

Torture

Introduction

Human Rights Watch obtained credible evidence of torture in more than 170 cases across the five states surveyed for this report. All of the security forces involved in counternarcotics operations: the Army, the Navy, the Federal Police, and state, municipal, and judicial investigative police are guilty of having used torture. Irrespective of geographic location or which branch of the security forces implicated, victims provided consistent accounts of the types of physical and mental torture tactics used on them. They included beatings, asphyxiation with plastic bags, simulated drowning, electric shocks, sexual torture, and death threats or mock executions.

A pattern also emerged of the timing of the infliction of torture and the apparent purpose of its use. Most victims were detained arbitrarily under the pretext of being caught in the act of committing a crime (*in flagrante*, or *en flagrancia*), and then held unlawfully and unacknowledged for hours or days before being handed over to prosecutors. During this **period of “enforced disappearance”**—in which victims were often held incommunicado on military bases, police stations, or other illegal detention facilities—detainees were tortured to obtain information about organized crime and to confess to belonging to criminal groups. Their confessions often served *a posteriori* **to justify security forces’ illegal arrests** and as the main evidence in criminal charges against them filed by prosecutors.

The cases documented by Human Rights Watch, together with dozens of interviews with officials from human rights commissions, public defenders, prosecutors, and human rights defenders strongly suggest that torture is part of the *modus operandi* of counternarcotics operations in Mexico, and that its incidence has increased significantly in the context of **the “war on drugs.”**

Mexico has strong domestic legislation to prevent and punish the use of torture, including a comprehensive constitutional reform passed in 2008 that was designed to eliminate **perverse incentives to obtain confessions by force. However, these reforms and Mexico’s** obligations under international law have done little to curb what continues to be an endemic practice. As detailed below, Human Rights Watch research found that authorities responsible for preventing torture have been at best passive observers, and at worst active **participants, in grave abuses. Prosecutors travel to military bases to take detainees’** confessions in coercive conditions; judicial investigative police pressure detainees to sign false confessions; medical examiners fail to document obvious signs of physical abuse;

and judges admit testimony that defendants allege was obtained through torture without first investigating the torture allegations.

Repeatedly, we found that both civilian and military prosecutors fail to adequately investigate and prosecute cases in which there is compelling evidence of torture. Officials rarely apply the Istanbul Protocol, a critical tool for detecting the physical and psychological effects of torture, and routinely fail to conduct basic steps critical to thorough and impartial investigations, such as interviewing victims and collecting **evidence. Instead, prosecutors too often reflexively dismiss victims' allegations of torture** as a cynical ploy by criminals to evade punishment. As a result of this chronic lack of investigation, cases of torture are not punished, abusive security forces continue to use **tactics that violate civilians' rights, and a climate of impunity flourishes, which** undermines broader public security efforts.

Of the more than 170 cases of torture documented by Human Rights Watch, not a single one has resulted in a state official being convicted for torture—either in the civilian or **military justice system. What's more, despite formal complaints by victims and compelling evidence of mistreatment, in most cases prosecutors have failed to even open** investigations into probable mistreatment.

Torture Tactics

In more than 170 cases of torture we examined, victims across five states and from different professions and social classes described being subjected to similar physical and mental torture techniques. The most common techniques used by security forces were beatings, asphyxiation using plastic bags or drowning, electric shocks, sexual torture, and death threats or mock executions. Virtually all of the victims interviewed by Human Rights Watch described several of these tactics being used in succession or simultaneously, compounding their effects. In addition, the majority of victims reported being blindfolded and bound while subjected to these acts, exacerbating their sense of disorientation and vulnerability. As will be seen in later sections, the aim of these tactics was often to elicit information about organized crime groups, as well as to force victims to sign or record confessions incriminating themselves and others.

Common tactics included:

Beatings and other forms of blunt trauma, in which interrogators kick or punch the victim, or beat the victim with blunt objects such as rifle butts or *tablas*, wooden paddles. Several victims described being wrapped in thin mattresses or cloth before being beaten, apparently to reduce bruising.

One of the police officers took me by the neck, squeezing me very tightly, so I raised **my hands and said, “Calm down,”** and he squeezed my neck tighter and started to shake it. And at that moment, I felt several blows to my back, which felt like they came from the weapons they were carrying, and they hit me around my left eyebrow and I started to bleed **profusely...They lifted me into the truck and kept beating me, pulling me by my hair and throwing me down against the floor while they continued to punch me in the stomach and back.**¹

—Lucino Ramírez Vázquez, Huamuxtitlán, Guerrero

Asphyxiation in which interrogators place a plastic bag over the head of the victim to induce suffocation. Many victims described being suffocated repeatedly until they lost consciousness.

In that moment, I felt pressure over my face with some type of thick plastic, which prevented me from breathing. The person who was interrogating me prolonged the torture by asphyxiating me on several occasions, drawing this out for about two-and-a-half hours, during which I was also hit in the **face, the head, and the chest...in** all this time, the person who was torturing me was asking me questions about people, like current and ex-police officers, as well as civilians.²

—Ricardo Castellanos, Tijuana, Baja California

Asphyxiation by “waterboarding,” in which interrogators immerse or pour water over the victim’s face, causing a sensation of suffocation or drowning.

¹ Guerrero State Human Rights Commission (Comisión de los Derechos Humanos del Estado de Guerrero, CODDEHUM), formal human rights complaint by Lucino Ramírez Vázquez and Lucino Ramírez Joachinillo, April 7, 2010. The complainants were assisted by lawyers from the human rights organizations Tlachinollan and the Monitor Civil de la Policía y Los Cuerpos de Seguridad de la Montaña.

² National Human Rights Commission, “Testimony of Mr. Ricardo Castellanos Hernández” (Comparecencia del Señor Ricardo Castellanos Hernández), January 28, 2010.

They took a cloth...and they wrapped it around my head except for my nose... later I learned that this was what they called “the mummy”... They left me like this and began to do the thing with the water again, but this time the water came in directly through my nose. They repeated this three times. That’s when I said, “That’s it, I’ll confess to whatever you want.”³

—Marcelo Laguarda Dávila, Monterrey, Nuevo León

Electric shocks, in which interrogators apply electric current using cattle prods (chicharras) or other instruments to the body of the victim. In several cases, victims described being submerged in vats of water, into which the current was applied, apparently to avoid leaving burn marks.

They wrapped the mattress around me and began to give me electric shocks through it. Then he said, “You know when we’re going to stop”...They took me to another place and told me, “Time for your bath, jerk.” The water was really cold and I began to wash myself, and they gave me electrical shocks through the water and said, “Wash yourself well, pig.”⁴

—Israel Arzate Meléndez, Ciudad Juárez, Chihuahua

Sexual torture, in which interrogators force detainees to take off their clothes, grope them, and threaten to assault them sexually.

They pulled down my pants and underwear and left me naked from the waist down... The man who was interrogating me stopped right in front of me and said, “Little Tamara, here’s when everything starts to change, now we’re going to give you love and affection...because here you’re going to have many friends—they’re lining up for you”...and they began to grope me all over. They lifted off my bra and I felt their hands all over my body. They touched my buttocks and insulted me saying, ‘Now you’re going to feel what’s good. You’re good, you damn whore...’ That’s when I screamed, “No sir, I committed [the crime], but please don’t do anything to me, I beg you.”

³ Human Rights Watch interview with Marcelo Laguarda Dávila, Monterrey, Nuevo León, December 9, 2010.

⁴ Handwritten testimony by Israel Arzate Meléndez, as provided to the human rights organization the Miguel Agustín Pro Juárez Human Rights Center in March 2011 (on file with Human Rights Watch).

And then in a quiet voice he said, “So you’re going to cooperate, you’re going to talk.” And I said, ‘Yes, sir, whatever you say.’”⁵

—Nallely Thamara Lara Sosa, Villahermosa, Tabasco

Death threats and mock executions, in which interrogators threaten to kill or “disappear” detainees or their family members. Several victims said they were taken to isolated locations and forced to dig their own graves; others had pistols held to their heads or inserted in their mouths. Many said that interrogators told them they had killed detainees before.

Again they threatened me...saying that they would kill me if it were necessary, my life meant nothing to them, that they would simply throw my body somewhere once I was dead with some sign, like the ones the cartels put out, and that they wouldn’t get into any trouble.⁶

—Francisco Daniel Flores Ramos, Tijuana, Baja California

Victims consistently said that despite their requests they were denied medical treatment after being tortured, exacerbating both their short-term suffering and the long-term injuries sustained by the tactics.

The Hidden Prevalence of Torture

Dozens of officials from the national and state human rights commissions, human rights defenders, civil society activists, and victims’ group representatives told Human Rights Watch that torture is routinely relied upon by Mexico’s security forces to extract information and confessions, and that its incidence has increased since the Calderón government adopted a more aggressive counternarcotics strategy. This is reflected in the growing number of recommendations issued by the National Human Rights Commission that determined federal officials had committed torture. From 2005 to 2007, the commission issued 4 recommendations concluding federal authorities had committed torture, compared to 28 from 2008 to 2010.⁷ Similarly, complaints of cruel, inhuman, or

⁵ Tabasco State Prosecutor’s office (Procuraduría General de Justicia del Estado de Tabasco), “Preliminary Declaration of the suspect Nallely Thamara Lara Sosa (A) Tammy” (Declaración Preparatoria de la Indiciada Nallely Thamara Lara Sosa (A) Tammy), AP-FECS-0126/2010, June 23, 2010.

⁶ Flores Ramos, Francisco Daniel, “Complaint: Account of Facts Relevant to My Case 68/2009” (Denuncia: Relato de hechos referente a mi persona dentro de causa penal 68/2009), unpublished, handwritten account of victim’s arrest, detention, and imprisonment, dated March 13, 2010. Provided to Human Rights Watch by Flores’s family in Tijuana, Baja California on April 29, 2010.

⁷ Email communication from Ariadne García Hernández, director of relations with international nongovernmental organizations (Directora de ONG Internacionales), National Human Rights Commission, to Human Rights Watch, May 17,

degrading treatment to the commission have increased significantly with each passing year: 330 in 2006; 395 in 2007; 987 in 2008; 1,105 in 2009; and 1,161 in 2010.⁸

Yet at the same time, state prosecutors' offices report extremely low numbers of torture complaints. Baja California's state prosecutor's office, for example, said it received only two complaints of torture from 2007 to 2010,⁹ while Guerrero's said it did not receive any.¹⁰ Human Rights Watch found two reasons for such manifestly inaccurate official torture **figures at the local level. Firstly, fear of reprisals and lack of confidence in authorities'** competence or commitment to investigate discourages many victims from filing official complaints. Secondly, as addressed in the section on investigations, evidence strongly suggests that civilian and military officials often classify cases of torture and cruel, **inhuman, or degrading treatment as lesser crimes without investigating the victims'** allegations.

Fear of Reprisals and Lack of Confidence in Authorities

Many cases of torture are not reported because of fear. A principal effect of torture—and often its main objective—is to intimidate the victim into silence. In nearly every case of torture documented by Human Rights Watch, victims said their torturers warned them that they would be tortured again, killed, or that their family members would suffer reprisals if they reported the abuses they had suffered. For example, **Lucino Ramírez Vázquez** said that police in Huamuxtlán, Guerrero, after punching, kicking, and beating him over several hours with rifle butts, repeatedly warned him not to tell prosecutors how he had **been injured. “You fell, and you're going to say you fell.”**¹¹ A woman in Tijuana said that, after she had been raped and tortured in custody, officials showed her photographs of her children and partner, threatening to target them if she rescinded her false confession.¹² In the face of such threats, many victims decide not to report the crimes to prosecutors.

Victims are also discouraged from reporting cases of torture by chronic distrust of authorities. They often see justice officials as part of the same abusive apparatus as their

2010. The document provided contains a breakdown of complaints and recommendations by year and the government body responsible. See also Annual Reports 2004 to 2010 (Informes Anuales), National Human Rights Commission, <http://www.cndh.org.mx/node/120> (accessed October 22, 2011).

⁸ Ibid.

⁹ Baja California State Prosecutor's Office, response to information request 06526 submitted by Human Rights Watch on April 4th, 2011, Folio UCT-06526, April 25, 2011.

¹⁰ Guerrero State Prosecutor's Office, response to information request 00009811 submitted by Human Rights Watch on April 13, 2011, received via email on August 9, 2011 (on file with Human Rights Watch).

¹¹ Human Rights Watch interview with Lucino Ramírez Vázquez, Huimanguillo, Tabasco, August 31, 2010.

¹² Human Rights Watch telephone interview with victim's family member, Ensenada, Baja California, June 13, 2011. The interviewee asked not to be identified out of concern for their safety.

torturers, a sentiment that is particularly pronounced in those cases where investigative judicial police or prosecutors have participated in their torture, or were present when it was administered. This sense is reinforced by the treatment victims report receiving when they try to register complaints. Many said they were made to wait hours, if not days, before being attended. Some authorities turned them away. In other cases, justice officials advised them not to report abuses, saying it would only create more problems for them. Not only does such treatment add to the violations already suffered by victims, but it also sends a clear message that authorities are not committed to thoroughly and impartially **investigating such cases. Victims' resolve is challenged, and many give up.**

This chronic underreporting is not limited to the crime of torture. The National Survey on Insecurity (*Encuesta Nacional Sobre Inseguridad*), a government poll, found that nearly 90% of victims of crimes in Mexico never report the crimes to authorities.¹³ Given the added disincentives to report torture noted above, it is reasonable to assume that the so-called **“cifra negra”**—or proportion of unreported cases—is even higher among torture victims than it is among victims of crime in general.

National and state human rights commission officials, justice officials, and human rights defenders across Mexico spoke of how fear and distrust is preventing victims from reporting the use of torture in counternarcotics operations. An official from the state human rights commission in Tabasco said that although they had seen **“a sharp rise in the frequency and the intensity of the techniques of torture,”** most victims decide: **“I’m not getting involved in trouble. Better that I keep quiet.”**¹⁴ The Chihuahua State Human Rights Commission’s special representative for Ciudad Juárez estimated that the 150 torture complaints against the military in Chihuahua that he received from March 2008 to September 2009 represented less than 10 percent of cases of torture committed by the military.¹⁵ Most victims, he said, were too afraid to report what had happened to them, and did not trust any authorities, including the commission. Alfonso Verde Cuenca—who directs the Civilian Security Council (*Consejo Ciudadano de Seguridad*), an official body in Monterrey, Nuevo León, charged with acting as an intermediary between citizens, security forces, and the government—**said that the majority of victims of torture did not report abuses “because**

¹³ Citizen Institute of Research on Insecurity (Instituto Ciudadano de Estudios sobre la Inseguridad), “National Survey on Victimization and the Perception of Public Security 2011” (*Encuesta Nacional de Victimización y Percepción sobre Seguridad Pública 2011*), http://www.inegi.org.mx/est/contenidos/espanol/metodologias/envipe/ENVIPE2011_Informe_operativo.pdf (accessed September 16, 2011).

¹⁴ Human Rights Watch interview with Sergio Arturo Avalos Magaña, Tabasco State Human Rights Commission, Villahermosa, Tabasco, July 5, 2010.

¹⁵ Human Rights Watch telephone interview with Gustavo de la Rosa Hickerson, Chihuahua State Human Rights Commission’s special representative for attending to victims in Ciudad Juárez, Ciudad Juárez, Chihuahua, April 15, 2011.

they don't want to get into trouble.”¹⁶ When asked if his office had received complaints of torture, a state prosecutor in Guerrero conceded, “We don't have any, because the victims are afraid.”¹⁷ Victor Clark, a human rights defender in Tijuana, Baja California, said that of the 13 families who reported cases of torture by the military to his organization over the previous year, not one had made a formal complaint for fear of reprisals.¹⁸

The lack of reporting of torture fosters a cycle of impunity. Victims don't report cases because they are afraid of repression and lack confidence in authorities. As a result, authorities are not held accountable, and continue to use such abusive tactics.

Complicity of Civilian Prosecutors and Judicial Investigative Police in Torture
Civilian prosecutors have a critical role to play in preventing torture. They must respect the absolute prohibition on torture and ill-treatment of detainees and suspects, and avoid any form of collaboration or acquiescence with security forces that use these tactics. They **must ensure that the detainees' due process rights are respected, and call** into question any evidence where there is reason to suspect it was obtained through abusive treatment. And in those cases where prosecutors suspect torture or other ill-treatment has occurred, they should take immediate action to investigate them thoroughly and impartially.

However, as the cases in this chapter demonstrate, Human Rights Watch research shows that prosecutors often fail to fulfill these responsibilities. Even worse, in several cases, victims said prosecutors were present while they were tortured, or used the threat of violence by security forces to pressure them into signing forced confessions. In other cases, prosecutors traveled to military bases or other illegal detention locations such as unofficial interrogation centers—where suspects should never be held and which, by their **nature, undermine the victim's ability to provide voluntary testimony without fear of** reprisals—to take victims confessions. In several cases, Human Rights Watch found evidence strongly suggesting that prosecutors copied and pasted false confessions from one criminal defendant to another.

For example, Tijuana municipal police officer **Ricardo Castellanos** was arbitrarily detained and taken to a military base on September 15, 2009, where he said he was beaten, asphyxiated, and given electric shocks while being questioned about his ties to organized

¹⁶ Human Rights Watch interview with Alfonso Verde Cuenca, Monterrey, Nuevo León, December 12, 2010.

¹⁷ Human Rights Watch interview with state prosecutor in Guerrero, Tlapa, Guerrero, September 2, 2010. The interviewee asked not to be identified out of concern for their safety.

¹⁸ Human Rights Watch interview with Victor Clark, Tijuana, Baja California, April 28, 2010.

crime. After roughly 18 hours, he was transferred to the federal prosecutor's office, where he was presented before a prosecutor and a public defender while several soldiers stood nearby. Asked to give a statement, Castellanos denied the allegations against him and reported the torture he had suffered at the hands of soldiers. When he finished, he said, the prosecutor handed him a small piece of paper featuring a list of names. Gesturing to the soldiers, the prosecutor said, "These guys told me that you were going to name all of these people."¹⁹ Castellanos interpreted the prosecutor's statement to mean the soldiers wanted him to accuse the people on the list in his confession, but he refused to revise his testimony. The following day, Castellanos said, soldiers removed him from his cell and dragged him to a room where they asphyxiated him and threatened to kill his family if he did not confess to the crimes they wanted. When he agreed to do whatever they wanted, he was brought before another prosecutor who said, "We're going to add to your declaration." As the soldiers who had tortured him looked on, Castellanos said, the prosecutor rewrote his confession, fabricating a false account that included the names from the list that had been presented to him the day before.²⁰

Allegations of use of torture and ill-treatment are particularly directed against judicial investigative police, who are in charge of carrying out investigations under the direction of prosecutors. While in theory these police are only supposed to act under the supervision of prosecutors, officials concede that prosecutors wield little control over them and that they often operate autonomously, assuming investigative powers far beyond their mandate, such as taking confessions.

For example, on October 10, 2009, investigative judicial police arrived in plainclothes at the home of indigenous woman **Flora Guevara Ortíz** in Metlatónoc, Guerrero. According to her account, they proceeded to search the home and interrogate her and her sons—ages 17, 12, 8, and 6—about a man whose name she did not recognize.²¹ **When one of Guevara's** sons, a minor, asked officers if they had a search warrant, two officers repeatedly punched him and hit him with rifles. When Guevara screamed for the officers to stop, they began to beat her too. She and her son were then forced into vehicles, where more police officers punched and kicked them repeatedly over a 30-minute drive to the police station. She said the officers threatened to kill her son if they did not provide them with information about a woman who had disappeared. **"We're going to finish off this asshole right here. We'll kill**

¹⁹ National Human Rights Commission, "Testimony of Mr. Ricardo Castellanos Hernandez" (Comparecencia del Señor Ricardo Castellanos Hernandez), January 28, 2010.

²⁰ Human Rights Watch interview with Ricardo Castellanos, Tijuana, Mexico, April 29, 2010. See also Federal Prosecutor's Office (Procuraduría General de la República), "Testimony of Ricardo Castellanos Hernández" (Comparecencia de Ricardo Castellanos Hernández), January 28, 2010.

²¹ Flora Guevara Ortíz, official complaint filed with Guerrero State Prosecutor's Office, December 18, 2009.

him and toss him aside because he doesn't want to talk," Guevara said the police officers threatened. "Either way, nobody will know [what happened]."²²

Since 1994 the Guerrero State Human Rights Commission has issued 47 separate recommendations in which it concluded that public officials committed torture, 42 of which involved the judicial investigative police.²³ The mayor of Huamuxtitlán, Guerrero, said that abuses by the judicial investigative police were so widespread that citizens had submitted a petition to her office in 2010 calling for the entire force to be disbanded.²⁴

In several cases, Human Rights Watch found evidence that justice officials conspired with security forces in fabricating false confessions from suspects. For example, **Nallely Thamara Lara Sosa** told Human Rights Watch that she was arbitrarily detained in June 2010 and taken to an illegal detention facility. Upon arriving, she said she was tortured and sexually assaulted by security officers to force her to falsely confess to collaborating in the murder of three women. She said her confession was written by justice officials who worked with her torturers, and that she was forced to sign it without reading it.

That Lara Sosa's confession was fabricated is supported by the fact that all four criminal defendants in the case offered near-identical confessions. While it is true that similarities in the accounts of accomplices is to be expected and in fact may constitute proof that they collaborated in committing a crime, the pro-forma, word-for-word repetition of insignificant details and the near-identical chronology across confessions strongly suggest that all four accounts were written by one source, not presented by the suspects, who allege they were forced to sign fabricated confessions.²⁵ The following are just a few of the passages that were repeated virtually verbatim in the confessions:

²² Ibid.

²³ Guerrero State Human Rights Commission, "Recomendaciones Related to Acts of Torture" (Recomendaciones por actos de Tortura), a list of recommendations issued by the state commission that determined officials had committed acts of torture, provided to Human Rights Watch in meeting, Chilpancingo, Guerrero, September 2, 2010 (on file with Human Rights Watch).

²⁴ Human Rights Watch interview with Soledad Romero Espinal, municipal president of Huamuxtitlán (presidenta municipal), Huamuxtitlán, Guerrero, August 31, 2010.

²⁵ Tabasco State Prosecutor's Office (Procuraduría General de Justicia del Estado de Tabasco), "Statement of the Accused, Jaime Uresty Juárez Alias El Cachibombo" (Declaración del Inculpado Jaime Uresty Juárez Alias El Cachibombo), AP-FECS-0126/2010, June 17, 2010; Tabasco State Prosecutor's Office, "Statement of the Accused, Isaias Arquimidez Ramos Hernández, Alias 'El Kiko' y/o 'El Pachuco'" (Declaración del Inculpado Isaias Arquimidez Ramos Hernandez Alias 'El Kiko' y/o 'El Pachuco'), AP-FECS-0126/2010, June 17, 2010; Tabasco State Prosecutor's Office, "Elaboration of Initial Statement of the Accused José Manuel Benitez Carballo, Alias El Carballo" (Ampliación de Declaración de Parte Inculpada José Manuel Benitez Carballo, Alias El Carballo), AP-FECS-0126/2010, June 17, 2010; Tabasco State Prosecutor's Office, "Statement of the Accused, Nallely Thamara Lara Sosa Alias Tammy" (Declaración del Inculpado Nallely Thamara Lara Sosa Alias Tammy), AP-FECS-0126/2010, June 18, 2010.

EXCERPTS FROM WRITTEN CONFESSIONS

	Jaime Uresty Juárez, “El Cachibombo” June 17, 3:52 p.m.	Isaías Arquímedes Ramos Hernández, “El Kiko” June 17, 2:20 p.m.	José Manuel Benítez Carballo, “El Carballo” June 17, 11:30 p.m.	Nallely Tamara Lara Sosa, “Tammy” June 17, 5:40 a.m.
said that:				
1	leaving me , in the truck	leaving us , in the truck	leaving [him or her] , in the truck,	leaving ‘el Carballo’ in the truck,
2	a bottle of 18 yr. Buchanas whiskey, a mineral water	a bottle of 18 yr. Buchanas whiskey, a mineral water	a bottle of 18 yr. Buchanas whiskey, a mineral water	a bottle of 18 yr. Buchanas whiskey, a mineral water
3	along with a Styrofoam cooler labeled ‘Oxxo’ and with ice inside	along with a Styrofoam cooler that [he] bought at ‘Oxxo’, and with only ice inside	alongside a Styrofoam cooler labeled ‘Oxxo’ and with ice inside	along with a Styrofoam cooler labeled ‘Oxxo’ and with ice inside
4	el Carballo gave his cell phone to Tamara so she would keep in contact with Dayra Itzmara	el Carballo gave his cell phone to Tamara so she would keep in contact with Dayra Itzmara	I gave my cell phone to Tamara so that when she was in contact with Dayra Itzmara	el Carballo gave me his cell phone [?] would be in contact with Dayra Itzmara
5	so el Meño, at this time passes me the steel dagger and says “it’s your turn”	then el Meño at this time passes the steel dagger to Cachibombo and tells him “it’s your turn”	so el Meño, at this time passes the steel dagger to Cachibombo and tells him “it’s your turn”	so el Meño, at this time passes the steel dagger to Cachibombo
6	was when el Meño took the steel dagger from me	was when el Meño took the steel dagger from me	was when el Meño took the steel dagger from him	was when el Meño took the steel dagger from Cachibombo
7	And [he] pulls Ivone by her hair, off the car, and drags her to the edge of the bridge where there was brush, and that’s when Meño, who had a steel dagger in his right hand, got there and began stabbing her in the chest, in the back, legs, without knowing how many since I saw that there were many stabs	And [he] pulls Ivone by her hair, off the car, and drags her to the edge of the bridge where there was brush, and that’s when Meño, who had a steel dagger in his right hand, got there and began stabbing her in the chest, in the back, legs, without knowing how many since I saw that there were many stabs	And I pulled Ivone by her hair, off the car, and dragged her to the edge of the bridge where there was brush, and that’s when Meño, who had a steel dagger in his right hand, got there and began stabbing her in the chest, in the back, legs, without knowing how many seeing that there were many stabs	And [he] pulls Ivone by her hair, off the car, and drags her to the edge of the bridge where there was brush, and that’s when Meño, who had a steel dagger in his right hand, got there and began stabbing her in the chest, in the back, legs, without knowing how many since I saw that there were many stabs
8	To which he shoves a sugar cane stake up her rectum	To which he shoves a sugar cane stake up her rectum	To which he shoves a sugar cane stake up her rectum	To which El Meño shoves a sugar cane stake up her rectum
9	And when he finished he drove another sugar cane stake into a wound on her lower back right above her buttocks	And at the end he drove another sugar cane stake into a wound on her lower back right above her buttocks	And when he finished he drove another sugar cane stake into a wound on her lower back right above her buttocks	And when he finished he drove another sugar cane stake into a wound on her lower back right above her buttocks
10	To which he undressed her and stabbed her vagina, giving her several stabs without knowing how many	To which he undressed her and stabbed her vagina, giving her several stabs without knowing how many	To which he undressed her and stabbed her vagina, giving her several stabs without knowing how many	To which he undressed her and stabbed her vagina, giving her several stabs without knowing how many
11	And Tamara, who is 1.60 meters tall, of 24 years of age, has long straight hair, light brown skin, small ears, small nose	And Tamara, who is 1.60 meters tall, of 24 years of age, has long straight hair, light brown skin, small ears, small nose	And Tamara, who is 1.60 meters tall, of 24 years of age, has long straight hair, light brown skin, small ears, small nose	

As the excerpts demonstrate, all of the defendants allege that Cachibombo repeatedly stabbed the victim, after which El Meno took the knife from him. However, the testimony of El Kiko differs in one key respect: after stating that Cachibombo stabbed the victim, El Kiko **says that that El Meno “took the knife away from me,”** implying that he had been holding the knife. This mix-up makes no sense in the context of El Kiko’s confession, given that Cachibombo was allegedly holding the knife. Rather, the error suggests that fabricators simply forgot to change text in a few select places as they copied the account from Cachibombo to El Kiko.

Complicity of Judges

Judges have a critical role to play in eliminating perverse incentives for torture: Mexican law requires them to bar as evidence at trial any confessions obtained through torture or other forms of ill-treatment. They also have an obligation to ensure that allegations of torture by criminal defendants and other victims are immediately reported to prosecutors, so that they can be investigated, or to directly order investigations in cases where there are signs of torture.

However, as the illustrative cases in this chapter illustrate, judges continue to admit as evidence statements and confessions that defendants allege were obtained through torture without insisting that the torture allegations be properly investigated. And they do so in the face of often significant inconsistencies in law enforcement officials’ accounts of detentions and evidence of due process violations. When suspects claim their confessions are forced, judges consistently put the burden of proof on them and their lawyers to demonstrate that they were abused, rather than obliging prosecutors and other justice **officials to show they obtained testimony without violating victims’ rights. Recognizing this** phenomenon in Mexico, the UN Subcommittee on Torture has reminded the government **that, “the State party bears the burden of proving that its agents and institutions have not committed acts of torture. Victims should not be expected to prove that torture has occurred, particularly as they may have been subjected to conditions that make it impossible to prove,”**²⁶ as is established in international human rights standards.

The use as evidence of statements allegedly obtained through coercion before victims are presented before a judge runs contrary to the Constitutional reforms passed in Mexico in 2008, which establish that all evidence be rendered directly before a judge. This practice

²⁶ UN Subcommittee on Prevention of Torture, Report on the Visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to Mexico, (Visit took place from August 27 to September 12, 2008) CAT/OP/MEX/1, May 31, 2010, http://www2.ohchr.org/english/bodies/cat/opcat/spt_visits.htm (accessed September 15, 2011), para. 39.

also clearly contradicts the Constitutional requirement that all evidence obtained through fundamental rights violations shall be null and void.²⁷ **Moreover, Mexico’s Supreme Court has directly ruled that any “illicit” evidence—or evidence obtained in breach of due process—should be given no probative weight in judicial proceedings:**

In the judgment of the Supreme Court, the right to due process—which is embedded in the guarantee of lawfulness protected by Article 14 of our Constitution—ensures the unalienable right to not be judged based on evidence whose procurement is found on the **fringes of constitutional and legal requirements...**

It can be concluded that forms of proof obtained through the violation of fundamental rights should not carry evidentiary weight. To concede value to such evidence would contradict the guarantee of the presumption of innocence, which entails that nobody can be judged guilty if the crime of which he is accused and his responsibility for it is not proven, circumstances that dictate that the evidence we use to prove such ends should be obtained in a legal manner.²⁸

For example, **Israel Arzate** said he was arbitrarily arrested by the military on February 3, 2010, in Ciudad Juárez and tortured for nearly two days to force him to confess to working for a cartel and acting as their lookout as they carried out a massacre. When brought before a judge on February 11, Arzate said he had been beaten, asphyxiated, given electric shocks, and threatened with death if he did not admit to crimes he did not commit.²⁹ Yet the judge admitted his confession without requesting any further inquiry.

One of the judge’s arguments for dismissing Arzate’s allegations was that the defendant’s confession was too detailed to have been forced, even though Arzate said he was told exactly what to say by his interrogators, and forced to record and re-record his confession seven times before they were satisfied. “It would be exceptionally uncanny,” the judge said, “for a person to invent a history that runs contrary to his own self-interest, describing with the level of detail the circumstances as evidenced in the case in question.”³⁰ In

²⁷ Constitution of Mexico (Constitución Política de los Estados Unidos Mexicanos), <http://www.diputados.gob.mx/LeyesBiblio/ref/cpeum.htm> (accessed October 21, 2011), art. 20.

²⁸ First Chamber of the Supreme Court of Mexico, “File of the Direct Criminal Amparo Trial 9/2008 (Caso Acteal),” October 28, 2009, as reproduced in amparo filed by Israel Arzate Meléndez before a district judge in Chihuahua, Case 136/2010, February 28, 2011. Amparo drafted by and provided to Human Rights Watch by Miguel Agustín Pro Juárez Human Rights Center.

²⁹ Untitled document in which Israel Arzate Meléndez files an Amparo before district judge in Ciudad Juárez, Chihuahua. case 136/2010, February 28, 2010. (On file with Human Rights Watch)

³⁰ DVD recording of arraignment hearing of case 10036/2010 against Israel Arzate Meléndez and Jose Dolores Chavarria held in chamber at state prison, Bravos Judicial District (Audiencia de vinculación a proceso dentro de la causa penal 10036/2010 en contra de Israel Arzate Meléndez and Jose Dolores Chavarria en el cesero estatal del Distrito Judicial Bravos), February 11, 2010 (on file with Human Rights Watch).

addition, the judge said the details of Arzate's confession aligned too closely with the confession of another defendant to have been falsified, arguing: "The maxims of experience teach us that two people who act with mendacity do not coincide with such precision." The judge neglected to mention that the other defendant also said he had been tortured before being forced to sign a confession.

The judge went on to argue that the suspect had willingly relinquished his right to remain silent in front of a public defender and prosecutor, despite the fact Arzate said he had been forced to confess. Finally, **the judge said that evidence of his alleged torture "is not found to be fully demonstrated," blaming the suspect's lawyer for having failed to** demonstrate coercion had taken place. The judge did not order that the Istanbul Protocol should be followed and Arzate should be assessed accordingly, despite his allegations of torture. (Later when the CNDH conducted its examination in accordance with the Istanbul Protocol, it concluded that he had in fact been tortured.)³¹

Not only did the judge dismiss Arzate's allegations that he had been tortured to confess, but the judge also ignored the victim's claim that he continued to be tortured while being held in preventive detention. In the hearing, Arzate told the judge that soldiers had taken him out of the prison where he was being held to threaten and torture him. He asked the judge who was responsible for approving these ongoing interrogations.³² The judge did not order any investigation into his claims, but told him to take up the issue with his lawyer, and ruled **that Arzate should continue to be held while the prosecutor's investigation continued.**

In August 2009, **17 municipal police from Huimanguillo, Tabasco** said they were arbitrarily arrested and subjected to asphyxiation, beatings, mock executions, waterboarding, and electric shocks to force them to confess to working for a drug cartel. Although medical and psychological exams documented serious injuries that were consistent with the abuses they alleged (such as extracted fingernails and post-traumatic stress),³³ and though the accused retracted their confessions in court, a judge concluded

³¹ National Human Rights Commission, Second Visitor, "Medical-Psychological Evaluation about Attention to Possible Victims of Ill-Treatment and/or Torture" (*Opinión Médico-Psicológica sobre Atención a Posibles Víctimas de Maltrato y/o Tortura*), April 15 and 16, 2010.

³² DVD recording of arraignment hearing of case 10036/2010 against Israel Arzate Meléndez and José Dolores Chavarría held in chamber at state prison, Bravos Judicial District (Audiencia de vinculación a proceso dentro de la causa penal 10036/2010 en contra de Israel Arzate Meléndez and José Dolores Chavarría en el ceseo estatal del Distrito Judicial Bravos), February 11, 2010 (on file with Human Rights Watch).

³³ Executive Branch of the State of Tabasco (Poder Ejecutivo del Estado de Tabasco), Special Prosecutor for Combating Kidnapping (Fiscalía especializada para combate al secuestro), "Record of Documents" (*Constancia de documentos*), AP-FECS-115/2009, August 23, 2009.

that the initial confessions were “made with clear conscience and freedom, without coercion or violence.”³⁴ In justifying his decision, the judge cited the so-called “principle of procedural immediacy” (*principio de inmediatez procesal*): he argued that “the initial confessions are the ones that should be assigned the most credit, because their temporal proximity to the events generally makes them truthful, as there is not sufficient time for the person producing them to reflect on the benefits of altering the facts.” This principle was rendered obsolete by Mexico’s 2008 constitutional reform. With respect to the long list of physical injuries exhibited by the defendants, the judge argued that they could have been sustained before or after their confessions—and did not necessarily imply they had been tortured to give confessions, as they claimed. The judge did not order any further inquiries be made into their allegations or recommend prosecutors open an investigation before formally charging them with involvement in organized crime and “inappropriate exercise of public power.”

Complicity of Medical Examiners

Medical exams that accurately record the physical condition of detainees are a key safeguard for preventing torture and are critical to ensuring that acts of torture are documented and punished.³⁵ The accuracy of such reviews is critical: a medical exam documenting physical injuries can corroborate a victim’s accounts of abuses, whereas one that shows no physical injuries may undercut such allegations. According to Mexico’s Federal Code of Criminal Procedure (*Código Federal de Procedimientos Penales*), the prosecutor’s office must prepare a “description of the detainee’s physical state” when a detainee is handed over, and the federal torture law establishes that “any detainee or prisoner” has a right to solicit an exam by a medical expert at any time.³⁶ However, Human Rights Watch examined several cases in which medical examiners apparently failed to document clear signs of torture.

Negligence and Omissions in Civilian Medical Exams

As the illustrative cases in this chapter demonstrate, detainees frequently report instances in which civilian medical experts have failed to document physical evidence of

³⁴ Judicial Branch of the State of Tabasco (Poder Judicial del Estado de Tabasco), Second Criminal Court of First Instance of the First Judicial District (Juzgado Segundo Penal de Primera Instancia del Primer Distrito Judicial), “Act of Constitutional Term” (Auto de Terminación Constitucional), September 2, 2009.

³⁵ Committee Against Torture, “Convention Against Torture And Other Cruel, Inhuman or Degrading Treatment or Punishment,” General Comment No 2, Implementation of article 2 by States Parties, CAT/C/GC/2/CRP. 1/Rev.4, http://www1.umn.edu/humanrts/cat/general_comments/cat-gencom2.html (accessed September 15, 2011).

³⁶ Federal Code of Criminal Procedure (Código Federal de Procedimientos Penales), <http://www.diputados.gob.mx/LeyesBiblio/pdf/7.pdf> (accessed September 16, 2011), art. 7.

mistreatment of detainees or downplay the severity of their injuries. Human Rights Watch found that the independence with which medical exams are conducted is often compromised by the presence of security officers during the exam. And even in those cases where experts document serious injuries, they often do not offer any conclusions as to what may have caused the injuries or request more comprehensive exams be conducted into possible instances of torture.³⁷

A major factor undercutting medical experts' independence is the fact that they often conduct their exams in the presence of law enforcement officers. The officers present may well be those responsible for having inflicted any injuries. In Chihuahua the form used by medical examiners working for the state prosecutor's office—known as the “Report on Physical Integrity” (*Informe de Integridad Física*)—contains a box that asks: “Person who accompanies [the suspect].”³⁸ In the space allotted, the medical examiner notes the law enforcement officer present for the exam and the security force to which he or she belongs, such as the Federal Police or Army. The Chihuahua State Prosecutor's Office told Human Rights Watch that it is common practice for security officers to be present for the medical exam. When asked whether this might compromise the integrity of the exam by intimidating the detainee or the medical examiner—such as by causing the victim to lie about how injuries were sustained, or discouraging the examiner from asking questions that might implicate the officer present—the deputy attorney general conceded that was a legitimate risk.³⁹ But he said the security officers' presence was necessary to ensure the safety of medical examiners.

The presence of security officers in such exams is contrary to the recommendation of the UN Subcommittee on Torture to the Mexican Government “that medical examinations be conducted in accordance with the principle of doctor-patient confidentiality: no one other

³⁷ This runs contrary to professional codes of practice for medical professionals, which provide duty-based ethical guidelines. In national and international codes of ethics for physicians, nurses, and pharmacists, the codes consistently establish the provider's first duty to protect patient welfare. See for example: Declaration of Geneva, World Medical Association G.A. Res. (1949), available at <http://www.wma.net/e/policy/c8.htm>. See generally Physicians for Human Rights, *Dual Loyalty and Human Rights in Health Professional Practice* (Washington DC: Physicians for Human Rights, 2003), available at <http://physiciansforhumanrights.org/library/report-dualloyalty-2006.html>. See also World Medical Association International Code of Ethics (1949), available at <http://www.wma.net/en/30publications/10policies/c8/index.html>.

³⁸ Chihuahua State Prosecutor's Office (Procuraduría General de Justicia de Chihuahua), *New Criminal Justice System of the State of Chihuahua* (Nuevo Sistema de Justicia Penal de Chihuahua), Crime and Forensic Sciences Laboratories (Laboratorios de Criminalística y Ciencias Forenses), Reports of Physical Integrity (*Informe de Integridad Física*) provided to Human Rights Watch. Human Rights Watch reviewed over 30 “physical integrity reports” from medical exams conducted between November 2009 to September 2010 (on file with Human Rights Watch).

³⁹ Human Rights Watch Interview with Alejandro Pariente Nuñez, Deputy Attorney General, Northern Zone, Chihuahua State Prosecutor's Office (Subprocurador de Justicia, Zona Norte, Procuraduría General de Justicia de Chihuahua), Ciudad Juárez, Chihuahua, September 29, 2010.

than medical personnel and the patient **should be present during the examination.**⁴⁰ Anticipating the argument used by the Chihuahua prosecutors, the subcommittee conceded that, **“In exceptional cases, if the doctor considers that a detained person poses a danger, special security measures, such as the presence of a police officer nearby, can be taken.”** However, the subcommittee added, **“Except in such situations, police officers should not be within hearing or sight of the place where the medical exam is performed.”**⁴¹

In addition, Human Rights Watch found that when victims’ physical condition suggested they had suffered ill-treatment, examiners downplayed the severity of their injuries or overlooked them altogether. In some cases, such assessments were contradicted by further exams conducted by independent medical experts hired by families or by examiners from the CNDH or state human rights commissions.

Another problem is medical examiners’ lack of structural independence. Located within prosecutors’ offices and hierarchically subjected to the authority of the attorneys general,⁴² they are vulnerable to pressure from investigators, who may push examiners to downplay injuries. Medical examiners told the UN Subcommittee on Torture **“that they frequently had to change the medical reports on express orders from staff of the attorney general’s office.”**⁴³

Such medical negligence was evident in the case of **Marcelo Laguarda**, who told Human Rights Watch that authorities tortured him to falsely confess that he hired a cartel member to kill someone. Laguarda said that the medical exam he received upon being handed over to prosecutors failed to record the severity of his injuries and that the doctor ignored him when he said he had been tortured.⁴⁴ **Laguarda’s parents had an independent medical specialist conduct a second medical exam while he was in detention.** The exam found that **he had injuries including “hemorrhagic markings in a linear formation,”** such as those produced by electric shocks, and serious bruising to his jaw, neck, thorax, and fingers of both hands—injuries consistent with the torture he said he suffered.

⁴⁰ UN Subcommittee on Prevention of Torture, Report on the Visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to Mexico, CAT/OP/MEX/1, http://www2.ohchr.org/english/bodies/cat/opcat/spt_visits.htm (accessed September 15, 2011), para. 133.

⁴¹ Ibid.

⁴² For an example of the medical examiners lack of structural independence, see the Law of the Federal Prosecutor’s Office (Ley Orgánica de la Procuraduría General de la República), Federal Prosecutor’s Office, 2009, <http://www.diputados.gob.mx/LeyesBiblio/pdf/LOPGR.pdf>, art. 9.

⁴³ Ibid, para. 91.

⁴⁴ Dr. Jose Luís Cárdenas, “Results of Medical Exam” (Dictamen Medico), October 4, 2010 in CEDHNL, Segunda Visitaduría General, untitled file containing documents related to Marcelo Laguarda Davila’s case, CEDH/389/2010.

Evidence of downgrading can also be found in medical experts' assessment of the severity of injuries. Most medical forms feature a category called "classification of injuries," in which the examiner is asked to estimate the period of time it will take the detainee to recuperate from injuries, including such choices as: whether the injuries pose an imminent risk to the subject's life and whether the subject's healing process will take more than 60 days, between 15 and 60 days, or less than 15 days. In virtually every one of the scores of medical forms Human Rights Watch reviewed in cases of likely torture, examiners concluded that the injuries would take less than 15 days to heal, regardless of the seriousness of the victim's injuries. This was true even in cases where the suspect had to be sent to a hospital for emergency treatment or even died in custody, most likely as a result of the physical injuries suffered.

For example, on May 13, 2010, **six municipal police officers from Cárdenas, Tabasco**, were arbitrarily arrested and tortured by fellow police with the aim of eliciting confessions **that they worked with drug cartels. A doctor from the state prosecutor's office examined the six officers after their interrogations and found that four of the six detainees were "healthy and had no recent visible external signs of injury."**⁴⁵ However, medical exams conducted on those same four officers days later found they all exhibited serious injuries. The officers and their families told Human Rights Watch that the injuries were inflicted before their first exam, but that medical examiners had deliberately overlooked them.⁴⁶ The initial exam of **one detainee, for instance, observed "an area of edema" on the stomach, which "becomes aggravated when pressure is applied,"**⁴⁷ but concluded the injury was not serious. Nevertheless, shortly after that exam was conducted, the detainee had to be rushed to the hospital for an emergency operation. He had been beaten so severely that he was suffering internal bleeding, and part of his intestines had to be removed.⁴⁸

Even in those cases where medical examiners determine that victims present significant injuries, medical forms do not ask doctors to deduce how such injuries may have been sustained or whether victims may have been abused. Nor is there a clear mechanism

⁴⁵ Tabasco State Prosecutor's Office (Procuraduría General de Justicia del Estado de Tabasco), Forensic Medical Service Directorate (Dirección General del Servicio Médico Forense), untitled documents containing the results of the medical exams for Luís Ceballos Domínguez, Carlos Mario Hernández May, Jose Santos Hernández Meneses, and Genaro Mendoza Aguilar, 1045/2010, AP-FECS-130/2010.

⁴⁶ Human Rights Watch interview with Juan Jose Jiménez Barahona at CRESET, Villahermosa, Tabasco, July 3, 2010 and family members, July 4, 2010; Human Rights Watch interview with relatives of five of the six police officers, Cárdenas, Tabasco, July 3, 2010. The interviewees asked not to be identified out of concern for their safety.

⁴⁷ Tabasco State Prosecutor's Office, Forensic Medical Service Directorate (Dirección General del Servicio Médico Forense), document containing the results of Juan José Jiménez Barahona's medical exam, 1045/2010, AP-FECS-130/2010, May 13, 2010.

⁴⁸ Tabasco State Prosecutor's office, "Initial Declaration of the Accused Juan José Jiménez Barahona" (Declaración Preparatoria del Inculpado Juan José Jiménez Barahona), May 19, 2010.

through which a medical examiner can anonymously request a more thorough medical exam be applied. For example, the Army detained **four civilians in Rosarito, Baja California**, on June 16, 2009, accusing them of being kidnappers. The four were transported to a military base, where they said they were beaten, waterboarded, and asphyxiated, among other forms of torture, to force them to give false confessions. The mother of two of the victims—herself a nurse—visited them on June 20 and said they **exhibited a range of injuries. One’s jaw was so badly injured from beatings that he could not speak**, she said; the other was missing several toenails, which he said had been extracted during the interrogation. Both had scarred wrists and hematomas all over their bodies.⁴⁹ In an exam administered the next day, a medical expert from the federal **prosecutor’s office found serious injuries in all four civilians. In one case, for instance, the expert recorded the following injuries:**

Presents ecchymosis of a red coloring, 7.0 by 6.0 cm on the right malar region; pain at movement of the left temporomandibular joint; scab crust of 4.0 by 5.0 cm on the front of the right forearm; multiple dry melicerica crusts, linear, parallel to one another, the biggest 3 cm and the smallest .5 cm, on the front of the left forearm; ecchymosis of a green coloring, 7.0 by 5.0 cm on the right flank; scab crusts of .5 cm on the right elbow, ecchymosis of a red coloring of 5.0 cm on the left renal cavity; ecchymosis of a violet coloring, 5.0 by 4.0 cm on the back of the right thigh; pain at the touch of both thigh muscles; upon inspection, observed hyperemia of the left tympanic membrane.⁵⁰

Yet despite documenting these **various “injuries characteristic of external trauma” in all four civilians**—which were serious enough for the expert to recommend follow-up medical exams for each of the detainees—the expert still concluded the injuries would take less than 15 days to heal.⁵¹ **What’s more, despite strong physical evidence suggesting a pattern of abuse**, at no point did the examiner raise the question of how these injuries were sustained or call for further investigation into possible mistreatment.

⁴⁹ Human Rights Watch interview with María Isabél Reyna Martínez González, mother of Rodrigo and Ramiro Ramírez Martínez, Tijuana, Mexico, April 29, 2010.

⁵⁰ Federal Prosecutor’s Office, Baja California State Delegation (Delegación Estatal en Baja California), Office of State Experts (Coordinación Estatal de Servicios Periciales), Expertise in Forensic Medicine (Especialidad en Medicina Forense), 07386, AP/PGR/BC/TII/1577/09/M-V, “Results of Forensic Medical Exam” (Dictamen en material de medicina forense), June 21, 2009.

⁵¹ Ibid.

Negligence and Omissions in Military Medical Exams

The downgrading and omission of serious injuries is particularly pronounced among medical examiners in the military justice system, a problem that has been highlighted by the National Human Rights Commission.

Former commission president José Luis Soberanes raised this issue in testimony before **Mexico's Senate in July 2009: "When someone is detained and tortured, normally [the detainee is] certified by a military doctor, and generally the exams from the military doctors say the [detainees] had no injuries...So, it is a repeated practice of military doctors—certifying that there was no torture."**⁵²

Human Rights Watch conducted an in-depth review of 74 cases in which the National Human Rights Commission determined the Army had committed acts of torture or cruel, inhuman, or degrading treatment against civilians. In at least 25 of these cases, Human Rights Watch found, the commission found that military medical experts had failed to conduct thorough and impartial medical examinations of detainees who had suffered serious abuses at the hands of soldiers.

For example, in April 2008 the military arbitrarily detained **three civilians in Villa Ahumada, Chihuahua**, and transported them to a military base, where they told the National Human Rights Commission they were held incommunicado for over 24 hours, **beaten, given electric shocks, and asphyxiated with plastic bags, "with the purpose of making them confess to their participation in various unlawful activities."**⁵³ The commission found that the **military medical examiner's exam significantly downplayed the victims' injuries and failed to draw any conclusion as to how they had been sustained. The commission found this demonstrated an "act of omission" (*actitud omisa*) on the part of the examiners:**

[W]ho with the purpose of covering up for the likely offenders did not record in a precise manner the injuries evidenced by the detainees; on the contrary, it minimized them, and without giving any justification, failed to make any mention of their nature, the time they would take to heal, or any

⁵² Senate of Mexico, Office of Social Communication, "Transcript of Meeting with José Luis Soberanes, President of the National Human Rights Commission" (Versión estenográfica de la reunión de trabajo con el C. José Luis Soberanes, presidente de la CNDH), July 14, 2009, http://comunicacion.senado.gob.mx/index.php?option=com_content&task=view&id=10871&Itemid=1 (accessed September 15, 2011).

⁵³ National Human Rights Commission, Recommendation 59/2009, September 18, 2009, <http://www.cndh.org.mx/sites/all/fuentes/documentos/Recomendaciones/2009/059.html> (accessed September 15, 2011).

other detail that would reveal the historical and legal truth behind what happened—a position markedly contradicted by the examinations rendered, **separately, by the expert from the Federal Prosecutor’s Office** who reviewed the investigation and experts from this national commission.⁵⁴

Similarly, in October 2008, the Army arbitrarily detained **four civilians in Ojinaga, Chihuahua, and transported them to a military base, where soldiers tortured them “with the aim of making them confess to their participation in various unlawful activities.”**⁵⁵ Soldiers tied down two of the victims and forced wooden sticks into their rectums. However, as the National Human Rights Commission noted in its investigation, the military medical expert who examined the victims:

abstained from describing the injuries the detainees exhibited on their bodies as a result of the physical suffering to which they were subjected, and in such conduct not only passively participated in the event, but also **violated the second chapter of the Istanbul Protocol, titled “Relevant Ethical Codes,” which examines the fundamental duty of always acting in the best interests of the patient... In this sense, it does not go unnoticed** that when the doctors do not bring their actions into line with the relevant ethical codes, by neglecting to provide medical attention, record injuries, or, in a given case, send the detainees to specialists to provide psychological attention, and do not report or worse cover up [the abuses by] other public servants, they do not comply with the fundamental principle that establishes the legal duty to always act in the best interest of the patient, and their actions foster impunity, because one of the crucial pieces of evidence to prove acts of torture are medical exams.⁵⁶

Failures of Prosecutors to Investigate Cases of Torture

Investigating and prosecuting allegations of torture is critical to combating impunity and preventing torture. Yet Human Rights Watch research found that prosecutors routinely fail **to conduct investigations when victims’ testimony or other evidence suggests that torture** or cruel, inhuman, or degrading treatment may have taken place. Prosecutors rarely follow the Istanbul Protocol, which sets out the proper procedure for the assessment of

⁵⁴ Ibid.

⁵⁵ National Human Rights Commission, Recommendation 70/2009, October 27, 2009, <http://www.cndh.org.mx/sites/all/fuentes/documentos/Recomendaciones/2009/070.html> (accessed September 15, 2011).

⁵⁶ Ibid.

allegations of torture, including appropriate physical and psychological medical evaluation, documentation and investigation. Nor do they critically examine, or effectively coordinate, the evidence produced by medical examiners, judicial investigative police, crime scene investigators, and other experts under their command whose efforts are essential to prosecuting officials who commit abuses.

Instead, civilian and military prosecutors repeatedly classify potential cases of torture as **lesser crimes such as “injuries” (lesiones), or minor bodily harm, without actually investigating the victims’ allegations. They also fail to take steps critical to any credible investigation, such as interviewing victims and preserving crucial forensic evidence. Rather than looking into victims’ allegations, prosecutors too often dismiss them as cynical ploys to evade punishment.** The result is that use of torture is not punished and abusive state officials continue to use abusive tactics. Of the cases of torture documented at the outset of this chapter, not a single one resulted in a state official being prosecuted for mistreatment. Indeed, in many of the cases, despite formal complaints and compelling evidence of torture, prosecutors never even opened investigations in response to the allegations of mistreatment.

Failure of Officials from the Federal and State Prosecutors’ Offices to Follow the Istanbul Protocol

Federal and state justice officials rarely follow the Istanbul Protocol, depriving prosecutors both of a key tool for evaluating the claims of alleged torture victims and of potentially decisive evidence against officials who commit abuses.

In August 2003 Mexico became the first country in the world to incorporate into domestic law the Istanbul Protocol, a set of guidelines developed by experts and endorsed by the United Nations on how to evaluate and investigate allegations of torture.⁵⁷ The Istanbul Protocol sets out how a physical and psychological assessment of a potential victim, carried out by trained, independent experts, can play an important role in preventing and punishing torture.⁵⁸ In adopting the protocol, Mexico committed to train experts to conduct

⁵⁷ Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“Istanbul Protocol”), August 9, 1999.

⁵⁸ It is important to note that the application of an expert examination following the guidelines of the Istanbul Protocol does not in itself constitute a comprehensive investigation into an alleged case of torture, but rather must be used in conjunction with other investigative techniques. Nor does a negative result in the assessment made pursuant to the protocol necessarily mean that a victim has not suffered torture. In the words of the UN Subcommittee on Torture, “medical examinations conducted in accordance with the Istanbul Protocol are rarely enough to prove torture. Complaints of torture or other ill-treatment cannot and should not be turned around and used against the complainants, employing forensic medical opinions issued in accordance with the Istanbul Protocol to charge them with making false accusations.”

effective and appropriate examinations and to follow the protocol in suspected cases of torture.⁵⁹ The Federal Prosecutor's Office signed an agreement outlining a "Specialized Medical/Psychological Exam for Cases of Possible Torture or Mistreatment" (*Dictamen Médico/Psicológico Especializado para Casos de Posible Tortura y/o Maltrato*) based on the protocol's guidelines, to be carried out by experts from the prosecutor's office.⁶⁰

The Mexican government has repeatedly pointed to its progress in training officials at the federal and state level in how to conduct examinations in line with the protocol,⁶¹ and the federal prosecutor's office informed Human Rights Watch that it has developed an examination procedure, "whose application allows for the expert investigation of cases of possible physical or psychological torture, or a combination of the two, and/or ill-treatment."⁶²

In practice however, Human Rights Watch found that eight years after adopting the protocol, state officials do not follow it, or do so inconsistently and, in some cases, incorrectly. Prosecutors, public defenders, and judges lack a basic understanding of what it means to perform a medical and psychological exam in line with the Istanbul Protocol and how the exam should be used to effectively investigate and prosecute torture. For instance, numerous prosecutors we interviewed were unaware that the Istanbul Protocol stipulates that a psychological assessment should be conducted as well as a physical one. Officials also offered erroneous views as to when the protocol should be followed—with some suggesting, for example, that victims explicitly have to request it as a special

⁵⁹ Federal Prosecutor's Office (Procuraduría General de la República), "End of Torture, Istanbul Protocol" (Fin a la Tortura, Protocolo de Estambul), <http://www.pgr.gob.mx/combate%20a%20la%20delincuencia/combate%20a%20la%20corrupcion/derechos%20humanos/Protocolo%20Estambul/fin%20a%20la%20tortura%20protocolo%20estambul.asp> (accessed September 15, 2011).

⁶⁰ Agreement A/057/2003 (Acuerdo No. A/057/2003), Federal Prosecutor's Office (Procuraduría General de la República), August 18, 2003, http://www.pgr.gob.mx/normatec/Documentos/ACUERDO%20A-057-03%20_675_.pdf (accessed October 23, 2011).

⁶¹ UN Human Rights Council, Working Group on the Universal Periodic Review, National Report Submitted in Accordance with Paragraph 15 (a) of the Annex to Human Rights Council Resolution 5/1*, A/HRC/WG.6/4/MEX/1, November 10, 2008, http://lib.ohchr.org/HRBodies/UPR/Documents/Session4/MX/A_HRC_WG6_4_MEX_1_E.PDF (accessed September 16, 2011), para. 53 and 55. The Mexican government wrote to the Working Group on the Universal Periodic Review, "To date, officials in 29 federal entities have been trained in the use of the medical/psychological certificate, while 3 states are in the process of training civil servants of the offices of the government procurator in applying the Istanbul Protocol." The government also reported, "by 2007 the Ministry of Defence had provided training to 702 persons, including lawyers, surgeons, dentists and psychologists, through 20 courses on specialist medical examination of victims of torture."

⁶² Email from Jorge Cruz Becerra, Director of Relations with International Human Rights Bodies (Director de Cooperación con Organismos Internacionales de Derechos Humanos), Federal Prosecutor's Office (Procuraduría General de la República), to Human Rights Watch, May 31, 2011. Attached to the email was document number (oficio no.) SJAI/CAIA/DGCI/0755/2011, signed by Yessica De Lamadrid Téllez, Director of International Relations Division (Directora General de Cooperación Internacional), Federal Prosecutor's Office, on May 19, 2011, in which De Lamadrid provided responses to information requests submitted by Human Rights Watch in February 2011.

procedure. And public officials offered conflicting views regarding which body is responsible for ensuring that the protocol is used to investigate allegations of torture: some said the duty fell to human rights commissions, while others said it was the responsibility of prosecutors.

As a result, the Istanbul Protocol is only implemented in a small fraction of the cases in **which civilians allege torture. The Federal Prosecutor's Office**—which is responsible for investigating cases of alleged abuses committed by federal officials against civilians, including the military and federal police—said it followed the guidelines set out in the protocol in 149 cases from 2006 to 2010. In 35 of those cases, the investigators concluded that there was evidence that federal officials had used torture on the victims.⁶³ Of those 35 cases, **only five investigations remain open (“en proceso”) and only a single case has resulted in officers being convicted for torture, officials from the Federal Prosecutor's Office told Human Rights Watch. In the remaining 29 cases, officials said, the investigations “did not lead to charges.”**⁶⁴

Interviews with federal prosecutors in various states revealed that officials do not systematically follow the protocol when they receive allegations of torture. For example, federal prosecutors in Baja California said they were unaware of a single case in which exams had been carried out as required by the protocol. When Human Rights Watch cited cases in which victims had informed a judge and prosecutors that they had been tortured by the Army—such as the case of **25 police officers who filed formal complaints alleging they had been tortured**, and even testified to the alleged abuses in a hearing before the Inter-American Commission⁶⁵—and asked why the procedure set out in the protocol had **not been applied, prosecutors responded that “The protocol was not requested and thus was not applied.”**⁶⁶ Similarly, federal prosecutors in Nuevo León acknowledged that they had never used the protocol, in spite of having opened 74 investigations into alleged abuses by federal officials in 2010 alone.⁶⁷

⁶³ Ibid.

⁶⁴ Human Rights Watch interview with Yessica De Lamadrid Téllez, Director of International Relations Division, Federal Prosecutor's Office, Mexico City, February 23, 2010.

⁶⁵ Inter-American Commission on Human Rights, “Public Security and Human Rights in Tijuana, Mexico,” Audio testimony before the Commission's 137th Regular Period of Sessions, Washington, DC, November 5, 2009, <http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=En&Session=117&page=2> (accessed October 10, 2010).

⁶⁶ Human Rights Watch interview with three representatives of the state delegation of the Federal Prosecutor's Office (Procuraduría General de la República) in Tijuana, Baja California, April 28, 2010.

⁶⁷ Human Rights Watch interview with Cuauhtémoc Villarreal Martínez, state delegation of the Federal Prosecutor's Office, Monterrey, Nuevo León, December 9, 2010. See also email from Cuauhtémoc Villarreal Martínez, to Human Rights Watch, December 13, 2010. The email included a power point presentation with statistics of investigations by federal prosecutors in Nuevo León in 2010 (on file with Human Rights Watch).

The failure by state prosecutors' offices to follow the protocol is happening in the face of an increasing number of complaints of torture and other forms of cruel, inhuman, or degrading treatment. According to formal information requests submitted by Human Rights Watch and interviews with state prosecutors:

- **In Baja California, the state prosecutor's office has never applied an exam following the protocol.**⁶⁸
- **In Chihuahua, the state prosecutor's office said it had followed the protocol six times since 2007.** The office did not respond to questions regarding the outcome of the process, or whether criminal investigations were opened as a result or whether any officials had been charged or convicted.⁶⁹
- **In Guerrero, the state prosecutor's office has never conducted exams using the guidelines set out by the protocol.** It said medical experts conducted one "torture exam" since 2007. When asked about the results of this exam, the office said "it did not know the results of the expert investigation."⁷⁰
- **In Nuevo León, the state prosecutor's office said it had applied the guidelines of the protocol five times from 2008 to 2010.**⁷¹ During this period, no officials were charged with torture.
- **In Tabasco, the state prosecutor's office rejected information requests inquiring about investigations into torture.**⁷²

That the Istanbul Protocol is so rarely invoked and followed helps explain why so few investigations into torture are opened, and why officials are rarely, identified as responsible for torture, and then held accountable for such acts. Were federal and state prosecutors to follow the process set out in the protocol consistently when faced with allegations of torture, they would be able to identify patterns of abuse, as well as to document and preserve critical evidence to hold officials accountable. The consistent failure to follow the protocol suggests widespread and deep-seated resistance to taking

⁶⁸ Baja California State Prosecutor's Office, response to information request 06526 submitted by Human Rights Watch on April 4, 2011, Folio UCT-06526, April 25, 2011.

⁶⁹ Chihuahua State Prosecutor's Office, response to information request 016092011 submitted by Human Rights Watch on April 4, 2011, Folio UIFGE-I-151-2011 016092011, June 27, 2011.

⁷⁰ Guerrero State Prosecutor's Office, response to information request 00009811 submitted by Human Rights Watch on April 13, 2011, received via email on August 9, 2011 (on file with Human Rights Watch).

⁷¹ Email from Mayela Quiroga Tamez, Director for Human Rights, Nuevo León State Prosecutor's Office, to Human Rights Watch in response to an information request submitted by Human Right Watch on December 17, 2010, February 9, 2011.

⁷² Human Rights Watch submitted four information requests to the Tabasco State Prosecutor's office on April 4, 2011. All four were rejected on technical grounds on April 11, 2011. After consulting with staff from the Institute of Transparency and Access to Public Information of the State of Guerrero Human Rights Watch submitted eleven new information requests on April 25, 2011. All eleven were rejected on technical grounds on May 25, 2011.

allegations of torture seriously, which in turn protects abusive public officials and fosters impunity.

Failure of Civilian Prosecutors to Investigate Allegations of Torture

Prosecutors' failure to investigate torture is reflected in the low number of criminal prosecutions for torture in Mexico, which stands in stark contrast to the high incidence of torture described by officials from human rights commissions, victims' groups, and human rights defenders. According to information obtained through public information requests and interviews with state prosecutors:

- In Baja California, only two investigations into torture have been opened since 2007—**one in 2008 and another in 2010. The state prosecutor's office did not respond to questions regarding whether these investigations had resulted in officials being charged or sentenced.**⁷³ During the same period, the Baja California Human Rights Commission received 66 complaints of torture and 353 of infliction of injuries.
- In Chihuahua, only three investigations into torture were opened between January 2007 and March 31, 2011—two in 2009 and one in 2010. Of these three investigations, **one was “temporarily archived” (“archivo temporal”) and the other two were closed after finding no crime had been committed.**⁷⁴ The Chihuahua Human Rights Commission's special representative in Ciudad Juárez said that he received approximately 150 complaints of torture between March 2008 and September 2009 just in the city of Ciudad Juárez, all of which were passed along to the Chihuahua State Prosecutor's Office.⁷⁵
- In Guerrero, no investigations into torture were opened from 2007 to 2010.⁷⁶ During the same period, the Guerrero Human Rights Commission received 52 complaints of torture; 41 of cruel, inhuman, or degrading treatment; and 275 of infliction of injuries.
- In Nuevo León, no investigations into torture were opened from 2008 to 2010, **according to the prosecutor's office.**⁷⁷ During the same period, the Nuevo León Human Rights Commission received 98 complaints of torture and 548 of infliction of injuries.

⁷³ Baja California State Prosecutor's Office, response to information request 06526 submitted by Human Rights Watch on April 4, 2011, Folio UCT-06526, April 25, 2011.

⁷⁴ Chihuahua State Prosecutor's Office, response to information request 016092011 submitted by Human Rights Watch on April 4, 2011, UIFGE-I-15102011 016092011, the response is dated April 27, 2011 but was not sent via email until June 27, 2011.

⁷⁵ Human Rights Watch Interview with Gustavo de la Rosa Hickerson, the Chihuahua State Human Rights Commission's special representative for attending to victims in Ciudad Juárez, Ciudad Juárez, Chihuahua, April 1, 2011.

⁷⁶ Guerrero State Prosecutor's Office, response to information request 00009811 submitted by Human Rights Watch on April 13, 2011, received via email on August 9, 2011.

⁷⁷ Email from Mayela Quiroga Tamez, Director for Human Rights, Nuevo León State Prosecutor's Office, to Human Rights Watch in response to an information request submitted by Human Right Watch on December 17, 2010, February 9, 2011.

- **In Tabasco, the state prosecutor’s office rejected information requests inquiring about investigations into torture.**⁷⁸ A Tabasco state prosecutor said only one officer had been subject to an administrative investigation for torture in 2008 and he was dismissed from his job.⁷⁹ From 2007 to June 2010, the Tabasco Human Rights Commission received 159 complaints of torture and 386 of infliction of injuries.

In none of the cases of torture documented by Human Rights Watch in the five states surveyed for this report was a single public official convicted for torture, according to information provided by officials to Human Rights Watch.

Prosecutors’ Preemptive Dismissal of Torture Allegations as False

Although federal and state prosecutors acknowledged in interviews that complaints of torture are common, they argued that criminals often fabricated such claims to try to escape punishment. If this argument were based on impartial and effective investigations into allegations of torture that concluded the allegations were unsubstantiated, it could be justified. But in an environment where justice officials do not follow the Istanbul Protocol and do not conduct other fundamental investigative steps in response to allegations of torture, such statements reveal flagrant disregard for the most basic obligations required of the absolute prohibition on torture and respect for the rule of law.

For example, a federal prosecutor in Tijuana, Baja California told Human Rights Watch that **“90 percent of the criminals say they were tortured and that they are innocent. That is false. The only one who lies in an investigation is the defendant.”**⁸⁰ The chief of the special prosecutor’s unit for organized crime in Tabasco said that, **after giving their initial confessions voluntarily, all suspects fabricate stories of torture: “Once they have their attorneys present, they deny their declaration and say they were tortured.”**⁸¹ When another official from the Tabasco prosecutor’s office was asked about eight in-depth investigations by the Tabasco State Human Rights Commission that concluded that investigative judicial police had committed grave abuses—including torturing detainees to force them to

⁷⁸ Human Rights Watch submitted four information requests to the Tabasco State Prosecutor’s office on April 4, 2011. All four were rejected on technical grounds on April 11, 2011. After consulting with staff from the Institute of Transparency and Access to Public Information of the State of Guerrero Human Rights Watch submitted eleven new information requests on April 25, 2011. All eleven were rejected on technical grounds on May 25, 2011.

⁷⁹ Human Rights Watch interview with Sergio Arturo Avalos Magaña, Tabasco State Human Rights Commission, Villahermosa, Tabasco, July 5, 2010.

⁸⁰ Human Rights Watch interview with representatives of the Federal Prosecutor’s Office, Baja California delegation, Tijuana, Baja California, April 28, 2010.

⁸¹ Human Rights Watch interview with Carlos Alberto Santiago Hernández, Deputy Prosecutor for Incidents and Social Impact (Subprocurador de Eventos e Impacto Social), Tabasco State Prosecutor’s Office, Villahermosa, Tabasco, July 7, 2010.

confess—he dismissed them as “minimal” in comparison to the hundreds of arrests carried out by police. “It’s a question of technicalities and conflicting interpretations of the Criminal Code with the [state human rights] commission,” he said of cases where officials had allegedly waterboarded, asphyxiated, and shocked detainees with electric current.⁸²

Civilian Prosecutors’ Downgrading of Torture

One of the main reasons prosecutors do not investigate cases of torture is that they classify the abuses that have taken place as a less serious offense. Across all five states surveyed, Human Rights Watch found that whilst there was a the high incidence of complaints of crimes such as “injuries” (*lesiones*) and “abuse of authority,” on the other hand, there was a very low incidence of formal complaints of torture and cruel, inhuman, or degrading treatment. For example, the government of Nuevo León reported more than 700 complaints of abuse of authority committed by officials since 2008.⁸³ **The prosecutor’s office said that, from 2008 to 2010, it had opened only four criminal investigations into abuse of authority, and 12 into “injuries” inflicted by public officials.**⁸⁴ During the same period, authorities allege not to have received a single complaint of torture, and said that had not opened a single investigation into a case of torture.⁸⁵ **Nor was the prosecutor’s office able to provide information as to whether any public officials had been convicted in these cases.** When asked how they determined whether abuses alleged by victims rose to the level of torture, state prosecutors gave vague and inconsistent answers that suggested the absence of any criteria.

It is true that not all cases of physical and mental abuse may rise to the level of torture. And Human Rights Watch does not claim to have been able to individually review the thousands of complaints classified as lesser abuses to determine whether they in fact were accurately defined or masked more serious human rights violations. Yet as the cases in this chapter show, and as the inconsistent implementation of the Istanbul Protocol at the state and federal level demonstrates, prosecutors are not investigating the vast

⁸² Manasés Silvín Olán, Deputy Prosecutor for Criminal Prosecutions (Subprocurador de Procesos Penales), Tabasco State Prosecutor’s Office, as quoted in “Torturers in the State Prosecutor’s Office: State Human Rights Commission Alleges Barbaric Acts” (Torturadores en PGJ: CEDH; acusan de barbarie), *Tabasco Hoy*, April 8, 2009, http://www.tabascohoy.com/noticia.php?id_notia=172809 (accessed September 15, 2011).

⁸³ Nuevo León State Prosecutor’s Office, “Criminal Incidence” (Incidencia Delictiva), http://www.nl.gob.mx/pics/pages/pgj_est_base/TotalDelito.xls (accessed October 23, 2011). The chart lists numbers of complaints of crimes received by the state prosecutor’s office, broken down by year and abuse. The total complaints of abuse of authority were: 261 in 2008; 142 in 2009; 175 in 2010; and 126 from January to September 2011.

⁸⁴ Email from Mayela Quiroga Tamez, Director for Human Rights, Nuevo León State Prosecutor’s Office, to Human Rights Watch in response to an information request submitted by Human Right Watch on December 17, 2010, February 9, 2011.

⁸⁵ *Ibid.*

majority of allegations of torture and other forms of cruel, inhuman, or degrading treatment. When they act at all, prosecutors too often classify acts of torture as less serious offenses.

Not only does the classification of acts of torture as less serious offenses conceal the depth of a grave problem, but less serious offenses are subject to a different method of **investigation. Offenses such as “abuse of authority” are often** treated as administrative transgressions to be investigated by internal affairs bodies, rather than as crimes to be investigated by prosecutors. This practice is a violation of the Inter-American Convention to Prevent and Punish Torture, which obligates **Mexico to establish “penalties that are commensurate with the seriousness of the offense, so that torture is not put on the same level as offenses such as injury,”** a point made by the UN Subcommittee on Torture when it called on Mexico to ensure that **“investigation processes do not lead to the classification of torture as a lesser offense.”**⁸⁶

Military Prosecutors’ Downgrading of Torture

The practice of downgrading the severity of accusations of torture is particularly pronounced in the military justice system. Human Rights Watch examined numerous cases which were investigated by both the National Human Rights Commission and in the military justice system. In particular, we analyzed 74 cases where the commission found the Army had committed torture or cruel, inhuman, or degrading treatment. In roughly two-thirds of the cases—51 out of 74 cases—we found that acts of torture or cruel, inhuman, or degrading treatment documented by the commission were classified by military justice officials as less serious crimes such as **“assault” or “abuse of authority.”**

These cases include that of **José Fausto Gálvez Munguía**, who was arbitrarily detained by the military in Sonora in June 2007.⁸⁷ Gálvez told the commission he was subjected to “kicks to the ribs, the pulling of hair, punches to the face, the dragging of his body along the ground; he was forced to drink alcohol that induced vomiting; the insertion of pieces of wood into his feet and under his nails, which were shifted around to make him suffer; the extraction of a nail and his subsequent abandonment in a field in an unconscious state...

⁸⁶ UN Subcommittee on Prevention of Torture, Report on the Visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to Mexico, CAT/OP/MEX/1, http://www2.ohchr.org/english/bodies/cat/opcat/spt_visits.htm (accessed September 15, 2011), para. 40; Inter-American Convention to Prevent and Punish Torture, OAS Treaty Series No. 67, entered into force February 28, 1987, ratified by Mexico on February 11, 1987, arts. 1, 6; Inter-American Convention on Forced Disappearance of Persons, 33 I.L.M. 1429 (1994), entered into force March 28, 1996, ratified by Mexico on February 28, 2002, art. 1.

⁸⁷ National Human Rights Commission, Recommendation 29/2008, July 11, 2009, <http://www.cndh.org.mx/sites/all/fuentes/documentos/Recomendaciones/2008/029.html> (accessed September 16, 2011).

— all of which constitute acts of torture."⁸⁸ Independent medical exams verified Gálvez bore physical wounds that corroborated his description of abuse. Nevertheless, military prosecutors are investigating soldiers for the "injuries" in Gálvez's case, rather than torture.⁸⁹ No soldier has yet been charged in the case.⁹⁰

The cases also include that of a **civilian who was detained arbitrarily by the military in Michoacán** in September 2008.⁹¹ According to testimony the victim gave the National Human Rights Commission, soldiers:

...used a handkerchief to cover his eyes, removed his shirt; then they placed a plastic bag over his head that impeded his breathing; they covered his head with a shirt, held him face up and poured water on him; they hit him with a whip and stabbed a nail into the sole of his foot; one soldier held him from behind while another punched him in the ribs, then they sat him down, dressed him and loaded him onto a truck where they threw him face down and covered him completely with a blanket, beating his body throughout the journey. Upon arrival at the military barracks in Morelia, they removed his blindfold and covered his face with a cloth bag and continued beating and threatening him until he fainted. When he recovered consciousness the soldiers continued the abuse to make him confess to his participation in various illegal acts.⁹²

Medical exams conducted by the commission and prison medical experts documented physical wounds corroborating the victim's description of abuse. Yet despite credible evidence of torture, military prosecutors classified the incident as a case of "abuse of authority." **In July 2010, military prosecutors closed their investigation into the case, "by virtue of the fact that it was not proven that military personnel had caused injuries to the detainee."**⁹³

⁸⁸ Ibid.

⁸⁹ SEDENA, "Statistics of the Military Personnel Charged and Convicted for Human Rights Violations during the Current Administration" (Cifras de los militares procesados y sentenciados vinculados con violaciones a los derechos humanos, durante la presente administración), http://www.sedena.gob.mx/images/stories/imagenes/SERVICIOS/DRECHOS_HUMANOS/PROCESADOS__Y_SENTENCIADOS.pdf (accessed October 19, 2011).

⁹⁰ Ibid.

⁹¹ CNDH, Recommendation 38/2009, June 15, 2009, <http://www.cndh.org.mx/sites/all/fuentes/documentos/Recomendaciones/2009/038.html> (accessed September 15, 2011).

⁹² Ibid.

⁹³ SEDENA, "Statistics of the Military Personnel Charged and Convicted for Human Rights Violations during the Current Administration" (Cifras de los militares procesados y sentenciados vinculados con violaciones a los derechos humanos, durante la presente administración),

Given the opacity of the military justice system with respect to investigations, it is impossible to know how many of the overall number of the cases of **alleged “injuries” and “abuse of authority”** investigated by military prosecutors are in fact cases of torture. **Nonetheless, given the pattern of downgrading torture revealed in Human Rights Watch’s analysis of the National Human Rights Commission’s recommendations and the accompanying military investigations, it is reasonable to assume that a significant number of torture cases are classified as less serious incidents.** This is particularly alarming given the high number of investigations opened in the military justice system into such lesser offenses. Across the five states surveyed for this report, military prosecutors opened **more than 1,500 investigations into “abuse of authority” and “injuries” committed by the Army** against civilians since 2007, compared to only 30 investigations into the crime of torture, according to information obtained by Human Rights Watch through a public information request. These include:

- In Baja California: 24 investigations into torture, 16 investigations into “injuries” and 116 into “abuse of authority.”
- In Chihuahua: 2 investigations into torture, 1 investigation into “violence against people,” 13 investigations into “injuries,” and 880 into “abuse of authority.”
- In Guerrero: 2 investigations into “injuries” and 241 into “abuse of authority.”
- In Nuevo León: 3 investigations into torture, 4 investigations into “injuries,” and 196 into “abuse of authority.”
- In Tabasco: 1 investigation into “injuries” and 44 investigations into “abuse of authority.”⁹⁴

In over 1,500 investigations across the five states surveyed for this report—including both those into **“torture”** and those into lesser abuses such as **“abuse of authority”**—not one soldier has been convicted in the military justice system, according to information provided by the Army.⁹⁵

Illegal Detentions and Torture

Acts of torture and cruel, inhuman, and degrading treatment go hand in glove with illegal detentions. In a pattern that manifested itself across the five states surveyed by Human

http://www.sedena.gob.mx/images/stories/imagenes/SERVICIOS/DRECHOS_HUMANOS/PROCESADOS__Y_SENTENCIADOS.pdf (accessed October 19, 2011).

⁹⁴ SEDENA, response to information request 0000700066911 submitted by Human Rights Watch on April 18, 2011. Human Rights Watch received a partial response on May 3, 2011, for which we submitted a follow-up request on June 27, 2011, and received a response from SEDENA, 0000700203322, on July 5, 2011.

⁹⁵ Ibid.

Rights Watch, suspects are detained arbitrarily, often under the pretext of being caught in the act of committing a crime (*in flagrante* or *en flagrancia*). Then, in the hours or days between their arrest and being handed over to prosecutors, detainees are effectively “disappeared.” They are held incommunicado and denied access to lawyers and their families—often on military bases, in police stations, or illegal detention facilities. It is during this period that detainees are often tortured to obtain information and forced confessions—confessions which often serve to justify their arbitrary arrests.

Abuse of the “Flagrancia” Exception

Mexico’s constitution requires authorities to obtain a court order before carrying out searches and arrests.⁹⁶ For an arrest warrant to be issued, the prosecutor who solicits it must show a judge that evidence of a crime exists, that the suspect is linked to the crime, and that information supports the suspect’s probable culpability. Once the suspect has been arrested, he or she must be presented before a judge “without any delay.”⁹⁷ There are two exceptions to the requirement that a judicial warrant be obtained before detaining a suspect: cases of “urgency,” in which there is a “founded risk that a suspect will avoid justice” for a “serious” crime; or when a criminal is caught *in flagrante delicto*, in the act of committing a crime (*detención por flagrancia*, in Mexican law).⁹⁸

The Constitution defines the circumstances that justify a *flagrancia* detention as follows: “Any person can arrest the suspect in the moment that he is committing a crime or immediately after having committed it.”⁹⁹ While federal law explicitly empowers police to carry out *flagrancia* arrests,¹⁰⁰ it also places responsibilities on officials when they exercise that power. Suspects must be registered immediately with state or federal prosecutors,¹⁰¹ who must, in turn, present suspects before a judge within 48 hours or else release them.¹⁰² Failure to do so constitutes a criminal offense. (In cases involving organized crime, the maximum time period between registration with the prosecutor and appearing before the

⁹⁶ Constitution of Mexico (Constitución Política de los Estados Unidos Mexicanos), <http://www.diputados.gob.mx/LeyesBiblio/pdf/1.pdf> (accessed September 16, 2011), art. 16.

⁹⁷ Ibid.

⁹⁸ Ibid.

⁹⁹ Ibid.

¹⁰⁰ Federal Code of Criminal Procedure (Código Federal de Procedimientos Penales), <http://www.diputados.gob.mx/LeyesBiblio/pdf/7.pdf> (accessed September 16, 2011), art 3.

¹⁰¹ Ibid, art. 193.

¹⁰² Ibid, art. 194 Bis.

judge can be doubled to 96 hours.¹⁰³) Once the suspect is charged and turned over to a judge, the judge must certify that the arrest was legal and, if not, release the detainee.¹⁰⁴

Human Rights Watch found strong evidence that both law enforcement officers and the military use an overly broad interpretation of *flagrancia* to carry out thousands of arbitrary arrests, and in some cases fabricate false accounts or plant evidence to justify such illegal arrests. Authorities use an overly broad—and in many cases manifestly absurd—**interpretation of what constitutes the time period “immediately after” a crime to carry out *flagrancia* arrests, extending it to days or weeks after crimes have been committed.** To justify such arrests, they often point to ambiguous, subjective signs that neither tie **suspects to specific crimes nor merit immediate detention, such as “suspicious” behavior.** In a well-established pattern, security forces detain suspects without court orders, claiming to have caught them in the act of committing a crime or engaging in suspect behavior; then they use torture and other forms of ill-treatment to obtain confessions in which victims not **only admit to crimes, but also validate officials’ false accounts of *flagrancia* detentions.**

The National Human Rights Commission affirmed this pattern in a general recommendation it issued in August 2011 on the **“frequent” practice of illegal searches by the military, police, and state and federal justice officials “in the development of the fight against crime.”**¹⁰⁵ In particular, the commission highlighted the use of *fake flagrancia* (*la flagrancia simulada*) as a **“modus operandi** of the public officials and the military all around the country.” According to the commission: **“it commonly happens that people are arrested during patrols on the grounds of their suspicious attitude and/or nervous behavior, or when officials claim to have caught someone in the act of committing a crime while conducting a routine search.”** Following such arrests, the commission said, authorities **“justify their actions *a posteriori* based on the fact that they found information or objects inside the home that allowed them to presume the commission of a crime.”**

For example, **Adrián Pérez Ríos** said in testimony to a judge that he was at his girlfriend’s apartment in Ciudad Juárez, Chihuahua, on July 9, 2010, when federal police arrived and arbitrarily detained him. Though he offered no resistance, Pérez said, he was brutally beaten by six officers.¹⁰⁶ **“While they were beating me they asked me where my gun was, if I**

¹⁰³ Constitution of Mexico (Constitución Política de los Estados Unidos Mexicanos), <http://www.diputados.gob.mx/LeyesBiblio/pdf/1.pdf> (accessed September 16, 2011) art. 16.

¹⁰⁴ Ibid.

¹⁰⁵ CNDH, General Recommendation 19, August 5, 2011.

¹⁰⁶ State Investigative Agency (Agencia Estatal de Investigación), “Interview” (Acta de Entrevista), July 10, 2010, Chihuahua State Prosecutor’s Office (Procuraduría General de Justicia del Estado de Chihuahua), Special Unit for Crimes against

was the guy who killed federal agents, and where the others were,” Pérez said. His girlfriend verified his account, telling the judge he had been at home all night, and that police had raided her apartment without search orders.¹⁰⁷ He was taken to a police station, where he said he was beaten until he agreed to confess to crimes he did not commit. The arrest report filed by federal police, in contrast, alleged that they had detained Pérez in *flagrancia* as he fled from a location where he had picked up extortion money, which they said they found on him at the time of arrest.¹⁰⁸ (Pérez said the money was planted on him by officers.) A judge dismissed the charges against Pérez, citing the failure of prosecutors to present evidence against him besides his confession, which the suspect said was obtained through torture.¹⁰⁹

Eliud Naranjo Gómez—33, a municipal police officer—told Human Rights Watch he was detained at 8:45 a.m. on November 9, 2009, when approximately 15 to 20 police and military officers stormed his home in Huimanguillo, Tabasco. Security forces beat Naranjo in front of his wife, son, and father-in-law, he said, then blindfolded him, loaded him into an unmarked car, and drove off—an account that was corroborated by his wife and father-in-law.¹¹⁰ From there, he said, he was taken to an unknown location where he was tortured until he agreed to confess to working with organized crime. Yet police reports claimed Naranjo Gómez was detained that morning *en flagrancia* at a checkpoint near Cárdenas, Tabasco. Police alleged they saw him tailing a police convoy in a “suspicious” way and that, after being detained, Naranjo spontaneously confessed to working as an informant for organized crime¹¹¹—an account he later said he was forced to sign under torture. Naranjo has challenged the charges against him on the grounds that he was arbitrarily

Personal Freedom (Unidad Especializada en Delitos Contra la Libertad Personal), “Police Investigation File” (Carpeta de Investigación Policial).

¹⁰⁷ Chihuahua State Prosecutor’s Office, Special Unit for the Attention to the Crime of Kidnapping (Unidad Modelo en Atención al Delito de Secuestro), “Testimonial Declaration of Diana Flores Quezada,” July 10, 2010, as reproduced in Chihuahua State Prosecutor’s Office (Procuraduría General de Justicia del Estado de Chihuahua), Special Unit for Crimes against Personal Freedom (Unidad Especializada en Delitos Contra la Libertad Personal), “Police Investigation File” (Carpeta de Investigación Policial).

¹⁰⁸ Ministry of Public Security (Secretaría de Seguridad Pública), Federal Police (Policía Federal), “Narrative Record of the Facts” (Acta Narrativa de los Hechos), July 9, 2010, in Chihuahua Prosecutor’s Office, Special Unit for Crimes against Personal Freedom, “Police Investigation File.” HechosHec

¹⁰⁹ Human Rights Watch interview with prosecutors in Chihuahua State Prosecutor’s Office, Ciudad Juárez, September 29, 2010.

¹¹⁰ Human Rights Watch interview with Eliud Naranjo Gómez, Villahermosa, Tabasco, July 4, 2010.

¹¹¹ Ministry of Public Security of the State of Tabasco (Secretaría de Seguridad Pública del Estado de Tabasco), Ministerial Police Directorate (Dirección de Policía Ministerial del Estado), “Detainees, Vehicles, and Objects are turned over” (Se ponen a disposición detenidos, y vehículos, y objetos), November 9, 2009, as reproduced in Judicial Branch of the State of Tabasco (Poder Judicial del Estado de Tabasco), Fourth Penal Court of the Judicial District del Centro (Juzgado Cuarto Penal del Distrito Judicial del Centro), “Original File Number: 190/2009” (Exp. Original Num: 190/2011).

detained and tortured to produce a false confession, but he remains in prison awaiting a decision on his appeal.¹¹²

The abuse of *flagrancia* detentions has been exacerbated by legislative reforms at the state level, which allow for an overly broad interpretation of what constitutes the **“immediate” aftermath of a crime in which such arrests can be carried out. For example, a reform approved in Chihuahua in January 2010 defined the “immediate” aftermath of a crime as: “the time lapse understood between the time of the execution of the crime and the arrest, which can take minutes, hours or even days, depending on the circumstances of the case, if and when there has been no suspension of the police investigation likely to lead to the location and detention of the probable actor.”**¹¹³ In Nuevo León, the Criminal Procedural Code stipulates that a *flagrancia* detention may be carried out up to 60 hours after the alleged crime has been committed.¹¹⁴

Together with the low threshold of evidence required to tie suspects to crimes, the expansive definition of *flagrancia* in laws such as Chihuahua’s and Nuevo León’s gives security forces broad discretion to carry out arrests without court orders. Of this practice, the UN Subcommittee on Torture wrote to Mexico: **“This assumption of flagrancy is excessive in terms of the time that is allowed to elapse and is incompatible with the principle of presumption of innocence and the legal requirement for a lawful arrest warrant.”**¹¹⁵

Such vague laws and the abuse of *flagrancia* by security forces undermine critical safeguards put in place by Mexico’s 2008 justice reform, which was intended to reduce arbitrary arrests and forced confessions. In the words of Mexican constitutional experts Carlos Ríos Espinosa and Daniel González Álvarez, legislation like Chihuahua’s allows the most pernicious practices of the inquisitorial justice system to return **“through the back door...Voiding all of the principles of the prosecutorial process. It allows for the**

¹¹² Human Rights Watch interview with Cesar Ramírez, lawyer at the time for Naranjo Gómez, Villahermosa, Tabasco, July 2, 2010; Human Rights Watch telephone interview with Cesar Ramírez, Villahermosa, Tabasco, July 21, 2011.

¹¹³ Government of the State of Chihuahua, Pamphlet Annexed to the Official Legislative Record (Folleto Anexo al Periodico Oficial), January 30, 2010.

¹¹⁴ Criminal Procedural Code for the State of Nuevo León (Código Procesal Penal para el Estado de Nuevo León), http://sg.nl.gob.mx/Transparencia_2009/Archivos/AC_0001_0002_0070911-0000001.pdf (accessed September 16, 2011), art. 174.

¹¹⁵ UN Subcommittee on Prevention of Torture, Report on the Visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to Mexico, CAT/OP/MEX/1, http://www2.ohchr.org/english/bodies/cat/opcat/spt_visits.htm (accessed September 15, 2011), para. 133.

overlapping of the investigation and the trial, which is inherent in the inquisitorial procedural models.”¹¹⁶

Widespread “Flagrancia” Arrests by the Military and Expanding Investigative Duties

The illegal use of *flagrancia* arrests is particularly pronounced among the military. The Army detained 31,251 people in counternarcotics operations from December 2006 to April 2011. All **31,251 of these individuals were allegedly detained in *flagrancia***, according to a response by the Army to a public information request submitted by Human Rights Watch.¹¹⁷ (The military was unable to provide records for how many of these detainees were eventually charged with crimes or sentenced.¹¹⁸) Since that time, soldiers have detained **thousands more people. At the time of writing, the Army’s website said it had detained nearly 38,000 individuals from December 2006 to September 2011.**¹¹⁹ **Based on the Army’s** previous response to Human Rights Watch, it is reasonable to assume that all of these individuals were allegedly detained in *flagrancia*.

In most of the cases documented by Human Rights Watch, military reports justified *flagrancia* arrests by claiming soldiers were responding to anonymous tips and complaints by civilians, which arrived via telephone numbers and email addresses set up by the military. Such channels of communication are common in the states where the military is deployed in counternarcotics operations—including Chihuahua, Guerrero, Nuevo León, and Baja California—and allow citizens to communicate directly with local military bases. The military advertises these lines in local newspapers and public flyers, and military authorities promote them in interviews and press conferences.

It is not clear, given the opacity of the military’s decision-making structure, what criteria authorities on military bases use in deciding whether to dispatch soldiers to respond to such complaints and tips. And the military does not make public the numbers of complaints and tips it receives. What is clear, however, is that the military does not seek judicial authorization when responding to such information. Civilian authorities across the

¹¹⁶ Carlos Ríos Espinosa and Daniel González Álvarez, “The Counterreform of January 30, 2010 in Chihuahua State: New Incentives for Torture” (La contrarreforma procesal penal del 30 de enero de 2010 en el Estado de Chihuahua: Nuevos incentivos para la tortura), http://presunciondeinocencia.org.mx/images/download/reforma_procesal_%20penal_chihuahua_2010.pdf (accessed September 16, 2011).

¹¹⁷ SEDENA, response to public information request 0000700066811 submitted by Human Rights Watch on April 25, 2011, received a partial response on June 16, 2011.

¹¹⁸ *Ibid.*

¹¹⁹ SEDENA, “Combat of Narcotrafficking: Detainees” (Combate al Narcotráfico: Detenidos), <http://www.sedena.gob.mx/index.php/actividades/combate-al-narcotrafico/3276-detenidos> (accessed October 24, 2011).

five states surveyed in this report—including mayors and police chiefs, judges and prosecutors—told Human Rights Watch that the military rarely consults with them before undertaking such operations, which often result in *flagrancia* detentions. That the military is independently soliciting these tips and responding to them without civilian oversight or judicial authorization represents a significant and largely unappreciated expansion of its role in everyday public security operations.

For example, in a public letter to Baja California’s Attorney General, the then-ranking general of Mexico’s Second Military Region (which encompasses Tijuana and other parts of Baja California), General Sergio Aponte Polito, acknowledged the role such complaints play in the expanded public security efforts of the military. Aponte Polito said his base had received approximately 2,000 anonymous civilian complaints from 2007 to April 2008,¹²⁰ and that soldiers had responded by assuming a robust investigative role—a power Mexico’s laws reserve for prosecutors and investigative judicial police. Polito wrote:

Notwithstanding that according to the Mexican Constitution, the job of investigating crimes, pursuing criminals, and collecting evidence against suspects corresponds to other government agencies—principally to the one that you [as Attorney General of the state prosecutor’s office] represent—I wish to inform you that during *flagrancia* arrests soldiers have made under my command, and through information obtained from suspects at the moment they were detained in *flagrancia*, evidence has emerged that makes clear the lines of investigation we should follow to fight crime.¹²¹

Few military authorities have publicly acknowledged this expanded role as explicitly as Aponte Polito did in this letter. Yet the cases we reviewed and interviews we conducted for this report, together with the tens of thousands of *flagrancia* arrests conducted by the military, suggest that military response to civilian complaints (that arrive via the special telephone numbers and email addresses set up by the Army and Navy) has become the rule rather than the exception in the states where the military is widely deployed. And it **helps explain, in part, why the military’s expanded role in public security efforts has** correlated with a significant increase in complaints by civilians of human rights violations committed by soldiers.

¹²⁰ Public Letter by General Sergio Aponte Polito, Commander of Second Military Region, to Rommel Moreno Manjarrez, Baja California State Attorney General, as published in *El Universal*, April 23, 2008, <http://www.eluniversal.com.mx/notas/501268.html> (accessed September 15, 2011).

¹²¹ *Ibid.*

For example, the military raided a bar in Ciudad Juárez on February 20, 2010, at approximately 2 a.m. Although they did not present search or arrest warrants, soldiers separated the men and women in the bar, photographed them, and detained **three civilians**. The detainees were beaten, blindfolded, and loaded into military vehicles.¹²² They were driven to a location where they were stripped naked and subjected to various forms of torture, including asphyxiation with plastic bags, electric shocks, beatings, and death threats, until they agreed to confess to working for a cartel. Soldiers claimed that they had raided the bar in response to an anonymous tip, which alleged that two members of **“La Linea” drug cartel were there**. Upon arriving, the military said, two men whose **characteristics matched the informant’s description fled the scene, and were apprehended *en flagrancia***.¹²³ However, citing five witnesses’ accounts corroborating the victims’ testimony, medical exams showing physical evidence of torture, and the dearth of proof offered by the military, a judge concluded the detainees were innocent, that the military’s account had been fabricated, and that the suspects had likely been tortured.

In another case, at approximately 1 a.m. on June 11, 2008, soldiers entered the home of **Jesus Torrijos Barrón** in Ciudad Juárez, Chihuahua, without search or arrest orders, ransacked his home, stole \$1,800 pesos, and detained him, according to a complaint his wife filed with the Chihuahua State Human Rights Commission.¹²⁴ **Torrijos’s wife provided the commission with cell phone video footage from 2:38 a.m. on June 11, which showed the vandalized state of their home after the raid. Although Torrijos’s arbitrary detention was carried out on June 11, the Army claimed it arrested Torrijos *in flagrancia* on June 14—three days later. In a report, soldiers said they approached Torrijos on the street and saw him throw a plastic bag on the ground, which contained marijuana, then arrested him on the spot.**¹²⁵ **Torrijos was charged with “crimes against health” and “possession with intent to sell drugs,”**¹²⁶ but when the case went to trial, the evidence presented by his wife and documentation of his earlier arrest revealed clear inconsistencies in the military’s account. According to a representative of the Chihuahua State Human Rights Commission, Torrijos was released in September 2008 when a judge dismissed the charges against him based on those inconsistencies; nonetheless, the judge did not order an investigation into the

¹²² DVD recording of arraignment hearing of case 238/2010 against Jesús Armando Acosta Guerrero and Víctor Manuel Ávila Vázquez, held in the First Chamber of the Bravos Judicial District (Audiencia de Garantía dentro de la causa penal 238/2010 en contra de Jesús Armando Acosta Guerrero y Víctor Manuel Ávila Vázquez en la Primera Sala del Distrito Federal Bravos), February 24, 2010 (on file with Human Rights Watch). The defendants were accused of attempted homicide (homicidio en grado de tentativa). DVD provided to Human Rights Watch by the Chihuahua State Public Defender’s Office.

¹²³ Ibid.

¹²⁴ Chihuahua State Human Rights Commission, complaint filed by Yolanda Hernández, June 17, 2008.

¹²⁵ Federal Judicial Branch (Poder Judicial de la Federación), Fifth District Court in the State of Chihuahua (Juzgado Quinto de Distrito en el Estado de Chihuahua), “Case 78/2008-v-9” (Término 78/2008-v-9), June 18, 2008.

¹²⁶ Ibid.

crimes Torrijos said soldiers had committed, nor did prosecutors open one.¹²⁷ However, prosecutors said no investigation had been opened into the likely torture suffered by Torrijos.

Transitory Enforced Disappearances

Mexican law requires **security forces to transfer detainees “without delay” to the prosecutor’s office.** However, in case after case Human Rights Watch found that security forces held suspects for hours or days before handing them over to prosecutors. During the time between when they are arrested and handed over to prosecutors, detainees are effectively disappeared: there is often no record of their detention (in part because many arrests are allegedly in *flagrancia*); their families are not informed of their whereabouts; authorities deny having them in their possession; and detainees are denied access to lawyers or any other outside contacts—all of which leave them more vulnerable to abuse and coercion. When detainees are eventually turned over to prosecutors, security forces often fail to account for the long periods of time detainees are held, or else falsify the time of detentions to make it appear as though the victim was detained at a later time.

Families and human rights defenders who searched for victims during the period they were being held incommunicado told Human Rights Watch that authorities consistently denied having the detainees in their custody. Instead, officials directed families from one civilian authority or security force to another. With federal, state, municipal, transit, and judicial investigative police; the Army and Navy; and federal and state prosecutors all carrying out detentions, families often find themselves engaged in a Kafkaesque search through a seemingly infinite number of possible detention locations. In many of the cases documented in this report, evidence shows that the authorities deliberately lied to families about not having suspects in their custody during this incommunicado period.

It is during this interval of time that victims are most often subjected to torture, research by Human Rights Watch found. Victims described being driven around in vehicles, as well as taken to military bases, police stations, and other off-site detention facilities, where they were interrogated and subjected to abuse. In many of these instances, victims did not even know who their captors were or where they were being held, adding to their feelings of helplessness and vulnerability.

¹²⁷ Human Rights Watch Interview with Gustavo de la Rosa Hickerson, the Chihuahua State Human Rights Commission’s special representative for attending to victims in Ciudad Juárez, Ciudad Juárez, Chihuahua, April 1, 2011.

More than **25 victims in five different cases in Tabasco** described a near identical pattern of arbitrary detention and torture in the period between when they were arrested and handed over to state prosecutors. Victims said they were detained without an arrest warrant, blindfolded, and loaded into unmarked vehicles by armed, masked men who did not identify themselves. In transit, the victims said they were beaten and interrogated about their ties to organized crime. All of them described being taken to a location where they were led up one set of stairs, turned, and then led up another set of stairs, suggesting the use of the same location as an interrogation center. Then, victims told Human Rights Watch, they were taken to a waiting room where other detainees were also being held, from which they were extracted one by one for interrogation.

The victims in Tabasco described the same torture tactics used by their interrogators: suffocation with plastic bags, beatings, electric shocks, and waterboarding.¹²⁸ Several of the victims said their captors threatened to kill them if they did not confess, with victims in three separate cases who did not know one another reporting interrogators using the same **threat before beginning to torture them: “We’re going to make you sing.”** During their incommunicado detention, which lasted from several hours to a week, victims were not allowed access to lawyers, and their families did not know where they were being held. All said they were tortured until they rendered false confessions; in several cases, they said, prosecutors and even public defenders worked in concert with police who carried out torture. The pattern of abuse across these cases strongly suggests that the incidents described were not isolated acts, but rather a practice followed by law enforcement officials before handing detainees over to prosecutors, who official police reports obtained by Human Rights Watch showed had carried out the arrests.

This practice is particularly pronounced among the military. Soldiers routinely bring suspects they have detained to military bases, where they are interrogated, according to victims, human rights defenders, officials from the national and state human rights commissions, and public defenders. For example, in Chihuahua, where the Army took a central role in public security operations (particularly from 2008 to 2010), the National Human Rights Commission has issued more than 20 recommendations documenting grave abuses by the military against civilians. In fourteen of these cases, the commission found detainees had been unlawfully transferred to military bases where they were subjected to coercive interrogations.¹²⁹

¹²⁸ See, for example, “Illegal Detention, Torture and Sexual Assault of a Civilian, Cárdenas, Tabasco.”

¹²⁹ For examples see National Human Rights Commission, Recommendations 28/2009, 54/2009, 70/2009, 50/2010, and 52/2010, <http://www.cndh.org.mx/node/32>.

One of these recommendations was in the case of **Juan Ramón Durán Robles and José Guadalupe Rivas González, who were detained without arrest or search orders in Durán’s** home on March 30, 2008. According to testimony given to the commission, the victims were beaten and questioned about trafficking drugs and arms before being transported to a military base, where they were held incommunicado for approximately 70 hours. There, they were subjected to torture including beatings, forced asphyxiation, and death threats in order to force them to confess to participating in illegal activities. Gonzalez was given electric shocks so many times to his foot that one of his toes had to be amputated.¹³⁰ After soldiers had obtained forced confessions from both men, they handed the detainees over to prosecutors.

A public defender in Chihuahua told Human Rights Watch that it was common practice for the military to transport detainees to bases and interrogate them, often with the tacit **approval of prosecutors. “The state prosecutor says to us, ‘Look, we have someone [in custody] but for security reasons—in case there is a shootout, an attempted escape, et cetera—he has to be held on the military base.’ That should happen every once in a while—holding someone on the military base. But all of the detainees?”** In Baja California, a representative of the National Human Rights Commission told Human Rights Watch that she had carried out approximately 20 visits to military bases in the state in 2008 and 2009. On every one of her visits, she said, she witnessed civilian detainees being held in military custody, nearly all of whom displayed visible external injuries.¹³¹

International Obligations to Prevent and Punish Torture

International human rights law categorically prohibits torture, as well as cruel, inhuman, or degrading treatment. This prohibition is included in article 7 of the International Covenant on Civil and Political Rights (ICCPR)¹³² and article 5 of the American Convention on Human Rights.¹³³ Mexico has also assumed the responsibility to prevent and punish torture by ratifying the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) in 1986,¹³⁴ as well as the Inter-American Convention to Prevent and

¹³⁰ National Human Rights Commission, Recommendation 55/2009, <http://www.cndh.org.mx/sites/all/fuentes/documentos/Recomendaciones/2009/055.html> (accessed September 15, 2011).

¹³¹ Human Rights Watch interview with Gabriella Navarro, Director of Tijuana Office of National Human Rights Commission, Tijuana, Baja California, April 29, 2010.

¹³² International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976.

¹³³ *Ibid.*

¹³⁴ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), adopted December 10, 1984, G.A. res. 39/46, annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984), entered into force June 26, 1987.

Punish Torture in 1987.¹³⁵ In April 2005, Mexico ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which gives jurisdiction to the UN Subcommittee on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to conduct in-country visits.¹³⁶

Domestic Obligations to Prevent and Punish Torture

The ICCPR, CAT, and other main human rights treaties require Mexico to adopt domestic legislation to meet treaty standards on preventing and punishing acts of torture and ill-treatment.

Mexico's Federal Law for the Prevention and Punishment of Torture, passed in 1991, makes it a federal crime to practice torture and establishes that no confession or information obtained through the use of torture can be used as evidence at trial.¹³⁷ The law also establishes that any official who knows of acts of torture and fails to report it is guilty of a crime.¹³⁸ However, according to article 1, the law only applies to federal courts and trials in Mexico City.

In June 2008, Mexico passed a constitutional reform aimed at transforming the justice system from an inquisitorial model—in which most evidence is presented in writing, out of public view—to an adversarial system where the prosecution and defense present competing arguments in oral trials. The reform included several changes aimed at eliminating the practice of torture, most important among them:

- Only evidence presented in a public, oral proceeding should be considered admissible;¹³⁹
- all defendants are presumed innocent;¹⁴⁰ and
- any evidence obtained through torture or other ill-treatment is inadmissible.¹⁴¹

¹³⁵ Inter-American Convention to Prevent and Punish Torture, O.A.S. Treaty Series No. 67, entered into force February 28, 1987, ratified by Mexico on February 11, 1987, arts. 1, 6. Inter-American Convention on Forced Disappearance of Persons, 33 I.L.M. 1429 (1994), entered into force March 28, 1996, ratified by Mexico on February 28, 2002, art. 1.

¹³⁶ Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), adopted December 18, 2002, G.A. res. A/RES/57/199, [reprinted in 42 I.L.M. 26 (2003)], entered into force June 22, 2006.

¹³⁷ Federal Law to Prevent and Punish Torture (Ley Federal para Prevenir y Sancionar la Tortura), <http://www.diputados.gob.mx/LeyesBiblio/pdf/129.pdf> (accessed September 16, 2011).

¹³⁸ *Ibid.*, art. 11.

¹³⁹ Constitution of Mexico, art. 20, para. B, sect. I.

¹⁴⁰ *Ibid.*

¹⁴¹ *Ibid.*, art. 20, para. A, sect. IX.

Several of the constitutional changes were designed to eliminate the perverse incentives to obtain confessions by force in Mexico's inquisitorial justice system. For example, under the "principle of procedural immediacy" (*inmediatez procesal*), judges assign greater weight to suspects' statements rendered immediately after a crime, on the grounds that initial confessions are more accurate regardless of how they were obtained.¹⁴²

Mexico has until 2016 to implement the constitutional reforms, and so far implementation at the state and federal level has been sluggish. As a result, while on paper the reforms represent a positive step towards preventing and punishing torture, many abusive practices by law enforcement officers, prosecutors, and other public officials persist. As will be seen in forthcoming sections, for example, some judges continue to apply the "principle of procedural immediacy" to assign the highest evidentiary value to defendants' initial statements, even when evidence strongly suggests they were coerced—running counter to the object and spirit of the reforms.

Flaws in Federal and State Definitions of Torture

The legal definition of torture in Mexican legislation, which can be found in the Federal Law for the Prevention and Punishment of Torture, reads:

A public servant commits the offense of torture if, in exercise of their official functions, they inflict severe pain or suffering, whether physical or mental, on an individual in order to obtain information or a confession from the tortured individual or a third party, or to inflict punishment for an act which that individual has or is suspected of having committed, or to coerce them into engaging or not engaging in a specific act.¹⁴³

This definition of torture does not reflect the definition provided for in international human rights law, as Mexico's international commitments require.¹⁴⁴ As a result there are acts which should qualify as torture that do not. The Convention against Torture defines torture as:

¹⁴² For more examples of the application of the "principle of procedural immediacy" see "The Incentive to Torture" in Human Rights Watch, *Mexico- Lost in Transition*, May 16, 2006, <http://www.hrw.org/reports/2006/05/16/mexico-lost-transition>.

¹⁴³ Federal Law to Prevent and Punish Torture, <http://www.diputados.gob.mx/LeyesBiblio/pdf/129.pdf> (accessed September 16, 2011) art.3.

¹⁴⁴ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), adopted December 10, 1984, G.A. res. 39/46, annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984), entered into force June 26, 1987, art.4: "1. Each State Party shall ensure that all acts of torture are offenses under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture. 2. Each State Party shall make these offenses punishable by appropriate penalties which take into account their grave nature."

any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.¹⁴⁵

While CAT’s definition includes acts committed by individuals with the consent or acquiescence of public officials, the definition of torture in Mexico’s federal legislation only includes acts directly committed by public officials. Furthermore, the Mexican definition limits acts of torture to those aimed at obtaining “information or a confession,” or punishing or coercing an act, whereas international law makes clear that acts of intimidation or coercion for any reason may constitute torture.

These shortcomings in Mexico’s federal legislation are compounded at the state level, where different states establish different definitions from one another and the federal government—the overwhelming majority of which also fail to meet international standards. Fourteen of Mexico’s states have specific laws to prevent and punish torture, while 16 states and the federal district of Mexico City criminalize torture in their penal codes.¹⁴⁶ The state of Guerrero criminalizes torture under the law governing its state human rights commission.¹⁴⁷

For example, Baja California’s criminal code states:

Any public official of the state or of a municipality who, himself or through a third person, relying on his official authority, inflicts serious pain or suffering on another, be it physical or psychological, with the end of obtaining information or a confession from the tortured person or a third person, forcing the person to act according to their wishes, or punishing the

¹⁴⁵ Ibid. Art.1.

¹⁴⁶ UN Subcommittee on Prevention of Torture, Report on the Visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to Mexico, CAT/OP/MEX/1, http://www2.ohchr.org/english/bodies/cat/opcat/spt_visits.htm (accessed September 15, 2011).

¹⁴⁷ Law Creating the Guerrero State Human Rights Commission and Establishing the Procedure for Investigating to Enforced Disappearances (Ley que crea la comisión de defensa de los derechos humanos y establece el procedimiento en materia de desaparición involuntaria de personas), *State Government of Guerrero* (Gobierno del Estado de Guerrero), 1992, <http://guerrero.gob.mx/wp-content/uploads/leyesyreglamentos/13/LCDDHPMDIP.pdf> (accessed September 16, 2011).

person for a crime the person has committed or is suspected of having committed, commits the crime of torture.¹⁴⁸

Baja California’s definition of torture differs from the federal one—introducing uncertainty and confusion—but also shares two of the federal law’s main flaws: it does not clearly include within its definition acts carried out by third parties with the “consent or acquiescence of officials”; and it establishes a narrower set of motives than is set forth in international law.

Illustrative Cases

Illegal Detention, Torture, and Sexual Assault of a Civilian, Cárdenas, Tabasco

The Victim’s Account

According to interviews and testimony with Nallely Thamara Lara Sosa, at approximately 1:30 a.m. on June 18, 2010, between 15 and 20 armed, masked men broke down the door of the home of her sister, Fabiola María Lara Sosa, and brother-in-law, Miguel Ángel Crivelly Castillo, where she was living in Cárdenas, Tabasco.¹⁴⁹ The men did not identify themselves as state security officers, nor did they present any search warrants. They went room to room searching for the residents of the house and found Thamara, 22, with her seven-year-old niece, hiding in a bathroom where they had taken shelter upon hearing the break in.

“Open the door or we’ll break it down,” officers said. When Thamara asked who they were, she told Human Rights Watch, they repeated the order. She warned them that she was with a small child and then opened the door. She was detained immediately. When her family asked why she was being taken away, one of the officers said, **“She knows what she did.”**¹⁵⁰ Officers would not give the family any additional information as to where they were taking her.

The security officers stole several cell phones, watches, and other valuables, as well as \$3,000 pesos, while searching the home, according to the family.¹⁵¹ Thamara said she was

¹⁴⁸ Baja California State Criminal Code (Código Penal para el Estado de Baja California), Government of the State of Baja California (Gobierno del Estado de Baja California), 2009, <http://www.ordenjuridico.gob.mx/Estatal/BAJA%20CALIFORNIA/Codigos/BCOD05.pdf> (accessed September 16, 2011), art. 307.

¹⁴⁹ Human Rights Watch interview with Nallely Thamara Lara Sosa, Villahermosa, Tabasco, July 4, 2010. Unless otherwise noted, Thamara’s account of her illegal detention and torture is based on this interview, which was conducted in the state prison, where she was being held at the time.

¹⁵⁰ Human Rights Watch interview with Miguel Ángel Crivelly Castillo and Fabiola María Lara Sosa, brother-in-law and sister of victim, Villahermosa, Tabasco, July 2, 2010. Unless otherwise noted, the victim’s family’s perspective of Thamara’s arrest and the judicial process is based on this interview.

¹⁵¹ *Ibid.*

gagged, blindfolded, placed in the back seat of an unmarked pick-up truck without license plates, and driven away. The truck was accompanied by two other unmarked pick-ups.¹⁵²

According to testimony Thamara later gave before a judge, as well as her interview with Human Rights Watch, she was driven around blindfolded for approximately 15 minutes before being transferred to another vehicle.¹⁵³ Still blindfolded, she repeatedly asked where she was being taken, but was told to shut up.

Thamara estimates she was driven around for another 40 minutes. During that time, she said, officers repeatedly groped her breasts and tried to thrust their hands between her legs. The car eventually came to a stop, and she described being led up one set of stairs, turning, and then being led up another set of stairs—a **detail that matches victims'** accounts in several cases documented by Human Rights Watch in Tabasco, suggesting the use of the same location by security officers as an interrogation center.¹⁵⁴

Upon arriving in a room, she was told that there were three men who had already identified her. When she asked for what, an officer slapped her on the side of the head and told her to tell the truth. Then, she said, officers placed a plastic bag over her head and began to **asphyxiate her, punching her repeatedly in the face and yelling, "Talk, you bitch. Talk, you little whore."**

She said officers accused her of helping set up the murder of three women in Cárdenas, Tabasco, which had taken place weeks earlier: **"He asked me again, 'What do you have to do with the killing of the three women from Cárdenas?' and I told him, 'No sir, nothing, I swear' ...and he told me, 'Now you're going to tell us the truth,'" and as he said it two men on each side of me started hitting me again, and I cried and responded that I had nothing to do with the murders.**"¹⁵⁵

Next, she said, **one of the interrogators said to her, "We're going to make you sing,"**¹⁵⁶ and a man entered the room with a large black garbage bag. He covered her head and torso

¹⁵² Human Rights Watch interview with Nallely Thamara Lara Sosa, July 4, 2010.

¹⁵³ Tabasco State Attorney General's office, (Procuraduría General de Justicia del Estado de Tabasco), "Preliminary Declaration of the Accused Nallely Thamara Lara Sosa (A) Tammy" (Declaración Preparatoria de la Indiciada Nallely Thamara Lara Sosa (A) Tammy), AP-FECS-0126/2010, June 23, 2010.

¹⁵⁴ See, for example, "Illegal Detention and Torture of 17 Police Officers, Huimanguillo, Tabasco," and "Illegal Detention and Extrajudicial Killing of a Civilian, Cárdenas, Tabasco."

¹⁵⁵ Tabasco State Attorney General's office, "Preliminary Declaration of the Accused Nallely Thamara Lara Sosa (A) Tammy," June 23, 2010.

¹⁵⁶ Eliud Naranjo Gómez, another individual who alleged he was tortured in an illegal detention facility in Villahermosa, Tabasco, that matches Thamara's description, said that his interrogators used nearly the same phrase to threaten him.

with the bag and then tied it off. Officers held her down while oxygen ran out. While they held her, she said, officers kept repeating, “Die, die, you little fucker, it’s the least you deserve.” She lost consciousness several times, she said.

According to Thamara, she was then taken to a room where a man in a mask and civilian clothes began to show her gruesome photographs of the three women who had been killed—Thamara’s supposed victims. When the officer arrived at a gruesome photograph showing one of the victims with a stick inserted into her rectum, the man said, “This is what we’re going to do to you.”

Thamara was returned to the interrogation room, where she was blindfolded, bound, and placed on a table. Then, she said officers removed her pants and underwear and threatened to gang rape her.

The man who was interrogating me walked over and stood face-to-face with me, and he said, “Little Tamara, here’s when everything starts to change. Now we’re going to give you love and affection...because here you’re going to have many friends—they’re lining up for you”...and they began to grope me all over. They lifted off my bra and I felt their hands all over my body. They touched my buttocks and insulted me saying, “Now you’re going to feel what’s good. You’re good, you damn whore.” And then he said [to the other officers], “Turn her around and put her on the desk,” and that’s when I screamed, “No sir, I committed [the crime], but please don’t do anything to me, I beg you.” And then the man who was interrogating me said in a whisper, “So you’re going to cooperate—you’re going to talk.” And I said, “Yes, sir. Whatever you say. Ask me whatever you want but don’t rape me.”¹⁵⁷

She was then taken to a room where a masked man in civilian clothes presented her with a document that she was told to sign. She obeyed, and then was placed in a vehicle. She said officers drove her to various locations, which she was told corresponded to key events in her confession. Then she was told to sign a second set of documents. As she was

Naranjo Gómez and Thamara do not know one another, and were interviewed independently from one another on different days. The almost identical threats used by interrogators against them are among several pieces of evidence that correlate across their accounts—as well as those of other victims in Tabasco—strengthening the credibility of victims’ claims, and suggesting a pattern in the abusive interrogation tactics used. Human Rights Watch interview with Eliud Naranjo Gómez, Villahermosa, Tabasco, July 3, 2011.

¹⁵⁷ Tabasco State Attorney General’s office, “Preliminary Declaration of the Accused Nallely Thamara Lara Sosa (A) Tammy,” June 23, 2010.

signing the documents, she said, officials said to her, “Calm down. Don’t be afraid anymore. Sign everything that is given to you and nobody is going to do anything to you.”

The Family’s Search for the Victim

On the morning of June 18, Thamara's family went to the federal and state prosecutor’s offices, the army, and state and local police. All denied having participated in the raid, and said they did not have any knowledge of where Thamara was being held.¹⁵⁸ Around midday, her family received a call from a friend in the government, informing them that Thamara was indeed being held at the state prosecutor’s office. **But when the family inquired at the office, officials again denied holding Thamara.** The family submitted an *amparo* on her behalf that day to find out information about her location, and requested a meeting with the state attorney general. The family was told he was too busy.

The family received conflicting messages from officials as to Thamara’s whereabouts for 36 hours after she was detained. Several officials from the state prosecutor’s office acknowledged she was being held there, while others continued to deny it. At 1 p.m. on June 19, the family was finally allowed to meet with Thamara. She immediately told them **she had been tortured and forced to confess to crimes she didn’t commit, and showed them bruises all over her body.**

The Authorities’ Account

According to judicial police records, an order to bring Thamara in for questioning was issued at 2:15 a.m. on June 18—nearly an hour after she and her family said she was detained.¹⁵⁹ At 5:08 a.m., Thamara was allegedly handed over to **the public prosecutor’s office.**¹⁶⁰ Police reports offer no explanation for what happened to Thamara in the several hours between when she was detained and handed over to prosecutors, nor do they detail the circumstances of her arrest.¹⁶¹

In a press conference on June 20, the Tabasco state attorney general presented Thamara and two other detainees to the press, accusing them of collaborating in the murder of three

¹⁵⁸ Human Rights Watch interview with Miguel Ángel Crivelly Castillo and Fabiola María Lara Sosa, brother-in-law and sister Nallely Thamara Lara Sosa, Villahermosa, Tabasco, July 2, 2010.

¹⁵⁹ Executive Branch of the State of Tabasco (Poder Ejecutivo del Estado de Tabasco), Special Unit for Combating Kidnapping (Fiscalía especializada para combate al secuestro), “Order to Bring Individual in for Questioning” (Acuerdo de Localización y Presentación de Persona), AP-FECS-126/2010, June 18, 2010.

¹⁶⁰ Executive Branch of the State of Tabasco, Special Unit for Combating Kidnapping, “Record of Report of Presentation” (Constancia de Informe de Presentación), AP-FECS-126/2010, June 18, 2010.

¹⁶¹ Executive Branch of the State of Tabasco, Special Unit for Combating Kidnapping, “Ratification of the Agent Who Conducts Arrest” (Ratificación de Agente Aprehensor), AP-FECS-0126/2010, June 18, 2010.

women—Dayra Itzamara Gallegos Pereira, Yazmín Itzel Pérez Hidalgo and Ivon Guadalupe Fuentes Ramos—whose bodies were discovered on the side of the road in Habanero, Tabasco, on May 3, 2010.¹⁶² According to Attorney General Rafael González Lastra, Thamara had helped lure the three women to the location on the orders of a local boss of the Zetas criminal organization, where they were raped and killed.¹⁶³ González said the killings had been carried out as retribution because one of the women had insulted the Zeta boss.

An initial confession signed by Thamara—which she later said had been written by security officers, and that she'd signed under torture—affirmed this official version of events. **According to her confession, the Zeta boss called her and, “he asked me if I was friends with Dayra Itzamara and I answered that I was, so he told me to call her to invite her out so that I could take them out [Dayra and Yazmín], which he said was just a pretext, and that he had an issue with Yazmin Itzel and things he needed to fix with her.”**¹⁶⁴ In the initial confession, Thamara said she complied and convinced the three women to travel with her to the location where Zetas were waiting, and where she saw the women raped and murdered. All three detainees incriminated themselves and one another in their alleged confessions.

Negligent Medical Exam

Thamara was given a medical examination by a doctor at the state prosecutor's office at 2:05 a.m. on June 18.¹⁶⁵ **Dr. Sánchez Morales concluded in her report the following: “1. Epidermic excoriation of 5cm in length of lineal form anterior to the left forearm. 2. Epidermic excoriation of 4 cm diameter anterior to the left forearm. Conclusions: 1. The injuries are not life endangering. Will heal in up to 15 days. They do not leave scars. Will not hinder work capability.”**¹⁶⁶

¹⁶² Elda Torres, “Three Young Women Found Killed in Cárdenas” (Hallan tres jovencitas asesinadas en Cárdenas), *El Heroico*, May 4, 2010, <http://www.elheroico.com/2010/mayo/04/Hallan+tres+jovencitas+asesinadas.html> (accessed August 31, 2011); José Ángel Castro, “Zeta Boss Ordered the Three Young Women Killed” (Jefe Zeta mandó matar a las tres jóvenes), *Tabasco Hoy*, June 21, 2010, http://www.tabascohoy.com.mx/noticia.php?id_nota=194527 (accessed August 31, 2011).

¹⁶³ Hector Andres Trinidad, “Women's Killers from Cárdenas Detained” (Detienen a feminicidas de Cárdenas), *El Herald*, June 21, 2011, <http://www.oem.com.mx/elheraldodetabasco/notas/n1679712.htm> (accessed September 8, 2011). See also Executive Branch of the State of Tabasco, Special Unit for Combating Kidnapping, “Declaration of the Accused Nallely Thamara Lara Sosa, Alias Tammy” (Declaración del Inculpado Nallely Thamara Lara Sosa, Alias Tammy), AP-FECS-126/2010, June 18, 2010; “Declaración of the Accused Jaime Uresty Juárez alias El Cachibombo,” (Declaración del Inculpado Jaime Uresty Juárez alias “El Cachibombo”), A- FECS-0126/2010, June 18, 2010.

¹⁶⁴ “Declaration of the Accused Nallely Thamara Lara Sosa, Alias Tammy,” June 18, 2010.

¹⁶⁵ Tabasco State Prosecutor's Office (Procuraduría General de Justicia del Estado de Tabasco), Medical Service Directorate, (Dirección General del Servicio Medico), untitled document containing medical certificate, AP-FECS-41/2010, AP-FECS-126/2010. June 18, 2010.

¹⁶⁶ *Ibid.*

However, an independent medical examination solicited by Thamara's lawyer found that the wounds she exhibited were consistent with torture, and were inflicted during the time **period that coincided with her detention. The doctor wrote on June 24: “A) The symptoms she presents are injuries caused by contusions. B) By the coloration of these injuries and their serious inflammatory condition, it is calculated they have been present for 8 to 12 days, which coincides with the time of her detention. C) The injury symptoms she presents are compatible with having been produced by physically tortuous acts.**¹⁶⁷ The discrepancy between the exams raises questions about the thoroughness and reliability of the official medical exam.

Removal from Prison

On June 20 and 21, Thamara told Human Rights Watch, she was removed from detention and transported by judicial police to several locations that she was told corresponded to events tied to the crime. She was photographed standing and pointing in various locations, and said officials reviewed the details of the false confession with her. Officials also recorded her admitting to the crime on tape. At one point, she said, she made a mistake regarding the chronology of events. She said her interrogator turned off the tape recorder and told her she had said it wrong. The tape was then rewound and the testimony rerecorded. Her captors warned her that her testimony would have to be retold perfectly to the judge. **“You’re going to say what we’ve told you to say, otherwise you know what awaits you,”** one official said. **“We have a lot of people on the inside,”** he added, referring to the prison.

Judicial Process

Thamara’s case was brought before the first district court in Villahermosa on June 23. In her testimony to the judge, she declared: “I declare that the confession I gave on June 18, 2010 was given under duress...as a result, I do not affirm that confession, just as I do not affirm the additions that I made to my confession on June 20, 2010... All that is said there is false, totally false.”¹⁶⁸

¹⁶⁷ Examination by Medical Expert Dr. Herschell Serna Leeder (Dictamen en Materia de Medicina Forense a Cargo del Doctor Herschell Serna Leeder), as reproduced in Judicial Branch of the State of Tabasco (Poder Judicial del Estado de Tabasco), Fourth Criminal Court of First Instance of the First Judicial District (Juzgado Cuarto Penal de Primera Instancia del Primer Distrito Judicial), Original File Number: 118/2010 (Exp. Original Num: 118/2010), AP-FECS-126/2010, June 21, 2010.

¹⁶⁸ Tabasco State Attorney General’s office, (Procuraduría General de Justicia del Estado de Tabasco), “Preliminary Declaration of the Accused Nallely Thamara Lara Sosa (A) Tammy” (Declaración Preparatoria de la Indiciada Nallely Thamara Lara Sosa (A) Tammy), AP-FECS-0126/2010, June 23, 2010.

She went on to provide an account of how she was arbitrarily detained, tortured, and sexually assaulted by authorities, as well as forced to sign a confession and memorize an account provided to her by her interrogators.

Yet despite Thamara's allegations of torture, an independent medical exam documenting injuries that were consistent with those allegations, and a gap of several hours during which Thamara had been held by the police before being handed over to prosecutors, the judge ordered her to be remanded to detention on June 27.¹⁶⁹ Thamara remains in prison awaiting trial.

Thamara's family told Human Rights Watch that they filed a formal complaint before the Tabasco State Human Rights Commission on June 19. According to the commission, the case is still being investigated.¹⁷⁰

Illegal Detention and Torture of Four Civilians, Rosarito, Baja California

Summary

Four civilians were detained by the Army in Rosarito, Baja California, in June 2009. The civilians were taken to an Army base where they said they were held incommunicado for four days and subjected to torture, including beatings, waterboarding, and asphyxiation, and forced to sign confessions. Despite evidence of serious physical injuries, **inconsistencies in the Army's account of arrests, and repeated complaints by the victims'** families to civilian authorities and the National Human Rights Commission, neither civilian justice officials nor the commission conducted independent investigations into the alleged abuses, and instead deferred to the military justice system to investigate. The victims, who say they were forced to confess to crimes under torture and death threats, were subjected to *arraigo* detention and eventually charged with crimes including kidnapping and organized crime. More than two years after their arrests, despite significant inconsistencies and gaps in official accounts—such as the fact that one of the accused was not in Mexico at the time the alleged kidnapping took place—they are still in prison awaiting trial.

The Government's Account

According to the Army's report to federal prosecutors, at 1:30 p.m. on June 16, 2009, they received an anonymous tip about a possible "safe house" being used for kidnap victims in

¹⁶⁹ Human Rights Watch interview with Cesar Ramírez, lawyer for Thamara, Villahermosa, Tabasco, July 2, 2010; Human Rights Watch telephone interview with Cesar Ramírez, Villahermosa, Tabasco, July 22, 2011.

¹⁷⁰ Letter from Dr. Jesús Manuel Argáez de los Santos, president, Tabasco State Human Rights Commission (Comisión Estatal de Derechos Humanos Tabasco) to Human Rights Watch, File number (Oficio número) CEDH-P-445/2011, August 15, 2011. According to the commission, the investigation is 575/2010.

Rosarito. According to the soldiers, the caller reported that, “modern cars came and went in a suspicious manner, suggesting the individuals inside were apparently working for ‘el Kaibil’ or ‘El Teo’”—nicknames of ranking cartel members. The Army allegedly went to the house, where soldiers observed a man standing outside. “This person tried to leave while talking on a cell phone with other people, as a result of which he was immediately detained,” the military account said.¹⁷¹ The military alleged that the individual, later identified as Ramiro López Vásquez, confessed immediately that the house was a “safe house” where the crime ring to which he belonged held kidnapped victims, and that he was in charge of keeping lookout.¹⁷²

Upon entering the house, according to the soldiers’ account, they found three men: Orlando Santaolaya Villareal, and brothers Rodrigo and Ramiro Ramírez Martínez. The Army also said they found a 66-year-old kidnap victim who had been held for a month, as well as 17 large firearms and 27 bulletproof vests in the house.¹⁷³ The kidnap victim later told the press he had been abducted approximately three weeks earlier, on May 24.¹⁷⁴ The four detainees were then taken to the Second Military Zone.

At 12:30 a.m. on June 17, after holding them for roughly 11 hours on the Army base, the soldiers handed the detainees over to federal prosecutors, who in turn asked that the detainees be held by the military while they were awaiting charges.¹⁷⁵ The Army agreed to hold the detainees, who were returned to the military base.

On June 19, federal prosecutors requested *arraigo* detention for 40 days for the four detainees, which was granted by a judge.¹⁷⁶ The following day, the detainees were

¹⁷¹ Federal Prosecutor’s Office (Procuraduría General de la República), “Complaint to State Prosecutor’s Office of Acts Possibly Constituting a Crime” (Denuncia al Ministerio Público de hechos posiblemente constitutivos de un delito), in which corporal Rosario Felix Ibarra and soldier Ángel García Gaona, members of the Second Cavalry Regiment (2/o Regimiento de Caballería) of the Second Military Zone in Tijuana, Baja California, present their version of the facts, June 16, 2009; see also “Military Personnel of the Second Regiment of Motorized Cavalry Free One Person and Detain Four Kidnappers” (Personal Militar del 2/o. Regimiento de Caballería Motorizada, libera a una persona y detienen a cuatro secuestradores), SEDENA, press release, June 16, 2009, <http://www.sedena.gob.mx/index.php/sala-de-prensa/comunicados-de-prensa/1857-16-junio-de-2009> (accessed July 29, 2011).

¹⁷² Ibid.

¹⁷³ Ibid.

¹⁷⁴ “Four Kidnappers Captured after Operation in Rosarito” (Capturan a secuestradores tras un operativo en Rosarito), *El Sol de Tijuana*, June 17, 2009, <http://narcotijuana.wordpress.com/2009/06/16/capturan-a-cinco-secuestradores-tras-un-operativo-en-rosarito/> (accessed July 19, 2011); Manuel Cordero, “Four Hitmen for ‘El Teo’ Fall in Tijuana” (Caen cuatro sicarios de ‘El Teo’ en Tijuana), *El Sol de Tijuana*, June 17, 2009, <http://www.oem.com.mx/esto/notas/n1207414.htm> (accessed July 19, 2011).

¹⁷⁵ Letter from Second Visitor of the National Human Rights Commission to María Isabel Reyna Martínez, CNDH/2/2009/3313/Q, Folio 52691, October 30, 2009.

¹⁷⁶ Ibid. *Arraigo* number 414/2009, as noted in letter from Second Visitor of the National Human Rights Commission to María Isabel Reyna Martínez.

transferred from the Second Military Zone to the 28th Infantry Battalion, where they were held for the duration of their *arraigo*. On July 28, federal prosecutors sought formal arrest orders for the accused, which were granted by a judge, and they were transferred to a federal prison in Tepic, Nayarit.

The Victims' Account

The four civilians offered a starkly different account of their arrests. According to their accounts, they were arrested in two different locations—neither of which was the safe house where the kidnap victim was found, as alleged by the military. López, the alleged lookout, said he was on a lunch break from his job doing roadwork on a major thoroughfare in Rosarito. According to his testimony, he was talking to his wife on his cell phone when roughly 10 vehicles came to a stop near him and soldiers in military uniforms got out. They asked whom he was speaking to and he answered that he was talking to his wife. A soldier hit him the face with a rifle butt and loaded him into a vehicle.¹⁷⁷

The Martínez brothers and Santaolaya Villareal said they were detained at a condominium in Rosarito, where they had been staying. Ramiro Ramírez and Santaolaya Villareal said they had rented the apartment for the return of Rodrigo Ramírez, who had been deported from the United States on June 8, and returned to Mexico on June 10.¹⁷⁸ The date of Rodrigo Ramírez's deportation is corroborated by deportation orders obtained from the United States Immigration Court in Arizona,¹⁷⁹ meaning it would have been impossible for him to participate in the May 24 kidnapping of a victim, as federal prosecutors allege in the charges against him, because he was in detention in the United States at the time.

According to the testimony of Santaolaya Villareal and the Ramírez brothers, at approximately noon on June 16, seven or eight men in plainclothes entered their condominium and began to beat them without provocation. According to their accounts, they were punched, kicked, and asphyxiated over the course of an hour, while their aggressors asked them repeatedly where they were holding the victim. When the three victims insisted they had not kidnapped anyone, they were loaded into unmarked cars and **driven to a residential home, which their captors said they had used as a "safe house."** According to Ramiro Ramírez, when they arrived at the home, soldiers brought an alleged

¹⁷⁷ Federal Judicial Branch (Poder Judicial de la Federación), "Preliminary Declaration by Ramiro López Vásquez" (Declaración Preparatoria de Ramiro López Vásquez), Case 107/2009-III, August 1, 2009.

¹⁷⁸ Federal Judicial Branch, "Addendum to the Testimony of the Accused Ramiro Ramírez" (Ampliación de Declaración del inculpado Ramiro Ramírez), Case 107/2009-III, August 4, 2009; see also Federal Judicial Branch, "Addendum to the Declaration of the accused Orlando Santaolaya Villareal," Case 107/2009-III, August 4, 2009.

¹⁷⁹ United States Immigration Court of Eloy, Arizona, "Order of the Immigration Judge in the Matter of Ramírez-Martínez, Rodrigo," Case a# 088-895-978, June 8, 2009 (on file with Human Rights Watch).

kidnap victim out of the house. “The one in charge pointed a pistol at my head and said that if I didn’t admit that [the kidnapped man] belonged to me, he would put a bullet in my head and say that we’d had a shootout,” Ramiro said in his testimony.¹⁸⁰

According to the victims’ accounts, they were then transferred to the Second Military Zone, where they were beaten, shocked with electric charges to the genitals and other parts of the body, threatened with death, and asphyxiated with plastic bags over the course of four days. The brothers said they were tortured in front of one another to make them confess.¹⁸¹ Three of the four civilians signed confessions under torture, which they later revoked before a judge, on the grounds that they were rendered under duress. As Santaolaya Villareal told a judge: “They forced me to give my confession by beating me while I was blindfolded.”¹⁸² Similarly, Ramiro Ramírez said, “I never had the chance to read my confession, because they had me blindfolded.”¹⁸³

Medical Exams and Victims’ Injuries

Family members said they did not know where the victims were until they were presented as kidnappers in a press conference on June 20, four days after they had been detained. **The Ramírez brothers’ mother, María Isabel Reyna Martínez, was allowed to visit them on June 20.** A medical nurse, she told Human Rights Watch the brothers showed clear bruises, **burn marks, blood on their bodies and clothing, and other signs of the abuse.** Ramiro’s jaw was so badly bruised from beating, she said, that he could not speak. She also said he showed her where several of his toenails had been pulled off.¹⁸⁴

Medical exams concluded by the military pointed to a wide array of bruises and other wounds, and recommended that the civilians receive follow up treatment. For example, the examination of Ramiro Ramírez listed a litany of injuries, scars, and bruising to his face, arms, abdomen, and back, corroborating the torture tactics he described.¹⁸⁵

¹⁸⁰ “Addendum to the Testimony of the Accused Ramiro Ramírez,” August 4, 2009.

¹⁸¹ Human Rights Watch interview with María Isabel Reyna Martínez Gonzalez, mother of Rodrigo and Ramiro Ramírez Martínez, Tijuana, Baja California, April 29, 2010.

¹⁸² Federal Judicial Branch (Poder Judicial de la Federación), “Addendum to the Testimony of the Accused Orlando Santaolaya Villareal” (Ampliación de Declaración del inculpado Orlando Santaolaya Villareal), Case 107/2009-III, August 4, 2009.

¹⁸³ “Addendum to the Testimony of the Accused Ramiro Ramírez,” August 4, 2009.

¹⁸⁴ Human Rights Watch interview with María Isabel Reyna Martínez Gonzalez, Tijuana, Baja California, April 29, 2010.

¹⁸⁵ Federal Prosecutor’s Office, Baja California State Delegation, State Office of Expert Services (Coordinación Estatal de Servicios Periciales), Office of Forensic Medical Experts (Especialidad en Medica Forense), 07386, AP/PGR/BC/TIJ/1577/09/M-V, “Results of Forensic Medical Exam” (Dictamen en material de medicina forense), June 21, 2009.

Investigative Failures by Prosecutors and Human Rights Officials

Authorities failed to take basic steps to investigate **victims' claims that they had suffered torture**, and in some instances ignored or deliberately discouraged family members from filing complaints.

The mother of the Ramírez brothers said she visited the federal prosecutor's office on July 20, 21, 22, and 23, and informed an official that her sons had suffered torture and beatings at the hands of the military, and needed medical attention. On October 20, 2009, the victims' mother went to the federal prosecutor's office to file a complaint of arbitrary detention and torture. She said she was made to wait for three hours before being told to return the next day. When she returned on October 21, officials told her that because her complaint was against the military, they could not receive it, and directed her to military authorities.¹⁸⁶ "I always got the response that my sons had already been attended to, which is false. In fact, up to now my sons maintain they've never been visited by a doctor from the [federal prosecutor's office] And with respect to the abuses they suffered, the representative [of the prosecutor's office] always downplayed their mistreatment, arguing that it was just a question of military discipline and "that nothing really happened."¹⁸⁷

The families of three of the victims registered complaints with the National Human Rights Commission on June 17 and September 24 in which they alleged the victims had suffered grave abuses, including arbitrary detention and torture.¹⁸⁸ On October 30, the commission informed the families that it had closed the investigation into the abuses. It said the **military's medical examiner determined that the civilians "did not show signs of physical wounds inflicted by torture."¹⁸⁹ This determination was made despite the fact that the commission had never conducted independent medical exams of the civilians, and that military medical examiner had encountered serious wounds. Furthermore, the commission said, the military was conducting an investigation into alleged abuses, and as a result, **"the present case is without grounds for this national commission to continue pursuing the complaint."¹⁹⁰ The commission later reopened its investigation into the incident.¹⁹¹****

¹⁸⁶ Ibid.

¹⁸⁷ Human Rights Watch interview with María Isabel Reyna Martínez Gonzalez, Tijuana, Baja California, April 29, 2010.

¹⁸⁸ Fax from María Isabel Reyna Martínez Gonzalez to National Human Rights Commission, July 17, 2009; fax from Tania I. Villareal, María de los Angeles García, and María Isabel Reyna Gonzalez to National Human Rights Commission, July 17, 2009; National Human Rights Commission, complaint by Tania Iveth Villareal Avalos and María de los Angeles García Torres, September 24, 2009 (on file with Human Rights Watch).

¹⁸⁹ Letter from National Human Rights Commission to María Isabel Reyna Martínez Gonzalez, CNDH/2/2009/3313/Q, 52691, October 30, 2009 (on file with Human Rights Watch).

¹⁹⁰ Ibid.

According to the families, the four civilians are still being held in Nayarit while the investigation continues. A family member of one of the victims said the trial against them had been delayed on seven occasions, initially on account of military officers failing to **appear to testify, and later because prosecutors had yet to carry out the “on-site inspection” and other examinations** of the alleged safe house.¹⁹²

Illegal Detention and Torture of a Civilian, Ciudad Juárez, Chihuahua

Summary

On February 3, 2010, Israel Arzate Meléndez was arbitrarily detained by soldiers and plainclothes men as he walked down the street in Ciudad Juárez, Chihuahua, and taken to a military base. There, he was held incommunicado and tortured until he confessed to having participated in a high-profile multiple homicide, following a script provided by his interrogators. After being presented to the press, he was transferred to a state prison, but **was subsequently removed by police from the state prosecutor’s office and returned to the military base**, where he was again tortured.

At his arraignment, Arzate told the judge that his confession had been elicited through torture, and that he had been taken out of prison and tortured anew; the judge ordered his trial nonetheless. Arzate was ordered to be held for six months in preventive detention while the investigation was conducted, which was extended by an additional six months. **When that time had expired, another judge ordered Arzate’s *arraigo* based on his presenting “increased risk to society.” He was transferred to a police detention facility** where, at the time of writing, he was still being held.

The Victim’s Account

According to testimony Arzate gave before a judge, as well as the account of events he provides in an 18-page handwritten letter, he left work and was walking to a store near his home on the evening of February 3, 2010, when a truck stopped near him and two plainclothes men got out, asking him if he was Carlos. When he said no, two soldiers stepped out of the vehicle and forced him into the back seat.¹⁹³

¹⁹¹ Human Rights Watch interview with Silvia Vázquez Camacho, human rights defender from the the Mexican human rights organization Comisión Mexicana de Defensa y Promoción de los Derechos Humanos, A.C. (CMDPDH), Mexico City, Mexico, March 25, 2011. According to Vázquez, the National Human Rights Commission’s investigation allegedly remains ongoing.

¹⁹² Human Rights Watch telephone Interview with family member of one of the victims, May 19, 2010. The interviewee asked not to be identified out of concern for their safety.

¹⁹³ Testimony provided by Arzate to judge. DVD recording of arraignment hearing of case (causa penal) 136/2010 against Israel Arzate Meléndez and José Dolores Arroyo Chavarría held in chamber at state prison, Bravos Judicial District (Audiencia de vinculación a proceso dentro de la causa penal 136/2010 en contra de Israel Arzate Meléndez and José Dolores Arroyo Chavarría en el Cereso estatal del Distrito Judicial Bravos), February 11, 2010 (on file with Human Rights Watch). See also,

Arzate says he was blindfolded and taken to a place where he was told to take off his clothes and lie face down (he would later discover that the place to which he was taken was a military base). After binding his hands and feet, his captors asked him for information. When he replied that he had no idea what they wanted, his captors wrapped a thin mattress around his body, immobilizing him, and gave him electric shocks. Then his captors put a plastic bag over his head and asphyxiated him repeatedly until he lost consciousness. He awoke to more electric shocks. This process was repeated three or four **times, according to Arzate's account, before his captors submerged him in cold water to** which they applied pulses of electric current (as will be discussed, a medical exam later applied to Arzate confirmed the presence of numerous burns resulting from electric shocks). Throughout his torture, he said, his captors repeatedly told him to confess what **he knew, and made threats such as, "We can keep you here as long as we want. If I want to, I'll kill you."** He also stated that during his captivity he heard the sounds of other victims being tortured in other rooms nearby.

Arzate said he was subsequently taken to a room where a man dressed in plainclothes began to show him photographs of individuals and asked if he recognized any of them. When Arzate said that he did not, the man told him that they were the people who had helped him carry out the massacre of Villas de Salvárcar. According to the victim, this was the first time he realized the crime for which he was being accused: the high-profile killing of a group of students at a party during the night of January 30 to 31, 2010, in the Villas de Salvárcar neighborhood of Ciudad Juárez. At the time, these killings were the subject of intense media attention and public outcry.¹⁹⁴

Israel had heard of the massacre and upon being questioned by the man with the photos, assured him that he had no knowledge of who had carried out the killing. At that point, the **officer told several uniformed soldiers nearby to take Arzate back to "therapy."** He was blindfolded again, beaten, given electric shocks, and asphyxiated. When he still would not confess, **his captors told him his wife's body would be found "dumped and raped in an empty lot."** At that point, **Arzate said, he agreed to admit to whatever they wanted. He said he was handed several pages that he was forced to sign without removing his blindfold**

handwritten version of the abuses Arzate suffered, written by the victim, provided by the Miguel Agustín Pro Juárez Human Rights Center (Center Prodh) to Human Rights Watch in March 2011. Arzate's account in the paragraphs that follow is drawn from these two sources.

¹⁹⁴ President Calderón initially said the Villas de Salvárcar massacre was the result of a confrontation between rival bands of "gangsters" (pandilleros), and dismissed the victims were gang members. In the face of outcry from the victims' families, the federal government was forced to issue a public apology in the following days. See for example Rubén Villalpando, "Gómez Mont Offers Apology for Calderón's Mistaken Words" ("Gómez Mont ofrece disculpas por palabras equivocadas de Calderón"), *La Jornada*, February 9, 2010, <http://www.jornada.unam.mx/2010/02/09/politica/003n1pol> (accessed Oct. 15, 2011).

and his captors began to tell him that he had to confess to being a “lookout” (*halcón*) for the killers of Villas de Salvárcar. By this time, according to his account, nearly two full days had elapsed since he had been detained.

Arzate says he was then taken to a room where the man dressed in plainclothes showed him various photographs of people and told him how he should identify them when his confession was filmed. Arzate was also given several pages of notes that contained details of the night of the killing, which he was told to memorize for his confession. A woman was brought in, who was presented as his appointed defense lawyer.

With the soldiers present, the defense lawyer asked him if he had anything to tell her, to which he answered no. Then, a video camera was turned on and Arzate began his confession. Several times, according to Arzate, he made mistakes or forgot details, and the camera was turned off. His captors beat him in front of the defender and a representative of the state prosecutor’s office, and said he would be sent back to “therapy” if he did not do a better job. He said he was forced to make his confession seven times before his captors were satisfied.

During this same sequence of events in the military base, Arzate and a co-defendant in the case, José Dolores Arroyo Chavarría, were forced through more physical abuse and threats to identify one another as having participated in the massacre.¹⁹⁵

On February 6, state prosecutors presented Israel Arzate to the media as one of the presumed perpetrators of the Villas de Salvárcar massacre.¹⁹⁶ According to a press account, when Arzate was asked if he knew his co-defendant José Dolores Arroyo Chavarría: “‘Yes,’ the detainee said in a quiet voice. But also captured on *El Diario’s* tape recorder, one could hear the agent from the prosecutor’s office ‘whisper’ to the suspect, ‘His nickname is El Chore,’ so that Arzate Meléndez quickly added, ‘His nickname is El Chore.’”¹⁹⁷

¹⁹⁵ See Miguel Agustín Pro Juárez Human Rights Center, Additional information and summary: the case of Israel Arzate Meléndez (Información adicional/resumen: el caso de Israel Arzate Meléndez), August 12, 2011, document submitted to UN human rights mechanisms (on file with Human Rights Watch), p. 2. See also, handwritten version of the abuses Arzate suffered, written by the victim, provided by the Miguel Agustín Pro Juárez Human Rights Center (Center Prodh) to Human Rights Watch in March 2011.

¹⁹⁶ Notimex, “Another Presumed Participant in Teens’ Murder Is Caught” (“Cae otro presunto implicado en asesinato de jóvenes,”) *Noticieros Televisa*, February 6, 2010, <http://www2.esmas.com/noticierostelevisa/mexico/estados/136341/cae-otro-presunto-implicado-asesinato-jovenes> (accessed on October 15, 2011).

¹⁹⁷ Luz del Carmen Sosa, “Presumed Co-author of Massacre Is Presented” (“Presentan a presunto coautor de la masacre”), *El Diario*, February 7, 2010. Cited in Miguel Agustín Pro Juárez Human Rights Center, “Additional information and summary: the case of Israel Arzate Meléndez” (Información adicional/resumen: el caso de Israel Arzate Meléndez), August 12, 2011, document submitted to UN human rights mechanisms (on file with Human Rights Watch), p. 2.

The Government's Account

The explanation provided by the Army for Israel Arzate's detention bears little resemblance to the events narrated by the victim. According to an incident report two military police officers later provided to state prosecutors, they were carrying out a patrol at 7:30 p.m. on February 4, 2010, in Ciudad Juárez when they noticed a jeep that "upon seeing us, sped up," leading the officers to stop the vehicle. Upon inspecting it, they determined it had been stolen and detained the driver: 24-year-old Israel Arzate Meléndez.¹⁹⁸ Soldiers thus allege that Arzate was detained a full day later than he was detained according to his testimony and the accounts of his family members.

According to official documents, the Army handed over legal custody of Arzate to the state prosecutor's office at 11:50 p.m. that day. A medical exam conducted by the prosecutor's office at this time found that Arzate "exhibits multiple skin lesions scattered across the chest region, back and both legs," which the examiner attributed to an "atypical scattered skin rash,"¹⁹⁹ and concluded that Arzate did not have any injuries.

Despite his formal transfer to the custody of the prosecutor's office, nonetheless Arzate continued to be physically detained in military facilities, where according to officials, on February 5 at 10:50 a.m., he spontaneously decided to give a confession. Despite being accused of possession of a stolen vehicle, his confession began, "I was detained for the massacre of the teenagers."²⁰⁰ Arzate went on to state that he had participated as a lookout in the homicide of 15 people in Villas de Salvárcar, adding that he had also fired at victims of the massacre.

Judicial Process

Arzate was transferred to a state prison to await trial on February 6, 2010. However, according to Arzate, the beginning of his judicial process did not mean the end of torture by the military. Rather, during the first week of his detention in the state facility, officers from the state investigative police removed him from his cell, blindfolded him, and drove him to the Army base where he had been tortured previously. When he was handed over, Arzate said, one of the torturers whom he recognized from his previous interrogation said

¹⁹⁸ Chihuahua State Attorney General's Office (Procuraduría General de Justicia de Chihuahua), New Criminal Justice System of the State of Chihuahua (Nuevo Sistema de Justicia Penal de Chihuahua), "Certificate of Notice to State Prosecutor's Office Regarding Suspected Criminal Acts," (Acta de Aviso al Ministerio Público de Hechos Probablemente Delictuosos), February 4, 2010.

¹⁹⁹ Ibid.

²⁰⁰ Chihuahua State Attorney General's Office (Procuraduría General de Justicia de Chihuahua), New Criminal Justice System of the State of Chihuahua (Nuevo Sistema de Justicia Penal de Chihuahua), "Declaration of the Accused" (Declaración del Imputado), February 5, 2010.

to him, “You see, man, we can do whatever we want with you. We can bring you here as many times as we want.” Arzate says he was again tortured and threatened with what would happen to him if he did not do what his captors wanted, before being returned to the detention center that night.

Two arraignment hearings were held against Israel in state court on February 10 and 11, 2010, on charges of possession of a stolen vehicle and the crimes of Villas de Salvárcar, respectively. Arzate was not present at the February 10 hearing and was thus arraigned in his absence.²⁰¹ **Subsequently representatives of the prosecutor’s office announced their intention to drop charges in the stolen vehicle case (although this has not yet happened), with media sources quoting one prosecutor as saying, “We definitely don’t have evidence that Israel Arzate was in possession of the Jeep Cherokee presented by the soldiers when they turned him over for prosecution.”**²⁰²

Arzate did attend his hearing on February 11 (for the charges related to Villas de Salvárcar). There, he informed the judge that he had given his confession under torture. His defense lawyer presented a witness—a parking attendant—who corroborated his account that he had been detained as he walked on the street, not while driving a vehicle. In addition, six witnesses testified to seeing Arzate at a party in a different area of the city on the night that he allegedly helped carry out the killings in Villas de Salvárcar.

Judge Anabel Chumacero Corral, however, ordered Arzate’s trial for homicide charges. As justification, she said Arzate had confessed despite the fact that he had a right to remain silent, and had done so with his defense lawyer and a representative of the prosecutor’s office present. **Dismissing his allegations of torture, the judge said that Arzate’s confession was too detailed to have been memorized, arguing: “It would be exceptionally uncanny for a person to invent a story of crimes that runs contrary to his own self-interest, describing with such detail the circumstances.”**²⁰³ Further, the judge said **that evidence of torture “is not found to be fully proven,”**²⁰⁴ placing the burden of proof on Arzate to demonstrate the torture. The victim had in fact started to show the judge the physical signs of torture on his body at the hearing, but the judge refused to note these, saying that it was not her job to

²⁰¹ Code of Criminal Procedure of the State of Chihuahua (Código de Procedimientos Penales del Estado de Chihuahua), <http://www.ordenjuridico.gob.mx/Documentos/Estatal/Chihuahua/wo22376.pdf>, art. 283.

²⁰² Carlos Huerta, “Charges to Be Dropped against a Key Character in the Villas de Salvárcar Case” (“Se desisten contra personaje clave en Villas de Salvárcar”), NorteDigital, June 2, 2011. <http://www.nortedigital.mx/noticias/local/26595/> (accessed on October 17, 2011).

²⁰³ Arraignment resolution (Auto de vinculación a proceso), case (causa penal) 136/2010 (on file with Human Rights Watch), p. 15.

²⁰⁴ Ibid.

produce evidence.²⁰⁵ However, neither did the judge order another authority to investigate or to carry out the comprehensive physical and psychological exam in accordance with the Istanbul Protocol, as is required in cases where a victim alleges torture.

In the hearing, Arzate also asked the judge directly who had authorized orders for him to be taken out of the prison to be beaten, referring to his removal for interrogation. To this question, the judge simply told him to take up the issue with his public defender.²⁰⁶

The judge gave prosecutors a period of six months to investigate Arzate’s alleged crime, a period that was extended by an additional six months. In February 2011, Arzate’s period of preventive detention was set to expire, since by law it could not exceed one year. However, rather than set Arzate free, Judge Carmen Leticia Prieto Ruíz instead issued an *arraigo* order against Israel, deciding that for reasons of “increased risk to society” he would continue to be detained, now in a police building known as “the Academy.”²⁰⁷ On this basis, as of today Israel continues to be detained in irregular detention in “the Academy.”

On February 28, 2011, the Miguel Agustín Pro Juárez Human Rights Center submitted an *amparo* on Arzate’s behalf, challenging his ongoing detention for the charges related to the crimes of Villas de Salvárcar on the grounds that his confession had been obtained through torture, among other arguments.²⁰⁸ The *amparo* was rejected by Chihuahua’s Ninth District Judge on May 19, 2011, relying upon the same arguments as the previous decision.²⁰⁹ The district judge once more placed the burden of proof on Israel to prove that **he was tortured, stating: “the defendant has the burden to prove his version, given that when taken together, the context and evidence cited by the judge [whose resolution is under review] reflect the probable participation of the defendant in the crimes for which he is charged, meaning that the presumption of innocence is no longer intact.”**²¹⁰

²⁰⁵ DVD recording of arraignment hearing of case (causa penal) 136/2010 against Israel Arzate Meléndez and José Dolores Arroyo Chavarría held in chamber at state prison, Bravos Judicial District (Audiencia de vinculación a proceso dentro de la causa penal 136/2010 en contra de Israel Arzate Meléndez and José Dolores Arroyo Chavarría en el Cereso estatal del Distrito Judicial Bravos), February 11, 2010 (on file with Human Rights Watch).

²⁰⁶ Ibid.

²⁰⁷ Chihuahua Judicial Branch (Poder Judicial, Estado de Chihuahua), New Criminal Justice System of the State of Chihuahua (Nuevo Sistema de Justicia Penal Chihuahua), Resolution of Judge Carmen Leticia Prieto Ruíz, Case (causa penal) 136/2010, February 6, 2011, p. 4, (on file with Human Rights Watch).

²⁰⁸ Resolution of indirect *amparo* 94/2011 (case 136/2010) issued by the Ninth District Judge, Ciudad Juárez, Chihuahua, May 19, 2011 (Resolución del *amparo* indirecto 94/2011, causa penal 136/2010, emitida por el Juez Noveno de Distrito Ciudad Juárez, Chihuahua el 19 de mayo de 2011), (on file with Human Rights Watch).

²⁰⁹ Ibid.

²¹⁰ Ibid, pp. 43-44.

Israel Arzate challenged the cited *amparo* resolution, but rather than addressing the human rights violations in the case, after reviewing the *amparo* the First Collegiate Assistant Circuit Tribunal based in Culiacan, Sinaloa, ordered that the same district judge re-decide the *amparo*, arguing only that there had been a failure to notify all the parties involved.²¹¹

Despite the fact that Arzate’s homicide trial is suspended during the resolution of his *amparos*, he has nonetheless been physically brought to a series of 2011 hearings in the trial against four other people accused of participating in the crimes of Villas de Salvárcar, including a hearing at which a protected prosecution witness, presented to identify the responsible parties, pointed at the defendants.²¹² Those four defendants were then sentenced to 240 years in prison²¹³ based on this witness’s identification, despite the notably vague and sometimes contradictory manner in which she testified, raising concerns that Arzate’s physical presence in these hearings will later be cited to argue that he too was identified.

Arzate continues to await the final resolutions of his *amparos*, while being held under *arraigo*. The judicial resolutions to date in his case point to a continuing reliance on confessions obtained under torture to convict persons detained by the Army supposedly in *flagrancia*. Meanwhile, there is no sign of charges being brought against any of the authorities involved in Israel’s alleged arbitrary detention or torture.

Findings of the National Human Rights Commission

The National Human Rights Commission conducted an in-depth investigation into the torture of Arzate and concluded that officials from the military, state prosecutor’s office, investigative judicial police, and the director of the state prison in Ciudad Juárez were responsible for serious human rights violations, including the right to personal integrity

²¹¹ Resolution of *amparo* revision 541/2011, indirect *amparo* 94/2011, September 7, 2011 (on file with Human Rights Watch); the Miguel Agustín Pro Juárez Human Rights Center, the Women’s Network, and the Juárez Migrant Support Center, “Federal Judge Indefinitely Delays Trial of Israel Arzate” (press release), September 20, 2011.

²¹² DVD videos of these hearings (in the homicide trial against José Dolores Arroyo Chavarría, Aldo Flavio Hernández Lozano, Juan Alfredo Soto Arias, and Heriberto Martínez) are on file with Human Rights Watch. The hearing at which the prosecution witness appeared occurred on June 21, 2011.

²¹³ “Judges Give Suspects in Salvárcar Massacre Case 240 Years” (“Jueces dan 240 años de cárcel a implicados en matanza de Salvárcar”), CNN México, July 11, 2011, <http://mexico.cnn.com/nacional/2011/07/11/jueces-dan-240-anos-de-carcel-a-implicados-en-matanza-de-salvarcar> (accessed on October 15, 2011). The prosecution witness subsequently gave a news interview in which she said that when she had agreed to testify against the defendants, she had understood that as a protected witness she would receive economic benefits through the state prosecutor’s office. Luz del Carmen Sosa, “She Testified against Gunmen in Exchange for Benefits, and Then They Are Taken Away from Her” (“Testificó vs sicarios a cambio de apoyos, y se los quitan”), El Diario, September 8, 2011.

and security, legality and judicial security, and against illegal restraint, incommunicado detention, torture, and arbitrary use of force.²¹⁴

The commission found that the military held Arzate incommunicado and tortured him before transferring him to prosecutors. In addition, the commission concluded that the **military's claim that the victim had been transferred to the prosecutor's custody was refuted by various pieces of evidence, including the fact that Arzate's confession was recorded on February 5, 2010, on a military base. The video of his confession shows an agent from the prosecutor's office describing the location as a military base, and was taken in the presence of the victim's public defender. Neither the prosecutor nor the public defender raised concerns about the ability of the defendant to render an impartial confession on the military base.**

The commission found that Arzate's claims of torture at the hands of military officials were confirmed by reports of medical exams conducted when Arzate was transferred to the state prison February 6. **Moreover, the commission's experts applied a medical exam following the Istanbul Protocol and found that his medical and psychological condition matched the types of torture he described. The exam revealed numerous contusions, skin injuries on the wrists, and multiple "extensive area[s]" of "burns caused by electric current" on his chest and back, among others.**²¹⁵

According to evidence obtained by the commission, Arzate was signed out of the state prison on two separate occasions for further interrogation: once on February 9 and once on **March 17, when the "deputy prosecutor for the northern region" and investigative judicial police officers removed Arzate from the state prison where he was being held. This confirms Israel's account that he was taken back out of prison to be beaten, given electric shocks, and asphyxiated in order to force him to cooperate with prosecutors in the Villas de Salvárcar case. In this sense, the commission noted medical forms from February 9 recording recent injuries on Israel's body (corroborating his report of torture), as well as official documents confirming the illegal removal from prison on March 17.**

²¹⁴ National Human Rights Commission, Recommendation 49/2011, August 30, 2011, <http://www.cndh.org.mx/sites/all/fuentes/documentos/Recomendaciones/2011/049.pdf>

²¹⁵ National Human Rights Commission, CNDH/2/2010/1583/O, Document (Oficio) No. V2/22937, April 14, 2011, Istanbul Protocol, Israel Arzate Meléndez (on file with Human Rights Watch).

Illegal Detention and Torture of a Civilian, Monterrey, Nuevo León

Summary

Marcelo Laguarda Dávila was arbitrarily detained, threatened, and beaten by investigative judicial police in Monterrey, Nuevo León, in April 2010, on the grounds that he was responsible for killing a fellow student. He was detained again in September 2010 and subjected to a wide range of torture by investigative judicial police, including electric shocks, water-boarding, sleep deprivation, and asphyxiation, in order to coerce him to confess to the crime. He said state prosecutors and a public defender were present when he was forced to sign a false statement saying he had paid a member of a cartel to carry out a contract killing. Despite clear physical injuries sustained during his detention, state medical officials repeatedly failed to document his injuries. Later, when he was on remand, his family paid a certified independent medical examiner to conduct a medical exam, who recorded serious injuries which would have been sustained by infliction by torture of the kind the victim had described. Although the victim repeatedly told state prosecutors, judges, and the Nuevo León State Human Rights Commission that he was subjected to torture, he has never been given an examination in accordance with the Istanbul Protocol (as is required of state authorities),²¹⁶ nor has his initial confession been struck from the record.

First Incident of Illegal Detention, Beating, and Intimidation

Laguarda, age 24, was studying psychology at the Universidad Autónoma de Nuevo León in Monterrey when a classmate of his was murdered on April 21, 2010. Laguarda had **previously dated the victim's girlfriend.**²¹⁷

Laguarda told Human Rights Watch that on the night of April 26, his landlady came to his apartment to inform him that someone had just hit his car. When he went downstairs to see what was happening, he was accosted by several plainclothes men who told him **“we're going to kill you”** and **“we've come on behalf of the victim's family.”** The men pulled his shirt over his head and forced him into a car. Other men took his car keys and drove his car behind the car in which he was abducted. It was not until Laguarda heard chatter on a radio that he **realized he'd been detained by police, rather than kidnapped.**

According to Laguarda, he was taken to the state prosecutor's office, where he was interrogated by the investigative judicial police regarding his whereabouts on the day of

²¹⁶ For an explanation of Mexico's commitments to apply medical exams in accordance with the standards set out by the Istanbul Protocol, see section on “Failure of Officials from the Federal and State Prosecutors' Offices to Follow the Istanbul Protocol.”

²¹⁷ Human Rights Watch interview with Marcelo Laguarda Dávila, Monterrey, Nuevo León, December 9, 2010.

the murder.²¹⁸ When he asked to see his detention order and make a phone call, they told him: “We don’t do what you want here; here we do what we want.” According to Laguarda, the officers also said, “You aren’t under arrest here. You aren’t here with us.” The police held Laguarda overnight and released him the next day. But they refused to return his wallet, cell phone, or car.²¹⁹

On May 13, Laguarda returned to the prosecutor’s office with his father to retrieve his car. Investigative judicial police interrogated him, questioning him about his involvement in the murder.²²⁰ Afterwards, he was given the keys to his car, but the battery had been removed, so he had to have the car towed, his father said.²²¹

Illegal Detention, Torture, and Forced Confession

According to the state prosecutor’s office, investigators went to Laguarda’s home four months later, on September 13, and presented him with a summons, at which point he “voluntarily” accompanied them to the station. Once there, the victim allegedly immediately offered his full confession for the murder, a crime he had up to then denied adamantly.²²² Authorities said Laguarda chose to give his declaration in spite of warnings by his state-appointed defender, who was allegedly with him from the moment he arrived at the office and had informed him of his right to remain silent. The prosecutor’s office said Laguarda was never held incommunicado and that they never used “any action of intimidation or torture to induce his confession.”²²³

Laguarda’s account of the events in September is starkly different. According to Laguarda, he returned home on September 13 at approximately 12:15 a.m. after having coffee with a friend. When he got out of his car, he said, two men in plainclothes grabbed him and threw

²¹⁸ Nuevo León State Prosecutor’s Office (La Procuraduría General de Justicia del Estado de Nuevo León), “Testimonial Statement” (Declaración Testimonial), April 26, 2010.

²¹⁹ Human Rights Watch interview with Marcelo Laguarda Dávila, Monterrey, Nuevo León, December 9, 2010.

²²⁰ Nuevo León State Prosecutor’s Office, “Testimonial Statement,” May 13, 2010.

²²¹ Human Rights Watch interview with Alfonso Laguarda Aguirre and Elva Guadalupe Dávila Valdez, parents of victim, Monterrey, Nuevo León, December 14, 2010.

²²² Nuevo León State Prosecutor’s Office, document in which Héctor Manuel Calzada Ramírez, detective in charge for the 2nd group of crimes against physical integrity (detective responsable del segundo grupo de delitos contra la integridad física), responds to Marcelo Laguarda Dávila’s complaints before Nuevo León State Human Rights Commission, V.2./9025/2010, October 28, 2010, as reproduced in Nuevo León State Human Rights Commission, Second Investigative Unit (Segunda Visitaduría General), file containing documents related to Laguarda’s case, CEDH/389/2010 (on file with Human Rights Watch).

²²³ Nuevo León State Prosecutor’s Office, untitled document in which René Morales Hernández, second agent of the state prosecutor’s office specializing in crimes against life and physical integrity, (agente del Ministerio Público investigador especializado en delitos contra la vida y la integridad física número dos), responds to Laguarda’s complaints before Nuevo León State Human Rights Commission, October 28, 2010 in Nuevo León State Human Rights Commission, Second Investigative Unit, CEDH/389/2010.

him into an unmarked car with three men. Another pick-up truck full of other police waited nearby. The agents began beating him as soon as he was inside the car, informing him that **they had come from the prosecutor's office. In the parking lot of the investigative judicial police headquarters, officers removed Laguarda from the car. He counted 10 agents present, all in plainclothes. A man the other officer referred to as "the commander" kicked him in the ribs.**

The agents removed Laguarda's shirt and attached one end of car jumper cables to his left nipple, saying they were going to shock him unless he signed a piece of paper with his name on it. When Laguarda refused, agents blindfolded him, tied his hands behind his back, and took turns throwing him on the ground. Then they placed a bag over his head and asphyxiated him repeatedly until he lost consciousness. In the midst of the torture, according to Laguarda, officials kept repeating, "Say that it was you already. Torture is for idiots."

The victim was led into the station. Once inside, he said, he was met again by the "commander," who kicked him in the testicles. Agents punched him repeatedly in his back until he vomited. According to the victim, "I would ask them, 'What do you want me to say?' And they would answer, 'We don't want you to say what we want. We want you to say what happened.'" While he was still blindfolded, he said the agents dangled him by his legs over a precipice and threatened to drop him. Then they sat him down in a chair and slapped him every time he started to fall asleep.²²⁴

Then, he said:

They took a cloth...and they wrapped it around my head except for my nose... later I learned that this was what they called "the mummy"... They left me like this and began to do the thing with the water again, but this time the water was poured directly into my nose. They did this three times. That's when I said, "Enough, I'll confess to whatever you want...and then I invented an incredible story that nobody who has heard can believe."

Laguarda said he fabricated a confession saying that he had gone to a public park and asked a passing stranger—a "gangster"—if he would help him kill his classmate. The

²²⁴ Human Rights Watch interview with Marcelo Laguarda Dávila, Monterrey, Nuevo León, December 9, 2010.

stranger said he would put Laguarda in touch with the Zetas, a criminal group, who would carry out the killing for a fee. Laguarda said he paid the Zetas \$4,000 pesos.²²⁵

After he had given this false confession, he said, police then drove him to the park where he had allegedly spoken to the “gangster.” On the ride to the park, an officer punched him repeatedly in the face until the victim felt his jaw dislocate and he was spitting up blood. The victim was brought back to the prosecutor’s office, where he was placed in a room with the prosecutor, “el comandante,” and a public defender.²²⁶

In front of the others, the commander warned Laguarda not to say he was tortured, and that if he did not sign the confession, “we’ll go back to more water until you decide to sign.” Laguarda asked to speak to his appointed lawyer alone and informed him that he had been tortured. According to the victim, the lawyer urged him to sign the document so that he would not be tortured further and to file a complaint later. Laguarda signed the confession around 8 p.m. on September 13, roughly 20 hours after he had been detained.²²⁷

Investigation

Laguarda told Human Rights Watch that on September 14 he was taken to the hospital for a medical exam. He said he told the doctor that he had been tortured, but that the doctor examined him hastily and recommended he be x-rayed, which never happened. The victim was then taken to an *arraigo* center, where he was allowed to call his parents for the first time. A judge ordered his *arraigo* on September 14 on the grounds that “Marcelo’s confession carries full evidentiary value.”²²⁸

The victim told Human Rights Watch he was afraid to shower after his torture because the water reminded him of being waterboarded. His mother said that, during visits, he did not even like to drink anything, because it reminded him of having liquids forced into his mouth. She said his jaw was visibly out of place, that he was constantly shaking, and had difficulty walking.²²⁹ The victim’s parents paid a licensed medical specialist to conduct a private medical exam, which concluded on October 4 that the victim had injuries including

²²⁵ Nuevo León State Prosecutor’s Office, “Informational Statement” (Declaración Informativa), September 13, 2010.

²²⁶ Human Rights Watch interview with Marcelo Laguarda Dávila, Monterrey, Nuevo León, December 9, 2010.

²²⁷ Ibid.

²²⁸ Nuevo León State Judicial Branch (Poder Judicial de Nuevo León), First Criminal Court of the First Judicial District (Juzgado Primero de Preparación de lo Penal del Primer Distrito Judicial), “Arraigo,” September 14, 2010.

²²⁹ Human Rights Watch interview with Alfonso Laguarda Aguirre and Elva Guadalupe Dávila Valdez, December 14, 2010.

serious bruising and hematomas to jaw, neck, thorax, fingers of both hands, and knees, and recommended Laguarda be x-rayed.²³⁰

On October 13, Laguarda's father lodged a complaint with the Nuevo León State Human Rights Commission that his son had been tortured by investigative judicial police and forced to sign a declaration.²³¹ On October 14, officials from the commission visited the *arraigo* center to interview the detainee, and he provided testimony detailing his torture. One of the attending officers who filed a report concluded that the victim "presented dark bruises around the wrists and says he has pain in the jaw, neck, back, ribs, and left leg."²³² The commission official also said Laguarda told him that "if I see [the police officers who did this], I can recognize them and remember one of them as the commander."²³³ However, a medical exam conducted by the commission's expert did not record any of these wounds or injuries. Human Rights Watch was unable to determine the reason these injuries were not recorded by the medical examiner.²³⁴

Laguarda was held in the *arraigo* center for 55 days before being charged with murder and sent to Topo Chico prison in Monterrey, where he was held while awaiting trial. On September 30, 2011, a judge convicted Laguarda for aggravated homicide ("homicidio calificado") and sentenced him to 42 years in prison. Among the arguments used by the judge to dismiss Laguarda's allegations of torture were: "evidence is not conclusive to establish that the injuries apparently found on the body of Marcelo Laguarda Dávila were produced by the beatings or torture of which he says he was a victim."²³⁵ The judge also invoked the "principle of procedural immediacy" (*principio de inmediatez procesal*) to argue that Laguarda's initial confession "carries a greater weight than the ones that come after," because it was given closer to the act in question, despite the fact his later statements said it was coerced.²³⁶

²³⁰ Dr. José Luís Cárdenas Cárdenas, "Medical Exam," (Dictamen médico), October 4, 2010. Provided to Human Rights Watch by Laguarda's parents (on file with Human Rights Watch.)

²³¹ Nuevo León State Human Rights Commission, "Agreement in Process," (Acuerdo en Trámite), October 13, 2010, in Nuevo León State Human Rights Commission, Second Investigative Unit, untitled file containing documents related to Marcelo Laguarda Dávila's case, CEDH/389/2010.

²³² Nuevo León State Human Rights Commission, untitled report filed by Karina Susana Montalvo, official from the State Human Rights Commission, October 14, 2010.

²³³ Ibid.

²³⁴ Nuevo León State Human Rights Commission, "Medical Exam" (Dictamen Médico), October 14, 2010. Provided to Human Rights Watch by Laguarda's parents.

²³⁵ Judicial Branch of the State of Nuevo León (Poder Judicial del Estado de Nuevo León), Second Criminal Judge of the First District Court of Monterrey (Juzgado Segundo de lo Penal del Primer Distrito Judicial Monterrey, N.L.), "Definitive Sentence is Issued" ("Se Dicta Sentencia Definitiva"), Judge José Luis Pecina Alcalá (Juez Lic. José Luis Pecina Alcalá), September 30, 2011 (on file with Human Rights Watch).

²³⁶ Ibid.

At the time of writing, Laguarda’s family had filed an appeal challenging the judge’s ruling.²³⁷

Illegal Detention and Torture of 6 Municipal Police Officers, Cárdenas, Tabasco

The Victims’ Accounts

According to testimonies of six men and interviews with their families, on the morning of May 13, 2010, six municipal police officers—Juan José Jiménez Barahona, 41; Luis Ceballos Domínguez, 38; Genaro Mendoza Aguilar, 35; Carlos Mario Cerino Gómez, 38; Carlos Mario Hernández May, 38; and José Santos Hernández Meneces, 70— were summoned to the municipal police station in Cárdenas, Tabasco. Upon arriving at approximately 9 a.m., a group of masked, armed men in fatigues detained the officers without showing any arrest warrants, and loaded them into unmarked vehicles.²³⁸

The officers said they were handcuffed, blindfolded, and driven around for several hours. During that time, they said, they were questioned about their alleged ties to organized crime groups and threatened with beatings and death if they did not provide information. They were dropped at an undisclosed location, which they could not identify because they were blindfolded, and taken one by one for interrogation. The men described identical torture tactics, including asphyxiation, electric shocks to the genitals and other parts of the body, beatings, and waterboarding, with the aim of extracting confessions that they worked with drug cartels.

For example, Juan José Jiménez Barahona later declared that, while seated blindfolded in a room:

I began to hear the beatings of my colleagues—pleas and cries of desperation. Then they approached me and gave me electric shocks... Three or four men tortured me for I don’t know how long, wanting me to confess to what they were saying about people who, without question, are a menace

²³⁷ Email from Alfonso Laguarda Aguirre, victim’s father, to Human Rights Watch, October 28, 2011.

²³⁸ Tabasco State Prosecutor’s Office (Procuraduría General de Justicia del Estado de Tabasco), “Preliminary Declaration of the Accused Juan José Jiménez Barahona,” (Declaración Preparatoria del Inculpado Juan José Jiménez Barahona), May 19, 2010; “Preliminary Declaration of the Accused Genaro Mendoza Aguilar” (Declaración Preparatoria del Inculpadado Genaro Mendoza Aguilar), May 18, 2010; “Preliminary Declaration of the Accused Luís Ceballos Domínguez” (Declaración Preparatoria del Inculpado Luís Ceballos Domínguez), May 18, 2010; “Preliminary Declaration of the Accused Luís Elías Olán Castillo (A) El Zorro” (Declaración Preparatoria del Inculpado Luís Elías Olán Castillo (A) El zorro), May 18, 2010.

Human Rights Watch interview with relatives of five of the six detained police officers, Cárdenas, Tabasco, July 3, 2010. The interviewees asked not to be identified out of concern for their safety.

Human Rights Watch interview with Juan José Jiménez Barahona at the state prison (Centro de Readaptación Social del Estado de Tabasco), Villahermosa, Tabasco, July 3, 2010.

to society. I responded that I didn't know them, that I didn't know anyone by those names, and that I had never had ties or contacts like the ones [my interrogators] claimed. Since they couldn't get me to confess to things I didn't do... they went back to torturing me, putting a nylon bag over my head, packing tape over my mouth, and tightening the blindfold over my eyes. They kept kicking me, mainly to my stomach, gave me electric shocks, and then abandoned me there.²³⁹

According to the mens' testimony and medical examinations that were conducted days later, all six victims exhibited serious bruises and other injuries, which were consistent with the torture they described.

Jiménez Barahona's condition was the most extreme. Several of the victims said they overheard officers speaking after one of his interrogation sessions, who said Jiménez Barahona was at risk of dying from his injuries. Olan Castillo recalled hearing one of the interrogators tell another, "We're going to take this asshole to the hospital before he dies on us."²⁴⁰ He was taken to a hospital where doctors found he was suffering internal bleeding and inflamed organs, and immediately given a blood transfusion. A section of his intestines had to be removed in an emergency operation.²⁴¹

On May 24, despite a fever and ruptured sutures, Jiménez Barahona was discharged from the hospital and transferred to prison, where he was held in a medical facility for inmates. There, he suffered extreme pain and repeated infections to his wounds. He told Human Rights Watch the medical care he received was irregular and inadequate, and his family said in an interview that they constantly had to bring him extra medicine to supplement the prison's scarce supply.²⁴² On a visit to Jiménez Barahona in the state prison in July, Human Rights Watch found him bedridden in a prison medical facility, where he said he was still experiencing severe pain.

²³⁹ Tabasco State Prosecutor's Office, "Preliminary Declaration of the Accused Juan José Jiménez Barahona," May 19, 2010.

²⁴⁰ Tabasco State Prosecutor's Office, "Preliminary Declaration of the Accused Luís Elías Olán Castillo (A) El Zorro," May 18, 2010.

²⁴¹ Tabasco State Prosecutor's Office, "Preliminary Declaration of the Accused Juan José Jiménez Barahona," May 19, 2010.

²⁴² Human Rights Watch interview with Juan José Jiménez Barahona at the state prison (Centro de Readaptación Social del Estado de Tabasco), Villahermosa, Tabasco, July 3, 2010. See also "Tortured like a Prisoner of War," (Torturado como prisionero de guerra), Tabasco Hoy, May 20, 2010, http://www.tabascohoy.com.mx/noticia.php?id_notas=192972 (accessed September 29, 2011).

The officers' families said they were not informed of their detention until May 15, two days after they had been detained.²⁴³ During those two days, they had repeatedly sought information from state and federal prosecutors, the municipal police, and the Assistant Attorney General's Office for Special Investigations on Organized Crime (SIEDO) about what had happened to the officers—all of whom denied knowledge of their whereabouts.

Esmeralda García Domínguez said that she was not able to meet with her husband, Luis Ceballos Domínguez, until May 17, five days after he had been detained. During their short visit, she said, he was handcuffed to a chair, with police officers seated to either side of him, who stayed for the duration of their meeting. Ceballos Domínguez told her he had been denied access to a public defender for several days, and that when he was finally allowed to meet with his public defender, the lawyer just read him his confession and then asked his name and address.²⁴⁴

The Official Account

According to testimony given to the state prosecutor's office, the officers were detained on May 13, 2010, in a joint operation conducted by investigative police, municipal police, and the Army.²⁴⁵ Officials alleged that the suspects were detained on the basis of an order to come in for questioning, which was issued on May 12 by the state's Special Unit for Combating Kidnapping.²⁴⁶ Four of the victims allegedly presented themselves voluntarily at the municipal police headquarters at 9:45 a.m., while the remaining two were detained shortly thereafter while on duty.²⁴⁷

²⁴³ Human Rights Watch interview with relatives of five of the six police officers, Cárdenas, Tabasco, July 3, 2010. The interviewees asked not to be identified out of concern for their safety.

²⁴⁴ Human Rights Watch interview with Esmeralda García Domínguez, Cárdenas, Tabasco, July 3, 2010.

²⁴⁵ **Executive Branch of the State of Tabasco, Special Unit for Combating Kidnapping, "Ratification by the Apprehending Agent"** (Ratificación del Agente Aprehensor), for Juan José Jiménez Barahona, Luis Ceballos Domínguez, Carlos Mario Hernández May, José Santos Hernández Meneces, Genaro Mendoza Aguilar, Carlos Mario Cerino Gómez, and Luis Elías Olán Castillo. Signed by Julio Cesar Mayo Zavala, Sublieutenant of Infantry, (Subteniente de Infantería), AP-FECS-130/2010, May 13, 2009. See also **"Ratification by the Apprehending Agent" for Juan José Jiménez Barahona, Luis Ceballos Domínguez, Carlos Mario Hernández May, José Santos Hernández Meneces, Genaro Mendoza Aguilar, Carlos Mario Cerino Gómez, and Luis Elías Olán Castillo.** Signed by Emilio Álvarez Chable, Investigative Judicial Agent (Agente Ministerial), AP-FECS-130/2010, May 13, 2009.

See also **"Ratification by the Apprehending Agent" for Juan José Jiménez Barahona, Luis Ceballos Domínguez, Carlos Mario Hernández May, José Santos Hernández Meneces, Genaro Mendoza Aguilar, Carlos Mario Cerino Gómez, Luis Elías Olán Castillo.** Signed by Irvin de Jesús Jiménez Sanches, Sublieutenant of the Air Force, (Subteniente de la Fuerza Aérea), AP-FECS-130/2010, May 13, 2009.

²⁴⁶ **Executive Branch of the State of Tabasco, (Poder Ejecutivo del Estado de Tabasco), Special Unit for Combating Kidnapping, (Fiscalía especializada para combate al secuestro), "Order to Bring Individual in for Questioning" (Acuerdo de Orden de Localización y Presentación de Persona), AP-FECS-130/2010, May 12, 2010.**

²⁴⁷ Army (SEDENA), 57th Infantry Battalion (57/o Batallón de Infantería), Tabasco State Ministry of Public Security, (Secretaría de Seguridad Pública del Estado de Tabasco), **"Request for Assistance and Collaboration" (Solicitud de Auxilio y Colaboración), May 13, 2010.**

The detainees were not handed over to the state prosecutor's office until approximately 11 p.m., 13 hours after they had been detained. Official documents do not account for what happened to the detainees during this period.

In their arrest report, police claimed that Jiménez Barahona “was getting out of one of the official vehicles in which he was transferred to this city to be placed in the custody of judicial authorities, when he accidentally slipped or tripped on the edge of the car, and hit the left side of his body as he fell.”²⁴⁸ As a result of this accident, according to the official account, he was taken to the hospital.²⁴⁹

The state prosecutor's office alleged that four of the officers gave voluntary confessions, in which they confessed to working with the Zeta cartel.²⁵⁰ A fifth officer confessed to being a childhood friend of a known member of the gang,²⁵¹ while the sixth refused to render a confession.²⁵²

The detainees' temporary detention was extended by 48 hours on March 14, and then by another 48 hours, to allow investigators to gather more information.²⁵³ On May 17, the victims were formally charged with organized crime (*asociación delictuosa agravada*) and the inappropriate use of official authority (*ejercicio indebido del servicio publico*),²⁵⁴ and were transferred to a state prison on May 23.

Negligent Medical Examinations

A doctor from the state prosecutor's office conducted medical examinations on all six of the detainees. In four cases, the exam concluded that the detainees' bodies “do not show signs of recent trauma or visible injuries.”²⁵⁵ In the case of Jiménez Barahona, the medical

²⁴⁸ Ibid.

²⁴⁹ Executive Branch of the State of Tabasco, Special Unit for Combating Kidnapping, “Accord on Medical Attention” (Acuerdo de Atención Médica), AP-FECS-130/2010, May 13, 2010.

²⁵⁰ Executive Branch of the State of Tabasco, Special Unit for Combating Kidnapping, “Declaration of Accused Carlos Mario Cerino Gómez, AP-FECS-130/2010, May 13, 2010; “Declaration of Suspect Carlos Mario Hernández May,” AP-FECS-130/2010, May 13, 2010; “Declaration of Accused Genaro Mendoza Aguilar,” AP-FECS-130/2010, May 13, 2010.

²⁵¹ Executive Branch of the State of Tabasco, Special Unit for Combating Kidnapping, “Declaration of Accused Luís Ceballos Domínguez,” AP-FECS-130/2010, May 13, 2010.

²⁵² Executive Branch of the State of Tabasco, Special Unit for Combating Kidnapping, “Declaration of Accused José Santos Hernández Meneces,” AP-FECS-130/2010, May 13, 2010.

²⁵³ Executive Branch of the State of Tabasco, Special Unit for Combating Kidnapping, “Agreement of Legal Extension for Crime in Flagrant” (Acuerdo de ampliación legal por delito flagrante), AP-FECS-130/2010, May 15, 2010.

²⁵⁴ Executive Branch of the State of Tabasco, Special Unit for Combating Kidnapping, “Agreement of Determination” (Acuerdo de determinación), AP-FECS-130/2010, May 17, 2010.

²⁵⁵ Tabasco State Prosecutor's Office, Office of Forensic Medical Services (Dirección General del Servicio Médico Forense), medical exams for Luís Ceballos Domínguez, Carlos Mario Hernández May, José Santos Hernández Meneces, and Genaro

examiner found that he, “Presented an area of bruising of moderate coloring around the upper abdomen, which is exacerbated by pressure applied by fingers, compatible with those caused by a contusion.”²⁵⁶ Meanwhile, detainee Cerino Gómez showed similar bruising in his abdomen, which the medical examiner also concluded was “compatible with those produced by contusion.”²⁵⁷ The quality and nature of these initial medical examinations were called into question by the victims and their families, who told Human Rights Watch that their bodies showed multiple, severe signs of physical abuse at the time they were examined by the state’s medical expert.

Furthermore, medical exams conducted days later, when the detainees were presented before a judge, noted several injuries that were left out of the initial exam. In the case of Mendoza Aguilar, for example, who a state medical examiner had certified was healthy and without signs of injuries, the latter his exam revealed that he found that he, “presented injuries in a scarring phase on both of his ears measuring about 1 cm...that swelling is noted on the left abdomen, which according to the defendant is inflamed because they kicked him.”²⁵⁸

Similarly, the doctor who later examined Ceballos Domínguez, who had also previously been given a perfect bill of health, found: “It is noted that there is the skin on the right side of his head and neck is of a reddish color and seems inflamed, with more swelling observed than that on the left side...he also exhibits burns of a dopped formation on his right calf measuring approximately 2 cm, which he says is the result of electric shocks.”²⁵⁹

Judicial Process

When presented before a judge to be charged, five of the detainees alleged that they had been subjected to torture to force them to sign false confessions, often while blindfolded. For example, Cerino Gómez stated, “I do not affirm my initial confession, but I do acknowledge my signature on the document, which I signed blindfolded and without

Mendoza Aguilar, as performed by medical examiner Dr. Luis Antonio Rodríguez Ceballos, file (oficio) 1045/2010, AP-FECS-130/2010, May 13, 2010.

²⁵⁶ Tabasco State Prosecutor’s Office, Office of Forensic Medical Services, medical exam for Juan José Jiménez Barahona, as performed by medical examiner Dr. Luis Antonio Rodríguez Ceballos, file 1045/2010, AP-FECS-130/2010, May 13, 2010.

²⁵⁷ Tabasco State Prosecutor’s Office, Office of Forensic Medical Services, medical exam for Carlos Mario Cerino Gómez, as performed by medical examiner Dr. Luis Antonio Rodríguez Ceballos, file 1045/2010, AP-FECS- 130/2010, May 13, 2010.

²⁵⁸ Tabasco State Prosecutor’s Office, Office of Forensic Medical Services, medical exam for Genaro Mendoza Aguilar, as performed by medical examiner Dr. Luis Antonio Rodríguez Ceballos, file 1045/2010, AP-FECS- 130/2010, May 13, 2010.

²⁵⁹ Ibid.

knowing what it said, and that the entire confession that I gave was false and was given **under torture.**”²⁶⁰

Ceballos Domínguez declared: “I do not uphold my initial confession, but I do acknowledge my signature on the document, which I signed under duress. I assert that they placed a bag over my head [to suffocate me], and I have scars on my chest and head from the electrical shocks they gave me when they were torturing me; that one of them stood on my stomach and I think they busted one of my guts, and I reserved the right to remain silent...and I do not want to be interrogated by the prosecutor.”²⁶¹

Investigation

An official and medical examiner from the Tabasco State Human Rights Commission allegedly visited the officers on June 11 in the state prison where they were being held, according to a report the Mexican Government provided to the UN Special Rapporteur on Torture.²⁶² The men told the officials they had been tortured. As a result, the commission **filed a complaint with the prison’s director demanding immediate medical and** psychological attention for the detainees; the transfer of Jiménez Barahona to a hospital; the conduct of medical examinations of the detainees; and the application of medical exams following the Istanbul Protocol to evaluate signs of torture. While the state government accepted this complaint on June 16, it is not clear whether a medical exam following the Istanbul Protocol was ever conducted.

The Tabasco State Human Rights Commission told Human Rights Watch it opened two investigations into the alleged abuses committed in the case. According to the state **commission, they are in a phase of “analysis and resolution” (análisis y determinación).**²⁶³ The families of several of the victims said they also filed a complaint with the National Human Rights Commission on May 25.²⁶⁴ They said a representative of the national

²⁶⁰ Tabasco State Prosecutor’s Office, “Preliminary Declaration of the Accused Carlos Mario Cerino Gómez” (Declaración Preparatoria del Inculpadado Carlos Mario Cerino Gómez), May 18, 2010.

²⁶¹ Tabasco State Prosecutor’s Office, “Preliminary Declaration of the Accused Luís Ceballos Domínguez” (Declaración Preparatoria del Inculpado Luís Ceballos Domínguez), May 18, 2010.

²⁶² UN High Commissioner for Human Rights, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment - Addendum - Summary of information, including individual cases, transmitted to Governments and replies received, Juan E. Méndez, A/HRC/16/52/Add.1, March 1, 2011, http://ap.ohchr.org/documents/dpage_e.aspx?m=103, (accessed October 1, 2010), para. 136-137.

²⁶³ Letter from Dr. Jesús Manuel Argáez de los Santos, president, Tabasco State Human Rights Commission (Comisión Estatal de Derechos Humanos Tabasco) to Human Rights Watch, File number (Oficio número) CEDH-P-445/2011, August 15, 2011. According to the commission, the investigations are 490 and 555 from 2010.

²⁶⁴ Email from Rosa Vida López, wife of Juan José Jiménez Barahona, to Human Rights Watch, September 8, 2011. According to Vida López, the complaint is registered with the commission as CNDH/1/2010/2896/Q.

commission visited the victims on June 1—including Jiménez Barahona, who had recently been operated on—but that since that time they had no contact with the national commission.

According to a lawyer for one of the families, as of September 2011—more than a year and a half after the officers were detained—the state prosecutor’s office is still investigating the charges against them. In the meantime, all six officers are still being held in state prison.²⁶⁵

Illegal Detention and Torture of Three Civilians, Ciudad Juárez, Chihuahua

The Military Account

According to a press release issued by the Army and soldiers’ testimony later provided by state prosecutors in the arraignment hearing, in the early hours of February 20, 2010, military involved in “Joint Operation Chihuahua” received an anonymous complaint from a civilian that “two individuals belonging to the criminal group called la Línea” were in a bar in Ciudad Juárez.²⁶⁶ Upon arriving at the bar, soldiers allegedly spotted two men sitting in a Jeep whose descriptions matched those given by the anonymous informant. The officers at the scene alleged that the two men, Jesús Armando Acosta Guerrero and Víctor Manuel Ávila Vázquez, tried to flee when they spotted the soldiers who detained them.²⁶⁷

The military said that the men were then handed over to the state prosecutor’s office, where they confessed to belonging to a cell of hitmen for the criminal group known as the Juárez Cartel or La Línea. The press release issued by the military said both of the accused also confessed to having participated in at least six multiple homicides, as well as the killing of a transit policeman.²⁶⁸ The men also allegedly incriminated themselves and one another in connection with other criminal activities.

²⁶⁵ Human Rights Watch telephone interview with lawyer for police officers, Ascención Alberto Villaseñor Estrada, Villahermosa, Tabasco, September 30, 2011.

²⁶⁶ “Military Personnel Secure Two Suspected Hitmen from the Group Known as the Juárez Cartel or La Línea, and a Vehicle” (Personal militar asegura a 2 presuntos sicarios del denominado cartel de Juárez o la Línea, y un vehículo), SEDENA, press release, February 20, 2010, <http://www.sedena.gob.mx/index.php/sala-de-prensa/comunicados-de-prensa-de-los-mandos-territoriales/3111-ciudad-juárez-chih-a-20-de-febrero-del-2010> (accessed April 21, 2011).

²⁶⁷ DVD recording of arraignment hearing of case (causa penal) 238/2010 against Jesús Armando Acosta Guerrero and Víctor Manuel Ávila Vázquez, held in the First Chamber of the Bravos Judicial District (Audiencia de Garantía dentro de la causa penal 238/2010 en contra de Jesús Armando Acosta Guerrero y Víctor Manuel Ávila Vázquez en la Primera Sala del Distrito Federal Bravos), February 24, 2010 (on file with Human Rights Watch). The defendants were accused of attempted homicide (homicidio en grado de tentativa). DVD provided to Human Rights Watch by the Chihuahua State Public Defender’s Office.

²⁶⁸ “Military Personnel Secure Two Suspected Hitmen from the Group Known as the Juárez Cartel or La Línea, and a Vehicle,” SEDENA, press release, February 20, 2010.

Accounts of Victims and Witnesses

The two victims and five witnesses provided a starkly different account of events in a **hearing on February 24. According to the victims' testimonies, the military arrived at the bar at approximately 2 a.m. on February 20. Soldiers separated the men and women inside the bar and photographed them. A waitress who worked there said soldiers took her and other women into a bathroom, where they searched them and "they molested us."**²⁶⁹

At least three men—including Acosta and Ávila, patrons who were inside the bar at the time of the raid, and bouncer Guillermo Alejandro López Ramos—were taken outside by soldiers, where they were beaten, blindfolded, and handcuffed before being thrown face down into a vehicle, according to testimony later provided at their trial.

Acosta's wife, who was talking on the cell phone with her husband at the time the military arrived, told the judge she rushed over to the bar immediately, which was near her home. Upon arriving, she said, she saw soldiers beating her husband and asked why he was being assaulted. A soldier pointed a gun at her, said they were acting under orders of the president, and told her to "fuck off." She said she visited several government agencies in search of her husband, all of whom denied any knowledge of his whereabouts.

The accounts provided by the manager of the bar, a waitress, the security guard, and **Acosta's wife corroborated the victims' version of the arrests. All said soldiers had entered the bar without search warrants, separated men and women, and detained the civilians. The bar's manager also testified that the military confiscated the security surveillance system, which had recorded the raid and would have offered evidence of the abusive way it was carried out.**²⁷⁰

Acosta, Ávila, and Lopez said they were transported—blindfolded and face down—in the back of a vehicle for approximately 15 minutes before arriving at their destination. Because their blindfolds were not removed, they were unable to identify where they were being held. Then, the three men said, they were stripped naked and subjected to various acts of torture. They were suffocated with plastic bags until they passed out, and awoken by electric shocks to the stomach and testicles. They also said they were beaten with a four-by-four on the forehead, buttocks, and other parts of their bodies. They were threatened with death and told to confess to being members of a cartel. Acosta said he passed out 7

²⁶⁹ Testimony provided by waitress at the bar Mirage. DVD recording of arraignment hearing of case 238/2010 against Jesús Armando Acosta Guerrero and Víctor Manuel Ávila Vázquez, February 24, 2010. The forthcoming testimony, unless otherwise noted are drawn from accounts provided by the victims, their public defender, and civilian witnesses during the hearing.

²⁷⁰ Ibid.

or 8 times from being asphyxiated. Ávila said that one of his torturers said to him: “Nobody knows that I have you here. Your family—nobody is going to hear about it. So you see I can wipe you off the map. You won’t be the first. There are others [that have come before you].”

López said he was released at 5:00 am. Soldiers put him in a car and dropped him off at an **intersection in Juárez, warning him: “That if I talked or filed a complaint, they were going to my house. That they had my photo and my information, and they were going to make it worse for me, they were going to fuck me up.”**

The torture of Ávila and Acosta continued throughout the night and the next day. Ávila said he and Acosta were put in the back of a truck with picks and shovels and driven to a clearing, where he thought they were going to be executed. It was at that point, he said, that he agreed to confess to whatever his interrogators wanted. According to Acosta and Ávila, soldiers presented them with papers containing a list of crimes they were supposed to admit to having committed, as well as information they were supposed to confess regarding their ties to organized crime. Ávila and Acosta said the soldiers informed them **there were representatives of the state prosecutor’s office and public defender’s office** present during their interrogation and subsequent confession. This was impossible for the detainees to confirm, because they said their blindfolds were only removed when it was time for them to confess on film. Both defendants later testified that they were denied the right to inform their families or to speak privately with a lawyer. After giving their forced confessions on film, they said **they were handed over to the state prosecutor’s office.**

When handed over, Ávila and Acosta said they did not inform the doctor who examined them of how they had obtained the bruises they displayed, because there were soldiers present. (However, as will be seen in the forthcoming section, their medical exams **revealed serious injuries.**) Asked if, when handed over to state prosecutor’s office, he felt **safe reporting the abuses he had suffered, Acosta responded, “I was afraid that the soldiers would come back.”** Ávila and Acosta were not allowed to make a phone call until Monday, more than 36 hours after they had been detained.²⁷¹

The Judicial Process

On February 24th, an arraignment hearing (*audiencia de garantía*) was held in front of Judge Dora Imedla Rodríguez Díaz. State prosecutors charged Ávila and Acosta with **“attempted homicide” (*homicidio en grado de tentativa*).** In addition to the defendants’

²⁷¹ DVD recording of arraignment hearing of case 238/2010 against Jesús Armando Acosta Guerrero and Víctor Manuel Ávila Vázquez, February 24, 2010.

testimony and that of several witnesses—including the bouncer, López, who had also been detained and subjected to torture—the defense also provided the official medical exams conducted by officials when the suspects were handed over to prosecutors and placed in preventive detention, which documented injuries consistent with the torture tactics described by the defendants. **Ávila’s medical exam, for example, documented “burns that appear as though they were produced by electric shocks” on his right side, bruising, and pain in his abdomen, back, and head. Acosta exhibited “light hematomas in both sides of his skull,” “multiple circular wounds on the right torso that appear to have been produced by electric burns,” and bruising throughout his body.**²⁷²

The civilian judge found that the prosecution had failed to provide any evidence of the crimes besides the confessions of the **two accused, arguing that: “it is noteworthy that...there is no other evidence that ties [the defendants] to the crimes that we are reviewing, so this court cannot assign much weight to these confessions, not only because they were forcibly extracted through violence, but also because they are not congruent with other evidence from the investigation.”**²⁷³ The judge also said that the medical evidence “corroborates the claims by these [defendants] regarding the abusive way investigators obtained their forced confessions.” **The judge declared the victims were innocent and the charges against the victims were dismissed.**

Although the judge determined that the defendants had likely been subjected to acts of torture by soldiers, and rightly dismissed the charges against them on these grounds, she did not order an investigation be opened the alleged human rights violations suffered by the victims. Nor did she call for prosecutors to conduct a thorough medical exam of the defendants following the Istanbul Protocol guidelines, which may have provided further evidence of their having suffered torture. As a result, no soldiers have been investigated or prosecuted for the crimes committed against the victims in this case.

Illegal Detention, and Cruel, Inhuman, and Degrading Treatment of Two Civilians, Including a Minor, Huamuxtitlán, Guerrero

Summary

On December 28, 2009, investigative judicial police in Huamuxtitlán, Guerrero, raided the car repair shop and home of the Ramírez family, and beat several family members who questioned the officers for entering without a warrant. Police then arbitrarily detained an adult and a minor from the shop, loaded them into unmarked vehicles, and drove them

²⁷² Ibid.

²⁷³ Ibid.

around for more than four hours before handing them over to the state prosecutor's office, all while beating them and threatening to fabricate false charges against them if they filed a complaint about their treatment. An investigation by the State Human Rights Commission found the investigative judicial police had committed acts of cruel, inhuman, and degrading punishment, and that the raid on the shop was illegal. Though several family members have identified the police who participated in the raid, no officers have been charged for any of the crimes. Meanwhile, the Ramírez family has received repeated death threats for pursuing criminal action against the officers.

The Incident

At approximately 11 a.m. on December 28, 2009, investigative judicial police arrived at a car repair shop owned by the Ramírez family in Huamuxtitlán, Guerrero, and began **searching the cars there. The family's home was located behind the shop, and several family members worked there.** Lucino Ramírez Joachinillo, 34, approached the police and asked if they had a search warrant.²⁷⁴ One of the officers responded, **"We don't need authorization from some idiot," according to several witnesses, and went on searching the cars.**²⁷⁵ Lucino told his family to call the municipal police and inform them that the investigative judicial police were carrying out a search without a warrant.

When the officers tried to make their way from the shop to the Ramírez's house, Lucino again asked if they had a warrant, and requested they wait until the municipal police arrived before entering the home. This time, according to various witnesses, one of the officers grabbed him by the neck, and several others began to hit him in the chest and **back with the butts of their rifles. Lucino's father tried to intervene to stop the officers from beating him, but he too was beaten. Although he offered no resistance, Lucino was hit on the body and above both of his eyes with rifles. When Lucino's nephew, 17-year-old Heriberto Ramírez Alvarado, yelled for officers to stop beating him, an officer punched him in the stomach and nose. Lucino and Heriberto were loaded into an unmarked white pick-up, handcuffed, and forced to lie face down.**

Lucino's sister-in-law began filming the unlawful search with a video camera. She said a police officer tore the camera from her hands, threw it to the ground, and confiscated its broken pieces. She then grabbed another camera from their home and started to take photographs of the police beating the civilians. When an officer noticed her taking pictures

²⁷⁴ Human Rights Watch interview with Lucino Ramírez Vázquez, Huamuxtitlán, Guerrero, August 31, 2010. Unless otherwise noted, the account of the victims are drawn from the account of Lucino and his family.

²⁷⁵ Human Rights Watch interview with Lucino Ramírez Joachinillo, Araceli Ramírez Joachinillo, and Diocelina Arzola Romero, Huamuxtitlán, Guerrero, August 31, 2010.

again, he rushed over to her. She fled, hiding the camera in a bush. When the officer eventually caught up to her, he pointed a gun at her and said, “Where is the camera, you damn whore?” When she refused to tell him, he returned to the car that was leaving with the detainees. The family recovered the camera after police left, and later shared the photographs taken with Human Rights Watch, which show uniformed police searching the garage and carrying off a wounded Lucino.

Lucino and Heriberto did not know where they were being taken. Officers drove them first to the investigative judicial police headquarters in Huamuxtitlán, where they were briefly taken out of the car while the officers talked among themselves. Then they were loaded back into the car, and driven around the city and its outskirts. According to Lucino, they were repeatedly hit with guns and kicked while they were handcuffed.

As the investigative judicial police approached a checkpoint manned by the municipal police, the captors stopped the car and washed the blood from Lucino and Heriberto’s faces. The officers told them that, if asked, they should say they had been injured from falling. Officers also warned them that if they told anyone what had happened, the investigative judicial police would plant arms on them and say they worked for the Beltrán Leyva drug cartel.

At the checkpoint, Lucino and Heriberto were handed over from the investigative judicial police to the municipal police, and then transported to Huamuxtitlán’s city hall. Lucino immediately said he wanted to file a complaint. As he waited to meet with the state prosecutor, he said, one of the officers involved in his detention approached him and whispered into his ear that he and his family would be killed if he said what had happened.

From the time Lucino and Heriberto were abducted to the time they were handed over to the state prosecutor’s office—roughly four hours—their families did not know where they were. Lucino’s parents told Human Rights Watch that, during that period, they received a phone call saying that if they wanted to see their loved ones alive, they would have to pay a considerable quantity of money.²⁷⁶

Lucino’s family filmed him filing his oral complaint before state investigators. Family members showed the video to Human Rights Watch, in which bruises and cuts are visible on Lucino’s face, as well as blood on his shirt, and he testified to the abuses he had suffered.²⁷⁷

²⁷⁶ Human Rights Watch interview with Ramírez family, Huamuxtitlán, Guerrero, August 31, 2010.

²⁷⁷ Ibid.

The Investigation

When Lucino and Heriberto were handed over to state prosecutors, they were given **medical exams. The exam, in Lucino’s case, concluded that he did not have “grave injuries.”** Lucino said the exam grossly underestimated his wounds. He told Human Rights Watch he could not leave bed for a week because of the physical injuries he suffered, and could not work for over a month.

On January 15, state prosecutors registered a formal judicial act (*acta ministerial*) based on **Lucino’s complaint.**²⁷⁸ **Lucino’s mother and sister-in-law went to the special prosecutor’s office to review photographs of judicial police officers, and identified four men as amongst those who had taken part in the raid on their shop. Those identified included the chief of the judicial police in Huamuxtitlán, Humberto Velázquez Delgado. A formal investigation was not officially opened by the state prosecutor’s office until approximately five months after the incident, on May 6, 2010.**²⁷⁹ **On May 20, Lucino, Lucino’s father, and Heriberto identified the same four officers who had participated in the raid, as well as three others.**²⁸⁰

The investigative judicial police account of the arrest, which was signed by Chief Humberto Velázquez Delgado, alleged that the police visited the shop as part of a regional operation **to locate stolen cars and find fugitives with outstanding arrest warrants. Velázquez’s report said the operation had been coordinated with civilian authorities and state police.**²⁸¹ **It acknowledged that the police had not had search orders to inspect the Ramírez’s garage, but argued that “the car repair shops were not private property because they are public places, and as such do not require a search order.”**

According to the police, Lucino was arrested for punching a police officer that wanted to search his home without a warrant. The police report offered no explanation as to why Heriberto Ramírez was also detained, or what happened to the two detainees in the four hours between when they were first detained and when they were handed over to municipal police at a checkpoint, which was less than 30 minutes’ drive away from their home.

²⁷⁸ Guerrero State Prosecutor’s Office (Procuraduría General de Justicia del Estado de Guerrero), “Judicial Act” (Acta Ministerial), ZAR/AM/01/050/2009, April 8, 2010, as cited in Guerrero State Human Rights Commission, Recommendation 124/2010, 18 November, 2010, <http://www.coddehumgro.org.mx/coddehumgro2011/archivos/recomendaciones2010/REC.124.pdf> (accessed August 2, 2011).

²⁷⁹ The investigation was assigned number ZAR/01/005/2010, according to the Guerrero State Human Rights Commission, Recommendation 124/2010, November 18, 2010, <http://www.coddehumgro.org.mx/coddehumgro2011/archivos/recomendaciones2010/REC.124.pdf> (accessed August 2, 2011).

²⁸⁰ Ibid.

²⁸¹ Ibid.

Harassment and Threats

In the aftermath of the incident at the Ramírez home, residents of Huamuxtitlán formed a **citizen's council** (*consejo ciudadano*), with the aim of providing an immediate civilian presence in other cases of police abuse. Residents from six neighborhoods joined the group and participated in regular meetings.

On April 6, Lucino received a call on his cell phone from a man who said he had been given **the names and addresses of Lucino and his relatives to kill them. The caller warned, “Then prepare yourself for the consequences, some relative of yours is going to be found beheaded or bagged like you see on the news.” The caller said that if Lucino did not leave Huamuxtitlán by noon the next day: “I am going to take one of your kids and behead him outside your house. And believe me, old man, I won’t do this for money, but rather out of pride, and you’re going to see the power I wield around here and in Chilpancingo. Is that what you want for your family?”**

Lucino reported the threat immediately to the Guerrero State Human Rights Commission. On April 7, 2010, the commission asked the state to undertake measures to protect Lucino and his family, including patrols by state police and a set of bodyguards from the municipal police. It also requested the judicial police abstain from threatening the Ramírez **family and asked the state prosecutor’s office to speed up its investigation. State police and the mayor accepted these measures on April 12 and 13, respectively.**²⁸² According to the Ramírez family, municipal police failed to provide regular bodyguards, as ordered by the commission.

State Human Rights Commission Report

On November 18, 2010, the State Human Rights Commission issued a detailed report on the case, which found, after an exhaustive investigation, that investigative judicial police had committed various abuses, including unlawful search and seizure, arbitrary detention, and cruel, inhuman, and degrading treatment.

The commission found numerous inconsistencies in the investigative judicial police account of the incident. For example, while the chief of investigative judicial police said it was Lucino who punched a policeman—thereby justifying his arrest—his officers claimed it was Heriberto who struck an officer. Furthermore, contrary to the investigative judicial police claim, state authorities **including the mayor’s office and state police denied ever** having been notified of the alleged operation in advance.

²⁸² Ibid.

Medical exams conducted by experts in the state prosecutor's office identified wounds on the faces and bodies of Lucino and Heriberto, which were consistent with the injuries they alleged to have sustained at the hands of officers. Moreover, both the regional commander of the state police and Huamuxtitlán's chief prosecutor acknowledged that the detainees showed clear signs of physical injuries.

The commission rejected the investigative judicial police argument that the searches and arrests were justified without judicial orders, concluding: "it has not been shown that [the victims] were committing a crime *in flagrante*, or presented any emergency, especially because no illicit activity was found in the search of the car repair shop." The commission went on to conclude that there were no grounds for victims' detentions, which were carried out arbitrarily.

None of the officers identified by the Ramírez family have been charged in any criminal investigation. Meanwhile, an internal affairs investigation has been opened into possible misconduct by seven police officers in the case, but it remains ongoing, and none of the officers have received administrative sanctions.²⁸³

Illegal Detention and Torture of Three Police Officers, Mexicali, Baja California

Summary

Three investigative judicial police officers were arrested in June 2009 in Mexicali, Baja California, and transported by municipal police to an Army base in Tijuana where they were subjected to beatings, asphyxiation, and death threats to force them to sign confessions that they had collaborated with drug cartels. After being handed over to federal prosecutors, all three gave declarations attesting to the torture they had suffered, and one filed a formal complaint against the Army and police. Although the military and state prosecutors allegedly opened investigations into the case, no military officers have been convicted for the officers' alleged torture.

Contradictory Official Accounts

At approximately 8:30 p.m. on June 23, municipal police in Mexicali said they stopped a car matching the description of one reportedly involved in a kidnapping, according to a police report.²⁸⁴ When they checked the license plate number, they said, they discovered

²⁸³ Human Rights Watch telephone interview with two lawyers from Tlachinollan, a Guerrero human rights organization that has been documenting the case, Tlapa, Guerrero, October 21, 2011. The internal affairs investigation is CRM/018/2010/II.

²⁸⁴ Municipal Police Department (Dirección de Seguridad Pública Municipal), "Detention Record" (Datos de la Detención), 0001559/09, June 23, 2009.

the vehicle was registered as stolen and detained the driver, investigative judicial policeman Denis Alonso Acuña Jiménez. The report said officers found a gun under the **driver's seat, three face masks, and \$7,000 in cash.**

The following day, June 24, Julio César Magdaleno Meza, 26, and Jorge Lomelí Guillén, 30, both investigative judicial police officers, were detained and brought to the internal affairs **division of the state prosecutor's office** in Mexicali for questioning, according to declarations they later provided. As they left, they were stopped by Juan Antonio Rocha Salazar, the subcommander of the investigative judicial police. According to Magdaleno and Lomelí, Rocha said they were being detained for further questioning.²⁸⁵

The state prosecutor's office's internal affairs division produced two separate reports on June 25, which offered conflicting accounts of the arrests. The first aligned with the information provided in the initial police report, which stated that Acuña had been stopped while driving a borrowed car, in which a weapon and masks were found, which he denied were his. According to this report, when Subcommander Rocha asked Acuña about other illicit activities, he responded that **“he was unaware of the situation.”**²⁸⁶

However, another report, also produced by internal affairs on June 25—offered a conflicting account. In this report, Rocha said that when he questioned Acuña on the night he was detained, Acuña spontaneously confessed that **“he was invited by two other agents (Lomelí Guillén and Magdaleno Meza) to get in on a deal with a gangster who was selling cocaine.”**²⁸⁷ According to Rocha's account, Acuña confessed at the moment he was detained that he was on his way to carry out a kidnapping with Magdaleno and Lomelí, **who belonged to a group of corrupt police that extorted “people who made a living selling and buying drugs with the aim of making extra money.”**²⁸⁸

²⁸⁵ Bureau of Internal Affairs of the Baja California State Prosecutor's Office (Dirección de Asuntos Internos y Contraloría de la Procuraduría General de Justicia del Estado de Baja California), Internal Affairs Headquarters, Mexicali Zone (Jefatura de Asuntos Internos y Contraloría, Zona Mexicali), “Declaration of the Suspect Jorge Israel Lomelí Guillén” (Declaración del Indiciado Jorge Israel Lomelí Guillén), A.P. 23/2009/MXL, June 25, 2009; “Declaration of Suspect Julio César Magdaleno Meza” (Declaración del Indiciado César Magdaleno Meza), A.P. 23/2009/MXL, June 25, 2009.

²⁸⁶ Internal Affairs and Comptroller's Office (Jefatura de Asuntos Internos y Contraloría), Baja California State Prosecutor's Office (Procuraduría General de Justicia del Estado de Baja California), “Investigation Progress Report” (Avance de Informe de Investigación), June 25, 2009.

²⁸⁷ Internal Affairs and Comptroller's Office (Jefatura de Asuntos Internos y Contraloría), Baja California State Prosecutor's Office (Procuraduría General de Justicia del Estado de Baja California), untitled document in which Juan Antonio Rocha Salazar, operational commander of the Baja California Investigative Judicial Police (Comandante Operativo de la Policía Ministerial del Estado) presents his account of the facts to Florencio Raul Cuevas Salgado, director of the Baja California Investigative Judicial Police (Director de la Policía Ministerial del Estado), June 23, 2009.

²⁸⁸ Ibid.

Therefore, the only piece of evidence tying officers Magdaleno and Lomelí to criminal activity was Acuña's confession, which was reported completely differently in two internal affairs reports.

The Victims' Accounts

Magdaleno and Lomelí's accounts confirmed that they were detained and questioned by internal affairs officers in Mexicali on June 24, and that, as they left, deputy commander Rocha approached them for further questioning. At this point, Lomelí later testified, he asked to see the arrest orders, which Rocha said he did not have. According to Lomelí, when he refused to be handcuffed, officers with Rocha threw him to the ground and beat him, the beginning of which was captured on video taken by an eyewitness.²⁸⁹

According to the accounts of Magdaleno and Lomelí, they were then driven by Rocha and other officers to the Second Military Zone in Tijuana. Acuña, who had been held overnight following his arrest, was also brought to the Army base in a separate car. Upon arrival, the three detainees said in their testimonies, they were taken to a room where soldiers bound their hands and covered their eyes with tape. Acuña was taken out first for interrogation, and later recounted in testimony that soldiers forced him, "to recount things that they told me...to which I said no, and they didn't accept my answer, and hit me harder and forced me to say what they wanted to hear, handing me a written version."²⁹⁰

Magdaleno and Lomelí said they heard Acuña being beaten and crying out in pain before they were interrogated. When Magdaleno's turn came, he explained that: "they started to hit me in the stomach and the face, asking what cartel I belong to, and who I worked with. They put a bag over my head and asphyxiated me repeatedly, forcing me to say things that are lies."²⁹¹ According to Lomelí, when he was interrogated, "I felt several people hold me down by my legs and knees, while another got on top of my stomach, and another put a bag over my head, and asked me who was my boss. I answered, 'Which boss?' And he told me not to be a jerk—that I knew [what he meant], and again he pulled the bag over my face."²⁹²

²⁸⁹ "Commander Rocha Beating Investigative Judicial Police Officers" (Comandante Rocha golpeando ministeriales), online video, youtube.com, http://www.youtube.com/watch?v=xHDEq8I-9OM&feature=player_embedded (accessed July 30, 2011).

²⁹⁰ Bureau of Internal Affairs, Baja California State Prosecutor's Office, "Declaration of Suspect Dennis Alfonso Acuña Jiménez" (Declaración en Calidad de Indiciado Dennis Alfonso Acuña Jiménez), A.P. 23/2009/MXL, June 25, 2009.

²⁹¹ Bureau of Internal Affairs, Baja California State Prosecutor's Office, "Declaration of Suspect Julio César Magdaleno Meza" (Declaración en Calidad de Indiciado Julio César Magdaleno Meza), A.P. 23/2009/MXL, June 25, 2009.

²⁹² Bureau of Internal Affairs, Baja California State Prosecutor's Office, Internal Affairs Headquarters, Mexicali Zone, "Declaration of the Suspect Jorge Israel Lomelí Guillén", A.P. 23/2009/MXL, June 25, 2009.

After all three detainees had confessed under torture to collaborating with organized crime, they said they were driven back to Mexicali, where they were handed back over to the internal affairs division. There, the three gave declarations to the federal prosecutor of having suffered torture at the hands of the military.²⁹³ However none of the victims were given medical exams or submitted to the Istanbul Protocol, and were released after rendering their testimony.

Judicial Investigation

On July 10, Magdaleno filed a complaint with the federal prosecutor’s office alleging that he had suffered arbitrary detention, torture, and other abuses at the hands of police and soldiers from the Army.²⁹⁴ According to information provided by the military, a military prosecutor in Durango opened an investigation into the incident. It is not clear why the case is being investigated by a military prosecutor in Durango when the alleged human rights violations took place in Baja California.²⁹⁵ Nor is it clear what progress, if any, has been made in the military’s investigation. (Human Rights Watch was not granted a meeting with the Army in Baja California, despite requests.)

The state prosecutor’s office issued arrest orders on August 19, 2011 for Juan Antonio Rocha Salazar for the suspected crimes of “abuse of authority” and “inflicting injuries” (*lesiones*),²⁹⁶ and issued formal preventive detention orders on October 2.²⁹⁷ But according to Magdaleno and lawyer working on the case, at the time of writing, Rocha had still not been detained.²⁹⁸

²⁹³ Bureau of Internal Affairs of the Baja California State Prosecutor’s Office (Dirección de Asuntos Internos y Contraloría de la Procuraduría General de Justicia del Estado de Baja California), Internal Affairs Headquarters, Mexicali Zone (Jefatura de Asuntos Internos y Contraloría, Zona Mexicali),” Declaration of the Suspect Jorge Israel Lomelí Guillén” (Declaración del Indiciado Jorge Israel Lomelí Guillén), A.P. 23/2009/MXL, June 25, 2009; Declaration of Suspect Dennis Alfonso Acuña Jimenez (Declaración en Calidad de Indiciado Dennis Alfonso Acuña Jiménez), A.P. 23/2009/MXL, June 25, 2009; Declaration of Suspect Julio César Magdaleno Meza (Declaración del Indiciado César Magdaleno Meza), A.P. 23/2009/MXL, June 25, 2009.

²⁹⁴ State Delegation of Federal Prosecutor’s Office in Tijuana, Baja California (Delegado de la Procuraduría General de la República de esta Ciudad de Tijuana, Baja California), “Complaint” (Denuncia de Hechos), July 10, 2009.

²⁹⁵ Letter from Jose A. Guevara, director of unit (Titular de la Unidad), Sub-secretariat for Legal Affairs and Human Rights, Division for the Promotion and Defense of Human Rights, Ministry of the Interior (Subsecretaría de Asuntos Jurídicos y Derechos Humanos, Unidad Para la Promoción y Defensa de los Derechos Humanos, Secretaría de Gobernación) to Maureen Meyer, senior associate for Mexico and Central America, Washington Office on Latin America (WOLA), UPDDH/911/339/2010, April 6, 2010.

²⁹⁶ Arrest Orders (Orden de Aprehensión), Sixth Criminal Judge (Juez Sexto de lo Penal), Case (Causa Penal) 47/2011, File (Oficio) 832/11, Mexicali, Baja California, August 19, 2011 (on file with Human Rights Watch).

²⁹⁷ Preventive Arrest Orders for the Crimes of Abuse of Authority and Inflicting Injuries (Auto de formal prisión por los delitos de abuso de autoridad y lesiones), Sixth Criminal Judge (Juez Sexto de lo Penal), Case (Causa Penal) 47/2011, Investigation (Averiguación) 37/09/MXLI, Mexicali, Baja California, October 2, 2011 (on file with Human Rights Watch).

²⁹⁸ Human Rights Watch telephone interview with Silvia Vázquez Camacho, Mexico City, October 26, 2011.

Illegal Detention and Torture of 17 Police Officers, Huimanguillo, Tabasco

Summary

Seventeen municipal police officers were arbitrarily detained in a joint operation by police and the military in Huimanguillo, Tabasco, between August 13 and August 26, 2009. The police officers said they were subjected to torture, including asphyxiation, having their fingernails removed, mock executions, waterboarding, and electric shocks in order to force them to confess to working for organized crime groups. The victims later testified before a judge that they were forced to sign confessions incriminating themselves and other officers, often with state prosecutors and public defenders present. Others said officials forged their signatures on false confessions, which was later verified by an expert examination.

On the basis of their false confessions, the victims were charged with participating in **organized crime [and the “inappropriate use of official authority.”** Despite the fact that medical exams of the victims showed injuries consistent with abuse and that the 17 men declared before a judge that they had been forced to confess under torture, the judge presiding over the case did not order an investigation into the allegations, or instruct an examination of victims to be conducted. Instead, the judge issued *arraigo* orders **permitting the men to be detained for 30 days, and later affirmed the prosecutor’s charges** against them. An appeals judge overturned the decision, concluding that the defendants had been tortured, and freed 13 of the officers. Still, several officers remain in jail and even though a judge concluded that the men had been tortured no investigation has been opened into the allegations.

The Victims’ Account

The 17 municipal police officers said they were detained by plainclothes security officers wearing ski masks. Some were detained at the police station when they reported to work, while others were picked up at their homes. Their testimonies fit a consistent pattern: the security forces involved did not identify themselves, nor did they offer warrants or any justification for the detentions.²⁹⁹ The men were handcuffed and blindfolded, loaded into

²⁹⁹ Tabasco State Prosecutor’s Office (Procuraduría General de Justicia del Estado de Tabasco), “Preliminary Declaration of the Accused José Sánchez Pablo,” (Declaración Preparatoria del Indiciado José Sanchez Pablo), August 28, 2009; “Preliminary Declaration of the Accused José Arturo Aragón Otáñez,” August 28, 2009; “Preliminary Declaration of the Accused Jesús Alberto Aragón Otáñez,” August 28, 2009; “Preliminary Declaration of the Accused Javier Gómez Hernández,” August 28, 2009; “Preliminary Declaration of the Accused Agustín Trinidad Hernández,” August 28, 2009; “Preliminary Declaration of the Accused Leonardo Escudero Montejo,” August 29, 2009; “Preliminary Declaration of the Accused LuíS Alberto López López,” August 29, 2009; “Preliminary Declaration of the Accused Ezequiel Hernández Pardo,” August 29, 2009; “Preliminary Declaration of the Accused Antonio Urgel Rodríguez,” August 29, 2009; “Preliminary Declaration of the Accused Victor Manuel Machín Concepción,” August 29, 2009; “Preliminary Declaration of the Accused José Atila Cupido,” August 29, 2009; “Preliminary Declaration of the Accused Asunción Pereyra Calderón,” August 29, 2009; “Preliminary

unmarked vehicles, and transported to an undisclosed location—in some cases what appears to have been a private ranch, and in others, a building with two sets of stairs, which matches the description of an interrogation center given by victims in several other cases of torture documented by Human Rights Watch.³⁰⁰ **The men’s families were not notified of their arrests until they were handed over to the state prosecutor’s office, which in some cases was more than a week after they had been detained.**³⁰¹

For example, José Arturo Aragón Otáñez, chief of municipal police, was accompanying Huimanguillo’s mayor at a public event when, he said:

A white van arrived about 10 meters from where I was standing, from which about eight hooded men emerged with high-powered weapons, including some R-15 rifles. They immediately ran towards me and three of them violently grabbed me, one on each arm and the third on the neck, saying, **“Let’s go, I’m delivering you to hell.”** And though I offered no resistance, they threw me into the back of the truck, where they immediately held me down and started threatening me with things like, **“Stay down, because you are going to die.”** They covered my head with a red cloth and packing tape and closed the truck’s door.³⁰²

According to the police officers who were detained, upon being transported to a building they did not recognize, they were tortured over many hours and in some cases days, and subjected to mock executions, waterboarding, beatings, asphyxiation, and electric shocks.³⁰³ Said José Atila Cupido:

...They sat me down in a chair, and I felt them remove my handcuffs from in front of me and cuff my hands behind my back. Next I felt them tie my feet to the legs of the chair, and then they began to beat me in different parts of my body. They poured water on me and put a bag over my head. And again

Declaration of the Accused Rosario Méndez López,” August 29, 2009; “Preliminary Declaration of the Accused Darinél Morales Arteaga,” August 29, 2009; “Preliminary Declaration of the Accused Abraham Olán Juárez,” August 29, 2009;

³⁰⁰ See for example, “Illegal Detention, Torture and Sexual Assault of a Civilian, Cárdenas, Tabasco,” and “Illegal Detention and Extrajudicial Killing of a Civilian, Cárdenas, Tabasco.”

³⁰¹ Tabasco State Prosecutor’s Office (Procuraduría General de Justicia del Estado de Tabasco), “Preliminary Declaration of the Accused Jesús Alberto Aragón Otáñez,” (Declaración Preparatoria del Indiciado Jesús Alberto Aragón Otáñez), August 28, 2009.

³⁰² Ibid.

³⁰³ Tabasco State Prosecutor’s Office, “Testimony Behind Bars of the Accused José Sánchez Pablo Alias El Chepe, José Arturo Aragón Otáñez, and Jesús Alberto Aragón Otáñez” (Comparecencia Tras las Rejas de Practica del Indiciado José Sánchez Pablo Alias el Chepe, José Arturo Aragón Otáñez y Jesús Alberto Aragón Otáñez), August 28, 2009.

they started to beat me and to block off my breathing to force me to confess things. Then they threw me to the floor again and three people stood on top of me while I felt others hold down my head and feet. Then they poured water into my nose and mouth and again put a bag over my head preventing me from breathing ...A bit later I heard one of them say to the other, “Tie him up good, because we’re going to kill this guy in a little while, and it’s not the first time we’ve done this.”³⁰⁴

José Sánchez Pablo later recounted his torture to prosecutors as follows:

Since they couldn’t get the answers they wanted from us, they decided to torture me. First they beat me on various parts of my body, they threw me on the ground and then beat me like an animal...they put a gun to my head, and pretended to fire it several times...They put a cloth over my head, soaked it in water and covered my nose with it and then poured water over it so that it would seep into my nose, torturing me...On five occasions they drowned me with water until I passed out... At around 2 in the morning they placed electric cables on my thighs, giving me shocks.³⁰⁵

Several of the detainees interviewed by Human Rights Watch said that they needed to be revived after losing consciousness as a result of torture.³⁰⁶ Officers described being denied food and water for extended periods, and one said that the only drink he was given was his own urine.³⁰⁷ The goal of the torture, the victims said in their testimonies to state prosecutors, was to elicit confessions that they worked with organized crime groups. Several of the men said that their signatures were falsified by justice officials. According to Sánchez Pablo:

With the supposed confession I had given, they grabbed my left and right thumbs and pressed them on a piece of paper so as to give my fingerprints. And that signature that is signed there is not mine, so that confession they wrote there is false, because I was blindfolded the entire time and they **didn’t let me read what they had written, and I don’t know any of the people they mention there or what crime they have accused me of.**³⁰⁸

³⁰⁴ “Preliminary Declaration of the Accused José Atila Cupido,” August 29, 2009.

³⁰⁵ “Preliminary Declaration of the Accused José Sánchez Pablo,” August 28, 2009.

³⁰⁶ Human Rights Watch interviews with four policemen detained in state prison in Villahermosa, Tabasco, July 3, 2010. The interviewees asked not to be identified out of concern for their safety.

³⁰⁷ “Preliminary Declaration of the Accused José Sánchez Pablo,” August 28, 2009.

³⁰⁸ Tabasco State Prosecutor’s Office, “Preliminary Declaration of the Accused José Sánchez Pablo,” August 29, 2009.

The Official Account and Arraigo

According to police records, there were two rounds of arrests: the first on August 22, and the second on August 26. Soldiers from the Army allege nine of the officers were detained on the **morning of August 22 and taken to the state prosecutor's office.**³⁰⁹

Officials allege that all nine defendants willingly signed full confessions on the day they were detained, in which they admitted to collaborating with organized crime, often as *halcones*, or informants tasked with informing cartels of police activities. In all of the cases, the police officers not only incriminated themselves, but also accused the other officers who had been detained that day, often using nearly identical language. The following confession of Darinél Morales Arteaga is representative of the alleged confessions:

...approximately one year ago I started as a halcón—that is to say that I kept watch over places assigned to me for the Zetas or the Gulf Cartel and saw if any officials passed by... there are municipal police officers who help us carry out our job as lookouts, or they advise when there is going to be a police operation. There's one they call Isaac, another called Chaco, and Vicente, whom they call Chente, as well as Rodiver Leyva Rodríguez, Jesús Alberto Aragón Otáñez, Rubicel Escudero Domínguez, Leonardo Escudero Montejo, José Arturo Aragón Otáñez, Luis Alberto López López, Carlos González Vázquez, and Felipe.³¹⁰

On the basis of these confessions, the suspects were ordered to be detained under **“urgent” detention orders at 5:59 a.m. August 23.**³¹¹ On August 24, a district judge issued *arraigo* orders permitting the detention of the suspects for an additional 30 days pending further investigation.³¹²

On August 26 at approximately 7 a.m., soldiers said they arrested the remaining eight officers³¹³ and handed them over to state prosecutors.³¹⁴ As with the first group of

³⁰⁹ Tabasco State Prosecutor's Office, “Ratification of the Apprehending Agent” (Ratificación de agente aprehensor), AP-FECS-115/2009, August 22, 2009. Signed by Tomás Vasconcelos Bravata, secondary captain of infantry (capitán segundo de infantería), Army, 57th Infantry Battalion.

³¹⁰ Executive Branch of the State of Tabasco (Poder Ejecutivo del Estado de Tabasco), Special Unit for Combating Kidnapping (Fiscalía especializada para combate al secuestro), “Declaration of the Accused Darinél Morales Arteaga,” AP-FECS-115/2009, August 22, 2009.

³¹¹ Executive Branch of the State of Tabasco, Special Unit for Combating Kidnapping, “Agreement of Legal Detention Due to Urgency” (Acuerdo de detención legal por urgencia), AP-FECS-115/2009, August 23 2009.

³¹² Executive Branch of the State of Tabasco, Special Unit for the Combating of Kidnapping, “Request for *Arraigo* Order,” (Solicitud de Orden de Arraigo), AP-FECS-115/2009, August 24, 2009.

³¹³ Agustín Trinidad Hernández, José Atila Cupido Flores, Víctor Manuel Machín Concepción, Rosario Méndez López, Asunción Pereyra Calderón, Lidio Alberto García, Ramón Arturo González, Javier Hernández Gómez.

detainees, security forces alleged the second group of detainees signed confessions of their own free will the day they were detained, admitting that they and fellow officers worked with organized crime groups. These confessions were co-signed by a public defender and a state prosecutor, and the detainees were transferred to the state prison the following day.³¹⁵

On August 28, all the suspects were presented to the press during a news conference led by Rafael González Lastra, the state attorney general at the time.³¹⁶ González told the press they had found sufficient evidence to charge the detainees, and that the accused had already confessed to their ties with organized crime, including being paid wages of up to \$20,000 pesos to tip off cartels about the activities of security forces.

Official Medical Examinations

A medical expert from the state prosecutor's office, Dr. Adriana de la Cruz Álvarez, conducted medical exams on nine of the detainees on August 22.³¹⁷ The exams identified bruises and other injuries, and the drug tests of the individuals all came back negative.³¹⁸ The injuries included hematomas, hemorrhaging, missing fingernails, markings around **victims' necks, wrists, and buttocks, and other injuries consistent with the torture tactics** they later described to a judge.

For example, in the case of Abraham Olan Juárez, the examiner noted bruises on his arms, chest, and his buttocks.³¹⁹ **Luis Alberto López's medical exam found "total and partial loss of nails belonging to the ring and middle fingers on his left hand, respectively, with skin excoriation of 3 cm and 1 cm around on the left ring and little finger,"** as well as bruises

³¹⁴ Army, 30th Military Zone (Ejército Mexicano, 30ª Zona Militar), Ministry of Public Security of the State of Tabasco (Secretaría de Seguridad Pública del Estado de Tabasco), report addressed to state prosecutor's office stating that Agustín Trinidad Hernández, José Atila Cupido Flores, Daniel Oran Ramos, Ezequiel Hernández Pardo, Antonio Urgel Rodríguez, Víctor Manuel Machín Concepción, Rosario Méndez López, Asunción Pereyra Calderón, Lidio Alberto García, Ramón Arturo González de la Cruz, and Javier Hernández Gómez were turned over to the state prosecutor's office by soldiers, August 26, 2011.

³¹⁵ Executive Branch of the State of Tabasco, Special Unit for Combating Kidnapping, "Notification of Detention for Urgency" (Notificación de detención por urgencia), AP-FECS- 115/2009, August 27, 2009.

³¹⁶ "Criminal Charges Brought Against Police Officers from Huimanguillo" (Ejercitan acción penal contra los policías de Huimanguillo), *Milenio*, August 28, 2009, <http://impreso.milenio.com/node/8631953> (accessed September 8, 2010).

³¹⁷ The individuals examined were Rodiver Leyva Rodríguez, Jesús Alberto Aragón Otáñez, Rubicel Escudero Domínguez, Leonardo Escudero Montejo, José Arturo Aragón Otáñez, Luis Alberto López López, Carlos González Vázquez, Darinél Morales Arteaga, Abraham Olan Juárez.

³¹⁸ Office of Forensic Medical Services, (Dirección General de Servicios Médicos Forenses), document containing results of drug tests, AP-FECS-115/2009, August 22, 2010.

³¹⁹ Office of Forensic Medical Services, document containing results of Abraham Olan Juárez' medical exam, carried out by Dr. Adriana de la Cruz Álvarez, AP-FECS-115/2009, August 22, 2010.

and scars on his chest and clavicle.³²⁰ Despite this evidence, the medical examiner **concluded in all of the cases that the victims' injuries would take less than 15 days to heal.** However, victims and their families said some of the injuries took months to heal, while others led to chronic health problems. Human Rights Watch interviewed four of the officers approximately a year after the alleged torture had taken place, in the prison where they were still being held at the time.³²¹ All said they continued to suffer lasting physical and psychological effects of the torture. One victim said his vision in one eye had been permanently damaged as a result of being punched in the eye; another still walked with a limp; and yet another described persistent headaches and loss of memory since the beating. Many of the officers described experiencing chronic psychological problems since the torture, such as insomnia, anxiety, and depression.

Furthermore, despite many of the medical exams corroborating physical abuse, neither the **medical examiner nor the state prosecutor's office called for further investigation into** potential violations. Nor did the test results appear to lead to any inquiry regarding what had caused the documented injuries.

On August 27, several of the officers were examined a second time by doctors when they were transferred to the prison. Again, the medical examinations noted a range of injuries.³²² Yet once again, the medical evidence did not instigate any further investigation into what had caused the injuries.

The officers' accounts were further supported by the findings of an independent medical examination on September 1, whose review was solicited by the lawyer of three of the detainees. After examining these three detainees, the expert concluded they had suffered "severe injuries" that are "compatible with having been produced by physical acts of torture."³²³

³²⁰ Office of Forensic Medical Services, document containing results of Luís Alberto López López' medical exam, carried out by Dr. Adriana de la Cruz Álvarez, AP-FECS-115/2009, August 22, 2010.

³²¹ Human Rights Watch interviews with four policemen detained in state prison in Villahermosa, Tabasco, July 3, 2010. The interviewees asked not to be identified out of concern for their safety.

³²² Social Readaptation Center of the State of Tabasco, (Centro de Readaptación Social del Estado de Tabasco), Coordination of Medical Services, (Coordinación de Servicios Médicos), "Medical Certificate of New Entry," (Certificado Médico de Nuevo Ingreso), for José Sánchez Pablo, José Arturo Aragón Otáñez, Jesus Alberto Aragon Otáñez, Javier Gómez Hernández, Rodiver Leyva Rodríguez, Daniel Olan Ramos, Leonardo Escudero Montejo, Luís Alberto López López, Antonio Urgel Rodríguez, Víctor Manuel Machín Concepción, José Atila Cupido Flores, Asunción Pereyra Calderón, Rosario Méndez López, Darinél Morales Arteaga and Abraham Olan Juárez, August 27, 2009.

³²³ Dr. Herschell Serna Leeder, medical exams for Jesús Alberto Aragón Otáñez, Rodiver Leyva Rodríguez, and Javier Gómez Hernández, September 1, 2009, as reproduced in Tabasco State Attorney's Office (Procuraduría General de Justicia del Estado de Tabasco), Special Unit for Combating of Kidnapping (Fiscalía especializada para combate al secuestro), investigation file related to AP-FECS-115/2009, 1280/2009.

Judicial Process

On August 28, the victims were brought before Judge Ramón Adolfo Brown Ruiz—the same judge who had issued *arraigo* orders following their initial arrests. The men declared before the judge that they had been arbitrarily detained and tortured, and that the **confessions obtained by the state prosecutor’s office had been rendered under duress.** They also said they had been held incommunicado and denied access to a lawyer.³²⁴

The lawyers for the victims highlighted the medical examinations documenting the **detainees’ injuries, as well as the results of an exam conducted by an expert in fingerprinting and document authentication, which found that the signature on the confession of one of the defendants was fabricated.**³²⁵ **The victims’ defense also** highlighted inconsistencies in the official accounts, such as the discrepancy between when police said they detained the officers and witness’s **testimonies stating that the victims had been detained earlier.** Nonetheless, on September 2, the judge issued detention orders against the defendants for organized crime.³²⁶

The defendants filed an *amparo* **challenging the judge’s decision on September 21** in the Central Auxiliary District of the 4th Region. Based on medical and psychological evaluations **and other evidence, the appeals court overturned the lower court’s decision, ruling on January 21, 2010 that the detainees’ confessions had been made under torture,** rendering them inadmissible. The judge wrote:

...The arguments made by the plaintiffs brought before the judge in this case proved to be valid... in the sense that [the officers] were coerced to sign a confession that was not their own, in which they admitted having committed a criminal act attributed to them; and under the circumstances, it is possible to conclude that what the defendants allegedly confessed

³²⁴ Tabasco State Prosecutor’s Office (Procuraduría General de Justicia del Estado de Tabasco), “Testimony Behind Bars of the Accused José Sánchez Pablo alias El Chepe, José Arturo Aragón Otáñez, and Jesús Alberto Aragón Otáñez,” (Comparecencia tras las rejas de práctica del indiciado José Sánchez Pablo alias El Chepe, José Arturo Aragón Otáñez y Jesús Alberto Aragón Otáñez), August 28, 2009.

³²⁵ Braulio Enrique Granados Martínez, expert in fingerprinting and document authentication, (perito en dactiloscopia y documentoscopia), untitled document containing results of exam, September 2, 2009. The report came to the following conclusion: “Taking into consideration the discrepancies in the intrinsic characteristics found in both the suspicious and non-suspicious signatures, it is determined that the illegible signatures...do not correspond with the hand and writing of the defendant Robider Leyva Rodríguez.”

“Tomando en consideración las discrepancias en los rasgos intrínsecos encontrados en las firmas dubitadas e indubitadas, es como se determina que las firmas...NO CORRESPONDEN AL PUÑO Y LETRA DEL INCULPADO RODIBER LEYVA RODRÍGUEZ.”

³²⁶ Judicial Branch of the State of Tabasco (Poder Judicial del Estado de Tabasco), Second Criminal Court of First Instance of the First Judicial District, (Juzgado Segundo Penal de Primera Instancia del Primer Distrito Judicial), (Auto de Terminación Constitucional), September 2, 2009.

before a representative of the state should be considered to have been obtained through the use of violence and, as such, lacks evidentiary value, given that the physical mistreatment to which they were subjected undoubtedly strips away the legitimacy of their depositions.³²⁷

On January 27, 2010 the state prosecutor's office appealed the district court's decision, and Judge Ramón Adolfo Brown Ruiz reissued the arrest orders against the suspects. Shortly thereafter, the defendants filed another *amparo*.

On May 15, 2011 the appeals court again decided in favor of the defendants, ordering that **12 of the police officers be released for "lack of evidence."**³²⁸ However, five officers remained in prison at the time of writing, on the grounds that they were not tortured and therefore the decision does not apply to them.³²⁹ This is despite the fact that these officers said they suffered the same torture techniques and due process violations as the others, and were implicated in the same forced confessions.

Targeted Recommendations to Address Torture

To Federal and State Prosecutors:

- Promptly initiate thorough, impartial investigations in all cases where civilians allege they were subjected to ill-treatment, including the obligatory application of the Istanbul Protocol.
- Open investigations into alleged torture or ill-treatment regardless of whether the accused party belongs to the military, and do not transfer to military jurisdiction those existing cases in which military agents are implicated. This rule should apply even when military prosecutors have opened a parallel investigation into the case in which they classify the abuses as crimes other than torture or cruel, inhuman, and degrading treatment.
- Establish clear criteria to distinguish torture and other forms of ill-treatment from lesser crimes such as abuse of authority, ensuring that all acts that fall within the

³²⁷ Judgment of Indirect Amparo 1249/2009-VI-T, (Juicio de Amparo Indirecto—1249/2009-VI-T), on file with Human Rights Watch.

³²⁸ The officers released were José Arturo Aragón Otáñez, Daniel Olan Ramos, Leonardo Escudero Montejó, Luís Alberto López López, Ezequiel Hernández Pardo, Antonio Urgel Hernández, José Atila Cupido Flores, Rosario Méndez López, Jesús Alberto Aragón Otáñez, Abraham Olan Juárez, José Sánchez Pablo, and Agustín Trinidad Hernández, according to a Human Rights Watch telephone interview with Cesar Ramírez, Villahermosa, Tabasco, July 21, 2011. One of the detainees, Darinél Arteaga Morales, died in prison in March 2011 while awaiting trial of an illness contracted during his detention, according to the attorney.

³²⁹ *Ibid.* Those still in prison are Javier Gómez Hernández, Rodiver Leyva Rodríguez, Víctor Manuel Machín Concepción, Lidio Alberto García, and Asunción Pereyra, according to lawyer.

internationally accepted definition of torture and cruel, inhuman, and degrading treatment are categorized as such. Train prosecutors in how to differentiate between these kinds of abuses.

- **Alleged “confessions” rendered on military bases, in police stations, or in other detention facilities where civilians are held illegally should be considered void for their content, and should only be used as evidence in allegations of rights violations. If individuals say they wish to make statements to prosecutors, take such statements only in prosecutors’ offices, and only after any potential witness or defendant has been informed of their rights, including the right to silence, and given the opportunity to speak in private with their lawyers, who should also be physically present during the statements if their clients so wish. Preferably, all such statements should be video-taped.**
- Ensure that security forces are not present when detainees are giving statements. In cases where detained individuals may pose a safety risk to prosecutors, ensure that **security officers present belong to the prosecutor’s office. In no circumstances should the officers who detained a person be present when his or her statement is given.**
- Thoroughly and promptly review the legality of all *in flagrante* detentions carried out by **persons other than agents of the prosecutor’s office. In cases where prosecutors, upon receiving custody of a detainee, are not convinced that the person was detained in the act of committing a crime or immediately thereafter, they should immediately release the person.**

To Judges:

- Do not admit any statement that a defendant alleges was obtained through coercion; rather, order an immediate investigation of the allegations to determine if the statement was obtained unlawfully. As a general rule, and especially where there is any doubt about the lawfulness of a statement rendered before a prosecutor, require that statement be rendered directly before a judge, and only after detainees have had an opportunity to discuss their cases in private with their lawyers.
- **Require prosecutors to establish that suspects’ statement and other forms of evidence were lawfully obtained, rather than obligating defendants to prove that such evidence was unlawfully obtained.**
- Do not admit as evidence any statement or other piece of evidence allegedly obtained from a detainee on a military base, police station, or location where a person was detained illegally or for longer than the constitutionally allotted time period.
- Order prosecutors to open criminal investigations and apply the Istanbul Protocol when defendants allege they were subjected to torture or other forms of ill-treatment. These investigations should continue their course and when appropriate on the

evidence lead to the prosecution of any responsible parties. The bar on the admission into evidence of any statement taken under the ill-treatment is irrelevant to the requirement to investigate and prosecute.

- Do not bar as evidence medical examinations performed on alleged torture victims by an independent doctor, organization, or human rights institution simply on the basis **that it was not performed by an expert from the federal or state prosecutor's office.** Evidence which a party alleging torture seeks to submit as evidence of that torture should be considered *prima facie* admissible, and subject to testing for credibility and reliability in line with standard rules of evidence.
- Thoroughly and promptly review the legality of all *in flagrante* detentions, as well as other detentions carried out without judicial orders. In cases where judges determine that detainees were not detained in the act of committing a crime or immediately thereafter, they should order them released.

To Medical Examiners:

- Establish a uniform examination form to be used by medical examiners across federal **and state jurisdictions when reviewing detainees' condition upon being handed over to prosecutors. The form should not only record a detainee's visible injuries, but should** also require examiners to ask whether the detainee is suffering from any other condition possibly indicative of abuse (such as internal injuries, pain, etc.) and to inquire into how such injuries were sustained and when. Examiners should also be asked to indicate whether a victim may be covering up abuses out of fear.
- Incorporate into the form a section where experts can recommend that the Istanbul Protocol be applied in response to indications of possible ill-treatment, regardless of whether the detainee has alleged torture. Such a recommendation should automatically trigger the prompt application of the Istanbul Protocol.
- Ensure that security officers are not present when the medical examinations are carried out. In cases where examiners believe the detainee may pose a safety risk, the security **officers present should belong to the prosecutor's office. In no circumstances should** officers who detained a person be present when he or she is examined.

To the Armed Forces:

- The Secretaries of Defense and the Navy should issue decrees instructing all officers under their command immediately to transfer detainees to civilian prosecutors, making clear that military officers should never carry out interrogations of detainees and that under no circumstances should detainees be held on military bases.

- Military prosecutors should automatically transfer to civilian prosecutors all ongoing and future cases in which military members are accused by civilians of torture or cruel, inhuman, and degrading treatment.
- Military prosecutors should not classify cases of alleged torture and other forms of ill treatment as lesser abuses or infractions of military discipline. When there is any question as to whether an alleged abuse rises to the level of torture, the case should be transferred to the civilian justice system for investigation of the allegations.

To Federal and State Legislators:

- Reform federal and state laws to abolish the practice of *arraigo* detentions.
- Establish a uniform definition of torture in federal and state criminal codes that includes all acts that would fall within the definition of torture in the UN Convention Against Torture and the Inter-American Convention to Prevent and Punish Torture, which have been ratified by Mexico.
- Reform definitions of *flagrancia* in state laws that provide an ambiguous or overly **broad definition of what constitutes the period “immediately after” a crime has taken place.**
- Having regard to international standards, and in particular the Inter-American Commission on Human Rights’ Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, 2008, create a registry of detentions that all security forces must complete, one which includes the following entries: the name of the detainee; the exact time and location of detention; the detaining authority (with names of officers); the grounds for the detention (i.e., arrest warrant, urgent detention, or *flagrancia* arrest, with specification of the alleged criminal activities); the destination to which the detaining officers plan to take the detainee and estimated arrival time; actual arrival time; where the detainee is being held and by whom (including the names of all officers or others who had physical custody of the detainee at any time, noting the exact time of any changes in place or person having custody of the detainee); the time, place, and person who carried out any medical exam of the detainee; the legal status assigned to the detainee and the nature and exact time of **any changes in this legal status; the prosecutor’s office staffer in charge of the investigation of the detainee; and the time of the detainee’s first appearance before a judge.** The information should be made publicly accessible (making any redactions necessary to protect privacy interests) so that family, friends, legal representatives, and others are able to locate the detainee.