HUMAN RIGHTS WATCH

ON THEIR WATCH

Evidence of Senior Army Officers' Responsibility for False Positive Killings in Colombia

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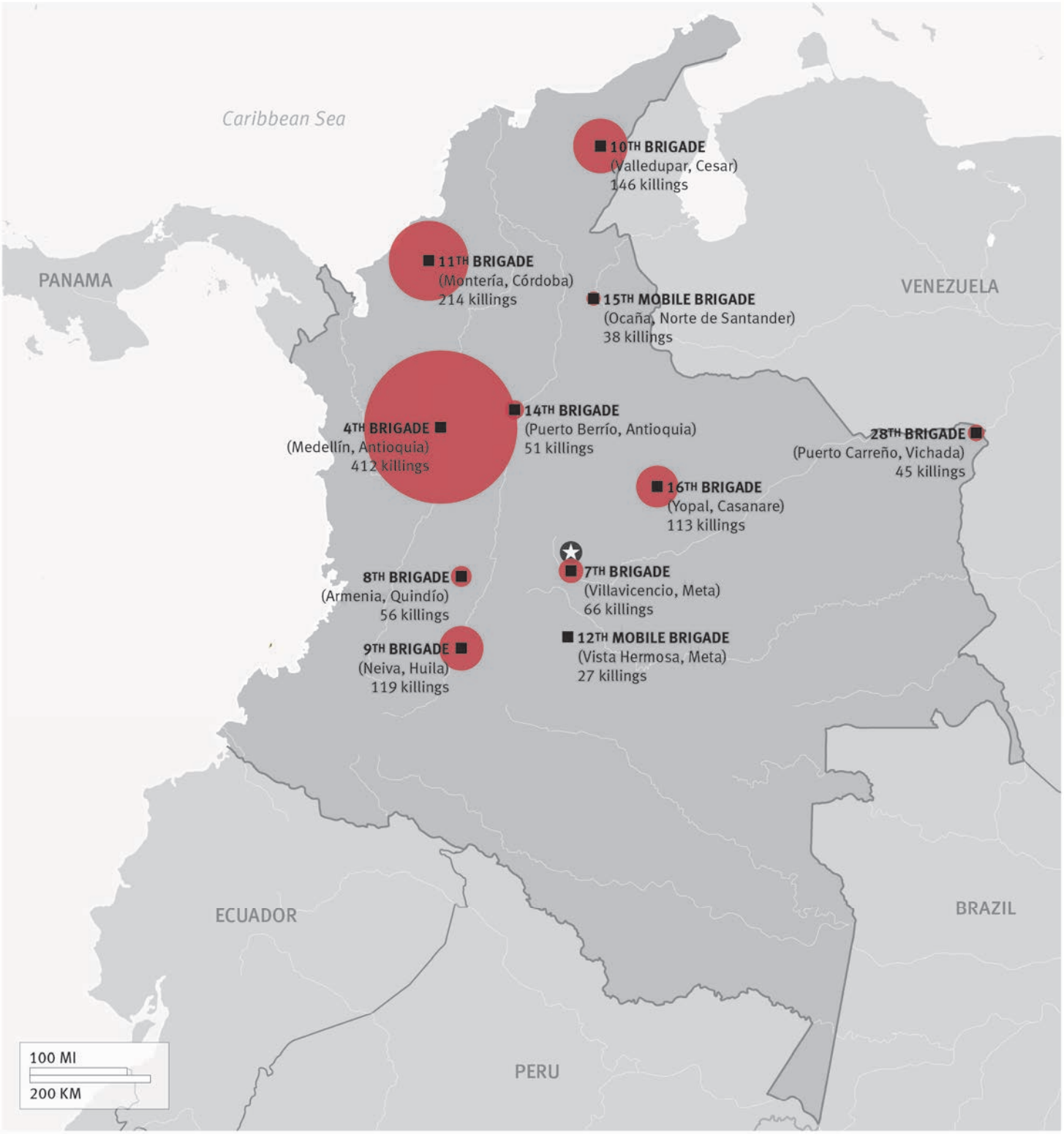
ALLEGED EXTRAJUDICIAL KILLINGS BY COLOMBIAN TROOPS IN THE 11 BRIGADES ANALYZED IN THIS REPORT



NOTE: The total killings listed for each brigade are for the 2002-2008 period and are based on the number of cases currently under investigation by the Human Rights Unit of the Attorney General's Office. They represent just a fraction of the actual number of alleged extrajudicial killings by army troops: Human Rights Unit prosecutors are investigating cases attributed to 30 other brigades during the period, and many cases of executions are handled by local prosecutors or military judges, not the unit. The squares in the map indicate where the brigades are headquartered—and the size of the red circles correspond to the number of killings—not the full area of the brigades' jurisdiction or the locations where the killings occurred. The names under each brigade refer to the locations (city/town, department) of the brigades' headquarters.

Summary

Between 2002 and 2008, army brigades across Colombia routinely executed civilians. Under pressure from superiors to show "positive" results and boost body counts in their war against guerrillas, soldiers and officers abducted victims or lured them to remote locations under false pretenses—such as with promises of work—killed them, placed weapons on their lifeless bodies, and then reported them as enemy combatants killed in action. Committed on a large scale for more than half a decade, these "false positive" killings constitute one of the worst episodes of mass atrocity in the Western Hemisphere in recent decades.

In September 2008, a media scandal over army troops' killings of young men and teenage boys from the Bogotá suburb of Soacha helped force the government to take serious measures to stop the crimes, including by dismissing three army generals. Prosecutors are now investigating more than 3,000 alleged false positives by military personnel. Upwards of 800 army members have been convicted for extrajudicial killings committed between 2002 and 2008, most of them low-ranking soldiers. The convictions have covered a handful of former battalion and other tactical unit commanders, but not a single officer who was commanding a brigade or holding a position higher up the chain of command at the time of the crimes. Of the 16 active and retired army generals under investigation, none have been charged.

This report provides the most detailed published account to date of criminal investigations into many specific brigades and battalions responsible for large numbers of alleged false positive killings, lays out the now substantial evidence that senior army officers were responsible for many of the killings, and assesses the obstacles that so far have impeded such officers from being held accountable. The report is based on our extensive review of criminal case files, judicial rulings, and data on prosecutors' investigations into false positives; witness testimony, much of it previously unpublished; and our interviews with more than 40 prosecutors, witnesses, victims' family members, and lawyers, among others.

Our analysis of the Attorney General's Office's work shows that prosecutors have identified more than 180 battalions and other tactical units, attached to 41 brigades, operating under all of the army's then-seven divisions, which allegedly committed extrajudicial killings

between 2002 and 2008. The patterns in these cases strongly suggest that commanders in tactical units and brigades responsible for a significant number of cases at least knew or should have known about the wrongful killings, and therefore may be criminally liable as a matter of command responsibility. This report profiles 11 such brigades and many of the specific tactical units operating under them implicated in the killings.

Some of the commanders of those 11 brigades subsequently rose to the top of the military command. For example, Attorney General's Office data shows prosecutors are investigating:[1]

- At least 44 alleged extrajudicial killings by 4th Brigade troops during the period retired General Mario Montoya commanded it. He became the army's top commander in 2006-2008;
- At least 113 alleged extrajudicial killings by 4th Brigade troops during the period retired General Óscar González Peña commanded it. He became the army's top commander in 2008-2010;
- At least 28 alleged extrajudicial killings by 4th Brigade troops during the period General Juan Pablo Rodríguez Barragán commanded it. As the current commander of the armed forces, he is now Colombia's top military official, and oversees all three military branches, including the army; and
- At least 48 alleged extrajudicial killings by 9th Brigade troops during the period General Jaime Lasprilla Villamizar commanded it. He is now the army's top commander.

Human Rights Watch also identified witness testimony and prosecutors' files naming three of these, as well as other, generals and colonels who allegedly knew of, or planned, ordered, or otherwise facilitated false positives. Their positions at the time of the crimes included battalion, brigade, and division commanders, as well as one head of the army. Indeed, the apparently widespread and systematic extrajudicial killings by troops attached to virtually all brigades in every single division across Colombia point to the conclusion that the highest levels of the army command at least should have known about the killings, and may have ordered or otherwise actively furthered their commission.

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[1] The data on investigations into alleged extrajudicial killings by specific brigades and battalions detailed in the summary is only based on cases assigned to the Human Rights Unit of the Attorney General's Office as of December 2014. Hundreds of other cases of alleged extrajudicial executions by army troops are being handled by local prosecutors or military judges, and thus not included in the statistics.

Our research also shows that prosecutors pursuing false positive cases confront serious obstacles, ranging from military authorities' lack of cooperation with investigations, to threats and attacks on key witnesses. Furthermore, many cases remain in military courts. This undercuts accountability because military justice system personnel have historically failed to investigate the crimes, and continue to lack independence and credibility.

There have also been shortcomings within the Attorney General's Office, including what some prosecutors describe as overwhelming caseloads. Moreover, cases from the same army unit are generally distributed among different prosecutors, which prevents them from conducting the kind of contextualized and systematic investigations necessary to identify high-ranking perpetrators. Attorney General's Office officials said they are in the process of adopting measures to remedy these internal problems.

Seven years after the false positives scandal erupted, there is abundant evidence indicating that numerous senior army officers bear responsibility and it is imperative that the government do more to ensure they are held accountable. Important steps include ordering military authorities to cooperate with false positive investigations, assigning sufficient prosecutors to pursue them, protecting witnesses and their families, and making sure that any transitional justice legislation implemented as part of a peace agreement with guerrillas does not hinder accountability for the crimes. Bringing to justice those most responsible for one of the darkest chapters in Colombia's long war will not be easy, but it is entirely within the government's control to do so.

Evidence against Individual Commanders

Human Rights Watch reviewed witness testimony and prosecutors' filings containing allegations that former commanders of tactical units, brigades, divisions, and the army—among other commanding officers—knew of, or planned, ordered, or otherwise facilitated or attempted to facilitate false positives. Most of the officers are under investigation, some are being prosecuted, and three have been convicted. Examples of implicated officers who are now generals include:

- A former commander of troops in the 16th Brigade has testified to prosecutors and before a judge that his brigade commander, General Henry William Torres Escalante, ordered, planned, and covered-up false positives. Prosecutors are

investigating at least 66 alleged extrajudicial killings by 16th Brigade troops during the period Torres Escalante commanded it.

- A senior army officer who commanded forces attached to the 11th Brigade and has admitted responsibility for false positives told prosecutors that his brigade and division commanders, among other superiors, knew of the crimes. (We reviewed the testimony on the condition of not publishing the names of the witness or implicated officers.)
- Several soldiers and officers have provided testimony to prosecutors implicating retired General Óscar González Peña in at least having known about false positives when commander of the 4th Brigade and later as the head of the Joint Caribbean Command. In 2009, the army's inspector-general told the US Embassy in Bogotá that González Peña, then the army's top commander, was trying to block his investigations into false positives, and was one of the senior officers who had been "involved in" or "tacitly condoned" the killings, according to an embassy cable released by Wikileaks.
- Retired Lieutenant Colonel Robinson González del Río, who has publicly admitted responsibility for at least 27 false positives, told prosecutors that several generals knew of, authorized, and/or covered-up such crimes by his troops. This includes General Juan Pablo Rodríguez Barragán, then-4th Brigade commander and, as stated above, now top commander of the armed forces; and retired General Hernando Pérez Molina, then-3rd Division commander, among others. González del Río's testimony, publicly described in detail here for the first time, led prosecutors to open investigations into the generals.
- González del Río also told prosecutors that retired General Mario Montoya, the army's top commander between February 2006 and November 2008, pressured subordinate commanders to increase body counts, punished them for failing to do so, and was the principal "motivator" for false positives. In testimony to prosecutors, another senior army officer who has confessed to false positives blamed the killings on Montoya's "policy" of demanding combat kills. Similarly, in 2009, the army's inspector-general told the US Embassy that a main factor behind false positives was Montoya's "constant pressure for combat kills," and said that he was among the officers who were "involved in" or "tacitly condoned" the crimes, according to the embassy cable. Prosecutor's office data shows that extrajudicial

executions by soldiers peaked during the three years Montoya commanded the army, with more than 1,100 alleged unlawful killings by state agents in 2007 alone under investigation, the vast majority attributed to army troops. He resigned as top army commander right after the Soacha false positive scandal broke.

Evidence that More Commanders Knew or Should Have Known of the Crimes

Under international law, a superior is criminally liable as a matter of command responsibility when he knew or should have known that subordinates under his effective control were committing a crime, but failed to take the necessary and reasonable steps to prevent or punish the acts. Colombia's highest courts have issued rulings indicating that command responsibility can be applied to military commanders in cases of grave human rights violations, and prosecutors say they are examining this mode of liability in false positive investigations.

The higher the number of crimes and the more they seem to have resulted from a plan and consistent method, the harder it is to believe that superiors did not know about them. The International Criminal Tribunal for Rwanda, for example, recognized that relevant indicia for determining if a superior must have had knowledge of subordinates' crimes include, among others, the number of illegal acts, scope of the illegal acts, logistics involved, geographical location of the acts, widespread occurrence of the acts, and modus operandi of similar illegal acts. Applying these criteria to the false positive cases, it is hard to avoid the conclusion that in many cases senior commanders must have known about them.

There is mounting evidence that false positives were committed on a large scale by numerous brigades and tactical units across Colombia. Prosecutors are investigating more than 3,700 extrajudicial killings by state agents between 2002 and 2008. Senior Attorney General's Office officials said the vast majority of these cases are false positives by army troops. During the 2002-2008 period, more than 180 tactical units attached to almost all army brigades, operating under every single division, allegedly committed extrajudicial killings in 27 of Colombia's 32 departments, according to prosecutor's office data.

Our analysis of cases across Colombia showed that false positives had similar profiles of victims, modus operandi, and motives: intense pressure to boost body counts, paired with rewards for reported combat kills. The modus operandi entailed significant planning and

coordination, ranging from bringing victims to remote locations, to ensuring each case had official documentation purporting it was a lawful combat death.

Human Rights Watch reviewed testimony from army personnel describing how their tactical units and brigades had established systems in place for committing false positives. For example, two former battalion officials told us that during more than a year-long period, they would meet with their battalion commander on a weekly basis to plan false positives. They said they employed a similar method in scores of cases, which included convincing the victims to go to a location where troops were waiting, executing them and placing weapons on them, and the commander rewarding the soldiers with vacations days.

Notably, the former officials said most of the other tactical units attached to their brigade engaged in the same practice, using the same recruiters. "It was one modus operandi, one system," according to one of them.[2] He said that when later transferred to another brigade located in a different region, he discovered its troops were also committing false positives, and immediately planned two such killings with army personnel from battalions there.

False Positives Required Actions by Commanders

Case files and interviews with witnesses and prosecutors also strongly suggest that the modus operandi in false positive cases required that tactical unit and brigade commanders take a series of actions without which the killings would have been impossible.

In virtually all false positive cases, brigade and/or tactical unit commanders issued official documents that authorized the supposed operations in which the victims were said to have been killed. The documents, known as "orders of operations" and "tactical missions," provided a legal guise for the extrajudicial killings: without them, killings could not have been reported to have occurred in combat during a legitimate military operation. Other actions by commanders that were essential to the killings range from verbally authorizing troop movements during supposed operations, to signing payments to fake informants, and granting days off and other rewards to soldiers for supposed combat kills, which helped motivate the crimes.

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[2] Human Rights Watch interview with former battalion officials, location and date withheld.

None of these actions are in and of themselves criminal acts. Commanders may contend that, when carrying them out, they were continuously deceived by subordinates, who tricked them into believing they were pressuring for, authorizing, and rewarding legitimate enemy combat kills. But the fact that these actions were essential to the commission of false positives shows there were various stages in the process of committing the crimes in which battalion and brigade commanders acquired knowledge of the supposed combat killing, and had the opportunity to detect it was actually an execution. Moreover, combined with other strong indications that commanders knew or should have known their troops were committing false positives, they appear less like legal actions to generate lawful combat killings, and more like deliberate acts to facilitate false positives.

The Implausible Circumstances of Reported Combat Killings

In all false positive cases, the supposed combat killings were immediately reported up the chain of command to commanders of tactical units, brigades, divisions—and possibly higher—according to prosecutors and witnesses. In many cases, the circumstances of the killings officially reported to commanders should have led them to detect irregularities, and to suspect that the victims might have been unlawfully killed. Human Rights Watch reviewed false positive cases from different regions in which victims were reportedly found with handguns—including some that did not work—rather than typical combat weapons; lightly armed common criminals were reported to have initiated attacks against heavily armed soldiers; and high numbers of combat kills were reported by units not usually dedicated to combat operations, or in areas where guerrillas were not present.

Some officers who have accepted responsibility for false positives have said the irregularities were entirely obvious and should have been obvious to superiors. For example, a former lieutenant in the 16th Brigade testified that "with the rank of a colonel and the experience you could have at this rank it is no secret that the troops... [were] killing innocent people who had nothing to do with the conflict and were reported with weapons that the guerrilla does not use to confront you with."

Furthermore, the large number of common criminals that were reported as killed in combat should have raised suspicion, given that, unlike guerrilla fighters participating in the conflict, they could only be targeted with lethal force by security forces in a very narrow set of circumstances, such as when it is unavoidable to protect life. The number of common

criminals the army reported as killed in military operations grew from 27 in 2004, to 325 in 2007, only to drop to an annual average of 5 since 2009, after the government took measures to stop false positives.

The regularity of the killings means that even if an officer only commanded a battalion, brigade, or division for one year, he would have had many opportunities to detect the implausible circumstances. Those who had multiple command positions between 2002 and 2008, like retired General Montoya and retired General González Peña, would have had multiple years' worth of cases to notice.

Credible Public Reports of False Positives

Finally, public reports of false positives should have helped put commanders on notice of the killings and prompted them to scrutinize the supposed combat kills being reported to them. As noted by the Office of the Prosecutor of the International Criminal Court (ICC), the UN High Commissioner for Human Rights made allegations of false positives in annual reports on Colombia each year between 2004 and 2007. For example, its 2005 report said there had been an increase of executions by army troops and that most victims had been reported as guerrilla combatants killed in action. The report concluded that authorities' denial of the crimes and failure to sanction the perpetrators "raised the issue of the possible responsibility of senior officials."

Specific Brigades and Battalions Implicated in False Positives

As noted above, Human Rights Watch's review of data on Attorney General's Office investigations suggests that, to date, members of at least 41 brigades and mobile brigades have been implicated in extrajudicial killings committed between 2002 and 2008 – almost all the army brigades in Colombia.

This report highlights detailed information on investigations underway concerning 11 brigades attached to six of the army's seven divisions at the time (two additional divisions were created in 2009). We chose these 11 because they have been implicated in a significant number of false positive cases and because we obtained additional corroborating information about cases involving those brigades. It is important to note that there are also other brigades, not addressed here, with significant numbers of cases.

The brigades with troops under investigation addressed here are:

- The 4th Brigade (based in Antioquia department), whose troops are being investigated for at least 412 alleged extrajudicial killings between 2002 and 2008;
- The 7th Brigade (Meta), for at least 66 such killings between 2002 and 2008;
- The 8th Brigade (Quindío), for at least 56 between 2003 and 2008;
- The 9th Brigade (Huila), for at least 119 between 2004 and 2008;
- The 10th Brigade (Cesar), for at least 146 between 2004 and 2008;
- The 11th Brigade (Córdoba), for at least 214 between 2004 and 2008;
- The 12th Mobile Brigade (Meta), for at least 27 between 2005 and 2007;
- The 14th Brigade (Antioquia), for at least 51 between 2006 and 2008;
- The 15th Mobile Brigade (Norte de Santander), for at least 38 between 2006 and 2008;
- The 16th Brigade (Casanare), for at least 113 between 2004 and 2008; and
- The 28th Brigade (Vichada), for at least 45 between 2006 and 2008.

Human Rights Watch also analyzed the annual number of killings attributed to the battalions and other tactical units attached to each of the 11 brigades. For example, for the 4th Brigade—a brigade for which prosecutors are investigating more false positive cases than for any other brigade we examined—the breakdown is as follows:

Alleged Extrajudicial Killings by the 4th Brigade Under Investigation

UNIT	'02	'03	'04	'05	'06	'07	'08	Total
Pedro Nel Ospina Battalion	0	1	6	7	25	8	0	47
Pedro Justo Berrío Battalion	0	3	6	15	14	5	0	43
Juan de Corral Battalion	0	0	8	9	0	7	0	24
Afeur 5	0	0	8	6	4	3	0	21
Bajes Battalion	4	10	31	21	10	19	0	95
Gaula Antioquia	3	2	0	2	4	7	4	22
Gaula Rural Oriente Antioqueño	0	0	2	5	6	6	0	19

UNIT	'02	'03	'04	'05	'06	'07	'08	Total
Atanasio Girardot Battalion	3	5	4	9	23	22	5	71
A combination of 4TH Brigade tactical units	0	0	3	1	6	0	0	10
Other tactical units/ unidentified tactical units in 4th Brigade	9	4	6	6	13	14	5	57
A combination of tactical units from 4th Brigade and other brigades (counted only once here)	0	0	0	3	0	0	0	3
Total 4th Brigade	**19**	**25**	**74**	**84**	**105**	**91**	**14**	**412**

There are strong reasons to believe that troops belonging to these 11 brigades may be responsible for many more false positives that are not included in the abovementioned statistics. In numerous cases of extrajudicial executions under investigation, prosecutors have not identified and/or internally recorded the specific army unit allegedly responsible. Furthermore, scores—possibly hundreds—of other cases remain with military judges, according to prosecutors.[3]

Obstacles to Accountability

Prosecutors handling false positives face serious obstacles from a range of actors, including army officials, military judges, defense lawyers who employ bogus delay tactics, as well as from parties who threaten and attack key witnesses. Shortcomings within the prosecutor's office also hinder its progress in the cases.

Prosecutors told Human Rights Watch that military personnel often resist handing over army files that are crucial to their investigations, such as "orders of operations," and documents certifying payments to informants in false positive cases. When prosecutors send criminal investigators to brigades and battalions to obtain the potential evidence, soldiers sometimes claim the person in charge of the files is not there, or force them to wait for hours before reviewing the documents. In other cases, military personnel have baselessly purported that the information is confidential, and refused to provide it, according to prosecutors.

[3] Another reason they are likely responsible for more cases is that, as mentioned above, the statistics detailed here only concern investigations into alleged extrajudicial killings handled by the Human Rights Unit of the Attorney General's Office. Local prosecutors are also investigating hundreds of other cases.

Another important obstacle is that soldiers who testify against superiors often suffer reprisals, including harassment and stigmatization by senior military officials, and death threats and attacks against them and their families. These abuses dissuade or prevent the witnesses from testifying and send a powerful message to other soldiers that they will be punished if they speak out. Three illustrative examples of abuses against key witnesses and their families include:

- On October 27, 2014, Nixón de Jesús Cárcamo was murdered in the 11th Brigade's military detention center, where he was being held on false positive charges. Cárcamo had been providing information to prosecutors about his superiors' alleged role in the killings. Eleven days prior to his death, he told them that "there are rumors that my life is in danger because I'm cooperating with the justice system…. If anything happens to me I declare responsible the people who I'm accusing in these cases."
- There is compelling evidence that in 2013, unidentified men raped a soldier's wife in retaliation for his refusal to retract his testimony accusing a colonel of false positives.
- Sergeant Carlos Eduardo Mora's testimony has contributed to the conviction of a lieutenant colonel and numerous other soldiers for false positives. In retaliation, he has endured death threats, and senior army officers have harassed and sought to stigmatize him. He reported that in 2013, army officials attempted to check him in to a psychiatric clinic against his will, apparently trying to discredit him, and that in 2014, a general made statements in front of him and a large group of fellow army counterintelligence personnel strongly insinuating that he was a "traitor."

The experience of these three key witnesses differs dramatically from that of retired Lieutenant Colonel Robinson González del Río during the time that he refrained from speaking out against superiors after he was arrested for false positives in August 2012. In February 2014, *Semana*, a leading Colombian weekly newsmagazine, published dozens of legally-ordered audio recordings of González del Río's cell phone conversations made by the Attorney General's Office between October 2012 and April 2013. They showed how he spent much of his time outside of the military detention center and appeared to have soldiers at his and his family's service on a permanent basis. The recordings also indicated that he spoke frequently with army colonels and generals, who appeared to support him in a range of ways, including by providing funds from their institutional

budgets, and allowing his defense team to use military cars and lodging. In conversations with an apparent business associate, González del Río also claimed generals were helping him obtain military contracts. Only after *Semana* published the audio recordings of the conversations did González del Río begin to cooperate with prosecutors and give testimony about generals' alleged involvement in false positives.

Human Rights Watch reviewed thousands of additional legally-ordered audio recordings of González del Río after he was arrested, which have not yet been made public. They contain many other examples of senior military officers' apparent support for him. A few of the officers he claimed were doing him favors, or directly spoke with, are generals who he later implicated in false positive cases, or who commanded military units allegedly responsible for many such crimes.

We are not in a position to determine the motives behind army officials' support for González del Río after his arrest. Regardless of the motive, however, one would expect that other military personnel implicated in false positives, seeing his treatment, would conclude that keeping silent will be rewarded. His privileges were no secret to other military personnel: it must have been clear to other soldiers that he left the military detention center when he pleased, and had soldiers and army vehicles at his disposal; he also explicitly told subordinates and other officers that he could obtain favors from senior officers.

Military Jurisdiction

Moreover, despite repeated rulings of the Constitutional Court and Inter-American Court of Human Rights calling for human rights violations to be exclusively investigated and tried by civilian justice authorities, prosecutors told Human Rights Watch that scores—and possibly hundreds—of false positive cases remain in the military justice system.

There are multiple reasons why the military justice system's continued handling of many false positives is a major impediment to accountability in these cases. There is compelling evidence that the military justice system played a crucial role in allowing false positives to occur, because it generally failed to take basic steps to investigate the cases when they were under its jurisdiction. Furthermore, witness accounts and interviews with prosecutors indicate that at least some military judges actively helped troops cover-up the crimes, including by instructing them how to make the crime scene appear like combat had occurred.

Human Rights Watch found evidence that in recent years military justice system personnel have continued to lack the independence and credibility necessary for the system to handle human rights violations. For example, between 2008 and 2010, retired Colonel Édgar Emilio Ávila Doria served as the interim director of the military justice system and as its "army coordinator," a position that acts as a direct advisor to the director. He now has an arrest warrant out against him for false positives by the battalion he commanded between late 2005 and 2007. Audio recordings of González del Río's conversations cast doubt on the credibility of another senior official who appears to be linked to the office of the military justice system army coordinator. In a December 26, 2012 phone call from the office of the army coordinator to González del Río's cell phone, a man whom González del Río calls "colonel" appears to offer support for getting his case transferred from civilian to military courts, and expresses hope that he will soon be released from detention.

Human Rights Watch also reviewed González del Río's phone conversations with a military judge who appeared to be handling cases of reported combat killings by his troops. In one call, the judge discusses what seem to be his efforts to help González del Río obtain permission to temporarily leave his detention center, and says "Take down my number… just in case something comes up, brother, call me because you know I'm available 24 hours [a day.]"

Recordings of González del Río's conversations also indicate that he and other military officers believed that moving his case to military jurisdiction would ensure him greater leniency. In one recorded call González del Río, presumably confident in his case's imminent transfer to military courts, told General Jorge Enrique Navarrete that it already had been moved, to which in the call the general can be heard responding: "How awesome! I'm happy, man…. I'm glad… that you've solved your problem." González del Río told the general he expected to be released from detention within a week. (His case ultimately was not moved to military courts and he was not released.)

All of the military justice system's problems made it particularly concerning that from 2011 to 2015, the Colombian government sought to approve constitutional amendments and other legislation that would have expanded the jurisdiction of military courts over human rights violations, including false positives. To its credit, in April 2015, the government withdrew the most troubling aspects of its latest proposed constitutional change to broaden military jurisdiction. To ensure justice for false positives, it should not pursue similar measures again.

Shortcomings within the Prosecutor's Office

Many of the prosecutors we interviewed described their caseloads as overwhelming. This is partly due to the fact that in 2012, the Attorney General's Office removed 12 prosecutors from the Human Rights Unit who had been working on false positive cases.

Moreover, cases are generally not distributed among prosecutors based on the military unit responsible, which impedes them from detecting patterns of crimes that could lead to the identification of high-level perpetrators. For example, 19 alleged extrajudicial killings by the Magdalena Battalion in 2007 appear to be divided among six different prosecutors; and there is one prosecutor in Bogotá handling unlawful killings by 11 tactical units attached to six brigades. There are some important exceptions: prosecutors in Medellín, for instance, have divided cases based on the battalion responsible, and in early 2015, obtained arrest warrants against five colonels who formerly commanded one such unit. Attorney General's Office officials said they plan to apply this successful model throughout the different prosecutors' offices that are focused on false positives.

Another concern has been the apparent lack of coordination and effective information sharing between prosecutors investigating the vast majority of false positives and a small group of "delegated prosecutors" who exclusively investigate generals for the crimes. (Generals charged with committing crimes can only be prosecuted at the Supreme Court, in cases brought by prosecutors that the attorney general delegates to try cases before that court, which are referred to here as "delegated prosecutors.") Several prosecutors said that when they have sent evidence about generals to delegated prosecutors and requested that they open investigations, they have sometimes not contacted them to follow-up.

For example, one prosecutor told Human Rights Watch that after sending evidence to delegated prosecutors, they "don't come to review the cases; they don't inspect the cases; they don't respond; they don't ask questions….For us it's demoralizing because we put ourselves on the line and get to the level of the colonels, but nothing happens after that."

In 2015, the Attorney General's Office increased the number of prosecutors investigating generals, and designated an official to serve as a point person between them and the prosecutors conducting most false positive investigations into army personnel of other ranks. Both measures should help address the aforementioned concerns.

Colombia's Obligations and the International Criminal Court

False positives – essentially extrajudicial killings and murder – are serious violations of human rights. They are also serious violations of international humanitarian law applicable in non-international conflicts and, as such, constitute war crimes.

When committed as part of a widespread or systematic attack against a civilian population, murder can constitute a crime against humanity. Extensive evidence outlined in this report indicates that many false positive incidents amount to crimes against humanity. Colombia has obligations under international law to investigate, prosecute, and punish those responsible for serious human rights violations, war crimes, and crimes against humanity.

In 2012, Colombia enacted the Legal Framework for Peace, a constitutional amendment that paves the way for impunity for atrocities by guerrillas, paramilitaries, and the military if a peace agreement is reached with the Revolutionary Armed Forces of Colombia (FARC) guerrillas. The amendment empowers Congress to limit the scope of prosecutions of atrocities to individuals found "most responsible" and provide statutory immunity to everyone else; exempt war crimes from criminal investigation if they are not determined to have been systematic; and apply "alternative penalties" to all those convicted.

It is imperative that Colombia not implement the Legal Framework for Peace—or any other potential transitional justice laws—in a way that would undercut accountability for false positives. If it does, however, victims could still seek justice at the International Criminal Court (ICC), which may exercise its jurisdiction over crimes against humanity committed in Colombia since November 2002, and war crimes committed there since November 2009. The Office of the Prosecutor (OTP) of the ICC is assessing whether a range of alleged crimes in Colombia fall within its jurisdiction and has concluded that there is a reasonable basis to believe that false positives amount to crimes against humanity. As a court of last resort, these cases would only be admissible before the ICC where national authorities are unwilling or unable genuinely to investigate or prosecute them. The OTP has specifically said with regard to the Legal Framework for Peace that a sentence that is grossly or manifestly inadequate would "vitiate the genuineness" of the proceeding. In other words, it could open the door to an ICC investigation.

Recommendations

To President Juan Manuel Santos

- Make the successful prosecution of false positive cases a key benchmark of your administration's success.
- Order military authorities to fully cooperate with prosecutors' investigations into false positives, including by promptly providing files requested by them.
- Ensure that government officials do not make public statements that call into question the legitimacy of prosecutors' actions in false positive cases, or stigmatize victims and their representatives.
- Do not promote bills to expand military courts' jurisdiction over human rights cases.
- Ensure that military officials do not harass or stigmatize witnesses in false positive cases, and that witnesses, their family members, and victims' relatives in such cases receive adequate protection when there are credible threats to their security.
- Ensure that any future implementing legislation for the Legal Framework for Peace, a constitutional amendment enacted in July 2012, does not exempt from criminal investigation or prosecution—or result in grossly inadequate sentences for—individuals responsible for false positives.

To the Attorney General of Colombia

- Conduct swift and thorough investigations into the potential responsibility of former commanders of all brigades and tactical units that carried out a significant number of false positives. Investigations should also examine the potential responsibility of officers who were higher up the chain of command.
- Increase the number of prosecutors and investigators in the Human Rights Unit, so they can swiftly and thoroughly pursue false positive cases.
- Review the approach to allocating false positive cases among prosecutors, to ensure that patterns and links between crimes attributed to specific tactical units and brigades can be efficiently identified and pursued.

To the United States Government

- Enforce human rights conditions on military aid to Colombia, including the requirement that human rights cases be "subject only to civilian jurisdiction" and that the military cooperate with prosecutors in such cases. In light of evidence that many false positives remain in military courts and that military authorities have not fully and promptly cooperated with investigations, the US should suspend the part of military aid that depends on Colombia's compliance with human rights conditions.

To the Office of the Prosecutor of the International Criminal Court

- Continue close monitoring of proceedings in false positive cases and any future implementation of the Legal Framework for Peace amendment.

Methodology

In researching this report, Human Rights Watch interviewed more than 40 prosecutors, prosecutor's office officials, victims' family members and their lawyers, and witnesses, among others. The vast majority of interviews were conducted in Bogotá, Medellín, and Villavicencio between December 2014 and March 2015, though some were also conducted by telephone.

Many interviewees spoke with us on condition that we withhold their names and other identifying information from publication. Details about individuals, as well as interview dates and locations, have been withheld when requested and when Human Rights Watch believed the information could place someone or their job at risk.

Human Rights Watch research drew extensively on Attorney General's Office statistics, criminal case files, judicial rulings, audio recordings of court proceedings and witness testimony, legally-ordered audio recordings of cell phone conversations of retired Lieutenant Colonel Robinson González del Río made by the Attorney General's Office, official and non-governmental reports, and news articles, among other forms of evidence.

In this report, the term "false positive" refers to cases of unlawful killings that military personnel staged to look like—and officially reported as—lawful killings in combat of guerrillas, paramilitaries, or criminals. The vast majority of victims were civilians, though in some rare cases, there is evidence that the victims were guerrillas killed outside of combat, such as after they had surrendered.

In this report, the term "tactical unit" refers to units operating directly under army brigades, such as battalions, anti-extortion and kidnapping Gaula units, and "Cavalry Groups."

The ranks and active or retired statuses of military officers listed in the report refers to the latest ranks and statuses for which Human Rights Watch found information, unless otherwise indicated.

This report focuses on false positives between 2002 and 2008, because such killings dramatically increased in their scale and frequency during the period. However, as

noted by the UN special rapporteur on extrajudicial executions, there are examples of the cases dating back to the 1980s. There have also been reports of some new incidents after 2008.

All translations from the original Spanish to English are by Human Rights Watch.

I. Command Responsibility for False Positive Killings

There are compelling reasons to believe that numerous senior army officers were involved in or responsible for false positive killings. The next chapter gives several examples of evidence directly implicating specific commanders. This chapter focuses on aspects of the false positive killings suggesting that a much broader swathe of commanders may be legally responsible for them.

Under international law, command responsibility arises when a superior knew or should have known that subordinates under his effective control were committing a crime, but failed to take the necessary and reasonable steps to prevent or punish the acts.[4] Colombia's highest courts have issued rulings that essentially equate this international doctrine with criminal responsibility by omission, which is codified in the country's penal code. The rulings indicate that command responsibility can be applied to military commanders in cases of grave human rights violations, and prosecutors say they are examining this mode of liability in their false positive investigations.[5]

There are several reasons to conclude that many commanders of tactical units and brigades—and possibly officers higher up the chain of command—knew or had reason to know about false positives and therefore might bear command responsibility. While the

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[4] *Prosecutor v. Delalić*, International Criminal Tribunal for the Former Yugoslavia (ICTY), Case No. IT-96-21-T, Judgment (Trial Chamber), Nov. 16, 1998, para. 346. Although the above description accurately captures current customary international law on command responsibility, the doctrine has been codified slightly differently in various international agreements. Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), arts. 86-87; Statute of the International Tribunal for the Prosecution of Persons Responsible for Violations of International Humanitarian Law in the Territory of the Former Yugoslavia Since 1991 (ICTY Statute), art. 7(3); Statute of the International Criminal Tribunal for Rwanda (ICTR Statute), art. 6(3); Statute of the Special Court for Sierra Leone (SCSL Statute), art. 6(3); Rome Statute of the International Criminal Court (Rome Statute), art. 28.

[5] Criminal liability by omission is codified in article 25 of the Colombian penal code. In its June 2014 decision concerning retired army General Jaime Humberto Uscátegui, the Supreme Court found: "in cases of grave human rights violations, in the international order and in the domestic sphere, criminal responsibility extends to the military superior with respect to the acts of his subordinates, as long as the requirements in transnational norms are met, which are verified in our legal system through the figure of the position of guarantor and the dogma of the crimes of commission by omission." Criminal Cassation Chamber of the Supreme Court of Colombia, case number 35113, decision of June 5, 2014, pp. 156-157. In its ruling upholding Colombia's ratification of the Rome Statute, the Constitutional Court found: "In Colombia, there is a place for command responsibility with respect to the military leader, whether official or de facto." Constitutional Court of Colombia, Sentence C-578 of 2002. In 2001 the Constitutional Court also ruled that "in relations of hierarchy, the superior with authority or command, has the duty to take special measures…to avoid that people under his effective control commit acts that violate fundamental rights. E.g. If the superior does not avoid – and could [avoid] – that a soldier that immediately depends on him commits torture, or an extrajudicial execution, or in general a crime against humanity, **the harmful result by the subordinate is imputed to him because he is a guarantor…**" Constitutional Court of Colombia, Sentence SU-1184 of 2001.

fact that a superior had actual knowledge may be proven through direct evidence, it may also be established through circumstantial evidence, such as the number, type, and scope of illegal acts, time during which the illegal acts occurred, whether the occurrence is widespread, the modus operandi of similar illegal acts, the number and type of troops involved, and the logistics involved.[6]

The "had reason to know" standard requires only general information about the possibility of crimes, not specific knowledge about discrete incidents.[7] Evidence of both types of knowledge in false positive cases includes:

- Substantial evidence that false positives were not the work of a small handful of bad actors but were committed by the vast majority of brigades across Colombia over a number of years. The higher the number of killings and the more they appear to follow a systematic pattern of attack, the less likely that superiors did not know about them.
- The general modus operandi of false positives required tactical unit and brigade commanders to take a series of actions, such as issuing "orders of operations" and other official documents to authorize operations.
- All false positives were officially reported to commanders of tactical units, brigades, and divisions as combat deaths, and the often implausible circumstances of the reported incidents suggests they should have detected irregularities.
- Credible reports of false positives were widely publicized starting in 2004, if not earlier, putting commanders on notice of possible crimes.

Human Rights Watch is not aware of any evidence that military commanders took steps to prevent or punish false positives until 2007. That year, the high command of the armed forces and Defense Ministry issued several new directives, including one in November

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[6] *Prosecutor v. Limaj et al.*, ICTY, Case No. IT-03-66-T, Judgement (Trial Chamber), November 30, 2005, para. 524;*Prosecutor v. Galic*, ICTY, Case No. IT-98-28-T, Judgment (Trial Chamber), December 5, 2003, paras. 174 and 427; *Prosecutor v. Kordic and Cerkez,* ICTY, Case No. IT-95-14/2-T, Judgment (Trial Chamber), February 26, 2001, para. 427; *Ntagerura, Bagambiki, and Imanishimwe*, International Criminal Tribunal for Rwanda, Case No. ICTR 99-46-T, Judgment (Trial Chamber), February 25, 2004, paras. 629 and 648.

[7] *Delalic et al.* (Appeals Chamber), February 20, 2001, paras. 238 and 241, ("This information does not need to provide specific information about unlawful acts committed or about to be committed.") *Ntagerura, Bagambiki, and Imanishimwe* (Trial Chamber), February 25, 2004, para. 629; *Nahimana, Barayagwiza and Ngeze*, ICTR, Case No. ICTR 99-52-A, Judgment (Appeals Chamber), November 28, 2007, para. 791; *Prosecutor v.Halilovic*, ICTY, Case No. IT-01-48, Judgment (Trial Chamber), November 16, 2005, para. 65.

2007 that accorded priority to demobilizations and arrests over combat kills.[8] It is not clear to what extent, if any, army commanders changed their practices as a result of these measures. The steps certainly were not sufficient to stop false positives: prosecutors are investigating more than 550 alleged extrajudicial killings by state agents in 2008, mostly by army troops. The crimes only started to come to a halt after the government dismissed 27 army officers following the Soacha scandal in late 2008.[9]

While this chapter focuses on officers' potential command responsibility, much of the evidence discussed here supports the conclusion of the Office of the Prosecutor (OTP) of the International Criminal Court (ICC) that there is a reasonable basis to believe false positives were committed "pursuant to a policy adopted at least at the level of certain brigades."[10] The existence of such a policy would indicate that some commanders at least at the brigade level may not only be responsible for failing to stop the crimes, but also for directly ordering, planning, or otherwise facilitating them.

Large-scale

There is compelling evidence that numerous tactical units and brigades were each individually responsible for false positives on a large scale. Examples include the 11th Brigade, whose troops are under investigation for at least 214 alleged extrajudicial killings between 2004 and 2008, and the Juan José Rondón Battalion, in the 10th Brigade, whose troops are being investigated for at least 60 alleged extrajudicial killings between 2003 and 2008.[11]

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[8] The Defense Ministry also issued two directives that ordered the military to ensure that the judicial police—rather than the military justice system—initially investigate and collect evidence in cases of reported combat killings. For a discussion of the measures adopted in 2007, see Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, Visit to Colombia, A/HRC/14/24/Add.2, March 31, 2010, http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.24.Add.2_en.pdf (accessed June 1, 2015), paras. 16-18, 24, 28, and 31; and Report of the UN High Commissioner for Human Rights on the situation of human rights in Colombia, A/HRC/7/39, February 29, 2008, http://www.hchr.org.co/documentoseinformes/informes/altocomisionado/2007/Report%20HC%202007%20Advance%20Edited.pdf (accessed June 1, 2015), paras. 21-23.

[9] The government dismissed the officers following an internal investigation into false positive allegations by a high-level military commission, which found "serious indications of command negligence on different levels in terms of the observance and verification of the procedures that govern the cycle of intelligence and planning, conduction, execution, and evaluation of the military operations and missions, as well as an inexcusable lack of diligence on the part of officers in the rigorous investigation of alleged irregular cases in their jurisdiction." "Press Release from the President's Office about the Dismissal of 25 Military Members for Cases of Disappearances," *El Tiempo*, October 29, 2008, http://www.eltiempo.com/archivo/documento/CMS-4632012 (accessed May 18, 2015).

[10] Office of the Prosecutor of the International Criminal Court, "Situation in Colombia: Interim Report," November 2012, http://www.icc-cpi.int/NR/rdonlyres/3D3055BD-16E2-4C83-BA85-35BCFD2A7922/285102/OTPCOLOMBIAPublicInterimReportNovember2012.pdf (accessed April 22, 2015), para. 9.

[11] Data on Human Rights Unit investigations into extrajudicial killings as of December 2014, on file with Human Rights Watch.

The widespread false positives by individual units formed part of one larger—also widespread—pattern of such crimes by army troops across Colombia. The Human Rights Unit of the Attorney General's Office is investigating more than 3,700 alleged extrajudicial killings by state agents between 2002 and 2008. The vast majority of these cases are false positive-type killings by army members, according to senior Attorney General's Office officials.[12] The extrajudicial killings by army troops between 2002 and 2008 occurred in 27 of Colombia's 32 departments[13] and were allegedly committed by more than 180 tactical units[14] attached to almost all the army's brigades,[15] operating under every single one of its seven divisions at the time.[16]

In 2015, the UN High Commissioner for Human Rights reported that the total number of victim of false positives could be as high as 5,000.[17]

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[12] Senior Attorney General's Office officials have also said prosecutors are investigating at least 3,000 false positives. Human Rights Watch meeting with senior Attorney General's Office officials, Bogotá, December 3, 2014; "'I Found a Catastrophic Situation in the Attorney General's Office': Montealegre," *El Tiempo,* December 30, 2012, http://www.eltiempo.com/archivo/documento/CMS-12483235 (accessed April 22, 2015).

[13] The five departments where there are no investigations into extrajudicial killings during the period are Guainía, Vaupes, and Amazonas – three of Colombia's least populated departments, located in the Amazon region – as well as San Andrés and Providencia, which are islands far off the coast of mainland Colombia, and Risaralda. (There are well-documented cases in which victims were recruited from Risaralda but murdered in other departments.) Data on Human Rights Unit investigations into extrajudicial killings as of December 2014, on file with Human Rights Watch.

[14] Depending on their size, brigades and mobile brigades contain varying numbers of battalions and other tactical units. Data on Human Rights Unit investigations into extrajudicial killings as of December 2014, on file with Human Rights Watch.

[15] Of the 26 brigades currently listed by the army, 24 existed for at least part of the 2002-2008 period (the other two were created in 2009). The Human Rights Unit is investigating alleged unlawful killings between 2002 and 2008 by troops attached to all 24 of those brigades. In addition to these fixed "territorial" brigades, the Human Rights Unit is also investigating unlawful killings during the period allegedly committed by 17 mobile brigades. A study of Colombia by the Federal Research Division of the US Library of Congress reported that the army had 20 mobile brigades as of October 2007. Data on Human Rights Unit investigations into extrajudicial killings as of December 2014, on file with Human Rights Watch; National Army of Colombia, "Brigades," http://www.ejercito.mil.co/?idcategoria=239185 (accessed May 19, 2015); Red A. Hudson, ed., *Colombia: a Country Study* (Federal Research Division of the Library of Congress: 2010), p. 296.

[16] Data on Human Rights Unit investigations into extrajudicial killings as of December 2014, on file with Human Rights Watch.

[17] The UN High Commissioner reported: "The high number of false positives (potentially 5,000 victims), the long period during which the phenomenon occurred (2002–2010), the number of units involved, the nature of the violation (right to life violated by extrajudicial execution of civilians), and the fact that the operations were planned, support the idea that these violations can be considered to be systematic under human rights law. This also raises serious questions regarding the responsibility of those in the line of command who either knew, or should have known, what was happening and did not take measures to address it." Report of the UN High Commissioner for Human Rights on the situation of human rights in Colombia, A/HRC/28/3/Add.3, January 23, 2015, http://www.hchr.org.co/documentoseinformes/informes/altocomisionado/A_HRC_28_3__Add_3_ENG.pdf (accessed June 1, 2015), para. 56.

Systematic

There is extensive evidence that at a tactical unit, brigade, and national level, army troops committed false positives in a systematic fashion. Cases across the country had similar types of victims and a common modus operandi, which required a high degree of coordination and planning. Soldiers and officers involved in false positives have admitted that their units had established methods for carrying out the killings. They also described two common motives: pressure from superiors to inflate statistics of combat kills and rewards given to soldiers and officers for the killings.

Modus Operandi

The UN special rapporteur on extrajudicial executions, OTP of the ICC, and the Inter-American Commission on Human Rights, among others, have all described a common modus operandi in false positive cases.[18] The two most basic elements of the modus operandi are that troops would 1) execute victims outside of combat and 2) officially report them as guerrillas, paramilitaries, or criminals killed in action.

In many cases, soldiers or civilian recruiters would lure victims under false pretenses—such as the promise of work—to an agreed upon location where the troops would kill them. In other cases, army members abducted victims from their homes or detained them in public places and transported them to the site of their executions. There were also many incidents in which paramilitary groups provided the troops with the victims.

As described by the UN special rapporteur on extrajudicial executions, after killing the victims, "the military, with varying degrees of sophistication, then sets up the scene to make it appear like a lawful combat killing. This can involve: placing weapons in the hands of victims; firing weapons from victims' hands; changing their clothes to combat fatigues or other clothing associated with guerrillas; and putting combat boots on victims' feet."[19] Often, troops would strip the victims' of their identity papers and other personal effects.

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[18] Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, Visit to Colombia, March 31, 2010, para. 11; Inter-American Commission on Human Rights, "Annual Report of the Inter-American Commission on Human Rights 2011 Chapter IV, Colombia," OEA/Ser.L./V/II. Doc.69, December 30 2011, footnote 27; OTP of the ICC, "Situation in Colombia: Interim Report," November 2012, para. 118.

[19] Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, Visit to Colombia, March 31, 2010, para. 11.

Army personnel would then report the killings up the chain of command, and also often to the press. In many cases, superiors would give the troops vacation time and other rewards, and authorize payments to fake civilian informants that would actually go to the troops or recruiters. Army officers produced a bevy of official documents substantiating the claim that the killing occurred in combat.

Profile of Victims

As found by the OTP of the ICC, false positives "were directed against particular categories of civilians, who resided in remote areas and were considered to belong to a marginalized sector of the population."[20] These victims included farmers, children, unemployed people, homeless people, people who were dependent upon drugs, people with mental disabilities, community leaders, people with criminal records, petty criminals, demobilized guerrillas or paramilitaries, and in some rare cases, supposed guerrilla collaborators or guerrillas who had been detained or surrendered.[21]

Organizing, Planning, and Logistical Coordination Required for Killings

As evident in the preceding description of the modus operandi in false positive cases, the crimes required significant organizing, planning, and logistical coordination by military officers and soldiers. This included first identifying the victim; detaining him or otherwise recruiting him to go to a remote location; often transporting him in military vehicles between different municipalities or departments; obtaining weapons, camouflage, and other military equipment to put on the victim; and ensuring that each case had official military documents attesting to its purported legality. Military personnel also needed to coordinate to ensure they gave justice authorities a consistent account of the supposed combat kill.

Soldiers involved in false positive have described how their military units had established methods—essentially systems in place—for committing the crimes. For example:

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[20] OTP of the ICC, "Situation in Colombia: Interim Report," November 2012, para. 94.

[21] Inter-American Commission on Human Rights, "Annual Report of the Inter-American Commission on Human Rights 2011 Chapter IV, Colombia," December 30, 2011, footnote 27; OTP of the ICC, "Situation in Colombia: Interim Report," November 2012, para. 94; Data on Human Rights Unit investigations into extrajudicial killings as of December 2014, on file with Human Rights Watch; Human Rights Watch interviews with prosecutors, December 2014 and February 2015.

- In a November 2014 hearing, prosecutors pressed charges against two former intelligence officials from the Pedro Nel Ospina Battalion (4th Brigade) for 24 false positives committed between January 2006 and June 2007. In one case, the prosecutor recounted that a man was lured to Antioquia from a nearby city and then executed by soldiers, who put a pistol on him and reported him as killed in combat. The prosecutor then said that one of the defendants, who was the battalion's intelligence official at the time of the crime, calculated that in 2006 and 2007 "there were 72 victims who were *in the same way* presented by members of Pedro Nel Ospina Battalion as killed in combat, without any basis in truth as there had never been any combat and [the victims] had been tricked and brought to different locations where they were killed … with the knowledge of the battalion's commanders" (emphasis added).[22]
- Retired Colonel Luis Fernando Borja has confessed to and been convicted of numerous false positives committed when he commanded the Fuerza de Tarea Conjunta in Sucre (11th Brigade). He told prosecutors that when he assumed command of the troops, a method for committing false positives was already in place: "Major Céspedes told me the real mode of illegal combat kills and that the squad commanders already knew what they had to do… [that] there are some soldiers who are in charge of getting the guys or victims, and the weapons to place on the victims."[23] Borja also said that "everything was organized when I arrived."[24]

Common Motives: Pressure to Boost Body Counts and Rewards

There is abundant evidence that perpetrators of false positives across Colombia had two principal motives, as noted above: showing "results" in the fight against guerrillas and crime, and being rewarded for supposed combat kills.[25]

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[22] Audio recording of preliminary hearing to formulate the accusation against William Darley García Ospina and Manuel Alejandro Cuellar Urrutia, Third Penal Tribunal With Functions of Controlling Guarantees in Medellín, case no. 050012600020620070515 2, November 18, 2014.

[23] "I'm Guilty," *Semana*, July 16, 2007, http://www.semana.com/nacion/articulo/soy-culpable/243091-3 (accessed April 22, 2015).

[24] Centro de Investigación y Educación Popular (CINEP), "Debt with Humanity 2: 23 Years of False Positives (1988-2011)," October 2011, http://www.nocheyniebla.org/files/u1/casotipo/deuda2/DEUDA2_web.pdf (accessed April 22, 2015), p. 322.

[25] These motives are also identified in reports by the UN special rapporteur on extrajudicial executions, and the OTP of the ICC. Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, Visit to Colombia, March 31, 2010, paras. 19-28; OTP of the ICC, "Situation in Colombia: Interim Report," November 2012, paras. 99-102.

Body Counts

Testimony of army personnel who have admitted responsibility for false positives strongly suggests that commanders measured success in terms of reported combat kills, and pressured subordinates to increase them. The pressure appears to have pervaded the army's chain of command, ranging from at least one head of the army, retired General Mario Montoya, to brigade and battalion commanders, all the way down to the soldiers who committed the killings. There is evidence that superiors threatened to punish subordinates for not producing combat killings to report, organized competitions between military units over the number of reported combat kills, and even gave subordinates required quotas of combat kills.

Several army officers have stated that retired General Montoya pressured troops to increase enemy combat kills when he was head of the army (2006-2008). For example:

- Retired Lieutenant Colonel Robinson González del Río, who has admitted responsibility for numerous false positives when commanding tactical units between 2006 and 2008,[26] told prosecutors:

  > You were evaluated based… on combat kills …. It is a policy that General Mario Montoya implemented.… Every Monday he highlighted the 10 best units in the country. But these units were evaluated by combat kills. I'll give you an example: if a battalion had 40 demobilized [guerrillas] but just one combat kill, and another battalion had one demobilized [guerrilla] and four combat kills, the one who had four combat kills was winning…. Over the radio… he would ask many units, "How long have you gone without operational results?" [They would respond] "General, yesterday we made two arrests." [Montoya would respond] "No, no, no, brother, operational results, we are an army at war, here what counts are combat kills"…. Between Wednesday and Sunday the brigade and battalion commanders would enter into a crisis because they knew that on Monday they had to

[26] In addition to his testimony to prosecutors, González del Río accepted responsibility for 27 false positives in a June 2014 interview with *RCN TV*: "The responsibility is mine in Valle del Cauca and Cauca. There were 17 operations where there were around 27 false positive deaths, which I will accept." "'I Accept 27 False Positive Deaths': González del Río," *Semana*, June 9, 2014, http://www.semana.com/nacion/articulo/gonzalez-del-rio-yo-acepto-27-muertes-por-falsos-positivos/391005-3 (accessed May 19, 2015).

report combat kills. If they didn't report combat kills, the army commander would reprimand them, threaten to remove them, fire them.[27]

González del Río said the pressure flowed down the chain of command: "The pressure was from the army command, which was General Montoya, and from there down all the commanders of brigades and divisions were in charge of applying the pressure."[28] (See more on retired General Montoya, including allegation of him pressuring troops to boost body counts, in the section, "Testimony against Army Officers above the Brigade-Level.")

Soldiers responsible for false positives have also blamed the crimes on pressure within their battalions and brigades to produce combat casualties. For example:

- Two former Pedro Nel Ospina Battalion officials charged with false positives cited pressure from their battalion commanders as a common motive behind the crimes. In relation to one killing, the defendant "said he was pressured by Major [José] Zanguña [Duarte] because if they didn't produce results he could be removed from the army because he was in a trial period," according to the prosecutor's office.[29] (In early 2015, Zanguña Duarte, now a colonel, was detained for false positives by the Pedro Nel Ospina Battalion.[30])
- In testimony to prosecutors, a soldier named Nixón de Jesús Cárcamo blamed the false positives he committed while part of the 11th Brigade on pressure from his commanders to increase body counts: "they told you that you had to give combat casualties and combat casualties, killing was the only thing that was talked about."[31]
- Edgar Iván Flórez Maestre, a former lieutenant from the Calibío Battalion (14th Brigade), said: "In February 2008 we had a meeting in the COT (Center of Tactical Operations) of the battalion, the new commander of the Battalion Colonel Ramírez … told us: each company commander should give me one combat killing

[27] Video of sworn statement provided by Robinson González del Río to the Attorney General's Office in case no. 170016000030200800096, July 31, 2014.

[28] Ibid.

[29] Audio recording of preliminary hearing to formulate the accusation against William Darley García Ospina and Manuel Alejandro Cuellar Urrutia, Third Penal Tribunal With Functions of Controlling Guarantees in Medellín, case no. 050012600020620070515 2, November 18, 2014.

[30] "The Fall of the Colonels from the Battalion that Won the False Positives Competition," *La Silla Vacía*, March 19, 2015, http://lasillavacia.com/queridodiario/caen-los-coroneles-del-batallon-que-gano-el-concurso-de-falsos-positivos-49778 (accessed May 18, 2015).

[31] Attorney General's Office, statement by Nixón de Jesús Cárcamo, case no.4538, July 16, 2014.

per month, and the second section should give me three dead per month…. [R]ight now the war is measured in liters of blood, [and] the commander who does not have results of deaths each month, will be sanctioned."[32]

Rewards

The pressure to produce results was complemented by incentives established in military units across Colombia that rewarded combat killings with vacation time, promotions, medals, training courses, and congratulations from superiors, among other prizes. Soldiers have described how these incentives motivated false positives. For example:

- A former officer from the Pedro Justo Berrío Battalion (4th Brigade) said that after his unit committed several false positives in 2005, soldiers got 35 days off. He said "everyone looks for their personal benefit, [soldiers] know that for each case they get some days off, so no one opposed."[33]
- A soldier from the Rifles Battalion (11th Brigade) said the impetus behind his unit's false positive killing of his brother in April 2007 was that soldiers wanted days off to celebrate Mother's Day: "Mother's Day was close and the high-level commands started to get worried because we didn't have any results to show, or merits for them to give us days [off] to visit our families. So 'legalizing' someone began to be discussed. That is, killing someone and then passing them off as a guerrilla to win days off. I wasn't completely surprised because legalizations are an everyday occurrence."[34]
- When asked by prosecutors what benefits he received for false positives, retired Lieutenant Marco Fabián García, the former commander of troops attached to the 65th Counter-Guerrilla Battalion (16th Brigade), responded: "I was a candidate to obtain the medal of public order, I was sent to training in the special forces which is an honor, I did it because that's what they awarded me with."[35]

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[32] Inspector-General's Office, complaint filed by Mr. Edgar Iván Flórez Maestre, December 15, 2009. During a trial in 2011, Flórez retracted his testimony to the Inspector-General's Office, claiming he had given it under pressure from the Attorney General's Office. However, the judge rejected the retraction and found that his claim that he had been pressured was completely baseless. Second Specialized Criminal Circuit Court of Antioquia, case no. 6808160000020100007, decision of July 15, 2013.

[33] Attorney General's Office, sworn statement by a former army officer, 2012 (name of soldier, exact date, and case number withheld).

[34] In August 2011, six army members were convicted for the killing. "My Brother Was a False Positive," *Semana* magazine, October 25, 2008, http://www.semana.com/nacion/articulo/mi-hermano-falso-positivo/96639-3 (accessed April 22, 2015); Attorney General's Office, "Six Military Members Convicted for Homicide of Protected Person," August 24, 2011, http://www.fiscalia.gov.co/colombia/noticias/condenados-seis-militares-por-homicidio-en-persona-protegida/ (accessed May 28, 2015).

[35] Attorney General's Office, sworn statement by Marco Fabián García Céspedes, case no. 4977, October 26, 2013.

There is evidence that in at least some cases, monetary profit was another incentive for soldiers to commit false positives.[36] Prosecutors and military personnel have described a similar practice in different military units: after the killings, commanders would make official payments from army funds to supposed civilian informants who were reported to have provided information that led to the combat killing. Sometimes, military personnel would take much of the payment from the supposed informant. In others cases, commanders would sign the payment to a person who was unaware that he was being listed as an informant and give all the money to troops.[37] For example:

- Retired Colonel Luis Fernando Borja, from the Fuerza de Tarea Conjunta in Sucre (11th Brigade) testified: "On some occasions for these homicides money was given to the commanders of the patrols. It was money that the State gave on a monthly basis for intelligence. They were all fake payments. They would place a real or fictitious person who never received the money and… [it] was administered under my orders."[38]
- The prosecutor's office's formal accusation against retired Lieutenant Colonel Henry Acosta Pardo, the former commander of the Birno Battalion (16th Brigade), for the murders of three workers in July 2007, states that in committing false positives, he "obtain[ed] personal and economic perks, through the form of payments for information."[39]

False Positives Required Actions by Brigade and Tactical Unit Commanders

Human Rights Watch reviewed criminal case files, witness testimony, and other evidence showing that for troops to commit false positives, the commanders of brigades, battalions, and other tactical units needed to take a series of concrete actions, without which the crimes would not have been possible. This demonstrates that there were various stages in

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[36] The UN special rapporteur on extrajudicial executions called false positives "cold-blooded, premeditated murder of innocent civilians for profit." The OTP of the ICC has also referred to monetary incentives for false positives, reporting that Colombian army members allegedly, "killed thousands of civilians to bolster success rates in the context of the internal armed conflict and to obtain monetary profit from the State's funds." "Statement by Professor Philip Alston, UN Special Rapporteur on extrajudicial executions - Mission to Colombia 8-18 June 2009," UN Office of the High Commissioner for Human Rights, undated, http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=9219&LangID=E (accessed May 29, 2015); OTP of the ICC, "Situation in Colombia: Interim Report," November 2012, para. 8.

[37] See also, Inspector-General's Office, complaint filed by Edgar Iván Flórez Maestre, December 15, 2009.

[38] "I'm Guilty," *Semana*, July 16, 2007.

[39] Attorney General's Office, decision to issue a resolution of accusation against retired Lieutenant Colonel Henry Hernan Acosta Pardo and retired Lieutenant Cesar Augusto Combita Eslava, case no. 5690, October 31, 2013.

the process of carrying out a false positive in which such commanders acquired knowledge that could have and often should have led them to detect that the supposed combat killing was actually an execution. Where commanders already knew their troops were committing false positives, these actions themselves could be construed as criminal acts in furtherance of a larger criminal plan.

Official Documentation

In virtually all false positive cases, brigade or tactical unit commanders issued "orders of operations."[40] These are army documents that authorize military operations and direct troops where, how, and against whom to execute them.[41] In many false positive cases, commanders also issued documents called "tactical missions" and "fragmentary" orders of operations, which are grounded in orders of operations and provide more detailed instructions for carrying out specific operations.

Orders of operations and tactical missions were essential to carrying out false positives because they provided the grounds for troops to mobilize to the areas where they committed the killings, and substantiated the claim that the killings occurred during a legally-ordered operation.

Prosecutors have confirmed the key role these documents played in the commission of false positives.[42] For example, in a case by the Pedro Nel Ospina Battalion, the prosecutor

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[40] Human Rights Watch meeting with senior Attorney General's Office officials, Bogotá, December 3, 2014; Human Rights Watch interviews with prosecutors, December 2014 and February, April, and May 2015.

[41] The glossary on the army's website defines an "order of operations" as "the document that disposes the execution of a specific operation, in the immediate or very close future and in which the necessary instructions are given about the situation of friendly and enemy forces." Citing an army manual, a 2012 essay published by Nueva Granada Military University in Bogotá describes an order of operation as a "document that contains the necessary details for carrying out a determined operation, [and] is issued by the Commander to his subordinate units, for the coordination of the execution of the operation[.]" Citing the manual, the essay says the approval of the order of operations is the commander's "facultative authority." National Army of Colombia, "Glossary," undated, http://www.ejercito.mil.co/?idcategoria=211740 (accessed May 19, 2015); Liliana Angulo Beltrán and Lina Carlos Manosalva, "The Origin of the Opening of a Preliminary Legal Investigation for Deaths in the Development of Military Operations," Universidad Militar Nueva Granada, (2012), http://repository.unimilitar.edu.co/bitstream/10654/6556/2/AnguloBeltranLiliana2012.pdf (accessed May 19, 2015), p. 7-8.

[42] One example of a court underscoring this role is a March 2014 decision convicting retired Lieutenant Colonel Gabriel de Jesús Rincón Amado for a false positive committed by the 15th Mobile Brigade in 2007, when he was its second-in-command. The ruling states that "the elaboration and allocation of falsity in the order of operations, tactical mission, intelligence annex, and operational diagram, by the defendant in exercise of his functions as the head of operations of the 15th Mobile Brigade, was immersed with the will and intention, to openly **disguise** the execution…as a death in combat." Circuit Penal Tribunal Specialized in Decongestion, San José de Cúcuta, case no: 2010-0161, decision of March 10, 2014.

said the "order of operations" was issued by the battalion commander and served as "the legal basis for the troops to be present on the scene."[43] In a false positive case by the 23rd Counter-Guerrilla Battalion (BCG), attached to the 16th Brigade, the prosecutor found that the "tactical mission" signed by the battalion commander was a "well-conceived devic[e] to justify an illegal act: the death of three people."[44]

Authorization to Move Troops

False positives entailed significant movement by troops to first either detain or recruit the victims, and then execute them in other locations. Testimony by army personnel and other evidence strongly suggest that in many instances, the specific troop movements required the authorization of tactical unit and/or brigade commanders. For example:

- A soldier and radio operator who admitted to participating in operations in which the Efraín Rojas Acevedo Battalion (28th Brigade) committed false positives testified that when carrying out the crimes, the troops could not move without the authorization of then-battalion commander Colonel Óscar Orlando Gómez Cifuentes.[45]
- Retired Lieutenant Colonel González del Río told prosecutors that when he commanded tactical units attached to the 4th and 8th brigades and his troops conducted operations to commit the killings, their movements required the brigade commanders' authorization. "I [could] not move a single soldier for an operation without the authorization of the brigade commander," he said in relation to his time in the 8th Brigade.[46]

As one justice official explained to Human Rights Watch, brigade commanders needed to be informed of the operational movements of the different tactical units under their command in order to ensure they did not unwittingly come across each other in the field.[47]

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[43] Audio recording of preliminary hearing to formulate the accusation against William Darley García Ospina and Manuel Alejandro Cuellar Urrutia, Third Penal Tribunal with Functions of Controlling Guarantees in Medellín, case no. 05001260002062007051 52, November 18, 2014.

[44] The prosecutor also noted that the "tactical mission" document was based on the order of operations signed by then-brigade commander retired General Henry William Torres Escalante. Attorney General's Office, decision to issue arrest warrants against Cloviz Arbey Duque Vega and Servio Tulio Fula Arévalo, case no. 7778, June 17, 2013.

[45] Audio recording of hearing in trial of Edgar Eduardo Erazo Londoño et al., Promiscuous Circuit Judge of Puerto Carreño, case no. 990013189001201200019, October 9, 2014.

[46] Video of sworn statement provided by Robinson González del Río to the Attorney General's Office in case no. 170016000030200800096, July 31, 2014; Audios of sworn statements provided by Robinson González del Río to the Attorney General's Office, June 2014 (the audio recordings do not make clear the exact dates in June when he gave all the statements).

[47] Human Rights Watch telephone interview with justice official, April 2015.

Authorization of Payments and Rewards

Witness testimony, judicial investigations, and military documents strongly suggest that payments made to informants in false positive cases required the authorization of brigade and battalion commanders. As explained above, these payments sometimes ended up going to the troops responsible for the killings, and thus served as incentives for false positives. Furthermore, the funds also appear to have been used to pay recruiters in at least some cases.[48] Evidence that commanders authorized the payments includes:

- On March 17, 2008, the then-commander of the 8th Brigade, General Emiro Jose Barrios, then-second commander of the brigade, General Jorge Enrique Navarrete Jadeth, and then-commander of the 57th BCG, Major Josué Linares, all signed a document certifying a 2 million peso (US$1,000) payment to an informant for information that led to "the death in combat of two (2) terrorists."[49] Prosecutors subsequently proved that the "terrorists" were actually unarmed civilians who had been recruited from a nearby city.[50]
- According to prosecutors, the commanders of the 4th Brigade and Pedro Nel Ospina Battalion signed a document authorizing a 1 million peso (US$500) payment to a supposed informant for the April 2006 false positive killing of a man who had been abducted from his home and executed.[51] A former intelligence official from the battalion told prosecutors that whenever the unit committed false positives, the battalion commander would authorize payments to supposed informants.[52]

In addition to authorizing payments to fake informants, battalion and brigade commanders also appear to have been involved in granting rewards such as vacation days and training courses in exchange for supposed combat killings. For example, González del Río told prosecutors that his brigade commander would authorize him to give soldiers vacation days for supposed combat kills. He also said that the head of the army, retired General

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[48] Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, Visit to Colombia, March 31, 2010, paras. 24- 26; The International Federation for Human Rights and Coordination Colombia-Europe-United States, "The War is Measured in Litres of Blood," May 29, 2012, https://www.fidh.org/IMG/pdf/rapp_colombie__juin_2012_anglais_def.pdf (accessed May 29, 2015), p. 9.

[49] Military Forces of Colombia, National Army, 57th Counter-Guerrilla Battalion Martires de Puerres, "Payment for Information for an Amount of 2 million ($2,000,000,000)," March 17, 2008.

[50] Fifth Criminal Circuit Court, Judicial District of Manizales, case no. 17-001-31-09-005-2011-00085-00, decision of April 19, 2012.

[51] Audio recording of preliminary hearing to formulate the accusation against William Darley García Ospina and Manuel Alejandro Cuellar Urrutia, Third Penal Tribunal With Functions of Controlling Guarantees in Medellín, case no. 05001260002062007051 52, November 18, 2014.

[52] Attorney General's Office, statement by William Darley García Ospina, case no. 4701, July 2, 2013.

Montoya, would tell commanders to give soldiers days off for combat kills.[53] Similarly, a man who acted as a guide for an army operation in Meta department in March 2006 during which troops allegedly committed two false positives told prosecutors that shortly after the killings, he heard the battalion commander congratulate soldiers over the radio and tell them they would be rewarded with a trip abroad.[54]

The Implausible Circumstances of Reported Combat Killings

In false positive cases, the supposed combat killings were immediately reported up the chain of command to commanders of tactical units, brigades, divisions—and possibly higher—according to prosecutors and the testimony of army personnel responsible for the crimes.[55] As explained above, commanders also acquired knowledge of the incidents because they authorized relevant troop movements and payments.

There is compelling evidence that in many false positive cases, the circumstances of the killings that were officially reported to commanders should have led them to notice irregularities in the supposed operations and to suspect unlawful killings.

Types of Weapon Reportedly Found on Victims

The weapons troops reported finding on victims often were not the kind that armed groups typically use against the armed forces, such as pistols and revolvers, and guns that did not even function, according to prosecutors and perpetrators' testimony.

For example:

- A former commander of troops attached to the 16th Brigade testified: "with the rank of a colonel, and the experience you could have at this rank it is no secret that the

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[53] Video of sworn statement provided by Robinson González del Río to the Attorney General's Office in case no. 170016000030200800096, July 31, 2014.

[54] Attorney General's Office, statement by Jhon Fredy Garces, September 19, 2011.

[55] The UN special rapporteur on extrajudicial executions also noted in his 2010 report on Colombia that "each unit in the military and the police provides to its command's operational divisions daily information on operation results (date, place, unit, result of operation, e.g. seizures, captures, demobilizations and deaths)." Human Rights Watch interviews with prosecutors, December 2014 and February 2015; Attorney General's Office, statement by an army officer (name and date withheld); Inspector-General's Office, "Continuation of Complaint by Mr. Edgar Ivan Florez Maestre," December 16, 2009; video of sworn statement provided by Robinson González del Río to the Attorney General's Office in Case No. 170016000030200800096, July 31, 2014; audios of sworn statements provided by Robinson González del Río to the Attorney General's Office, June 2014; and Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, Visit to Colombia, March 31, 2010, footnote 12.

troops... [were] killing innocent people who had nothing to do with the conflict and were reported with weapons that the guerrilla does not use to confront you with."[56]

- A prosecutor's formal accusation against retired Lieutenant Colonel Henry Acosta Pardo, the former commander of the Birno Battalion (16th Brigade), for three false positives in July 2007 states: "It's incredible that experienced criminals, such as those dedicated to drug trafficking, would be carrying obsolete, rusty, deteriorated weapons, such as a pistol and two revolvers…and it's even more implausible that they would participate in an armed combat, with an UNUSABLE pistol."[57]
- The "Suarez report," a document produced by a high-level military commission temporarily created in October 2008 to conduct an internal investigation into false positive allegations, describes five cases of reported combat kills by the Bomboná Battalion (14th Brigade) in 2007 in which the troops reported having used an "exaggerated" amount of munitions. In one case, troops reported using 16 grenades and 200 cartridges of 5.56 mm ammunition but said they found only one revolver on the supposed enemy combatant killed in action.[58]

In many cases, the fact that the victims were reported as the ones who initiated the attack against heavily armed soldiers should have made it seem particularly unrealistic that victims were found with handguns and other basic arms, rather than rifles and other typical combat weapons. For example, a prosecutor said that in 17 false positive incidents, involving 24 victims, for which two former Pedro Nel Ospina Battalion officials were being charged, the victims were all reported to have attacked the troops. Yet with the exception of one case, the only guns found on the victims were revolvers, pistols, or shotguns.[59]

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[56] Judicial District of Yopal, Second Penal Circuit Tribunal, "Certificate of Hearing in Case No. 2011-0011-00 against Marco Fabián García Cespedes," May 18, 2012.

[57] Attorney General's Office, decision to issue a resolution of accusation against retired Lieutenant Colonel Henry Hernan Acosta Pardo and retired Lieutenant Cesar Augusto Combita Eslava, case no. 5690, October 31, 2013.

[58] Military Forces of Colombia, "Transitory Commission Report," October 2008, p. 39.

[59] Audio recording of preliminary hearing to formulate the accusation against William Darley García Ospina and Manuel Alejandro Cuellar Urrutia, Third Penal Tribunal with Functions of Controlling Guarantees in Medellín, case no. 050012600020620070515 2, November 18, 2014.

Location and Function of the Military Unit

In some tactical units, the location where they operated—and their designated function within the army—made it implausible that they would be responsible for high numbers of combat kills. For example:

- A former Pedro Nel Ospina Battalion official said it was "strange" that the battalion had the most reported combat kills in the country, even though it was supposed to focus on "controlling area" and engineering projects, rather than combat.[60] As reported by the investigative website *La Silla Vacía*, the battalion reported 86 combat kills in 2006, despite being "specialized in the construction of public works such as bridges and lights for civilians, not combat operations."[61]
- González del Río said one reason it was "easily palpable for a commander to know" about false positives is that even though his troops were operating in an area of Caldas department devoid of armed groups, he still had to report combat kills.[62]
- The Suarez report noted that the number of combat kills by the Cacique Pipatón Battalion (14th Brigade) suddenly increased between 2006 and 2008, even though the unit did not operate in a conflict zone and was "exclusively urban and the responsibility of urban areas is the national police."[63]

Hundreds of Common Criminals Reported As Killed in Military Operations

Within the Colombian security forces, the police, rather than military, carry out basic law enforcement activities, including the pursuit of common criminals. Colombian state agents can only exceptionally target civilians such as common criminals with lethal force in a very narrow set of circumstances, such as when it is necessary to protect life. Nevertheless, in many false positive cases, troops reported the victims to have been common criminals such as extortionists killed in combat. Official statistics show that between 2004 and 2007, the reported number of common criminals killed in operations by the army grew by 1,200 percent, to 325 killings. Notably, in 2007, army troops reported nearly 100 more combat kills of common criminals than of members of the National Liberation Army (ELN), Colombia's second largest guerrilla group.

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[60] Ibid.

[61] "The Battalion that Won the False Positives Competition," *La Silla Vacía,* December 8, 2014 http://lasillavacia.com/historia/el-batallon-que-gano-el-concurso-de-falsos-positivos-49218 (accessed April 23, 2015).

[62] Audio of sworn statement provided by Robinson González del Río to the Attorney General's Office, June 2014.

[63] Military Forces of Colombia, "Transitory Commission Report," October 2008, p. 39.

Combat Kills Reported by the Army[64]

Year	'04	'05	'06	'07	'08	'09	'10	'11	'12	'13	'14
Criminals	27	44	207	325	112	7	3	5	4	6	0
FARC	303	1252	1647	1752	975	473	437	307	344	258	153
ELN	106	329	298	239	173	34	30	22	33	50	26
BACRIM	155	283	195	629	378	34	30	24	27	13	12
Other Armed Groups/"Drug Trafficking"	9	44	52	38	7	5	0	0	2	1	0

An Illustrative Case

One soldier's testimony provides a striking example of various implausible circumstances converging in a single incident.[65]

The soldier said his company, which was attached to a counter-guerrilla battalion operating under a mobile brigade, kidnapped five civilians from the town in Guaviare department where it was based and held them on a farm for around two weeks. The day of their execution, a lieutenant who commanded the company sat four of them down at a table on the farm. They had all been dressed in camouflage. He then ordered the troops to fire on them, according to the soldier, who said he was standing roughly 50 meters away. The lieutenant returned to the kitchen, saw their "destroyed faces" and said "oh, son of a bitch we screwed up." The soldier's testimony indicates that he believed the lieutenant was worried because all the victims had been shot in the face, which seemed incongruous with the type of combat they planned to report.

The troops then executed the fifth victim and reported to the "command post" that they had entered into combat with 20 guerrillas, and killed five, according to the soldier. The soldier noted that the troops placed damaged weapons on the victims, which was unrealistic because the FARC front operating in the region had good-quality weapons.

[64] Official Communication from Defense Minister Juan Carlos Pinzón to Congressman Alirio Uribe Muñoz, No. 67286, September 28, 2014.

[65] Attorney General's Office, sworn statements by a soldier, 2014 (name, case number, and exact dates withheld). The forthcoming testimony draws from the account the soldier provided in his testimony to the prosecutor's office. Details about the exact date of the executions and the names of the battalion and brigade are withheld.

The soldier said that later that afternoon, the heads of the battalion, brigade, and the Joint Task Force OMEGA[66] arrived in military helicopters that had come to remove the bodies and immediately rewarded the soldiers: "They brought us chicken, and cigarettes, and congratulated us. They left and the good news was that we got 45 days of vacation."

According to the soldier, the guerrillas had a minimal presence in the area where the company operated. He said the day after the lieutenant arrived to command the company in late 2004, he convened his troops and told them it "was not doing well in the eyes of the Brigade because of the lack of results." Within three months, the company reported 10 combat killings, even though it only actually had one real combat with guerrillas during the entire time the lieutenant commanded the company, which produced no casualties. This indicates there were further circumstances that might have raised suspicion among commanders: in an area with minimal guerrilla presence, a new company commander arrived with a message that the brigade was unhappy with the unit's lack of "results," and the unit then rapidly increased its number of reported combat kills.

Routine Killings Across a Seven-Year Span

False positives routinely occurred across Colombia over a seven-year span. It was not just one commander who had one opportunity to detect the aforementioned implausible circumstances in which the combat killings were reported. It was hundreds of commanders of tactical units and brigades, who usually had multiple opportunities to detect false positives when commanding military units, often for more than a year at a time. Some commanders who held various command positions between 2002 and 2008 had the chance to detect an even larger number of false positives. Such is the case of retired General Montoya, who started as the commander of the 4th Brigade in 2001 and 2003, headed the First Division and Joint Caribbean Command between 2004 and early 2006, and ended as the top army commander between February 2006 and November 2008. (See more on Montoya in the section "Testimony against Army Officers above the Brigade-Level.")

[66] The Joint Task Force OMEGA (Fuerza de Tarea Conjunta Omega) is a joint task force comprising members of the army, navy, and air force, and is dedicated principally to combating the FARC in southeastern Colombia.

It seems improbable that low-ranking soldiers could have repeatedly deceived so many commanders, in so many cases, over such a prolonged period of time.

Credible Public Reports of False Positives

There were credible public reports of false positives at least several years before the Soacha scandal broke in late 2008. As the Office of the Prosecutor (OTP) of the International Criminal Court (ICC) noted when discussing the possible "responsibility at higher levels" within the armed forces, the UN High Commissioner for Human Rights reported alleged false positives in annual reports on Colombia each year between 2004 and 2007.[67] The High Commissioner's 2005 report, for example, denounced a rise in allegations of extrajudicial executions by army troops, noting that "Most of these executions have been portrayed by the authorities as guerrilla casualties in the course of combat, after alterations of the crime scene…."[68] The report said certain authorities' denial of the crimes and failure to sanction the perpetrators "raised the issue of the possible responsibility of senior officials."[69]

Christian Salazar Volkmann, the High Commissioner's representative to Colombia between 2009 and 2011, wrote that when the Soacha false positive scandal erupted, "the type of army crimes… was not unknown—neither to the military leadership nor to the Minister of Defense, nor to the President of the country, Alvaro Uribe Vélez."[70] According to Salazar, the Office of the UN High Commissioner for Human Rights (OHCHR) had repeatedly warned the government and military authorities about the killings since at least 2003, including telling President Uribe about the concerns in 2003 and 2004, but "[a]lthough the alarm bells were ringing, the President apparently chose to believe the denials of the military and ignored the information given to him."[71] According to Salazar, "no action was taken."[72]

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[67] OTP of the ICC, "Situation in Colombia: Interim Report," November 2012, para. 100.

[68] Report of the UN High Commissioner for Human Rights on the situation of human rights in Colombia, E/CN.4/2006/9*, May 16, 2006, http://www.hchr.org.co/documentoseinformes/informes/altocomisionado/Informe2005_eng.pdf, para. 25.

[69] Ibid., para. 26.

[70] Christian Salazar Volkmann, "Evaluating the Impact of Human Rights Work: The Office of the United Nations High Commissioner for Human Rights and the Reduction of Extrajudicial Executions in Colombia," *Journal of Human Rights Practice*, vol. 4, no. 3 (2012), p. 398.

[71] Ibid., p. 408.

[72] Ibid.

One example of senior army officers' apparent knowledge of credible reports of false positives is evident in a May 6, 2006 article and interview with a spokesman from the army's 7th Division, which oversees several brigades in northern Colombia, including the 4th Brigade.[73] Published in *El Tiempo* newspaper, the article states that officials from Antioquia department and the UN had denounced 24 possible unlawful killings of individuals who the military had presented as killed in combat in different areas of Antioquia, in some cases after they had been reported missing by their families. The UN and Antioquia authorities raised the issue in a meeting with Francisco Santos, then-vice president of Colombia. The article paraphrased an unidentified spokesperson from the 7th Division as saying "they" (presumably referring to the military authorities within the 7th Division) "know about the complaints from the previous year." The spokesman is quoted downplaying the allegations: "The investigation will determine if there's some isolated [case]. Family members have the right to say whatever they want *and imagine*" (emphasis added). He also said "I'm not worried about the cases I know of."[74]

A month later, *El Tiempo* published an article by Sergio Jaramillo, who was an advisor to the defense minister in 2002 and 2003, in which he warned that the army leadership's "insatiable pressure for combat kills" could be leading to unlawful killings. Jaramillo said that the "statements that not all the 4th Brigade's combat kills have been men with rifles are believable."[75]

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[73] "Doubts over Deaths in Combat," *El Tiempo*, May 6, 2006, http://www.eltiempo.com/archivo/documento/MAM-2012889 (accessed May 29, 2015).

[74] Ibid.

[75] Sergio Jaramillo, "The Army's Hidden Crisis," *El Tiempo,* June 11, 2006, http://www.eltiempo.com/archivo/documento/MAM-2061221 (accessed April 23, 2015). The head of a think tank at the time of the article, Jaramillo later served as vice-minister of defense between 2006 and 2009, and is now the president's high commissioner for peace.

II. Profiles of Specific Brigades and Commanders Implicated in False Positives

This chapter profiles 11 brigades—attached to six of the army's seven divisions at the time—in which high numbers of alleged false positive killings point to the possible responsibility of brigade and tactical unit commanders. The numbers of alleged extrajudicial killings we attribute to specific brigades and tactical units are based on our analysis of Attorney General's Office data. We name some of the specific officers who commanded the brigades at the time of the alleged killings. For several of these officers—as well as some former tactical unit commanders—we also detail credible allegations of their involvement in and/or knowledge of false positive cases drawn from witness testimony and criminal case files.

The brigades profiled here are the 4th, 7th, 8th, 9th, 10th, 11th, 14th, 16th, and 28th, as well as the 12th and 15th mobile brigades.

This is not meant to be an exhaustive list of brigades or cases: there are other brigades with significant numbers of alleged false positive cases and it is likely that many of the brigades profiled here committed false positives not included in our tallies. The numbers below include only alleged extrajudicial killings for which Human Rights Unit prosecutors have identified and internally recorded the military unit responsible. Prosecutors say there are many cases for which they have not yet done so and that hundreds of other false positive cases are being handled by local prosecutors or the military justice system, not by the Human Rights Unit.[76]

Read in conjunction, the profiles of the different brigades provide further evidence of the systematic and widespread nature of false positive killings in Colombia during the 2002-2008 period. This raises serious questions about whether commanders above the brigade level—ranging from divisional commanders to the head of the army—at least knew or should have known about the crimes, or may have even ordered or actively contributed to their commission. The chapter concludes with testimony pointing to the possible responsibility of some of the higher-level commanders.

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[76] For example, as of December 2014, the Human Rights Unit was investigating more than 80 alleged extrajudicial killings by army troops in Antioquia between 2002 and 2008 in which prosecutors had not recorded the specific unit responsible.

4th Brigade

Attached to the 7th Division, the 4th Brigade operates in much of Antioquia, and parts of Caldas and Chocó.[77] The Human Rights Unit is investigating 412 extrajudicial killings allegedly committed between 2002 and 2008 by at least 11 of the brigade's tactical units.[78]

Alleged Extrajudicial Killings by the 4th Brigade Under Investigation by the Human Rights Unit

UNIT	'02	'03	'04	'05	'06	'07	'08	TOTAL
Pedro Nel Ospina Battalion	0	1	6	7	25	8	0	**47**
Pedro Justo Berrío Battalion	0	3	6	15	14	5	0	**43**
Juan de Corral Battalion	0	0	8	9	0	7	0	**24**
Afeur 5	0	0	8	6	4	3	0	**21**
Bajes Battalion	4	10	31	21	10	19	0	**95**
Gaula Antioquia	3	2	0	2	4	7	4	**22**
Gaula Rural Oriente Antioqueño	0	0	2	5	6	6	0	**19**
Atanasio Girardot Battalion	3	5	4	9	23	22	5	**71**
A combination of 4TH Brigade tactical units	0	0	3	1	6	0	0	**10**
Other tactical units/unidentified tactical units in 4th Brigade	9	4	6	6	13	14	5	**57**
A combination of tactical units from 4th Brigade and other brigades (counted only once here)	0	0	0	3	0	0	0	**3**
Total 4th Brigade	**19**	**25**	**74**	**84**	**105**	**91**	**14**	**412**

Brigade Commanders: Retired General Mario Montoya (12/28/01 -12/15/03, 44 alleged killings); Retired General Óscar González Peña (12/16/03- 7/16/05, 113 alleged killings); Retired General Luis Roberto Pico[79] (7/16/05-10/16/06, 124 alleged killings); General Jorge Ernesto Rodríguez Clavijo[80] (10/17/2006-*at least* 5/8/07, 79 alleged killings);

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[77] National Army of Colombia, "Fourth Brigade – Medellín," undated, http://www.ejercito.mil.co/?idcategoria=239193 (accessed April 23, 2015).

[78] Data on Human Rights Unit investigations into extrajudicial killings as of December 2014, on file with Human Rights Watch.

[79] Pico is one of the 27 officers the government dismissed in October 2008 following the military's investigation into false positives. At the time, he was the commander of the army's 7th Division, which oversees several brigades in northern Colombia, including the 4th, 11th, and 14th.

[80] In 2009, the army's inspector-general at the time told the US Embassy in Bogotá that Rodríguez Clavijo was among the officers who were "involved in" or had "tacitly condoned" false positives, according to an embassy cable released by Wikileaks. "Army IG Ordered to Stop 'False Positive' Investigations, Recommendations Dismissed," Wikileaks, June 25, 2009, https://www.wikileaks.org/plusd/cables/09BOGOTA2050_a.html (accessed May 18, 2015).

General Juan Carlos Piza Gaviria (at least part of October and November 2007); General Juan Pablo Rodríguez Barragán (11/13/07 - 11/28/09, 28 alleged killings).[81]

Prosecutors are investigating at least 113 alleged extrajudicial killings committed by 4th Brigade troops during the time retired General González Peña commanded the brigade between 2003 and 2005. Furthermore, two former members of the 4th Brigade accused of false positives from the period told prosecutors that the then-commander of the brigade, González Peña, visited troops who had been detained, and instructed them on what to tell judicial authorities.[82] According to a prosecutor's office document, soldiers said González Peña "knew what really happened, that is, that there had not been combat with a subversive group, but pressured them to continue telling prosecutors that the clash had occurred."[83] (See more on González Peña in the section "Testimony against Army Officers above the Brigade-Level.)

Prosecutors are investigating at least 28 alleged extrajudicial killings committed by the 4th Brigade during the time General Rodríguez Barragán commanded it. (He is now the armed forces' top commander.) In addition, retired Lieutenant Colonel González del Río has provided testimony to prosecutors indicating that Rodríguez Barragán may have known of, authorized, and helped cover-up false positives when he commanded the brigade.[84] González del Río commanded the Gaula Antioquia between December 2007 and August 2008. He said that during that time, his troops repeatedly lured suspected common criminals to locations under the false pretense that they would participate in some type of illicit activity there, such as extortion. The troops would be waiting in the area and shoot and kill them when they arrived. According to González del Río, if the victim did not arrive

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[81] See Annex 1 for a more detailed account of commanders for each of the 11 brigades covered by this report, including the sources for the reported dates of their command. The list of brigade commanders includes only the names of commanders Human Rights Watch was able to confirm that they served during the period of the alleged crimes. It is not an exhaustive list of the 11 brigades' commanders during the period. We list the number of alleged extrajudicial killings during the period of command for cases where we found credible reports of the exact dates the officer commanded the brigade, or were able to determine a close approximation of the period based on the earliest and latest news or army reports listing them as the brigade's commander.

[82] Attorney General's Office, sworn statements by two former members of the 4th Brigade (names, case number, and dates withheld).

[83] In 2009, the army's inspector-general told the US Embassy in Bogotá that González Peña had also "tried to intimidate witnesses not to testify about murders committed by the 11th Brigade in Sucre," according to an embassy cable released by Wikileaks. "Military's Human Rights Initiatives Meet Resistance," Wikileaks, February 20, 2009, https://www.wikileaks.org/plusd/cables/09BOGOTA542_a.html (accessed May 18, 2015); Attorney General's Office document (case number and date withheld).

[84] Audios of sworn statements provided by Robinson González del Río to the Attorney General's Office, June 2014. The testimony that follows in this subsection is all drawn from González del Río's testimony to prosecutors in June 2014.

with some type of gun, the troops would place one on them. He said he planned these operations with the intention of killing—rather than arresting—the victims.

González del Río said that for each operation, he obtained Rodríguez Barragán's prior approval. He stated that Rodríguez Barragán did not ask for the details of the planned operation, and did not know how the victim would be lured and transported to the area of the fake combat, or that they might place weapons on him. Rather, he said Rodríguez Barragán's involvement in the planning was to tell him to kill instead of arrest the individuals, who had been described to him as engaging in common criminal activity like extortion. According to González del Río, Rodríguez Barragán would tell him, "Don't bring me excuses that you weren't able to [kill them]. You need to produce combat kills."

Asked whether General Rodríguez Barragán was informed that his troops were going to commit a "false positive" when he authorized the operations, González del Río told prosecutors: "I would explain… look general, it looks like three or four individuals with handguns are about to engage in extortion…. The only thing he would tell you was… 'don't [inaudible] because you arrested them or you weren't capable or they got away. What we need are combat kills, and you have to do combat kills.'" González del Río said he interpreted this as an order.

González del Río said Rodríguez Barragán's pressure for combat kills drove the killings: "Why were these operations set up? Because… every day [he] was asking for results…. For him [arrests] were not results; for him the results were combat kills."

González del Río also said that Rodríguez Barragán hired a police investigator to "accommodate the scene" of the reported combat before Attorney General's Office investigators arrived there to collect evidence. This suggests that Rodríguez Barragán might have tried to cover-up the killings. Moreover, as stated by González del Río, it also indicates that he may have known of the irregularities in the killings: "If the combat kills are so clear and transparent, why does the brigade commander have to hire an official from the judicial police to check the scene?"

At this writing, justice authorities are in the process of verifying González del Río's testimony, including his claim that the victims were criminals who thought they were going to commit a crime. Even if the victims did falsely believe they would commit a crime, of

course, their premeditated killing by soldiers in the circumstances described by González del Río would still amount to an extrajudicial killing, since they were civilians and not combatants in an armed conflict. (González del Río's subordinates in the Gaula have confirmed the unit would execute victims as soon as they arrived where troops were waiting, without any shootout having occurred.[85])

González del Río's testimony led prosecutors to open a preliminary investigation into Rodríguez Barragán for false positives.[86]

Pedro Nel Ospina Battalion

Prosecutors are investigating at least 47 extrajudicial killings allegedly committed by the Pedro Nel Ospina Battalion between 2003 and 2007. There is evidence that the battalion committed many more than 47 false positives, and that it did so in a systematic fashion, with the involvement of the unit's commanders.

A prosecutor pressing charges against two former battalion officials stated that one of the defendants, who is a retired lieutenant, calculated that when he was the battalion's intelligence official in 2006 and 2007, battalion troops had committed 72 false positives "with the knowledge of the battalion's commanders." The prosecutor said in relation to the 24 false positives for which the two defendants were charged that: "in the account[s] of each and every one of these acts, we have seen how these two individuals, accompanied by members of the Pedro Nel Ospina Battalion, from its highest commanders down to its platoon commanders, would meet… [and] agree that these victims would be handed over in order to kill them and present them as operational results."[87]

An example is the March 3, 2006 murder of Julio Cesar Castañeda Velásquez in Bello, Antioquia. One of the defendants, who is a sergeant, directly implicated retired Colonel

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[85] Human Rights Watch telephone interview with justice official, May 2015.

[86] "The Attorney General's Office requests the investigation of 11 generals for supposed false positives and corruption," *El Colombiano*, September 4, 2014, http://www.elcolombiano.com/fiscalia_pide_investigar_a_11_generales_por_falsos_positivos-LGEC_309615 (accessed May 18, 2015); Human Rights Watch interview with prosecutors, December 2014.

[87] Audio recording of preliminary hearing to formulate the accusation against William Darley García Ospina and Manuel Alejandro Cuellar Urrutia, Third Penal Tribunal With Functions of Controlling Guarantees in Medellín, case no. 050012600020620070515 2, November 18, 2014.

Édgar Emilio Ávila Doria, the battalion's commander between late 2005 and June 2007,[88] in the case. He said Ávila had induced a soldier to recruit the victim by offering days off, coordinated the killing, and authorized the purchase of the pistol the troops placed on his body.[89] Prosecutors are investigating dozens of alleged false positives committed by Pedro Nel Ospina Battalion troops during the time Ávila commanded the unit. (See more information on Ávila, including the recently issued arrest warrant against him, in the section "The Military Justice System.")

Jorge Eduardo Sánchez (Bajes) Battalion

The Human Rights Unit is investigating 95 alleged extrajudicial killings by the Bajes Battalion between 2002 and 2007. Justice officials investigating these cases said the unit committed false positive killings on a systematic basis.[90] One prosecutor said that instead of recruiting victims from urban areas, the battalion would simply execute farmers in rural areas where they operated and report them as guerrillas killed in combat.

A former officer and former soldier from the Bajes Battalion told prosecutors that the troops received pressure to boost body counts.[91] The soldier said his company detained and executed two men one day in 2004, and that "we were given five days off for each dead person, because Colonel Barreara (sic) gave five days off for each death[,] we all knew that."[92] Retired Colonel Juan Carlos Barrera Jurado commanded the Bajes Battalion for at least part of 2004, a year when it allegedly committed 31 extrajudicial killings, and later became the commander of the 14th Brigade between November 2007 and October 2008, a period when that unit allegedly committed at least 12 extrajudicial killings.[93] (See more on Barrera below in the 14th Brigade section).

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[88] "Colonel Ávila Said Goodbye to Pedro N. Ospina with Results," *El Colombiano*, undated, http://www.elcolombiano.com/historico/coronel_avila_se_despidio_con__resultados_del_pedro_n_ospina-AVEC_AO_4329888 (April 23, 2015); "The Battalion that Won the False Positives Competition," *La Silla Vacía*. December 8, 2014.

[89] Audio recording of preliminary hearing to formulate the accusation against William Darley García Ospina and Manuel Alejandro Cuellar Urrutia, Third Penal Tribunal With Functions of Controlling Guarantees in Medellín, case no. 050012600020620070515 2, November 18, 2014.

[90] Human Rights Watch interviews with prosecutors, December 2014.

[91] Attorney General's Office, statements by two former members of the Bajes Battalion (names, dates, and case numbers withheld).

[92] Attorney General's Office, statement by former Bajes Battalion soldier (name, date, and case number withheld).

[93] Data on Human Rights Unit investigations into extrajudicial killings as of December 2014, on file with Human Rights Watch. "Colonel Barrera Already Had a Record," *Noticias Uno*, November 3, 2008, http://noticiasunolaredindependiente.com/2008/11/03/noticias/antesedentes-cr-barrera/ (accessed May 17, 2015).

Pedro Justo Berrío Battalion

The Human Rights Unit is investigating 43 extrajudicial killings allegedly committed by the Pedro Justo Berrío Battalion between 2003 and 2007. An army official formerly attached to the battalion has accused the then-commander of the unit of having ordered three false positive killings in a single incident in 2005. The official told prosecutors that when he reported to the battalion commander that he had captured three supposed members of the guerrillas' support network (*milicianos*) in a rural area, the commander told him that he had to "*bajarlo*." According to the official, this meant that he had to kill the three, which the troops then did. He said the victims' bodies were taken to Medellín "in order to show the media that the 4th Brigade had done combat kill[s] in different areas of Antioquia." The official also said that the troops later received 35 days off.[94] The three victims were farmers, according to a prosecutor.[95]

Group of Urban Anti-Terrorist Special Forces (Afeur) No. 5

The Human Rights Unit is investigating 21 extrajudicial killings allegedly committed by the Afeur No. 5 between 2004 and 2007. A retired non-commissioned officer told prosecutors about seven false positives he participated in or had knowledge of when he belonged to the Afeur No. 5. In one case from mid-2005, he said that a commander of his who ordered the killing had been under pressure from retired General González Peña, then-4th Brigade commander, to show "results." The non-commissioned officer said: "General González Peña had told [the commander] that he was going to relieve him of his duties because he had not shown any results…. [The commander] called me… [and said] that I had to produce a result for him that night… That night they looked for a guy who supposedly was a criminal but turned out to be an avocado vendor… they brought him up a road and shot him…."[96]

The retired non-commissioned officer said that paramilitaries in Medellín would provide the Afeur No. 5 with victims on a monthly basis.[97] He also told authorities that troops received days off for the killings, and that false positives by the unit were "like a policy because that's where the commander, soldiers, and I derived our benefits."[98]

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[94] Attorney General's Office, sworn statement provided by an army official, (name, case number, and date withheld).

[95] Attorney General's Office document (date and case number withheld).

[96] Attorney General's Office, statement by retired non-commissioned officer, (name, case number, and date withheld).

[97] Ibid.

[98] Inspector-General's Office, statement by retired non-commissioned officer, (name, case number, and date withheld).

14th Brigade

Based in Puerto Berrío, Antioquia, and attached to the 7th Division, the 14th Brigade has jurisdiction in northeastern Antioquia and the Magdalena Medio region of Antioquia, Boyacá, and Santander.[99] Human Rights Unit prosecutors are investigating 51 extrajudicial killings allegedly committed between 2006 and 2008 by at least four tactical units attached to the 14th Brigade.

Alleged Extrajudicial Killings by the 14th Brigade Under Investigation by the Human Rights Unit

UNIT	'06	'07	'08	TOTAL
Calibío Battalion	0	2	6	**8**
Bomboná Battalion	2	23	0	**25**
Mario Serpa Cuesto Battalion	4	6	3	**13**
Other tactical units/unidentified tactical units in the 14th Brigade	0	4	1	**5**
Total 14th Brigade	**6**	**35**	**10**	**51**

Brigade Commanders: General Jorge A. Segura Manonegra (2/06 - 10/31/07, 39 alleged killings); Retired Colonel Juan Carlos Barrera Jurado (10/31/07 - 10/30/08, 12 alleged killings).

Of the 27 officers and soldiers the government dismissed in October 2008 following the military's internal investigation into false positive allegations, 11 belonged to the 14th Brigade, including its commander at the time, retired Colonel Juan Carlos Barrera Jurado.[100] Edgar Iván Flórez Maestre, a former lieutenant from the Calibío Battalion, attached to the 14th Brigade, alleged that Barrera pressured the troops to boost body counts: "When Colonel Juan Carlos Barrera took the command of the Brigade he said over the radio that all the commanders of the battalion who did not have combat kills or combat in 90 days would be kicked out of the army… the pressure got harder to the point that they would count the days that had gone by without us [engaging in] combat."[101] Flórez said that Barrera set up a competition over annual combat kills among platoons.

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[99] National Army of Colombia, "Fourteenth Brigade – Puerto Berrío," undated, http://www.ejercito.mil.co/?idcategoria=239215 (accessed April 23, 2015)

[100] Retired Colonel Juan Carlos Barrera Jurado had previously commanded the Bajes Battalion (4th Brigade) for at least part of 2004. The Human Rights Unit is investigating 31 alleged extrajudicial killings committed by Bajes Battalion troops that year.

[101] Inspector-General's Office, "Complaint by Mr. Edgar Ivan Florez Maestre," December 15, 2009.

Calibío Battalion

The Human Rights Unit is investigating eight alleged extrajudicial killings committed by the Calibío Battalion in 2007 and the first half of 2008. Soldiers have implicated former battalion commanders in at least having had knowledge of such killings by the unit.

The military's "Suarez report" details six cases of reported combat killings by the Calibío Battalion between August 2007 and July 2008 in which family and/or community members, among others, claimed the victim had been executed. One such incident is the July 8, 2008 killing of Aicardo Ortiz, a 58-year-old farmer and community leader, in a hamlet in Yondó, Antioquia. The battalion reported that Ortiz was a presumed FARC member and that they shot and killed him after he first fired on them when they were carrying out an operation. They reported finding a revolver, grenade, and radio, among other war material, on him.[102]

By contrast, neighbors claimed that early in the morning soldiers knocked on Ortiz's door, forced their way into his home, shot him, removed him from his home, and put the weapons on him, according to the Suarez report.[103] Edgar Iván Flórez Maestre, the lieutenant from the Calibío Battalion quoted above, also said troops staged the execution to look like a combat killing. He told the Inspector's General's Office that he had been at the scene of Ortiz's killing, and communicated with the battalion commander, "Colonel Ramírez," who told him that a sergeant would bring a "package." Flórez said that the sergeant later arrived with a bag containing uniforms, FARC paraphernalia, and a radio, which troops placed at the scene.[104] (A retired Lieutenant Colonel Wilson Ramírez Cedeño served as the Calibío Battalion commander for at least part of 2008, was one of the 27 officers the government dismissed in October of that year, and was arrested in 2009 for two extrajudicial killings battalion troops allegedly committed in January 2008.[105])

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[102] Military Forces of Colombia, "Transitory Commission Report," October 2008, pp. 5-6.

[103] Ibid.

[104] Inspector-General's Office, "Continuation of Complaint by Mr. Edgar Ivan Florez Maestre," December 15, 2009.

[105] Attorney General's Office, "15 Military Members Arrested for Homicide of Protected Person," October 20, 2009, http://www.fiscalia.gov.co/colombia/noticias/por-homicidio-en-persona-protegida-asegurados-15-militares/ (accessed June 5, 2015).

Ortiz turned out to be the father of a soldier who had until recently belonged to the Calibío Battalion. Upon learning that his father had been killed, the son, Jhon Fredy Ortiz, decided to reveal to the authorities other murders the unit had recently committed. For example, he told the Inspector General's Office that on August 7, 2005, he had participated in an operation with the Battalion Calibío in which the troops abducted a civilian named Wilsifredo from his house, executed him, placed a weapon on him, fired it with his lifeless hand, and reported him as killed in combat.[106] Jhon Fredy Ortiz said that the battalion's commander at the time later instructed him on what to tell the military justice system about the killing.[107]

Jhon Fredy Ortiz also told authorities about a later incident in which an officer from the Calibío Battalion, who he refers to as "Colonel Ramírez," proposed that he recruit victims for a false positive.[108] Flórez, the lieutenant whose testimony is also referenced above, also told authorities that the Calibío Battalion would recruit victims. He said there was a soldier who would go to Medellín with $300,000 Colombian pesos (US$150), look for "street vendors or people who did not have families," buy them clothes, and offer them work on a farm in Puerto Berrío. Troops would intercept the victims on the road to Puerto Berrío, and the intelligence official and company commander would speak with the commander of the battalion "so that he would authorize the operation," according to Flórez.[109]

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[106] Inspector-General's Office, sworn statement by Jhon Fredy Ortiz Jimenez, July 31, 2008.

[107] Inspector-General's Office, sworn statement by Jhon Fredy Ortiz, July 18, 2008. Two months after Wilsifredo's death, soldiers from the Calibío Battalion removed a civilian named Luís Amilcar Calle Fernández from his home, told him he would suffer the same fate as Wilsifredo, tried to force him to put on a camouflaged uniform, tortured him, and then suddenly released him when soldiers received notice that an international human rights observer had arrived in the area. First Penal Circuit Tribunal, Rionegro-Antioquia, case no. 05651310400120120010 2, decision of May 9, 2013.

[108] Though the testimony does not provide an exact date for when the conversation with "Colonel Ramírez" occurred, as stated above, a retired Lieutenant Colonel Wilson Ramírez Cedeño commanded the Calibío Battalion for at least part of 2008. Inspector-General's Office, sworn statement by Jhon Fredy Ortiz Jimenez, July 18, 2008.

[109] Inspector-General's Office, "Complaint by Mr. Edgar Ivan Florez Maestre," December 15, 2009.

11th Brigade

Attached to the 7th Division, the 11th Brigade operates in Córdoba and parts of Antioquia and Sucre.[110] The Human Rights Unit is investigating 214 extrajudicial killings allegedly committed between 2004 and 2008 by multiple units attached to the brigade.

Alleged Extrajudicial Killings by the 11th Brigade Under Investigation by the Human Rights Unit

UNIT	'04	'05	'06	'07	'08	TOTAL
Fuerza de Tarea Conjunta de Sucre	0	0	7	31	2	**40**
Junín Battalion	0	5	8	13	0	**26**
Rifles Battalion	1	6	14	5	5	**31**
10th BCG	3	0	9	9	0	**21**
Gaula Córdoba	0	0	2	50	2	**54**
Juan José Reyes Patria Battalion	2	2	9	3	0	**16**
Troops from a combination of 11th Brigade tactical units	2	0	4	14	2	**22**
Other/unidentified units in 11th Brigade	1	1	0	0	2	**4**
Total 11th Brigade	**9**	**14**	**53**	**125**	**13**	**214**

Brigade Commanders: Retired General Luis Roberto Pico (at least part of 2004); General Javier Fernández Leal[111] (at least part of 2005 and 2006); Colonel William Hernán Peña Forero (at least part of 2006 and 2007); General Jorge Arturo Salgado Restrepo (at least part of 2007 and 2008).

A senior army officer who commanded troops attached to the 11th Brigade told prosecutors that all the brigade's units engaged in false positives. He referred to them as a mode of operating within the brigade in 2007 and 2008, and accused the brigade's commanders of knowing about the killings at the time.[112]

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[110] National Army of Colombia, "Eleventh Brigade – Montería," undated, http://www.ejercito.mil.co/?idcategoria=239211 (accessed April 23, 2015).

[111] In 2009, the army's inspector-general told the US Embassy in Bogotá that Leal was among the commanders who "had allowed the [false positives] practice to go on," according to an embassy cable released by *Wikileaks*. "MOD Overrules Army Commander's Transfer of Key Human Rights Official," Wikileaks, November 17, 2009, https://www.wikileaks.org/plusd/cables/09BOGOTA3393_a.html (accessed May 18, 2015).

[112] Attorney General's Office, statement by senior army officer (name and date withheld).

The former commander said that on three occasions, his brigade commander asked him for a combat killing within a day, so he could meet the monthly quota. He also referred to an incident when he expressed concern to his brigade commander over the killings, and the commander told him not worry, he'd go to jail with him. According to the witness, a new brigade commander later asked him to provide three combat kills per month and in meetings he would also ask other unit commanders for combat kills.[113]

A prosecutor investigating false positives by three units attached to the 11th Brigade said they all had a similar modus operandi and targeted a similar profile of victim: poor people, indigenous people, informal workers, coca leaf pickers, people who were dependent upon drugs, and thieves. The prosecutor said soldiers would typically lure victims to another municipality with the promise of work or money, execute them, and report them as killed in combat.[114]

10th BCG

The Human Rights Unit is investigating 21 extrajudicial killings allegedly committed by the 10th BCG between 2004 and 2007. Nixón de Jesús Cárcamo, a soldier who belonged to the unit, told prosecutors that he participated in a June 2007 case where the troops removed a man from his home, forced him to put on boots and a camouflaged shirt, executed him, and then fired additional rounds in order to "stage that there had been a combat." Cárcamo said that later that day, the unit commander "shook our hands, congratulated us… and gave us five days off."[115]

Fuerza de Tarea Conjunta de Sucre (FTCS)

The Human Rights Unit is investigating 40 extrajudicial killings allegedly committed by the FTCS between 2006 and 2008. Retired Colonel Luis Fernando Borja, who commanded the FTCS in 2007 and 2008, reportedly admitted responsibility for 57 false positives.[116] A 2011 judicial ruling convicting him for a November 3, 2007 false positive killing in San Benito Abad, Sucre, describes the systematic nature of the FTCS's crimes:

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[113] Ibid.

[114] Human Rights Watch interview with prosecutor, December 2014.

[115] Attorney General's Office, statement by Nixón de Jesús Cárcamo, case no. 4538, July 16, 2014.

[116] "New Trouble for the Colonel Who Confessed 57 'False Positives,'" *Semana,* http://www.semana.com/nacion/articulo/el-nuevo-lio-del-coronel-confeso-57-falsos-positivos/330375-3 (accessed April 23, 2015).

> A criminal industry was created and structured, which got its raw materials from poor, unemployed residents without a clear future, with the [goal] of urgently producing the so-called "false positives" in order to falsely increase the operational statistics of the armed forces…. In this criminal enterprise each member had his determined role…some were in charge of selecting the potential and easy victims…others to transport them and hand them over to military personnel, some to economically repay, and others were in charge of finally executing [the mission]…. The labor that [Colonel Borja] completed was to act as one of the organizers and promoters of the criminal industry.[117]

Gaula Córdoba

The Human Rights Unit is investigating 54 extrajudicial killings allegedly committed by the Gaula Córdoba between 2006 and 2008. Retired Captain Antonio Rozo Valbuena belonged to the Gaula Córdoba in 2006 and 2007 and has admitted to prosecutors that the unit committed many false positives during the period.[118] He reportedly said that army officials measured success in terms of combat kills, and that superiors gave orders, "not to report anything to me but combat kills." He told prosecutors that in March 2006, the commander of the Gaula Córdoba ordered the executions of five people in order to stand out while then-President Álvaro Uribe was visiting the region, according to *El Espectador* newspaper, which reviewed his testimony.[119] According to *El Espectador*, Rozo said that various "high-level officials"—whose names the paper abstained from publishing—would "provide weapons, coordinate the logistics, distribute the money and in coordination with other state agents simulated combats, altered the crime scenes, placed weapons on the victims, and collected rewards and payments."[120]

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[117] Equipo Nizkor, "Sentence of the Specialized Penal Circuit Tribunal of Sincelejo Convicting Retired Colonel Luis Fernando Borja Aristizábal for a Case of 'False Positives' and Acquitting him of Conspiracy to Commit a Crime," undated, http://www.derechos.org/nizkor/colombia/doc/falsos27.html (accessed April 23, 2015).

[118] "Sinister Confessions," *El Espectador*, October 8, 2011, http://www.elespectador.com/noticias/judicial/confesiones-siniestras-articulo-304349 (accessed April 23, 2015).

[119] Ibid.

[120] Ibid.

16th Brigade

Attached to the 4th Division at the time of the killings, the 16th Brigade has jurisdiction over the department of Casanare and parts of Boyacá.[121] The Human Rights Unit is investigating 113 extrajudicial killings allegedly committed between 2004 and 2008 by several of the brigade's tactical units.

Alleged Extrajudicial Killings by the 16th Brigade Under Investigation by the Human Rights Unit

UNITS	'04	'05	'06	'07	'08	TOTAL
Gaula Casanare	2	0	2	16	0	**20**
Birno Battalion	1	0	5	21	0	**27**
65th BCG	0	1	7	9	0	**17**
Grupo de Caballería Mecanizado 16	11	0	1	3	0	**15**
Troops from a combination of 16th Brigade tactical units	0	6	2	2	0	**10**
Other units/unidentified units in 16th Brigade	2	1	8	12	1	**24**
Total 16th Brigade	**16**	**8**	**25**	**63**	**1**	**113**

Brigade Commanders: General Henry William Torres Escalante (at least January 2006-6/8/07, 66 alleged killings); Colonel Cipriano Peña Chivatá (at least part of 2007).

Prosecutors handling false positives in Casanare said that based on their investigations, it is evident that the 16th Brigade systematically committed the crimes.[122]

The Human Rights Unit is investigating at least 66 alleged extrajudicial killings by 16th Brigade troops during the time General Henry William Torres Escalante commanded it. Furthermore, retired Lieutenant Marco Fabián García, the former commander of a Delta group attached to the 16th Brigade, has testified that Torres Escalante ordered, planned, and covered-up false positives when he commanded the brigade. One example is the March 16, 2007 killing of a father and his 16-year-old son, who according to the judicial ruling convicting García, were unarmed farmers.[123] García said that when planning the

[121] National Army of Colombia, "Sixteenth Brigade – Yopal," undated, http://www.ejercito.mil.co/?idcategoria=239219 (accessed April 23, 2015).

[122] Human Rights Watch interviews with prosecutors, December 2014 and February 2015.

[123] Judicial District of Yopal, Second Penal Circuit Tribunal, case no. 85001-31-04-002-2011-0015-00, decision of June 26, 2013.

operation, Torres Escalante accused the two men of being guerrillas and gave "the direct order" to kill them.[124] García said he and his troops subsequently went to the father's home, executed him and his son, put weapons on them, reported back to Torres Escalante that the troops had "completed the mission," and informed him that he had placed weapons on the victims since they had been unarmed. García said Torres Escalante congratulated him for the "good work."[125]

García also implicated Torres Escalante in the May 2, 2007 murder of a community leader named Alcides Castillo. He said that shortly prior to the killing, he reported to Torres Escalante that his troops had found ELN guerrilla paraphernalia and documents.[126] Torres Escalante allegedly ordered him to keep the material so he could "use it," and told him to produce "results." García said he received an order to kill Castillo that same night. Soon after, his troops detained Castillo, executed him, and put weapons and the ELN documents on him. García said he reported the killing to Torres Escalante, who congratulated him.[127] "I was a hero because of that result," García said.

García also told justice authorities that Torres Escalante had knowledge of other false positives that he had committed.[128] Based on García's testimony, and other evidence, prosecutors and at least one judge have requested that prosecutors with jurisdiction over generals investigate Torres Escalante's alleged role in false positives.[129] He is currently under investigation for alleged false positives.[130]

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[124] Judicial District of Yopal, Second Penal Circuit Tribunal, "Certificate of Hearing in Case No. 2011-0011-00 against Marco Fabián García Cespedes," May 18, 2012.

[125] Ibid.

[126] Attorney General's Office, sworn statement by Marco Fabián García Céspedes, case no. 4977, October 26, 2013.

[127] Ibid.

[128] García also said: "I want to make known the way in which these so-called false positive operations were carried out [.] The special group I commanded was used to carry out that type of work and with the direct orders of [then-] Colonel Torres Escalante, commander of the 16th Brigade." Judicial District of Yopal, Second Penal Circuit Tribunal, "Certificate of Hearing in Case No. 2011-0011-00 against Marco Fabián García Cespedes," May 18, 2012.

[129] Judicial District of Yopal, Second Penal Circuit Tribunal, case no. 85001-31-04-002-2011-0015-00, decision of June 26, 2013; Human Rights Watch interview with prosecutor, February 2015; Official Communication from Human Rights Unit to Coordinator of Prosecutors Delegated Before the Supreme Court, December 5, 2013.

[130] Human Rights Watch interview with prosecutors, December 2014.

Gaula Casanare

The Human Rights Unit is investigating 20 extrajudicial killings allegedly committed by the Gaula Casanare between 2004 and 2007. In a formal accusation against a civilian recruiter for the Gaula Casanare's October 2006 killings of two men, a prosecutor said the incident was "just one more case of criminal events committed by various members of the Gaula Casanare, within which a criminal enterprise was created that was dedicated to taking people's lives…to demonstrate 'positive' results to their superiors and society, and thereby gain privileges such as congratulations and days off."[131]

The Gaula Casanare's commander at least in 2007, Major Gustavo Enrique Soto Bracamonte, has been convicted for false positives.[132] A civilian recruiter the unit utilized in the cases told prosecutors that Soto Bracamonte would select the victims and orchestrate the executions.[133]

Birno Battalion

The Human Rights Unit is investigating 27 extrajudicial killings allegedly committed by the Birno Battalion between 2004 and 2007. For example, the prosecutor's office has formally accused retired Lieutenant Colonel Henry Hernan Acosta Pardo, then-commander of the Birno Battalion, for the July 27, 2007 murders of three young workers from a brick factory who the unit abducted, took to a remote area, executed, and reported as criminals killed in combat. According to the prosecutor, the victims were executed "following the precise instructions" of Acosta Pardo, and were not criminals, but "honorable, honest workers, with healthy habits."[134]

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[131] Attorney General's Office, decision to order the arrests of Gustavo Enrique Soto Bracamonte and others, case no. 7313, July 4, 2012.

[132] Specialized Penal Circuit Tribunal of Yopal, Casanare, case no. 2014-0046, decision of December 1, 2014; Attorney General's Office, "Ex-commander of Gaula Casanare and six other uniformed men convicted," December 1, 2010, http://www.fiscalia.gov.co/colombia/noticias/condenados-ex-comandante-del-gaula-casanare-y-otros-seis-uniformados/ (accessed June 2, 2015).

[133] Specialized Penal Circuit Tribunal of Yopal, Casanare, case no. 2010-0035, decision of April 29, 2011.

[134] Attorney General's Office, decision to issue a resolution of accusation against retired Colonel Henry Hernan Acosta Pardo and retired Lieutenant Cesar Augusto Combita Eslava, case no. 5690, October 31, 2013.

7th Brigade

Attached to the 4th Division, the 7th Brigade is based in Villavicencio, Meta department.[135] The Human Rights Unit is investigating 66 unlawful killings allegedly committed between 2002 and 2008 by several of its tactical units.

Alleged Extrajudicial Killings by the 7th Brigade Under Investigation by the Human Rights Unit

UNIT	'02	'03	'04	'05	'06	'07	'08	TOTAL
Pantano de Vargas Battalion	2	20	5	2	5	7	0	**41**
Gaula Meta	0	0	0	0	3	14	0	**17**
Other tactical units/unidentified tactical units in 7th Brigade	0	0	1	0	2	3	2	**8**
Total 7th Brigade	**2**	**20**	**6**	**2**	**10**	**24**	**2**	**66**

Brigade Commanders: Retired General Luis Antonio Coronado León (at least part of 2004 and 2005); General Francisco Ardila Uribe (at least part of 2005, 2006, and 2007).

Pantano de Vargas Battalion

The Human Rights Unit is investigating 41 extrajudicial killings allegedly committed by the Pantano de Vargas Battalion between 2002 and 2007. The battalion committed false positives in a systematic fashion, with a common modus operandi of relying on paramilitaries to provide the victims, according to prosecutors.[136] For example, a court filing said the "systematicity" of the battalion's conspiracy with paramilitaries is evident in 15 cases of extrajudicial killings, involving 23 victims, that one prosecutor is bringing against members of the unit. All the cases shared "similar circumstances of time, mode, and place," and involved both military personnel and paramilitaries, "each one of whom was in charge of carrying out a task, some with providing the [victims] in a complete state of defenselessness and the others with presenting them as killed in combat."[137]

At least one paramilitary and one soldier have told prosecutors that retired Lieutenant Colonel Hector Alejandro Cabuya de León, the Pantano de Vargas Battalion commander in

[135] National Army of Colombia, "Seventh Brigade – Villavicencio," undated, http://www.ejercito.mil.co/?idcategoria=239206 (accessed April 23, 2015).

[136] Human Rights Watch interviews with prosecutors, December 2014.

[137] Attorney General's Office, provisional juridical classification, case no. 8538, October 29, 2014.

2002 and 2003, planned and ordered false positives.[138] In 2011, the Attorney General's Office issued an arrest warrant against Cabuya de León for alleged ties to paramilitaries.[139]

12th Mobile Brigade

Created in 2005, the 12th Mobile Brigade operated in Meta and Guaviare departments.[140] The Human Rights Unit is investigating 27 extrajudicial killings allegedly committed between 2005 and 2007 by several of the brigade's tactical units.

Alleged Extrajudicial Killings by the 12th Mobile Brigade Under Investigation by the Human Rights Unit

UNIT	'05	'06	'07	TOTAL
86th BCG	0	0	6	**6**
85th BCG	0	2	5	**7**
84th BCG	1	1	2	**4**
83rd BCG	0	3	2	**5**
Other tactical units/ unidentified tactical units in 12th Mobile Brigade	2	0	3	**5**
Total in the 12th Mobile Brigade	**3**	**6**	**18**	**27**

Brigade Commanders: Retired Colonel Carlos Hugo Ramírez Zuluaga (at least part of 2005 and 2006); Colonel Cipriano Peña Chivatá (at least part of 2007).

83rd BCG

The Human Rights Unit is investigating five extrajudicial killings allegedly committed by 83rd BCG troops in 2006 and 2007. Lieutenant Colonel Miguel Antonio Beltrán Chacón is under prosecution for allegedly having ordered the killings of three men in Vista Hermosa, Meta, when he was acting as the battalion's commander. The incident began on October 26, 2006, when the troops reported to Beltrán Chacón that they had found weapons in a car, according to the prosecutor's office. A civilian guide who was with the troops told prosecutors that he heard Beltrán Chacón tell a lieutenant over the radio to capture "three people to legalize as

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[138] Attorney General's Office, report on the viability of the Human Rights Unit handling investigations into case numbers 0030-2002, 089-2003, 0110-2003, 135-2003, and 174-2004, July 1, 2011; Attorney General's Office, decision to issue resolution of accusation against Jose Eyner Arango Bernal et al., case no. 8545, October 15, 2013.

[139] Attorney General's Office, "Arrest [warrant] Against Retired Colonel for Conspiracy to Commit a Crime," February 22, 2011, http://www.fiscalia.gov.co/colombia/noticias/coronel-r-asegurado-por-concierto-para-delinquir/ (accessed May 18, 2015).

[140] "The 12th Mobile Brigade Started Up," *El Tiempo*, January 18, 2005, http://www.eltiempo.com/archivo/documento/MAM-1635487 (accessed April 27, 2015).

guerrillas" with the weapons.[141] The following day, the troops abducted three unarmed civilians who were walking down a road, executed them, dressed them in camouflage, placed weapons on them, and stripped them of their identity papers.[142]

Beltrán Chacón immediately issued an official "patrol report" stating that with "valor, courage, and decisiveness" his troops had killed three "terrorists" in combat.[143] The following week, the 12th Mobile Brigade's command issued its weekly bulletin in which it gave a "special congratulations" to Beltrán Chacón and other troops for the "operational results" in killing the three men.[144]

28th Brigade

Attached to the 4th Division at the time of the killings, the 28th Brigade operates in Vichada and areas of Guainía and Meta.[145] The Human Rights Unit is investigating 45 unlawful killings allegedly committed between 2006 and 2007 by the Efraín Rojas Acevedo Battalion (Rojas Battalion) operating under the brigade's command.

Alleged Extrajudicial Killings by the 28th Brigade Under Investigation by the Human Rights Unit

UNIT	'06	'07	'08	TOTAL
Rojas Battalion	21	20	2	**43**
Other/unidentified units in 28th Brigade	0	0	2	**2**
Total in 28th Brigade	**21**	**20**	**4**	**45**

Brigade Commanders: Human Rights Watch was unable to find information concerning the former commanders of the 28th Brigade.

[141] Soldiers also told prosecutors that the lieutenant's "superior" had given him the order to commit the false positives. Attorney General's Office, decision to issue resolution of accusation against Miguel Antonio Beltrán Chacón, case no. 3967, March 7, 2013.

[142] Ibid.

[143] Ibid.

[144] Ibid.

[145] National Army of Colombia, "Twenty-Eighth Brigade – Puerto Carreño," undated, http://www.ejercito.mil.co/?idcategoria=240198 (accessed April 27, 2015).

Rojas Battalion

Colonel Óscar Orlando Gómez Cifuentes, the commander of the Rojas Battalion in 2006 and 2007, is standing trial for false positives. A soldier who operated a radio for the Rojas Battalion has testified about at least 10 false positives in 2006 and 2007 that Gómez Cifuentes allegedly ordered and/or orchestrated, sometimes in collaboration with paramilitaries. For example, the soldier testified that one day in December 2006, he heard his lieutenant and Gómez Cifuentes discuss over a satellite phone that a corporal was bringing two "gifts" in a truck, and that Goméz Cifuentes ordered the lieutenant to report them as combat kills. Roughly an hour later, the troops executed the two unarmed men, placed weapons on them, and reported them as combat kills.[146]

8th Brigade

Attached to the 3rd division at the time of most of the alleged killings, the 8th Brigade has jurisdiction in areas of Quindío, Risaralda, Caldas, and Valle del Cauca.[147] The Human Rights Unit is investigating 56 extrajudicial killings allegedly committed between 2003 and 2008 by several of its tactical units.

Alleged Extrajudicial Killings by the 8th Brigade Under Investigation by the Human Rights Unit

UNIT	'03	'04	'05	'06	'07	'08	TOTAL
57th BCG	0	0	0	0	2	8	**10**
Ayacucho Battalion	1	0	1	3	2	3	**10**
Cisneros Battalion	0	0	0	0	7	0	**7**
Units from 8th Brigade and other brigades (only counted once)	0	0	0	0	4	0	**4**
Other tactical units/unidentified tactical units in the 8th Brigade	0	3	2	6	6	8	**25**
Total 8th Brigade	**1**	**3**	**3**	**9**	**21**	**19**	**56**

Brigade Commanders: Retired General Jairo Herazo Marzola (at least part of 2006 and 2007); General Emiro José Barrios (at least part of 2007, 2008, and 2009).

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[146] Audio recording of hearing in case against Óscar Orlando Gómez Cifuentes, case no. 7915, July 10, 2013.

[147] National Army of Colombia, "Eighth Brigade– Armenia," undated, http://www.ejercito.mil.co/?idcategoria=239208 (accessed April 23, 2015).

57th BCG

The Human Rights Unit is investigating 10 extrajudicial killings allegedly committed by the 57th BCG in 2007 and 2008. Retired Lieutenant Colonel González del Río commanded the 57th BCG in 2006 and 2007.[148] He told prosecutors that when commanding the unit, his soldiers would lure common criminals to remote locations by offering them to participate in an illicit activity, such as extortion.[149] Troops would wait for the victims at the location, shoot them when they arrived, and report them as killed in combat.[150]

The 57th BCG continued to commit false positives in 2008, after González del Río left the unit to command the Gaula Antioquia. For example, a lieutenant, corporal, and three soldiers were convicted for a February 2008 case in which a recruiter lured three young men from a nearby city to Manizales, apparently with the false offer to participate in a robbery. As the unarmed men were riding in a car to Manizales, soldiers stopped it, forced them out, executed two of them, and reported them as killed in combat. The third man escaped.[151] (See information on the brigade and battalion commanders' authorization of a payment to a supposed informant in this case in the section "Authorization of Payments and Rewards.")

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[148] González del Río told prosecutors that he commanded the 57th BCG between June 2006 and November 2007. He said the 57th BCG operated under the direct command of the 3rd Division's commander until roughly August 2007, when the unit moved to Caldas department and started operating under the direct command of the 8th Brigade's commander. All 10 of the alleged extrajudicial killings shown in the chart occurred at some point after August 2007. Audio of sworn statements provided by Robinson González del Río to the Attorney General's Office, June 2014; Video of sworn statement provided by Robinson González del Río to the Attorney General's Office in case no. 170016000030200800096, July 31, 2014.

[149] Ibid.

[150] González del Río claimed the troops would yell "halt" and open fire as soon as the victim made a motion for a weapon or any other "hostile attitude," but there is evidence that the troops actually executed the victims without them having reached for a weapon or made any other provocation. González del Río's subordinates from both the 57th BCG and Gaula Antioquia who were at the scene of the crimes have confirmed the latter version of events to the Attorney General's Office. An Attorney General's Office press release describing the killings González del Río is implicated in while leading the 57th BCG also indicates that the victims were simply executed without any provocation: "[the victims] were picked up and transported to a rural location where the soldiers, entrenched in the position of execution by firing squad, would execute them." The two false positive killings described in this section is further evidence that the unit did not wait for victims to reach for a weapon or have a "hostile attitude" before shooting them. Attorney General's Office, "Before the Commission of Investigation and Accusation the Attorney General's Office Requested an Investigation be Opened into the Superior Council Magistrate for his Alleged Illegal Counsel," October 28, 2013, http://www.fiscalia.gov.co/colombia/noticias/ante-comision-de-investigacion-y-acusacion-la-fiscalia-compulsa-copias-para-que-investigue-a-magistrado-del-consejo-superior-de-la-judicatura-por-supuesta-asesoria-ilegal/ (accessed May 20, 2015).

[151] Fifth Criminal Circuit Court, Judicial District of Manizales, case no. 17-001-31-09-005-2011-00085-00, decision of April 19, 2012.

One of the victims turned out to be the cousin of a soldier who had been in the 57th BCG since 2004, but did not participate in the operation. After his cousin's murder, the soldier told prosecutors that the majority of the battalion's reported combat kills were illegal. He said the unit usually used a recruiter and that after killing the "recruits" at "close range," troops would put weapons in the victims' hands and fire them to give the appearance of combat. According to the soldier, the problem of false positives by the unit started with González del Río's arrival as commander. He said González del Río would ask troops if they would rather spend time in the mountains, or "relaxed in their homes," presumably referring to vacation days rewarded for combat kills.[152]

9th Brigade

Attached to the 5th Division, the 9th th Brigade operates in Huila department.[153] The Human Rights Unit is investigating 119 extrajudicial killings allegedly committed between 2004 and 2008 by several units under the 9th Brigade's command.

Alleged Extrajudicial Killings by the 9th Brigade Under Investigation by the Human Rights Unit

UNIT	'04	'05	'06	'07	'08	Total
Pigoanza Battalion	0	4	11	17	13	**45**
Magdalena Battalion	0	3	7	19	18	**47**
Other tactical units/unidentified tactical units in the 9th Brigade	5	0	3	5	14	**27**
Total in 9th Brigade	**5**	**7**	**21**	**41**	**45**	**119**

Brigade Commanders: General Jaime Alfonso Lasprilla Villamizar (At least 7/10/06 - 10/23/07, 48 alleged killings); General William Fernando Pérez Laiseca (at least part of 2007).

[152] Ibid.

[153] National Army of Colombia, "Ninth Brigade – Neiva," undated, http://www.ejercito.mil.co/?idcategoria=239209 (accessed April 27, 2015).

Pigoanza Battalion

The Human Rights Unit is investigating 45 unlawful killings allegedly committed by the Pigonaza Battalion between 2005 and 2008. This includes the December 15, 2006 killing of Otoniel Oviedo in Gigante, Huila, for which prosecutors have ordered the arrest of a lieutenant and four soldiers.[154] The troops had reported Oviedo as a FARC member killed in combat; however, the prosecutor's investigation found the victim was actually a farmer and community leader.[155]

Magdalena Battalion

The Human Rights Unit is investigating 47 unlawful killings allegedly committed by the Magdalena Battalion between 2005 and 2008. This includes the August 15, 2007 killing of Albeiro Hernandez Cerón in Isnos, Huila. Another man was tricked and detained with Hernandez in the same incident, but managed to survive.[156] The man said he and Hernandez had been invited to do temporary work on a farm, but that when they were being driven to the area, soldiers stopped the car and tied them up. After soldiers shot him in the clavicle, he ran away and escaped. He said soldiers also shot him in the testicles as he fled.[157]

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[154] "Arrests Ordered of Military Members for 'False Positive,'" *La Nación,* January 6, 2014, http://www.lanacion.com.co/index.php/noticias-judicial/item/228049-ordenan-captura-de-militares-por-falso-positivo (accessed June 2, 2015); "Arrests of An Official for a False Positive in Huila," *Caracol Radio*, January 6, 2014, http://www.caracol.com.co/noticias/judiciales/medida-de-aseguramiento-contra-un-oficial-por-falso-positivo-en-huila/20140106/nota/2049266.aspx (accessed June 2, 2015).

[155] Ibid.

[156] "Witness Retells the Horror of Extrajudicial Executions in Colombia," *El Nuevo Herald*, June 14, 2009, http://www.elnuevoherald.com/noticias/mundo/america-latina/colombia-es/article1996382.html (Accessed April 27, 2014); CINEP, "Debt with Humanity 2: 23 Years of False Positives (1988-2011)," October 2011, p. 163.

[157] Ibid.

10th Brigade

Attached to the 1th Division, the 10th Brigade has jurisdiction over Cesar and Guajira departments.[158] Human Rights Unit prosecutors are investigating 146 extrajudicial killings allegedly committed by its troops between the time the brigade was created, in August 2004, and 2008.[159] At least eight tactical units are believed responsible, including the Popa Battalion and Juan José Rondón Battalion, which also operated prior to the brigade's creation.

Alleged Extrajudicial Killings by the 10th Brigade Under Investigation by the Human Rights Unit

BRIGADE	n/a	n/a	n/a	10th	10th	10th	10th	10th	10th
UNIT	'02	'03	01.04 - 08.13.04	08.14.04 - 12.31.04	'05	'06	'07	'08	Total
Popa Battalion	27	20	5	6	15	11	16	7	**107**
Juan Jose Rondón Battalion	0	7	9	5	5	25	8	1	**60**
Troops from a combination of 10th Brigade tactical units	0	0	0	0	2	5	3	0	**10**
Other tactical units/unidentified tactical units in 10th Brigade	4	0	2	1	0	22	10	0	**39**
A combination of tactical units from 10th Brigade and other brigades (counted only once here)	0	0	0	0	0	4	0	0	**4**
Total 10th Brigade[160]	**n/a**	**n/a**	**n/a**	**12**	**22**	**67**	**37**	**8**	**146**

Brigade Commanders: General Hernán Giraldo Restrepo (at least part of 2004 and 2005); Retired General Fabricio Cabrera Ortiz (at least part of 2006).

[158] National Army of Colombia, "Tenth Armored Brigade – Valledupar," undated, http://www.ejercito.mil.co/?idcategoria=239210 (accessed April 27, 2015).

[159] Office of the President of Colombia, "The 'Tenth Armored Brigade' Was Activated in Cesar and Guajira," August 13, 2004, http://historico.presidencia.gov.co/prensa_new/sne/2004/agosto/13/18132004.htm (accessed May 17, 2015).

[160] The total number of victims (146) only includes those alleged killed after the 10th Brigade's founding on August 14, 2004. Many of the brigade's tactical units existed before that date, and for 2004 we have presented the data for before and after the formation.

Popa Battalion

The Human Rights Unit is investigating 107 extrajudicial killings allegedly committed by the Popa Battalion between 2002 and 2008, including 55 cases since the 10th Brigade was created in August 2004. For example, Popa Battalion troops killed Frank Enrique Martínez and Claudino Manuel Olmedo Arlante on May 14, 2005 in the municipality of La Paz, Cesar department, and reported both as FARC members killed in combat. A 17-year-old boy with a mental disability, Martínez had gone missing several days earlier.[161] According to prosecutors, both victims lived in the city of Valledupar, did not belong to the FARC, and were not killed in combat.[162] An administrative tribunal ordered the Popa Battalion to publicly apologize for Martinez's death; however, his mother reportedly refused to accept the apology, and said "nothing will return my boy."[163]

15th Mobile Brigade

The 15th Mobile Brigade operated in Norte de Santander department under the 2nd Division between 2006 and early 2009, when it was shut down following the Soacha false positive scandal. The Human Rights Unit is investigating 38 extrajudicial killings allegedly committed between 2006 and 2008 by several of the brigade's units.

Alleged Extrajudicial Killings by the 15th Mobile Brigade Under Investigation by the Human Rights Unit

UNIT	'06	'07	'08	Total
98th BCG	0	8	5	**13**
96th BCG	1	6	0	**7**
95th BCG	5	6	0	**11**
Combination of units in 15th Mobile Brigade	0	3	0	**3**
Unidentified/ other units in 15th Mobile Brigade	0	0	4	**4**
Total 15th Mobile Brigade	**6**	**23**	**9**	**38**

Brigade Commander: Retired Colonel Santiago Herrera Fajardo (at least part of 2006 and 2007).

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[161] CINEP, "Debt with Humanity 2: 23 Years of False Positives (1988-2011)," October 2011, p. 92.

[162] Attorney General's Office, "29 military Members to Trial for Homicide of Protected Persons," September 15, 2010, http://www.fiscalia.gov.co/colombia/noticias/a-juicio-29-militares-por-homicidio-en-persona-protegida/ (accessed June 2, 2015); "My Son Was Not A Guerrilla Member," *El Tiempo*, June 3, 2005, http://www.eltiempo.com/archivo/documento/MAM-1640788 (accessed April 27, 2015).

[163] "I Don't Forgive the Army for My Son's Death," *El Heraldo*, November 21, 2011, http://www.elheraldo.co/regi-n/no-perdono-al-ej-rcito-por-la-muerte-de-mi-hijo-46751 (accessed April 27, 2015); "Army Apologized for Two 'False Positives' in Cesar," *El Pilon*, October 14, 2011, http://elpilon.com.co/inicio/ejercito-ofrecio-disculpas-por-dos-%E2%80%98falsos-positivos%E2%80%99-en-el-cesar/ (accessed April 27, 2015).

The 15th Mobile Brigade was responsible for the infamous false positive killings of young men and teenage boys who were lured away from their homes in Soacha with fake job offers and executed in Ocaña, Norte de Santander. Following the media scandal over the killings, the government dismissed Colonel Rubén Darío Castro and Colonel Santiago Herrera Fajardo, then commander and ex-commander of the 15th Mobile Brigade, respectively, as well as Lieutenant Colonel Gabriel de Jesús Rincón Amado, the brigade's head of operations.[164]

Herrera is under prosecution—and Rincón Amado has already been convicted—for the April 2007 killing of a motorcycle driver whom troops executed and reported as killed in combat. The judicial ruling convicting Rincón Amado cites the testimony of a soldier and paramilitary accusing both him and Herrera of having orchestrated false positives by the brigade.[165]

Testimony against Army Officers above the Brigade-Level

Human Rights Watch reviewed transcripts or recordings of testimony provided to prosecutors directly accusing several then-divisional commanders, the then-head of the Joint Caribbean Command, retired General González Peña, and the then-top army commander, retired General Mario Montoya, of having known of, planned, or attempted to facilitate false positive killings while holding those positions. For example:

- González del Río told prosecutors that between June 2006 and mid-2007, he commanded the 57th BCG while reporting directly to retired General Hernando Pérez Molina, then-commander of the 3rd Division.[166] He said that Pérez Molina constantly pressured him to report combat kills and participated in the planning of operations in which 57th BCG troops lured supposed common criminals to locations under false pretenses and killed them upon arriving. He described one case from February 2007 in which a supposed extortionist "was tricked" into going to Romelia, Cauca with "the goal of neutralizing him." He said his troops had always planned to kill the man and that "at the divisional command level…

[164] "Historic Purge of the Army for Disappearances," *El Espectador*, October 29, 2008, http://www.elespectador.com/noticias/judicial/articulo86671-purga-historica-el-ejercito-desapariciones (accessed April 27, 2015).

[165] Circuit Penal Tribunal Specialized in Decongestion, San José de Cúcuta, case no: 2010-0161, decision of March 10, 2014.

[166] During this period, the 57th BCG operated in Valle del Cauca and Cauca departments, according to González del Río. In a news interview, González del Río admitted responsibility for 27 false positives in those two departments. "'I Accept 27 False Positive Deaths': González del Río," *Semana*, June 9, 2014.

they were aware that the casualty would be carried out because they knew that they needed the result due to the pressure that Montoya, the commander of the army, was applying."[167] González del Río's testimony led prosecutors to open an investigation against Pérez Molina.[168] (The Human Rights Unit is investigating extrajudicial killings allegedly committed by more than a dozen tactical units attached to several brigades operating under the 3rd Division during the time Pérez Molina commanded it.[169])

- A senior army officer who commanded troops attached to the 11th Brigade, under the 7th Division, told prosecutors that the division's commander knew his and other units were committing false positives. As indication of the divisional commander's knowledge, he said that on one occasion, after reporting that his troops had killed two common criminals, the divisional commander ordered him to change the report to say the victims were guerrillas, even though he explained to the commander that they had not been insurgents.[170]
- The Joint Caribbean Command began operating in 2005 and had jurisdiction along the entire northern coast of Colombia and in the departments of Antioquia and Chocó, including over the 2nd, 4th, 10th, 11th, and 17th brigades, and elements of the Air Force and Navy.[171] Retired General González Peña commanded the Joint Caribbean Command between early 2006 and November 2008, when he was named top commander of the army.[172] During the period, troops from brigades under the jurisdiction of the Joint Caribbean Command are accused of committing

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[167] Video of sworn statement provided by Robinson González del Río to the Attorney General's Office in case no. 170016000030200800096, July 31, 2014; Audios of sworn statements provided by Robinson González del Río to the Attorney General's Office, June 2014.

[168] "The Attorney General's Office Requests the Investigation of 11 Generals for Supposed False Positives and Corruption," *El Colombiano*, September 4, 2014, http://www.elcolombiano.com/fiscalia_pide_investigar_a_11_generales_por_falsos_positivos-LGEC_309615 (accessed May 18, 2015).

[169] Based on credible news and army reports, Human Rights Watch determined that Pérez Molina commanded the 3rd Division at least between April 2006 and August 2007. "General fired as officers linked to cocaine cartel," *Chicago Tribune*, August 12, 2007, http://articles.chicagotribune.com/2007-08-12/news/0708110270_1_cocaine-cartel-colombia-gen-hernando-perez-molina (accessed May 18, 2015); National Army of Colombia, Third Division, "Pressure by Army Troops Allowed for Voluntary Surrender of FARC Leader," April 19, 2006, http://www.terceradivision.mil.co/?idcategoria=89510 (accessed May 18, 2015).

[170] Attorney General's Office, statement by senior army officer (name and date withheld).

[171] "Colombians Create New Caribbean Joint Command for Inter-Service Cooperation," WikiLeaks, December 2, 2004, https://cablegatesearch.wikileaks.org/cable.php?id=04BOGOTA12360 (accessed April 23, 2015); National Army of Colombia, "Successful Record for Joint Command No. 1 Caribe," undated, http://www.ejercito.mil.co/?idcategoria=82413 (accessed June 2, 2015); Human Rights Watch telephone interview with prosecutor, June 2015.

[172] National Army of Colombia, First Division, "New Commander of the Joint Command No. 1 'Caribe,'" March 4, 2006, http://www.primeradivision.mil.co/?idcategoria=94377 (accessed June 2, 2015).

hundreds of extrajudicial killings. Lieutenant Colonel González del Río gave testimony to prosecutors indicating that when he commanded the Gaula Antioquia (4th Brigade), González Peña, then-commander of the Joint Caribbean Command, suggested he work with organized crime groups to commit false positives.[173] (See more on González Peña in the section "4th Brigade."[174])

- A high-ranking army officer who has accepted responsibility for false positives told prosecutors that retired General Mario Montoya knew of the executions when he was the army's top commander. (Montoya led the army between February 2006 and November 2008). He blamed the killings on Montoya's "policy" of demanding combat kills instead of arrests.[175] González del Río similarly told prosecutors that when the army's top commander, Montoya pressured subordinate commanders to increase body counts, punished them for failing to do so, and was the principal "motivator" for false positives.[176]

  These are not new allegations against Montoya, who is under investigation by the Attorney General's Office for his potential responsibility for false positives when head of the army.[177] In 2009, the army's inspector-general, who was investigating false positives at the time, told the US Embassy in Bogotá that Montoya's constant pressure for combat kills was a main factor behind the executions, according to an embassy cable released by Wikileaks. The cable also reported that the inspector-general claimed Montoya "initiated the practice" of false positives when he

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[173] González del Río said: "In a conversation I had with General González, he told me… 'you have to work here, *guevon*, take down some names so that you contact some people to work with.'… I told him, 'General… working with people who aren't in the military, that's not something I'm willing to do.' He said, 'But here you have to show results.'… Due to this they tried to contact me… for example they called me many times on my cell phone… [and told me] 'We need to talk with you major so that you can work with us. We run a big part of the city, and we worked with the major who worked before [you].'" González said he invited the individuals to his office but never met with them, and that "I told my captain… 'Let's not work…doing favors for drug traffickers. That they get some guys and you end up killing them and we report them as dead… So we never were willing to do it, there was always a distancing between us and General González. He was very annoyed about it and my General Montoya also." Audio of sworn statement provided by Robinson González del Río to the Attorney General's Office, June 2014.

[174] In 2009, the army's inspector-general told the US Embassy in Bogotá that González Peña was among the officers who had been "involved in" or "tacitly condoned" false positives, according to a cable released by Wikileaks. The US ambassador reported that as the army's top commander, González Peña was making an "obvious effort to frustrate the [army inspector-general's] investigations into 'false positives.'" "Army IG Ordered to Stop 'False Positive' Investigations, Recommendations Dismissed," Wikileaks, June 25, 2009; "MOD Overrules Army Commander's Transfer of Key Human Rights Official," Wikileaks, November 17, 2009.

[175] Attorney General's Office, statement by senior army officer (name and date withheld).

[176] Audios of sworn statements provided by Robinson González del Río to the Attorney General's Office, June 2014.

[177] Human Rights Watch interview with prosecutors, February 2015.

commanded the 4th Brigade in 2002 and 2003, and was among the army officers who were "involved in" or "tacitly condoned" false positive cases.[178] The Human Rights Unit is investigating 806, 1161, and 559 alleged extrajudicial killings by state agents in 2006, 2007 and 2008, respectively, the three years he commanded the army. These are by far the three highest annual totals of any year since 1985, the first year for which there is available data.[179] (See more on Montoya in the sections "Common Motives: Pressure to Boost Body Counts and Rewards" and "Routine Killings Across a Seven-Year Span.[180])

[178] "Army IG ordered to Stop 'False Positive' Investigations, Recommendations Dismissed," Wikileaks, June 25, 2009.
[179] Email from Attorney General's Office official to Human Rights Watch, May 15, 2015.
[180] The Human Rights Unit is investigating 44 alleged extrajudicial killings by 4th Brigade troops during the period Montoya commanded the brigade between December 2001 and December 2003.

III. Obstacles to Accountability

Prosecutors handling false positive cases confront serious obstacles:

- When prosecutors request files from army battalions and brigades, military personnel routinely fail to provide them in a timely manner.
- Soldiers who testify against their superiors often face threats and attacks, as well as stigmatization by senior army officers.
- Soldiers who refrain from speaking out, if the experience of retired Lieutenant Colonel González del Río in the months following his arrest is any indication, have reason to believe they might receive privileges and support from army officers.
- Many cases of false positives are still in the military justice system, even though Colombian and international law provides that civilian judicial authorities should handle cases of human rights violations.
- Defense lawyers often employ delay tactics to draw out proceedings.
- Furthermore, there are problems within the Attorney General's Office, including what some prosecutors describe as overwhelming caseloads, and a lack of the type of contextualized and systematic investigations that would lead to the identification of high-ranking perpetrators.

These obstacles are addressed in separate sections below.

Military Authorities' Lack of Cooperation with Investigations

Prosecutors handling false positive cases say army personnel often place obstacles in the way of obtaining files crucial to their investigations, such as "orders of operations" and files certifying payments to informants.[181] They say that when they send investigators to brigades and battalions to retrieve potential evidence, they are sometimes told that the official in charge of the files is not present, even though they gave advanced warning of their visit; on other occasions, military personnel make the investigators wait for hours before reviewing the information. Prosecutors also say military authorities sometimes unreasonably assert that information is confidential or

[181] Human Rights Watch interviews with prosecutors, December 2014 and February 2015.

take months to respond to basic information requests. "It's a way of slowing down" investigations, one prosecutor said.[182]

In an official communication sent in June 2014, a prosecutor investigating false positives brought the problem to the attention of the head of the army's human rights office. The complaint gives a good overview of the concerns, noting that, "in general," military personnel:

> Do not allow access to the required documents and restrict the access to the intelligence files, which means that the judicial inspection cannot be carried out, given that they claim the information is confidential. In other cases the person who's supposed to attend the proceeding is not there…[or] [t]hey provide the information, but the detective has to sign a confidentiality agreement…[183]

Reprisals against Key Witnesses

Army personnel who testify against superiors often suffer reprisals, which range from attacks and death threats against them and their families, to harassment and stigmatization by senior army officers. The abuses send a message to other potential witnesses that they may be punished if they come forward.

Killing of Nixón de Jesús Cárcamo

On October 27, 2014, Nixón de Jesús Cárcamo was found dead in a military detention center in the army's 11th Brigade in Montería, Córdoba, where he was being held on false positive charges. The autopsy found his death had been a "homicide by asphyxiation."[184] Cárcamo had been providing testimony to prosecutors about army officers' and soldiers' alleged role in several false positive killings that he had participated in when he belonged to the 11th Brigade.[185] Eleven days prior to his murder, he told prosecutors he feared for his life: "In the detention center there are rumors that my life is in danger because I'm cooperating with the

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[182] Human Rights Watch interview with prosecutor, December 2014.

[183] Official communication from Human Rights Unit prosecutor to the head of the army's Office of International Humanitarian Law and Human Rights, June 6, 2014.

[184] Human Rights Watch interview with prosecutor, December 2014.

[185] Official communication from regional Human Rights Unit prosecutor to the Bogotá office of the Human Rights Unit, October 31, 2014.

justice system…. [I]'m very afraid. I want to say for the record that… if anything happens to me I declare responsible the people who I'm accusing in these cases."[186]

According to prosecutors, of the four soldiers who accepted responsibility for a false positive killing in 2007, Cárcamo was "the one who always gave more details about the conduct of the lieutenants, captains, and commanders" of the battalion.[187]

Prosecutors said they were very concerned about the chilling effect Cárcamo's murder could have on other soldiers considering testifying about their superiors.[188] Several army members cooperating in investigations against senior officers from other regions told Human Rights Watch that the murder scared them.[189]

Threats and Harassment against Carlos Eduardo Mora

When stationed in the 15th Mobile Brigade in 2007, Sergeant Carlos Eduardo Mora witnessed army officers collaborating closely with paramilitaries to commit false positives. Mora refused to participate in the crimes and attempted to report them, but his superiors threatened him to keep quiet. In 2008, Mora started providing prosecutors with testimony about the false positive cases. His evidence has already helped prosecutors win convictions of a lieutenant colonel and multiple other officers and soldiers, and he continues to be a witness in other ongoing cases, including against a former commander of the 15th Mobile Brigade.[190]

Mora says that on August 30, 2013, in an apparent effort to discredit him, army officials tried to check him into a psychiatric clinic against his will. In October 2013, the Inter-American Commission on Human Rights granted Mora and his family precautionary measures, noting that they were in danger and that the reported threats and intimidation against him appeared to be "retaliation" for his role as a witness.[191]

Following the precautionary measures, the Colombian authorities provided Mora bodyguards. Mora says, however, that army generals subsequently harassed and

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[186] Attorney General's Office, statement by Nixón de Jesús Cárcamo, October 16, 2014.

[187] Official communication from regional Human Rights Unit prosecutor to Bogotá office of the Human Rights Unit, October 31, 2014.

[188] Human Rights Watch interviews with prosecutors, December 2014.

[189] Human Rights Watch interviews with army personnel testifying in false positive cases, December 2014.

[190] Human Rights Watch interview with Carlos Eduardo Mora, Bogotá, September 23, 2013; Precautionary Measure No. 186-13, "Carlos Eduardo Mora and family regarding Colombia," Inter-American Commission on Human Rights, October 3, 2013, https://www.oas.org/en/iachr/decisions/pdf/Resolution3-13%28MC-186-13%29.pdf (accessed April 23, 2015).

[191] Ibid.

intimidated him. He says that on March 14, 2014, four days after a court convicted a lieutenant colonel he was testifying against, an army general made statements in front of him and many fellow soldiers strongly insinuating that he was a "traitor."[192] According to Mora, during the weekly meeting at the counter-intelligence office where he worked, the general said the "army has been the target of a media smear campaign" and that the "people who speak badly of the institution are traitors, are Judases, I imagine that no one wants to be a Judas." He then walked over to Mora, put a hand on his shoulder, and said, "Isn't that right, Corporal Mora?"[193]

On March 19, 2014, Human Rights Watch sent a letter to President Santos requesting that the army relocate Mora and his family outside of Colombia to guarantee his safety.[194] Mora said the communication was forwarded to the army's high command, and that shortly after, a general who heads the army's human rights office called him to a meeting and told him that he had lost his "soldier's spirit" and should think about the soldiers who are detained for false positives and their families. Mora said the general added that the army was not going to acknowledge false positives and would have to find a way to "defend itself" from his statements.[195]

The pressure on Mora is having an effect.[196] He says that when other soldiers or officers confide to him that they too have information about army crimes, he warns them of the enormous price he has paid for speaking out.[197]

The Rape of a Key Witness's Wife

There is compelling evidence that in 2013, unidentified men raped Julia (pseudonym), a soldier's wife, in retaliation for the soldier's testimony against an army colonel.[198] The soldier, who has also received death threats, is a key witness in false positive cases

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[192] Inspector-General's Office, complaint filed by Carlos Eduardo Mora, March 18, 2014.

[193] Ibid.

[194] Letter from José Miguel Vivanco, Executive Director of the Americas Division of Human Rights Watch, to Juan Manuel Santos, President of the Republic of Colombia, March 19, 2014.

[195] Official communication from Carlos Eduardo Mora to Emilio Alvarez Icaza, Executive Secretary of the Inter-American Commission on Human Rights, May 15, 2014.

[196] Ibid.

[197] Human Rights Watch interview with Carlos Eduardo Mora, Bogotá, December 14, 2014.

[198] Human Rights Watch interview with Julia (pseudonym), February 2015; Human Rights Watch interview with lawyer representing soldier, December 2014; Attorney General's Office, complaint filed by Julia (pseudonym), 2013 (exact date withheld).

against the colonel and other officers and soldiers.[199] Julia said that roughly a week before being raped, she had met with the colonel in the military detention center where he was detained and refused to accept a bribe he offered to have her husband retract his testimony. When the meeting ended, he said, "tell your husband hello and thank you for being a disloyal snitch." Julia said that during the rape, the assailants referred to her as the wife of the "snitch."[200]

Other Attacks against Witnesses

On August 12, 2012 in Soacha, at least one unidentified gunman shot dead Jhon Fredy Garces, a witness who had been providing testimony to prosecutors about a false positive case by a military unit for which he served as a civilian guide.[201] The case was about to go to trial and, about two weeks prior to the killing, Garces had called a prosecutor to tell him that military personnel had visited him.[202] Based on available evidence, Human Rights Watch could not determine the motive for the killing, but the circumstances warrant investigation into whether the killing of Garces was tied to his role as a witness.[203]

Support for Lieutenant Colonel González del Río

The abuses endured by the witnesses described above contrast sharply with the treatment army officials afforded retired Lieutenant Colonel González del Río during the months immediately following his arrest for false positives, during which time he refrained from speaking out about the alleged involvement of superiors.

In February 2014, *Semana* magazine published dozens of legally-ordered audio recordings of González del Río's cell phone conversations made by the Attorney General's Office between

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[199] Human Rights Watch interview with prosecutor, February 2015.

[200] Human Rights Watch interview with Julia (pseudonym), February 2015.

[201] Garces said that after the operation, he informed the battalion commander about the executions. Attorney General's Office, statement by Jhon Fredy Garces, September 16, 2011; National Institute of Legal Medicine and Forensic Sciences, Basic Unit of Soacha, autopsy protocol No. 230 of 2012, October 25, 2012.

[202] Human Rights Watch interview with prosecutor, December 2014.

[203] Human Rights Watch also documented the cases of three army members providing testimony in false positive cases who reported receiving information that money was being offered for their killings. Prosecutors described several other examples of soldiers, recruiters, and their family members who have received death threats for testifying in false positive cases. Human Rights Watch interview with two witnesses, December 2014; Attorney General's Office, statement by soldier, February 2013 (name, exact date, and case number withheld); Human Rights Watch interviews with prosecutors, December 2014.

October 2012—shortly after he was arrested—and April 2013.[204] As *Semana* reported, the dozens of recordings—and others the magazine reviewed but did not publish—indicate that González del Río spent much of his time outside of the military detention center running errands and dealing with other personal matters; had active soldiers at his and his family's disposal on a full time basis; and spoke frequently with army colonels and generals, who appear to have provided him gifts, official army funds, and the use of military cars and lodging, among other favors. Furthermore, in conversations with an apparent business associate, González del Río claimed to be receiving support from senior army officers in obtaining lucrative military contracts.[205] (González del Río immediately denied many aspects of the *Semana* report, claiming that he had never spoken with the generals mentioned in the report and that none of the contracts mentioned in the audios ever came to fruition.[206])

Two days after the *Semana* report, the Defense Minister announced that five generals would be removed from active duty, including the then-head of the armed forces, General Leonardo Barrero, who confirmed the authenticity of a recorded phone call in which he told González del Río to "create a mafia" to discredit prosecutors.[207]

Human Rights Watch has reviewed the recordings *Semana* publicized but has also obtained copies of and reviewed thousands of other legally-ordered recordings of González del Río's cell phone conversations made by the Attorney General's Office between October 2012 and April 2013, which have not yet been made public. The conversations contain many other examples of apparent support for González del Río from colonels and generals, some of whom were not included in the *Semana* report.

Even if there are innocent explanations for González del Río's privileged treatment, rank-and-file soldiers can be expected to interpret it as a message that it pays to keep silent.

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[204] "Exclusive: The Business Dealings in the Army," *Semana,* February 16, 2014, http://www.semana.com/nacion/articulo/red-de-corrupcion-entre-los-militares/377311-3 (accessed April 23, 2015).

[205] Ibid.

[206] "Colonel González del Río says 'Contracts Were Never Assigned,'" *El Tiempo*, February 17, 2014, http://www.eltiempo.com/archivo/documento/CMS-13513735 (accessed April 23, 2015).

[207] National Navy of Colombia, "Defense Ministry's Statement," February 18, 2014, https://www.armada.mil.co/eng/node/13516 (accessed April 23, 2015); "The Concerns Sowed by the Minister of Defense," *Semana,* February 18, 2014, http://www.semana.com/nacion/articulo/las-respuestas-que-quedo-debiendo-en-inistro-de-defensa/377667-3 (accessed April 23, 2015).

The following are some examples of the apparent privileges and support that González del Río enjoyed before the recordings were published, and he began denouncing superiors' alleged role in false positives.

Military Contracts and Other Army Funds

Semana published a phone conversation in which González del Río and an apparent business associate named "Eduardo" discuss the apparent support General Fabricio Cabrera Ortiz[208] has offered in obtaining contracts from the army's Aerial Assault Division. The recording indicates that they expected to receive at least part of a 3,000 million pesos (US$1.2 million) contract, but that another general, referred to as "General Mejía," ordered the contract to be assigned to a different army official also detained in a military detention center.[209]

In a January 8, 2013 recording, González del Río told another apparent business associate that during his two weeks outside the detention center over the holidays, he met with Cabrera Ortiz to discuss possibly supplying equipment to the army's Aerial Assault Division: "I told him about some material that we're going to bring to Aerial Assault… that our equipment … is more buoyant and lighter... he told me to show [him] the equipment so that he could bring it into the Aerial Assault Division…. He told me 'Whatever you need I'll help you out.'"[210]

On November 14, 2012, González del Río received a call from a man who appears to be an army officer at a training school at the army's Tolemaida base. González del Río told the man he should have received 2 million pesos (US$1,000) in travel allowances, and the man responded by saying that he would immediately send him the money.[211]

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[208] Retired General Fabricio Cabrera commanded the 10th brigade for at least part of 2006. Prosecutors are investigating at least 60 alleged extrajudicial killings by 10th Brigade troops that year. Cabrera was removed from active service following *Semana*'s release of the audio tapes.

[209] "The Contract for 14.000 million pesos," *Semana,* February 15, 2014, http://www.semana.com/nacion/articulo/corrupcion-en-el-ejercito-contrato-de-14000-millones/377316-3 (accessed April 23, 2015).

[210] Attorney General's Office, audio recording of Robinson González del Río's phone conversation on January 8, 2013.

[211] Attorney General's Office, audio recording of Robinson González del Río's phone conversation on November 14, 2012.

Cars and Lodging for González del Río's Defense, and Other Gifts

The conversations indicate that when González del Río, his lawyers, and private investigators travelled to Manizales for court hearings and other activities related to his defense, the commander of the local army battalion—acting with the apparent authorization of his brigade commander—agreed to provide them with lodging, an army vehicle, and drivers.

For example, in a January 15, 2013 phone call with Colonel Juan Carlos Galán Galán, then-commander of the Ayacucho Battalion, González del Río told him that two of his investigators would be spending a week in the area, and asked if they could stay in the battalion's non-commissioned officers' club and use a battalion vehicle.[212] Galán agreed and said "at your orders here." A week later, González del Río had a phone call with Colonel Marcos Evangelista Pinto, then-commander of the 8th Brigade, to which the Ayacucho Battalion is attached. González del Río told the brigade commander that he had a court hearing scheduled in Manizales in which he would request the transfer of his case to military jurisdiction. Pinto told González del Río that he would tell Galán to lend him a car and escort him.[213]

On November 19, 2012, González del Río told a man he addressed as "general" that he's "very grateful for the little gift that arrived at my house today." The general responded: "No brother, please forgive me. It was late in the coming but it's on behalf of all the directors who got together for a little gift, brother." He then told González del Río "what's most important is that you get out of there," apparently referring to his detention. *Semana* identified the interlocutor as General Fernando Pineda.[214]

The Military Justice System

Prosecutors investigating false positives in different regions said that scores, if not hundreds, of such cases remain in the military justice system, despite repeated rulings of Colombia's Constitutional Court and the Inter-American Court of Human Rights that all alleged human rights violations should be investigated and prosecuted by civilian justice authorities.[215]

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[212] Attorney General's Office, audio recording of Robinson González del Río's phone conversation on January 15, 2013.

[213] Attorney General's Office, audio recording of Robinson González del Río's phone conversation on January 22, 2013.

[214] "General, Grateful for the Little Gift that Arrived at my House Today," *Semana*, http://www.semana.com/nacion/multimedia/corrupcion-en-el-ejercito-general-fernando-pineda-coronel-robinson-gonzalez/377385-3 (accessed April 23, 2015).

[215] Human Rights Watch interviews with prosecutors, December 2014 and February 2015; see, for example, Colombian Constitutional Court, Sentence C-358/97; and Inter-American Court of Human Rights, *Vélez Restrepo and Family v. Colombia*, Judgment of September 3, 2012, Inter-Am.Ct.H.R., Series C. No. 248, paras. 240-244.

For example, one prosecutor said he is preparing to request jurisdiction over 30 cases that he believes involve false positive killings that have been shelved in the military justice system since 2004. Another prosecutor said that soldiers who have accepted responsibility for false positives have told her about at least 15 other cases they participated in that are currently in the military justice system. This same prosecutor estimates that in general, the majority of false positive cases are shelved in the military justice system. A justice official with extensive knowledge of false positive investigations across Colombia similarly believes there may be thousands of cases in the military justice system.[216]

There are several reasons why military jurisdiction in such cases poses a major obstacle to justice. These include the military justice system's record of impunity in human rights cases, its failure to take basic steps to investigate false positives when most cases were under its jurisdiction, and recordings of González del Río's phone conversations with a military judge and a man who appears to be a colonel linked to a high-level office in the military justice system, both of whom offer to help González del Río, further highlighting the system's lack of independence and credibility.

The following sub-sections discuss these problems. All of them also made it particularly alarming that between 2011 and 2015, the Colombian government sought to approve legislation to expand military jurisdiction, which would have led false positive cases to be transferred from civilian prosecutors back to military courts.[217] To its credit, in April 2015, the government removed the most problematic language from its most recent proposed

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[216] Human Rights Watch interview with prosecutor, December 2014.

[217] Defense Minister Juan Carlos Pinzón was the principal promoter of these legislative proposals. He has also made public statements calling into question the decisions—and convictions obtained—by prosecutors in false positive cases. For example, in September 2014, after the media reported that prosecutors had requested that investigations be opened into nine army generals for their possible role in false positives based on González del Río's testimony, Pinzón said "excessive attention" was being given to the testimony. Pinzón has also insinuated that a pro-guerrilla political agenda has motivated allegations of senior-level involvement in the crimes. During a November 2014 Congressional debate about false positives, a congressman who is a renowned human rights lawyer presented extensive information about the killings and alleged that senior army officers were responsible. Defense Minister Pinzón responded by denouncing what he called "an ideological agenda with political aims that seeks to disgrace the armed forces and probably seeks to achieve through lies, slander, and falsity what they were not able to achieve through the terrorist attacks, the violence, and the crimes against the Colombian people… And now, by discrediting, lying, [and] in coordinated agendas they simply seek to convert every action by our armed forces into what is called a false positive…." In May 2015, Pinzón was named Colombia's Ambassador to the United States, and is expected to leave the Defense Ministry by the end of June. "There's an Excess of Attention to What a Criminal Says: Defense Minister," *Caracol Radio*, September 4, 2014, http://www.caracol.com.co/noticias/actualidad/hay-un-exceso-de-atencion-a-lo-que-dice-un-delincuente-mindefensa/20140904/nota/2399155.aspx (accessed April 23, 2015); "Fierce Defense of the Armed Forces by Minister of Defense Juan Carlos Pinzón," November 12, 2014, video clip, YouTube, https://www.youtube.com/watch?v=UQpiIGl_464 (accessed April 27, 2015).

constitutional amendment that had threatened to broaden military jurisdiction and cause such a transfer.[218]

Past Failure to Investigate False Positives

Reported as combat kills, false positive were generally first investigated by military judges. Only around 2008 did the military justice system start to massively transfer the cases to civilian prosecutors. The track record of the military justice system in those early years gives an important reason to ensure that the cases are moved to civilian jurisdiction.

Prosecutors currently handling false positive investigations from different regions said that case files now in their hands show that military judges failed to take basic steps to investigate the crimes when they were under military court jurisdiction.[219] They said the general pattern is that military judges interviewed soldiers who participated in the fake combat and then closed the case, often despite clear irregularities in the killings. These irregularities include the fact that weapons allegedly held by victims did not work, forensic evidence showing victims had been shot at point blank range, and contradictions in the soldiers' testimony. When military judges did happen to take the testimony of the victims' family members, they typically dismissed it as not credible.[220]

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[218] In April 2015, the government introduced significant changes to proposed constitutional amendment number 167/14 (House of Representatives) - 022/14 (Senate). The changes eliminated language that would have lead false positive cases to be transferred to military courts. There are currently several other bills under consideration by Congress that have also threatened to expand military jurisdiction over false positives, including bills number 210/14 (House of Representatives) - 085/2013 (Senate) and 129 (House of Representatives). In April, members of Congress proposed changes to the former bill that appear to address some of its most troubling aspects, and the latter bill, which would distort basic international humanitarian law principles, has not yet been subject to Congressional debate. For analysis of these and other previous bills the government promoted to expand military jurisdiction—including a constitutional amendment that was approved in December 2012, but struck down on procedural grounds by the Constitutional Court in October 2013—see: Letter from Human Rights Watch to President Juan Manuel Santos, December 12, 2011, http://www.hrw.org/news/2011/12/12/colombia-shelve-proposed-expansion-military-jurisdiction; Letter from Human Rights Watch to President Juan Manuel Santos, October 25, 2012, http://www.hrw.org/news/2012/10/25/colombia-letter-president-santos-criticizing-expansion-military-jurisdiction; Letter from Human Rights Watch to Catherine Ashton, High Representative of the European Union for Foreign Affairs and Security Policy, September 27, 2013; Letter from Human Rights Watch to Defense Minister Juan Carlos Pinzón, July 8, 2014, http://www.hrw.org/news/2014/07/08/colombia-withdraw-military-jurisdiction-expansion-bill; José Miguel Vivanco and Max Schoening, "Colombia's Compromise with Murder," *New York Times,* http://www.nytimes.com/2014/11/13/opinion/colombias-compromise-with-murder.html?_r=0 (accessed June 10, 2015).

[219] Human Rights Watch interviews with prosecutors, December 2014 and February 2015.

[220] Ibid.

A prosecutor handling over 50 false positives said that "despite the technical evidence showing a close-range shot, or that the weapon didn't work, [military judges] would shelve [the case]…. They systematically closed cases without investigating anything."[221]

One serious investigative failure highlighted by civilian prosecutors is that the military judges did not take steps to verify the identities of the victims, whom troops often stripped of their IDs to ensure impunity for the crimes. (Unidentified victims could be more easily passed off as guerrillas.) A prosecutor pointed out that while military judges failed to identify victims during the many years they had jurisdiction over the cases—up to seven years in some cases—the civilian prosecutor's office was able to establish their identities within several weeks. In one case involving the false positive killing by solders of two men in 2004, the prosecutor's office noted that the military judge shelved the investigation in less than five months "without having made the slightest effort to verify the identities of the dead."[222]

In some cases, the prosecutor's office has even requested that investigations be opened against military judges for negligence in pursuing false positive investigations.[223]

Military Judges' Alleged Role in Covering-Up False Positives

There is also compelling evidence that some military judges have actively helped troops cover-up false positive crimes.

One prosecutor said she knows of two military judges who gave instructions to soldiers on how to manipulate a false positive crime scene to make it appear like a battlefield killing.[224]

A retired non-commissioned officer told prosecutors that when his unit in Antioquia committed false positives, a military judge would go to the scene of the supposed combat and advise soldiers on what to tell Attorney General's Office investigators.[225] He also told

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[221] Human Rights Watch interview with prosecutor, February 2015.

[222] Attorney General's Office, decision to issue resolution of accusation against Jose Eyner Arango Bernal et al., case no. 8545, October 15, 2013.

[223] For example, a prosecutor requested that a military judge be investigated because in her decision to stop investigating a case involving four alleged killings, the judge had claimed the victims were killed in a long distance shootout, despite the fact that gunpowder "tattoos" on three of the four victims' gunshot wounds "was an unequivocal sign" that they actually had been shot at close range. Attorney General's Office document, case no. 8538, February 12, 2014.

[224] Human Rights Watch interview with prosecutor, December 2014.

[225] Attorney General's Office, statement by retired non-commissioned officer, (name, case number, and date withheld).

them that whenever he had to provide testimony to the military justice system, the judge would guide him on what to say to cover-up the crimes.

An army sergeant from the Pedro Nel Ospina Battalion told prosecutors about a false positive incident he witnessed in which a military judge showed up at the scene of the crime immediately after the troops reported four fake combat killings to their commander. After the judge arrived, one of the wounded victims previously believed dead regained consciousness and yelled that he was alive. According to the witness, the troops then executed him, and the judge said "I haven't seen or heard anything."[226]

Expectations of Impunity

In October 2013, the Colombian press released transcriptions of González del Río's cell phone conversations showing that after he was arrested for false positives, he repeatedly communicated with Henry Villarraga, a magistrate from the Supreme Judicial Council, which resolves jurisdictional disputes between the military and civilian justice systems.[227] The recordings indicate that when González del Río was detained, the two met in person and spoke over the phone about moving the case to the military justice system, where, as noted in a 2014 State Department report, González del Río "believed leniency was possible."[228]

Our review of thousands of other legally-ordered and hereto unpublished recordings of González del Río also show that he made a significant effort to get his and his subordinates' false positive cases moved to military courts, where he believed impunity would be guaranteed.[229]

An April 2013 call with General Jorge Enrique Navarrete indicates that the general also believed transferring the case to the military justice system would ensure greater leniency.

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[226] "The Judge that Saw a False Positive and Didn't Do Anything," *Semana*, June 8, 2015, http://www.semana.com/nacion/articulo/luz-marina-polanco-la-juez-que-conocio-un-falso-positivo-no-hizo-nada/430642-3 (accessed June 10, 2015).

[227] "The Recordings that Make Magistrate Villarraga Uncomfortable," *El Espectador*, October 27, 2013, http://www.elespectador.com/noticias/judicial/grabaciones-incomodan-al-magistrado-villarraga-articulo-454953 (accessed April 27, 2015).

[228] United States State Department, "Memorandum of Justification Concerning Human Rights Conditions with Respect to Assistance for the Colombian Armed Forces," September 2014, p. 9.

[229] For example, Attorney General's Office, audio recording of Robinson González del Río's phone conversation on March 7, 2013.

Apparently believing the Supreme Judicial Council would imminently resolve the transfer request in his favor, González del Río called Navarrete and told him, "we were able to request a change of jurisdiction and get a favorable decision, and they returned the cases to the military justice system." Navarrete excitedly responded: "How awesome, man! I'm happy, man …. I'm glad, brother, that you've solved your problem." González del Río told Navarrete that he would be released from detention in a week.[230] (See more on Navarrete in the section "Authorization of Payments and Rewards.")

Lack of Credibility and Independence

Audio recordings of González del Río's conversations indicate that after he was arrested, he communicated with a senior official in the military justice system and with military judges, who offered to help him with various cases pending against him.

One recording strongly suggests that a colonel apparently linked to the office of the "army coordinator" of the military justice system, which directly advises the system's executive director, called González del Río and discussed joint efforts to move his case from civilian to military courts.[231] González del Río received the call on December 26, 2012 from the number (1) 283-2861, according to the official call log for the recordings. Army documents list this number as the line for the "coordinator" in the military justice system.[232] Human Rights Watch called the number and confirmed it is the line for the office of "army coordination" of the military justice system. (Retired Colonel Edgar Emilio Ávila Doria, whose arrest was ordered in 2015 for false positives, served as the "army coordinator" of

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[230] Attorney General's Office, audio recording of Robinson González del Río's phone conversation on April 4, 2013. In the phone conversation, General Navarrete also appears to agree to buy tickets for a raffle that González del Río said he was organizing with other troops from the 57th BCG, who were also presumably detained for false positives.

[231] The "army coordinator" appears directly under the executive director of the military justice system on its organizational chart. It functions as an "adviso[r] to the Director for making decisions" and serves as a liaison between the office of the executive director and army command. Military Justice System of Colombia, "Organization Chart and Structure of the Military Justice System," undated, http://www.justiciamilitar.gov.co/irj/portal/JPM?NavigationTarget=navurl://72d430af1d227d76e5f895fcfe6f6063 (accessed April 27, 2015); Military Justice System of Colombia, "Noti Justicia Militar – To Advance with Justice, Autonomy, and Independence," August 2010, Edition No. 30, http://www.justiciamilitar.gov.co/irj/go/km/docs/documents/Portales/JPM/Servicios/Publicaciones/Publicaciones%202012/Notijusticia/Notijusticia%2030.pdf (accessed April 27, 2015), p. 8.

[232] National Army, "Protocol," 2008, http://intranet2.agencialogistica.gov.co/www/resources/hcc_protocolo%20ejercito%20a%F10%202008.doc (accessed April 27, 2015), p. 27; National Army, "Protocol," 2010, http://www.basen.mil.co/recursos_user/PROTOCOLO%20EJC%20%202010%20%20MARZO.doc (accessed April 27, 2015), p. 30.

the military justice system between 2008 and 2010.[233] See more on him in the sub-section "Pedro Nel Ospina Battalion.")

In the December 26, 2012 call, the colonel expressed hope that González del Río would soon be released, and recommended that he contact the assistant to Henry Villarraga, who was a magistrate on the Supreme Judicial Council, which resolves jurisdictional disputes. The following are some excerpts from the conversation:

> **González del Río:** Colonel, how have you been?
>
> **Colonel:** How have you been brother, Merry Christmas!...
>
> **González del Río**: …Colonel, I'm really grateful for your support.
>
> **Colonel:** No, *marica*, it's nothing, dude…. I know it's nothing in comparison to what you need…
>
> **González del Río:** …I need to speak with you in person…. This week, or whenever you tell me, I'm looking to speak personally so the [military] judges can be told to request the jurisdictional change…
>
> **Colonel:** Yes.
>
> **González del Río:** Ok Colonel, I'm very grateful to you, really…
>
> **Colonel:** Shit, hopefully you get out of there fast, *marica*…
>
> **González del Río:** Colonel, I have a lot of faith in the challenge to [civilian] jurisdiction… the [Supreme Judicial Council] magistrates already told me ok…
>
> **Colonel:** …And [Supreme Judicial Council magistrate] Villarraga… Did you already contact his assistant judge?
>
> **González del Río:** No.
>
> **Colonel:** He's the one who does all his work; he's a lieutenant, one of us… When we speak in person I'll tell you everything. And I'll call the lieutenant and let you know everything…[234]

González del Río subsequently had a series of calls with a cell phone number in which the interlocutor appears to be the same colonel linked to the office of the army coordinator. As in

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[233] Military Justice System of Colombia, "Noti Justicia Militar – To Advance with Justice, Autonomy, and Independence," August 2010, Edition No. 30, p. 8.

[234] Attorney General's Office, audio recording of Robinson González del Río's phone conversation on December 26, 2012.

the first call, the man was addressed by González del Río as "colonel," had a very similar voice, and offered advice and support for matters related to the military justice system.[235]

González del Río also had several phone conversations with a military judge from the 52nd Military Tribunal in Palmira, Valle del Cauca. According to González del Río's testimony to prosecutors, this military tribunal is handling several shelved investigations into cases of reported combat killings by the 57th BCG when he commanded it.[236] The judge had a casual, chummy attitude towards González del Río, and offered to help him. On November 2, 2012, for example, the judge called González del Río, identified himself as the 52nd Judge, discussed a fax he sent to a colonel—apparently in order to help González del Río secure temporary permission to leave the detention center—and ended the conversation saying: "Anything, brother, take down my number…just in case something comes up, brother, call me because you know I'm available 24 [hours a day]… [Sending you] a hug, brother, take care of yourself."[237]

Delay Tactics by Defense Lawyers

Almost all of the prosecutors handling false positives we spoke with said that defense lawyers' delay tactics pose a major obstacle to advancing their cases. According to the prosecutors, defense lawyers routinely cancel hearings with apparently bogus excuses—such as that their flight did not arrive on time, they have a doctor's appointment, or they got sick at the last moment—or file patently baseless motions for the purpose of slowing the proceedings. One prosecutor said he was unable to initiate a preliminary hearing in a case for over a year because of such tactics by defense lawyers.[238]

In May 2011, former Attorney General Viviane Morales sent a letter to the president of the Superior Council of the Judicature asking the body to take measures to rein in the use of delay tactics in false positive cases. Then-Attorney General Morales wrote that it was "habitual" for defendants in false positive cases to "resort to the repeated and systematic change of defense lawyers to delay the proceedings."[239]

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[235] Attorney General's Office, audio recording of Robinson González del Río's phone conversation on January 22, 2013.

[236] Audios of sworn statements provided by Robinson González del Río to the Attorney General's Office, June 2014.

[237] Attorney General's Office, audio recording of Robinson González del Río's phone conversation on November 2, 2012.

[238] Human Rights Watch interview with prosecutor, February 2015.

[239] "Attorney General's Office, Worried about the Delay in Cases," *Semana*, May 31, 2011, http://www.semana.com/nacion/articulo/fiscalia-preocupada-dilacion-procesos/240659-3 (accessed April 23, 2015).

There are several ways in which delaying the proceedings can potentially benefit defendants and undermine the prosecution. When cases drag on—and when prosecutors travel to hearings only to have them cancelled at the last minute—it exhausts time they could otherwise be spending on the many other false positive cases on their dockets. Prosecutors also say that defense lawyers have employed delay tactics to help defendants win release from jail due to the expiration of time limits on their preventative detention, and because they hoped to slow the adjudication of the cases in civilian courts in order to benefit from pending legislation to expand the jurisdiction of the military justice system.

Shortcomings within the Prosecutor's Office

In 2012 the Attorney General's Office reduced the number of Human Rights Unit prosecutors dedicated to false positive cases. Prosecutors in the unit say their caseload is currently overwhelming. This problem is compounded by the fact that the unit generally has not distributed cases among prosecutors based on the military unit responsible, which inhibits prosecutors from conducting the type of systematic and contextualized investigations that can lead to the identification and prosecution of higher-ranking perpetrators.

Another concern is that the Human Rights Unit and the group of prosecutors investigating generals for false positives do not appear to have effectively shared information and coordinated their investigations. (Generals charged with committing crimes can only be prosecuted at the Supreme Court, in cases brought by prosecutors that the attorney general delegates to try cases before that court, which are referred to here as "delegated prosecutors.")

In 2015, the Attorney General's Office took steps towards addressing some of these problems. It increased the number of prosecutors and investigators pursuing cases against generals, and designated an official to serve as a point person between them and the Human Rights Unit. Furthermore, prosecutor's office officials also said they plan to increase the number of Human Rights Unit prosecutors investigating false positives and start distributing cases among them based on the military unit responsible.

Caseload

Many prosecutors Human Rights Watch spoke with said their caseload is unmanageable, and forces them to focus on some cases while leaving others basically untouched.[240] For example, a prosecutor said that when his regional office in the Human Rights Unit was created, the goal was for each prosecutor to handle about 40 cases, but that their average caseload is now more than double that number. He said that over the past year he has had to focus exclusively on one battalion, essentially not working on cases from an entire other brigade.[241]

Rather than building up the number of Human Rights Unit prosecutors focusing on false positives, the Attorney General's Office actually reduced the number in recent years. In 2012, 12 prosecutors working on false positive cases were moved from the Human Rights Unit to help staff the newly created National Analysis and Contexts Unit (UNAC) and work on its investigations into a variety of human rights abuses by all types of armed actors. Another 25 unfilled prosecutors posts, at least some of which were meant to work on false positive cases, were also removed from the Human Rights Unit.[242]

The UNAC, where the Human Rights Unit prosecutors were relocated, initially assigned a significant number of prosecutors and other staff to investigate army generals for false positives. The unit's first director was a delegated prosecutor, and therefore had jurisdiction over generals. Starting in 2013, he led a team dedicated exclusively to investigating four generals for false positives. The team had seven other prosecutors, two prosecutors' assistants, eleven analysts, and eight judicial police.[243]

However, the UNAC's first director suddenly resigned in early 2014, and five months later, on July 10, 2014, the new director signed a resolution reducing the team focused on investigating generals for false positives by more than 80 percent. The July resolution left the team with two supporting prosecutors, one prosecutor's assistant, and two investigators, who assisted the one delegated prosecutor leading the investigations.[244]

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[240] Human Rights Watch interviews with prosecutors, December 2014.

[241] Human Rights Watch interview with prosecutor, December 2014.

[242] Ibid.

[243] Human Rights Watch interview with a source with detailed knowledge of the UNAC's work, Bogotá, February 2015; Director of the UNAC, Attorney General's Office, "Resolution 00005," January 17, 2014.

[244] Director of the UNAC, Attorney General's Office, "Resolution 000051," July 10, 2014.

In late 2014 and mid-2015, as the number of generals under investigation for false positives increased, the Attorney General's Office assigned more staff to pursue such cases. As of May 2015, a total of three delegated prosecutors, six supporting prosecutors, 10 investigators, and 10 analysts were investigating 16 generals for false positives.[245] There are thus slightly more total prosecutors, investigators, and analysts now investigating generals for false positives than there were in early 2014, when they were only investigating four generals.

At least two of the three delegated prosecutors divide their attention between false positive cases and other large, important cases. One is investigating the "contracts carrousel" case, which is among the biggest corruption scandals in recent Colombian history. The other is prosecuting disappearances in the 1985 Palace of Justice siege—one of Colombia's largest human rights cases.[246]

Ineffective Distribution of Cases

Several prosecutors in the Human Rights Unit told Human Rights Watch that the most effective way to investigate false positive cases would be to divide them among prosecutors based on the battalion and/or brigade allegedly responsible for the crimes. This would allow them to detect patterns of crimes by a specific military unit, and thus help to identify all of those responsible, including commanders. Despite the usefulness of this approach, however, most false positive cases in the unit currently are not distributed among prosecutors based on the military unit responsible.[247]

Human Rights Unit prosecutors acknowledged this problem. For example, one said that he is investigating 90 false positives by multiple battalions and that since he only sees isolated cases from these units, rather than the full spectrum of cases attributed to each one, "it's difficult to structure the responsibility of a colonel or general."[248]

Examples of the ineffective distribution of cases include:

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[245] Human Rights Watch interviews with prosecutors, February and May 2015.

[246] Human Rights Watch interview with prosecutors, February 2015.

[247] Human Rights Watch interviews with prosecutors, December 2014 and February 2015; Data on Human Rights Unit investigations into extrajudicial killings as of December 2014, on file with Human Rights Watch.

[248] Human Rights Watch interview with prosecutor, December 2014.

- 19 alleged extrajudicial killings by the Magdalena Battalion in 2007 are being handled by six different prosecutors;
- 33 alleged extrajudicial killings by the Juan José Rondón Battalion in 2006 and 2007 are divided among four different prosecutors;
- One prosecutor in Bogotá is handling extrajudicial killings allegedly committed between 2005 and 2008 by 11 tactical units attached to six different brigades.[249]

Some of the Human Rights Unit's regional offices have started to divide cases among their prosecutors based on the military unit responsible. Prosecutors in Medellín, for example, have made significant progress with this approach. In early 2015, Medellín prosecutors ordered the arrests of five colonels who previously led the Pedro Nel Ospina Battalion.[250]

Attorney General's Office officials acknowledged the virtues of the Medellín office's model for distributing cases and said they plan to implement it across the entire Human Rights unit.[251]

Lack of Effective Coordination between Prosecutorial Units

Human Rights Unit prosecutors have accumulated a significant body of evidence that could be critically useful for delegated prosecutors who are investigating generals. The former are investigating the vast majority of false positive incidents, and have collected witness testimony against commanders, obtained official military documentation pertaining to the crimes, and in many cases, developed a strong understanding of the modus operandi of the perpetrators.

The delegated prosecutors do not appear to have effectively sought out this information. In February 2015, one such prosecutor said she had inspected just 10 case files handled by the Human Rights Unit.[252] Furthermore, some Human Rights Unit prosecutors said that when they have sent evidence about generals to the delegated prosecutors and requested

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[249] Data on Human Rights Unit investigations into extrajudicial killings as of December 2014, on file with Human Rights Watch.

[250] Human Rights Watch interview with prosecutors, December 2014; "The Fall of the Colonels from the Battalion that Won the False Positives Competition," *La Silla Vacía,* March 19, 2015.

[251] Human Rights Watch interviews with Attorney General's Office officials, December 2014 and May 2015.

[252] Human Rights Watch interview with prosecutors, February 2015.

that they open investigations, the prosecutors have sometimes failed to respond or send investigators to inspect relevant case files.[253]

One prosecutor from the Human Rights Unit said that after sending evidence to delegated prosecutors, they "don't come to review the cases; they don't inspect the cases; they don't respond; they don't ask questions….For us it's demoralizing because we put ourselves on the line and get to the level of the colonels, but nothing happens after that."[254]

[253] Human Rights Watch interviews with prosecutors, December 2014 and February 2015.

[254] Human Rights Watch interview with prosecutor, December 2014.

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Annex 1: A List of Commanders of the 11 Brigades Analyzed in this Report

The following list of brigade commanders includes only the names of commanders for whom Human Rights Watch was able to confirm that they served during the period of the alleged crimes. It is not an exhaustive list of the 11 brigades' commanders during the period. We list the number of alleged extrajudicial killings during the period of command for officers where we found credible reports of the exact dates they commanded the brigade, or were able to determine a close approximation of the period based on the earliest and latest news or army reports listing them as the brigade's commander. The number of alleged extrajudicial killings is based on our analysis of Human Rights Unit data.

Commanders of the 4th Brigade

COMMANDER	REPORTED PERIOD OF COMMAND	NUMBER OF ALLEGED KILLINGS DURING PERIOD UNDER INVESTIGATION
Retired General Mario Montoya	12.28.2001 – 12.15.2003[255]	44
Retired General Óscar González Peña	12.16.2003 – 07.16.2005[256]	113
Retired General Luis Roberto Pico	07.16.2005 – 10.16.2006[257]	124
General Jorge Ernesto Rodríguez Clavijo	10.17. 2006 – at least 05.08.2007[258]	79
General Juan Carlos Piza Gaviria	At least part of October and November 2007[259]	N/A
General Juan Pablo Rodríguez Barragán	11.13.2007 – 11.28.2009[260]	28 (cases only through '08)

[255] National Army of Colombia, "The National Army Celebrates 95 Years of the Fourth Brigade's Honor and Glory," undated, http://www.ejercito.mil.co/wap//?idcategoria=374520 (accessed May 18, 2015).

[256] Ibid.

[257] "New Commander of the IV Brigade," *El Tiempo*, July 16, 2005, http://www.eltiempo.com/archivo/documento/MAM-1960054 (accessed May 18, 2015); National Army of Colombia, Seventh Division, "The Commander of the Army, Major General Mario Montoya, Presided over the Change of Command of the IV Brigade and VII Division," October 18, 2006, http://septimadivision.mil.co/index.php?idcategoria=112731 (accessed May 18, 2015).

[258] National Army of Colombia, Seventh Division, "The Commander of the Army, Major General Mario Montoya, Presided over the Change of Command of the IV Brigade and VII Division," October 18, 2006; National Army of Colombia, Seventh Division, "FARC Guerrillas Abandon the Illegal Organization in Antioquia," May 8, 2007, http://www.ejercito.mil.co/?idcategoria=191696 (accessed May 18, 2015).

[259] National Army of Colombia, Seventh Division, "New Commander of the Fourth Brigade," November 14, 2007, http://www.septimadivision.mil.co/index.php?idcategoria=196052 (accessed May 18, 2015); "New Commander for the IV Brigade," *El Mundo*, October 18, 2007, http://www.elmundo.com/portal/resultados/detalles/?idx=67154#.VUjMu_lVhBc, (accessed May 18, 2015).

Commanders of the 14th Brigade

COMMANDER	REPORTED PERIOD OF COMMAND	NUMBER OF ALLEGED KILLINGS DURING PERIOD UNDER INVESTIGATION
General Jorge A. Segura Manonegra	February 2006 – 10.31.2007[261]	39 (this counts the entire month of February 2006)
Retired Colonel Juan Carlos Barrera Jurado	10.31.2007 – 10.30.2008[262]	12

Commanders of the 11th Brigade

COMMANDER	REPORTED PERIOD OF COMMAND	NUMBER OF ALLEGED KILLINGS DURING PERIOD UNDER INVESTIGATION
Retired General Luis Roberto Pico	At least part of 2004[263]	N/A
General Javier Fernández Leal	At least part of 2005 and 2006[264]	N/A
Colonel William Hernán Peña Forero	At least part of 2006 and 2007[265]	N/A
General Jorge Arturo Salgado Restrepo	At least part of 2007 and 2008[266]	N/A

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[260] National Army of Colombia, "The National Army Celebrates 95 years of the Fourth Brigade's Honor and Glory," undated.

[261] National Army of Colombia, Seventh Division, "Historical Review – Trajectory of the Fourteenth Brigade," October 19, 2010, http://www.septimadivision.mil.co/?idcategoria=91112 (accessed May 18, 2015); National Army of Colombia, Seventh Division, "New Commander for the Fourteenth Brigade," November 2, 2007, http://www.septimadivision.mil.co/?idcategoria=195791 (accessed May 18, 2015).

[262] Ibid.

[263] "The AUC Proposes to Create More Ralitos," *El Tiempo*, May 20, 2004, http://www.eltiempo.com/archivo/documento/MAM-1576185 (accessed May 18, 2005); "Presidential Summit Cancelled," *El Tiempo*, October 29, 2004, http://www.eltiempo.com/archivo/documento/MAM-1499416 (accessed May 18, 2015).

[264] Office of the President of Colombia, "President Uribe Ratifies Military Leadership," November 11, 2005, http://historico.presidencia.gov.co/prensa_new/sne/2005/noviembre/11/10102005.htm (accessed May 18, 2015); "They Set Up a Laboratory in an Eradicated Zone," *El Tiempo*, May 6, 2006, http://www.eltiempo.com/archivo/documento/MAM-2012890 (accessed May 15, 2015).

[265] "Government Anticipates Changes in Two Divisions, Nine Brigades and Two Elite Units," *El Tiempo*, September 20, 2006, http://www.eltiempo.com/archivo/documento/CMS-3250592 (accessed May 18, 2015); Gudilfredo Avedaño Méndez, "Peasant Soldier Killed Second-Lieutenant," *El Tiempo*, July 3, 2007, http://www.eltiempo.com/archivo/documento/CMS-3622766 (accessed May 18, 2015).

[266] National Army of Colombia, "Colonel Jorge Arturo Salgado Restrepo," undated, http://www.ejercito.mil.co/wap/?idcategoria=318962 (accessed May 18, 2015); " 'Los Paisas' Band Appears to Be the Owner of the Decommissioned Arsenal in Cáceres," *W Radio*, October 22, 2008, http://www.wradio.com.co/noticias/regionales/banda-los-paisas-seria-duena-de-arsenal-decomisado-en-caceres/20081022/nota/695186.aspx (accessed May 18, 2015); "New Commander for the IV Brigade," *El Mundo*, October 18, 2007.

Commanders of the 16th Brigade

COMMANDER	REPORTED PERIOD OF COMMAND	NUMBER OF ALLEGED KILLINGS DURING PERIOD UNDER INVESTIGATION
General Henry William Torres Escalante	At least January 2006-06.08.2007[267]	66
Colonel Cipriano Peña Chivatá	At least part of 2007[268]	N/A

Commanders of 7th Brigade

COMMANDER	REPORTED PERIOD OF COMMAND	NUMBER OF ALLEGED KILLINGS DURING PERIOD UNDER INVESTIGATION
Retired General Luis Antonio Coronado León	At least part of 2004 and 2005[269]	N/A
General Francisco Ardila Uribe	At least part of 2005, 2006, and 2007[270]	N/A

Commanders of the 12th Mobile Brigade

COMMANDER	REPORTED PERIOD OF COMMAND	NUMBER OF ALLEGED KILLINGS DURING PERIOD UNDER INVESTIGATION
Retired Colonel Carlos Hugo Ramírez Zuluaga	At least part of 2005 and 2006[271]	N/A
Colonel Cipriano Peña Chivatá	At least part of 2007[272]	N/A

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[267] An article in an army newspaper says that General Torres Escalante handed over his command of the 16th Brigade to Colonel Peña Chivatá on June 8, 2007, after having commanded the brigade for 18 months. This indicates that Torres Escalante started his command of the 16th Brigade at the latest in January 2006. "New Commander for the Sixteenth Brigade in Casanare," *En Guardia,* Periodical of the National Army, August 2007, http://www.ejercito.mil.co/?idcategoria=194002&download=Y (accessed May 18, 2015).

[268] Ibid.

[269] "Change in Military Commands," *El Tiempo*, December 14, 2004, http://www.eltiempo.com/archivo/documento/MAM-1538139 (accessed May 18, 2015); "Ardila Uribe, New Commander of the Brigade," November 16, 2005, http://llanera.com/?id=2202 (accessed May 18, 2015).

[270] "Investigation into the Death of Three Farmers who the Army Accused of Being Guerrillas and Extortionists," *El Tiempo*, August 21, 2007, http://www.eltiempo.com/archivo/documento/CMS-3688810 (accessed May 18, 2015); "Ardila Uribe, New Commander of the Brigade," November 16, 2005.

[271] "The 12th Mobile Brigade Started Up," *El Tiempo*, January 18, 2005, http://www.eltiempo.com/archivo/documento/MAM-1635487 (accessed May 18, 2015); Inspector-General's Office of Colombia, "Inspector-General's Office Elevates Charges Against Army Officials for Alleged Illegal Arrest," December 7, 2008, http://www.procuraduria.gov.co/html/noticias_2008/noticias_588.htm (accessed May 18, 2015).

[272] Letter from Cipriano Peña Chivatá to Flavio Enrique Ulloa Echeverri on April 6, 2007, published on the website of Colombia's Air Force, https://www.fac.mil.co/inglesrevista/correo-aeron%C3%A1utico-3 (accessed May 18, 2015).

Commanders of the 28th Brigade

COMMANDER	REPORTED PERIOD OF COMMAND	NUMBER OF ALLEGED KILLINGS DURING PERIOD UNDER INVESTIGATION
Human Rights Watch could not find information on the former commanders of the 28th Brigade.	N/A	N/A

Commanders of the 8th Brigade

COMMANDER	REPORTED PERIOD OF COMMAND	NUMBER OF ALLEGED KILLINGS DURING PERIOD UNDER INVESTIGATION
Retired General Jairo Herazo Marzola	At least part of 2006, and 2007[273]	N/A
General José Emiro Barrios	At least part of 2007, 2008 and 2009[274]	N/A

Commanders of the 9th Brigade

COMMANDER	REPORTED PERIOD OF COMMAND	NUMBER OF ALLEGED KILLINGS DURING PERIOD UNDER INVESTIGATION
General Jaime Alfonso Lasprilla Villamizar	At least July 10, 2006 – October 23, 2007[275]	48
General William Fernando Pérez Laiseca	At least part of 2007[276]	N/A

[273] National Army of Colombia, Fifth Division, "Fifth Division Has a New Commander," November 16, 2007, http://www.ejercito.mil.co/?idcategoria=196127 (accessed May 18, 2015); "Risaralda Asks for More Security in the National Park of the Nevados," *Caracol radio*, April 19, 2006, http://www.caracol.com.co/noticias/judiciales/risaralda-pide-mas-seguridad-para-el-parque-nacional-de-los-nevados/20060419/nota/277412.aspx (accessed May 18, 2015).

[274] "Between Demobilizations, Arrests, and Deaths, the FARC Lost Six of its Members in the Eje Cafetero," *El Tiempo*, November 11, 2007, http://www.eltiempo.com/archivo/documento/CMS-3811087 (accessed May 18, 2015); "Wilson Bueno Largo, alias 'Isaza,' Called into Questioning for Rebellion," *El Tiempo*, November 7, 2008, http://www.eltiempo.com/archivo/documento/CMS-4652606 (accessed May 18, 2015); "Aurelio Rodríguez, of the FARC, Reduced Due to Demobilizations, Arrests, and Deaths," *El Tiempo*, February 23, 2009, http://www.eltiempo.com/archivo/documento/CMS-4835563 (accessed May 18, 2015).

[275] Human Rights Watch reviewed a credible report that General Lasprilla was the commander of the 9th Brigade between June 27, 2006 and November 17, 2007, but was unable to confirm those dates with other publicly available sources. The period of July 10, 2006 through October 23, 2007 is based on the earliest and latest dates for which Human Rights Watch found credible public reports in which General Lasprilla was listed as the 9th Brigade commander at the time."Néstor García, Father of the Abused Soldier and Colonel Lasprilla of the 9th Brigade Speak," *Caracol radio*, July 10, 2006, http://www.caracol.com.co/audio_programas/archivo_de_audio/hablan-nestor-garcia-padre-del-soldado-abusado-y-el-coronel-lasprilla-de-la-9a-brigada/20060710/oir/307489.aspx (accessed May 18, 2015); National Army of Colombia, Fifth Division, "Izar the National Pavilion an Honor that Exalts the Ninth Brigade," October 23, 2007, http://www.quintadivision.mil.co/?idcategoria=195468 (accessed May 18, 2015).

Commanders of the 10th Brigade

COMMANDER	REPORTED PERIOD OF COMMAND	NUMBER OF ALLEGED KILLINGS DURING PERIOD UNDER INVESTIGATION
General Hernán Giraldo Restrepo	At least part of 2004 and 2005[277]	N/A
Retired General Fabricio Cabrera Ortiz	At least part of 2006[278]	N/A

Commanders of the 15th Mobile Brigade

COMMANDER	REPORTED PERIOD OF COMMAND	NUMBER OF ALLEGED KILLINGS DURING PERIOD UNDER INVESTIGATION
Retired Colonel Santiago Herrera Fajardo	At least part of 2006 and 2007[279]	N/A

[276] National Army of Colombia, "Two Stashes that Contained Abundant War Material are Found," December 6, 2007, http://www.ejercito.mil.co/?idcategoria=196538 (accessed May 18, 2015).

[277] "New Commander of the Tenth Brigade," Valledupar.com, December 28, 2004, http://www.valledupar.com/reportajes/index.php?subaction=showfull&id=1104252896&archive=&start_from=&ucat=1& (accessed May 18, 2015); Office of the President of Colombia, "President Uribe Ratifies Military Leadership," November 11, 2005.

[278] National Army of Colombia, First Division, "Press Release," August 25, 2006, https://ejercito.mil.co/?idcategoria=110593 (accessed May 18, 2015); National Army of Colombia, First Division, "In Uribia the Army carries out first campaign for military booklets," October 15, 2006, https://ejercito.mil.co/?idcategoria=112702 (accessed May 18, 2015).

[279] "Government Anticipates Changes in Two Divisions, Nine Brigades, and Two Elite Units," *El Tiempo,* September 20, 2006; Circuit Penal Tribunal Specialized in Decongestion, San José de Cúcuta, case no: 2010-0161, decision of March 10, 2014.

Between 2002 and 2008, army brigades across Colombia routinely executed civilians. Under pressure to show "positive" results and boost body counts in their war against armed guerrilla groups, soldiers abducted victims or lured them to remote locations, killed them, and reported them as combat kills. Prosecutors are currently investigating at least 3,000 of these "false positive" killings. Hundreds of soldiers–but just a handful of colonels and no generals—have been convicted.

On Their Watch provides the most detailed published account to date of criminal investigations into false positives, outlines substantial evidence that many generals and colonels bear responsibility for these crimes, and assesses obstacles that have impeded their successful prosecution.

Our analysis shows that prosecutors have identified more than 180 battalions and other tactical units, attached to 41 brigades, operating under all of the army's then-seven divisions, which allegedly committed extrajudicial killings between 2002 and 2008. The patterns in these murders strongly suggest that numerous former brigade and tactical unit commanders—as well as the army's top leaders—at least should have known about these crimes and may have ordered or otherwise actively furthered them. Some of the officers who commanded the 11 brigades more closely analyzed in the report later became top military leaders, including the current heads of the army and armed forces.

On Their Watch recommends the government ensures that senior military officers responsible for one of the darkest chapters in Colombia's long war are brought to justice. This involves ordering military authorities to cooperate with investigations, protecting witnesses and their families, and making sure that any transitional justice measures implemented as part of a peace agreement do not hinder accountability for the crimes.

(above) Photocopy of a photograph of the dead bodies of two victims of alleged false positive killings committed in Meta department in 2004. The photograph was taken when authorities inspected the scene. The photocopy, with markings drawn by a witness, comes from the Attorney General's Office's criminal case file.

(front cover) Photocopy of a photograph of the dead bodies of two victims of alleged false positive killings committed in Meta department in 2004, with army troops in the background. The photograph was taken when authorities inspected the scene. The photocopy, with markings drawn by a witness, comes from the Attorney General's Office's criminal case file.

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