

The Human Rights Crisis in Espírito Santo:
threats and violence against
human rights defenders

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**Fórum Reage
Espírito Santo**



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Introduction

This report presents an overview of the current situation of danger that human rights defenders face in Espírito Santo State, Brazil. The document is the result of on-site research carried out during missions to Espírito Santo in June and July 2002 by Global Justice Center staff members James Cavallaro, Sandra Carvalho, Sven Hilbig and Jeffrey Zinsmeister. The report was translated from Portuguese into English by Adrian Alvarez, Joss Opie, and Jeffrey Zinsmeister. Layout and production were done by Sandra Luiz Alves and Jeffrey Zinsmeister.

The report focuses on the threats, intimidation, and institutional pressure that civil society representatives and public authorities responsible for law enforcement have suffered as a consequence of their defense of fundamental rights and the rule of law.

This report on human rights defenders is part of the permanent efforts of the *Human Rights Defenders Program*, created by the Global Justice Center in 2001. At the end of this report, we provide additional information about this program.

Originally, the aim of this report was to assist the work of the Subcommittee designated by the Ministry of Justice’s Human Rights Council (Conselho de Defesa dos Direitos da Pessoa Humana, CDDPH) to evaluate the need for federal intervention in Espírito Santo. In addition, the Global Justice Center forwarded an English copy of an earlier version of that report (drafted in Portuguese) to the Special Representative of the United Nations Secretary General on Human Rights Defenders, Hina Jilani, to inform her about rights violations and threats faced by human rights defenders in Espírito Santo.

The report does not include information about a number of prior cases already known to the CDDPH, such as that of the lawyer Marcelo Denadai, murdered in April 2002, nor that of his sister and fellow attorney Maria Aparecida Denadai (currently facing death threats and other forms of intimidation), nor those of other human

rights defenders killed over the past several years. Rather, the focus of this report is on those currently engaged in the defense of fundamental rights and who face risks to their physical integrity, retaliatory action by organized crime factions, and internal institutional pressures to cease their work.

Among those covered in this report are members of the Office of the Public Prosecutor, the Judiciary, and the Police, as well as authorities of the Executive and the Legislature, as well as rights activists from civil society.

By publishing this report, the Global Justice Center seeks to direct the attention of the competent federal authorities, as well as national and international public opinion, to the serious violations and threats to the physical and moral integrity of those that defend human rights in Espírito Santo. This report is dedicated to the memory of those who have been killed in the state for their defense of these principles, as well as those who continue the struggle for the advancement of fundamental rights of their fellow citizens in Espírito Santo.

Background: The Current Human Rights Crisis in Espírito Santo

Espírito Santo is a relatively small state located in southeastern Brazil between Rio de Janeiro and Bahia. In the last three years, the state has led the nation in serious crimes against the person. Violent crime has spiraled out of control, even according to the state's official statistics that many activists believe may be biased or even manipulated. According to a recent government report, the number of violent deaths in Espírito Santo rose from 70.99 per 100,000 in 1997 to 90.72 per 100,000 in 2001.¹

More troubling is the pervasive presence of organized criminal

activity throughout the state and *in all levels of the state administration*. According to the Federal Bar Association of Brazil (Ordem dos Advogados do Brasil, OAB), the prevalence of organized crime is responsible for the extremely high incidence of contracted murders and killings of street children in the state. The OAB also reports that in the overwhelming majority of homicides, state authorities have failed on a routine basis to perform serious investigations or to locate those responsible due to pressure from organized crime.

The reach of this organized crime is not confined to committing crimes, but also extends into all three branches of the state government. The most feared and deadly criminal organization in the state is the Scuderie Detetive Le Coq (SDLC) which counts among its members “hundreds of civil, military, and federal police, judicial officials, legislative representatives, lawyers... administrative officials, prosecutors, and even judges, politicians, businessmen, [and] merchants,”² uses police resources, and is financed by state business concerns.³

As incredible as it may sound, *the SDLC is a legally recognized organization in Brazil*. Legal action by the Federal Office of the Public Prosecutor seeking the dissolution of the SDLC based on the involvement of its members in dozens of homicides and other crimes has languished for almost six years in state and federal courts. The SDLC's operations include “social cleansing” (a euphemism for killing street children in Vitória), extortion and other forms of corruption, as well as murder for hire and illegal weapons production and distribution. For example, according to the OAB-ES, one former State Secretary of Public Safety, Dr. Jose Rezense de Andrade, attributed his resignation for the state's top law enforcement post because state authorities forbade him to act against the heads of organized crime.

A statewide commission established to investigate organized crime in Espírito Santo in 1992 found the SDLC responsible for crimes including politically-motivated execution-style murders. Then-gover-

¹ Request for Federal Intervention, submitted by Rubens Approbato Machado, to the Federal Minister of Justice and the President of the Human Rights Council of the Justice Ministry (Conselho dos Direitos de Pessoa Humana do Ministério da Justiça, CDDPH), May 20, 2002

² *Ibid.* p. 16.

³ *Ibid.* See also FRONT LINE AND THE GLOBAL JUSTICE CENTER, FRONT LINE BRAZIL: MURDERS, DEATH THREATS AND OTHER FORMS OF INTIMIDATION OF HUMAN RIGHTS DEFENDERS, 1997-2001 69 (Rio de Janeiro and Dublin, 2002).

nor Albuíno Azeredo dissolved the commission in 1994 rather than follow its recommendations. Nevertheless, the CDDPH followed up on the State commission's efforts that same year and issued a broad condemnation of organized criminal activities in the state along with forty recommendations to various State authorities.

These recommendations have changed little in Espírito Santo. For those who sat on the State commission, however, the repercussions of speaking out have been great.

On April 15, 2002, Commission member Joaquim Marcelo Denadai—who was monitoring the activity of the SDLC—was shot and killed at point-blank range in Vitória. Civil Police Investigator Francisco Badenes has been placed in the federal witness protection program after the SDLC launched a campaign of defamation and intimidation against him in retaliation for his involvement with the investigation of their criminal activities and his work in the dissolution proceedings. Other human rights defenders who have pressed for investigation into SDLC abuses have been murdered or threatened with death.

In 1999, the Brazilian federal congress initiated a Parliamentary Commission of Inquiry (CPI) into drug trafficking in Espírito Santo.⁴ The final report of the CPI documents a number of politically-motivated homicides. The following cases merit special mention⁵:

1 *Padre Gabriel Félix Roger Maire*, religious leader, Cariacica Municipality. Maire had taken a public position against the activities and related violence of organized crime and drug trafficking in Espírito Santo. Although evidence demonstrates that Maire was summarily

⁴ Before this, Espírito Santo State had established a state level CPI on Narcotrafficking. However, according to members of the Federal CPI, the establishment of the state CPI "was preceded by an well organized, intensive campaign, through the media and through the President of the Legislative Assembly (Deputado José Carlos Gratz) and other state authorities, with the object of convincing the public that narcotrafficking and organized crime did not exist in that region of the country. These authorities criticized the Federal CPI's program in Espírito Santo, which sought to investigate these criminal activities. Report of the Federal CPI on Espírito Santo, p 1. This pressure demonstrates the connection between the state government of Espírito Santo and organized crime.

⁵ Report of the Federal CPI on Espírito Santo, pp. 77-79.

executed, police investigated his death as if he had been murdered in the course of an armed robbery. As a result, the hitmen, rather than those who ordered the killing, have been the focus of the investigation.

1 *Francisco Domingos Ramos*, trade union leader. Ramos had received a number of death threats from large landowners from the Pancas Municipality, in the north of Espírito Santo state and was killed in a targeted killing.

1 *Paulo Tristão* ("Purinha"), treasurer of the Workers' Party in the Linhares Municipality. On June 19 1989, Purinha was shot and killed as he arrived at his Linhares home. The police inquiry into his death stated that the vice Mayor of Linhares had been involved in the killing.

1 *Verino Sossai*, the Urban Services Secretary of the Montanha Town Council and the local president of the Brazilian Social Democratic Party (Partido da Social Democracia, PSDB). Sossai had been a state representative. On July 19, 1989 Sossai was murdered in front of his home. The police still have not completed their investigations, but they allege that the hitman José Sasso and other hired gunmen (the same individuals accused for the murder of the columnist Maria Nilce) were responsible. All of these individuals are members of the SDLC.

1 *Valdício Barbosa dos Santos*, union leader, Pedro Canário Municipality. Dos Santos, also involved with the Workers' Party (Partido dos Trabalhadores, PT), was murdered on September 12, 1989. The police inquiry concludes that former police officer Romualdo, "Japanese", and landowner Galeno carried out and planned the killing. Hired gunman Juarez Ferreira de Souza later confessed to having carried out a number of contracted killings in Espírito Santo state. Amongst these was the murder of Valdício Barbosa dos Santos.

1 *José Maria Feu Rosa*, mayor, Municipality of Serra and *Itagildo Coelho de Souza*, Feu Rosa's driver. Feu Rosa and Coelho de Souza were summarily executed on June 6, 1990. The incident occurred while the two men were on their way to the Itabela Municipality, in neighboring Bahia state.

1 *Maria Nilce Magalhães*, journalist. Nilce Magalhães was shot and killed in the capital of Espírito Santo, Vitória. The crime

occurred on July 5, 1989, on Aleixo Neto street, in the Canto Beach neighborhood, in broad daylight. Gunman José Sasso has been accused of the murder. None of those who organized or carried out the contract killing is in detention. Suspects include several powerful figures in the state; those who carried out the killing are tied to the SDLC.

† *Paulo Vinhas*, ecologist, biologist, and former president of the Workers' Party, Vila Velha Municipal Chapter, Espírito Santo. Vinhas was shot and killed in the Ulê Dunes, in the Setiba ecological reserve, on the morning of April 28, 1993. Businessmen Ailton Barbosa and José Barbosa, involved in quarrying sand from the area, have been accused of the crime. Criminal proceeding in the matter are being handled in the Guarapari County Court.

† *Antário Filho*, Commissioner for the PSDB party, and *Ana Angélica Ferreira*. Antário Filho and Ferreira were victims of a politically motivated homicide on 31 December 1997, in the Cariacica Municipality.

After the police investigation into Antário Filho's murder, the Federal CPI⁶ recommended that:

— the Office of the Public Prosecutor—at both the federal and state level—reopen dismissed police inquiries and intensify investigations to identify, try and punish those responsible for these crimes to fight impunity in Espírito Santo state.

— to advance in these investigation, investigators should be given access to the bank accounts, telephone conversations, and financial information of all of those known to be involved in organized crime in Espírito Santo.

— for the public good and in the interest of maintaining respect for public institutions, the civil and military police involved with organized crime, homicide and drug trafficking should be immediately suspended.

— in order to combat organized crime in Espírito Santo state, copies of this report should be sent to Federal Police, to the Ministry of Justice, and to the Attorney General emphasizing the need for greater numbers of federal police district chiefs and agents, as well

⁶ *Ibid.* pp. 103 – 104.

as federal prosecutors in Espírito Santo.

— that federal police be sent in to the state, to hasten the dissolution of the SDLC, given the danger that this group represented to the state's population.

At the time of this report, Espírito Santo state authorities had not implemented any of the CPI's recommendations. By May 2002, the subversion of State government had become so pervasive and far-reaching that the OAB requested that the federal government intervene in state affairs to stabilize the situation. The OAB justified its request for these extraordinary constitutional measures on the basis that the political will of state officials and the ordinary state processes were insufficient to stop the threat to public order and to the defense of the rights of state citizens posed by the SDLC.⁷

This request, drafted by internationally recognized jurists, was authorized by the CDDPH and the Minister of Justice on July 4, 2002, and forwarded to the Brazilian Supreme Court (Supremo Tribunal Federal, STF) for approval.⁸ However, on July 8, 2002, after meeting with the President of Brazil, Fernando Henrique Cardoso, Attorney General Brindeiro announced that he would not approve such an intervention even if authorized by the STF, effectively dooming the request.⁹ In response, Minister of Justice Miguel Reale Júnior, the Director-General of the Federal Police, Itanor Carneiro, and several other high-ranking Ministry of Justice officials resigned in protest.¹⁰

On July 11, President Cardoso held an audience with the President of the Human Rights Commission of the House of Representatives, an attorney from the human rights division of the Federal Of-

⁷ See Constitution of Brazil art. XXXIV, §§ 3, 7(b) (Braz.) (permitting federal intervention into areas reserved to the states when the public order is gravely compromised or to insure the observance of constitutionally guaranteed human rights).

⁸ "Reale se diz desautorizado e deixa a Justiça," *O Globo* (Rio de Janeiro), July 9, 2002.

⁹ *Ibid.*

¹⁰ "Diretor da PF e secretário de Direitos Humanos pedem demissão," *O Globo* (Rio de Janeiro), July 9, 2002.

office of the Public Prosecutor, as well as several civil society organizations, including the Global Justice Center. The meeting established a working group, headed by the Ministry of Justice, including members of the human rights division of the Federal Office of the Public Prosecutor, the Federal House of Representatives and civil society. The following day, July 12, the working group approved a resolution, authorizing a detachment of federal police and prosecutors to be sent to Espírito Santo to investigate organized crime in the State. This detachment is comprised of five federal police district chiefs, fifty agents, two expert investigators and five federal prosecutors and has been given ninety days to work in Espírito Santo state.

Recommendations

The Global Justice Center, Fórum Reage Espírito Santo, Front Line, the Robert F. Kennedy Memorial, and the Observatory for the Protection of Human Rights Defenders, a joint program of the International Federation for Human Rights (FIDH) and the World Organisation Against Torture (OMCT), call on the Brazilian Government to take all necessary steps to guarantee the physical integrity and working conditions of defenders of human rights and the rule of law in Espírito Santo state.

We continue to believe that the most effective solution to the current human rights crisis in Espírito Santo is federal intervention in accordance with the determination of the CDDPH and the Minister of Justice on July 4, 2002.

Should authorities fail to revisit the intervention issue, we call on the Brazilian Government to guarantee the protection of rights defenders and the reestablishment of the rule of law as rapidly as possible through the efforts of the federal working group authorized to enter Espírito Santo state in mid-July 2002.

We further call on the Brazilian Government to implement the following recommendations, initially included in our April 2002 report, *Front Line Brazil*:

1. Guarantee the Application of the Principles in the UN Declaration on Human Rights Defenders

The UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, adopted by the UN General Assembly on December 9, 1998 (and included as Appendix 1 to this report) contains vital principles concerning the protection of human rights defenders. The Brazilian government should take measures to ensure that the principles in the United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized

Human Rights and Fundamental Freedoms are fully incorporated into national law and legal mechanisms. Authorities at all levels of government should explicitly commit themselves to promoting respect for human rights, and to the protection of human rights defenders.

2. Recognize the Oversight of International Human Rights Bodies

One critical means of providing human rights defenders the conditions necessary to perform their vital function is through full governmental recognition of and participation in international mechanisms for the protection of human rights. Engaged participation in these mechanisms sends a clear message to domestic society that human rights defense is a legitimate and important social activity.

a. Participate Fully in the Inter-American System

Unfortunately, Brazil's participation in the inter-American human rights system has been limited, particularly in terms of recognizing the deadlines and recommendations issued by the Inter-American Commission. We call on the Brazilian government to respect the deadlines imposed by the Commission and to implement the recommendations already determined by the Commission as well as those issued in future cases. In particular, we urge the government to pay special attention to the Inter-American Commission's precautionary measures (many of which concern the protection of rights defenders), given that these are by nature urgent matters.

b. Recognize the Jurisdiction of the Conventional Committees of the United Nations Although Brazil has ratified all six core human rights treaties (see below), at this writing, it had not yet recognized the jurisdiction of any of the four committees with authority to receive and process complaints against Brazil. We call on the Brazilian government to recognize the complaints-processing jurisdiction of the Human Rights Committee, the Committee Against Torture,

the Committee on the Elimination of All Forms of Racial Discrimination and the Committee on the Elimination of All Forms of Discrimination Against Women.

c. Support Specialized Mechanisms for the Protection of Human Rights Defenders at the International Level

The Federal Government should guarantee full support for human rights protection mechanisms and initiatives within the United Nations and inter-American human rights systems, including special rapporteurs, which support human rights defenders and their work. In addition, the government should support the establishment within the Inter-American Commission on Human Rights of the post of Special Representative on Human Rights Defenders.

d. Extend an Invitation to the Special Representative on Human Rights Defenders to Visit Brazil Global Justice and Front Line welcome the federal government's willingness to cooperate with United Nations Special Mechanisms, including the generic invitation that the government has extended to all special rapporteurs, representatives and working groups. In this spirit, we call on the Government to arrange for UN Special Representative Hina Jilani to visit Brazil as soon as her schedule permits.

3. Investigate Fully Abuses Committed against Human Rights Defenders

Authorities at both the federal and state levels must ensure thorough and impartial investigations are conducted into all human rights violations, particularly those directed at human rights defenders, that those responsible are brought to justice and the victims or their relatives provided with adequate reparation. It should go without saying that those who oversee such investigations must be independent and that those implicated in harassing human rights defenders not have authority over these investigations. The results of such investigations should be made public.

4. Investigate Police Abuse Independently

Given that a significant portion of the instances of abuse and threatened abuse of rights defenders involves at least the suspicion of participation by police, effective and independent means of investigating allegations of violations by law enforcement officials are vital to any comprehensive program to ensure that the rights of human rights defenders are respected. In this regard, we support the following measures to guarantee that the police are investigated in an independent manner:

a. Investigations by the Offices of the Public Prosecutor

The Offices of the Public Prosecutor at the state and federal level should routinely investigate credible allegations of police violence without having to rely on the police to take witness statements, visit the scene of the crime, or provide other technical support. This is particularly urgent in cases in which the alleged violation involves a rights defender who faces threats due to her or his work denouncing police abuse.

While the Constitution (article 129(VII)) assures the Office of the Public Prosecutor jurisdiction over police abuse, in the vast majority of states, this Constitutional provision is rarely invoked.

b. Create Independent Investigators within the Offices of the Public Prosecutor

Brazilian authorities should enact legislation that would create investigative bodies within the State and Federal Offices of the Public Prosecutor. These investigators should be authorized to subpoena documents, summons witnesses and enter the premises of public offices, including police stations and other centers of detention, in order to conduct thorough, independent investigations.

c. Facilitate Reporting of Abuse

All those who defend human rights, as well as all those whose human rights have been violated, should have access to an effective procedure for the presentation of complaints without fear of reprisals. All such complaints should be forwarded automatically to the human rights divisions of the State and Federal Offices of the Public Prosecutor (to be created, where not already in existence).

5. Federalize Human Rights Crimes In January 2002, the federal government issued a provisional measure authorizing the Federal Police to investigate human rights abuses that the federal government has committed itself to suppress in accordance with international human rights treaties. The language of this measure permits an interpretation authorizing Federal Police investigation of virtually every type of human rights violation, insofar as the federal government is ultimately responsible for ensuring and respecting all rights provided in all human rights treaties. It is too early to predict how this language will be interpreted in practice.

Even if broadly construed, the measure does not speak to the jurisdiction of federal prosecutors and courts over such offences.

Given the federal government's responsibility before the international community, we call on the Brazilian government to pass legislation assuring the jurisdiction of federal authorities (police, prosecutors and the judiciary) over human rights abuses. This legislation will need to define particular human rights crimes over which jurisdiction is automatic, or provide for secondary or backup legislation as determined by a federal body such as the federal Council for the Defense of the Rights of the Human Person (Conselho de Defesa dos Direitos da Pessoa Humana, CDDPH). Whatever formula is chosen, killings, threats and other forms of intimidation against human rights defenders should be included, at least in theory, in the chosen federalization formula.

6. Create and Strengthen Ombudsman's Offices (Ouvidorias) Throughout the Country

All states should create fully independent Ombudsman's Offices (*Ouvidorias*) for the police. The mandate, resources and autonomy of those *Ouvidorias* that already exist should be reinforced to guarantee the credibility of these institutions and their oversight of allegations of abuse. Ombudsmen should be authorized to examine fully each complaint, as well as to submit proposed indictments to prosecutors. Further, Ombudsmen should be given subpoena powers over persons and documents (that is, empowered to require testimony under penalty of perjury and the production of documents, subject to similar penalties for non-compliance). Finally, authorities must guarantee the physical integrity and safety of Ombudsmen and their staffs.

7. Protect Victims and Witnesses

Urgent measures must be taken to guarantee adequate protection for human rights defenders, victims and witnesses that do not qualify for entrance into existing witness protection programs in various states and at the federal level. In those cases in which persons have participated in witness protection programs, their safety has been ensured, thus permitting successful prosecutions of severe violations of human rights. All states should have witness protection programs, which should be provided with necessary resources to carry out their vital institutional mission.

8. Refrain from Groundless Defamation Prosecutions

Authorities should take disciplinary action against state agents who abuse the legal process by filing frivolous legal actions against human rights defenders. Brazilian authorities should ensure that human rights defenders have equal access to the law and that judicial investigations and proceedings against them are conducted in accordance with international fair trial standards. Politically motivated criminal charges against human rights defenders engaged in lawful human rights work should be dropped and the accused officially informed of the closure of the investigation. Unsubstantiated investigations and indictments for alleged defamatory statements must be terminated; authorities

should take measures to rectify publicly the honor of those affected and those responsible should be subjected to disciplinary action.

9. Modify Penal Legislation Regarding Defamation

The Brazilian penal code allows for the prosecution of *injúria*, *calúnia* and *difamação* (roughly equivalent to defamation in Anglo-American law) as criminal offences. As we demonstrate in this report, prosecutions under these provisions have been used as an additional means to silence human rights defenders when they speak out against powerful or corrupt elements of Brazilian society. Global Justice and Front Line call on the Brazilian Chamber of Deputies to eliminate the crimes of *injúria*, *calúnia* and *difamação* or, alternatively, to provide for an exception for human rights defenders. Defamation should be treated as a civil wrong, rather than as a crime. As Amnesty has recommended, governments should “Ensure that criminal defamation laws are not misused to curtail freedom of expression or to harass human rights defenders for the purpose of silencing them or shielding those implicated in human rights violations from prosecution by repealing all criminal defamation laws at federal and state level and replacing them, where necessary, with the appropriate civil defamation laws.”

10. Adopt Integrated Programs for the Protection of Human Rights Defenders

The federal government should develop integrated programs that include preventative measures, such as thorough criminal investigations into attacks and threats against human rights defenders, wide dissemination of the principles of the UN Declaration on Human Rights Defenders, education for state agents on the right of human rights defenders to carry out legitimate activities, as well as security measures such as witness protection programs addressed above, to assist human rights defenders and their families with immediate safety issues. These programs should ensure that all measures to protect human rights defenders are adopted in accordance with the wishes of the person receiving protection.

11. Dismantle Systems of Surveillance of Civil Society and Rights Defenders

As revealed in mid-2001 and discussed below, elements within the Brazilian Army continue to maintain forces dedicated to the surveillance of social movements and rights groups. We call on the Brazilian government to dismantle all systems of surveillance, civilian or military, both at federal and state level, of the activities of human rights defenders. Further, authorities must take appropriate measures to investigate fully past reports of surveillance with a view to ending all forms, legal or illegal, of telephone or electronic surveillance.

12. Provide Complete Access to Surveillance Files

The Brazilian government must ensure the immediate and independent review of intelligence archives held by the federal and state security forces, or other official institutions, in order to guarantee that past cases of illegitimate surveillance against human rights defenders are fully clarified, and that those responsible are identified and brought to justice. In coordination with human rights defenders, authorities should establish the appropriate mechanisms to make the results of this review known and ensure that such abuses cannot be repeated in the future.

13. Provide an Adequate Legal Basis for Human Rights Defenders

The appropriate federal authorities should meet with representative members of non-governmental human rights organizations to negotiate the appropriate legal framework to permit full recognition of nongovernmental human rights organizations within existing frameworks which recognize non-profit social associations. Legislation concerning human rights groups, if created, should guarantee, among other rights, access to public facilities for registered rights groups.

I. Death threats and Internal Pressure Against Members of the Public Prosecutor's Office

Jean Claude Gomes de Oliveira

Between December 1999 and March 2002, public prosecutor Jean Claude Gomes de Oliveira of the Espírito Santo Office of the Public Prosecutor, received numerous external threats in connection with his investigations into members of the Office of the Public Prosecutor, the Judiciary and other sectors linked to organized crime. In addition to the external threats, Gomes de Oliveira suffered intimidation and internal pressure from within the Office of the Public Prosecutor.

Gomes de Oliveira affirms that the threats were directly related to two cases he was managing beginning in 1999. The first case concerned a fraudulent attempt to use the judiciary to win millions of dollars of damages. In the second case (described below), Gomes de Oliveira investigated a clandestine weapons factory.

-The Case of the Arms Manufacturer José Mariano Godoy¹¹

On December 1, 1999 José Mariano Godoy was arrested by order of the Cachoeira de Itapemirim Second Criminal Division for illegal weapons possession. The arsenal found in Godoy's possession included dozens of rifles, shotguns, revolvers, hand-held pistols, cross-bows, silencers and rifle sights, made at an arms factory within his home. The day after Godoy's arrest, Judge Solimar Soares of the First Criminal Division ordered that Godoy be released and that the

¹¹ This report is based on CGMP Administrative Process No. 1843/01 against Jean Claude Gomes de Oliveira, General Division of the Espírito Santo Office of the Public Prosecutor.

weapons that had been seized be returned to him. Previously, the same judge had sentenced Godoy to twenty-one years of prison for homicide and then subsequently and illegally granted him parole. On that occasion, the police discovered a large number of silencers that, according to the Civil Police Intelligence Unit, were to be used in contract killings.

One aspect of this incident that warrants attention concerns the irregular designation of Judge Solimar Soares and prosecutor José Luciano to the case. According to the internal procedures of the Judiciary and of the Office of the Public Prosecutor, Judge Crisitane Baldacin Lobo should have been assigned to oversee the case and Gomes to Oliveira to prosecute it.

During the period when the police inquiry was being formulated against Godoy, Gomes de Oliveira received a number of worrying messages which are detailed in the final report of the federal CPI. The police inquiry—in accordance with José de Rezende’s (Secretary of Public Safety) orders—was forwarded directly to Gomes de Oliveira by Police District Chief Maria Celeste. According to Luciano’s statement, Celeste established that he and his former girlfriend, Rosemary Dezan often went to Godoy’s house and workplace and assisted in the repair and manipulation of firearms. As mentioned above, Luciano directed Godoy’s prosecution while Judge Solimar Soares oversaw court proceedings against the weapons dealer.

In February 2002, the lack of security and uncertainty over the likelihood of any judgment against Godoy, as well as attempts to destabilize Gomes de Oliveira, led the case to be transferred to the federal justice system. The Federal Attorney General Henrique Geaquinto Herquenhoff added smuggling to the indictment against Godoy. Judge José Ferreira Neves convicted Godoy in a federal court. However, Godoy has still not been transferred to the local penitentiary. Instead, he is carrying out his sentence in a local jail, where only persons in pre-trial detention should be held.

On December 16, 1999, the Office of the Public Prosecutor filed an indictment against Godoy. In the days preceding the indictment, Gomes de Oliveira received telephone death threats, and was warned to either discontinue the case or not prosecute it seriously. Then State Director of Public Prosecutions, Dr. José Adalberto Dazzi

and the Chief of the office’s internal affairs division, Catharina Cecin Gazele requested that prosecutors Gilberto Fabiano Toscano de Mattos, Roberto Silveira Silva, Marcelo Zenkner and Leonardo da Costa Barreto of the Commission Against Impunity (which at the time of the indictment worked effectively) provide support to Gomes de Oliveira. All these prosecutors signed the indictment against Godoy. At the time, the judicial order which determined that Godoy’s arsenal should be handed over to the police was disobeyed. Currently, the weapons that were impounded are being investigated by the Federal Police in Brasilia, and being compared with forensic evidence related to the bullets used in a number of unsolved murders in Cachoeiro de Itapemirim.

The Federal CPI on drug trafficking affirmed that the defendant had close ties to sectors of organized crime. Godoy was subsequently convicted and sentenced to fourteen years in prison, but not without Gomes de Oliveira and his family paying dearly for the investigations.

-The Threats

Gomes de Oliveira received telephone threats on a nearly daily basis as well as other forms of intimidation throughout the investigation into Godoy’s arsenal (December 1999 – March 2002). One series of telephone calls to his home involved a male voice threatening to kill Gomes de Oliveira and his family and dismember his young son. In another series of telephone phone calls, a female voice told Gomes de Oliveira’s wife that he was gay. In addition to telephone threats, Gomes de Oliveira received other forms of intimidation in the mail. Pornographic materials were sent to his home, in his and his wife’s name, and threatening letters arrived at his office, some containing explicit photographs. Often, those making the threats knew of the daily movements of Oliveira and his family.

-First Internal Investigation

As previously stated, one of the cases in which Gomes de Oliveira worked concerned intervention by the Office of the Public Prosecutor in the Santa Casa Hospital, in Cachoeiro de Itapemirim. At the time the case was being processed, a local daily published an article falsely accusing Gomes de Oliveira of irregularities in his work on the

case. Knowing that the newspaper's allegations were completely unfounded, Gomes de Oliveira requested an internal investigation into the accusations. The Internal Affairs Division of the Office of the Public Prosecutor found that the prosecutor had not committed any irregularities and that the newspaper had acted irresponsibly in publishing the allegations, which it determined had been filed in order to smear Gomes de Oliveira's image.¹²

-Second Internal Investigation

A second investigation was filed against Gomes de Oliveira on August 9, 2001, despite the fact that the prosecutor had been fully cleared of any wrongdoing in the first. This investigation was carried out over a period of seven months. In March 2002, based on the lack of evidence against Gomes de Oliveira, the Internal Affairs Division once again found in favor of the prosecutor, dropping all charges and ending the investigation. In relation to the case, the Public Prosecutor José Luiz Barreto Vivas wrote "In ancient Rome, the great judge Cicero had his right hand cut off by his persecutors in an act of revenge. In more modern times, the renowned Rui Barbosa was exiled, simply because crude and baseless men, unable to think for themselves, hated to hear his oratory. As in the past, what happened to those two brilliant orators is happening now. Being efficient and effective in the Public Prosecutor's Office has become a reason to be hated and persecuted by unsubstantiated accusations, made not only as a means of revenge, but also to intimidate."

In both of these cases, the Public Prosecutor's Office acted justly. However, the defamatory campaign directed at Gomes de Oliveira, as well as the vexatious litigation to which he was subjected, have left the majority of the Public Prosecutor's Office feeling concerned, both for themselves and for their families.

Unfounded Administrative Proceedings against Prosecutors

It is not only Gomes de Oliveira that has been a target of internal investigations designed to intimidate launched from within the Office of the Public Prosecutor. Other prosecutors have also suffered similar harassment. In other matters researched by the Global Justice Center, prosecutors who have insisted on investigating untouchable organized crime elements have been investigated on trumped up that range from the alleged disappearance of documents to single-day absences from work.

In all these matters, the investigations were raised over a short period of time and were all eventually discontinued, for lack of evidence. This suggests that the real purpose of the proceedings was not to preserve the integrity of the Office of the Public Prosecutor, but rather to intimidate the prosecutors involved and pressure them into ceding to the powerful interests of organized crime and narco-trafficking in the state.

¹² Official Correspondence CGMP/CG/No. 284/99 from Catarina Cecin Gazele, Internal Affairs Officer of the Espírito Santo Public Ministry regarding the decision of Proceeding No. 0505/09, May 25, 1999.

II. Threats Against members of the Judiciary

Death threats against Alexandre Martins de Castro Filho, Carlos Eduardo Ribeiro Lemos and Rubens José da Cruz, Judges in Vitória, Espírito Santo state

- Background: Investigating Irregular Grants of Leave to Prisoners

In early December 2001, an anonymous source sent judges Alexandre Martins de Castro Filho, Carlos Eduardo Ribeiro Lemos and Rubens José da Cruz of the Fifth Criminal Division of Vitória a copy of a document that authorized the unlawful release of two prisoners sentenced to lengthy prison terms for murder and drug trafficking, respectively. In a document dated November 30, 2001, Military Police Cpt. Romildo Silva authorized the prisoners to work at his fishery in Vila Velha during business hours.

On December 10, 2001, judges Ribeiro Lemos and da Cruz informed the Secretary of Justice and the Office of the Public Prosecutor of Espírito Santo that the prisoners might flee and advised the two entities to be ready to take punitive measures.¹³ Both the Undersecretary of Justice and Silva—who also serves as the director of the Institute for Social Re-adaptation (IRS)—acknowledged irregularities in the prisoners’ grants of leave,¹⁴ yet Silva continued to authorize the release of dangerous prisoners unescorted to work in his fishery.¹⁵ In February 2001, an additional five prisoners convicted

¹³ Judicial Order from Judges Carlos Eduardo Ribeiro Lemos, Rubens José da Cruz to the Secretary of Justice, December 10, 2001.

¹⁴ Order No. 002/2002 from José Nivaldo Campos Vieira, Undersecretary of Justice for Penal System Matters, January 10, 2002.

¹⁵ Departure Authorizations, February 1, 2002, April 19, 2002.

of homicide were allowed to leave the prison for five days during business hours. One of the prisoners permitted to leave, Alexandre (“Xandinho”) had been linked to a death squad operating in Espírito Santo.¹⁶

In April 2002, the judges discovered that an additional eleven prisoners had been authorized to work at the fishery between April 22 and 26.¹⁷ As suspected, the judges did not find the prisoners at the IRS when they went to visit on April 24.

Unable to rely on the Military Police due to Silva’s affiliation with the agency, the judges authorized the Federal Highway Police to apprehend and bring back the prisoners from the fishery. The federal police found Silva at the fishery with the five prisoners. Upon questioning the prisoners, the police discovered that two of them had worked at the fishery for over two years doing handyman work, while the other three had worked for ten months, five months and one week respectively.

Silva ordered the prisoners not to cooperate with the attempted arrests and called the federal police officers “a bunch of clowns.” Shortly after the Federal Police arrived, Cpt. Abreu, commander of the Fourth Military Police Battalion arrived with two other officers.¹⁸ The federal police took the prisoners into custody only after speaking with judge Ribeiro Lemos.

On April 26, 2002, the judges briefed the governor of Espírito Santo and the President of the Espírito Santo State Supreme Court on the releases but these officials failed to take action. Instead, the Secretary of Justice promoted Silva to coordinator of the prison at Vila Velha.

¹⁶ Testimony of an IRS prisoner (who requested anonymity) to Judges Alexandre Martins de Castro Filho, and Carlos Eduardo Ribeiro Lemos, Rubens, June 18, 2002.

¹⁷ Departure Authorizations signed by Cpt. Romildo Silva for Antonio Martiniano Neto, Paulo Henrique Guedes Muniz, Elidiomar Alves da Fonseca, Obadias Maurício de Freitas e Helton Teixeira Santos, Pedra D’Água, Espírito Santo, April 19, 2002.

¹⁸ Testimony by Jansen R. de Alb. Jr., Justice Official, Vitória, Espírito Santo, April 26, 2002.

-The Threats

The judges and their families have been receiving anonymous telephone death threats since April. Other calls warned the judges that Silva is plotting against them.¹⁹

After the federal police took the prisoners at the fishery into custody, a man in a white vehicle (Gol model) arrived at the house of one of the judges. He asked the doorman to have the judge's wife come down. When the doorman, in response to the judge's request, went to ask who had sent the driver, the car drove away quickly.²⁰

According to statements from prisoners held at the IRS facility, Silva encouraged the prison population to take measures against the judges and blamed them for not allowing more prisoners to leave.²¹ Silva encouraged the prisoners to file and sign a petition calling for the removal of the judges and also urged the prisoners to organize a hunger strike on June 17, 2002 to protest the judges' actions.²² On June 13, one of the prisoners informed the judges that Silva had sent prisoners who had passed information to the judges to a punishment cell.

The judges reported the threats and potential hunger strike to the Secretary of Justice and the Secretary of Public Safety and asked for protection for the informants and themselves. However, the two secretaries did not believe the judges' reports, affirmed that Silva was their personal friend, and failed to authorize protection.²³

The judges later discovered that, as the informants had predicted,

the prisoners at the IRS had drafted and signed a petition. They also received information from the prisoners that Silva had canceled the hunger strike on June 17 because information about the strike had been leaked.

At this writing, the judges continued to live in fear; the highest level authorities in the state are suspected of involvement in the prisoner release scheme and its cover-up.

¹⁹ Official Correspondence No. 2721/02 from Judges Alexandre Martins de Castro Filho, Carlos Eduardo Ribeiro Lemos, Rubens José da Cruz of the Ministry of Justice to Dr. Miguel Reale Júnior, June 10, 2002.

²⁰ Official Correspondence No. 3355/2002 from Alexandre Martins de Castro Filho, Carlos Eduardo Ribeiro Lemos, Rubens José da Cruz to the President of the Bar Association of the State of Espírito (OAB/ES) to Dr. Alesandro da Costa Pereira, June 28, 2002.

²¹ Statement of prisoner to Judges Alexandre Martins de Castro Filho, Carlos Eduardo Ribeiro Lemos, Rubens, June 18, 2002.

²² Statement of prisoner to Judges Alexandre Martins de Castro Filho, Carlos Eduardo Ribeiro Lemos, Rubens, June 18, 2002.

²³ Order No. 3355/2002, *op. cit.*

III. Threats Against Police District Chiefs

Francisco Vicente Badenes Júnior

For a decade, Police Delegate Francisco Vicente Badenes Júnior has investigated the Scuderie Detetive Le Coq (SDLC), a legally constituted organization involved in so-called “social cleansing” murders (targeting adolescents living and working on city streets), political killings, gambling rackets and other forms of corruption.

Badenes first began investigating the SDLC in 1993, when Espírito Santo Governor Albuíno Azeredo created a special body to examine the organization’s involvement in the murders of street children in Espírito Santo.²⁴ Badenes was named as the head civil police district chief of the body, known as the Commission for Special Administrative Investigations.

The intricate web of supporters for corrupt, killer police officers that Badenes uncovered has rendered the criminal justice system ineffective to combat their crimes: when police investigators, prosecutors and judges not already part of the Scuderie network have investigated the group’s crimes, they have routinely been induced to dismiss cases against Scuderie members through bribes or intimidation.

Badenes’ investigations under the Commission’s auspices led to numerous arrests of police personnel linked to the SDLC.²⁵ However, the arrests led to few convictions, and many of the suspects were subsequently released, creating a climate of fear for witnesses and investigators alike. In late 1993, Badenes himself came under threat.²⁶ Newspaper reports circulated that two hit men had been

contracted to kill him in response to the Commission’s investigation. The would-be assassins apparently fled Espírito Santo before carrying out the murder.

Recent Revelations, Threats and Unfounded proceedings

On January 20, 2000, Badenes used many of these seized documents in testimony before the Human Rights Commission of the Federal Chamber of Deputies on the SDLC. Badenes chronicled the SDLC’s involvement in a wide range of criminal endeavors. In perhaps the most damning part of his testimony, Badenes furnished an “organizational chart” depicting former Espírito Santo governor and then-Minister of Defense Élcio Álvares at the apex of a criminal syndicate with ties to the right-wing Liberal Front Party (Partido da Frente Liberal, PFL). The President of the Legislative Assembly, José Carlos Gratz, ranked just below Defense Minister Álvares in the organizational scheme outlined by Badenes. In addition to these federal officials, Badenes accused several Espírito Santo State officeholders, including the mayor of Cariacica, Dejour Cabo Camata, of participation in contract killings of local politicians, illegal gun sales, and the establishment of drug rings, all in association with the SDLC. Camata was well-connected in national politics; Camata’s cousin, Gerson Camata, represented Espírito Santo in the Brazilian Senate, and Gerson Camata’s wife, Rita Camata, served in the Chamber of Deputies. At this writing, Rita Camata served as vice presidential candidate for one of the leading tickets in the 2002 Brazilian presidential elections.

Badenes has managed to fend off numerous frivolous lawsuits alleging and criminal prosecutions alleging defamation. The SDLC, however, has taken its campaign of intimidation to the press. Throughout 2001, SDLC sympathizers gave interviews in Espírito Santo newspapers questioning Badenes’ mental health. In early 2001, Dório Antunes de Souza told the Vitória dailies *A Gazeta* and *A Tribuna* that Badenes was a homosexual. Unfortunately, in Brazil, as in many

²⁴ José Arbex Jr. and Claudio Julio Tognolli, *O Século do crime* (São Paulo: Jinkings), 1996, pp. 76-83.

²⁵ *Ibid.* pp. 112-114.

²⁶ *Ibid.* p. 114.

other countries, many consider homosexuality to be inappropriate or immoral.

On August 22, 2001, Ferreira's new Civil Police Council President, João Rodrigues, began disciplinary proceedings against Badenes, then Rodrigues' subordinate, citing alleged misconduct in Badenes' handling of an investigation.²⁷ Rodrigues substantiated his claim with charges judicially dismissed two months earlier, and recommended Badenes' dismissal. Several publications came to Badenes' defense. The September 2001 edition of the legal journal *Jornal Tribunal do Direito* stated that "The reaction to the investigations of Detective Badenes was harsh: the Civil Police itself turned against him, opening an administrative inquiry and accusing him of 'denigrating the image of his colleagues.'"²⁸ Heightening the furor in the press, in December 2001, federal prosecutor Luiz Francisco Souza announced that Badenes had become the target of a campaign of intimidation by the SDLC, and had received death threats.²⁹

With Rodrigues' disciplinary actions still pending, the SDLC attempted a new approach. Sometime in late 2001, Dório Antunes de Souza, a business partner of Álvares, leaked a false report that a contract worth five figures in reals (at a minimum, US\$ 35,000) had been put on Badenes' life. The report turned out to be false, but this tactic served as a form of intimidation by using media sympathy for Badenes to lead him to fear for his safety.

On January 27, 2002, Badenes responded by filing a request for criminal prosecution against his superior, alleging that Rodrigues' establishment of disciplinary proceedings constituted an abuse of authority.³⁰ Badenes contended that in bringing about the proceedings, Rodrigues relied upon false evidence that had already been judicially dismissed, and that the entire process sought to deter him from com-

²⁶ *Ibid.* p. 114.

²⁷ *Ibid.* p. 2.

²⁸ "As bandas podres do Espírito Santo," *Jornal Tribunal do Direito*, September 2001.

²⁹ "Perseguição," *A Gazeta* (Vitória), December 9, 2001.

³⁰ Request for Prosecution (*Representação Criminal*), *op. cit.* p. 1.

pleting his legitimate investigations.³¹ Two weeks later, the assistant director of the Federal Office of the Public Prosecutor Brito, Badenes' superior in Brasília, requested that the President of the Espírito Santo State Supreme Court dismiss Rodrigues' suit.³²

At this writing, Badenes was under the protection of the Program of Assistance to Victims and Threatened Witnesses (Programa de Assistência à Vítimas e a Testemunhas Ameaçadas), run by the Federal Police.³³

André Luiz Cunha Pereira, Danilo Bahiense Moreira – Police District Chiefs.

During the period in which police district chiefs André Luiz Cunha Pereira and Danilo Bahiense Moreira held the offices of the Judicial Police Department Chief (Departamento de Polícia Judiciária, DPJ) of the municipality of Serra, and the DCCV Serra Police Chief, they carried out a number of investigations working as a team. These operations resulted in the imprisonment of a number of people suspected of involvement in death squads. Amongst those arrested by these district chiefs in these operations and imprisoned towards the end of January 2001 were several military police officers and hired killers that had been active in the Serra municipality.

On February 6, 2002, at 10.55 am, the telephone service "Disque Denúncia" (Police Hotline) received an anonymous telephone call. According to the Hotline report, the caller stated that, "at the entrance of the Soteco neighborhood (no exact reference point given) there are, at this exact moment, two men with the nickname Dudu. [The caller] affirms that both are known by the same nickname and are inside a dark green car with tinted windows, model UNO, license

³¹ *Ibid.* p. 12.

³² Letter from Eitel Santiago de Brito Pereira, Federal Office of the Public Prosecutor, to the Federal Superior Court of Justice, February 7, 2002.

³³ Statement of Francisco Vicente Badenes Júnior, to the Administrative Division, Internal Affairs Division, Civil Police, Brasília, February 6, 2002, p. 1.

plate MPM 8308. [The caller] goes on to say that the two men are waiting for Danilo Bahiense [Moreira], to murder him, which Col. Ferreira has ordered. Observation: because the caller hung up, it was not possible to record any more details”.³⁴

Although this call was made on February 6, and that it clearly indicated that District Chief Bahiense Moreira’s life was at risk, the details of the phone call were only forwarded to the State Chief of Police on February 21, and District Chief Bahiense was only officially informed on April 5, 2002: two months after the call was made to the hotline service.

Fortunately, a friend of Bahiense Moreira who worked at the Hotline informed the police officer, unofficially, of the telephone threat. Once he received the information, Bahiense Moreira decided to send police officers under his command to carry out a search of the site mentioned by the telephone caller. During the search, the officers found one person named Dudu, whom they identified as Eduardo Henrique Alves, and took him to the police station. In his statement to police, Alves confirmed that the car mentioned in the call belonged to him, and that he had a cousin named Miguel Eduardo de Campos, also known informally as Dudu. Alves also stated that he had known Col. Ferreira for more than twenty years, but denied any intention of murdering Bahiense Moreira. Rather, Alves affirmed that at the time of the call to Disque Denúncia he was in the Soteco neighborhood, where he lives, alone at his house. Alves was apprehended with a number of checks made out by third parties for large quantities of money.

On February 8, 2002, André Luiz Cunha Pereira and Danilo Bahiense Moreira forwarded to the Chief of Police João Manoel Rodrigues Lima, a report detailing the threats that they were suffering in Espírito Santo State. District Chief Germano Henrique Pedrosa also signed the report.

In the report, the three district chiefs stated that their joint efforts had led to a considerable reduction in the number of homicide victims between January and May 2001 and that amongst those they

had arrested were a number of military police officers and hired killers that acted in the Serra municipality. The imprisonment of these people disabled, temporarily, the operation of death squads acting in the Serrano Highlands and Central Carapina.

In July 2001, Cunha Pereira and Bahiense Moreira were transferred together to the Homicide and Citizen Protection Division (Divisão de Homicídios e Proteção da Pessoa, DHPP) substituting District Chief Germano H. Pedrosa. From this point forward, their work to dismantle death squads intensified. In particular, Cunha Pereira and Bahiense Moreira progressed on a number of police inquiries concerning military police involvement in death squads, focusing particularly on the role of Col. Ferreira. Col. Ferreira had already been denounced by the Federal CPI for his participation in organized crime and contract killings in Espírito Santo.

The work of these two police officers eventually led to a search warrant that produced weapons belonging to Col. Ferreira, as well as judicial authorization to wiretap Ferreira’s phone lines and those of the administrator of the Maruípe Cemetery, José Carlos, and Franciso Forrechi. These investigations led to the opening of various police inquiries involving these suspects, especially concerning their involvement with extortion, illegal gun possession, the homicide of the ex-President of the Bus Drivers’ Union, João Nato Juliano. Moreover, the investigations fortunately helped to prevent an assassination attempt on the life of public prosecutor Paulo Panaro from Pancas. Records show that Col. Ferreira was to receive 100,000.00 R\$ (one hundred thousand Brazilian Reals), roughly US\$ 40,000.00 for the murder.

District Chief Cunha Pereira received information to the effect that Col. Ferreira promised to kill him and his family if he were not removed from the inquiries. This led Pereira to cite Ferreira and take his statement about these threats.

In January 2002 Manuel Correia da Silva Filho was arrested in Cariacica. In his formal statement, Silva Filho provided details of Col. Ferreira’s involvement in numerous homicides, either as the commander of the operation or the intermediary. Silva Filho also informed the police that Col. Ferreira was planning the deaths of a number of police authorities, judges and public prosecutors. A further corrobora-

³⁴Disque Denúncia Report No. 105.02.02, February 6, 2002.

tion of this information came from Dório Antunes, who sought out District Chief Josemar Esperandio and requested that he inform the two district chiefs that Ferreira had stated that “they [Cunha Pereira and Bahiense Moreira] would be eliminated.”

The District Chiefs sent a further communication, dated April 26, 2002, to the State Chief of Police, reminding him that they had not yet received any response to their earlier communication made in February. They also indicated that there was new information that highlighted the seriousness of the situation.³⁵

In the April 26, 2002 communication, Cunha Pereira and Bahiense Moreira stated that on April 23 they were requested to appear in Judge Patrícia Pereira Neves’ chambers. The judge told the two officers that she had been informed that Military Police Cpt. Luiz, Military Police Sgt. Dalberto and former Military Police Officers Sílvio Homero and Samuel Vidigal de Souza (known as “Muca”) were being contracted for 50,000 reals (fifty thousand reals, roughly US\$ 20,000.00) per contract, to kill District Chief Pereira. The contracts were made through the intermediary Military Police Maj. Fabrizia, under the orders of, or intermediation of, Military Police Col. Swalter Gomes Ferreira. In addition to these military police officers, former Military Police Officer Vitor, a resident of Cocal, Vila Velha, and a former member of the Civil Police, known as “McGyver”, were also being recruited to participate in the attempt on Cunha Pereira’s life. The judge also informed the two district chiefs that these people were connected with the killing of the attorney Marcelo Denadai, on April 15, 2002.

On the same day, April 23, 2002, District Chief Pereira’s sister in law, Claudia Rodrigues de Araújo, a teacher in the Maria Olinda de Menezes School, Continental-Serra, found an unsigned message on her desk written in red ink. It contained the following message: “Hi!! I know!!! Whose sister in law [you are]. But you’re attractive, beautiful. Could it be, could it be? Do you like this color...What will you

think of me?³⁶ [sic]”

Also on the same day, District Chief Moreira was called to the Public Safety Secretariat. There, Undersecretary Almerinda Capeli Saué informed him that the Secretariat had received an anonymous tip, through the police hotline, stating that Col. Ferreira was preparing an operation to end his life.

District Chief Fabiana Maioral

Police District Chief Fabiana Maioral, originally from São Paulo, has worked in Espírito Santo for ten years. Before arriving in Vitória, the state capital, she spent years in a number of smaller cities in the more rural areas of the state.

The threats against Maioral began when she was a district chief in the city of Martins City, in 1998. Her duties at the time included investigating drug trafficking, homicide and bank robberies. Her work incriminated Military Police Sgt. Aloísio Módulo de Almedia as one of the heads of organized crime in the city. Sgt. Módulo de Almedia was tied to Col. Ferreira, known to be involved with drug trafficking, the hiring of hit men, and death squads.

To investigate these illegal operations, District Chief Maioral requested support from the intelligence unit of Espírito Santo’s Military Police, which responded by sending a team. The investigations led to the transfer of Sgt. Módulo de Almeida to the city of Pedro Canário. Rather than prosecuting him for the crimes he was alleged to have committed, the Espírito Santo authorities simply relocated him.

Effectively immune from prosecution, Sgt. Módulo de Almeida then contracted four hit men to execute the district chief. On a Saturday in February 1999, District Chief Maioral was on her way to work

³⁵Document sent to Police Chief João Manoel Rodrigues Lima, April 26, 2002.

³⁶Letter written with a ballpoint pen in red ink showed by Fabiana Maioral to Global Justice Center researchers, June 28, 2002.

from Domingos Martins to Anchieta City. As she left her house she noticed a red taxi parked in front of her garage. A few meters ahead, when she stopped at a crossing, she realized that the taxi was beside her and that another car, a white Gol, was drawing near. Becoming suspicious, she called the police station, and told the station that two cars were following her. She then requested that the station call her cellular phone every five minutes. At a convenience store near the Domingos Martins city limits she stopped in order to lose the cars. However, when she left the store she realized they were still following her. At this point she called the Federal Highway Police, who waited for her at the foot of a hill. Until she arrived at the point where the Highway Police were waiting for her, the two cars repeatedly swerved in front of her vehicle, cutting her off. When she stopped next to the Highway Police, the other two cars continued on.

Even after this episode, District Chief Maioral did not allow the threats to undermine her work. However, this changed when, in 1999, Clésio Rosa da Silva was arrested in Domingos Martins. Among his possessions the police found a cellular phone bill that showed that da Silva had made a number of telephone calls to District Chief Maioral's home phone number, her cell phone, and to the Domingos Martins police station. By this time, District Chief Maioral was already working in Vitória but came back to Domingos Martins to talk with da Silva, as the dates of the phone calls coincided with the threats that she had received. Da Silva denied having rung the police station and the duty officer at the station at the time supported that affirmation. At that point, Maioral gave up trying to obtain information.

On February 1, 2000, da Silva was arrested again. When he saw District Chief Maioral, he promised to tell her everything. Da Silva stated that he had been contracted by Sgt. Almeida to threaten her, and that Almeida himself had purchased the cellular phone from which da Silva had made the phone calls. Moreover, he related that the occupants of the two cars that had followed her were hitmen. The white Gol belonged to a policeman that also worked as a security guard for Cpl. Camata, who at that time was the mayor of a city in Espírito Santo state. Da Silva provided information about a number of crimes, and was ultimately placed in the federal witness protection program.

District Chief Maioral registered a formal complaint against Sgt. Almeida, but the investigation into the matter failed to advance. At the end of 2000, the police district chief overseeing the matter requested a pre-trial detention order for Sgt. Almeida. On April 4, 2002, the file concerning the matter was forwarded to the court but, at this writing, had still not been returned. Currently, Sgt. Almeida is the president of the Marechal Floriano Town Council.

In 2000, while District Chief Maioral was working in the Fazendária Police Station, she was sought out by a woman. The woman told Maioral that she was there to recover a debt owed. Maioral, however, did not know the woman nor did she understand the reference to the debt owed. The woman explained that Maioral owed the debt to an ex-employee of hers and that this employee was waiting for her on the ground floor. District Chief Maioral planned to go to meet the man, but when she mentioned this, two fellow policemen instead accompanied the woman to the ground floor. When they arrived there, there were two men waiting. However, when these men saw the policemen accompanying the woman (instead of Maioral) they fled. Da Silva, when he was arrested for the second time, stated that one of these two men was Sgt. Almeida and that the woman had been used as bait. The plan had been to kill Maioral as she came down the stairs. Maioral also discovered that Col. Ferreira had told Almeida to reduce the threats to Maioral, given the greater than expected impact they were having on the group's other operations.

In 2001, shortly after leaving the federal witness protection program, da Silva was shot dead by a bullet to the head.

District Chief Maioral was the target of a further threat in 2001, when she was investigating misappropriation of funds in the National Highway Patrol (Departamento Nacional de Estradas e Rodagem, DNER), the Ruschi Foundation, and the SEDU Secretariat of Education. She went so far as to request the pre-trial detention of the Undersecretary of SEDU, Paulo Stefenoni, and of the Government Secretary, Gentil Antonio Rui, brother-in-law of the Governor, as well as that of two directors of the team that were responsible for revising the budget.

During this period, a reporter came to warn her that while he was doing a report in the SEDU he heard a policeman say that the

Maioral was “messaging” with his uncle and that if this continued, she would not live much longer. District Chief Maioral passed this information to the State Police Chief and the Office of the Public Prosecutor. One week later, Paulo Stefenoni was arrested. When District Chief Maioral was processing the arrest warrant, she met the police district chief that had been accused of threatening her. He told her that she was bothering people and that he intended to kill her. Maioral told the district chief that if he were going to kill her that he should do it like a man, while facing her, and not by shooting her from behind.

Towards the end of November 2001 the District Chief was pursued by a motorcyclist as she left the police station. When she stopped at a traffic light, the motorcyclist stopped alongside her and made a gesture indicating that she was being watched. District Chief Maioral registered another official police complaint about this incident.

Through sources that she preferred not to reveal, Chief Maioral discovered that Stefenoni’s son, Rodrigo, had met with Vereza Guerra (a former district police chief), Pedro Suzano and Jorge Lemos in a gas station in Vila Velha. The meeting was held to organize the contracting of hitmen to execute not only Maioral but also public prosecutors Fábio Velo, Fábio Ribeiro, Fernando Ramos and Evaldo Martineli, who were also investigating government corruption.

Maioral was eventually taken off her investigations and transferred to the Homicide and Citizen Protection Division (Divisão de Homicídios e Proteção à Pessoa, DHPP) where, at this writing, she had been for the past eight months.

IV. Threats Against Members of the Legislature and Executive Branches of Government

State Representative Cláudio Vereza³⁷

Cláudio Vereza is a state legislative representative and member of the Workers’ Party (Partido dos Trabalhadores, PT) in Espírito Santo.

In October 1999, Vereza played an important role in the establishment of the civil society forum “Fight Back Espírito Santo” (Forúm Reage Espírito Santo) as one of the principal coordinators. As a result of this role, Vereza began to receive threats.

In 1999, the President of the Legislative Assembly, Representative Gratz, had invited Vereza to preside over the State CPI on drug trafficking. Vereza consulted his colleagues in the Workers’ Party, and together they set out a series of conditions to be met if he were to participate. Upon learning of the conditions, Representative Gratz rescinded the invitation. Vereza stated publicly that the state CPI had been infiltrated by organized crime elements, and that the inquiry would not produce meaningful results. Vereza’s concerns were ultimately confirmed: when the CPI presented its findings, it concluded that there was no organized crime in Espírito Santo.

One or two days after the establishment of the Forum, Vereza was confronted by the President of the Legislative Assembly who said that “we were speaking rubbish about him [the President] in the Forum.”

The Forum established itself as perhaps the most important civil society group in Espírito Santo: a space in which citizens and groups

³⁷ Global Justice Interview, Claudio Vereza, Espírito Santo State Legislative Representative, Vitória, Espírito Santo, June 27, 2002.

could lodge complaints about corruption, organized crime, and submit the exercise of public power to public scrutiny in a way that not possible in the Legislative Assembly. Vereza had made himself available at the Forum to receive complaints or information about organized crime.

Vereza was under Federal Police protection between November 1999 and March 2001. He then asked the protection to be lifted, for personal reasons and because he believed that the situation had stabilized.

Vereza's visibility as a state representative increased significantly with the creation of the CPI on bribery, when he assumed a considerable media presence, and became well-known in the local society. His increasing public presence made it more difficult for him to be personally attacked.

Vereza has also been the subject of other forms of intimidation. Gilson Lopes, former police officer and currently a State Representative, in an attempt to discredit Vereza, made public an investigation involving Vereza in neighboring Minas Gerais state, but which had already been dismissed. The investigation concerned the irregular sale at inflated prices of wheel chairs from a small factory in Espírito Santo to the Government of Minas Gerais. The investigation which first cited Vereza as a witness, later characterized him as a suspect. In the end, Vereza established that he had no role in the factory and the investigation was closed. State Legislative Representative Gilson Lopes made the investigation public in Espírito Santo, causing a media scandal and at the same time sought Vereza's impeachment. Later, the impeachment process against Vereza was also dismissed.

During the June 20 meeting of the Ministry of Justice's Human Rights Council in Brasília, Nelson Aguiar, attorney for the Governor of Espírito Santo, once again raised the subject of the overpriced wheelchairs, in an attempt to intimidate Vereza. Aguiar told Vereza in a threatening tone that he should be careful since there was still an investigation (regarding wheelchairs) pending against him in Espírito Santo. Nelson's threat against Vereza was witnessed by the Executive Director of the Global Justice Center, James Cavallaro, and by Iriny Lopes, who were also participating in the meeting.

The Break-In at the Serra Human Rights Secretariat³⁸

-Background

The Serra Municipality in Espírito Santo is one of the most violent municipalities in Brasil. With a population of roughly 330,000 inhabitants, in 2001 the municipality recorded 322 homicides. This translates to 100 homicides per 100,000 inhabitants per year (more than twice the official rate for Rio de Janeiro, for example, and higher than the general rate of Espírito Santo State.)

The Serra Municipality Human Rights Secretariat was established in January 2001. Since its establishment, it has implemented a series of social programs in poorer communities. Some of these programs focused on mobilizing residents to disarm and the strengthening of peace in poor communities. Due to their presence in the communities, Human Rights Secretariat staff began to receive complaints relating to violent acts by corrupt policemen, members of organized crime, and local traffickers (especially wholesalers). The Secretariat's work in the poorer communities gained a certain level of prominence in the local media.

Nonetheless, the relationship between the military police and organized crime in the Serra continued. According to the Commander of the Serra Battalion of the Military Police, of an approximate total of 400 military policemen in the Battalion, around fifty had direct connections with corruption and organized crime.

-The Break-In

On January 25, 2002, when the staff from the Human Rights Secretariat arrived at the main office, located in a commercial building in the center of the city, they realized that a break-in had occurred. A door had been broken, tables and other furniture had been moved, documents interfered with, and some items had been taken.

³⁸Global Justice Interview, Givaldo Vieira de Souza, Givaldo Vieira de Souza, Former Municipal Secretary for Human Rights and Patrícia Henzell, Director of the Nucleus for Public Safety Policy, Vitória, Espírito Santo, June 28, 2002.

The team contacted the Serra Municipal Secretary of Human Rights, Givaldo Vieira da Silva, and the director of the Municipality's Center for the Study of Public Security Policy, Patrícia Henzell. Secretary Givaldo advised the team to call the police and not touch anything. One of the team members, Rosalva de Oliveira Cardoso, followed this advice and called Col. Tomé. Col. Tomé then called the Police Intelligence Bureau before 8.15a.m.

Secretary Givaldo and Patrícia arrived at the Secretariat and carefully observed the scene of the break-in. Both noticed a series of unusual details. First, although some valuables had been taken, a number of other valuable items, such as new computers still in their boxes, had not been touched.³⁹ Givaldo also observed that in his office, somebody had rifled through his documents and other items left on the table, something that had not happened in the other rooms of the Secretariat.

-The Investigation

Teams from both the Civil and Military Police arrived at the Secretariat. They also considered it strange that those responsible for the break-in had left behind a number of valuable items. The Military Police investigated the break-in and noted their observations. The Civil Police Chief of Serra, called by the Secretariat, appeared at the office with two detectives, and requested the presence of the forensic unit after evaluating the situation. Two experts from the forensic unit, a photographer and a member of the fingerprinting unit, photographed and collected evidence from the office.

A number of months afterwards, in responding to an internal request from the Serra Municipality, the Secretariat sought copies of registered civil and military police investigation reports. They were

able to obtain copies of the original registration of the incident. However, when they requested the military and civil police incident reports, Secretariat staff discovered that these documents no longer existed. The Secretariat was also unable to confirm whether such documentation had in fact ever existed. After a number of attempts to find the documentation, the Secretariat officially registered the break-in, for a second time, on May 22, 2002.⁴⁰

At this writing, neither ex-Secretary Givaldo nor the Secretariat team had received explanations concerning the missing information.

³⁹According to the Incident Report registered two months after the break-in, the following items were taken: two mice, two key boards, two monitors, one printer, one television, one fax, one video cassette player, one overhead projector, and a number of law books. Incident Report No. 3263/01 from Espírito Santo State Secretariat of Public Safety and Serra Civil Police, May 22, 2002.

⁴⁰ Incident Report No. 3263/01, from Espírito Santo State Secretariat of Public Safety and Serra Civil Police, May 22, 2002.

V. Threats Against Members of Civil Society

Agesandro da Costa Pereira⁴¹

In the second half of 1999, civil society organizations in Espírito Santo, including the Bar Association of Espírito Santo (Ordem dos Advogados do Brasil, OAB/ES), created the Forum Fight Back Espírito Santo to fight violence, organized crime, and serious human rights violations in the state. Beginning in September 1999, OAB/ES President Agesandro da Costa Pereira began receiving threats that he attributes to his participation in the Forum. In the first months of the Forum's existence, an unidentified caller warned that a bomb had been placed in the OAB/ES main offices, where the Forum had been meeting.

Over the course of the last two and a half years, da Costa Pereira has received many threatening telephone calls. According to his statements to the Global Justice Center, these threatening calls were made to his apartment in Vitória as well as to his OAB office and involved both male and female voices. The callers warned da Costa Pereira to not bother the Scuderie Detetive Le Coq, insisting that it would react if provoked. The calls were most frequent between September 1999 and March 2001, after which the calls stopped for a brief time.

Following the April 2002 murder of lawyer Marcelo Denadai, da Costa Pereira began receiving threatening phone calls again, this time with an even greater frequency. According to da Costa Pereira, between mid-April and late June, he had received four such calls, as well as two threatening letters. In response, the OAB placed a trace to identify the origin of the calls on da Costa Pereira's telephone

lines. The trace has registered calls from pay phones and, in some cases, calls from states far from Espírito Santo, including one call that da Costa Pereira remembers as originating from the state of Ceará.

On April 24, 2002, the CDDPH convened in Brasília for a meeting in which the situation in Espírito Santo featured prominently on the agenda. Da Costa Pereira was invited to this session and attended. Two days after the meeting, someone broke into his beach house, stole a bicycle, and left a handwritten note of two or three lines warning da Costa Pereira to watch out because they knew where his wife and granddaughter lived.⁴²

Approximately ten days after this, a typewritten letter arrived at the OAB office in Vitória that contained especially disturbing threats against da Costa Pereira. In particular, the author of the letter demonstrated extensive knowledge of da Costa Pereira's whereabouts and habits, as well as those of his relatives, colleagues, and friends:

How many federal agents will be assigned to protect you, your four children (including the one that you had out of wedlock), your grandchildren (especially those who live with your son in Minas Gerais), your wife, and your friends? Will these agents protect all of your friends too? Will they also protect, for example, the Vice-President of the Bar Association, who usually drives at night in Vitória? How about her children, too, the ones that attend college in the city and are often by themselves? And how about your General Secretary, who has a house in Nova Almeida and usually goes fishing alone? How about his children? And what about your Treasurer, who has a house in Jacareípe and is often quite exposed—he can easily be robbed and killed. And what about his children? What about your secretary that usually walks through downtown at night, and goes back to her house in Vila Velha at night—she can be attacked, too. You should really think about it. If you ever disappeared, the Minister and President of the Federal Bar would only feel bad for a couple of days. You already make good money, why make things worse? You should pay more attention to what you do. Talking too much was what finished off

⁴¹ Global Justice Interview, Agesandro da Costa Pereira, Vitória, Espírito Santo, June 25, 2002.

⁴² *Ibid.*

Denadai, and could finish off others that you know. Crime is rampant in this state. Anyone could be attacked and try to fight back...and then... Let me tell you, you're not dealing with "the little people." We know where you are and what you say before you even think about it. Don't even think that the courts will do anything because there are a lot of very powerful people involved. You should just worry about the Bar Association's business. Or maybe you think that your house is safe. Look, there are millions of bicycles out there, Agesandro, nobody needed to steal yours. How many people can you stand to bury at your age? Or do you think someone stupid would kill you? How many lawyers can the Federal Police protect? Will you try to protect them all? Remember the Bar secretary that died in Rio? Did you know that there are Bar members who watch everything that you and your friends do? You make a lot of people unhappy, but you don't know who they are or how many are out there. Are there really that many people that want to see the Bar taking care of your problems for you? What do you think you are going to accomplish by saying the same thing again and again? How much do you think the things you are fighting for are worth? That's just how the world works. At your age, wisdom should speak a little louder. You aren't being wise, Agesandro. Think about it.

After the Attorney General of Brazil declined to accept the OAB, and later Ministry of Justice request for federal intervention in Espírito Santo, the threats against the OAB intensified. On July 9, 2002 an anonymous caller contacted the OAB's head office. A counselor, who prefers not to be identified, took the call. The caller stated:⁴³

"Caller: Is that Dr...? I want to talk to her.

OAB: She is not here. Do you want to leave a message?

Caller: I'm a friend of hers. I wanted to give her some advice. Pay close attention. You [the OAB] have said too much.

No one is immortal. This is not going to end nicely. I think

it's is time to shut up. You have to be quiet now. Enough of all this mess. The attorney has young children. She has a son and a daughter in university, who goes out in the city and works here.

That other guy that spoke on TV today also has a young son. He even went out with him today. And we're not fooling around. We'll act, because nobody is immortal. Enough of all this, because if not, we are going to have to take measures. Can't you see that none of this is going anywhere? There's no minister of justice that's going to do anything. We're strong. We'll deal of you.

OAB: Who is going to deal with us?

Caller: Let's just say that we are a group of friends. A very strong group of friends that is going to deal with you people."

Threats Against João Miguel Feu Rosa and His Family

João Miguel Feu Rosa is a federal representative and member of the Brazilian Social Democratic Party (Partido da Social Democracia Brasileira, PSDB). Ever since he first took office in 1999, he has spoken out in favor of the protection of human rights. Over the last few months, he has been receiving repeated threats due to his work to support human rights, as have two of his relatives who are judges in Espírito Santo. Feu Rosa's office in Brasília has received numerous anonymous telephone calls threatening to kill him as well as these relatives. The calls were traced to public phone booths in Espírito Santo. Additionally, his office also received an anonymous, threatening letter that not only made reference to people suspected of organized criminal activity in Espírito Santo, but also demonstrated detailed knowledge of Rosa's whereabouts.

The Global Justice Center was given access to a letter sent to Feu Rosa's family, signed by a certain Jeremias Muniz, that merits translation in its entirety:

"To the Feu Rosa Family:

I have known you a long time. Last week I was at the gas

⁴³ Transcription of an anonymous telephone call made to the head office of the OAB/ES, July 9, 2002.

station and overheard a conversation between Col. Ferreira and some other guy I don't know other than that he's called Diu, and they were talking about murder. They stayed there a long time arranging the murder of [State] Deputy Baiense [sic], of a reporter from Rio, and of Feu Rosa, and I hear Col. Ferreira say that Feu Rosa was going to get fucked up because he caused problems for the Marval people and fucked with him in court, and that they knew of the deal with Denadai and that the Marval people were going to guarantee that the job would be done because they are powerful folks, and he said that Deputy Baiense [sic] got lucky that he didn't turn into mincemeat because some son of a bitch squealed, but now it was for real. They always come to the gas station to arrange killings, and sometimes even [State] Deputies show up and they have a lot of money, and I heard Diu say that the job would be done by the people from Rio, and Col. Ferreira said that the TV Globo reporter was a stupid faggot that gave up the chance to make a million by not talking and is now going to die in the attack so he can expose criminals in hell. I heard Diu say that in the woods near the entrance to the court they could kill any son of a bitch that they wanted to. I got scared because a lot of murders were arranged there at the gas station, and the guy that told me said that he hid so he didn't die, and I am going to get the hell out of the gas station tomorrow but I want to warn you [and] that I owe a lot to your family and you need to take care because there are big people involved, even [State] Deputies, and I heard that the Marval people were going to take care of everything and that they have money and that the newspapers can't stop bullets. I can't say anything else but I have to warn you to watch out because there are powerful people involved, even [State] Deputies. Dionisio is the guy who knows about the whole conversation at the gas station, [he is] the gas station attendant. He lives in the Barcelona neighborhood on Vereador Batista Street in the back of Souza bakery that his son-in-law owns. Another guy who has stuff to tell is Zeca, the waiter at the

gas station bar, and he even went to the police and said that he worked at the gas station and that these people controlled THE STATE from that station and Zeca did a job for Colonel Ferreira in exchange for a new [Fiat] Gol. He lives on Ulisses Guimarães Street in Feu Rosa and that he was the Colonel's inside man.

I am going to Teixeira Segunda but I'm reminding you to pay for my father's treatment—make sure I receive the payment.

Jeremias Muniz de Barcelona. [sic].”

Eduardo Faustini⁴⁴

A television reporter from the *Globo* networked mentioned in the preceding text is Eduardo Faustini. During a project on which he was working for the Sunday evening program “Fantástico,” he spent a month undercover as the Secretary of the São Gonçalo Town Council Planning Unit (Rio de Janeiro State). Faustini stated that during this time he was offered a bribe to contract the services of a company called Marval Comércio and Services (based in Espírito Santo) as well as other companies.

Faustini taped a number of conversations, which were subsequently aired on the Fantástico national television program. In these conversations, Miguel Macedo, a Marval lobbyist, offered a bribe of 20% in return for a contract with the Town Council. Macedo told Faustini that the same type of scheme was being run between Marval and public administrations in Belford Roxo (Rio de Janeiro State) and in Vila Velha (Espírito Santo State). He explained that, in Vila Velha for example, a 20% commission was paid by Marval to the Transport Secretary, Miguel Fernandes. Fernandes then passed on a further “commission” to the Mayor, Max Filho.

⁴⁴ www.seculodiario.com.br, July 7, 2002.

As already mentioned, Barcelona's statement indicates that there is a plan to kill Faustini (Fantástico's producer) in a simulated robbery. Faustini gave a statement to the Office of the Federal Public Prosecutor about the criminal operation that culminated in the April 15, 2002 murder of lawyer Joaquim Marcelo Denadai. Faustini is considered a key witness in the investigation of businesses and town councils (both in Rio de Janeiro State and Espírito Santo State) involved in bribery.

Maria das Graças Nascimento Nacort ⁴⁵

Maria das Graças Nascimento Nacort is the President of the Association of Mothers and Relatives of Victims of Violence in Espírito Santo State (Associação de Mães e Familiares de Vítimas da Violência no Estado do Espírito Santo, AMAFAVV-ES).

On June 20, 1999, Nacort's son, Pedro Nacort Filho (Pedro), was killed by military police in Vitória, Espírito Santo. Pedro had gone out to buy cigarettes in a nearby bar at around 12:45 a.m., and stayed to have a quick beer. At around 1:20 a.m., he was attacked on his way back home by four military policemen that he knew on Seventh of September Street in downtown Vitória. The four officers shot him a total of eighteen times.

Military police officers Sgt. Judison Jackson Coutinho Rufino, Chief Arildo Nascimento, and Officer Erivelto de Souza Pereira (nicknamed "Diabo Louro," or "Blond Devil"), and Civil Policeman Wilson Pereira were initially identified as those responsible for Pedro's killing.

Six months after her son's murder, Nacort became disillusioned with the progress of the police inquest and began to investigate the case on her own. She sought out human rights activist Isaías, a mem-

ber of the National Human Rights Movement (Movimento Nacional de Direitos Humanos, MNDH) who has been helping her since the murder. At that point, she began to receive death threats.

The first threat was in a message left with Nacort's sister. A uniformed military policeman stopped her in the Antares Building Shopping Mall, near Maria's residence, and said, "Don't look at me. You tell your sister that she'd better shut up or leave the state. If she doesn't shut up, we're going to fill her face with lead."

Ever since the first incident, Nacort has publicized the details of the threats by releasing them to the press, to the police investigator handling the case of her son's murder, as well as to the Federal Office of the Public Prosecutor in Espírito Santo. In the meantime, measures have not been taken to identify those responsible for the threats, nor has she been offered police protection.

In 2000, the investigation into the murder was forced to begin anew after a fire in the Forum's office destroyed many case files, including the Nacort homicide. Nacort suspects that arson was involved.

Approximately two years after her son's death, Nacort founded the AMAFAVV-ES, uniting families in similar situations. Currently, about eighty families participate in AMAFAVV-ES.

Some months after the foundation of AMAFAVV-ES, a pair of officers arrested two boys in the Argola precinct. One of the two officers involved was Officer Erivelto, one of those accused of executing Pedro. One of the boys, a friend of Nacort's nephew, told her that Officer Erivelto had told them that they would be set up to take the blame for Pedro's murder because things were heating up with the case. Nacort sought out Police District Chief André Luiz Cunha Pereira of the DHPP and filed a complaint based on what her friend had heard. Cunha Pereira questioned the two boys; they informed him that a witness to Pedro's death was being threatened by police and had left the neighborhood. The witness was then questioned as part of the investigation and placed into the Witness Protection Program.

In 2001, Nacort and a group of mothers from AMAFAVV-ES traveled to Brasília to participate in meetings of the Human Rights Commission of the Federal House of Representatives (Comissão de

⁴⁵ Global Justice Interview, Maria das Graças Nascimento Nacort, Vitória, Espírito Santo, June 27, 2002.

Direitos Humanos, CDH), the Federal Justice Ministry, and the Supreme Federal Court (Supremo Tribunal Federal) to testify about the state of criminal impunity in Espírito Santo. While she was still in Brasília, a police officer called one of her sons at his place of work and threatened him, saying, “Now that your mother has run away to Brasília, we want your head, too.”

Nacort has also received threatening phone calls at home. “They always told me to shut up, or they were going to fill my face with lead,” Nacort told the Global Justice Center. The voice was not always the same, but it was always male.

On or about December 18, 2001, upon returning to Vitória from Brasília, a man accosted Maria on the street. The perpetrator said from behind, “Don’t look behind you. Either you stop and get the hell out of the state, or we’re going to fill your face with lead. Now, keep walking straight ahead.”

Policemen threatened Nacort again on March 8, 2002. While she was organizing members of the AMAFAVV-ES for a demonstration for International Women’s Day in Vitória’s Praça do Papa, officers in a squad car began to taunt her, saying, “We have to kill this disgrace of a woman, because this she-devil won’t shut up.”

On April 30, 2002, Officer Erivelto threatened Nacort yet again, this time as she was leaving the police station in downtown Vitória where she had gone to report the theft of her cellular phone. As she was exiting the building, Officer Erivelto was walking in. When they met, he stared her down for several minutes with his hand on his gun.

About fifteen days later, a street child stopped an acquaintance of Nacort and said, “Stay away from your friend because they are going to shoot her and whoever is with her.” When Nacort’s acquaintance went to ask the child who had said this, she saw Officer Erivelto in a Military Police squad car on the other side of the street.

On June 5, 2002, Nelson Aguiar, a lawyer closely tied to the governor of Espírito Santo, publicly threatened Nacort during a taped interview with her on CBN, a leading Brazilian radio station. The interview was recorded while Maria was painting a mural with other AMAFAVV-ES members in front of the organization’s building. The transcript reads:

Attorney Nelson Aguiar, contracted by Gov. Ignácio Ferreira to defend the state before the proceedings of the Federal Human Rights Commission of the Ministry of Justice (Conselho de Defesa dos Direitos de Pessoa Humana do Ministério da Justiça, CDDPH) on federal intervention in Espírito Santo, became irritated this Wednesday morning with representatives of the Association of Mothers and Relatives of Victims of Violence in Espírito Santo State, and with the Association’s President, Maria das Graças Nascimento Nacort, in particular. Maria Graça was disputing government crime statistics with him when the irritated lawyer replied, “This is exactly how crime begins, with disrespect and intolerance.” The discussion ended when Aguiar left for the conference room where the meeting was to be held. Sandressa Carvalho reporting.”

Nacort also informed the Global Justice Center that other members of AMAFAVV-ES have been threatened. She stated that on December 26, 2001, lawyer and AMAFAVV-ES member Robson Zamprogno was murdered.

Local authorities failed to take measures to guarantee Nacort’s safety. Although the police report into Pedro’s killing found Officer Erivelto responsible for the crime, the policeman has not been arrested.

Nacort also reports that the DHPP Police Investigators that investigated Pedro’s case—André Luis Cunha Pereira, Aeliston Santos Azevedo, and João Calmos—were removed from their posts just as they were wrapping up a report holding the four police officers accountable for Pedro’s murder.

Iriny Lopes ⁴⁶

Iriny Lopes is a leading member of the Workers’ Party (Partido dos Trabalhadores, PT) of Espírito Santo, as well as an outspoken

activist for human rights with groups such as the National Human Rights Movement (Movimento Nacional de Direitos Humanos, MNDH) and Forum Fight Back Espírito Santo.

Lopes believes that the situation of human rights defenders in Espírito Santo changed somewhat for the better since activists convinced the federal government to send a CPI to the state to investigate drug trafficking in 1999. As such, she believes that persons and organizations involved in human rights activism became more visible and more difficult to murder. However, the threats have not stopped, and human rights defenders continue to court danger on a permanent and daily basis. She also believes that were it not for this newfound visibility, many human rights defenders would be dead or would have had to flee the state.

Lopes emphasized that organized crime remains a permanent problem in Espírito Santo because its members include high-ranking public officials. For example, until February 2002, Mário Lopes, ex-president of the SDLC, was State Secretary of Public Security for Espírito Santo. The efforts of Lopes and journalist Andrei Meirelles were responsible in part for his dismissal.

Lopes began receiving telephone death threats in 1999, during the same week as the foundation of the Forum Fight Back Espírito Santo, indicating that they were in response to the Forum's creation.

The PT filed an official report of these threats with the Ministry of Justice on November 9, 1999 (Official Correspondence No. 645/PT). The report also requested federal police protection for Lopes, which the Ministry approved on November 18, 1999. At first, pairs of officers working twenty-four hour shifts provided continuous protection. However, as time passed the shifts gradually grew longer and longer.

Even while under police protection, Lopes continued to receive the same anonymous telephone threats:

“Days come and go, but you, Dr. Agesandro,⁴⁷ Dr. Ronaldo,⁴⁸ Badenes,⁴⁹ and Dr. Ewerton⁵⁰ are going to die.”

⁴⁶ Global Justice Interview, Iriny Lopes, Vitória, Espírito Santo, June 27, 2002.

In December 1999, police arrested a man linked to contract killings on the doorstep of Lopes's house. At first, the person said that he was a private investigator investigating an adulterous affair, but further research revealed the close ties between the arrestee and contracted murders and death squads. However, the Federal Police closed the case due to insufficient evidence.

Lopes also recounted an incident that occurred in 2000 while she was returning to Vitória from a trip with a PT leader and two Federal Police agents. The group was driving at night when they decided to stop at a diner for a cup of coffee. Shortly after they entered the establishment, a car pulled into the parking lot. The three men inside got out; one headed toward the bathroom while the other two went into the diner. When they saw Lopes inside, things became very tense. The two men put their hands on their guns and began to stare at her, and the federal agents responded by placing their hands on their guns as well. Lopes became very nervous and was certain that she knew one of the two men, although she could not remember exactly who he was. The group decided to leave the diner immediately.

However, when they were walking out the door, Lopes literally ran into the third man, who was coming back from the bathroom. She immediately realized that it was Colonel Ferreira, who became furious as soon as he recognized her. It was only then that she remembered that the man inside the bar was Officer Piedade, who had been

⁴⁷ Dr. Agesandro da Costa Pereira is the President of the Brazilian Bar Association (Ordem dos Advogados do Brasil), Espírito Santo chapter.

⁴⁸ Dr. Ronaldo Aldo is a federal prosecutor. He has since left the state.

⁴⁹ Francisco Vicente Badenes Júnior is a former police commissioner who has since left the state and is presently in the Federal Witness Protection Program (Programa de Proteção às Vítimas e Testemunhas).

⁵⁰ Dr. Ewerton Montenegro Guimarães is a lawyer who assisted the Federal Public Ministry in the civil action that sought to breakup Scuderie Detetive Le Coq. Scuderie is still registered in Brazil as a legal entity.

convicted and sent to prison for murder and for hiding the body of the murder victim, and who was likely there for illegal motives. Later, Lopes found out that the three had come to make a delivery of stolen weapons to a nearby farm.

Over the course of 2000 and 2001, Lopes received repeated telephone calls on her cellular phone saying, “Time passes, you could die, and so could [Francisco] Badenes and Ronaldo Aldo.” The voices were often different, but the caller always called from a public telephone.

In an October 2001 break-in of state PT headquarters while Lopes was president, her items were singled out and ransacked. During the same month, as she left for a PT headquarters meeting, she received a voice mail on her cellular phone of funeral music. Believing this to be a warning, she notified the Federal Police.

When she arrived at the PT building with the police, she discovered that the office had been burglarized. However, this was only apparent after she walked into her office and found that it had been ransacked. The burglars had rifled through Lopes’s papers and had taken only the computer and fax found in her room, leaving behind newer equipment located in other parts of the headquarters.

Despite these threats, the Federal Police Department of Espírito Santo informed Lopes on November 21, 2001, that it was temporarily suspending its personal security services “in light of the Federal Government’s current lack of resources and necessary budgetary adjustments, which have even affected the availability of gasoline for Government vehicles.”⁵¹

Lopes continues to receive death threats. On May 6, 2002, forty-eight hours before the PT was to convene and consider nominating Lopes as its state gubernatorial candidate, she received an anonymous call warning her to be careful with what she said, because she might die before that meeting.

In 2002, just after the dismissal of State Secretary of Public Security Mário Lopes, Iriny Lopes was followed by men in a white car but she was unable to take down the license plate of the vehicle. After this incident, she received two more threatening telephone calls. She was also taken aside by someone who works in the State Legislative Assembly with members of parties linked with organized crime. The individual spoke about the murder of lawyer Marcelo Denadai and then “warned” her that “the situation is very serious. Please be careful. Be very, very careful.”

Lopes knows that this person has ties to organized crime, but is not sure whether this was a veiled threat or a sincere warning. On May 14, 2002, Lopes reported these events to the regional Federal Police office in Espírito Santo and requested that it reinstate police protection.⁵²

Shortly after this, the Inter-American Commission on Human Rights of the OAS formally requested that the Brazilian government take measures to protect the physical safety of Lopes.

The Global Justice Center informed Her Excellency Hina Jilani, Special Representative of the Situation of Human Rights Defenders and about the threats on June 4, 2002.⁵³

The Ministry of Justice decided to grant Lopes’ May 14, 2002, request and placed her under federal police protection again on June 15, 2002. However, the federal police agents that are protecting Lopes informed her that they have not received the moneys due to them for daily expenses for at least 30 days. Because of this, they have warned her that they may have to suspend her protection.⁵⁴

⁵¹ Official Correspondence No. 5946/2001 by the Chief of the Political and Social Order of the Federal Police and issued by the Regional Superintendent of Federal Police in Espírito Santo, November 21, 2001.

⁵² Official Communication No. 08285.003580/2002-20 to Maria do Socorro Santos Nunes Tinoco, Police Investigator, May 14, 2002.

⁵³ Official Communication JG/RJ 128/02, from the Global Justice Center, June 4, 2002.

⁵⁴ Global Justice Interview, Vitória, Espírito Santo, July 11, 2002.

The Global Justice Center's Human Rights Defenders Program

The Global Justice Center has created a special program to research, document, and follow human rights violations committed against human rights defenders through its periodical publication, *Front Line Brazil: Murders, Death Threats, and Other Intimidation of Human Rights Defenders*. In addition, the Center reports serious human rights violations to international human rights bodies, including the OAS's Inter-American Commission on Human Rights and the UN special mechanisms, in particular, the UN Special Representative on the Situation of Human Rights Defenders.

Cooperation is important to enable us to thoroughly document abuses against human rights defenders. Should you or your organization know of any human rights violations against human rights defenders, please forward us all applicable information as requested by the following form, to the following address:

**Centro de Justiça Global/ Global Justice Center –
Programa de Defensores de Direitos Humanos/ Human
Rights Defenders Program/**

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What is a human rights defender?

Human rights defenders are all those groups or people that work to eliminate the violation of the fundamental rights and liberties of individuals or peoples, either on their own or with non-governmental organizations, unions, or social justice groups in general. Human rights

defenders can be members of governmental agencies or non-governmental organizations, including public servants whose duty it is to enforce the law, those who work in prison administration, as well as those who work with victims of human rights abuses.

What are the principal right violations committed against human rights defenders?

The most common rights violations committed against human rights defenders include: all forms of attacks against their persons, psychological well-being, and dignity, threats of all types, extra judicial executions, forced disappearances, arbitrary arrests, frivolous and harassing lawsuits of all forms, defamation campaigns, and even more subtle forms of violence such as social ostracism by associating human rights work with criminal behavior such as “criminal conspiracy,” “terrorism,” and “crimes against national security.” Violence can also affect friends, relatives, and associates of human rights defenders. Such rights violations may be the result of action or inaction by the State or civilian such as militias and death squads.

FORM FOR REPORTING RIGHTS VIOLATIONS AGAINST HUMAN RIGHTS DEFENDERS

PERSONAL INFORMATION OF HUMAN RIGHTS DEFENDER:

Name _____

Age: _____ Sex: _____

Occupation: _____

Title: _____

Address: _____

Tel/Fax: _____

E-mail: _____

INFORMATION ABOUT THE PERSON REGISTERING THE COMPLAINT

Name of Organization (if he/she is part of a non-governmental organization, political party, union or social justice group):

Head of Organization: _____

Scope of Organization's Activities:

() municipal () state () regional

() national () international

Nature of the Organization's Work (i.e., rural, racial, sexual, environmental, indigenous peoples, youth, civil and political rights-related issues):

() Check here if you wish you wish to keep your personal information confidential

INFORMATION ABOUT THE VIOLATION:

Description of Rights Violation:

Date: _____

Place: _____

Nature of Rights Violation (murder, death threat, physical or psychological aggression, disappearance, arbitrary arrest, frivolous and intimidating lawsuit, etc.):

Description of Events (please be as detailed as possible):

Was any public authority notified? () yes () no

Information about public authority involved, if any (name and department):

Title: _____

Facts surrounding notification: _____

Has any judicial action begun? () yes () no:

Number of case or police file: _____

In which jurisdiction has the case been filed?: _____

Please describe the most recent procedural history of the case: _____

Other measures taken (local, state, national, or international): _____

Any additional relevant facts: _____