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Crisis and Reform: *The Police in the Dominican Republic*

by John Gitlitz and Paul Chevigny

Wendy Altagracia Gatón Tejada was returning to her neighborhood of Libertador de Herrera shortly after 10 pm on June 5, 2001. The streets were littered with debris and the air was filled with smoke. But the disturbance that erupted earlier that evening had settled down and only a handful of police remained at the scene. As her husband, Edwin Núñez, waited outside for Altagracia, he saw a police officer shoot toward a group of women. Witnesses said two officers picked up a body and threw it into the back of a police unit. They told the crowd it was a tire, not a body. Officials later said a police officer admitted to the shooting, saying the deadly fire “escaped accidentally.”¹ One officer in the case was sent to civilian court, but by year’s end, the investigating judge had not ruled on whether the case should go to trial. Three officers were sent to the military court; there was no public information regarding the status of their cases.²

“There was no excess. If you are going to violate violently the rights of others, the police have to act. No one can act with timidity. Listen to me carefully: any person who violently disrupts public order, we have to act.”

— Police Chief Candelier, following protests during a strike by the Dominican Medical Association, February 2001³

“I don’t give any importance to those [reports of police excesses]. I give importance to the security of citizens. For me what is important is that there be citizen security – I have to guarantee it and increase it.”

— President-elect Hipólito Mejía, June 2000⁴

In 2001 Dominican security forces, chiefly the National Police, killed at least 250 people. Although police claim the majority of the dead were “criminals” killed in shootouts, evidence demonstrates that this was often not the case. Nevertheless, successive governments have tried to minimize or justify the abuses. This report places the problem within the context of a transition from authoritarianism to democracy, examining its larger historical, socio-economic, political and institutional dimensions. The Dominican Republic has a very high level of police violence, although not the highest in Latin America and the Caribbean. Nonetheless, it is disturbing to find such persistent police abuse and so few government measures in response – until recently – in a country that has been stable, enjoyed high growth rates, and been going through a process of democratization in the 1990s. On a more positive note, this report finds real prospects for reform in the Dominican Republic, because the abuses have sparked demands for criminal justice and police reforms. Positive changes have recently been proposed and in some cases adopted. The report recommends further reforms that are within the capacity of Dominican government and society.

DOMINICAN REPUBLIC

This is a publication of WOLA’s Public Security Program. Through this program WOLA analyzes policing in Latin America, monitors international police assistance, and supports civil society engagement with issues of citizen security.



A transition from authoritarianism to democracy

Authoritarian governments have predominated in the Dominican Republic for much of the twentieth century. From 1930 to 1961 the nation was governed by Rafael Leónidas Trujillo, whose regime rested on a personality cult that relied on a reign of terror. The law of the land reflected the “benefactor’s” whim; he dominated the courts and Congress, and insisted on personal obeisance. A brief democratic interlude followed his assassination in 1961, but it was soon interrupted by a coup, civil war, and a U.S. intervention that led in 1966 to the election of Joaquín Balaguer, the puppet president at the time of Trujillo’s death.

Balaguer dominated the country for most of the period since 1966, ruling directly as president from 1966 to 1978 and again from 1986 to 1996.⁵ While Balaguer maintained the formalities of a democratic state, his rule also was authoritarian, personalist and sometimes violent.⁶ Under Balaguer, Congress was weak and laws were often ignored or enforced arbitrarily; in short, state institutions, except those centralized in the presidency, lacked both independence and authority. The press was timid and civil society underdeveloped. Across all levels of society, corruption provided an avenue to personal enrichment and shaped political loyalties.

The judiciary exemplified these problems. It was inefficient, understaffed, under-financed, poorly trained, and widely perceived as corrupt and lacking independence. In 1994 there was a total of 532 judges, equivalent to one judge for each 15,008 inhabitants (compared to 6,500 in Uruguay, 8,104 in Costa Rica, and 11,550 in Honduras).⁷ Judicial appointments were often politicized, and judges could be removed from the bench with ease. This fact, combined with inadequate budgets, undercut their independence. Serious accusations of corruption called into question the integrity of many judges.⁸ As a result of arcane procedures, negligence, corruption, undue influences and excessive workloads, court cases dragged on for years.⁹

The Public Ministry (*Ministerio Público*) showed similar weaknesses: it too was understaffed, under-financed, politicized, and inefficient.

During Balaguer’s first twelve years (1966-78), shadowy death squads eliminated remnants of the radical opposition that had emerged in the 1960s. Estimates of the number of people killed range from 300 to 3,000.¹⁰ Following Balaguer’s return to power in 1986, overt political violence largely disappeared, although there were still some high profile cases, most notably the never-clarified disappearance of university professor Narciso González following the disputed elections of 1994.

When Balaguer narrowly won re-election to yet another term as president in 1994, the opposition accused him of resorting to massive fraud – a charge supported by most independent observers – and refused to recognize his victory. After weeks of tense negotiations, a compromise was reached. Balaguer would remain in the presidency for another 18 months (modified later by Congress to two years). After this period, he would call for new elections, in which he would not be a candidate, and for which he would accept the presence of international observers.

Balaguer thus achieved a partial victory, but one that was conditioned by his agreement to a number of reforms, many added as amendments to the Dominican Constitution,¹¹ including: barring immediate presidential re-election (a provision amended in 2002 to allow re-election for one term); staggering elections for Congress and the presidency, so that both branches would not be elected simultaneously; strengthening the independence of the Central Electoral Board; creating a broad collegial body, the National Council of the Courts

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(*Colegio Nacional de la Magistratura*), to nominate Supreme Court Justices; placing selection of lower court judges in the hands of the Supreme Court; lengthening the terms of Supreme Court Justices to life and lower court judges in accordance with a Judicial Career Law; and giving expanded powers to the Supreme Court to declare laws unconstitutional.¹²

These reforms have resulted in a significant process of democratization in the Dominican Republic. Since 1994 the nation has been undergoing a transition from a deeply rooted authoritarian past to a more democratic present. There have been two highly competitive presidential elections, largely free of fraud, each won by a party in opposition to the sitting government. Congress has begun to play a more independent and effective role. And, with a reduction in Presidential control of the courts, the judiciary, particularly the Supreme Court, has demonstrated increased independence and confidence.¹³

Yet, the independence of the Congress and the courts is tenuous. Democracy and the rule of law are still weak. As in many such processes, the transition to democracy has been partial and incomplete. Remnants of authoritarian structures, institutions and attitudes persist. The system still gives enormous power and discretion to the President. Balaguer remained a crucial power-broker until his death in July 2002. Patronage and corruption are rife. The problem of the excessive use of force by the police takes place in this larger context.

Police Killings

The killing of civilians by the police and the military – defined collectively as security forces in the Dominican Republic – has long been a problem. As the table below indicates, estimates of the number of people killed vary widely. In any case, since the mid-1990s the numbers have been disturbingly high. The two periods of the worst abuses correspond roughly to the administrations of two national police commanders (*Jefes*). From 1996 to 1998, during the administration of General Sanz Jiminián, the number of documented killings hovered between 50 and 100 per year. After 1996, in the context of

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Estimates of Civilians Killed by Security Forces in the Dominican Republic

Year	DOS	AI	HRW	IACHR	Participación Ciudadana [†]	Police [‡]
1993	At least 15					
1994	At least 6					
1995	At least 26					
1996	85			90*	7	
1997	About 50	30	30	50	25	78
1998	75	6			138	99
1999	Over 200	200			189	162
2000	At least 250	200			154	166
2001	At least 250				140	153

DOS = United States Department of State
 AI = Amnesty International
 HRW = Human Rights Watch
 IACHR = Inter-American Commission on Human Rights
[†] Culled from major newspapers and prepared by *Participación Ciudadana*, a Dominican NGO.
[‡] Police statistics labeled this category “in exchanges of gunfire.”
 * August 1996 to June 1997.

freer and more open debate, police violence surfaced as an issue. Following General Pedro de Jesús Candelier's appointment in February 1999 through 2001, the number of killings jumped to between 200 and 250 per year according to the U.S. Department of State.¹⁴

Though the estimates appear to indicate that police violence was much less of a problem in the Dominican Republic prior to the mid-1990s, the lower figures may be due to under-reporting. In 1999, when asked about police violence, the former National District Prosecutor said, "There has been no increase. We are just counting better." Dominican human rights groups affirm – though they do not document – that the number of killings are in fact, and were in the past, significantly higher.¹⁵

By 2001 the killings had become a public scandal, generating protests in the neighborhoods where they occurred, outrage in the local press, and international condemnations. In January 2002 President Hipólito Mejía replaced Candelier with a new commander, General Jaime Marte Martínez. Amidst public promises that the police would no longer violate human rights, the number of killings reported immediately dropped.

While the peak number of police killings was portrayed as an aberration under Candelier, the record suggests that the problem is long-standing. The problem is rooted in the institutions of the National Police and of the other security forces, in the weakness of the Dominican judicial system, and in the tolerance of violence by government authorities, not in the idiosyncrasies of a particular commander. The reduction in the number of police killings since January 2002 is quite noteworthy. It indicates that when the political will or need is present, Dominican authorities are capable of reining in the use of excessive force. However, until institutional safeguards are in place, the level of police violence could increase again at any time.

Who are the victims of police killings in the Dominican Republic? The National Police often allege that the people that they kill are "known criminals," shot in gun fights by officers acting in self-defense. *El Siglo* reported in July 2001 that of 84 killings from January to mid-July of that year, the police attributed 50 to confrontations with armed suspects.¹⁶ In many instances news reports and eyewitness testimony contradict the

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The "Social Cleansing" of Criminals

In August 1998 police in the capital killed a popular priest named Father José Antonio Tineo. Although the police tried to claim that Father Tineo violently resisted them, it seems clear from other accounts that this was a case of mistaken identity. It appears that agents of the secret service unit of the police were lying in wait for a suspect to come to a nearby house. When Father Tineo arrived, the agents killed him instead of the genuine suspect. In response to the public outcry, the case was referred to a civilian court instead of to a police tribunal. Ultimately, there was a guilty verdict against one of the agents.

In September, 2001, a policeman nicknamed "Tyson," accompanied by other police, pulled Pedro Contreras ("Morenito") out of his home and killed him in the street in front of various eyewitnesses. Morenito had served time in prison and had had earlier conflicts with Tyson. Tyson had previously killed other people and their cases had been referred to a police tribunal. Despite the public protests against the killing, the police insisted on sending the case to a police tribunal. Attorney General Virgilio Bello petitioned the Supreme Court against the use of a police tribunal. The Court ruled early in 2002 that the case had to be sent to a civilian court because a police tribunal only has jurisdiction over internal disciplinary matters. The case is now stalled in the civilian courts.

police versions of shootouts. By contrast to the number of civilian victims, the number of police casualties seems relatively low, casting further doubt on the validity of the “shootouts.” Police statistics indicate that 23 of their members were victims of homicide in 2000 and 21 in 2001; there is no data on how those homicides occurred, but fragmentary evidence suggests that some were not the result of confrontations with criminals.

Testimony of numerous witnesses suggests that many of the killings are more aptly described as executions: criminals are targeted because it is the easiest way to get rid of them, in what is sometimes called “social cleansing.” In several high profile cases, police took action against supposedly known criminals. In one case the suspect was killed, and in another a priest was killed in a case of mistaken identity.

The “cleansing” of criminals explains only a portion of the police killings. Many, perhaps most, occur under other circumstances; some in the context of demonstrations, during which the police use indiscriminate force against protestors and by-standers alike. In other instances, police have killed people because they refused to pay bribes for protection. Finally, some killings are the result of private disputes, sometimes linked to corruption. Any explanation of police abuses must move beyond the idea of a “war on crime.”

The box, beginning on page 6 “Extra-Judicial Killings: six case studies,” describes examples of police killings. While these cases do not constitute a random sample, they are illustrative. None involve victims clearly identifiable as criminals; none occurred as a result of exchanges of gunfire. Four of these cases, and the case of Wendy Gatón cited above, were related to issues of “order” and took place at times when protests and other acts of defiance had heightened neighborhood tensions. José Figueroa defied police orders to pull over his motorcycle and paid with his life. Two of the killings appear to be linked to corruption: Rubén Florentino, for his refusal, according to neighbors, to pay off officers, and Joel Santana, according to his family and lawyer, a contract killing. Cristian Aquino was killed by a “trigger happy” officer with a record of misbehavior. In all but the last, police manipulated the facts and sought to have the cases tried in the special police tribunals.

The common denominator for the vast majority of police killings is that the victims are poor. Most often they are inhabitants of crowded, impoverished, urban neighborhoods in Santo Domingo and a handful of other cities. Police act against poor people in a misguided effort to suppress unrest, but also for reasons of corruption and personal vendettas.

Poverty and Violence in the Dominican Republic

There is a widespread perception in the Dominican Republic that the nation faces a growing crisis of violent, organized criminality that is rooted in poverty, fed by a growing drug trade, and exacerbated by the deportations of convicted felons from the United States. Government officials encourage this perception and use it to justify strong-arm tactics. The police often claim to be on the front lines of a “war on crime.” Public opinion notwithstanding, the use of deadly force by the police and other security



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Protests and police activity in Capotillo, Santo Domingo.

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Extra-Judicial Killings: six case studies

Rubén Darío Florentino Toribio, José Alejandro Morán and Marcos Ezequiel Vidal

Olivares. Ruben Darío Florentino Toribio (26) was shot and killed in the poor neighborhood of Capotillo in Santo Domingo by two police officers around noon on May 12, 2001. The police claimed to have acted in self-defense. Witnesses maintain that Florentino was shot while sitting on the curb in front of his house reading a newspaper. These same witnesses also say the police tried to prevent neighbors from coming to the victim's aid and arrested someone who did. Asked why Florentino might have been shot, neighbors claimed that it was because he had refused the officers' demands for money.¹⁷

The following day protests against the killing took place in Capotillo. By May 14, there was a heavy police presence in the neighborhood.¹⁸ Police used rubber bullets, tear gas, and live ammunition to control the unrest. Two protesters were killed: José Alejandro (43) and Marcos Ezequiel Vidal Olivares (16). When, at the hospital, a plainclothes police agent overheard the wife of one of the victims telling reporters that she knew one of the policemen who had killed her husband, she too was arrested.¹⁹

Under pressure from protestors, President Mejía named an Ad Hoc Commission to investigate the three killings.²⁰ Before the commission reported, however, the police presented the conclusions of their own internal investigation. Two police officers were arrested for shooting Florentino, but the police said that Morán and Vidal had been killed by a civilian who had been filmed holding a gun during the disturbances. Community leaders charged that this was a police cover-up, indicating that six officers were involved and that the civilian was part of a paramilitary force linked to the police.²¹

The commission named by the president presented its findings on May 20, 2001. It accused two other police officers as well as a member of the Armed Forces in the killings during the May 14 protests. President Mejía ordered that the first two be suspended and their case sent to ordinary civilian courts.²² In September 2001 an investigating judge brought charges against three of the officers and the civilian and sent their cases to an ordinary court. In December an appeals court confirmed the ruling. At year's end, however, no trial date had been set. The authorities released the other persons who had been detained in connection with the case.²³

Waldys Enrique López Cuevas. Waldys Enrique López Cuevas (19) was shot and killed by a police lieutenant in the Los Mina neighborhood of Santo Domingo on June 29, 2001. The shooting appears to have been the by-product of protests in the neighborhood, although López's father has said that his son did not participate in them.

During the month of June there had been demonstrations throughout the country, demanding potable water, sewage repair, street paving, and, in particular, an end to lengthy electrical blackouts. In many areas there were renewed confrontations between the police and demonstrators during the last week in June.²⁴ Demonstrations took place in Los Mina on June 25th. Protesters burned tires and blocked the streets with tree trunks. The police sent in a riot control squad. On June 29 there were new marches that were broken up by the police.

According to his father, López was sitting in front of the family's home and felt the effects of tear gas. He walked to the main road, where there was a cistern. As he was leaning over to fill a bucket, he was shot from 20 to 30 feet away by a police lieutenant. Neighbors said that the killing was witnessed by a minor, later detained, who tried to come to López's aid, but was prevented by the policeman.²⁵

The police denied that López had been assassinated by an officer, echoing the local commander's claim that the killing was the work of "hooded ruffians."²⁶ According to López's father, the lieutenant has since been transferred three times, and local leaders no longer know where he is serving, but believe that he remains on active duty.

The National Police appointed an Ad Hoc Commission, consisting of the Inspector General, the head of the Homicides Division, and the commander of the Investigations Department, to investigate the killing. As of early March 2002, the police had still not made public the results of their investigation.

On September 10, 2001, lawyers for the Dominican Committee for Human Rights, a nationwide NGO representing López's family, submitted a complaint to the National District Prosecutor (fiscal), asking him to bring charges against the officer responsible. As the prosecutor did not act on their complaint, on March 6, 2002, they submitted a request to the investigating judge that the case be sent to the ordinary courts.

Jovani Cruz. On October 7, 2001 at about 11 PM Jovani Cruz (23) was killed in Capotillo. That evening, complaining of a stomach ache, Cruz told his wife that he was going to the hospital to see a doctor. His wife intended to follow, but shortly after he left, she heard noise from a disturbance in the neighborhood – shouting, then shots – so she remained at home.

Cruz's wife says witnesses told her that when Cruz was nearing the police station, a police sergeant grabbed him from behind and, without giving him a chance to respond, shot him in the head. The policeman and other officers continued shooting into the air and firing tear gas. The wife believes that this was done in order to create confusion and keep people inside so that there would be fewer witnesses. They then put the body in a truck and drove away.

The next morning, worried, Cruz's wife went to the police station, where she was told that there was no record of anything unusual. She then went to the hospital, where there was no record of a visit by her husband. When she returned home, a neighbor told her that her husband had been shot the night before.

At the Homicide Division she was sent to the Section on Disappeared People, where she was shown Cruz's identity card and was told that his body had been sent to Forensics. There she was finally shown her husband's body. She says that when she tried to get more detailed information she was threatened with arrest.

According to the Dominican Committee for Human Rights, the sergeant responsible has been transferred and they have been unable to find out where he is stationed. The police investigation concluded that Cruz was killed by an unknown civilian.

Jairo Aneudys Figuereo. Jairo Aneudys Figuereo (20) was shot on the morning of October 29, 2001, while returning home on a motorcycle. A passenger was also seriously wounded. According to the lawyer representing Figuereo's family, two policemen on a motorcycle had ordered him to pull over. The passenger jumped off, tried to run away, and was wounded. Figuereo was shot in the head and killed.

On March 13, 2002, backed by the Dominican Committee for Human Rights, Figuereo's family brought a complaint before an investigating judge asking to open proceedings in ordinary court. As of this writing, the case is unresolved.

Joel Santana. Joel Santana was shot at mid day on December 18, 2001 by two policemen in the Guachupita neighborhood. He subsequently died from gunshot wounds. Santana had been sitting in front of his mother's house, when the two, dressed in plains clothes, drove up on a motorcycle and shot him. The police then allegedly prevented the family from taking him to a hospital.

The victim had previously been living with his common-law wife. According to the victim's mother, after learning his wife had taken another lover, Santana had beaten her, and the two had separated. Their problems intensified when he demanded his portion of a house they had built on her mother's land. His family believes that the wife and her mother hired the policemen to kill Santana.

The two officers were arrested, but have been released. On March 6, 2002, the Dominican Committee for Human Rights brought a complaint to an investigating judge to open proceedings in an ordinary criminal court.

Cristian Aquino Contreras. On December 15, 2001, Cristian Aquino Contreras (19) was shot and killed by Corporal Alberto Ramírez in front of Ramírez' home in the Los Tres Brazos sector of Santo Domingo at about 11 PM. Ramírez's police record shows he had previously been punished three times, once for shooting and wounding a youth.

On the evening of December 15, Aquino had been seated with friends in front of a store owned by Ramírez's wife. Shortly before he was shot, a fight had broken out at a nearby street party among a number of drunken youths. Ramírez, who was off-duty, intervened, pinning one youth to the ground, and pointed a pistol at his head. Cooler heads prevailed, and Ramírez was pulled away by a friend. One of the youths, however, followed Ramírez back to the store and threw a rock at him. The corporal pulled out his pistol and began firing wildly, accidentally killing Aquino.

The internal police commission appointed to investigate this case recommended that Ramírez be suspended from duty and placed at the disposition of the ordinary courts. In mid-January 2002 a prosecutor sent the case to an investigating judge. Ramírez is now in prison awaiting trial.

forces in the Dominican Republic is more of a social control mechanism and a reign of terror against the poor than it is a war against violent crime.

Aggregate data does not give strong support to the claims that the Dominican Republic is either particularly poor or particularly violent. The Dominican Republic ranks about in the middle among Latin American nations in terms of gross national income per capita, which in 1999 stood at \$1,920, with a purchasing power parity per capita of \$5,210, slightly below that of Colombia (\$5,580) and Venezuela (\$5,420), but above Peru (\$4,480), Guatemala (\$3,630), Jamaica (\$3,390), and Ecuador (\$2,820).²⁷

During the 1990s the Dominican Republic had one of the fastest growing economies in the world. From 1992 to 1999 its average annual growth exceeded six percent.²⁸ Moreover, some of the benefits of growth have trickled down. The percentage of Dominican population living in “poverty” decreased from 37.6 percent in 1986 to 33.9 percent in 1992, and continued declining to 28.6 percent in 1998. The percentage of Dominicans living in “extreme poverty” also improved over the same period – dropping from 8.5 percent in 1986 to 7.3 percent in 1992 and 5.1 percent in 1998.²⁹

The rate of violent crime in the Dominican Republic, at least as indicated by the number of reported homicides, is neither particularly high, nor growing. On average there were eleven homicides for each 100,000 Dominicans, a rate higher than that of Argentina (7.5), Uruguay (5.8) and the United States (varying from 6.8 to 9.8 per 100,000 between 1989 and 1997), but well below that of Ecuador (17.7), Nicaragua (23.3) and Colombia (75.9).³⁰ Although the Dominican government does not make crime statistics public, police reports reveal a level of homicides that is serious, but not exceptional. From 1997 to 2001, the homicide rate remained remarkably constant, with an average of 1,109 annually.³¹ This fact makes the marked increase in police killings all the more dramatic.

Statistics alone, however, may be misleading. Poverty, crime and police violence are not distributed randomly. Police violence may occur most often in those areas where criminal violence and poverty are more acute. While in the Dominican Republic police violence is a national problem – killings occur everywhere, in urban and rural areas, and in wealthy and poor neighborhoods – they tend to be concentrated in the nation’s largest cities. Police violence is particularly concentrated in the capital in a relatively small number of neighborhoods in some of the poorest areas of the city.³² The question becomes whether police abuse can be explained (although never justified) by the poverty and crime in these areas.

In December 2001, a World Bank report on the Dominican Republic included an overview of nine neighborhoods along the banks of the Ozama and Isabela Rivers in the capital.³³ The area, known as the “North Zone,” is home to some 300,000 people. Eleven percent of the capital’s population are crowded into less than two percent of the city’s total land area. The report paints a picture not only of relative poverty, but also of severe overcrowding, precarious conditions, and a low quality of life.

Slightly more than half of the North Zone’s population lives below the national poverty line. Although unemployment is a problem, most of the working-age population is employed, often in free zones or in the informal sector. Indeed, misery is as much related to quality of life as to income. Homes are almost uniformly small (41 percent had only one room), forcing much of family and social life into the streets. Although electrification is nearly universal, almost 80 percent of households obtain power through dangerous, illegal connections. Electrical blackouts are frequent and prolonged. Water quality is poor and interruptions in service common. Only 60 percent of households report getting water every day. Only 12 percent of all homes are connected to the sewer system; most use a

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septic tank or a latrine, or simply throw used water into the street. Ninety-six percent say that garbage accumulation is a problem. Hardly surprisingly, health conditions are poor: residents suffer from gastro-intestinal diseases, malaria and dengue.

Insecurity of land tenure is another problem in poor neighborhoods. In some, inhabitants build their homes illegally, squatting on empty state- or privately-owned lands. Such settlers face the threat of forceful eviction, in addition to the poverty and lack of services.³⁴

Over half of the population of the Dominican Republic is less than nineteen years old. For youth, education and employment are acute problems. The Dominican Republic has historically spent less than three percent of its gross domestic product on education, even though the regional average for Latin America is around five percent. By law, the government is supposed to dedicate 21 percent of public spending to education, but the budget for 2001 allocated only about 16 percent, an improvement from past years.³⁵ Moreover, the existing funds for education are concentrated on the primary and university levels. As a result, access to education at the secondary level is a severe problem. Primary school coverage for 6-13 year olds is 80 percent, but the net enrollment rate in secondary school is only 34 percent. Amongst the poor it is only 21 percent.³⁶ Guachupita, a poor neighborhood with almost 30,000 inhabitants, has only two public schools, reaching fewer than 3,000 students in three daily sessions.³⁷

Poverty, unemployment, overcrowding, and the unavailability of schools combine to produce one of the most noticeable characteristics of the poor neighborhoods of Santo Domingo – a teenage population that lives in the streets. These conditions have also given rise to two kinds of social unrest: protest and crime.

Many of the poorer neighborhoods of Santo Domingo have long been centers of social protest. In the North Zone, following Trujillo's assassination, social-democratic and leftist political parties developed strong bases of support. During the civil war of 1965 and the subsequent U.S. intervention, much of the fighting centered in these neighborhoods; and in the shadowy repression which followed Balaguer's assumption of the presidency in 1966, many of those killed hailed from the same neighborhoods. In the early 1980s, an economic crisis and severe austerity policies prompted widespread protests in these neighborhoods, which the government put down with heavy loss of life. Combative resistance forms part of the identity of the North Zone; older leaders proudly proclaim that they are "veterans of 1965."

Protests in other poor neighborhoods of Santo Domingo and other cities – against power blackouts, interruptions in water service, the lack of schools, unfulfilled government promises, and evictions – are frequent.³⁸ Demonstrators will march along the main streets of the neighborhood building barricades, burning tires, and blocking traffic. Often the government sends in police – sometimes backed by the military – that use tear gas, rubber bullets, and, occasionally, live ammunition. People are arrested, wounded, sometimes even killed. The following press account of a protest in Santo Domingo is typical:

New riots and confrontations between demonstrators and agents of the National Police took place yesterday in various neighborhoods of La Punta, in Villa Mella, in

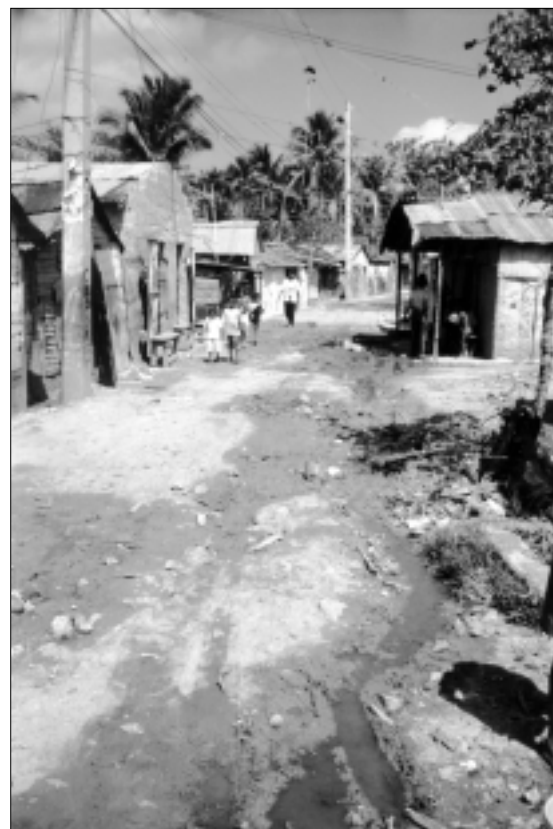


PHOTO BY RACHEL FARLEY

Typical street scene from a poor Santo Domingo barrio.

Police violence occurs most often in those areas where criminal violence and poverty are more acute.

Elmis Rafael Martínez

In 2000, following a gun-battle between gangs in which one youth was killed, a policeman in Capotillo accused – but did not formally charge – Elmis Rafael Martínez of possessing an illegal 12-gauge shotgun and having participated in the homicide. Martínez was never formally charged, nor taken before a judge.

According to Martínez, he was taken into a room in the Homicide Division at the National Police Palace. A sub-commander sitting behind a desk questioned him, while five policemen, standing behind him, beat him, hitting him on the arms, hanging him from a door and striking him on the buttocks with a baseball bat, and thumping him on the ears. At one point, handcuffed with his arms behind his back, the police placed a baseball bat between his arms and began twisting it. According to his family, after his release, Martínez had to be hospitalized.⁴⁴

protest against electricity blackouts that can last up to twenty hours a day. The unrest began early in the morning, when the main road was barricaded with burning tires and garbage, while various vehicles had their windshields broken by stones thrown by the demonstrators.

The agents of the National Police arrived at the barrio in two units. They threw tear gas and fired rubber bullets, while others took possession of the corners, carrying wooden and metal baseball bats. By 10 or 10:30 in the morning they were able to penetrate into the neighborhood where young people who had led the protest had hidden.³⁹

Although such social protests often form the backdrop for police activity, they are not the only source of violence in the poor neighborhoods. Since the early 1990s those who work in the neighborhoods noted an increase in crime attributable to gangs of youth and a growing drug trade. Social workers and local leaders describe three interwoven levels of violence and crime. The first consists of small gangs of young teenage toughs, often drug users, who engage in petty theft to support their habits and lifestyle, and to gain prestige. Such gangs are usually comprised of two or three young people, 10 to 14 years old, who are sometimes armed. The second level consists of dealers: gangs of older teenagers and young adults, often well armed, and linked to outside providers who sell drugs on street corners, in parks, and in small stores. The dealers engage in violent turf wars and lesser battles with the younger users who prey on their customers. Observers link these levels to a third, that of the police, who become involved in corruption, extorting pay-offs and charging protection money.⁴⁰

The actual numbers of people involved at all three levels – whether users, sellers, or corrupt police – may be quite small, but their visibility is enormous. The World Bank survey of neighborhoods along the Ozama River found that 14 percent of households reported that they had been attacked or burglarized in the previous year.⁴¹ Neighborhood residents stress their perception that they live in a world of violence, gang warfare and danger. They also stress their fear of going to the police, who they believe are part of the problem.⁴²

It is in poor neighborhoods that many – though not all – of the killings by security forces are concentrated.⁴³ Police violence cannot be explained as part of the “war against crime,” because most of those killed are not criminals. Nor is it due to targeted political repression, because few of the victims are political leaders.

Police violence is best understood as a social control mechanism used to maintain “order.” Order maintenance is necessary because the government is not meeting the population’s basic needs or responding to legitimate social demands. Tacit state “policy” permits the police and other security forces to take action to intimidate its own citizens, particularly those who are poor. Dominicans live in an atmosphere of crisis – a “crisis” provoked in part by police violence itself.

Other Police Abuses

While extra-judicial killing is the most egregious abuse by the police and other security forces in the Dominican Republic, it is not the only one. There is also evidence of torture, unlawful arrest, the use of excessive force against protestors, and corruption and extortion.

Dominican human rights groups charge that torture is commonplace. The case of Elmis Rafael Martínez (left) is typical.

Redadas: Neighborhood Round-ups

Neighborhood activists describe the *redadas*: Generally they come at night and grab all the men they find on the streets. Everybody is picked up. They hold you for about 24 hours. They check you out. If you have a police record, they will hold you for two or three days. You can get out earlier, by paying. Usually they shove you around, beat you with night-sticks, and cram you into cars. They won't let you say anything. You can't ask, for example, why you are being picked up. But usually they don't capture anyone important. The delinquents seem to know beforehand. They disappear and aren't around when the *redadas* happen.⁴⁹

For most of the people they pick up, getting out is relatively easy. You pay a bit and they let you go. If you don't pay, you're taken to the stationhouse, they check your background, and then, if you have no record, they let you go. They may shove you around a bit, rough you up. In any case, people who are caught generally pay if they can when they are first picked up in order to avoid the "cleaning." A lot of the *redadas* occur on Friday night, so if you don't pay you will have to spend the weekend in jail before the process starts. That is one more incentive to make the pay-off quickly.⁵⁰

Unlawful detention and abuse of arrest powers also occur. According to Dominican law, the police may arrest criminal suspects pursuant to a warrant or if the individual is caught *in flagrante*. All detainees must be brought before a judge within 48 hours.

These rights are routinely violated. People are detained and held for lengthy periods. Sometimes those detained are *fichado* – their photograph taken and their identity registered – regardless of whether or not they are formally charged with any crime. These *fichas* become a kind of semi-criminal record. Police view the existence of a *ficha* as cause for suspicion.

Often detentions are the result of indiscriminate mass round-ups (*redadas*) by the police, as well as other security forces. In its 1999 report, the Inter-American Commission on Human Rights described such *redadas* as "largely equivalent to imposing a sudden and undeclared state of siege."⁴⁵

In addition to *redadas*, witnesses to crimes are also routinely detained by the police. Occasionally, police detain the relatives of suspects in order to pressure them to surrender.

As recently as June 2002, the new commander of the National Police stated to the media that "surprise operations" were being conducted in neighborhoods, including those mentioned in this report, "where the majority of street disturbances occur."⁴⁶

Most inhabitants of poorer neighborhoods perceive *redadas* and other police practices less as a method to combat crime and more as a form of extortion. In addition to pay-offs during *redadas* and at other times, businesses, both legal and illegal, are often obliged to pay a "toll" (*peaje*) to the police. "Police go about collecting *peajes* from delinquents and from citizens."⁴⁷

Alexis Peña, the coordinator of a Community Mediation Center, tells how a woman who had been mistreated went to the Villa Juana police station. She had to pay 300 pesos in order for the police to fill out the complaint. Beyond that, she had to find a police 'friend' to protect her.

Often the government sends in police – sometimes backed by the military – that use tear gas, rubber bullets, and, occasionally, live ammunition. People are arrested, wounded, sometimes even killed.



EL CARIBE, DOMINICAN REPUBLIC

Security patrol in Santo Domingo.

Protected by an internal review process and, abetted by police control over criminal investigations, the Dominican police have not been held to account adequately for abuses

There is so much compadreo that the people are afraid to talk. Supposedly there is freedom of expression, but when you go to the police station to accuse someone of stealing from you, the first thing they will do at that station is to call up the robber on their cellular phone in order to warn him that so-and-so has brought a complaint.⁴⁸

Impunity

Impunity for police violence is striking. Protected by an internal review process anchored in specialized police tribunals (described in the next section) and, abetted by *de facto* police control over criminal investigations, the Dominican police have

not been held to account adequately for the types of abuses detailed in this report.

The police insist that abuse is in fact investigated and that, when warranted, those responsible are prosecuted and punished. However, the process is internal and hidden from public view, and often serves to shield the police from justice. Only rarely – and often because of public outcry against abuses – are cases referred to ordinary courts.

Most observers believe that many incidents of police violence are not seriously investigated, and that those responsible frequently receive only disciplinary sanction. Further, when officers are brought before the courts and found guilty, the punishments they receive are often light. Moreover, there are frequent claims that guilty officers are quickly returned to active duty.

The cases described in this report make evident the problem of impunity. In several, the police handled the evidence in ways that obscured their responsibility. In all but one, the police attempted to control subsequent investigations. Only in the case of Cristian Aquino did police authorities take the initiative to forward the case to the ordinary courts, apparently because they recognized that the officer was dangerous and had violated even internal police norms. In the multiple killings in May 2001 in Capotillo, President Mejía intervened and ordered an independent investigation outside of police control because the killings had sparked protests and drawn media attention. As a result, some, but not all, of the cases against officers allegedly responsible were sent to civilian courts, where they have yet to be heard. In all the other cases internal police investigations irregularities were cited, such as intimidation of witnesses and removal of dead bodies from the crime scene. In some cases, the officers responsible have remained on active duty.

The existence of human rights violations by police and security forces in the Dominican Republic is not news. Killings and other abuses are frequently reported in the local press, often in articles openly skeptical of the police version, while human rights groups have long denounced them. Impunity persists because society as a whole, and political leaders in particular, fail to hold the police and other security forces accountable for their actions.

The History of the Security Forces

The security forces in the Dominican Republic today are a reflection of their history. In 1936, the Dominican National Police was created by Trujillo as a body separate from

the military. Nominally independent, there is little separation of the police from the military in practice, and the police operate with few external controls.

There is no clear separation between the military and the police in the Dominican Republic. Personnel and officers are transferred back and forth between the two, and the military is often called upon to assume police functions. A significant proportion of the men in the lower ranks of the police are drawn directly from the military, transferred when authorities feel that personnel need to be replenished.⁵¹ Many police officers are also drawn from the military. Two of the last three police commanders, appointed by the president, have come from the military.⁵² The Armed Forces' units are also intermittently asked to assume police functions, to patrol different areas of the country, to re-impose order in the face of civil unrest, or to patrol jointly with the police. While the National Police are the principal violators of rights, the Armed Forces, acting as police, have also been implicated.

The present structure of the police dates to Institutional Law No. 6141, which was approved on December 28, 1962, immediately following Juan Bosch's election as President, but before he took office.

During the period following Trujillo's assassination, U.S. advisers undertook to assist in restructuring the Dominican security forces. In light of the dominant anti-communist vision of the time, and given the perceived need to re-create stability following the overthrow of the dictatorship, "U.S. military aid programs concentrated on training the police in riot prevention and control." Aid to the military included "training them in civic action and counterinsurgency."⁵³

In 1966, after Balaguer became President, the Dominican Congress approved a Criminal Code for Police (*Código Penal Policial*) that created a separate justice system for the police. It is a system which almost inevitably places the interests of the police as an institution before those Dominican citizens seeking justice.

The 1966 Code created police tribunals with jurisdiction over all crimes committed in the line of duty. A reform of the Code, approved in 1978 before Balaguer left office, expanded the definition of "in the line of duty" to include crimes committed by retired police officers. Virtually any criminal case against a police person would be heard in a police tribunal.

In theory, when a member of the police is involved in a potentially criminal act, it is to be reported to the national or regional commander where the incident took place. The commander will then appoint a commission of police officers to investigate whether or not abuse has occurred. If it is determined that abuse has occurred, then the commission will recommend whether it should be handled administratively, sent to police tribunals or to ordinary civil courts.⁵⁴ Although criminal cases against police are occasionally forwarded to ordinary courts under the system of police tribunals, those cases have been few and far between. The cases that do end up in court are usually those which have either provoked a strong public outcry or involved egregious abuse that violated even internal police norms.

Recruitment, pay and training magnify the problems. An ordinary policeman is paid the equivalent of about eighty dollars (US) per month. According to Felix Olivares, formerly with the leading legal reform NGO *Fundación Institucionalidad y Justicia* (FINJUS) and now on the Commission for Modernization and Reform of the Judiciary:

They recruit from less competent sectors of the population; few people with other options want to join. It is a job which is risky, pays little, and does not bring respect – in fact it

Nominally independent, there is little separation of the police from the military in practice, and the police operate with few external controls.

*brings the opposite, disrespect. As a result, even though nominally to be a policeman one has to have a secondary education, in fact most do not.*⁵⁵

Officer training reinforces the nature of the police as a militarized force.

*To become an officer, police receive four years of specialized training. The first year they train and take the same courses together with armed forces officers at the Officer's School (Escuela de Oficiales). Then they receive three years of advanced police training in the Academia "2 de Marzo" in San Cristobal. They graduate as officers in the police. Part of the process of officer training is what I call a "social disintegration" program, a process of separating officer candidates from their communities of origin, from their families, from their social peers, and teaching them to feel that they constitute a class apart, a kind of class of "supermen." The idea is instilled in them that all civilians are potential delinquents, as well as lazy and disrespectful. Central is the creation of a machista culture.*⁵⁶

The courts, often subservient to the executive, have failed to insist on the rights of the suspect. As a result, the police have assumed control over investigations of crimes, whether committed by police or by someone else.

History, law and practice have thus combined to create a police force, believed to number 23,000 at present, which, though nominally civilian, is largely independent of external controls. In the words of the current police law, the police are "organically military." The police continue to be organized as a quasi-military force: centralized, with a rigid hierarchy, with ranks parallel to those in the military, in theory with military discipline, and with a mission which emphasizes order over protecting rights.

The Justice System

To understand the problem of police violence in the Dominican Republic, it is not enough to focus on the institution of the police in isolation. Police abuses occur in the context of a weak justice system.

Under Dominican law, the Public Ministry is responsible for investigating crimes. A civilian prosecutor (*fiscal*) is supposed to oversee investigations to ensure that they are effective as well as respectful of citizens' rights.

Following the beginning of effective democracy in 1996, in an effort to limit police abuse, the *fiscal* of the National District initiated a program to place representatives of the Public Ministry into police stations in Santo Domingo. These prosecutors were to receive citizen complaints directly, oversee investigations, and resolve conflicts before they reached the courts. While the experiment was not entirely successful – not all prosecutors had the courage to confront police excesses – many believe it had a significant positive impact. Unfortunately, while prosecutors remain in a number of police stations, the program has received far less attention from the current administration.

Historically and at present, the Public Ministry has failed to take charge of investigations. The courts, often subservient to the executive, have failed to insist on the rights of the suspect. As a result, the police have assumed *de facto* control over investigations of crimes, whether committed by police or by someone else. Prosecutors have generally limited themselves to receiving evidence provided by the police – evidence that is sometimes poorly documented. More worrisome still, in some cases the evidence is based on confessions obtained through coercion.

Professor Guillermo Moreno from Ibero-American University explains that:

Most of the time, it is the police who receive accusations of crimes, it is the police who investigate and gather evidence, and it is the police who decide whether to present any

given case to the prosecutor's office. Often when they do decide to forward cases, they do so in files full of errors, or they provide evidence they have collected by force, by torture. This gives the police great power to abuse. In 95 percent of the cases the only evidence they will present is a confession, most often obtained in questionable circumstances. Then, what is the prosecutor supposed to do? He should simply throw out the case, but most often he won't. He'll send it to the investigating judge, who will open proceedings. Why? Because if he doesn't by implication he will be accusing the police of perjury, based on suspicion and not proof. It would create a scandal, and people will accuse him of being soft on crime, of protecting criminals, even of having been bought off. So rather than confront the police, he'll forward the case.⁵⁷

Cases drag on for years. In fact, almost three-fourths of all those in prison are in pre-trial detention.⁵⁸

In sum, the Public Ministry and the courts have failed to demand that basic rights be respected. The interplay between the police and the judiciary permits abuse and corruption. Corrupt, abusive police who employ excessive force are able to manipulate evidence and intimidate witnesses through their control of the investigative process. Instead of protecting citizens, the National Police, a state institution, often shelters abusers in its own ranks through a system of internal review and specialized courts. Those responsible for police violence know that they are unlikely to be held to account.

Reform Efforts

The transition to democracy under way in the Dominican Republic has created space for a more articulate and powerful civil society. An increasingly dynamic and argumentative press has raised difficult issues, including those of police violence and abuse. Think-tanks staffed by intellectuals have begun to develop concrete programs for reform. A vigorous network of non-governmental organizations (NGOs), including a small but vocal human rights movement, has emerged. Grassroots neighborhood associations, involving groups affiliated with mainstream and leftist parties, labor unions and the Church, have sprung up in many poor areas.

Numerous high profile cases of police violence and abuse in recent years, including those described in this report, have galvanized public opinion to demand change. A loose coalition of civil society organizations has begun to push for systematic reform of the police and of the criminal justice system generally. Demilitarization of the police, an end to police tribunals, more effective civilian oversight, control of criminal investigations by the Public Ministry, an end to corruption and a new Criminal Procedure Code are among the demands of the reform movement.

In the late nineties, civil society organizations began an advocacy campaign calling for institutional reform of the structure and functions of the police. General Candelier's dismissal as head of the National Police was a response to this campaign.

The Executive also introduced a police reform bill that was widely viewed as ineffective and more of an effort to head off change rather than undertake a serious reform of policing. As its critics in Congress said,⁵⁹ it did little more than change the titles of officials, and introduce some civilian participation in the decision whether or not to send a criminal case against a police person to a police tribunal.

Civil society interpreted the bill as a cynical slight, and called for a transformation rather than a reform,⁶⁰ insisting that the history of the hundreds of police killings and

Recommendations for Reform

- ▶ Police tribunals must stop hearing of cases of crimes committed by police.
- ▶ Reforms envisioned in the 2002 Congressional police reform bill are also fundamental and should be implemented.
- ▶ Expedited selection of an Obudsman.
- ▶ Establishment of an Inspector General.
- ▶ Creation of a complaints bureau.
- ▶ Increased institutional capacity of the police to investigate and develop criminal cases in a professional and scientific manner.
- ▶ Adherence to the U.N. Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.

Demilitarization of the police, an end to police tribunals, more effective civilian oversight, control of criminal investigations by the Public Ministry, an end to corruption and a new Criminal Procedure Code are among the demands of the reform movement.

torture demanded no less. There was widespread agreement that, minimally, the following five changes were needed:

- ▶ charging the police with an explicit mission to respect the community and the lives and rights of citizens;
- ▶ demilitarization of the police, severing its connection to the Armed Forces as well as changing its paramilitary approach to social control and law enforcement;
- ▶ police accountability to society for errors and abuses committed by its members, through clear complaint procedures and a restriction on the power of police tribunals to consider only disciplinary matters;
- ▶ improved criminal investigation, and separation of criminal investigation from crime prevention;
- ▶ better pay as well as disciplinary measures to minimize police corruption.

A bill was hammered out in Congress, replacing the ineffective executive bill with a stronger proposal for police reform. Proponents initially sought, among other reforms, to eliminate police tribunals for trials of crimes by police as well as the use of military ranks in the police.

The version that passed the lower house after a first reading in the spring of 2002 proposed important reforms, including:

- ▶ The characterization in the existing law of the police organization as “military” was replaced with sections designating it as a civil organization at the service of the citizenry, with the objective of protecting life and guaranteeing the free exercise of rights and liberties.
- ▶ An Inspector General is to be appointed by the President, after consulting with the Secretary of Interior and Police, with the power to direct and to report on internal investigations as well as to make recommendations to the police for improvements in the force. The Inspector General is to report to the Ombudsman (Defensor del Pueblo) every six months, or at the Ombudsman’s request.
- ▶ The use of military personnel to fill out police ranks is forbidden, and an increase was mandated in the number of women in the ranks in an effort to challenge the macho traditions of the police.
- ▶ The criminal investigative function is to be conducted under the control of the Public Ministry, and police who were assigned to criminal investigation could not be transferred away from such work except for malfeasance or incompetence.
- ▶ Restrictions consistent with international law are placed on the use of firearms, limiting their use to life-threatening situations where other alternatives cannot be used; the police were also required to respect the right of assembly and to use minimal force when it might be necessary to disperse a crowd.
- ▶ Due process rights are established to protect members of the police from arbitrary dismissal, and a list of their rights was established including proper pay and benefits.

Despite the apparent virtues of this congressional bill, some proponents of police reform pronounced it a failure because it did not eliminate the use of military ranks and said nothing about the police tribunals. Without those changes, they felt that it would be impossible to assure the transformation of the police from an unaccountable military

organization. At the time of the writing of this report, executive opposition, along with congressional allies, has succeeded in halting the police reform bill.

The position is not so bleak, however, at least with respect to the police tribunals. The struggle against the tribunals has been a long one. In 2000 a NGO coalition presented to the Supreme Court a constitutional challenge to the power of the police tribunals to hear cases alleging crimes by police. The challenge rested chiefly on the theory that under the Constitution of 1994, the judicial power lies exclusively in the Supreme Court and other courts organized under its supervision. The Supreme Court has yet to rule.



EL CARIBE, DOMINICAN REPUBLIC

Protests and police activity in Los Guandules, Santo Domingo.

Nevertheless, the Supreme Court has ruled on one important criminal case. In the case against the policeman known as Tyson (see the case of Pedro Contreras, above), the Supreme Court granted a petition by the Attorney General to transfer the case away from a police tribunal. In its ruling, the Court used arguments similar to those of the challenge, saying that in peacetime, police tribunals should not try cases, only those involving internal disciplinary violations. It is widely believed that the Court sought to avoid expending too much of its political legitimacy in deciding the full challenge.

Since the Tyson decision, the Attorney General has taken the position that “the National Police ... cannot arrogate to itself the punitive power of the State, removing itself from the competency of the ordinary courts when its members execute actions such as [crimes against citizens].”⁶¹ This position exposes a tension in the government between the justice sector, including the Attorney General and the courts, which claimed that the police tribunals have no jurisdiction over cases involving crimes against citizens, and the Executive, represented by the Minister of Interior and the Police, which tried to maintain the jurisdiction of the police tribunals over all crimes committed by police.

Lawyers who represent persons who have been killed by the police have begun to argue systematically for transfer of the criminal proceedings to the ordinary courts. One of the lawyers, Genaro Rincón, has indicated that if they are not successful in their endeavor to stop criminal proceedings against policemen from being held in police tribunals, then the issue will be taken to the Inter-American Commission on Human Rights and, if necessary, on to the Inter-American Court of Human Rights.

A process of justice reform has been set in motion that has begun to show results. The controversy about the police tribunals may be moot, as the tension should be resolved by the new Criminal Procedure Code, adopted by both chambers of Congress in July 2002. The Code is an important step in the reform process. It has been promulgated by the Executive, although there will still be a two year period before it is applied.

The new Code gives ordinary courts jurisdiction over all crimes, including those perpetrated by police. Although some police claim that the jurisdiction of the police tribunals over crimes committed by police survives the new Code, Article 57 is definite on the point:

The Supreme Court has ruled on one important criminal case saying that in peacetime, police tribunals should not try cases, only those involving internal disciplinary violations.

The new Criminal Procedure Code, adopted by both chambers of Congress in July 2002, gives ordinary courts jurisdiction over all crimes, including those perpetrated by police.

*The procedural norms established in this code are applicable to the investigation, recognition and ruling about any punishable act, regardless of its character or the person accused, including the members of the Armed Forces and the National Police, even when the punishable acts attributable to them may have been committed in the exercise of their duties and may not have violated the disciplinary norms of the bodies to which they belong.*⁶²

In addition to addressing jurisdictional matters, the Code contains far-reaching provisions to make court processes more rapid, while at the same time striving for effective protection of the rights of suspects. Key provisions of the Code provide for:

- ▶ contested proceedings in which the defendant has the right to counsel as soon as he is arrested;
- ▶ restrictions on the use of force by the police, including the stipulation that deadly force may only be used when the suspect's actions are life-threatening, or in order to prevent crimes likely to incur a loss of life;
- ▶ informing suspects at the time of arrest of their right to remain silent;
- ▶ prohibition of torture or cruel, inhuman or degrading treatment;
- ▶ exclusion of unlawfully obtained evidence at trial.
- ▶ removing investigative powers from judges;
- ▶ requiring police to inform the Public Ministry within 24 hours when they have evidence of a crime;
- ▶ requiring police to collect and develop the evidence under the direction of the Public Ministry;
- ▶ completion of investigations within a three month period when a suspect is detained, although the time may be extended by two months when the case is made that additional time is needed;
- ▶ the defense's right to be heard, orally and through witnesses.

Although these extraordinary changes are to be welcomed, they are unlikely to be fully effective without attendant changes in the other institutions of justice. As critics have pointed out, some of the protections in the Code also existed under its predecessor. The old criminal procedure law states that a suspect must be brought before a judge within 48 hours and also provides for a judicial police function under the supervision of the Public Ministry, but both provisions were widely ignored by the courts. The situation caused at least one critic to point out that the reforms could not be expected to be effective if existing laws are not observed.⁶³

It remains to be seen whether the new Criminal Procedure Code will be fully implemented. The administration of justice cannot be much improved or the violation of human rights much reduced without meaningful reform along the lines described above. The fundamental question is whether or not the political and judicial will exist to put these principles into practice.

Conclusions and Recommendations

The situation of killings and other abuses described in this report calls for a profound transformation of the police in the Dominican Republic. It is time for the government to heed civil society's demands to move beyond cosmetic changes in the police – like

dismissal of commanders when a particularly egregious abuse sparks public outcry – and to implement substantial reforms designed to put the police to work for and to make them accountable to the Dominican people. The constitutional provisions of 1994 for suspects’ rights and judicial independence as well as the new Criminal Procedure Code and the law establishing an ombudsman represent important advances in the reform process. The congressional police reform bill proposes further reforms that are much needed and may well pass in the near future.

Although the changes in the last six years in the Dominican Republic have been very significant, there still has been no clear break with the country’s authoritarian past. The attributes of presidential government are still strong, affecting the courts and even the legislature. The police, with the protection of the Executive, continue to act with impunity as an instrument of repression and social control of the poor masses of Dominican citizens.

Under these conditions, it is important to prioritize reforms, identifying those that are absolutely essential before progress can be made on other fronts. First and foremost,

- ▶ **Police tribunals must stop hearing cases of crimes committed by police.** The history of the use of such tribunals in Brazil, for example, shows that they serve no purpose except to guarantee impunity for police violence and to shield the police from the standards of national and international law. Without question, a restriction on the jurisdiction of the police tribunals to purely internal disciplinary matters should be the centerpiece of any viable police reform process in the Dominican Republic. The Attorney General and the courts must adhere to the position that the new Criminal Procedure Code has abolished the criminal jurisdiction of the police tribunals, and that this is consistent with the Constitution. The Supreme Court should resolve the issue, ruling on the general application currently before it, and still undecided at the time of writing this report. If necessary, individual cases against police should be brought to the local courts and even beyond, to international forums such as the Inter-American human rights system – the Commission and the Court.
- ▶ **Reforms envisioned in the 2002 Congressional police reform bill are also fundamental and should be implemented.** The nation must abandon the military model of policing and instead to adopt a model of service to the community and adherence to the law. Military personnel should not be used to supplement the police force. The experience in other countries has been that the use of a military model of policing, as well as the use of military personnel to fulfill police functions, obscures the civil purpose of the police and encourages unlawful violence.

Even if all of the aforementioned reforms are achieved, they will be insufficient given the larger context in which the police operate in the Dominican Republic – including corruption, a tradition of violence, and a lack of accountability. Other practical changes are needed as well. These include:

- ▶ **Expedited selection of an Ombudsman.** In many countries the quasi-independent institution of the Ombudsman has been successful in helping to reduce political violence. Existing law provides for the establishment of such an institution in the Dominican Republic, and dictates the selection of the ombudsman by a two-thirds vote of the Congress. The selection has been such a political hot potato that the Congress has as yet been unable to select anyone to fill the office. It is essential that a qualified ombudsman be selected as soon as possible.
- ▶ **Establishment of an Inspector General.** The creation of the function of an Inspector General, appointed from outside the police and answerable to some independent institution such as an ombudsman, to investigate allegations of abuse

It is time for the government to heed civil society’s demands to move beyond cosmetic changes in the police – and to implement substantial reforms designed to put the police to work for and to make them accountable to the Dominican people.

The use of a military model of policing, as well as the use of military personnel to fulfill police functions, obscures the civil purpose of the police and encourages unlawful violence.

by the police and to make recommendations for improvement may help contribute to the control of police violence and corruption. As in the case of the ombudsman, the political problems of selecting the Inspector General and supporting the work of such an office are likely to be formidable.

► **Creation of a complaints bureau.** The Dominican Republic needs an institution with a mandate to receive, investigate and pass on citizen complaints regarding police abuses. It must be separate from the police. It may be possible to organize such a complaints bureau under the auspices of the Inspector General's office, but it would require additional staff, including able and independent investigators. The complaints bureau must be accessible to the public, particularly to people from poor neighborhoods.

► **Increased institutional capacity of the police to investigate and develop criminal cases in a professional and scientific manner.** The Dominican police have a bad reputation with regard to their investigative capacity. The police are careless, corrupt, subject to personal influence, and have only the most minimal grasp of forensic principles for the collection of evidence.⁶⁴ Judging by recent experience of attempts to train the police, however, there is little impetus to change. In 2000, the U.S. International Criminal Investigative Training Assistance Program (ICITAP) withdrew its support due to a perceived lack of interest and motivation on the part of the National Police.⁶⁵

Police must receive proper training for criminal investigative work; the police need the legitimacy and self-respect that come from skill in the collection of evidence and the solution of crimes.

The proposed police reform bill and the new Criminal Procedure Code both contain provisions on criminal investigation that are similar to what has historically been mandated by Dominican law. Both the proposed police reform bill and the new Criminal Procedure Code state that the investigation of crimes is the duty of the Public Ministry, and place any police involved in such investigations under the direction of the Attorney General and prosecutors respectively.⁶⁶ In both, police assigned to an investigation cannot be transferred except for cause. These provisions on criminal investigations are similar to what has historically been mandated by Dominican law under the former procedure code. They alone may not be strong enough to ensure increased institutional capacity, because prosecutors and judges have traditionally left the preparation of criminal evidence to the police. The justice system must at last shoulder the responsibilities the law has given it.

► **Adherence to the U.N. Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.** In the investigation of claims of death at the hands of police or other public officials, the office of forensic investigation should adhere to the standards of the U.N. Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, including an adequate autopsy, collection and analysis of physical and documentary evidence, statements from witnesses, impartial investigators and a written, public report.

Successful police reform in the Dominican Republic is linked to reform of the justice sector, particularly those institutions that surround the police and affect their work, including the Public Ministry, the courts and defense attorneys. The Public Ministry, in particular, must undertake its prescribed role of overseeing criminal investigations for the courts.

It will indeed be challenging for the Public Ministry to overcome a legacy of politicization, and insufficient training and staff. Specific recommendations for reform of the Public Ministry include:

- ▶ Legislation to establish a career path in the Public Ministry, with specialized training, job security and fiscal independence.
- ▶ Strengthen the program for the prevention of corruption within the Attorney General's office. This office was vigorous at the beginning of effective democracy, but has become weaker. It must be restored with staff and budget.⁶⁷
- ▶ Restore and strengthen the program placing prosecutors in police stations to oversee police investigations and receive complaints from citizens.

To the courts falls the task of passing judgment on police work, most commonly by organizing the evidence in criminal cases, and by insisting that the police comply with the law. The reorganization of the courts pursuant to these ends is further advanced than that of the Public Ministry. The constitutional changes of 1994 were crucial in that they led to greater independence of the Supreme Court and of the lower courts. They may not, however, be permanent. The Executive and some legislators have not accepted the principle of judicial independence, and are actively lobbying to change the provisions.⁶⁸ Recommendations for further improvement by the judiciary include:

- ▶ Respect for the constitutional provision that defendants must be presented to the court within 48 hours;
- ▶ Expedited procedures to handle minor criminal matters more rapidly in order to help reduce backlogs in the courts;
- ▶ Budget increases for the courts, in order to increase salaries and to provide training to judges and other personnel;
- ▶ Increasing the number of public defenders available to serve those who cannot afford private counsel.

Since in an effective criminal justice system the rights of the suspect are adequately enforced only if their counsel insists on it, steps must also be taken to improve the professional abilities of defense attorneys.

The judiciary in the Dominican Republic should be given the independence and the resources, both legal and financial, to insist on the police's adherence to the law, and to enforce the limitations on police powers dictated under international and domestic law.⁶⁹

The new Criminal Procedure Code contains formal restrictions on the use of force, particularly deadly force, as well as on unlawful detention and the use of torture and cruel, inhuman and degrading treatment, in accordance with international law. The Public Ministry, the courts and defense attorneys must insist that these new provisions be observed. They must also ensure that the United Nations Basic Principles on the Use of Force and Firearms be honored. Police should be required to report every use of force in writing. Moreover, limitations on the use of force are likely to be more effective if the number of women on the Dominican police force is increased; the experience in other countries has been that violence is less likely to occur when women police are present.

All of the reforms documented and recommended in this report are interdependent. Every one of them, be they procedural or institutional, are important for controlling the Dominican police. The Criminal Procedure Code may provide for limitations on police powers; the judiciary – judges, defense attorneys and prosecutors – may insist upon enforcement of the Code's provisions and exercise oversight as a check on police power; an invigorated Public Ministry may exercise control over investigations and demand credible evidence; and the Police may increase its institutional capacity to investigate and

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develop criminal cases in a professional and scientific manner. No one reform is as likely to succeed if any of the others does not occur or is not fully implemented.

In summary, there are four bare bones reforms for police reform in the Dominican Republic: a new, service-oriented approach to policing, the end of special tribunals for crimes, formal legal limitations on police powers and accountability to independent oversight. These reforms will be more effective if buttressed by corresponding changes in the justice sector, particularly those that strengthen the Public Ministry and help assure judicial independence.

Notes

- ¹ "Anger Boils on the Streets: Police Blamed for 250 Killings," *Miami Herald*, 18 June, 2001.
- ² U.S. Department of State, *Country Reports on Human Rights Practices – 2001: Dominican Republic* (Washington, D.C.: U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, 4 March, 2002).
- ³ Quoted in Ramón Tejada Holguín, "La Infalible Policía de Candelier no Conoce el Concepto de Exclusión Social," *El Siglo*, June 2001. Press articles and interviews are translated by the authors of this report.
- ⁴ *Ibid.*
- ⁵ For a history of the Dominican Republic in the 20th century, see Frank Moya Pons, *The Dominican Republic: A National History* (New Rochelle, NY: Hispaniola Books, 1995).
- ⁶ For a discussion of the Dominican Republic as a "neo-patrimonial state", see Jonathan Hartlyn, *The Struggle for Democratic Politics in the Dominican Republic*, (Chapel Hill, NC: University of North Carolina Press, 1998).
- ⁷ Tirza Rivera-Cira, *El Sector Justicia y la Reforma Judicial en la República Dominicana*, (Santo Domingo: FINJUS, 2000), p. 54.
- ⁸ *Ibid.*, pp. 56-57 and 140-144.
- ⁹ *Ibid.*, pp. 157-158.
- ¹⁰ G. Pope Atkins and Larman C. Wilson cite the lower figure in *The Dominican Republic and the United States: From Imperialism to Transnationalism*, (Athens, GA: The University of Georgia Press, 1998), p. 155. Moya Pons uses the higher figure. Moya Pons, *Op. Cit.*, p. 392.
- ¹¹ Hartlyn, *Op. Cit.*
- ¹² Rivera-Cira, *Op. Cit.*, pp. 25-26.
- ¹³ In December 2001 and January 2002 the Supreme Court issued two important rulings that affected powerful political interests. The first was regarding a congressional call for a Constitutional Convention to amend the constitution to permit presidential re-election. The other was in reference to the Central Elections Board. Important politicians immediately questioned the legitimacy of the Court's decisions and threatened to reduce the life-tenure of its judges.
- ¹⁴ U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, *Op. Cit.*
- ¹⁵ "Jefe de la Policía no se siente aludido por informe de EE.UU.," *Listín Diario*, 15 March, 2002.
- ¹⁶ "Doce personas caen abatidas cada mes a manos de policías," *El Siglo*, 27 July, 2001.
- ¹⁷ "Vecinos Capotillo Atribuyen a Policías Críen por Extorsión," *Hoy*, 13 May, 200, p. 7.
- ¹⁸ "Los Disparos de Cross no Mataron a Adolescente en Barrio Capotillo," *Listín Diario*, 20 May, 2001, p. 10.
- ¹⁹ "Muertos y Heridos en Las Protestas de Capotillo," *El Caribe*, 15 May, 2001. P. 4.
- ²⁰ The Ad Hoc Commission included the Secretary of the Armed Forces, the head of the National Intelligence Directorate (DNI – Dirección Nacional de Inteligencia), the Secretary of the Interior, and the Chief of the National Police Bureau, *Op. Cit.*
- ²¹ U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, *op. cit*
- ²² *Listín Diario*, 20 May, 2001.
- ²³ U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, *op. cit*
- ²⁴ "PN Matan Obrero Durante Represión a Protestas por Apogones en Capital," *Listín Diario*, 30 June, 2001, p. 1.
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- ²⁶ "Padre Acusa a Coronel de la Policía de la Muerte a Tiro de su Hijo Waldys Cuevas," *Listín Diario*, 4 July, 2001.
- ²⁷ World Bank, *World Development Indicators* (Washington, D.C.: World Bank, 2001).
- ²⁸ World Bank, *Dominican Republic Poverty Assessment: Poverty in a High-Growth Economy (1986-2000)*, (Washington, D.C.: World Bank Report No. 21306-DR, 17 December, 2001), digital.
- ²⁹ *Ibid.*
- ³⁰ Statistics compiled by the *Proyecto de Modernización de los Tribunales*, <http://fpsanto06/cdroms/Pmt/PMT/estadisticast.htm>.
- ³¹ National Police, *El Homicidio en la República Dominicana Años de 1997 a 2001* (Dominican Republic: National Police). The number of homicides per year is: 1997 – 1,038; 1998 1,121; 1999 – 1,212; 2000 -1,090; and 2001 – 1,086.
- ³² "Muertos por la policía," *Hoy*, 29 October, 2001. Of the 201 police killings that occurred between August 16, 2000 and September 30, 2001, 132, or about 65 percent, occurred in Santo Domingo.
- ³³ World Bank, *Dominican Republic Poverty Assessment*, *Op. Cit.*
- ³⁴ In January 1999, Gitlitz interviewed settlers from among some seventy families who had been evicted from disputed land they had earlier invaded in the Tres Brazos neighborhood of Santo Domingo. According to the settlers, one morning the previous September, at about 7 a.m., eight truckloads of policemen had suddenly appeared in the settlement with no advanced warning whatsoever. When the police arrived, rather than producing a warrant or judicial order, or even giving the settlers time to gather a few, small possessions, they immediately began advancing through the *barrio*, firing shotguns into the air, wielding clubs, beating people, and setting homes on fire. The settlers fled, some escaping by jumping through windows, grabbing their children and whatever valuables they could, and fleeing up the hillside. Those who

- were not at home lost everything. Even those who were there lost almost all that they had; interviewees mentioned televisions, stoves, refrigerators, beds. Two inhabitants were wounded with shotgun pellets.
- ³⁵ Edwin Ruíz, "República Dominicana, entre los países con menor gasto en educación," *Listín Diario*, 16 December, 2001.
- ³⁶ World Bank, *Dominican Republic Poverty Assessment*, Op. Cit.
- ³⁷ "Guachupita: Entre la violencia y el desamparo," *Listín Diario*, 19 November, 2001.
- ³⁸ "Cronología de los incidentes entre abril y junio," *Listín Diario*, 16 June, 2001. Incidents occurring during the three month period between April and June 2001 are illustrative.
- April 19: Protests in Bonaó, Salcedo, Tenares and San Francisco de Macoris (cities in the interior) against blackouts and the lack of potable water.
 - May 12: Serious incidents in Capotillo and Villas Agrícolas neighborhoods after police agents killed Ruben Darío Florentino Toribio.
 - May 19: The FALPO paralyzes El Ingenio neighborhood in Santiago, where a woman died as a result of being hit on the head with a stone.
 - May 21, 22, 23: Navarrete is "like a match." All activities are paralyzed in the face of a list of demands. The police exhibit arms and film, and distribute a polemical video.
 - May 26: Violence returns to Capotillo when an agent of the National Drug Control directorate, searching for narco-traffickers, takes part in a shootout in which a seven year old is killed and seven others are wounded. Various sectors of San Cristobal (a city near the capital) are paralyzed. Dozens of vehicles are stoned.
 - May 28: The municipality of Licey al Medio is paralyzed by protestors, demanding that those detained in Navarrete be released.
 - May 29: Police and demonstrators confront each other in Licey al Medio.
 - May 30: Ten are hurt and 70 detained as a result of protests that occurred in various towns in the interior, including Licey al Medio, Santiago, Paraiso, Enriquillo, Los Patos, Vallejo, Las Tres Bocas, Juancho, Tamayo, San Juan de la Maguana and Barahona. Protests occur in the neighborhoods of Madre Vieja and Hatillo in San Cristobal.
 - June 5: Wendy Gatón dies after being shot by a policeman in demonstrations protesting blackouts that had occurred in the Libertad neighborhood of Herrera (Santo Domingo).
 - June 12, 13, 14: Los Tres Brazos neighborhood, in the eastern zone of Santo Domingo, is the scene of violent actions against blackouts and other demands.
- ³⁹ "Los residentes de Villa Mella crean disturbios por apagones," *Listín Diario*, 27 February, 2002.
- ⁴⁰ In 1998, over a period of two hours, Gitlitz observed four youths sitting on a corner, playing dominos and selling drugs. During that short time period, he saw the four pass money three times to policemen who came by, both on foot and on motorcycles.
- ⁴¹ World Bank, *Dominican Republic Poverty Assessment*, Op. Cit.
- ⁴² In 1998, in Sabana Perdida, Gitlitz spoke with about 100 people active in parish-level pastoral groups. When asked to discuss their problems, they focused almost exclusively on gang violence and drugs. Many recounted direct personal experiences. They also expressed repeatedly their unwillingness to turn to the police. A middle-aged woman said, "I think my son is using drugs, but I cannot go to the police. If I do they'll arrest him and maybe kill him, or else they'll pass the word to the gangs that I'm a snitch." Her sentiment was shared by many of those present.
- ⁴³ Another locus of security force violence not dealt with in this report is that against Haitians.
- ⁴⁴ Authors interview with Elmis Rafael Martínez, Capotillo, 7 March, 2002.
- ⁴⁵ Inter-American Commission on Human Rights, *Country Report – Dominican Republic 1999* (Washington, D.C.: Inter-American Commission on Human Rights), Chapter VI, sec. 201.
- ⁴⁶ "Jefe de PN advierte operativos seguirán," *Listín Diario* (digital), 16 June, 2002.
- ⁴⁷ Ibid.
- ⁴⁸ Issolym Mieses, "La Policía Nacional es parte activa de violencia Guachupita," *Listín Diario* (digital), 13 January, 2002.
- ⁴⁹ Author interview with Marcial Pérez, 12 January, 2000.
- ⁵⁰ Author interview with Father José Núñez, 27 February, 2001.
- ⁵¹ Amnesty International, "Dominican Republic," in *Annual Report 1998* (Amnesty International), p. 153. In 1997, the government of President Leonel Fernández responded to widespread protests by transferring 7,000 military personnel to the police.
- ⁵² Both Sanz Jiminián and Candelier came originally from the Army. The current commander, Marte Martínez, rose through the ranks of the police.
- ⁵³ After the rioting in late 1961 and early 1962, during which the National Police had lost control of the streets in downtown Santo Domingo, two Spanish-speaking detectives from the Los Angeles Police Department had been sent to the Dominican Republic to train the Police Department in riot control and investigative and communications procedures. Atkins and Wilson, Op. Cit., p. 131.
- ⁵⁴ Authors interview with General José Pérez Sánchez, 7 March, 2002.
- ⁵⁵ Author interview with Felix Olivares Grullón, Santo Domingo, 11 January, 1999.
- ⁵⁶ Ibid.
- ⁵⁷ Author interview with Guillermo Moreno, Santo Domingo, 7 January, 2002.
- ⁵⁸ U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, Op. Cit.
- ⁵⁹ Cesar Peralta, *Visión del Congreso Nacional sobre la Reforma Policial* (Conference Presentation, Santo Domingo, 6 March, 2002).
- ⁶⁰ Candido Simon, "Reformar la policía," *Gaceta Judicial* (28 December, 2001 to January 11, 2002), pp. 14-17.
- ⁶¹ Virgilio Bello Rosa, "La Reforma Judicial – Política Anticriminal y los Derechos Humanos," *Revista de la Procuraduría General de la República* (February 2002), p. 14.
- ⁶² "Exclusividad y universalidad," *Article 57, Criminal Procedure Code*, July 2002.
- ⁶³ Javier Said, "El costo de la justicia para el usuario en el sistema de la justicia penal de Santo Domingo," *Estudios Sociales* (January-March 2000), pp. 31-49; and Rivera-Cira, Op. Cit., Section 1.8.
- ⁶⁴ David Lorenzo, "Escena del crimen – Clave para determinar cause y manera de muerte," *Gaceta Judicial* (6-20 January, 2000), pp. 8-13.
- ⁶⁵ Juan Tamayo, "U.S. cuts aid to protest killings by Dominican Republic police," *Miami Herald* (digital) 29 May, 2000.
- ⁶⁶ *Articles 88 and 93, Criminal Procedure Code*, July 2002.
- ⁶⁷ Bello Rosa, Op. Cit., p. 16 and Rivera-Cira, Op. Cit., p. 79.
- ⁶⁸ Enrique Marchena Pérez, "Nuevo procesal penal?" *Hoy*, 13 November, 2001 and "Apliquemos la ley vigente," *Hoy*, 23 December, 2001.
- ⁶⁹ In addition to the UN International Covenant on Civil and Political Rights and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Inter-American Convention on Human Rights, specific standards for police are set out in the UN's Basic Principles on the Use of Force and Firearms by Law Enforcement Officials of 1990 and the Code of Conduct for Law Enforcement Officials of 1979.

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