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Mexico

"How can a life be worth so little?"¹

Unlawful killings and impunity in the city of Reynosa

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On 21 May 2005 members of the Federal Preventive Police (Policía Federal Preventiva, PFP) opened fire in two different shooting incidents, killing three male university students and seriously injuring another young man in the northern Mexican city of Reynosa, Tamaulipas State. Immediately after the killings the police issued a public statement claiming that the young men fired at the police officers who responded in self-defence. Forensic investigations and a report conducted by the National Human Rights Commission into the killings contradict the police position and indicate that there were clear efforts to divert the course of the investigation into the killings. One year later, no one has been brought to justice. The families of the victims have been provided little information on the progress of the investigations and are still waiting for justice.

In the early hours of 21 May 2005 **Hernán Alemán Serrato**, age 22, was driving through the boulevard Hidalgo in the city of Reynosa with his friends, two university students, **Jorge Castillo Fuentes**, age 24, and **José Reyes Avendaño García**, age 24, when they were overtaken by an open topped truck (pick up) containing at least 30 members of the Federal Preventive Police's Support Forces (*Fuerzas Federales de Apoyo de la Policía Federal Preventiva*). A short while later, when they passed the police vehicle, the police agents reportedly opened fire on their car without warning or provocation. More than 100 bullets hit the car before it came to a stop. According to reports, the three men were pulled from the car and punched and kicked repeatedly despite the injuries already suffered. José Reynosa

¹ Rosa Elba Avendaño, sister of José Reyes Avendaño García, 24, in an interview in the Houston Chronicle, April 2006.

Avendaño reportedly died immediately after the shootings while Jorge Castillo Fuentes and Hernán Alemán Serrato were taken to the hospital seriously wounded. Only Hernán Alemán Serrato survived. A federal police agent, **Pedro Moreno Feria**, who participated in the police operation, also died the same night as a result of gun shot wounds. The authorities initially claimed that the police officer was shot by the young men. However, subsequent evidence has demonstrated that the young men did not fire any weapons that night. The circumstances of the death of the police officer have not yet been satisfactorily clarified.

Almost an hour after the first shooting, **Alberto Jorge González Arévalo**, age 21, also a university student, was driving nearby when three federal preventive police agents stopped him. He was allegedly forced to get out of the car and held face down while a police agent held a gun to his head. After the police checked his car, he was allowed to go. However, when he resumed his journey the police chased him in a PFP vehicle which reportedly resulted in Alberto Jorge crashing his car. The police reportedly then opened fire, killing Alberto Jorge González while he was in the car.

A statement issued by the Federal Preventive Police immediately after the two shootings claimed that the police had returned fire after being shot at by four members of organized criminal gangs, which operate in many border cities. The report alleged that guns had been discovered in the two vehicles at the scene of the incidents. However, several witnesses contradicted this version of events and made statements indicating that the police shootings had been unprovoked. Despite this, on 30 June 2005 an administrative investigation carried out by an internal oversight body of the PFP (*Órgano Interno de Control*) concluded that there was no evidence of police misconduct.



Rosa Elba Avendaño, sister of José Reyes Avendaño, who died on 21 May in the city of Reynosa © private

Families dissatisfied with the initial official response sought support from a local human rights organization, *Centro de Estudios Fronterizos y de Promoción de los Derechos Humanos* (CEFPRODHAC), to demand an impartial and effective preliminary enquiry (*averiguación previa*) opened before the Federal Public Prosecutor's Office (PGR) into the killings. On writing to the authorities in relation to the case, Amnesty International was informed in

January 2006 that the criminal investigation was being handled by the PGR's Special Unit to Investigate Crimes Committed by Public Officials and against the Administration of Justice (*Unidad Especializada en Investigación de Delitos por Servidores Públicos y contra la Administración de Justicia*), and that the Internal Affairs Unit within the Federal Preventive Police (*Dirección General de Asuntos Internos*) was conducting a new administrative investigation. These investigations remain open but the respective authorities have not informed the families of the progress and there has not been any indication that those responsible have been brought to justice.

Hernán Alemán Serrano and the families of the students also filed a complaint before the National Human Rights Commission (CNDH). On the basis of the CNDH investigation, a report concluded that use of lethal force by the police was disproportionate and contrary to the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.² According to the report, chemical forensic tests to the victims' hands, clothes and vehicle confirmed that the victims had not used fire arms. The CNDH reported that the analysis carried out by PGR investigators indicated that the crime scene had most probably been altered. The CNDH also concluded that forensic evidence indicated that the guns allegedly found inside the vehicles by the police were probably placed there afterwards suggesting the manipulation of evidence in order to divert the course of the investigation.

Compelling evidence exposed by the CNDH indicates that police may have committed unlawful killings and then sought to cover up the incident. On 20 December 2005, the CNDH issued a recommendation calling on the respective authorities to compensate the families of the victims; for the internal affairs unit of the PFP to carry out an internal investigation; for the PFP to train personnel according to human rights standards on the minimum use of force; and for the federal public prosecutor's office to establish the criminal responsibility of the officials involved and to inform the CNDH.

Despite the CNDH involvement, there are serious concerns that the CNDH recommendation did not sufficiently reflect the seriousness of the human rights violations involved, nor the obligation to investigate the police misconduct, and fabrication of evidence. The recommendation also omits the obligation of the authorities to inform the families of the progress of the investigations. Families and the local human rights organization have also stated that the CNDH has not informed them of steps taken to monitor compliance with the recommendation. Amnesty International is not aware of any effective compliance with the recommendation.

² Recommendation 48/2005, 20 December 2005

At the time of publication, no one has been brought to justice for the fatal shootings or apparently investigated for the subsequent cover-up. According to information received, the victims have not been kept informed of judicial or administrative proceedings by the PGR, PFP or the CNDH. Only the support of the local human rights organization in Reynosa has kept pressure on the authorities and raised the public profile of the case.

Mexico's human rights obligations

Amnesty International recognises that it is the duty of the authorities to maintain public order and is aware of the difficulties in combating insecurity and high levels of crime. The organisation understands the seriousness of the public security situation in Mexico, the difficulties faced by the police in dealing with high levels of insecurity and their legitimate right to protect themselves as they go about their work. However, the right to security is always part of the obligation to respect human rights. The Mexican authorities have the duty to guarantee the safety of every individual and ensure that policing operations fully respect human right and are carried out in accordance with national and international human rights standards. The Mexican Constitution, the International Covenant on Civil and Political Rights (ICCPR) and the American Convention on Human Rights establish the obligations of the State to protect the right to life and the physical integrity of the persons.³

The UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the UN Code of Conduct for Law Enforcement Officials also establish that law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty, and that they shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury.⁴

National and international human rights standards also establish the State's duty to carry out impartial investigations into possible human rights violations and to bring to justice those responsible for these violations.⁵

³ ICCPR, Article 6, and American Convention on Human Rights, Article 4. Also at national level, the Mexican Constitution, Article 14, paragraph 1 on the right to life and Article 108 and Federal Penal Code (*Código Penal Federal*), Articles 288-310 of the Offences Against Life and Physical Integrity

⁴ UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Article 9 and Code of Conduct for Law Enforcement Officials, Article 3

⁵ ICCPR, Article 2, and UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. At national level, see the Federal Act about Public Officials' Responsibilities (*Ley Federal de las responsabilidades de los Servidores Públicos*) and the Penal Code, Offences by Public Officials (*Código Penal, Delitos cometidos por Servidores Públicos*), Article 212 and 213

Policing operations in Mexico

In the face of high levels of violent crime and police corruption, the Federal Preventive Police (PFP) was founded in 1998 to spearhead federal measures to combat organized crime. It is the principal national public security police force under the responsibility of the Federal Secretary for Public Security. It works alongside other local and federal police agencies and the military with the mission to “protect the integrity and rights of persons, prevent crimes and protect freedoms, order and public peace, in accordance with the law and human rights”⁶. In recent years, high levels of violent drug trafficking related to crime in northern border cities has led to intensive deployment of PFP forces to strengthen public security. In January 2005 large numbers of PFP agents were deployed in Reynosa. After the public outcry arising from the unlawful killings documented in this report these forces were reportedly withdrawn elsewhere.

More than 5000 active service soldiers have been transferred from the military to the PFP since its foundation. The extensive scope of military jurisdiction means that military officials implicated in human rights violations are not brought before civilian courts which has frequently resulted in impunity for those suspected of abuses.⁷ As a result, military officials implicated in human rights violations while working in the civilian police, such as the PFP, may not necessarily be held to account by the civilian justice system. It is not clear if any officials implicated in the police operation in Reynosa on 21 May were also members of the Mexican armed forces.

⁶ “Salvaguardar la integridad y derechos de las personas, prevenir la comisión de delitos, así como preservar las libertades, el orden y la paz públicos, con estricto apego a las leyes y a los derechos humanos de las personas”, <http://www.ssp.gob.mx/application>

⁷ See Amnesty International report, “Indigenous women and military injustice”, AMR 41/33/2004

Act now! - Please write to the Mexican authorities

- Expressing deep concern at the killings of the three men, Jorge Castillo Fuentes, José Reyes Avendaño García and Alberto Jorge González, the police officer, Pedro Moreno Feria, as well as the injuries caused to Hernán Alemán Serrato during two police operations carried out in the city of Reynosa on 21 May 2005;
- Expressing concern that a year on, the circumstances of the two police operations have not been established and that no one has been held to account in connection with the killings;
- Express concern at the apparent inadequate criminal and administrative investigation undertaken so far;
- Urging the authorities to carry out a full, prompt, independent and impartial investigation into the shootings and for the findings to be made public, and for those responsible to be brought to justice;
- Calling on the authorities to carry out an investigation into the possible cover-up and fabrication of evidence by the police, as highlighted by the CNDH report, and make the findings public;
- Calling for the suspension of any official implicated in the killings in the course of the investigations or subsequent cover-up;
- Urging the authorities to ensure that reparations to the families and to Hernán Alemán Serrato include measures to guarantee a full and impartial investigation, measures to ensure that the abuse is not repeated, guarantees of rehabilitation for the victims and relatives of the victims as well as compensation in accordance with the obligations of the State under international standards on human rights in this field;
- Urging the authorities to keep families of the victims and Hernán Alemán Serrato informed about the investigations and take all necessary measures to protect them according to their wishes;
- Urging the authorities to review disciplinary investigations and criminal investigations of public officials implicated in human rights violations in order to ensure these are independent, transparent and effective in holding those responsible to account;
- Remind the authorities of the urgency to incorporate into all policing operations UN standards for law enforcement officials, including the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;
- Calling on the National Human Rights Commission (CNDH) to effectively monitor and follow up on the recommendation issued on 20 December 2005 and to ensure families are fully informed of the steps taken by the authorities to comply with the recommendation.

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**Salutation: Dear Attorney
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Head of the Federal Public Security

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**Salutation: Dear Head of the Federal
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Seguridad Pública**

Director of Human Rights – Federal Interior Ministry

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answers, ask "tono de fax, por
favor")**

**Salutation: Estimado
Maestro/Dear Sir**

President of the National Human Rights Commission

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**Salutation: Dear President of the
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