of victims are men under 34; according to the Office of the Prosecutor General in 2009 they accounted for 58.1 per cent of all homicide deaths.

The highest crime rates are concentrated in urban areas, especially in the provinces of the National District, Santo Domingo, and Santiago. Most crimes are linked to drug trafficking.

Many young offenders belong to small gangs (known locally as “*Naciones*”). However, studies have shown that not all such gangs are involved in criminal activities and that, in general, *Naciones* in the Dominican Republic are not powerful criminal organizations, unlike the large gangs that control much criminal activity in many other Latin American and Caribbean countries. The Dominican gangs are made up mostly of young men and boys and are based on aspects of common identity, such as clothing, music and locality.²³

Gun ownership is widespread among many sections of the population and there are large numbers of firearms, both illegal and legal, in circulation in the Dominican Republic. The laws regulating gun ownership are inadequate, for example they lack detailed provisions dealing with when and how firearms may be carried. The high demand for firearms has been fuelled by a widespread sense of insecurity and fear of crime,²⁴ and lack of trust in the National Police. The easy availability of large numbers of guns has contributed to increasing violence in Dominican society.²⁵ According to data from the Office of the Prosecutor General, in 65.4 per cent of homicides committed in 2010, the victim was shot.

Crime and violence are issues of deep public concern in the Dominican Republic. In the

2005 National Household Survey for Multiple Purposes (Encuesta nacional de Hogares de Propósitos múltiples, ENHOGAR), crime was identified as the second most serious problem in the country, behind unemployment. In the 2004, 2006 and 2010 Americas Barometer/LAPOP surveys, more than 70 per cent of respondents declared that they felt less safe than five years earlier.

POLICE CORRUPTION AND ABUSE STOKES CRIME AND VIOLENCE

Unlawful and unprofessional conduct by many police officers is contributing to the rise in crime and violence in the Dominican Republic. Widespread police corruption, aggressive policing and the involvement of law enforcement officers in criminal activities are undermining the capacity of the state to protect human rights and ensure public security.

Police corruption means that many criminals are not arrested or investigated. The majority of respondents in youth focus groups carried out by the World Bank and Office of the United Nations for Drugs and Crime “noted that even if they were caught committing a crime, the possibility of buying one’s way out through bribes to police was always a feasible option, as well as that of using padrinos who could intervene on their behalf and have court decisions suspended, or even have prison inmates freed”.²⁶ Amnesty International received several accounts of young men with criminal records who paid a large amount of money to the police in order to be released without charge. One of them said: “We robbed a shop and got 30,000 pesos. The police arrested me...so I gave them 20,000 pesos and they freed me”.

By benefiting from crime instead of fighting it, corrupt police officers are exacerbating the problem of high crime rates and high levels of violence. For example, the 2008 study on youth and crime in Guaricano mentioned above found that many young people involved in drug trafficking carry out additional crimes in order to make up for the money that they pay to police to ignore their criminal activities. A young man told Amnesty International in March 2011 that in Nagua a police officer tried to force him into participating in criminal activities and then sharing the takings with him.

Repressive and abusive policing is an important contributing factor in the rise of violence in the Dominican Republic. In October 2009, the then Minister of the Interior and Police acknowledged that the police were responsible for increasing the overall homicide rate by 3.4%.²⁷

| NUMBER OF HOMICIDES 2005 – 2010 | | | | | |
|--|--|--|---|--|--|
| Year | Number of homicides (excluding killings by the police) | Number of homicides including killings by the police | Percentage of people killed by the police | Homicide rate (excluding killings by the police) | Homicide rate (including killings by the police) |
| 2005 | 1966 | 2403 | 18.1% | 21.6% | 26.41% |
| 2006 | 1849 | 2144 | 13.7% | 20.32% | 23.56% |
| 2007 | 1766 | 2111 | 16.3% | 18.46% | 22.07% |
| 2008 | 1936 | 2394 | 19% | 20.36% | 25.14% |
| 2009 | 2029 | 2375 | 14.5% | 20.8% | 24.34% |
| 2010 | 2212 | 2472 | 10.5% | 22.38% | 25.01% |

Source: Office of the Prosecutor General

A hardline approach to policing that tolerates unlawful killings, torture and other ill-treatment in the name of greater effectiveness in tackling crime further brutalizes society. It sends a message that it is legitimate to take justice into one’s own hands, further alienates large parts of the population from the police, and increases lack of trust in the institution. As a result, many people tend to bypass the police in regulating their disputes.²⁸

4. POLICE ABUSES

“Police don’t kill me! I will stop.”

Slogan adopted by a campaign against killings by police

KILLINGS AND INJURIES

The number of people killed by the police in the Dominican Republic is alarming. Although there are some discrepancies between the statistics provided by the Office of the Prosecutor General and those provided by the National Police, they both clearly show that the police kill a large number of people every year. In the vast majority of cases the National Police present these killings as the consequence of shoot-outs between police officers and criminals suspects.

| NUMBER OF PEOPLE KILLED BY THE NATIONAL POLICE | | | | | | |
|--|------|------|------|------|------|------|
| | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 |
| Office of the Prosecutor General statistics | 437 | 295 | 345 | 455 | 346 | 260 |
| National Police statistics | 417 | 296 | 344 | 599 | 443 | 268 |

As shown in the table above, the number of people killed by the police in 2010 was considerably lower than in previous years. However, statistics provided by the National Police to the press for the period January-June 2011 show that the downward trend has not been sustained: 175 people were killed as compared to 148 over the same period in 2010.²⁹

These killings continue to be categorized in the official statistics in ways that suggest a degree of implicit justification. In 2005, all killings by police were classified by the National Police and the Office of the Prosecutor General as “exchanges of gunfire”; in 2006, they were categorized as “deaths by the National Police in the line of duty”; in 2007 and 2008, they were called “legal actions”; and since 2009 they have been described as “police actions”.

The number of people injured by police is also high; injuries by police now account for almost a fifth of all violent injuries in the country each year.

| NUMBER OF PEOPLE INJURED BY THE NATIONAL POLICE | | | | |
|--|-------------|-------------|-------------|-------------|
| Year | 2007 | 2008 | 2009 | 2010 |
| Number of people injured by the police | 1055 | 1297 | 1025 | 977 |
| Total number of violent injuries | 5437 | 5163 | 5088 | 5865 |
| Police inflicted injuries as a percentage all violent injuries | 19.4% | 25.1% | 20.1% | 16.6% |

Source: National Police

The National Police stressed to Amnesty International that the high number of killings by the police needs to be seen in the context of an increase in police preventive operations.

“Deaths among the police and the criminals occur because the police carry out preventive patrols. If the police wouldn’t do that, there would be no deaths, but criminality would remain unchallenged”

Chief of Police, interview with Amnesty International, October 2010

The police authorities recognize that in a few cases the justice system has found killings by the police to be unlawful, but stress that these are isolated cases. They assured Amnesty International that the principle of respect for human rights is central to all instructions given to officers.

UNLAWFUL KILLINGS

Unlawful killings include extrajudicial executions (deliberate killings carried out by order of a government or with its complicity or acquiescence), as well as other types of killings, such as those resulting from excessive use of force by law enforcement officials. They violate the right to life, as guaranteed by the Dominican Constitution, the International Covenant on Civil and Political Rights and the Inter-American Convention on Human rights, to which the Dominican Republic is a state party.

The police also highlight the fact that they are frequently the target of attacks by criminals and cite the number of officers killed as an indicator of the level of confrontation between criminal elements and members of the force. However, it would appear that not all those listed as “violent deaths of police officers” were killed in the line of duty. An analysis of police statistics by the newspaper *Listín Diario* found that of the 52 police officers killed between January and November 2010, 12 were killed in the line of duty. The rest died in other circumstances – for example as victims of violent crime, in personal disputes, or in the course of committing crimes themselves – or in circumstances that could not be determined.³⁰

| VIOLENT DEATHS OF POLICE OFFICERS | | | | | | |
|---|-------------|-------------|-------------|-------------|-------------|-------------|
| | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 |
| Number of violent deaths of police officers | 66 | 68 | 50 | 52 | 56 | 62 |

Source: National Police

Amnesty International acknowledges that policing presents clear dangers for officers, especially in the context of widespread criminality and violence and the pervasive presence of firearms. However, some of those living in neighbourhoods with high crime rates or involved in crime who spoke to Amnesty International indicated that violent policing methods may be exacerbating the risks by creating a climate in which suspects shoot first because they believe the police will shoot them during arrest or kill them in custody.

UNLAWFUL KILLINGS

Interviews with victims’ families carried out by Amnesty International, as well as newspapers and NGO reports, suggest that in many cases police officers in the Dominican Republic fail to comply with international standards and Dominican law and use force that is disproportionate to the threat they face. The large number of incidents in which several people are killed by police officers, while the officers themselves escape injury, further calls into question the plausibility of police claims that killings were the result of “exchanges of gunfire”.³¹ In some of cases, witness statements and autopsy reports contradict police claims that killings were the result of an “exchange of gunfire” and in a few cases, the courts have rejected the police version of events and officers have been convicted.

BÁRBARO MONEGRO RIJO, NOLIS ALFREDO PÉREZ PÉREZ, EDANIO POCHÉ, CARLOS MANUEL LEYBA HERNÁNDEZ AND GAUDIS HERRERA MARTÍNEZ

On 30 December 2008, five men – Bárbaro Monegro Rijo, Nolis Alfredo Pérez Pérez, Edanio Poché, Carlos Manuel Leyba Hernández, and Gaudis Herrera Martínez – were killed by police in the Mirador Sur Park in Santo

Domingo in what police described as an exchange of gunfire. According to the police, two police patrol officers stopped and questioned the five, who were seen acting suspiciously. The officers said they called for support because the men were armed and that when seven other officers arrived on the scene, the five men started firing at the police.

However, autopsies revealed that four of the men had been shot in the back. In one case there was evidence that the gun had been in contact with the man’s left ear when it was fired. The fifth man was shot in the head from above, indicating that he was sitting or lying down when he was shot.

All nine police officers were held in pre-trial detention while being investigated. Three were prosecuted and two were convicted of homicide and sentenced to 10 years’ imprisonment and ordered to pay compensation to the families. The tribunal did not rule out that some of the victims might have fired at the police – there was evidence on two of the victims’ that they had recently handled firearms – but concluded that the type of fatal injuries presented by the victims did not support the argument of legitimate defence: “The first conclusion is that the lives of the accused were not in danger. Secondly, even if their lives had been in danger, their reaction to the possible attack from the victims was disproportionate.”

In recent years, there have been several cases where police have opened fire unlawfully on people who did not comply with police orders to stop.

PERFECTO CRISPÍN RAMOS TORRES

Perfecto Crispín Ramos Torres was fatally shot by police in the neighbourhood of Cien Fuegos in Santiago de los Caballeros on 5 April 2009. He was riding his motorbike at around 2am when two officers in a patrol car signalled to him to stop and then shot at him when he failed to comply with the order. The officers took him to hospital, where he died a few days later. The two police officers reported to their supervisors that they had returned fire after being shot at with a makeshift gun, which they presented as evidence. However, an eyewitness reported that Perfecto Crispín Ramos Torres had not fired a gun and that the officers shot him without saying a word. On 13 October 2010, the tribunal found one of the officers guilty of manslaughter and sentenced him to 15 years’ imprisonment and ordered him to pay compensation to the family.

ABRAHAM RAMOS MOREL

Abraham Ramos Morel, a 23-year-old student, was fatally shot by police on 27 June 2010 in Ensanche Luperón, Santo Domingo, as he was returning home from his birthday party. At around 3am, he was driving home with his father and cousin when a police motorcycle patrol signalled to him to stop. He indicated that he would stop a bit further ahead at a better lit spot. Police then opened fire, hitting him in the neck. The police offered no assistance and his father had to stop another car to take Abraham Ramos Morel to hospital. Abraham Ramos Morel died of his injuries shortly after arriving at the hospital. His sister described how, the following morning, a neighbour saw police officers collecting bullets from the scene of the shooting. On 29 March 2011, a tribunal sentenced the police officer who fired the fatal shot to 20 years in prison for voluntary homicide. Another officer was cleared of any responsibility for the shooting. However, the case against the officer was reopened following an appeal by the family’s lawyer.

The killings of Abraham Ramos Morel and of Elio Reyes Severino – an 81-year-old man shot and killed by police as he was being driven by his son along a motorway in Monte Plata on 4 July

2010 – occurred within a week of each other, sparking strong public reaction. In July 2010, youth organizations launched a campaign called “Police don’t kill me! I will stop” to draw attention to police killings where people had failed to comply with orders to stop.³² In response to the public outcry, the Chief of Police declared that these killings were isolated incidents and denied the existence of shoot-to-kill policy in such situations.³³ He refused to order police to stop patrols in badly lit areas on the grounds that this would give free reign to criminals.³⁴ However, in August 2010, a few days after his appointment, the new Chief of Police ordered officers to refrain from patrolling in very dark areas and stated that the responsibility to arrest those who violate the law is secondary to the responsibility to respect life.

EXTRAJUDICIAL EXECUTIONS

There are frequent allegations that some killings by police are in reality extrajudicial executions. Amnesty International has received such reports from families of victims, national human rights organizations, other civil society organizations, academics, independent journalists and members of affected communities. In a number of cases, courts have confirmed that officers deliberately used deadly force when they were not under imminent threat.

MIGUEL ANGEL PAULINO REYES, YANET ALTAGRACIA POLANCO AND ELIZABETH POLANCO

Miguel Angel Paulino Reyes, Yanet Altagracia Polanco and Elizabeth Polanco were killed by two police officers in Pueblo Nuevo, Santiago de los Caballeros, on 20 March 2006. According to eyewitnesses who testified at the trial of the officers involved, Miguel Angel Paulino Reyes and a friend stopped their motorbike in front of a fast-food shop. A police car approached them and one of the officers told Miguel Angel Paulino Reyes: “We’ve been looking for you all day and finally we found you”. He pointed his gun at Miguel Angel Paulino Reyes’s throat, but the gun did not fire. The other police officer passed him another gun and with that the first officer shot Miguel Angel Paulino Reyes. He died instantly. Yanet Altagracia, who was in front of the fast-food shop and witnessed the scene, started screaming: “You killed him, you killed him!” while running away. The same officer who killed Miguel Angel Paulino Reyes shot at her. As she fell injured, she called to another woman for help, but as the woman tried to help her, the officer pushed her back and pointed a gun at her. Yanet Altagracia died later in hospital. The young man who was on the motorcycle with Miguel Angel started running away; the same officer ran after him and fired several gunshots. Those shots hit bystander Elizabeth Polanco, who died instantly.

On 20 June 2007, the officer who killed Miguel Angel Paulino Reyes and Yanet Altagracia Polanco was found guilty of murder and sentenced to 30 years in prison. The other officer was found guilty of complicity in the murder of Miguel Angel Paulino Reyes and Yanet Altagracia Polanco and of the homicide of Elizabeth Polanco and sentenced to 20 years in prison. Both men were also sentenced to pay compensation to the families.

The reasons behind such killings vary. However, a pattern has emerged suggesting that a significant proportion are aimed at eliminating repeat criminal offenders and sending a message to others involved in crime. A retired senior police officer told Amnesty International that when he was in the force, he heard officers issuing orders such as “I don’t want this man alive”.

JESÚS DE LA ROSA SANTANA

Jesús de la Rosa Santana was arrested at the end of May 2010 in San Juan de la Maguana on suspicion of involvement in several crimes. During a press conference, the police declared that he was part of a gang that had terrorized the community and that he was suspected of being involved in several killings.³⁵ Jesús de la Rosa Santana was then released on bail.

On 28 June 2010, Jesús de la Rosa Santana was killed at his home in San Juan de la Maguana by police. His wife, Andreina Berroa Cabrera, stated that more than 10 armed men in plain clothes she knew were police officers surrounded their home and, without warning, forced their way into the house. She asked to see an arrest warrant and to have a prosecutor present during the raid, but a police officer said that they did not have to explain what they were doing or show anything to her. An officer then dragged Jesús de la Rosa Santana out of the house and shot him in the head in front of his wife and children while another officer shot him in the leg. Andreina Berroa Cabrera said the police then put a gun in Jesús de la Rosa Santana's hand and squeezed his finger over the trigger twice. They also stole 11,000 pesos (approximately US\$300) from his pockets. When she pleaded with officers, they said “Shut up if you don’t want to be killed!”. Jesús de la Rosa Santana was put in a police car still alive, according to his wife, who reported that at that point he had been shot twice. However, the autopsy report revealed that he had been shot six times (twice in the head, twice in the chest, once in the lower back and once in the right thigh), suggesting that he received four more gunshot wounds while in police custody.

The initial police report stated that Jesús de la Rosa Santana was killed in an exchange of gunfire with police in a corner shop. The police claimed that they had gone to the shop after Jesús de la Rosa Santana and his brother attacked a group of men, apparently in a dispute over control of a drug-selling point. They said that Jesús de la Rosa Santana and his brother were wanted criminals involved in drug trafficking and suspected of murder.

However, few days later, probably as a result of reports in the media quoting the family and concerns highlighted by the National Commission for Human Rights, the police corrected its version of events and stated that Jesús de la Rosa Santana was killed outside his house where police had gone to arrest him in connection with a shoot-out at the corner shop a few hours earlier. The police stated that the killing was being investigated (for details on the investigation see page 38).

Cases such as the ones described above contribute to the widespread perception that it is common practice for police to kill rather than investigate suspects.

“I have seen many people killed by the police; they kill you like a pig or a chicken... For example, if you rob somebody and this person files a complaint, if the police identify you as the robber, they look for you and without letting you speak they shoot at you... I was there when the police caught a friend of mine. He was a robber. The police were looking for him. One day the police went to his house. He was hiding somewhere else. The police told him: ‘Come out, we are not going to kill you, we just wanted to question you’. When he came out, they shot him twice in the head.”

Young man with a criminal record speaking to Amnesty International, October 2010

The girlfriend of Miguel Abraham Olivero Jimenez, a young man who was shot in the leg and injured by two police officers on 4 January 2009, said in a TV interview that when she went

to the police station the day after the shooting, she heard a woman police officer saying that if she had been at the scene, she would have shot Miguel Abraham Olivero Jimenez in the head. When the girlfriend asked if they had the right to do that, the police officer replied: “We do this to criminals!”

Many people wanted by the police ensure that they are accompanied by the media or lawyers working with human rights NGOs when hand themselves in because they fear they will be killed in an “exchange of gunfire” and hope that the presence of witnesses will help protect them.

Some killings by the police are believed to be a response to disputes with criminals over illegal activities, for example the failure to pay officers their cut.

A young man who himself had a criminal record told Amnesty International that drug sellers and petty criminals give the police a regular payment to avoid being arrested or shot. “When they don’t pay, the police arrest them or beat them and, if they are really angry, they shoot them”. He also described what happened to a friend of his: “One day we stole 30,000 pesos but then an argument started among us...there was a shoot-out, two were shot, two escaped... The police arrested me...then I paid them 20,000 pesos and they released me...a friend of mine did not want to pay and went on the run, until the police found him, and shot him. They killed him. They executed him. They threw him on a car and put a firearm on him”.

According to a 2008 study on youth and crime,³⁶ young people see killings by the police as a betrayal: “If they are making money out of us, why do they have to kill us?” “They say that it was an exchange of gunfire, but here we all know that there are no exchanges of gunfire, they shoot at you from behind”, they kill you and later they put bags of drugs on you.”

A significant number of alleged extrajudicial executions by the police occurred in the context of policing demonstrations, especially in the province of Santiago de los Caballeros. In some cases, people were reportedly killed the night before a scheduled demonstration. According to witnesses and representatives of local social movements, heavily armed Special Forces (SWAT) officers positioned themselves on the top of buildings and shot at those preparing to block roads or to burn tyres before the demonstration. Representatives of local social movements believe that these killings were used strategically by the police to discourage potential demonstrators or in retaliation for the killing of police officers during previous demonstrations.

RAFAEL DE JESÚS TORRES

Rafael de Jesús Torres was killed by police in Navarrete at around 11pm on 9 September 2007, on the eve of a planned demonstration to demand better living conditions in the community. He was returning by motorbike from a pharmacy, where he had gone to get medicine for his sick daughter, when police stationed on top of a building at a crossroads shot him. The police offered no assistance, so bystanders called the fire service who took Rafael de Jesús Torres to hospital where he died a few hours later. His brother told Amnesty International that when he went to the local prosecutor’s office, he was told that he had to go to the police station to report the incident. Fearing reprisals, he decided not go to the police, so no official complaint was filed.

JONATAN DURÁN COLÓN

Jonatan Durán Colón was killed in Navarrete on 17 October 2009 as he was out preparing for a demonstration the following day. According to a witness, he was shot by an officer in a police car. A few minutes earlier policemen stationed on the roof of a building had shot into the crowd, but no one had been hit. Jonatan Durán was the spokesperson of a local leftist group, the Frente de Lucha Jesús Diplán. The demonstration was organized to protest against the pre-trial detention of a member of the group accused of murder. The police denied being involved in the killing of Jonatan Durán, claiming that there was no police patrol in the area at the time of the shooting. Jonatan Durán’s father filed a complaint with the local prosecutor’s office. Although an investigation was initiated by the prosecutor and the police, at the time of writing no one had been charged in connection with the killing.

In other cases, the police have shot protesters or people they believed were involved in demonstrations, in violation of national and international standards on the use of force and firearms to control crowds.³⁷

JOSÉ AQUILES GONZALES

José Aquiles Gonzales was shot several times by police on 16 June 2009 during a demonstration in Navarrete to demand better living conditions. Video footage shows José Aquiles, with gunshot wounds to his leg, being dragged along by police and loaded into a van. He was also filmed at the hospital shortly before his death denying any involvement in the demonstration.

According to eyewitnesses, José Aquiles was not part of the protest and was walking from the main road when he saw a large number of police officers and decided to take a path through the bushes to avoid them. A police officer started running after him and shot him in the leg. Two other police officers approached and also fired at him. A witness – who was also suspected of being involved in the demonstration and was held at gunpoint by the police, beaten, and put in the same police van as José Aquiles – said that he saw the police putting a makeshift gun in José Aquiles’ hands. The witness was released without charge after seven or eight hours. While he was at the police station he heard a police officer saying: “Now we are even”, possibly referring to the fact that a police officer had been killed during an earlier demonstration.

Police have denied any involvement in the killings that took place on the eve of demonstrations and have claimed that other killings, such as that of José Aquiles Gonzales, were the result of an “exchange of gunfire”. At the time of writing, Amnesty International had not received a response from the local prosecutor’s office to its requests for information about the status of the investigations in the three cases detailed above.

RISKS TO BYSTANDERS AND WITNESSES

Shootings by police have also resulted in accidental injuries to bystanders and local residents in a number of cases. In other cases, police are alleged to have deliberately killed witnesses to unlawful killings.

JOSÉ MANUEL RIVERA AND ALTAGRACIA YAHANIRA CÉSPEDES

On 28 April 2007, a police officer in Santiago shot and killed José Manuel Rivera and accidentally injured Altagracia Yahanira Céspedes.

According to the prosecutor’s office, José Manuel Rivera was in a shop when a police officer entered and threatened to arrest him unless he handed over some money. José Manuel Rivera objected, saying that he had done nothing wrong. As the police officer tried to force him out of the shop, José Manuel Rivera shot at the officer’s car. However, the officer managed to disarm him and they started fighting. When José Manuel Rivera’s girlfriend begged the officer not to kill him, he slapped her and pushed her to the floor. The officer then pushed José Manuel Rivera out the shop and shot him dead. The officer then fired other shots in the air, one of which entered the house of Altagracia Yahanira Céspedes and injured her. An autopsy found that José Manuel Rivera was shot from behind.

In 2011, a tribunal found the police officer guilty of voluntary homicide and sentenced him to 15 years’ imprisonment.

LUIS ALFREDO DOMINGUEZ RODRIGUEZ AND HENRY ORTIZ

Luis Alfredo Dominguez Rodriguez (known as “Felo”), aged 21, was killed by police on 26 January 2011 in Nagua. His friend Henry Ortiz, who was injured in the same incident, said that he had just stopped his motorbike to give Luis Alfredo Dominguez Rodriguez a lift when four officers in a patrol car stopped them and, without saying a word, shot him five times. He said an officer then shot Luis Alfredo Dominguez Rodriguez after one of the officers said they did not want a witness to the killing. The police then took both men to hospital. Luis Alfredo Dominguez Rodriguez died a few hours later. Henry Ortiz remained hospitalized for 20 days.

The police officers claimed the incident was an “exchange of gunfire”, producing as evidence an illegal firearm supposedly seized from Henry Ortiz. One of the four officers who shot Luis Alfredo Dominguez Rodriguez and Henry Ortiz was held in pre-trial detention, two were released on bail, while charges against the fourth were dropped. Charges against the officers included murder. The trial started in July 2011.

INTERNATIONAL HUMAN RIGHTS STANDARDS AND NATIONAL LAW

The power to use force given to police officers is restricted by international human rights law and standards, on the basis of the right to life. The right to life is set out in the International Covenant on Civil and Political Rights (Article 6.1) and the American Convention on Human Rights (Article 4); the Dominican Republic is a state party to both. The right to life is also guaranteed in the Dominican Constitution (Article 37).

The UN Code of Conduct for Law Enforcement Officials (UN Code of Conduct) and the Basic Principles on the use of Force and Firearms by Law Enforcement Officials (Basic Principles) provide authoritative international guidance on the use of force and firearms by police. Many elements of these have been integrated into Dominican legislation regulating the work of the National Police.³⁸

In carrying out their duties, members of the National Police are required, as far as possible, to apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result. Law enforcement officials are not allowed to use firearms except in self-defence or to defend others against the imminent threat of death or serious injury; to prevent

the perpetration of a particularly serious crime involving grave threat to life; to arrest a person presenting such a danger and resisting their authority or to prevent his or her escape; and only when less extreme means are insufficient to achieve these objectives. Intentional lethal use of firearms is only permitted when strictly unavoidable in order to protect life.

A few elements in the national legislation related to the use of force do not meet international standards.

- Law enforcement officials are allowed to use force to prevent the perpetration of a particularly serious crime involving threat to the security of the state (Article 29b of the Institutional Law on the National Police). This provision is controversial, as its application depends on the interpretation given to “threat to the security of the state”.
- The principle “exercise restraint and act in proportion to the seriousness of the offence and the legitimate objective to be achieved”³⁹ is applied only to the use of firearms (Article 29c (1) of the Institutional Law on the National Police), while international standards apply it to the use of force in general.

TORTURE AND OTHER ILL-TREATMENT

Amnesty International has received several reports of torture and ill-treatment. Most relate to the interrogation of criminal suspects. Suspects have been threatened with death, beaten and denied food, water and essential medicines. Some have had plastic bags put over their heads and their genitals twisted. In one case, the use of electric shocks was also reported.

SAMUEL SANCHEZ MONTE DE OCA

Samuel Sanchez Monte de Oca and Junior Tonton Santiago (see page 6) were in a hotel room in the Cristo Rey neighbourhood of Santo Domingo when police broke into the room at around 9am on 28 September 2010. The officers shot Junior Tonton Santiago and then took both men to hospital. Samuel Sanchez Monte de Oca was then driven around Cristo Rey in a police car and asked to point out where some illegal weapons had been hidden.

Samuel Sanchez Monte de Oca said that while he was in the police car, one officer put a black plastic bag over his head while two others beat him in the face and in the abdomen. Every time he was about to suffocate, they took the bag off and then put it back around his head. They questioned him about the weapons and why Junior Tonton Santiago had killed the doctor. A couple of hours later, at around 12pm, the police officers took him to the police station. They tied his feet and continued beating him in an office. More officers arrived, including a more senior officer, and continued beating him with their hands and with a baton. They wanted him to reveal where the weapons were hidden and where the other people involved in the murder were. At one point, they ordered him to lie on the floor. Samuel Sanchez Monte de Oca told Amnesty International: “I thought that they were going to kill me so I told them, ‘Don’t kill me, my father is a captain in the police’. I think that’s what saved me.”

Many former detainees told Amnesty International that they had been handcuffed, hung from bars or nails by their handcuffs and beaten every time they tried to put their feet on the floor. Others report that they were made to kneel in uncomfortable positions for long periods and beaten. Some cases of torture and other ill-treatment occurred in the context of criminal investigations into high-profile cases. Most of those who spoke to Amnesty International had

not lodged formal complaints about their treatment because they feared reprisals from the police or because they simply did not trust the system to properly investigate their allegations and bring those responsible to justice.

CARLOS PAULINO LACHAPELLE

Carlos Paulino Lachapelle was arrested by the police on 19 September 2009 in San Francisco de Marcorís in connection with the kidnapping of Eduardo Baldera Gómez and taken to the Nagua police station for interrogation. He described to Amnesty International what happened to him:

“At the beginning of the interrogation, a police officer told me: ‘I have two hands, one made of silk and another one made of iron. Tell me which one I should use’. I was handcuffed with my hands behind my back. They hung up by the handcuffs to the door which was more than a meter high... After a while, they were not satisfied with this, and they hanged me to a higher door... A police officer grabbed a knife, pointed it at me and said: ‘What we should do is to stab you, so that you loose blood and die.’ When I tried to hook my heels to the door, I was beaten on my feet with a baton... Below me there was an iron bed. An officer said: ‘When he falls off, he will fall on that. He will break his neck and we will throw him into the sea’... Another officer twisted my genitals... I remained attached at the door for nine hours. During this time, the police officers kept asking me: ‘Tell me, tell me, tell me as you know, tell me where is he?’... I was unable to sign the interrogation report, I had to sign it with my fingerprint, as after the nine hours I couldn’t use my hands to sign. I was able to read the interrogation report only very quickly.”

Carlos Paulino Lachapelle suffered permanent damage to his hands and to the nerves in his neck and shoulders as a result of his treatment in detention. While he was detained he had to depend on another prisoner to help him eat, wash and dress and he was given no specialist medical attention, only painkillers. It was only after he was transferred to the Santo Domingo penitentiary in November 2009 that he was given a proper medical examination and treatment for his injuries.⁴⁰ Since then, he has regained some of the use of his hands and his condition has improved following treatment. However, he still cannot grip with either hand.

JOSÉ LUIS CABA TINEO

José Luis Caba Tineo, Carlos Paulino Lachapelle’s brother-in-law, was told by his neighbours around 21 September 2009 that he was wanted by the police in connection with the kidnapping of Eduardo Baldera Gómez. The following day, he went to the police station accompanied by members of his family and by the President of a local human rights NGO. Although he lived in Nagua, he decided to go to the police headquarters in Santo Domingo, thinking that he would be safer there. He told Amnesty International what happened:

“A police patrol took me to San Francisco de Marcorís and later to Nagua. During the journey, I was handcuffed very tightly and beaten in the face and stomach. During the interrogation in Nagua police station, a police officer told me: ‘You don’t know anything? Wait and you will see that you know.’ I was hung up by my handcuffs to the bars above the door. A police officer told me: ‘Look, Lachapelle has already told us everything. He died and you will die here like him’... I was beaten with a stick in the stomach and on my feet and stopped from putting my feet on the floor... After a while, they told me to take them to a plot of land that belongs to my family. When we arrived at the plot, they started beating me, saying that I had lied to them... They hung me from a tree. ..On the way back to the police station, they put a black plastic bag over my head in and

continued beating me... they beat me on my testicles with a screwdriver.”

On 24 September, José Luis Caba Tineo was brought before a judge who ordered that he be held in pre-trial detention for a maximum of one year. He remained in detention for seven months before being released on bail. In October 2010 he reported that, although he can use his hands, he still has problems gripping as a result of his treatment in detention.

HIPOLITO CABA TINEO

Hipolito Caba Tineo found out that the police also wanted to question him in connection with the kidnapping of Eduardo Baldera Gomes about a week after his brother, José Luis Caba Tineo, was arrested. After consulting relatives, his lawyer and some journalists, he decided to give himself up to the police and the prosecutor in Bonaó in the presence of several reporters on 1 October 2010.

Once arrested, he was transferred to the Nagua police station. During the interrogation, he decided to lie in order to avoid torture. He said that he knew that the kidnapped man was held in a plot of land. He gave full details of the place where the man was held and the circumstances in which he was kidnapped. He told Amnesty International:

“When we arrived at the plot, the police realized that things were not as I had described them and that I had lied. They started beating me... After a while, they put my head in a plastic bag until I was about to suffocate. They repeated this several times. I was lying on the ground while an officer pressed his knee on me... From there, they brought me back to Nagua... in the car the officers told me ‘If they left us alone is because we are going to kill you’.”

The following day Hipolito Caba Tineo was questioned by the Prosecutor and released without charge.

ELERCIDO DIAZ CORDERO

Elercido Diaz Cordero was arrested by police on 19 September 2009 in Pimentel, near Nagua, in connection with the kidnapping of Eduardo Baldera Gomes and detained for two days. He told Amnesty International:

“In the Nagua police station, I was handcuffed and made to kneel on a stick. They beat me with a big baton. They beat me hard on the back of my head and on the elbows... They asked me about lots of things I knew nothing about... After about an hour and a quarter, they took me to another room where they made me kneel on a stick under constant surveillance by a police officer... When I got too tired, I threw myself to the floor but as soon as the officer saw me, he beat me in the stomach and made me kneel again. The more I threw myself to the floor, the more he beat me... This lasted for two days... during that time I wasn’t allowed to go to the toilet, eat or drink.”

Two days after his arrest, Elercido Diaz Cordero was brought before a judge who ordered that he be held in pre-trial detention for a maximum of one year while the kidnapping charges were being investigated. He was first detained in the Nagua prison and then in the Santo Domingo penitentiary. Eight months later, he was released on bail.

Elercido Diaz Cordero suffered from migraines and persistent nose bleeds for about four months as a consequence of his treatment in police custody and had problems with his sight. Despite his requests, he did not receive medical care while in detention. Since his release, he has received regular private medical treatment for his injuries, but he has had no help from the state.

DENIS ANTONIO GONZALEZ

Denis Antonio Gonzalez was arrested by police in Monte Plata in July 2009 in connection with the suspected kidnapping of Jacinto Reinaldo Gimbernard Pratt, a professor and son of a respected Dominican academic. Denis Antonio Gonzales told Amnesty International what happened to him.

"There were around 20 police officers at my house... They arrested me on Friday at around 6am... They hung me from a tree by my feet and beat me... The mayor who was the chief of the investigation arrived, so he gave the order to let me down. They let me down, I fell, my shoulder came out, it was broken... From there they took me into custody in the police headquarters... I remained in detention for 12 days and they were 12 days of torture... Every day, the only thing they gave to me was water, nothing to eat... Every morning around 8am, they took me out of the cell and brought to the field to search the man. They squirted pepper-spray into my eyes, put two black plastic bags over my head and gave me electric shocks. Sometimes I spat in the police officer's face in order for him to kill me, I couldn't take it anymore. They wanted me to say 'we killed him and we have thrown his body in that site'. But since we didn't know where that man was, we couldn't tell them anything. So it was torture and more torture..."

Denis Antonio Gonzales was released without charge after Jacinto Reinaldo Gimbernard Pratt was found alive and denied having been kidnapped.

JOSÉ ANDRÉS

José Andrés was arrested by the police in June 2010 in Santo Domingo on suspicion of possessing an illegal firearm. He said that he was held in custody for six days without seeing a prosecutor or being brought before a judge.

He reported that during interrogation, officers put a black plastic bag over his head. They handcuffed him very tightly, but they put a piece of paper between the handcuff and his skin in order to avoid leaving marks. They made him kneel on a stick. They beat him with a baseball bat. When he started to have difficulty breathing, the officers took the bag off his head and one said: 'Where is the revolver? We know that you have it. You can make it easy on yourself and talk now, or we can make you talk the hard way'. When he didn't answer, they put the bag on his head again and continued beating him. José Andres was released for lack of evidence after six days.

DOMINGO MORENO

Domingo Moreno (real name withheld) was at his home in Santo Domingo on 25 December 2010 when a police officer forced his way into the house looking for an illegal weapon. The officer shot him in the leg and then

took him to the nearest hospital where he was given emergency care before being taken to the local police station. He described to Amnesty International what happened next.

"In the police station, I was handcuffed and hung from a nail on the wall. I could touch the floor only with the tips of my feet. They hit me with a baton, mainly in the stomach and on the knees. During the night they threw water at me... From time to time they let me down and then hung me up again. I was hung up only during the first night, after that they kept me in the cell for three days. I was handcuffed. They kept beating me. Three days without eating or drinking, just enduring beatings!"

Domingo Moreno said that he was not questioned by a prosecutor and was released after his neighbours went to the police station to vouch for the fact that he did not have a gun. He was released by the same officer who had arrested him who threatened: "Don't worry, this is not finished. You will have to look for that firearm either in a good way or in a nasty way!" For over a week, Domingo Moreno was in severe pain and passing blood in his faeces.

Police officials and representatives of the Office of the Prosecutor General interviewed by Amnesty International denied that torture took place in the Dominican Republic. They cited the fact that no formal complaint of torture had been lodged in the previous four years as evidence that the allegations were nothing more than "unfounded reports to the media". However, Amnesty International believes that a lack of official complaints is not an effective indicator of whether torture and other ill-treatment persist. Many victims told Amnesty International that they did not submit a judicial complaint because they had no faith in the justice system, especially as those who had abused them were the very people entrusted by the state with upholding the law.

The police also claimed that the allegations of torture are false because interrogations are always carried out in the presence of a prosecutor, as required by the Code of Criminal Procedure. However, victims interviewed by Amnesty International reported that they were interrogated by police officers without anyone else being present and several lawyers confirmed that this was often the case.

"When I was brought before the prosecutor and showed her the signs of torture, she said 'this is necessary in order for you to speak.'"

Hypolito Caba Tineo, October 2010.

Many judges and prosecutors do not take the steps needed to ensure that allegations of torture or other ill-treatment are adequately investigated. Lawyers told Amnesty International that even when detainees are brought before judges with visible signs of torture, most judges do not request an investigation. In obvious cases of torture, the most judges do is decline to order pre-trial detention. However, in many cases evidence is not challenged even when there is a strong suspicion it was extracted under torture.

For example, when Carlos Paulino Lachapelle (see page 26) was brought before a judge the morning after he had been tortured, he had visible injuries on his hands and wrists. However, the judge did not note the injuries and remanded him in custody for up to a year. Carlos Paulino Lachapelle's lawyer appealed against his pre-trial detention and on 8 March 2010 Carlos Paulino Lachapelle was released pending further investigation. In its decision to annul

the detention order, the Appeal Court concluded that medical certificates and direct observation of Carlos Paulino Lachapelle’s physical condition “indicate that the accused has been subjected, as he declares to the Court, to cruel and inhuman treatment during his detention in Nagua and that the state authorities have produced no report or clarification on when, how and where the visible and grave injuries presented by the accused were inflicted.” Although the Court also noted the state’s obligation to investigate and punish the use of investigation techniques that could constitute acts of torture or other cruel and inhuman treatment, according to Carlos Paulino Lachapelle’s lawyer, no criminal investigation has been initiated to determine the circumstances and the causes of Carlos Paulino Lachapelle’s injuries.

INTERNATIONAL HUMAN RIGHTS LAW AND NATIONAL LAW

All forms of torture in all circumstances are absolutely prohibited by international law. The prohibition of torture and other cruel, inhuman or degrading treatment is enshrined in international treaties ratified by the Dominican Republic, including the International Covenant on Civil and Political Rights and the Inter-American Convention to Prevent and Punish Torture.⁴¹

Article 8 of the Inter-American Convention to Prevent and Punish Torture guarantees the right of anyone who alleges that they have been tortured to have their case examined impartially. It also sets out the responsibility of the state to investigate such allegations immediately and, if appropriate, to initiate criminal proceedings against those responsible for torture. The Inter-American Commission on Human Rights has stressed states’ obligation to investigate cases of torture and ill-treatment, even in the absence of an official complaint.⁴² The Convention also requires state parties to incorporate into their national legislation guarantees of suitable compensation for victims of torture (Article 9).

The Dominican Republic has signed the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. As a signatory to the Convention, it is obliged to refrain from acts that would defeat the object and purpose of the treaty.⁴³ One of the recommendations made to the Dominican Republic by the Human Rights Council under the Universal Periodic Review in January 2010 was that it ratify and implement the UN Convention against Torture. Although, the government expressed its support for this recommendation,⁴⁴ at the time of writing, the Dominican Republic had not ratified the Convention.

Torture and other ill-treatment are also prohibited under Dominican law, including the Dominican Constitution (Article 42.1).

The Dominican Penal Code gives an inclusive definition of what constitutes torture and acts of cruelty under national law, extending this not only to all acts carried out as part of a criminal investigation that inflict physical or mental injury, but also to acts of compulsion or harmful to physical or mental wellbeing, even if they do not cause physical or mental suffering.⁴⁵ Such acts are punishable by between 10 and 15 years in prison and by up to 30 years’ imprisonment in certain circumstances, including when such acts are carried out by a state official or someone carrying out their official duties.

The Institutional Law on the National Police also prohibits officers from inflicting, instigating

or tolerating acts of torture or other cruel, inhuman or degrading treatment.⁴⁶

Several articles in the Code of Criminal Procedure also prohibit torture, including Article 10 which states: “Every person has the right to have his or her personal dignity and his or her physical, mental and moral integrity respected”; and Article 95.2, which affirms that: “Every accused person has the right to be treated with dignity during arrest and, as a consequence, not to be subjected to methods involving unnecessary use of violence or excessive and disproportionate use of force.” Article 107 specifically prohibits the use of torture as a method of interrogation. The Code of Criminal Procedure clearly states that evidence can only be admitted if it has been obtained by lawful means (Article 166). It also specifies that courts should not accept evidence obtained through practices that violate the rights and guarantees of the accused (Article 167).

ENFORCED DISAPPEARANCES

Two men are feared to have been the victims of enforced disappearance⁴⁷ between 2009 and 2011: Juan Almonte Herrera and Gabriel Sandi Alistar. Both were suspected of being involved in two different cases of kidnapping. The National Police deny ever having arrested Juan Almonte Herrera, despite witness testimonies to the contrary, whereas they acknowledge that Gabriel Sandi Alistar was arrested, but claim that he escaped from custody. At the time of writing, the whereabouts of both men were unknown.

In addition, the families of Juan Almonte Herrera and Gabriel Sandi Alistar have said that they have been harassed and intimidated by police officers. Relatives of the victims continue to have to deal with the agonizing uncertainty of not knowing whether their loved ones are dead or alive. On a very practical level, they have not been able to resolve legal issues around pensions and inheritance.

JUAN ALMONTE HERRERA

Juan Almonte Herrera, a member of the Dominican Committee of Human Rights, was stopped on 28 September 2009 by four armed men as he was walking to his office where he worked as an accountant. The men forced him into a car. According to reports, eyewitnesses identified the four armed men as officers from the Anti-Kidnapping Department of the National Police. Two hours later, the police announced on TV that they were searching for Juan Almonte Herrera in connection with their investigation into the kidnapping of Eduardo Baldera Gómez.

On 2 October 2009, after lawyers acting on Juan Almonte's behalf filed a habeas corpus petition challenging the legality of his detention, the Second Criminal Section of the National District Court ordered his immediate release. The police did not comply with the order as they denied that he was in their custody and declared him to be a fugitive.

At the end of October 2009, two unidentified charred bodies were found in a car in Santo Domingo and were taken to the National Forensic Pathology Institute. One of the bodies was identified as being that of Juan Almonte by his sister. However, when DNA tests were carried out on the body, the results were negative; the family has raised concerns about how the tests were carried out.

In December 2009, the Inter-American Commission on Human Rights granted precautionary measures, calling

on the Dominican Republic to make public Juan Almonte’s whereabouts; guarantee his security and that of his relatives and lawyers; and inform the Commission of the measures taken to investigate his disappearance.

The Dominican authorities have maintained that Juan Almonte Herrera is a fugitive and have not undertaken any actions to clarify his whereabouts, other than checking records of those who have entered or left the country and prison records. Juan Almonte’s family and the lawyers have not received any official communication on the status of the investigation into his disappearance, in spite of having submitted three complaints to the judicial authorities. In March 2010, the Inter-American Commission on Human Rights, found the response of the Dominican authorities inadequate and requested that the Inter-American Court of Human Rights grant provisional measures. The Court granted such measures in May 2010, requesting that the Dominican authorities adopt all necessary measures to protect the life, liberty and integrity of Juan Almonte and plan and implement effective protection measures for Juan Almonte’s relatives and lawyers, taking into account their wishes. In response to periodic reports submitted by the Dominican authorities, the Inter-American Commission on Human Rights has criticized the failure of the Dominican authorities to adopt concrete measures to establish Juan Almonte’s whereabouts .

GABRIEL SANDI ALISTAR

Gabriel Sandi Alistar, a young man of Haitian descent living in Batey Proyecto Velasquez in Monte Plata responded to a police request, broadcast on TV for information about the whereabouts of Jacinto Reinaldo Gimbernard Pratt who was feared to have been kidnapped. The police arrested Gabriel Sandi Alistar on 23 July 2009 in connection with the suspected kidnapping.

His cousin, Denis Antonio Gonzalez (see page 28), was also arrested in connection with the same case, said that Gabriel Sandi Alistar told him that he had been tortured and that, in order to try and make the torture stop, he had told police that the two of them were responsible for kidnapping and killing Jacinto Reinaldo Gimbernard Pratt. According to Denis Antonio Gonzales, both men were detained at the police headquarters in Santo Domingo but were taken every day to the place in Monte Plata where Gabriel Sandi Alistar had said they had carried out the killing. Denis Antonio Gonzales also said that they were both tortured daily and ill-treated both at the headquarters and on their way to Monte Plata. Denis Anotnio Gonzales said that about eight days after he was detained, he was told that Gabriel Sandi Alistar had escaped.

Three days after Gabriel Sandi Alistar’s arrest, his brother went to the police headquarters to ask for information. He was told that Gabriel Sandi Alistar had been detained in the Police Department of Missing Persons, but had been handed over to the General Directorate of Migration. However, when he went to the General Directorate of Migration, he was told that Gabriel Sandi Alistar had never been detained there. When he went back to the police, he was again told that Gabriel Sandi Alistar had been handed over to the Department of Immigration. When he tried to ask for more information about the date of the handover, police officers told him that he was not entitled to ask and that if he didn’t stop coming to the headquarters, he could suffer the same fate as his brother. Finally, he was told that Gabriel Sandi Alistar had escaped. The following day, heavily armed police officers went to Gabriel Sandi Alistar’s house to look for him. Since then, Gabriel Sandi Alistar’s family has received no further information on his whereabouts and there are fears that he may have died as a result of torture.

Police spokesperson General Nelson Rosario stated in a TV interview that Gabriel Sandi Alistar had been arrested and had escaped. He went on to say that the police were looking for him and that the Chief of Police

had ordered an investigation into the case. However, he warned that investigations into his whereabouts could be hampered by the fact that Gabriel Sandi Alistar lacked ID documents. At the time of writing Amnesty International had received no response to its request for information on the investigation.

Denis Antonio Gonzales reported that he was attacked about six months after he and Gabriel Sandi Alistar were detained. He said that a van full of masked men followed the truck he was driving and started shooting at his truck. He believes that the attackers were police officers – they were in the same van that had been used to take him to the police headquarters – and that the attack was in reprisal for his statements to the press about the fact that he had been tortured in prison and that his cousin had disappeared.

INTERNATIONAL HUMAN RIGHTS LAW AND STANDARDS AND NATIONAL LEGISLATION

Enforced disappearances violate a number of rights guaranteed by international human rights treaties to which the Dominican Republic is a party.⁴⁸ Although the Dominican Republic has not signed nor ratified the International Convention for the Protection of All Persons from Enforced Disappearance, it has expressed its willingness to do so as quickly as possible.⁴⁹ The Dominican Republic has also yet to ratify the Inter-American Convention on Forced Disappearance of Persons.

In the Dominican Penal Code, there is no provision explicitly forbidding enforced disappearance. However, legislation does exist that is applicable to the investigation, prosecution and punishment of enforced disappearances, including Article 40 of the Constitution and Article 15 of the Code of Criminal Procedure on the right to freedom and personal security; Article 114 of the Penal Code on individual liberty; and Article 341 of the Penal Code on unlawful detention.

ARBITRARY ARREST

Victims of police abuses, people living in marginalized communities, human rights NGOs and academics, among others, confirmed that police continue to carry out frequent mass arrest. The arrests take place during police raids (*redadas*) in low-income, high-crime communities, mostly at night, that are justified by police as preventive operations. During these round-ups, police indiscriminately arrest large numbers of residents, mainly men, and seize property, including motorcycles and other vehicles.

Many people reported that these raids are often seen as an opportunity for extortion as many of those arrested pay to be released. A former prosecutor told Amnesty International that those who remain in custody following a round-up are either those against whom there is well-founded criminal evidence or those who have refused or are unable to pay a bribe.

“If you are arrested in a round-up and you don’t have money on you, you have to wait in detention a few days until your family comes to give money to the police”.

Young man from Tres Brazos, Santo Domingo, interviewed by Amnesty International, March 2011.

The police acknowledge that they carry out mass searches and arrests, but stress that such police operations are carried out in accordance with the law. In October 2010, the Director of Police Preventive Operations explained to Amnesty International that, unless someone is caught in the act of committing a crime, these round-ups are carried out on the basis of information provided by the Department of Intelligence and after consultation with the

prosecutor. He also said that during the round-ups police have the power to stop and detain anyone who cannot produce identity papers or documents proving ownership of their vehicle until the relevant papers are produced.

Lawyers and prosecutors have often questioned the lawfulness of mass round-ups. For example, in June 2010, the Prosecutor General stated that the round-ups carried out by the National Police are “totally irregular and illegal, and violate the procedure established by the Code of Criminal Procedure”.⁵⁰

The Code of Criminal Procedure allows the police and prosecutors to carry out collective searches as a preventive measure (Article 177) in exceptional circumstances. In practice, however, the numerous reports received by local human rights organizations and by Amnesty International indicate that collective searches are far from exceptional.

As a further safeguard against abuses, Article 177 of the Code of Criminal Procedure also requires the police to inform the relevant prosecutor in advance of any mass search. However, prosecutors interviewed by Amnesty International indicated that this provision of the Code is very rarely followed and that prosecutors are not given prior warning of mass searches. As a result, arbitrary detentions remain common. One prosecutor told Amnesty International that every day prosecutors visit police stations and order the release of detainees held for no reason. He also showed Amnesty International a monthly report by a local prosecutor of his regular visits to local police lock-ups which showed that most of those held had been detained in round-ups and that the prosecutor had ordered their release after his visit.

Mass arrests following raids are discriminatory in that men and boys from deprived communities are often indiscriminately targeted simply because of where they live or because they happened to be in the wrong place at the wrong time. In May 2011, the press highlighted the treatment of people living in the Capotillo neighbourhood of Santo Domingo who expressed their indignation at being systematically abused during police raids and at the fact that police seemed to view living in a neighbourhood with high crime rates as a crime in itself.⁵¹

In December 2010, the Minister of the Interior and Police asked the Chief of Police and the Director of the National Drug Control Department to avoid mass round-ups and other aggressive operations because of their negative effects on the community and on public confidence in the police.⁵² He also encouraged the security forces to strengthen their intelligence operations in order to arrest only those against whom there is strong evidence of criminal activity. Amnesty International has no information on the actions taken by the police to put into practice the Minister’s recommendations. However, the number of reports received by local human rights organizations and the media do not suggest that the mass round-ups have stopped.

5. BARRIERS TO JUSTICE

“You know, what a mother wants when her son has been killed is justice... I want the police officer who killed my son to be put in jail. I want him to share with me the pain I am suffering. I hope that justice will be done.”

Mother of José Luis Estévez, who was killed by the police in February 2010 (see page 38)

Police and prosecution officials assured Amnesty International that all allegations of abuses and human rights violations by police are properly investigated and the suspected perpetrators brought to justice. However, Amnesty International’s research shows that many investigations lack the thoroughness and independence required under international law.

The Dominican Republic has made considerable progress in the past decade in tackling the long-standing culture of impunity in the security forces. For example, the Code of Criminal Procedure introduced in September 2004 ended the trial of police officers and members of the military by separate police or military courts and placed all crimes, including those committed by the security forces, under civilian jurisdiction. Nevertheless, current practice continues to fall short of international standards in a number of significant respects and barriers remain to ensuring justice for all cases of human rights violations by the police.

Under international standards, governments are obliged to thoroughly investigate allegations of human rights violations committed by the police and to ensure that officers responsible for unlawful actions are prosecuted and convicted.⁵³ As stated by the UN Special Rapporteur on extrajudicial, summary or arbitrary executions: “this is required both to: (a) fulfil the state’s obligations to provide accountability in the individual case and justice for the victim and their family; (b) as well as to fulfil the state’s due diligence obligations to prevent future violations: if violations are left unpunished, a culture of impunity forms, which in turn encourages further violations.”⁵⁴

UNCLEAR INVESTIGATION PROCEDURES

The Prosecution Service is responsible for investigating possible criminal offences, including allegations of human rights violations of a criminal nature committed by the National Police.

Prosecutors are responsible for managing the preliminary investigation, requesting bail or pre-trial detention, and are responsible for deciding whether to pursue charges or close an investigation. According to the Code of Criminal Procedure, prosecutors can either carry out the investigation themselves or direct the police to investigate. The police have an auxiliary role in investigations and are required to comply with the orders and requests issued by prosecutors or judges.⁵⁵

The National Police has an obligation to ensure that its members respect the law and internal guidelines in carrying out their duties. According to the Institutional Law on the National Police, the National Police is responsible for investigating and punishing any of its members suspected of disciplinary offences, and for bringing to justice those suspected of committing a crime (Articles 61-64). The National Police has two internal departments dealing with such issues. The Central Directorate of Internal Affairs, which is in charge of investigating violations of the National Police’s ethical and moral principles and allegations of corruption; and the General Inspectorate of the National Police, which is in charge of investigating all violations of the police’s legal and disciplinary framework, as well as allegations of excessive use of force and/or failure of officers to take appropriate action in the performance of their duty.⁵⁶

In practice, Amnesty International’s research shows that allegations of human rights violations by police are not investigated or prosecuted in a coherent, consistent way. Some cases of killings by police are investigated by ad hoc commissions composed of representatives of the police and of the Prosecution Service. There is no regulation in law of the circumstances in which these commissions should be appointed, their composition, or how they should conduct investigations.

Police and prosecution officials interviewed by Amnesty International gave different accounts of how incidents of use of force by the police resulting in injuries and deaths are investigated.

| | |
|--|--|
| According to police officials | All incidents resulting in death or injury at the hands of a police officer are investigated by an ad hoc commission of investigation composed of a variable number of police officers appointed by the Chief of Police and by a representative of the prosecutor’s office appointed by the Prosecutor General. The commission of investigation delivers the result of its investigation within 3 to 5 days from its appointment. If the commission concludes that there are grounds to believe that a shooting may have been unlawful, the officer involved is suspended and the prosecutor initiates a criminal investigation. |
| According to representatives of the Office of the Prosecutor General | An ad hoc commission of investigation is only appointed in “major cases of national or international importance”. Major cases can be “complex cases” or incidents resulting in a high number of deaths or indicating the responsibility of a large number of police officers or of high-ranking officers. All other cases of killings by the police are |

| | |
|---------------------------------|--|
| | investigated by prosecutors, in collaboration with the Police Homicide Department. |
| According to a local prosecutor | Not all cases of fatal shootings are jointly investigated by the police and prosecutors. Some cases are investigated by a police internal commission, without the involvement of a representative from the prosecutor’s office. If the police are unable to determine the facts, the case is referred to a prosecutor. The prosecutor’s office, therefore, initiates an investigation either after its referral by the police or following a complaint submitted by the family or lawyers of the victim. |

FAILURE TO INVESTIGATE WHEN THERE IS NO OFFICIAL COMPLAINT

By law, prosecutors are obliged to initiate investigations when they are informed of facts that might constitute serious crimes. The law only requires a formal complaint in lesser crimes that stop short of permanent injury to the victim.⁵⁷ However, in practice, in the absence of an official complaint from the victims or their families, it is highly unlikely that human rights violations committed by the police will be investigated.

Of the 79 reported killings by the police in the National District between September 2008 and July 2010, 24 were the subject of official complaints. In 13 of those 24 cases, courts had delivered decisions by 31 July 2010, including eight convictions. The remaining 55 cases, about which no formal complaints were lodged, appear not to have been the subject of investigation by either the police or prosecutors.

There are several reasons why families who want to find out the truth and see justice done do not submit an official complaint in cases of killings by police. Some families do not have the information they need about what procedure to follow. For example, some families interviewed by Amnesty International believed that having complained through the mass media was enough. Others were wrongly advised by lawyers or prosecutors that they need to know the identity of the presumed perpetrator and gather other evidence in order to be able to file a complaint. Many were reluctant to complain for fear of reprisals.

DISCRIMINATORY INVESTIGATION PRACTICES

Although Dominican law upholds the principle of equality before the law, Amnesty International’s research shows that the quality of the investigations into allegations of police abuses can vary dramatically depending on the profile of the victim and the public attention given to a case.

When the victims of police killings are from a middle-class background, had no known links with criminal activities, and were killed in circumstances clearly indicating police abuses, they are more likely to receive public attention than victims who are from marginalized communities, unemployed or have criminal connections. And public interest greatly increases the likelihood that a killing will be investigated appropriately and the perpetrators brought to justice. For example, the public outcry that followed the killing of student Abraham Ramos

Morel on 27 June 2010 (see page 19) was instrumental in ensuring that the case was investigated promptly, leading eventually to the conviction of the police officer who fired the fatal shot; he was sentenced to 20 years’ imprisonment on 29 March 2011.

INADEQUATE INVESTIGATIONS

Under the Code of Criminal Procedure the Prosecution Service is responsible for conducting criminal investigations, with the police fulfilling a subsidiary role. However, this has yet to become common practice and in many cases the police continue to lead investigations, with the prosecutor merely endorsing the results. This failure to implement the Code fully is particularly problematic in cases of alleged human rights violations by police officers, as it effectively means that the police are investigating themselves.

International law states that in order for an investigation to be independent, “investigators may not only or heavily rely on information provided by those implicated in abuses”.⁵⁸ However, according to lawyers and human rights organizations, in cases of killings by the police where there are no witnesses and the family does not file an official complaint, many prosecutors merely endorse the reports of police investigations that state the death was the result of an “exchange of gunfire”.

For example, in the case of Jesús de la Rosa Santana, who was killed by police on 28 June 2010 (see page 21), the Chief Prosecutor of San Juan de la Maguana concluded that there were insufficient grounds to pursue criminal charges against any of the 11 officers under investigation. In his investigation report, he motivated his decision with the fact that Jesús de la Rosa Santana “was a dangerous person, with a strong criminal record” and therefore “the National Police could not nor had to be without protection, especially considering that he and his brother possessed firearms of different kinds and were always armed”. The Prosecutor’s decision suggests that the victim’s criminal record was viewed as justifying the killing and a thorough investigation was therefore not carried out.

Another aspect likely to affect the independence and the thoroughness of investigations into alleged human rights violations by the police are the Prosecution Service’s strong political connections. Until recently, the President appointed all prosecutors. Some steps have been taken towards greater independence, including the creation of a separate career structure for prosecutors. However, to date, only about a third of prosecutors have been recruited through open competition; the rest were appointed by the President. As a result, the independence of an investigation depends in large part on the independence of the individual prosecutor. It is, therefore, possible that prosecutors may come under undue pressure, especially in cases of abuses involving high-ranking police officers.

JOSÉ LUIS ESTÉVEZ

José Luis Estévez was shot by police in front of his house in Capotillo, Santo Domingo, on 19 February 2010 and died in hospital two days later. A man living in the house next door testified that he heard no verbal exchange before the gunshots, as did the victim’s mother, who was in the house when José Luis Estévez was shot. Other residents identified the killers as police officers. The shooting sparked protests by the local community who believed he had been unlawfully shot.

The day after the shooting, the Police Homicide Department informed the prosecutor’s office of the identities of

the officer who had shot at José Luis Estévez and a second officer who was patrolling with him. The police claimed that the two police officers were patrolling the area when they saw José Luis Estévez with two men who were wanted for several crimes. When they tried to arrest the men, one of the suspects pulled out a gun, the police then fired and hit José Luis Estévez. The two other men ran away taking the gun with them and José Luis Estévez was found to be in possession of a knife.

The two officers were detained for a few hours and then released. The Prosecutor in charge of the case later justified the release on the grounds that she had not received a judicial complaint from the victim or his family.

The family of José Luis Estévez, assisted by a lawyer, lodged an official complaint with the Office of the Prosecutor of the National District on 23 February 2010, after José Luis Estévez had died. The Prosecutor decided not to pursue charges against the officers, stating that: “investigations carried out in the case lead me to believe that the officer did not intend to kill José Luis Estévez”. However, the prosecutor did not specify how he had reached this conclusion.

According to lawyers from the National Commission for Human rights who are assisting the family, the police officer involved had close links with a general and the Prosecutor is unwilling to investigate the case further. The lawyers formally asked the Chief Prosecutor of the National District to allocate the case to another prosecutor, but the request was rejected. However, an appeal was lodged and following a ruling by the Court of Appeal in May 2011, the case was reassigned to another prosecutor, whose investigation was continuing at the time of writing.

Cecilio Díaz and William de Jesús Checo were killed by police in the context of the investigation into the kidnapping of Eduardo Baldera Gómez in October 2009, an investigation which also resulted in the alleged torture of at least five men and the possible enforced disappearance of a sixth (see pages 26-27 and 31). Relatives and lawyers of Cecilio Díaz and William de Jesús Checo believe that political pressure lies behind the failure to investigate the killings.

CECILIO DÍAZ AND WILLIAM DE JESÚS CHECO

Cecilio Díaz and William de Jesús Checo were killed on 10 October 2009 in Copey, Villa Vasquez, by police. The police initially said they died in an “exchange of gunfire”. They said William de Jesús Checo had been handed in by local residents, who had seen him acting in a suspicious manner, and that during police questioning he had admitted belonging to a gang involved in the kidnapping of Eduardo Baldera Gómez. Police said they took him into the mountains in search of other members of the gang and when they reached the hideout, they were shot at and returned fire. They claimed that William de Jesús Checo and Cecilio Díaz, allegedly one of the gang members who opened fire on the police, were both killed in the exchange of gunfire and an officer was injured.

However, a commission of investigation appointed by the Prosecutor General concluded that there were grounds to believe that the alleged exchange of gunfire did not take place and that the men were deliberately killed. The commission concluded that: “the large number of gunshots fired at both victims and their trajectory indicated that the alleged exchange of gunfire did not take place and that there was intent to kill the two men.” On the basis of the commission’s conclusions, the tribunal ordered five police officers and a navy officer to be held in pre-trial detention.

The Minister of the Interior and Police dismissed the conclusions of the commission of investigation on the

grounds that the evidence was not strong enough to suggest that the two men were extrajudicially executed. The Minister declared that he would ensure that the police officers received the best legal defence available. On 9 January 2010, a court ordered the release of the officers on bail. In March 2010, the President of the Republic ordered the retirement of General Hernández Méndez, who had participated in the commission of investigation, and the promotion of two officers under investigation for the killings.

In July 2010, lawyers of the families of William de Jesus Checo and Cecilio Díaz lodged a formal complaint with the Office of the Prosecutor of Monte Christi against the Chief of Police, the Director of Criminal Investigations, and other members of the National Police for their involvement in human rights violations during the investigation of the kidnapping of Eduardo Baldera Gómez, including the killings of William de Jesús Checo and Cecilio Díaz. The lawyers were informed by a Prosecutor of the Monte Christi that it would be up to the Office of the Prosecutor General to decide how to proceed with the investigation into the case.

Almost two years after the killings, and despite compelling evidence, no officer has been charged in connection with the killings of William de Jesús Checo and Cecilio Díaz.

SHORTCOMINGS IN FORENSIC SERVICES

Independent and effective forensic pathology and ballistic services are crucial for investigations into alleged human rights violations by police. Steps have been taken in recent years to enhance the capacity and the independence of these services, in particular through the creation of the National Institute of Forensic Sciences (INACIF) in 2005. INACIF is currently responsible for carrying out autopsies; physical forensic analysis, such as ballistic tests; and chemical analyses. It has its main headquarters in Santo Domingo, where most of the laboratories are located, and four regional centres.

However, a number of factors are compromising the independence and effectiveness of forensic institutions, especially when investigating alleged human rights violations by police.

POOR RESOURCES AND EQUIPMENT

Autopsies are carried out by the National Institute of Forensic Pathology in the National District and in the provinces of Monte Plata and San Cristobal; and by INACIF in the four regional centres covering the rest of the country. Both institutions lack resources: the National Institute of Forensic Pathology employs only three forensic pathologists while INACIF has six. Although both institutions have additional forensic staff, only forensic pathologists are qualified to carry out autopsies. Equipment is also an issue. For example, the National Institute of Forensic Pathology is still using the equipment provided when it was set up in 1989. In particular, the refrigeration equipment is outdated and inadequate given the rise in the number of homicides. This is a key issue as important evidence can be lost if bodies are not properly preserved.

LACK OF CO-ORDINATION BETWEEN FORENSIC INSTITUTIONS

A co-operation agreement was signed in 2010 between the Office of the Prosecutor General and the National Police. However, the wording and the content of the agreement are not detailed enough to establish an effective division of responsibilities and roles between INACIF and the Technical and Scientific Department of the National Police. One of the most contentious areas concerns ballistic evidence. Even though INACIF has a ballistic laboratory equipped with three microscopes, the Technical and Scientific Department of the National Police maintain a virtual monopoly on ballistic tests. This is in part due to the fact that only

the Scientific Police possesses a firearms database, which is essential for matching new evidence to existing records of previous crimes.

WEAKNESSES IN THE PRESERVATION OF EVIDENCE

Evidence is gathered at the crime scene by the Technical and Scientific Department of the National Police, who then pass this on to prosecutors. According to the Director of INACIF, only around half of the regional prosecutors’ offices have dedicated storage capacity for the safe-keeping of evidence or procedures to ensure that there is a record of when evidence is moved or changes hands, even though the Office of the Prosecutor General has developed procedures for ensuring that such a record is kept. There are reports of the failure to preserve evidence adequately, for example, victims’ clothing being returned to the family instead of being kept as evidence.

FAILURE TO ENSURE INDEPENDENCE

INACIF staff are employed by the Office of the Prosecutor General, which also allocates funds to INACIF. Discussions on the need to make INACIF totally independent from the Office of the Prosecutor General have started and are continuing.

The fact that police continue to gather evidence from the crime scene and conduct ballistic tests in cases in which police abuses are under investigation is a major flaw and means that the process is open to abuse.

INADEQUATE PROTECTION FOR VICTIMS AND WITNESSES

Victims and witnesses of human rights violations by the police receive no special protection. Representatives of the Office of the Prosecutor General told Amnesty International that the Office is not able to offer protection to all victims and witnesses, and that this is, therefore, provided only in the most extreme cases. Only victims and witnesses in cases involving international drug trafficking and complex criminality qualify for special protection under a programme created in July 2009 and managed by a unit within the Prosecution Service.⁵⁹

The Dominican authorities have proved unable to offer protection even when the Inter-American Commission on Human Rights has granted precautionary measures.

For example, relatives and lawyers of Juan Almonte Herrera (see page 31) reported that they were followed and watched by individuals identified by eyewitnesses as police officers. Due to the state’s inaction, the case was then taken to the Inter-American Commission on Human Rights, which granted precautionary measures calling on the state, among other things, to guarantee the safety of Juan Almonte Herrera’s relatives and lawyers, in accordance with their wishes. However, the Dominican authorities told them that they could receive protection, but only from the police, the very body that was harassing them. In March 2010, the Inter-American Commission on Human Rights found the response of the Dominican authorities inadequate and asked the Inter-American Court of Human Rights to grant provisional measures. The Court granted such measures in May 2010, asking the state, among other things, to plan and implement effective protection measures for Juan Almonte’s relatives and lawyers, taking into account their wishes. Although the authorities informed the Court that “all beneficiaries of the provisional measures have security officers assigned to them”, relatives and lawyers deny receiving such protection. In February 2011, the Inter-American Commission on Human Rights once again found the response of the state to be

inadequate.

In some cases, this lack of protection is a serious obstacle to justice for many victims of police abuses and their families. Police harassment has resulted in victims withdrawing complaints and in witnesses refusing to testify.

FREDDY MORENO LORENZO

On 11 April 2011, Freddy Moreno Lorenzo was sick in bed with his two-year-old son at his home in Haina, San Cristóbal Province, when four police officers entered his house and shot him twice. Hearing the gunshots, his sister-in-law, who was downstairs in the same building, came out and saw that Freddy Moreno was injured but still alive and was being dragged down the stairs by the officers and put into a police car.

The officers took Freddy Moreno Lorenzo to the Haina hospital morgue. His aunt, a doctor at the hospital, was heading towards the morgue when she heard a gunshot coming from inside. As she was about to enter, she saw three police officers coming out. The aunt recognized one of the men as the officer who had arrested Freddy Moreno on 29 March 2011 on suspicion of possessing an illegal firearm. Freddy Moreno had been released on 1 April 2011 without charge. Members of his family reported that during his detention Freddy Moreno had been beaten repeatedly and that officers had put an onion in his mouth and a plastic bag put over his head.

Freddy Moreno’s family spoke to the media about his killing and submitted a formal complaint to the Prosecutor of San Cristóbal. However, according to the family and the lawyer, no investigation has been initiated. At the time of writing, Amnesty International had received no response from the Prosecutor to its request for information about progress on the case.

Following the death of Freddy Moreno, his aunt has noticed the same police officer passing regularly by her house holding his firearm. She and other family members believe that this may have been an attempt to intimidate them because they reported the killing. Another member of the family was approached by an individual who encouraged them to drop the complaint.

In May 2011, Amnesty International urged the Dominican authorities to act immediately to ensure the safety of Freddy Moreno’s family, in accordance with their wishes, and to protect them from intimidation.⁶⁰ However, the continued harassment and lack of protection has made the family reluctant to pursue the case.

LACK OF REPARATION

Police officers who are convicted of unlawful killings are often sentenced to pay compensation to the victims’ families, in addition to any prison sentence they may receive. However, none of the families interviewed by Amnesty International who were entitled to compensation had actually received it and lawyers also confirmed that, in the vast majority of the cases, this right is recognized on paper, but not fulfilled. Representatives of the Office of the Prosecutor General explained that, given their low salaries, most officers ordered to pay compensation do not have the resources to comply.

The National Police does not consider itself liable as an institution for civil damages resulting from the unlawful actions of its members. Article 61 of the Institutional Law on the National Police only establishes the personal responsibility of members of the police for unlawful actions carried out while on duty.⁶¹ Dominican lawyers explained that in order to hold the National Police liable, victims need to file a civil action against the force. However, to date, no such action has been filed against the force in cases of human rights violations by the police.

Victims and their families can initiate a civil action against those responsible for human rights violations in order to obtain compensation for the harm suffered and restitution under Article 50 of the Dominican Code of Criminal Procedure. If they wish to seek compensation they have to file a complaint under the Civil Code (Articles 1382 and 1383).

INTERNATIONAL LAW AND STANDARDS

The legal provisions available in the Dominican Republic only ensures compensation and restitution to victims of human rights violations and their families. They therefore fall short of international law, which requires states to ensure reparation for victims of human rights violations and their families.⁶² Reparation must include: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

- Restitution should, whenever possible, restore the victim to the original situation before the violation of his or her rights.
- Compensation must in essence include any economically assessable damage.
- Rehabilitation should cover medical and psychological care as well as legal and social services.
- Satisfaction should basically include a public apology, including acknowledgement of the facts and acceptance of responsibility by the state, and judicial sanctions against those responsible for the violations.
- Guarantees of non-repetition should encompass all measures aimed at preventing future violations.

6. INDEQUATE OVERSIGHT OF THE POLICE

The system for holding the police to account for their actions is very limited in the Dominican Republic. Poor oversight by state institutions, especially regarding respect for human rights, the lack of independent oversight, and the difficulties faced by the media and civil society in exercising informal oversight over the police – all have allowed human rights violations to remain entrenched.

POOR OVERSIGHT FROM THE STATE INSTITUTIONS

The President has overall authority over the National Police, while the Ministry of the Interior and Police is responsible for operational supervision of the force. In addition, Congress, especially through the Permanent Commissions for Security and Defence of both chambers, can exercise an oversight role over the police, mainly by passing new laws on the police, by deciding what proportion of public expenditure will be allocated to the police budget, and by addressing formal questions to the Chief of Police or ministers.⁶³

According to many Dominican civil society organizations and academics, the only institution with a real power over the National Police is the President. The President has the power to appoint, transfer and dismiss officers, including the Chief of Police.

In contrast, the Ministry of the Interior and Police has very limited power to hold the police accountable. For example, the previous Minister of the Interior and Police, Franklin Almeyda Rancier, frequently made highly critical statements about the police during his term in office between August 2004 and March 2011, mainly focussing on their ineffectiveness and repressive policing methods that resulted in a high number of killings.⁶⁴ However, despite his critical stance, policing methods did not substantially change while he was in post.

Equally, Congress exercises very limited oversight and does not appear to focus on human rights criteria. For example, the Minister of the Interior and Police told Amnesty International in March 2011 that Congress had never used its power to hold the Chief of Police accountable for alleged human rights abuses, including the high number of killings. Equally, there has been little focus on the police’s human rights record during budget allocation discussion in Congress.

An indicator of the poor level of oversight by state institutions is the inadequacy of the statistics available. Statistics on homicides and killings by the police are not centralized. Information is collected by the police, the Office of the Prosecutor General and the National

Institute of Forensic Sciences, but it is not cross checked and consequently there are significant inconsistencies between the different sets of data. Within the Prosecution Service the level of statistical information available varies greatly from one prosecutor’s office to another. Even when prosecutors’ offices do keep good records, statistics on the use of force by police, related investigations, and the status of the cases within the justice system are not produced and/or disaggregated. Amnesty International was given such statistics only by the Office of the National District Prosecutor. However, the chief prosecutor said this was the first time that somebody had requested them.

LACK OF INDEPENDENT OVERSIGHT MECHANISMS

The shortcomings of police internal investigations and criminal investigations carried out by the Prosecution Service make the role of independent oversight mechanisms all the more important to ensure the police are held accountable for human rights violations. However, such mechanisms are lacking in the Dominican Republic.

“External civilian oversight mechanisms can take numerous forms, but broadly speaking can be divided into two categories: (a) agencies exclusively dedicated to police oversight (e.g. a police ombudsman, or a police complaints body, or a police oversight agency); or (b) those which oversee police activities as part of a broader mandate (e.g. general ombudsmen, usually established to investigate human rights violations or cases of government maladministration; or national human rights commissions or institutions.”
UN Special Rapporteur on extrajudicial, summary or arbitrary executions⁶⁵

In the Dominican Republic such mechanisms do not exist.

During the Universal Periodic Review at the Human Rights Council in 2009 the Dominican Republic expressed its willingness to implement the recommendation to “establish an independent oversight body to investigate complaints of police abuse and human rights violations”.⁶⁶ However, Amnesty International is not aware of any steps taken to implement this recommendation.

Steps were taken to create the office of ombudsman (*Defensor del Pueblo*) in 2001 with the adoption of Law 19-01. However, a decade later, the first ombudsman has still to be appointed. This is due mainly to a lack of agreement among the political parties on a suitable candidate.⁶⁷ According to Law 19-01, the ombudsman is independent and has functional, administrative and budgetary autonomy. The ombudsman’s main purpose is to safeguard citizens’ constitutional rights and to initiate investigations into possible violations of those rights by public officials (Articles 2 and 3). Where the ombudsman’s investigations reveal that a public official may have committed a crime, they have a duty to inform the Prosecution Service (Article 16). In addition, the Institutional Law of the Police requires the General Inspector of the Police to submit a report to the ombudsman every six months and at the request of the ombudsman, confirming the important police oversight role conferred on the ombudsman by the law.

In 2010, the appointment of an ombudsman appeared to move several steps closer when the new Constitution made explicit reference to the office⁶⁸ and after the government accepted the recommendation made during the Universal Periodic Review by the UN Human Rights

Council to “promptly designate the person who will occupy the position of ombudsman (*Defensor del Pueblo*)”⁶⁹.

In August 2010, candidates were invited to file applications and interviews were held in November and December 2010. However, at the time of writing, an ombudsman had yet to be appointed.

OVERSIGHT BY CIVIL SOCIETY

Dominican NGOs play an indispensable role in holding the police accountable. Two human rights NGOs – the National Commission for Human Rights and the Dominican Committee for Human Rights – cover almost the entire country. They receive complaints from victims of human rights violations by the police, and provide advice and legal assistance. They also highlight cases of human rights abuses by the police and have frequently called for independent investigations and police reform. Community organizations and social movements also play an important role in highlighting human rights violations committed in their communities or against their members.

In the absence of a national human rights institution, these organizations are the only resource available to people who want to report human rights violations to an independent body. However, most of these organizations rely on volunteers and are chronically under-resourced. Capacities for monitoring individual cases, analysing patterns and producing well-researched reports are very limited, as well as for carrying out strategic advocacy.

Reports in the Dominican media of police misconduct, corruption and human rights violations have increased in recent years. Although few journalists carry out investigations into allegations of human rights abuses by the police, most media outlets do report allegations made by victims, families, lawyers and NGOs. In addition, academics and representatives of civil society organizations use the press to publicize their concerns about police corruption and abuses, and to call for reform of the police.

The media coverage of police conduct shows that in general the press is able to operate in an atmosphere favourable to freedom of expression in the Dominican Republic. However, in a few cases, independent journalists and media outlets have reported that they were harassed or physically attacked after reporting cases of police corruption and, to a lesser extent, of alleged human rights violations by the police.

For example, journalist Raul Moreno Cardenas has alleged that he was threatened with death in Cotui by officers from the National Drug Control Department on 14 January 2011 after the publication of articles suggesting complicity between the officers and local drug traffickers. Another journalist, Francis Frías Morel, was shot by police with rubber bullets in Nagua while he was reporting on a demonstration against the killing of Luis Alfredo Dominguez Rodriguez (see page 24) by police. The Dominican National Union of Press Workers believes that the shooting may have been linked to the publication of articles that contradicted the police claim that Luis Alfredo Dominguez Rodriguez was killed in an “exchange of gunfire”.

7. FAILURE TO IMPLEMENT REFORMS

“Dominican society needs a policing institution that is credible, effective, respectful of fundamental human rights and that accepts being subject to effective civil oversight.”

Servio Tullio Castañón, Vice-President of the Institutionalism and Justice Foundation (Fundación Institucionalidad y Justicia, FINJUS), May 2010⁷⁰

Over the past decade, the Dominican Republic has initiated a number of positive reforms of the criminal justice system that have strengthened its capacity to tackle crime and violence, while enhancing the protection of human rights. These include:

- the new Code of Criminal Procedure that entered into force in 2004 establishing an accusatorial system and strengthening the protection of the rights of both the victims and the accused;
- reform of the Prosecution Service providing mechanisms to enhance the independence of the prosecutors; and
- the adoption of a new Constitution that entered into force on 26 January 2010.

The main area that has been neglected in these reforms is policing.

The National Police and the Ministry of the Interior and Police have acknowledged the need to improve police effectiveness. A number of initiatives, mainly focused on enhancing police training and equipment, are being developed, and in some cases implemented. The stated purpose of these initiatives is to strengthen the police’s capacity to prevent and combat crime and violence. However, as this chapter shows, the current reform projects have not been able to bring about the radical changes needed and which many representatives of Dominican society have been calling for over the past decade.⁷¹

Current reform initiatives have not focused on increasing respect for human rights, reflecting the Dominican authorities’ limited acknowledgement of the problem. The fact that reforms have not been based on a comprehensive assessment of the National Police has also meant that initiatives have not addressed improving the overall capacity of the National Police to

fight and prevent crime and violence. In addition, the police have been reluctant to engage with substantial reforms that would limit its powers and establish effective oversight mechanisms.

PREVIOUS ATTEMPTS AT POLICE REFORM

The debate about police reform started around 1999, when the crime rate began to rise.

In 2000, a Commission for the Reform and the Modernization of the National Police⁷² was set up with the aim of proposing a comprehensive plan for the reform of the National Police. The work of the Commission focused on legal reforms that would help turn the National Police into a competent and trustworthy organization. The reforms included the modernization of infrastructure and equipment; professionalization and training; changes in recruitment methods; the adoption of a code of ethics; enhanced supervision of officers and operations; and higher salaries for officers and better distribution of resources to the regional departments. According to representatives of civil society organizations interviewed by Amnesty International, if it had been implemented, the project would have turned the national police into a civilian and community-based organization committed to human rights.

However, several influential police officers opposed the draft laws and lobbied parliamentarians of both major parties in order to substantially modify the draft. The result was the adoption of the Institutional Law on the National Police (96-04), which was radically different from the draft legislation proposed by the Commission. It included some positive changes, such as the creation of the Police High Council and the codification of principles on the use of force which were largely consistent with international standards. However, the Law did not alter the organizational structure of the police which remained based on a military model and concentrated powers in the hands of the Chief of Police.

CURRENT PROGRAMME OF POLICE REFORM

In 2005, shortly after the election of President Leonel Fernandez, an assessment of the factors contributing to the proliferation of crime revealed that the ineffectiveness of the police and the population's mistrust of the force were important factors in spiralling crime rates. Following this assessment, the Democratic Security Plan was launched with the objective of tackling the causes of violence and crime in a comprehensive manner, and improving relations between the police and marginalized communities. The Plan included the Programme for the Reform and the Modernization of the National Police, whose general objective was to make sure that the National Police adopted modern techniques in order to "ensure the respect and the fulfilment of citizens' rights within a democratic system".⁷³

Police officials and representatives of the Ministry of the Interior and Police told Amnesty International that the National Police is undergoing a process of continuous reform that is starting to show tangible results. In particular, the following were cited as achievements so far: a considerable increase in the number of officers assigned to preventive policing, mainly through the creation of the auxiliary police;⁷⁴ improved police equipment; better training; the development of a human rights manual for police officers; the dismissal of around 12,000 officers for misbehaviour or corruption; and the implementation of a pilot community-based policing project. However, little information is available about how effective the changes have been in changing police behaviour, practices and methods.

Most civil society organizations, including human rights groups, believe that the reform process has been largely ineffective, consisting of a number of relatively superficial changes that leave crucial areas – such as repressive policing, resistance to external oversight and police corruption – untouched. A fundamental criticism is that the reforms were developed without reference to the views of communities and of civil society organizations.

The Minister of the Interior and Police and others at the Ministry told Amnesty International in March 2011 that a new project was due to be launched in the following months to boost the programme of police reform. The project’s objective is to “make the National Police modern and effective in preventing, controlling and pursuing crime and violence within a democratic society”. The project’s estimated cost is \$US160 million.⁷⁵

The project includes: improving the physical infrastructure; improving the National Police management system; strengthening the Central Directorate of Police Preventive Operations; strengthening the Central Directorate of Criminal Intelligence; strengthening the Central Directorate of Academic Affairs; and modernizing the information technology system of the National Police.

The project due to be launched in 2011 contains a number of encouraging initiatives, including:

- The development of a change strategy, paying special attention to the need for a change of culture among members of the police;
- Improved training and equipment for the Central Directorate of Police Preventive Operations with a view to eradicating those “practices and habits that reflect a repressive framework and that are not suitable for a democratic society that respects citizens’ rights and the rule of law”;
- The acquisition of modern training equipment, including software to simulate the use of firearms, to help ensure that officers’ use of force is appropriate and lawful.

However, the project also suffers from a number of weaknesses that make it fall short of the comprehensive and effective police reform needed. In particular:

- An independent overall assessment of strengths and weaknesses of policing has not been carried out. It is, therefore, not clear whether some of the activities proposed as part of the project that will require a lot of time and resources will bring about improvements in policing on the ground;
- The plan does not include an assessment of current training initiatives and there is, therefore, a risk that training initiatives could be duplicated or ineffective initiatives repeated;
- The project appears to focus once again on strengthening National Police training, equipment and infrastructure without providing any clear indicators against which results can be evaluated;
- The project is mostly oriented towards improving crime prevention and security, to the

virtual exclusion of improving police behaviour. As a consequence, the project fails to provide a clear and measurable strategy for eradicating police corruption and practices that violate human rights or to improve police accountability;

- A reduction in the number of killings and other human rights violations by police is not included among the indicators for measuring the success of the project;
- There is nothing to indicate that respect for human rights or the law will be a guiding objective of the proposed revision of operational manuals.

In early 2011, the National Police and the Ministry of the Interior and Police submitted a draft Organic Law of the Police to the President. This draft, which proposed amending the 2004 Institutional Law on the National Police, was drawn up without consultation with relevant stakeholders, such as NGOs. The President submitted the draft law to a committee of legal advisors for revision. However, on 15 June 2011, the President submitted a text to Congress that was very similar to the draft proposed by the National Police and the Ministry of the Interior and Police, without taking into account the proposals of the committee of legal advisors.

The draft law aims to harmonize the legislative framework regulating the National Police with the Constitution. Although, the President stated that the adoption of the law will provide the Dominican Republic with a “modern, professional, transparent and effective institution”,⁷⁶ civil society organizations, including human rights groups, believe that once again the draft law before Congress does not provide for the comprehensive police reform needed. The draft law raises a number of concerns:

- The current requirement that the General Inspector of the National Police present six-monthly reports to the ombudsman⁷⁷ has been removed, thereby reducing the potential for independent oversight;
- Reference to the Community Police Department has been removed and it is unclear whether or not this means that community-based policing is no longer a priority;⁷⁸
- Provisions stipulating that special arms may only be used by specifically trained staff and in exceptional circumstances⁷⁹ have been replaced by a provision that does not refer to the type of weapons or the circumstances in which they may be deployed, greatly increasing police discretion in the use of such weapons;
- The current draft law makes no mention of the provision contained in the 2004 Law (Article 62) for independent external investigations by prosecutors into crimes allegedly committed by police officers.

POLICE OPPOSITION TO THE CREATION OF A TECHNICAL INVESTIGATION SERVICE

In June 2011, the National Police fiercely opposed some provisions of the newly adopted Organic Law of the Prosecution Service designed to improve the capacity of the Prosecution Service to carry out investigations. The National Police asked the President to modify the law and on 9 June, two days after the law had been promulgated, the President sent a draft law

to the Senate proposing the amendments suggested by the National Police.

The contentious articles are those referring to the creation of a Technical Investigation Service of the National Police⁸⁰ (also known as the Judicial Technical Police) under the legal direction of the Prosecution Service, with “exclusive responsibility”, for conducting all policing activities related to investigations into criminal offences.⁸¹ Members of the Technical Investigation Service would take part only in policing activities referred to them by the Prosecution Service and would be headed by a Director General appointed by the President from a list of candidates proposed by the High Council of the Prosecution Service.⁸²

The police objected that creation of the Technical Investigation Service was unconstitutional because, among other things, it would prevent the National Police from carrying out its constitutional function to pursue and investigate criminal offences and put a police department under the direction of the Prosecution Service, while the Constitution clearly states that the National Police comes under the authority of the President of the Republic. The police also argued that in other countries, such as Mexico and Colombia, the creation of such a service had been disastrous in terms of investigating offences, and had resulted in greater impunity and a rise in crime.

Police opposition and the fact the President had proposed abandoning the creation of a Technical Investigation Service were harshly criticized by major civil society organizations.⁸³ They believe that such a service would strengthen the ability of the Prosecution Service to carry out investigations and be an important element in fighting crime in the country. The Prosecutor General also supports the creation of a Technical Investigation Service and believes that it would help reduce the number of prosecution cases that collapse because of poor police practice or administrative errors.⁸⁴

RESISTANCE TO CHANGE

Despite official statements affirming the National Police’s willingness to comply with human rights standards and embrace reform, resistance to change remains entrenched in the police and continues to receive government backing. The evidence for this is clear: the failure of previous attempts at reform; the current inability to establish an effective process of radical police reform; and the recent setback in the creation of a Technical Investigation Service.

Among the main reasons for resistance to changes is the misconception, common to many countries with rising crime rates, that human rights based policing is incompatible with effectiveness in fighting crime and violence. A hardline policing approach is still considered necessary to deter criminals and maintain order despite evidence to the contrary.

The fear of losing privileges and powers is another main factor behind such strenuous opposition to reform. Pervasive police corruption has resulted in unwritten codes of conduct and practices and those who benefit from the current situation have no interest in seeing them dismantled. Some politicians are said to be unwilling to take decisions concerning the police and risk losing the support of influential elements in the Dominican society.

8. CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS

As this report shows, serious human rights violations are committed by members of the National Police and those responsible are rarely brought to justice. Inadequate oversight and flawed reforms failed to put an end to such violations. There is also evidence that far from helping to tackle crime, hardline policing methods are contributing to escalating violence and crime in the Dominican Republic. At the heart of the failure to implement effective reforms and ensure that Dominicans have the effective policing that they need is a lack of political will. Those in power have failed to confront those with a vested interest in maintaining the current system in which corruption is deeply rooted and human rights abuses by the police are pervasive.

UNLAWFUL KILLINGS

- Between 2005 and 2010, the police was responsible for average of 15 per cent of recorded violent deaths each year in the Dominican Republic. That proportion is alarming and raises significant concerns that police frequently employ disproportionate force with deadly consequences.
- Although the police present most of these killings as the consequence of “exchanges of gunfire” between the police and criminal suspects, some have been found by the courts to be unlawful, while there are strong indications that others deaths were the result of excessive use of lethal force.
- There is evidence to suggest that some killings by the police are extrajudicial executions aimed at eliminating repeat offenders and sending a clear signal to offenders, or reprisals by corrupt officers against their former criminal associates.
- A significant number of allegations of extrajudicial executions are reported in the context of the policing of demonstrations.
- In some cases, police shootings injure or kill bystanders or people living nearby. In a few cases, there is evidence to suggest that police killings were intended to eliminate witnesses to unlawful killings.

TORTURE AND ILL-TREATMENT

- Torture and other ill-treatment are still used by many police officers when interrogating criminal suspects. Methods reported include: hanging suspects by their handcuffs, putting plastic bags over suspects’ heads, beatings, threats and denial of food, water, sleep and essential medical care.

ENFORCED DISAPPEARANCES

- Two cases of possible enforced disappearance were reported to Amnesty International between 2009 and 2011. The families suspect that their relatives may have died while in police custody as a result of torture.

ARBITRARY DETENTIONS

- The police carry out arbitrary mass arrests, especially round-ups in low-income communities with high levels of crime. Most mass arrests are carried out at night in what the police describe as preventive operations. In many cases, people arrested are released without charge after paying a bribe to the police.

FAILURE TO ACKNOWLEDGE THE PROBLEM AND RECOGNIZE THE RESPONSIBILITY OF THE STATE

- The National Police and most of other relevant state officials have failed to acknowledge the extent of the problem of human rights violations committed by the police. They assert that abuses and violations are committed by a few corrupt or unprofessional officers and that those responsible are immediately dismissed and brought to justice.
- Dominican law only recognizes the personal responsibility of members of the police for unlawful actions carried out while on duty. There is no recognition in law or practice that the state is responsible for human rights violations committed by police officers in the course of their official duties or while exercising the authority vested in them by virtue of their office.

POLICE CORRUPTION AND ABUSES AS A CONTRIBUTING FACTOR TO CRIME AND VIOLENCE

- Although the National Police clearly operates in a difficult environment characterized by widespread crime and violence and the proliferation of firearms, unlawful and unprofessional behaviour by many officers in the National Police are contributing to the rise in crime and violence.

BARRIERS TO JUSTICE

- There is no national code of practice governing the investigation of allegations of human rights abuses by the police. As a consequence, cases are dealt with differently depending on a variety of factors.
- When families do not file a judicial complaint, cases of killings by the police are likely to remain unquestioned by the prosecutors, in spite of their legal obligation to investigate.
- When the victims of police killings are from a middle-class background and had no known links to crime, public opinion is more likely to mobilize and the prosecutors are more likely to conduct a thorough investigation.
- Many investigations of killings by the police lack independence either because prosecutors merely endorse the results of police internal investigations, or because of political pressure on prosecutors.
- Shortcomings in the forensic services diminish the independence and the quality of investigations and in particular those related to allegations of human rights violations by the police. The failure to recognize that evidence should not be processed by the police in investigations into the use of force by the police constitutes a major flaw.

- The state’s inability to provide effective protection to victims and witnesses of police abuses who have been threatened and harassed results in some victims withdrawing their complaints or deciding not to pursue their case, and in witnesses withdrawing their statements.
- Even when tribunals find police officers guilty of killings and sentence them to pay compensation to victims, if the officers are not able to pay, victims and families are denied their right to compensation. The National Police does not consider itself liable as an institution for the civil damages provoked by the unlawful actions of its members and so pays no compensation.

INADEQUATE SYSTEM OF EXTERNAL OVERSIGHT

- State institutions – other than the President of the Republic – have very limited influence on the police or power to hold officers accountable.
- There are no independent institutions mandated to exert oversight over the police and to independently investigate complaints of police abuses. The ombudsman has still not been appointed and no steps have been taken to establish an independent oversight body to investigate complaints of police abuses and human rights violations.
- NGOs exert informal oversight on the police but their work is limited by limited capacity or funding.
- The media monitors and reports police misconduct, but in some cases journalists or media outlets that have published reports about police corruption or human rights violations have been harassed or physically attacked.

FAILURE TO IMPLEMENT EFFECTIVE REFORMS

- Different sections of society agree that the National Police needs to go through a process of comprehensive reform in order to turn it into an institution accountable to the law, the state and the people and responsive to the needs of the community.
- In spite of official statements affirming the state’s support for human rights and commitment to reform, in practice entrenched resistance within the police to change has gone largely unchallenged by the state.
- Ongoing initiatives for police reform do not have respect for human rights as an overriding objective and fall short of the comprehensive and effective police reforms needed.

RECOMMENDATIONS

IMPLEMENT IMMEDIATE MEASURES TO REDUCE KILLINGS BY POLICE, ERADICATE TORTURE AND ILL-TREATMENT AND OTHER ABUSIVE PRACTICES

- Acknowledge publicly that unlawful killings, torture and other human rights violations are serious problems in the Dominican Republic and send a clear public message to all police officials that unlawful killings and ill-treatment of criminal suspects are unacceptable and strictly prohibited at all times; that any allegations of abuses will be subject to

investigation; and that all perpetrators will be brought to justice.

- Ensure strict adherence by all officers to national and international standards related to the use of force and firearms.
- Amend national legislation to ensure that the principles of restraint and proportionality are applied not only to the use of firearms but in general to the use of force.
- Ensure full respect of Dominican law which gives the Prosecution Service authority over all criminal investigations and assigns a subsidiary role to the National Police.
- Stop arbitrary mass arrests.

ENSURE INDEPENDENT, PROMPT, THOROUGH AND IMPARTIAL INVESTIGATIONS IN ALL CASES OF ALLEGED HUMAN RIGHTS VIOLATIONS BY THE NATIONAL POLICE

- Codify in law or regulations a standard practice based on international standards for investigating allegations of human rights violations by police.
- Ensure that the Office of the Prosecutor General instructs all prosecutors to investigate thoroughly all incidents related to the use of force by the police, whether or not a formal complaint has been lodged or the case has been referred by the National Police.
- Ensure that tribunals receiving allegations of torture or ill-treatment promptly inform the Prosecution Service and that this triggers an investigation in all cases.
- Allocate adequate resources to the National Institute of Forensic Pathology and to the National Institute of Forensic Sciences (INACIF), including an adequate number of trained forensic pathologists and new refrigeration equipment.
- Ensure that INACIF is fully independent of the Office of the Prosecutor General.
- Ensure that INACIF, and not the police, processes evidence in cases of incidents related to the use of force by the police.
- Ensure the establishment and the implementation of clear procedures for the preservation and safekeeping of evidence.

PROTECT VICTIMS AND WITNESSES

- Promptly investigate all cases of harassment of and physical attacks on victims, the families of the victims, witnesses, lawyers and journalists who have reported cases of human rights violations by the police.
- Provide adequate protection, according to their wishes, to victims, the families of the victims, witnesses, lawyers and journalists who have reported cases of harassment after reporting human rights violations by the police.
- Include victims and witnesses of cases of human rights violations by the police in the victims and witness protection programme.

ENSURE FULL REPARATION TO ALL VICTIMS OF HUMAN RIGHTS VIOLATIONS

- Amend national legislation to make explicit reference to the responsibility of the state for human rights violations committed by members of the National Police and other state agents while acting in the course of their official duties or exercising their authority as law enforcement officials.
- Amend the national legislation so as to cover not only the right to compensation and restitution, but all forms of reparation in case of human rights violations.
- In particular, incorporate guarantees of full reparation for victims of torture into national laws.
- Ensure that victims and families of victims of human rights violations by the police receive full reparation, which should include restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition.

DESIGN AND IMPLEMENT AN EFFECTIVE HUMAN RIGHTS BASED POLICE REFORM

- Publicly show an unequivocal political will to develop and implement effective human rights based police reforms and to sustain the outcomes of reform.
- Carry out an extensive preventive assessment of the National Police, possibly by a pool of independent national and international experts. The assessment should take into account the criminal, social and legal framework and focus on the police structure and organization, budget, functions, human resource policies (including recruitment, promotion, dismissal, salary and benefits), internal accountability mechanisms, education and training, anti-corruption measures, and relations with other state institutions and with the public. The assessment should include clear recommendations to enhance internal and external accountability mechanisms; to increase integrity; to ensure the professionalism, efficiency, and competency of the institution; to enhance recruitment and training practices; and to improve public confidence.
- On the basis of the assessment, identify the legislative changes needed and draft an organic law of the National Police accordingly.
- On the basis of the assessment, design a comprehensive programme of police reform aimed at making the National Police an institution truly accountable to the law, the state and the public and fully responsive to the needs of the community. The programme should include measureable objectives, outputs, activities and indicators, including indicators’ baseline and targets. The programme should be budgeted and a timeline should be indicated. Obstacles and risks and proposed solutions to overcome them should be included in the programme.
- Improve working conditions of all police officers.
- Develop and promote a strategy to change behaviour, beliefs, attitudes and ways of working of all members of the National Police so that the dominant culture can shift from the one of control and repression to one of respect for human rights.
- Establish an effective performance appraisal system that includes respect for human

rights among the appraisal criteria, and ensure that promotions are the results of such an appraisal process.

- Establish a vetting system to ensure that, pending investigation, members of the National Police about whom there is evidence of serious human rights violations do not remain on active service or are not placed in positions where they could repeat such violations.
- Ensure strict adherence to the law in the recruitment of new officers and ensure that candidates' human rights record is verified prior to employment.
- Adopt community policing as a general policing strategy, rather than as an initiative confined to limited areas.
- Ensure that the National Police publishes a detailed annual report, providing statistics of operations conducted; complaints received; the number and type of crimes cleared; the processes for recruitment, promotion and dismissal; and of the application of internal disciplinary procedures and the number of officers under criminal investigation, charged and/or tried for criminal offences, including those involving human rights violations.

IMPROVE THE POLICE EXTERNAL ACCOUNTABILITY SYSTEM

- Appoint an ombudsman without further delay, ensuring that the appointee is independent and free of political pressure, has a good understanding of the human rights protection and promotion system, and has a proven commitment to providing remedies to all victims of abuses and human rights violations by public officers.
- Provide adequate resources to the ombudsman, including competent and independent investigators, and ensure that state institutions, including the National Police, collaborate fully with the ombudsman.
- Carry out community outreach in order to explain the ombudsman's role and the importance of police accountability.
- Ensure that the ombudsman's office records and tracks complaints and police abuses, including human rights violations, and keeps comprehensive records.
- Authorize the ombudsman to undertake investigations into complaints of police abuses, including human rights violations.
- Consider creating an independent oversight body to investigate complaints of police abuses and human rights violations, as agreed by the Dominican government during the Universal Periodic Review.
- Provide any independent oversight body created to investigate complaints of police abuse and human rights violations with adequate powers to carry out comprehensive investigations of police abuses; sufficient independence from the police and the government; adequate resources; the capacity to operate transparently and report regularly; and with the

capacity to involve civil society in its work.

- Ensure that the Ministry of the Interior and Police effectively monitors the actions and the conduct of the police and provides direction and control to ensure that all operations are carried out according to the law and the policies in force.
- Ensure that Congress uses its right to question the Chief of Police and the Ministry of the Interior, as well as its power to set the annual national budget, to hold the National Police accountable for their conduct and, in particular, for the number of killings and other allegations of human rights violations.
- Establish an effective national system for compiling statistics that includes data on compliance with human rights standards by members of the National Police. Ensure that these statistics inform policies, guidelines and directives aimed at reducing the number and the gravity of human rights violations in the criminal justice system.
- Recognize the role of human rights NGOs in scrutinizing police actions; provide information to human rights NGOs whenever requested; and condemn harassment of human rights defenders.
- Build adequate capacity, including through international co-operation, of human rights NGOs to monitor human rights violations by the police, analyse patterns, produce well-researched reports and design and implement effective advocacy strategies.
- Provide adequate funding, including through international co-operation, to human rights NGOs in order to support their work of providing counselling and legal assistance to victims of human rights violations.
- Send a clear public message condemning every act of harassment and physical aggression against journalists, media outlets and human rights defenders reporting police misconduct and human rights violations.

RATIFY AND IMPLEMENT INTERNATIONAL HUMAN RIGHTS TREATIES

- Ratify and implement the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- Sign, ratify and implement the International Convention for the Protection of All Persons from Enforced Disappearance
- Sign, ratify and implement the Inter-American Convention on Forced Disappearance of Persons.

ENDNOTES

¹ *Listín diario*, “La Policía mata a acusado de asesinar a fisiatra”, 29 September 2010.

² Statistics provided by the Museo Memorial de la Resistencia Dominicana and quoted in *El Mundo*, “La familia Trujillo descarta pedir perdón a los dominicanos por la dictadura”, 11 June 2011.

³ The Institutional Law on the National Police prohibits serving members of the armed forces from joining the police (Article 39) and states that no one who is a serving member of the armed forces or has served during the previous five years can be appointed Chief of Police (Article 11).

⁴ The separation of functions is set out Institutional Law on the National Police, the Institutional Law of the Armed Forces and the Constitution (Articles 252-257).

⁵ The Constitution entered into force on 26 January 2010. It is available at <http://www.senado.gob.do/senado/Portals/0/Documentos/Constituciones/const.%202010.pdf>, accessed 30 August 2011.

⁶ Code of Criminal Procedure, Articles 91-94.

⁷ Vision of the National Police, available at <http://www.policianacional.gob.do/v2/Principal/static/20100901-Mision-Vision-Valores.ashx>, accessed 28 August 2011.

⁸ The Department of Communication and Public Relations of the National Police maintains a website, publishes a monthly information bulletin and produces TV spots and programmes.

⁹ See <http://www.vanderbilt.edu/lapop/dominican-republic.php>, last accessed 28 August 2011.

¹⁰ People who said they had little trust or no trust in the judicial system to punish the guilty were asked who was responsible for their lack of trust and identified the police (31.4%); the “system” (26.6%); judges and/or the courts (14.9%); the law (13.9%); and prosecutors (13.6%). When asked why they had little or not confidence in the justice system, 26% of respondents replied because “the police are corrupt”.

¹¹ Tahira Vargas, *Jóvenes, Delincuencia y Droga: Estudio cualitativo acerca de la delincuencia juvenil en Guaricano*, Casa Abierta, January-February 2008.

¹² See for example *Clave Digital*, “Los jóvenes son los más afectados por muertes violentas”, 15 March 2009; *Noticias SIN*, “Presidente Fernández admite hay corrupción en Policía y FF.AA”, 15 July 2011.

¹³ *Listín Diario*, “Fiscal Distrito nacional no descarta que miembros FFAA y PN sean parte de bandas de sicarios”, 22 June 2009.

¹⁴ See for example *Noticias SIN*, “Jefe PN advierte no permitirá corrupción en institución, tras

cancelación de miembros", 6 February 2011.

¹⁵ *Acento*, "Policías y soldados dominicanos están cada vez más metidos en el tráfico de drogas", 22 April 2011.

¹⁶ *Acento*, "Policías y soldados dominicanos están cada vez más metidos en el tráfico de drogas", 22 April 2011.

¹⁷ Resolution Nr. 5/2011 of the Minister of Labour on minimum salary for workers of the private sector.

¹⁸ According to the Dominican Association of Security Companies (Asociación Dominicana de Empresas de Seguridad - ADENSIC), in 2007 there were about 10,000 police officers employed by private security companies and most which were owned by high-ranking members of the military and police officers or former police officers. See Organization of American States, "Seguridad pública y privada en República dominicana", pp. 21-22, available at: <http://www.oas.org/dsp/documentos/Publicaciones/Segurid%20publica%20y%20Privada%20-%20Republica%20Dominicada.pdf>, accessed 28 August 2011.

¹⁹ In the Dominican Republic, the homicide rate measures all killings, including those in self-defence and violent deaths as results of accidents.

²⁰ Between 2005 and 2006, the average murder rate in Latin America and the Caribbean was 24.8 per 100,000 of the population. See PNUD, *Informe sobre Desarrollo Humano El Salvador 2007-2008. El empleo en uno de los pueblos más trabajadores del mundo*, 2008, page 253.

²¹ According to the Pan-American Health Organization, a murder rate above 8 per 100,000 indicates a crime epidemic. See Bernardo Kliksberg, *Myths and reality regarding criminality in Latin America*, 2006 available at: <http://www.programaeurososocial.eu/datos/documentos/publicaciones/1193218496.pdf>, accessed 13 September 2011.

²² In 2009 homicides committed in the course of other crimes, such as robberies, sexual violence and drug trafficking accounted for the 43% of all killings.

²³ Tahira Vargas, *Jovenes, Delincuencia y Droga: Estudio cualitativo acerca de la delincuencia juvenil en Guaricano*, Casa Abierta, January-February 2008. See also, Tahira Vargas, *Clave Digital*, "Juventud, sociedad y liderazgo", 22 August 2006; and *Dominicanos Hoy*, "Las Naciones: violencia juvenil en las calles", 29 August 2009.

²⁴ See Instituto Caribeño para el Estado de Derecho, *Armas de fuego en República Dominicana*, Argos, 2010.

²⁵ *Hoy Digital*, "La violencia en la sociedad dominicana", 30 September 2010.

²⁶ Aleph, 2006, "Estudio sobre la violencia juveniles", quoted by the UN Office on Drugs and Crime in Latin America and the Caribbean Region, World Bank Report No. 37820, *Crime, Violence and Development: Trends, Costs and Policy Options in the Caribbean*, March 2007, p.71.

²⁷ It should be noted that the figures for killings by police provided by the Office of the Prosecutor General provides do not differentiate between lawful and unlawful killings.

²⁸ See for example, *Hoy digital*, "La violencia en la sociedad dominicana", 30 September 2010.

²⁹ *El Caribe*, "PN mata 175 civiles en intercambio de disparos", 1 July 2011.

³⁰ See *Listin Diario*, "El 40% de los homicidios involucra a uniformados", 1 November 2010. This article

states that according to statistics from the police, 52 police officers have been killed since January, while 107 were injured. One was victims of domestic violence, twelve were killed in the line of duty, eight in robberies, six in personal disputes, three committing criminal acts, eleven when they were stripped off his weapon, and one when his motorcycle was stolen. Seven others were killed in unknown circumstances. The article did not clarify what happened with the remaining three officers.

³¹ See for example *Hoy Digital*, "121 muertos en crímenes múltiples de PN y militares", 10 December 2009 and *El Caribe*, "PN mata 175 civiles en intercambio de disparos", 1 July 2011.

³² The campaign mainly used social networks such as facebook and twitter, see <http://www.facebook.com/group.php?gid=117626091616617> and <http://www.youtube.com/watch?v=0JlqmDkcRi0>, accessed 28 August 2011.

³³ DR1, "Guzman Fermin denies order to kill", 8 July 2010.

³⁴ *El Caribe*, "Jefe PN: ya no hay inseguridad", 29 July 2010.

³⁵ *El Nacional*, "El general Juan Ramón de la Cruz Martínez dijo que el peligroso grupo mantenía zonas en zozobra", 29 May 2010.

³⁶ Tahira Vargas, *Jovenes, Delincuencia y Droga: Estudio cualitativo acerca de la delincuencia juvenil en Guaricano*, Casa Abierta, January-February 2008, p.43.

³⁷ The Institutional Law on the National Police sets clear boundaries for the use of force and firearms to control crowds and disperse violent assemblies. Article 29.e states: "When, in accordance with the law and orders from the competent authority, members of the National Police are obliged to disperse demonstrations or assemblies, they will use the least dangerous means and only to the minimum extent necessary. Members of the National Police will refrain from using firearms, except if the assembly is violent and other means have been exhausted and under the conditions stipulated in 29.b."

³⁸ The law No. 672 of 19 July 1982 establishing a Code of conduct for Law Enforcement Officers is based on the UN Code of Conduct for Law Enforcement Officials. Article 29 of the Institutional Law on the National Police incorporates some of the key principles contained in the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

³⁹ Principle 5(a) of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

⁴⁰ An electromyography report dated 6 November 2009 found that "Axonielinic damage is very severe with damage of motor and sensory fibers corresponding to the three trunks of the brachioplexus region, more accentuated on the left side with evident markings and widespread signs of muscle denervation."

⁴¹ International Covenant on Civil and Political Right, Article 7; Convention on the Rights of the Child, Article 37(a); and the Inter-American Convention on Human Rights, Article 5.

⁴² "[W]hen there is well-founded cause or reason to believe that an act of torture has been committed within their jurisdiction, the member states shall guarantee that the appropriate authorities proceed ex officio and immediately to conduct and investigation and to begin, where necessary, the respective criminal case". Inter-American Commission on Human Rights, Report No. 53/01, Case 11.565, Ana Beatriz y Celia Gonzalez Perez (Mexico), 4 April 2001, para.89.

⁴³ Article 18 of the Vienna Convention on the Law of Treaties.

⁴⁴ Report of the working group on the Universal Periodic Review, Dominican Republic, 4 January 2010,

A/HRC/13/3, para. 88.1 and A/HRC/13/L.10, para. 350.

⁴⁵ Article 303.

⁴⁶ Article 27(a).

⁴⁷ Article 2 of the International Convention for the Protection of All Persons from Enforced Disappearance defines enforced disappearance as follows: “the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.”

⁴⁸ Enforced disappearances infringe the right to recognition as a person before the law; the right to liberty and security of the person; the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment; the right to life, when the disappeared person is killed; the right to an identity; the right to a fair trial and to judicial guarantees; the right to an effective remedy, including reparation and compensation; and the right to know the truth regarding the circumstances of a disappearance.

⁴⁹ Report of the working group on the Universal Periodic Review, Dominican Republic, 4 January 2010, A/HRC/13/3, para.88.6 and A/HRC/13/L.10, para.350

⁵⁰ *Proceso digital*, “El Procurador desaprueba las redadas policiales”, 29 June 2010.

⁵¹ *Noticias SIN*, “DNCD realiza redadas en el ensanche Capotillo”, 6 May 2011.

⁵² *Listín diario*. “Almeyda reclama poner fin a las redadas en los barrios”, 24 December 2010.

⁵³ Principle 9 of the UN principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions states: “There shall be thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances. Governments shall maintain investigation offices and procedures to undertake such inquiries.”

⁵⁴ A/HRC/14/24/Add.8, para. 17.

⁵⁵ Code of Criminal Procedure, Articles 91-94.

⁵⁶ Provisional Regulation, Decree No. 731-04 on the application of Institutional Law No. 96.04, Article 43.

⁵⁷ Articles 30-31 of the Code of Criminal Procedure.

⁵⁸ *Ergi v. Turkey*, (Application no. 66/1997/850/1057), 28 July 1998, paras 84-85, quoted in A/HRC/14/24/Add.8, para.23.

⁵⁹ The programme is expected to provide for medical and psychological support, protection, accommodation and eventually support for access to employment and education. In case of emergency, victims and witnesses, as well as their families, are offered immediate provisional protection, following a rapid-reaction procedure. For more information see http://www.procuraduria.gov.do/PGR.NET/Transparencia/Documentos/Resolucion_42_sobre_la_Unidad_de_Proteccion_Victimas_Testigos.pdf, last accessed 13 September 2011.

⁶⁰ See Amnesty International Urgent Action: “Police shot man and now intimidates his family”, 12 May 2011 (Index Number: AMR 27/001/2011), available at: <http://www.amnesty.org/en/library/info/AMR27/001/2011/en>, last visited 12 September 2011.

⁶¹ Members of the National Police are personally and directly responsible for actions carried out while on duty that infringe or violate legal norms and regulations.

⁶² The right to compensation is set out in international human rights instruments including: the International Covenant on Civil and Political Rights (Article 2(3)); the Inter-American Convention to Prevent and Punish Torture (Article 9); the Inter-American Convention on Human Rights (Article 25); the UN principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (Principle 20); the UN Declaration on the Protection of All Persons from Enforced Disappearance (Article 19); and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Article 14).

⁶³ Article 95 of the Dominican Constitution.

⁶⁴ See for example *Hoy Digital*, “Almeyda: ‘Policía ha disparado la tasa de criminalidad en 3.4%’”, 26 October 2009; and *Hoy Digital*, “Almeyda exige Policía reducir los ‘intercambio’ de disparos”, 14 December 2010.

⁶⁵ A/HRC/14/24/Add.8, para.26.

⁶⁶ A/HRC/13/3, paragraph 88.18 and A/HRC/13/L.10, paragraph 350.

⁶⁷ The Defensor del Pueblo is appointed by the Senate with a majority of two thirds from a list of candidates submitted by the Lower House. According to Article 192 of the Constitution, if the Senate does not make its choice within 30 days, the Supreme Court of Justice appoints someone from the list of candidates proposed by the Lower House.

⁶⁸ Section VIII of the Constitution.

⁶⁹ A/HRC/13/3, para.87.2.

⁷⁰ *El Nacional*, “FINJUS urge reforma Policía Nacional”, 4 May 2010.

⁷¹ See for example: FINJUS, “Es urgente la reforma estructural de la Policía Nacional”, 29 September 2010 available at: http://www.finjus.net/detalle/noticia/es_urgente_la_reforma_estructural_de_la_polic%C3%ADa_nacional-170. In July 2010 the coordinator of the Catholic youth network stated that the reform of the police was “a cry of the population” after several “criminal mistakes” by the police. See *Dominicanos Hoy*, “Sacerdote favorece reformar la Policía Nacional”, 8 July 2010.

⁷² The Commission was composed of the Chief of Police, the Prosecutor General, the Secretary of the Armed Forces, the President’s legal adviser, as well as representatives of human rights organizations and legislators.

⁷³ The Programme has the following components: provide the police with techniques and resources for preventive patrolling and rapid reaction; strengthen capacity and technology for criminal intelligence; strengthen training and equipment for criminal investigations; strengthen internal control mechanisms dealing with the ethical conduct of members of the National Police; renew the police academy curriculum for the training of new recruits and the continuous education of officers; develop operational capacity to control drug trafficking; establish a new system of recruitment and promotion.

⁷⁴ The auxiliary police unit was created in 2006 to carry out administrative tasks and patrol low-risk areas.

⁷⁵ In August 2010, the Minister of the Interior and Police stated that the government had obtained a loan from a foreign bank which would mainly be used to provide the National Police with modern equipment. See *Diario Digital*, “Gobierno gestiona préstamo de US\$160 millones para la Policía”, available at http://www.diariodigital.com.do/?module=displaystory&story_id=55882&format=html, accessed 28 August 2011.

⁷⁶ *Diario Libre*, “Fernandez someterá proyectos modifican Ley Orgánica de las FF.AA”, 19 January 2011.

⁷⁷ Article 13 of Law 96-04.

⁷⁸ Article 21 of Law 96-04.

⁷⁹ Article 30 Law 96-04.

⁸⁰ Articles 101-105 and 113.

⁸¹ Article 101.

⁸² Article 102.

⁸³ *Acento*, “Entidades cívicas critican Leonel Fernández eche atrás policía técnica judicial”, 13 June 2011.

⁸⁴ *El Caribe*, “Procurador: La investigación criminal debe dirigirla el Ministerio Público”, 6 July 2011.

A police officer arrests two men in San Juan de la Maguana, 2011.



1. Jonatan Durán Colón, killed by police on the eve of a demonstration on 17 October 2009 in Navarrete.
2. Graffiti in memory of Jonatan Durán Colón.
3. Juan Almonte Herrera has not been seen since he was abducted by four armed men believed to be police officers on 28 September 2009. His family still does not know what happened to him.
4. Ramona Rodríguez, mother of Luis Alfredo Domínguez. Her son was killed by police on 26 January 2011.
5. José Luis Caba Tíneo (*right*) and Hipólito Caba Tíneo (*left*), arrested and tortured by police in September 2009.
6. Jesús de la Rosa Santana, killed by police on 28 September 2010 in San Juan de la Maguana.
7. Andreina Berroa Cabrera holds up a picture of the funeral of her husband, Jesús de la Rosa Santana, April 2011.

8. Perfecto Crispin Ramos Torres, fatally shot by police in Cien Fuegos, Santiago de los Caballeros, on 5 April 2009.
9. Carlos Paulino Lachapelle was detained and tortured by police in September 2009.
10. Gabriel Sandi Alistar has not been seen since he was arrested on 23 July 2009. His family still does not know what happened to him.
11. Rafael de Jesús Torres, killed by police in Navarrete on 9 September 2007.
12. The parents of José Luis Estévez with a picture of their son. He was killed by police in front of his house in Capotillo, Santo Domingo, on 19 February 2010.







above: Nacional Police headquarters in Santo Domingo, 2011.
left and below: A selection of materials produced by various people in support of the campaign "Policia no me mate que yo me paro" (Police, don't kill me, I'll stop) a grassroots campaign set up by citizens and youth movements. The campaign was demanding an end to extrajudicial executions of motorists by police for failing to stop in poorly-lit streets.





**I WANT
TO HELP**

WHETHER IN A HIGH-PROFILE CONFLICT OR A FORGOTTEN CORNER OF THE GLOBE, **AMNESTY INTERNATIONAL** CAMPAIGNS FOR JUSTICE, FREEDOM AND DIGNITY FOR ALL AND SEEKS TO GALVANIZE PUBLIC SUPPORT TO BUILD A BETTER WORLD

WHAT CAN YOU DO?

Activists around the world have shown that it is possible to resist the dangerous forces that are undermining human rights. Be part of this movement. Combat those who peddle fear and hate.

- Join Amnesty International and become part of a worldwide movement campaigning for an end to human rights violations. Help us make a difference.
- Make a donation to support Amnesty International's work.

Together we can make our voices heard.

I am interested in receiving further information on becoming a member of Amnesty International

name

address

country

email

I wish to make a donation to Amnesty International (donations will be taken in UK£, US\$ or €)

amount

please debit my Visa Mastercard

number

expiry date

signature

Please return this form to the Amnesty International office in your country.

For Amnesty International offices worldwide: www.amnesty.org/en/worldwide-sites
If there is not an Amnesty International office in your country, please return this form to:

Amnesty International, International Secretariat, Peter Benenson House,
1 Easton Street, London WC1X 0DW, United Kingdom

amnesty.org





'SHUT UP IF YOU DON'T WANT TO BE KILLED!' **HUMAN RIGHTS VIOLATIONS BY POLICE IN THE DOMINICAN REPUBLIC**

"I want the police officer who killed my son to be put in jail... I hope that justice will be done."

Mother of José Luis Estévez. Her son was killed by the police in February 2010.

Hundreds of people are shot and killed every year by police in the Dominican Republic. Members of the National Police are responsible, on average, for 15 per cent of all homicides in the country. Although the vast majority of these fatal shootings are described by the police as "exchanges of gunfire" with criminal suspects, the evidence suggests that in many cases the killings are unlawful.

Widespread corruption within the national police force and aggressive policing methods have undermined public trust and exacerbated the public security crisis in a country where levels of violent crime have increased significantly in recent years.

This report details numerous cases of human rights violations by police including unlawful shootings, torture and other ill-treatment, enforced disappearance and arbitrary detention. It analyses the difficulties faced by victims' families and survivors in getting justice. The report also examines how weak oversight mechanisms have allowed human rights abuses by the police to persist and flourish.

Previous attempts at reform have had very limited impact in preventing human rights violations by police. Amnesty International is calling on the Dominican government to initiate a process of comprehensive reform to transform the police into an institution that is respectful of human rights and able to provide the effective protection against violence and crime that people in the Dominican Republic desperately need.

amnesty.org

Index: AMR 27/002/2011
October 2011

**AMNESTY
INTERNATIONAL**

