



EYES ON CHILE:

POLICE VIOLENCE AND COMMAND RESPONSIBILITY
DURING THE PERIOD OF SOCIAL UNREST

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CONTENTS

1.	EXECUTIVE SUMMARY
2.	INTRODUCTION
3.	METHODOLOGY
4.	ONGOING VIOLENCE
4.1.	USE OF FORCE BY AGENTS OF THE STATE
4.1.1.	Deprivation of life by excessive use of force
4.1.2.	Harm to physical integrity using lethal weapons
4.1.3.	Harm to physical integrity using potentially lethal weapons
4.1.3.1.	Rubberized buckshot
4.1.3.2.	Chemical deterrents and water cannon
4.1.4.	Harm to physical integrity using physical violence
4.2.	WIDESPREAD VIOLATION OF THE RIGHT TO PHYSICAL INTEGRITY
5.	COMMAND RESPONSIBILITY
5.1.	KNOWLEDGE OF HUMAN RIGHTS VIOLATIONS
5.1.1.	Information from external sources
5.1.2.	Official internal communications
5.1.3.	Oversight of operations
5.2.	FAILURE TO PREVENT HUMAN RIGHTS VIOLATIONS
5.2.1.	Harmful ammunition
5.2.2.	Inadequate protocols
5.2.3.	Static planning
5.2.4.	Similar and imprecise orders
5.2.5.	Ineffective discipline
5.3.	THE ROLE OF THE EXECUTIVE
6.	CONCLUSION: PEOPLE'S PHYSICAL INTEGRITY, A NECESSARY EVIL
7.	RECOMMENDATIONS

1. EXECUTIVE SUMMARY

In mid-October 2019, Chile began to experience one of the most tragic and at the same time most transformative episodes in its recent history.

What started as a series of protests, mainly by students, against fare increases on public transport in the Metropolitan Region, triggered a wave of demonstrations that spread rapidly throughout almost the entire country. This mass display of discontent expressed demands for greater social equality and recognition and guarantees of social and economic rights, such as the right to a decent pension, housing, education and quality public health care.

Although most of the demonstrations were peaceful, many of the protests involved damage to public and private property, such as some metro stations in the capital, damage to buildings and the setting up barricades to obstruct public roads.

In response, the government of President Sebastián Piñera decreed a constitutional state of emergency and for 10 days in some regions of the country deployed the Armed Forces on the streets. They undertook joint operations in the policing of these mobilizations alongside the Carabineros de Chile (Carabineros).

This strategy, far from calming things down, fuelled further protests. The Armed Forces (whose function is not the public order policing of demonstrations) were accused of numerous acts of torture and other cruel, inhuman or degrading treatment or punishment. They used lethal weapons against protesters on several occasions and killed three people in the context of demonstrations, one of whom was shot dead.

For their part, the Carabineros, on numerous occasions, instead of facilitating the demonstrations and dealing appropriately with outbreaks of violence, and far from restoring public order, injured thousands of people, hundreds of them seriously.

Although many human rights violations by National Police officials had been documented in the past in Chile, the levels of state violence that occurred from 18 October onwards were unprecedented under democratic governments.

In this report, Amnesty International presents a detailed analysis of the National Police strategy on the use of force between 18 October and 30 November. The organization focused on the Carabineros because the violation of the right to physical integrity by law enforcement officials was widespread (that is, these were not isolated incidents) and, as the police is the institution responsible for maintaining public order, a profound and structural approach is needed to prevent events such as those analysed here from happening again. Also because of this, Amnesty International paid particular attention to the police force's strategic and decision-making commanders, as well as to certain tactical and operational commanders in the Metropolitan Area, which was the area selected as the sample for this research.

In preparing this report, 12 cases of human rights violations were analysed in depth and more than 200 pieces of video footage were reviewed, as well as official information provided by the Ministry of the Interior and Public Security to Amnesty International, data obtained through 14 information requests to the system for public transparency and documentation obtained from legal case files.

THE USE OF FORCE TO INFLICT PAIN

International human rights standards are unequivocal in stipulating that the use of force by law enforcement officials when policing demonstrations must be a last resort and guided by the principles of legality, necessity, proportionality and accountability. The use of lethal or potentially lethal force to maintain order in situations that do not pose a specific threat to the life or physical integrity of third parties is considered a disproportionate use of force. The force used must be proportionate to the legitimate objective pursued and based on the principles mentioned above.

Analysis of the evidence to which Amnesty International had access suggests that for a month and a half, police officials resorted not only to the excessive use of force, but also deliberately inflicted pain and suffering on protesters, with the intention of causing suffering or knowing that their actions could cause suffering. This widespread injuries, which in many cases had serious physical and psychological consequences for survivors, was the result of a premeditated practice of using force in order to punish protesters and disperse them at all costs.

During the month and a half detailed in this report, the numbers of people attacked and injured were a clear indicator that force was being misused in a sustained manner and on a daily basis:

➤ More than 12,500 people required emergency treatment in a public hospital as a result of incidents that occurred during the protests, according to the Ministry of Health. In that same period, 2,300 police officials were injured.

➤ At least 347 people sustained eye injuries, mostly from the impact of pellets, according to the National Human Rights Institute (Instituto Nacional de Derechos Humanos, INDH).

➤ The Attorney General's Office registered 5,558 victims of institutional violence, of whom 1,938 were injured by firearms and 674 sustained serious injuries, 285 of which were eye injuries. Among the victims, were 834 children and adolescents. Of the total number of complaints, 4,170 were against members of the Carabineros.

➤ The Attorney General's Office registered 246 victims of sexual violence, six involved sexual penetration with an object and two involved rape, one of them multiple rape, and there were 134 investigations for torture and 4,158 for unlawful coercion (equivalent to ill-treatment).

➤ 1,946 crimes of threats and ill-treatment by police officials were registered, of which at least 692 related to crimes of ill-treatment by members of the Carabineros.

Amnesty International verified that on numerous occasions police officers used deliberate physical force disproportionately and unnecessarily, beating people with batons, punching and kicking them, including after individuals were in state custody. In addition, several instances were recorded where people were knocked down, not accidentally but as a result of vehicles being deliberately driven into protesters. In the case of **Alex Núñez**, the injuries sustained by such beatings led to his death, and in the case of **Josué Maureira**, the violence inflicted constituted sexual torture. **Cristóbal Flen** sustained multiple injuries as a result of blows to the head and chest, as did **Moisés Órdenes**, who sustained over a dozen injuries, several of them serious, such as a collapsed lung (pneumothorax) and the loss of an eye.

In relation to the cases of injuries caused by potentially lethal weapons, such as riot-control shotguns loaded with multiple kinetic impact ammunition, these were used as a tactical tool during the policing of demonstrations. This ammunition consisted of buckshot, made of a rubber and metal alloy, that cause a high degree of damage because they penetrate the skin and dispersed when fired. Such ammunition should not have been used, and should have been banned because it did not meet international standards on the use of force. Despite this, police officials used it in a virtually uncontrolled and indiscriminate manner, especially during October when more than 104,000 rounds were fired. In addition, in numerous interventions this ammunition was used against protesters who did not pose a risk to the life of tofficers or third parties, as in the case of INDH observer **Jorge Ortiz**.

Officers were identified firing at parts of the body where there was a high risk impact could prove fatal, such as the head and chest. This, added to the fact that it is a notoriously indiscriminate form of ammunition, resulted in hundreds of people sustaining eye injuries. This deliberate practice was recognized in the cases of at least **Gustavo Gatica**, **Renzo Inostroza** and **D.S.A.G.**, a teenage girl. Officers were also identified firing indiscriminately or at random in order to disperse people, without a specific aim, and injuring people, such as the cameraman **Alejandro Torres** and **M.I.V.Q.**, a teenage boy; officials failed to take account of the fact that children and adolescents were present.

Tear gas was used disproportionately to disperse people and was also fired with grenade launchers. On multiple occasions, the canister was fired directly at people's bodies to cause injury and not as a dispersal tool. **Fabiola Campillai** lost her sight and senses of smell and taste after being hit in the face by a gas grenade. **Natalia Aravena** sustained a ruptured eye after a gas canister hit her directly in the eye.

The fact that the ammunition used, such as pellets and gas canisters, is not traceable (unlike lethal ammunition, the weapons do not leave a specific marking) encouraged a feeling of impunity within the Carabineros.

COMMANDERS' RESPONSIBILITY THE REPETITION OF VIOLATIONS

Although it is true that significant damage to property was reported, as well as injuries to National Police personnel, the disproportion in injuries, as well as the case studies and the visual evidence suggest that the repeated unnecessary and disproportionate use of force was police policy and not the responsibility of officers acting in isolation and breaking the orders of their superiors.

This policy, which came from higher-ranking officials, saw harm to the physical integrity of individuals as a necessary evil in order to re-establish "public order", punish protesters and put an end to protests at any cost.

Under international standards on command responsibility, it is necessary to show that superiors knew or should have known about acts of violence but nonetheless failed to take steps to prevent them or punish the perpetrators.

These conclusions are based on the following facts documented by Amnesty International:

Both the operational and the strategic commanders of the Carabineros would have had known how their subordinates were behaving day by day and the type of injuries they were causing, through external channels.

The strategic commanders, such as the Director General and the Director of National Directorate of Order and Security (Dirección Nacional de Orden y Seguridad, DIOSCAR), had plenty of internal information providing them with the details of operations as well as alerting them to irregularities committed by their subordinates, among them certain operational commanders in the Metropolitan Area.

The nature of the weapons used was notoriously indiscriminate and harmful and therefore contrary to international standards. The Director General did not limit the use of rubberized buckshot until the composition of this ammunition was called into question and the number of eye injuries exceeded 250 cases.

Neither the Plana Mayor Nacional (a body created in the context of the crisis to advise the Director General) nor the Director of DIOSCAR incorporated lessons learned from a human rights perspective into the planning of the institutional response to the protests. The tactical commanders, at least in the Metropolitan Area, did not modify their operational plans beyond logistics and maintained the same *modus operandi* from the beginning of the crisis. The result was that officials who used force unnecessarily or excessively remained in post and were involved in operations on a daily basis, such as the Metropolitan Special Forces Prefect and Sub-Prefects.

Instead of giving precise instructions that were adapted to the reality with the intention of reducing harm to people's physical integrity, the Director General and the Director of DIOSCAR retained vague and repetitive orders and did not ensure that these were transmitted to the operational commanders with precise instructions on key operational aspects to protect people's physical integrity.

Far from punishing behaviours that constituted violations, they were not only allowed but endorsed by the Director General. This was evident both in a leaked recording in which he stated that no official would be dismissed, regardless of their conduct, as well as in the minimal number of sanctions imposed in relation to the number of complaints. Sanctions were not imposed even in cases where the official accepted responsibility and there were instances of possible cover-ups. The sanctions that were imposed in the cases known to Amnesty International, such as those in the cases of Gustavo Gatica and Fabiola Campillai, were delayed and imposed for related misdemeanours rather than the more serious offence. In other words, they justified as legitimate the use of force that caused the harm.

Ultimately, shortcomings were identified in several of the institutional processes that could have put an end to these human rights violations: the use of ammunition, protocols, planning, orders and disciplinary sanctions, among others.

In light of the above, it is difficult not to conclude that the sequence of failings on the part of strategic commanders, such as the Director General, the Deputy Director and the Director of DIOSCAR, far from being unintentional, was deliberate or at least culpable due to repeated negligence; this needs to be clarified by the Chilean justice system.

CONCLUSIONS AND RECOMMENDATIONS

Amnesty International believes that Carabineros officials committed widespread human rights violations against protesters for at least the first month and a half of protests in 2019, the period discussed in this report. During their operations they inflicted severe pain and suffering on protesters with the intention of punishing and dispersing them and thereby breaking up the demonstrations. Harming people's physical integrity was seen as a necessary price to pay in order to restore public order.

Amnesty International believes that cases such as those of Gustavo Gatica and Fabiola Campillai could have been avoided if the strategic and operational commanders cited had acted with due diligence within the framework of their responsibilities, taking all necessary measures to prevent violations of the right to physical integrity, among others.

The organization therefore calls on the Attorney General's Office to continue the investigations and to pay particular attention to the responsibility of operational and strategic commanders, who in their role as guarantors, tacitly ordered or permitted human rights violations to be committed repeatedly. It also calls on the Judiciary Branch to initiate proceedings regarding all those who may bear responsibility and, where appropriate, to prosecute them in order to ensure access to justice for victims and their families.

In this report Amnesty International does not analyse in detail the potential responsibilities of actors other than the Carabineros. However, it considers that, given the lack of control exercised over this force by the administration of President Sebastián Piñera, the political, administrative and possibly criminal responsibility of all those who in their position as guarantors knew, or should have known had they acted diligently, the extent of the human rights violations and had the capacity to prevent them and yet failed to do so, should be determined right up to the highest possible level.

Amnesty International is recommending a structural reform of the Carabineros, because of the limitations resulting from its military nature and organic structure, in line with the proposal made by the Chilean Senate Security Commission at the end of 2019. This report demonstrates the need for greater control of the National Police by the civil authorities, as well as for urgent changes to ensure unreserved adherence to international human rights law.

Finally, Amnesty International believes that the process of drafting a new constitution, agreed in November 2019, is a historic opportunity to address demands on key social rights issues, which sparked the protests. Chile's Constitution does not adequately protect human rights, especially social rights. Without these structural changes to guarantee rights and overcome disparities and inequality in access to rights such as health, education, social security and housing, Chile's human rights crisis will continue.

The future Constitutional Convention, whether this is 100% elected or mixed (50% elected and 50% composed of parliamentary representatives) must ensure representative and inclusive participation by civil society actors and citizens, including municipalities, civil society organizations, regional assemblies and human rights defenders. Executive and legislative authorities should carefully consider the use of quotas from groups that have historically faced marginalization, exclusion and discrimination.

INTRODUCTION

Chile is a country of paradoxes. Since the return to democracy in 1990, following the end of the military regime led by Augusto Pinochet, Chile has made significant progress at the institutional, economic and social levels.

Chile's poverty rate is well below the Latin American average and the country has the best Human Development Index in the region, according to data from the United Nations Development Programme (UNDP).¹ The percentage of people living below the poverty line fell from 68% to 11.7% between 1990 and 2015, and Chile is one of the countries in the region that invests the most resources per capita in social policies, according to research by the United Nations Economic Commission for Latin America and the Caribbean (ECLAC).²

However, despite having one of the highest per capita incomes in Latin America, Chile is in the middle of regional ranking on inequality and there is a high degree of concentration of wealth.³ In 2017, 50% of households controlled 2.1% of the country's net wealth, while the richest 10% accounted for 66.5% and 1% at the top of the pyramid for 26.5%.⁴ This socio-economic inequality is reflected in income, access to capital and employment, and negatively impacts other rights such as access to education, political participation and equality before the law.⁵

In 2015, for example, the United Nations Committee on Economic, Social, and Cultural Rights (ESCR Committee) expressed concern about the lack of justiciability and recognition of some rights in Chile's Constitution. The ESCR Committee specifically mentioned the lack of progress on rights, such as equal pay; universal social security; the right to adequate housing; combatting social segregation; access to safe water and sanitation services, particularly in rural areas; the disproportionate and unsustainable use of water by the extractive industries; access to health for those on low income; and the quality of public education, among other things.⁶

A YEAR OF PROTEST

At the end of 2019, hundreds of thousands of people in different parts of the country came out onto the streets to voice some of these demands. Starting on 7 October, students in Santiago, the country's capital, led "massive evasions" of payment for Metro tickets.⁷ This was in response to fares increases on subsidized bus, metro and suburban train services in the 32 communes of the province of Santiago and in San Bernardo and Puente Alto announced the previous day.⁸

Ten days later, thousands of people had joined the protests. On 17 October, infrastructure was destroyed and set on fire at more than a dozen Metro stations in Santiago and clashes broke out between members of the security forces, students and transport service users.⁹ The protests and barricades against the fare increase were followed by fires and looting of commercial properties in various parts of the country.

1 UNDP, *Unequal: Origins, changes and challenges of Chile's Social Divide*, United Nations Development Programme (UNDP), June 2017, p. 19.

2 CEPAL, *Social Panorama of Latin America*, 2018, p. 23.

3 CEPAL, *Social Panorama of Latin America*, 2018, p. 23.

4 CEPAL, *Social Panorama of Latin America*, 2018, p. 62.

5 UNDP, *Unequal:*

Origins, changes and challenges of Chile's Social Divide, June 2017, p. 19.

UN, Economic and Social Council, Committee on Economic, Social and Cultural Rights, *Concluding Observations on Chile's fourth periodic report*, 7 July 2015.

7 Instagram, Cursedin, See www.instagram.com/p/B3e71_SFN7E/ See also CNN, Estudiantes evadieron en masa pasajes del Metro en protesta por alza de tarifas, www.cnnchile.com/pais/evasion-masiva-estudiantes-metro_20191015/

8 On 6 October 2019, the new fares set by a Panel of Experts, resulting in a 30 Chilean peso fare increase on the Santiago Metro, began to be implemented. Resolution No. 2, 1 October 2019, Panel of Law Experts No. 20378 and exempt resolutions No. 2722 and No. 2733, both of 2019, of the Ministry of Transport and Telecommunications, 6 October 2019. The Panel of Experts is an independent specialist body, one of whose main functions is to determine monthly adjustments to fares on the public transport system for the Province of Santiago and the communes of San Bernardo and Puente Alto, calculated according to the automatic formula set out in Ministry of Transport and Telecommunications Supreme Decree No. 140, 2009. See www.paneldeexpertostarifas.cl/

9 INDH, Annual Report of the National Institute of Human Rights, *Derechos Humanos en Chile en el contexto de la crisis social, 17 octubre – 30 noviembre 2019*.

On 18 October, after a fire at the building of the main electricity company in Chile, President Sebastián Piñera decreed a constitutional state of emergency in the Metropolitan Region (the provinces of Santiago and Chacabuco and the municipalities of Puente Alto and San Bernardo).¹⁰ The Decree cited “serious public order disturbances” as a result of “numerous barricades”, the “burning and destruction of buildings and commercial premises” and “the total paralysis of the Santiago Metro”.¹¹

The Decree allowed restrictions on freedom of movement and assembly and established that the Armed Forces could carry out public order functions. However, as the demonstrations and the violence, spread throughout the country, decrees were issued declaring a state of emergency in different regions which lasted between five and nine days, depending on the location.¹²

In the days that followed (starting on the 18 October) there were mass demonstrations throughout the country, as well as public disturbances, including numerous incidents of looting and several fires, mainly in supermarkets. In this context, there was an exponential increase in reports of human rights violations, including torture and other cruel, inhuman or degrading treatment or punishment, as well as injuries from bullets and buckshot (made of a metal and rubber alloy) that caused serious eye injuries fired by members of the Carabineros and the military.¹³

Although many such violations by the Carabineros had been recorded in the past in Chile, after 18 October the levels of such actions reached levels unprecedented under a democratic government.

On 20 October, President Piñera denied that the people protesting were doing so to demand rights and said he was “at war against a powerful, implacable enemy, who does not respect anything or anyone and is willing to use unlimited violence and crime, even when it results in loss of human life, with the sole purpose of causing the greatest possible harm.”¹⁴

That same day, the Chilean Medical College (Colegio Médico de Chile, COLMED) reported the first eye injuries, caused mainly by the impact of rubberized buckshot. Minors were among the victims.¹⁵

In addition, Romario Veloz, aged 26, died after being shot, allegedly by army personnel, while participating in a march in the city of La Serena, and Kevin Gómez, aged 23, was killed after being hit by pellets fired, allegedly at point blank range, by an army officer in Coquimbo. The deaths of eight people were also recorded, most of them in the context of looting and fires.¹⁶ Relatives of the victims killed in fires condemned the lack of response from the authorities to help them, contributing to increasing distrust of the authorities.¹⁷

10 During the night of Friday, 18 October 2019, a fire damaged the corporate building of the electricity company in the centre of Santiago. Specifically, the fire damaged the external staircase and the flames spread inside on one of the floors. At around 22:30, the Metropolitan Administration reported that the incident was under control and that the approximately 40 officials who were in the building had been evacuated. The company asserted that the fire had been started intentionally. See www.cooperativa.cl/noticias/pais/policial/incendios/incendio-afecta-al-edificio-de-enel-en-el-centro-de-santiago/2019-10-18/221005.html

11 Ministry of the Interior and Public Security, Supreme Decree No. 472, 18 October 2019, Ministry of the Interior and Public Security, Department of the Interior.

12 The state of emergency was initially imposed in the Santiago Province of the Metropolitan Region, but as the days went by it was extended to other regions of the country, eventually covering 15 regions. Finally, on 28 October 2019, the government lifted the state of emergency throughout the country. Official Gazette Edition No. 42.489. Monday, 28 October 2019.

13 On 24 October 2019, members of the Medical College appeared before the Senate Human Rights Commission. They reported that people had sustained serious eye trauma and had been blinded in one eye or lost an eye and that there was underreporting of the real scale of injured patients. They also described the conduct reported, which included torture, cruel treatment, assault, shooting with rubber pellets and sexual abuse, among other crimes. See www.colegiomedico.cl/colegio-medico-expone-en-comisiones-de-derechos-humanos-del-senado-y-la-camara-de-diputados

14 Presidential press office, Press release, Public statement by President Piñera, broadcast on the national channel, 20 October 2019.

15 COLMED, Public statement by the Medical College of Chile, “Catastro de denuncias por agresiones recibidas por el Dpto. de DD.HH. del Colegio Médico de Chile”, 20 October 2019.

16 Paula Lorca (44) and Alicia Cofré (42). Both victims were found inside a Líder supermarket that had been set on fire in the commune of San Bernardo. Renzo Barboza (38) was found inside a Líder supermarket, set on fire in the commune of Quinta Normal. The burned bodies of Manuel Muga (59), Andrés Ponce (38), Yoshua Osorio (17), Julián Pérez (51) and Luis Salas (47) were found in the burned down Kayser company warehouse in Renca.

17 Amnesty International interview with relatives of victims of the Kayser fire, 1 November 2019.

The next day, the Executive suspended the fare increase, but protests continued.¹⁸ By that point, transport fares had become the tip of the iceberg. Demands focused on improved living conditions and guarantees of social rights, in particular, reform of the pensions system, improvements in public education and the public health system, as well as access to decent housing.

In addition to the thousands of complaints of abuse, there were reports of deaths, two of them at the hands of state agents.¹⁹ On 21 October, Manuel Rebolledo died after being run over by a Navy official during a small protest in the town de Talcahuano.²⁰ On the 22 October, Álex Núñez, aged 39, died, reportedly as a result of the beating he received from several police officers in the commune of Maipú.

More than a million people demonstrated on the streets of Santiago on 25 October.²¹ Hundreds of people were injured during the peaceful march, some seriously, and there were numerous complaints of repression by public security officials.

The end of the state of emergency and the withdrawal of the Army from the streets on 28 October did not stop the protests or the human rights violations (although no further deaths at the hands of state officials were recorded). The flawed planning and management of demonstrations by the public security forces, first with the support of the Armed Forces, and later solely by the Carabineros, far from calming things down resulted in a worsening of the situation. On 8 November, the case of Gustavo Gatica, the first protester to lose his sight in both eyes after being hit by several pellets fired by the police, became known.

On 12 November, a national strike was called and multiple violent events were recorded in the country. According to the Ministry of the Interior and Public Security (hereinafter, the Ministry of the Interior), 91 complaints were filed in connection with 189 incidents that occurred in the country, which included a fire in the church of Veracruz in Santiago. Finally, on that day, President Sebastián Piñera called for three agreements, among which he highlighted reform of the Constitution.²²

Three days later, on 15 November, an ex officio hearing was held within the framework of the sessions of the Inter-American Court of Human Rights (Inter-American Court) to address the crisis in Chile. State representatives described in detail the damage to street furniture and argued that this was a “coordinated attack against the critical infrastructure of the country” with an ideological element, and that (according to Carabineros figures) the number of people injured was 800 compared to 1,200 police officials.²³ As of that date, the Ministry of Health had provided emergency treatment for 8,300 people in the context of the protests.²⁴

On 18 November, the University of Chile published a study that examined the composition of the riot-control rubberized buckshot used by the Carabineros (TEC Harseim brand) and confirmed that they were composed of a metal and rubber alloy.²⁵ Following internal and international pressure, on 18 November the police decided to limit the use of shotguns.²⁶

18 Ministry of Transport and Telecommunications Decree 96, 21 October 2019.

19 In addition to the deaths allegedly at the hands of the state, on 21 October José Arancibia (74) and Eduardo Caro del Pino (44) died in a fire in a Construmart store in the commune of La Pintana; one person was electrocuted and died in a supermarket in the commune of Santiago; and Mariana Díaz (34) died in her home in the commune of Lo Prado after being hit by a stray bullet. And finally, on 22 October, Joel Triviño (aged four) and Cardenio Prado (aged 37) lost their lives.

20 José Miguel Uribe Antipani died while taking part in a roadblock, as a protest, in the town of Curicó. Although at first it was thought that his death had been at the hands of a soldier who fired live ammunition at the scene, months later the investigation indicated that the person responsible was possibly a private individual. That same day, Mariana Díaz also died from a bullet wound, apparently also fired by a private individual.

21 A mass protests took place in the streets of downtown Santiago de Chile that Friday to protest at social inequality in the country and demand the implementation of profound social reforms. According to government figures, more than 1.2 million people gathered in “Plaza Italia”, the nerve centre of the Chilean capital. It was thought to be the largest demonstration since the return of democracy to Chile; many other marches took place in other regions of the country.

22 INDH, Annual Report of the National Institute of Human Rights, *Derechos Humanos en Chile en el contexto de la crisis social, 17 October – 30 November 2019*, p. 18.

23 Inter-American Commission on Human Rights, Human rights and the social protests in Chile. See www.youtube.com/watch?v=uZo9d7YcCf&t=6s

24 Ministry of Health, Reporte de Atenciones de Urgencia (durante la situación de emergencia), 7 November 2019. See www.minsal.cl/reportes-de-lesionados-y-heridos/

25 University of Chile, “Estudio de Perdigón”, from the Department of Mechanical Engineering (Departamento de Ingeniería Mecánica, DIMEC) of the Faculty of Physical Sciences and Mathematics, carried out at the request of the Eye Trauma Unit of El Salvador Hospital, published on 18 November 2019. See www.uchile.cl/noticias/159315/perdigones-usados-por-carabineros-contienen-solo-20-por-ciento-de-goma

26 On that day, Amnesty International reported that there had been widespread human rights violations as a result of the unnecessary and excessive use of force, mainly the extensive use of shotguns using potentially lethal ammunition and tear gas, as well as acts of torture and other cruel, inhuman or degrading treatment or punishment, mainly by the Carabineros. See amnistia.cl/noticia/chile-politica-deliberada-para-danar-a-manifestantes-apunta-a-responsabilidad-de-mando/

Within a month of the start of the protests, at least 11,054 people had required emergency treatment or had been hospitalized for injuries that occurred during the protests.²⁷ The National Human Rights Institute (Instituto Nacional de Derechos Humanos, INDH) recorded more than 220 cases of eye trauma,²⁸ the majority caused by pellets, and had more than 450 complaints against the authorities, mainly members of the Carabineros, for possible human rights violations.²⁹

The Carabineros, for its part, reported 1,896 injured officials and 5,300 public order incidents, including demonstrations, curfew violations, damage to street furniture, arson, looting, attacks on police barracks and disturbances. The police reported that more than 15,000 people had been detained, including 2,200 children and adolescents.³⁰

After the restriction on the use of shotguns, reports of their misuse continued to be reported, although to a much lesser extent, as well as an increase in the use of grenade launchers to fire tear gas at the bodies of protesters. For example, on 26 November, Fabiola Campillai lost her vision in both eyes and her sense of smell and taste after being hit by a tear-gas canister in the face while on her way to work.

As of 30 November 2019, the total number of people killed stood at 31,³¹ of whom four were killed by state officials.³² The Attorney General's Office initiated investigations into the cases of 5,558 victims of "institutional violence".

Likewise, the INDH filed 635 complaints against state officials in this period.³³ The final total number of complaints related to events that occurred up to 30 November was 1,370. As of that date, 347 people had sustained eye trauma according to the INDH.³⁴

27 Ministry of Health, Reporte de Atenciones de Urgencia (durante la situación de emergencia), 19 November 2019. See www.minsal.cl/reportes-de-lesionados-y-heridos/

28 INDH, Informe de Estadísticas de la Crisis Social, see www.indh.cl/archivo-de-reportes-de-estadisticas/

29 List of legal actions filed by the INDH, updated as of 6 April 2020. The INDH has published several reports that describe the legal actions it has filed in the context of these events. The figures used in this report correspond to an updated record provided to Amnesty International on 8 April 2020. Therefore the number of legal actions registered is higher than figures contained in previous INDH reports.

30 Department of Criminal Analysis, Report 288/19.11.2019, Eventos de Alteración al Orden Público, Contingencia día 18 y 19 de noviembre (desde las 6.00 h del 18 de noviembre hasta las 5.59 h del 19 de noviembre de 2019).

31 The 25 other people died in other incidents, according to the Attorney General's Office. See www.fiscaliadechile.cl/Fiscalia/sala_prensa/noticias_det.do?noticiald=17285

32 The victims allegedly killed by state officials were: Manuel Rebolledo, Romario Veloz, Kevin Gómez and Álex Núñez. Two people, Cesar Mallea and Germán Aburto, died in state custody. Both committed suicide.

33 List of legal actions filed by the INDH, updated as of 6 April 2020.

34 INDH, Annual Report of the National Institute of Human Rights, Derechos Humanos en Chile en el contexto de la crisis social, 17 October – 30 November 2019, p. 35.

3. METHODOLOGY

In this report, Amnesty International analyses the human rights violations and crimes under international law committed by Carabineros officials in the context of the mass protests that took place in Chile between 18 October and 30 November 2019. The cut-off date for the preparation of this report was 31 August 2019.

Although Amnesty International has documented acts of violence committed by both police officials and the military, this report focuses solely on the actions of the Carabineros. This is because Carabineros officials carried out widespread human rights violations and, as the institution charged with maintaining public order on a permanent basis, it requires a deeper analysis and structural approach.

This is an analysis of events from a human rights perspective which also looks at the conduct of Carabineros strategic commanders, as well as some operational commanders in the Metropolitan Area, the region used as an example for a large part of this report.

The period covered was chosen for methodological reasons. The protests in Chile continued until the COVID-19 pandemic stopped the demonstrations because of the high risk of infection and the declaration of the exceptional state of catastrophe by the government on 18 March 2020.³⁵ During the whole of this period, the disproportionate use of force by Carabineros officers continued to be reported.

For the preparation of this report, an Amnesty International delegation made two research visits to Chile, in October and November 2019. They went to the regions of Valparaíso, Tarapacá, Bío-Bío, Antofagasta, Coquimbo and Maule, as well as 11 communes in the Metropolitan Region of Santiago.

Researchers met survivors of human rights violations, victims' families, witnesses, medical personnel, including members of the Chilean Medical College, human rights organizations and journalists. The team visited the "Posta Central" Emergency Public Hospital and the Eye Trauma Unit (Unidad de Trauma Ocular, OTU) at El Salvador Hospital in Santiago.

In addition, the delegation held meetings with the Director and staff of the National Human Rights Institute (INDH), the Ombudsperson for Children, the Minister of the Interior,³⁶ the Director General of the Chilean Police, the Human Rights Unit of the Chile National Police, staff at the Public Criminal Defender's Office, the Attorney General, the Human Rights Unit of the Attorney General's Office, prosecutors from the Regional Attorney General's Offices in Antofagasta and Coquimbo and with prosecutors from the Eastern, Central North and Western Metropolitan Region. The organization also held meetings with the President of the Supreme Court and the President of the Senate.

The organization requested meetings with the Head of National Defence and the President of the Republic. No response was received to these requests.³⁷

Amnesty International collected information on 26 cases of possible human rights violations committed in the context of the demonstrations; this research focuses on 12 of them, related to violations of the right to life and the right to physical integrity in the context of the exercise of freedom of expression. Amnesty International accessed seven investigation case files in whole or in part and five court case files available on the Judicial Branch webpage and interviewed victims' lawyers in all cases. This document also provides an analysis of context and specific situations and operations that took place during the first month and a half of protests and the ammunition used.

35 President Piñera, through Ministry of the Interior and Public Security Supreme Decree No. 104 of 18 March 2020, declared a constitutional exceptional state of catastrophe, due to public calamity, throughout the country for a period of 90 days. See twitter.com/sebastianpinera/status/1240272640104730624

36 Amnesty International requested a first meeting with the Undersecretary of the Interior by letter delivered to his office on 29 October 2019 and repeated the request by email on 5 and 6 November 2019. However, the organization received no response. A second meeting was subsequently requested with the President of the Republic, by email on 13 November and by a letter delivered to his office on 14 November; no reply was received. When Amnesty International published its preliminary findings on 21 November 2019, the Undersecretariat for Human Rights criticized the organization for not having requested information from the government; Amnesty International publicly clarified the situation. As a result, then Interior Minister Gonzalo Blumel, stated to the press that he was available to meet Amnesty International when deemed appropriate. In response, the organization sent an email on 22 November requesting a meeting with the Minister, which took place on 26 November 2019.

37 The request to the Head of National Defence was sent on 28 October, with acknowledgement of receipt on 30 October. The request to the President of the Republic was sent on 13 November, with acknowledgement of receipt the following day.

Amnesty International's arms and ammunition expert and Digital Verification Corps (DVC) compared more than 200 pieces of audiovisual and photographic material. The DVC is a network of volunteers trained in open source research and analysis based in universities around the world. The Berkeley Center for Human Rights at the University of California and the Centre for Human Rights at the University of Essex were involved in this research.

The DVC's methodology included verifying the date of capture and uploading on social media, geolocation of content and identification of security force units and officers who may have been in them. In addition, the organization's weapons expert analysed type of weapons, ammunition and vehicles employed by police and how they were used.

Amnesty International made 14 requests for information under the Transparency Act: two to the Ministry of Health concerning people injured and inter-ministerial communications about them; five to the Ministry of Defence, with respect to the numbers of personnel, weapons and ammunition deployed during the state of emergency, processes initiated and applicable regulations; three to the Ministry of the Interior and Public Security, concerning sanctions and processes, assaults on police officials, structure, protocols and policies; four to Carabineros, on processes, sanctions, orders issued and internal regulation; and one to the Forensic Medical Service (Servicio Médico Legal, SML), relating to expert reports on people injured.³⁸



38 In general, the Ministry of Defence provided little information, referring to its confidential nature. The Ministry of Health referred to the information available on its website regarding people injured and did not respond in relation to inter-ministerial communications. The Ministry of the Interior delivered complete information by hand to the organization after its meeting with the Minister of the Interior, but the updating of this information through transparency was partial and was referred to the Carabineros, who delivered a detailed response to some requests, but did not provide much of the information either because they felt that its preparation required additional work or because it was confidential. The Forensic Medical Service delivered a technical report of Istanbul protocols carried out in the period analysed, but this information was not disaggregated.

4. ONGOING VIOLENCE

The figures in the table indicate human rights violations and crimes under international law that were committed in the context of mass demonstrations in Chile between October and the end of November 2019.

As of 30 November 2019, the Attorney General's Office was conducting investigations into a total of 5,558 cases of victims of "institutional violence" of which 1,938 were people injured by firearms and 674 had sustained serious injuries, of which 285 were eye injuries. The injured included 834 children and adolescents.³⁹

In addition, there were 246 victims of sexual violence, six involving sexual penetration with an object and two rapes, one of them multiple rape.⁴⁰ There were 134 investigations for torture and 4,158 for unlawful coercion (equivalent to ill-treatment).

Of the total number of complaints, 4,170 were against members of the Carabineros, 244 were against Army officials, 96 against members of the Investigative Police (Policía de Investigaciones, PDI) and the rest against other bodies.

The Attorney General's Office registered 1,946 crimes of threats and ill-treatment by members of the Carabineros,⁴¹ of which at least 692 related to crimes of ill-treatment by police officers.⁴²

The INDH filed 1,370 complaints against state officials for incidents that occurred between 19 October and 30 November 2019. Of these, 1,145 complaints were for torture and cruel treatment and 179 for torture with sexual violence. Of the total number of the complaints, 1,266 were against members of the Carabineros, 92 against members of the Armed Forces and 14 against PDI officials. A total of 635 complaints had been filed by 30 November.⁴³

The number of complaints was a marked increase compared to previous years. In the nine years prior to 17 October 2019, the INDH had filed a total of 174 complaints of torture and cruel treatment against members of the Carabineros.⁴⁴ Likewise, the Attorney General's Office announced in January that during the last quarter of the year, crimes of unlawful coercion (and public disturbances) had tripled compared to the same period in the previous year.⁴⁵

More than 12,500 people received emergency medical care and more than 70 required hospitalization during the protests, according to figures from the health system.⁴⁶

Of the 31 people in total who died, at least four were killed by state agents. Kevin Gómez, Romario Veloz and Manuel Rebolledo were killed by the Armed Forces, while they were deployed on the streets to carry out public order duties.⁴⁷ The other victim, Alex Núñez, died as a result of a beating reportedly inflicted by several police officers in the context of a protest.

The number of police officers reported to have been injured between the beginning of the crisis and 19 November was 1,896, of whom 1,552 sustained minor injuries, 156 received less serious injuries and a total of 127 were seriously injured.⁴⁸ As of 30 November, the Carabineros reported that, according to its own figures, more than 2,300 officers had been injured and no law enforcement officer had been killed.⁴⁹

As shown in the graph below, these possible human rights violations were recorded from the beginning of the crisis and remained virtually constant during the month and a half analysed in this report.



39 Attorney General's Press Office, Fiscalía eleva a 5.558 las víctimas que denuncian violaciones a Derechos Humanos desde el inicio de las manifestaciones sociales. See www.fiscalia.dechile.cl/Fiscalia/sala_prensa/noticias_det.do?noticiald=17285

40 Documentation provided to Amnesty International by the Attorney General's Office, with a breakdown of crimes of sexual violence, as of 30 November 2019.

41 The organization asked the Attorney General's Office how many complaints there were regarding members of the Carabineros between 18 October and 30 November 2019. The Attorney General's Office handed over Official Letter GAB 82/2020, dated 25 February 2020, specifying that a total of 1,946 crimes of threats by police officers had been registered (art. 417 Code of Military Justice) and ill-treatment by police officers (art. 416a of the Military Code), but could not give a breakdown of exactly how many people had lodged complaints or the number by type of crime. According to the information made public by the Attorney General's Office, at least 692 people were subject to detention review hearings for ill-treatment of police.

42 Attorney General's Office, *Annual Statistical Report 2019*.

43 INDH, List of legal actions filed by the INDH, updated as of 6 April 2020.

44 INDH, Annual Report of the National Institute of Human Rights, *Derechos Humanos en Chile en el contexto de la crisis social, 17 October – 30 November 2019*, p. 18.

45 Attorney General's Press Office, *Estadísticas del año 2019 de la Fiscalía: Peak de denuncias registra el Ministerio Público desde inicio de la Reforma Procesal Penal*. See www.fiscalia.dechile.cl/Fiscalia/sala_prensa/noticias_det.do?noticiald=17287

46 Ministry of Health, Reporte de Atenciones de Urgencia durante la situación de emergencia. See www.minsal.cl/reportes-de-lesionados-y-heridos/

47 Although this report does not analyse violations of the right to life by the Armed Forces, it is important to note that at least three people were killed by the Armed Forces in the context of these protests as a result of excessive use of the force: Kevin Gómez, Romario Veloz and Manuel Rebolledo. The Human Rights Committee has established that even when the Armed Forces are deployed on public security duties or to police demonstrations, they must be equipped appropriately, for example with appropriate weapons and clear instructions to enable them to use proportionate and necessary force if the circumstances require it. If these conditions cannot be ensured, they should not be deployed. The Inter-American Court has established that states parties to the American Convention on Human Rights must "restrict to the maximum extent the use of armed forces to control domestic disturbances, since they are trained to fight against enemies and not to protect and control civilians, a task that is typical of police forces." (Inter-American Court, *Case of Montero-Aranguren et al (Detention Center of Catia) v. Venezuela*, Preliminary Objection, Merits, Reparations and Costs, Judgment of 5 July 2006, Series C No. 150, para. 78; *Case of Zambrano Vélez et al. v. Ecuador*, Merits, Reparations and Costs, Judgment of 4 July 2007, Series C No. 166, para. 51; *Case of Cabrera García and Montiel Flores v. Mexico*, Preliminary Objections, Merits, Reparations, and Costs, Judgment of 26 November 2010, Series C No. 220, para. 88.

48 Department of Criminal Analysis, Report 288/19.11.2019, Eventos de Alteración al Orden Público, Contingencia día 18 y 19 de noviembre (desde las 6.00 h del 18 de noviembre hasta las 5.59 h del 19 de noviembre de 2019).

49 Presentation by the Director General of the Carabineros to the Commission on Human Rights and Indigenous Peoples, 11 March 2020. See www.camara.cl/verDoc.aspx?prmID=192083&prmTipo=DOCUMENTO_COMISION.

	MINISTRY OF HEALTH	NATIONAL HUMAN RIGHTS INSTITUTE			ATTORNEY GENERAL'S OFFICE
	Emergency treatment	Gunshot injuries	Eye trauma	Complaints against members of the Carabineros	Official complaints against members of the Carabineros
18-oct		8			
19-oct	3379	18	10	1	
20-oct		46	14	4	
21-oct	390	207	38	6	
22-oct	260	151	39	12	
23-oct	966	103	26	4	
24-oct	558	69	19	13	
25-oct	525	100	10	25	
26-oct	326	75	12	6	
27-oct	153	26	1	8	
28-oct	544	88	9	22	
29-oct	288	96	13	27	
30-oct	147	33	8	23	
31-oct	86	72	2	7	
1-nov	85	40	4	5	
2-nov	42	8	5		
3-nov	33	4	1	6	1004
4-nov	189	47	1	15	
5-nov	188	29	4	21	
6-nov	232	32	7	13	
7-nov	159	10	2	19	
8-nov	268	130	16	17	
9-nov	103	34	12	1	
10-nov	65	16	18	2	
11-nov	114	21		11	
12-nov	725	165		44	
13-nov	309	53	9	5	
14-nov	396	39	4	26	
15-nov	192	34	3	12	
16-nov	70	24	7	1	
17-nov	66	3	5	11	2943
18-nov	196	52		16	
19-nov	108	36	5	31	
20-nov	84	17	3	25	
21-nov	318	14	1	17	3354
22-nov	177	37	3	16	
23-nov	75	13	14		
24-nov	30	2	4		
25-nov	99	6		28	
26-nov	292	13	5	30	
27-nov	130	4	3	14	
28-nov	89	0	1	16	
29-nov	69	3	3	9	
30-nov	22	2	4	8	4170
	12547	1980	347	577	4170

4.1. USE OF FORCE BY AGENTS OF THE STATE

The right to health and education, as well as to social security, are human rights that Chile has recognized by becoming a state party to international conventions,⁵⁰ and which it is therefore obliged to fully guarantee. In addition, it has an obligation to respect the freedom of expression and assembly of those who, freely and peacefully, demonstrate to demand these rights be guaranteed.

Unwarranted restrictions of the rights to freedom of expression and assembly can lead to the violation of other human rights such as the rights to life and physical integrity. This not only results in multiple violations of rights, but also has a chilling effect on future protests.⁵¹ Although it is true that international standards do not consider the right to assembly an absolute right, it should not be interpreted in a restrictive manner⁵² and restrictions on this right must not be arbitrary or disproportionate.⁵³

In the event that the use of force is unavoidable, its use must be consistent with, first of all, the principle of legality; that is, the use of force is justified on the basis that it has a legitimate objective and it is within a regulatory framework that provides for it in the given situation.

Second, it must comply with the principle of necessity; that is, the use of force must be limited and only resorted to when other means are not available to achieve the legitimate objective. The principle of necessity has three components – qualitative, quantitative and temporary – that must be established: what force, how much force and when its use ends, which includes when an objective cannot be achieved.⁵⁴

Third, the principle of proportionality, whereby the means and methods employed must be commensurate with the resistance offered and the existing danger.⁵⁵ In other words, law enforcement officials must not cause more harm than the harm they are seeking to prevent. For example, regarding lethal force, this should only be authorized for use to endanger a life if it is in order to save another life.⁵⁶

Furthermore, officials must seek at all times to minimize damage, protect life and physical integrity,⁵⁷ and provide immediate assistance. In addition to the principles on the use of force, there is the obligation to ensure accountability. This meant not only that individual law enforcement officials must be held accountable for their actions and omissions, but also all superiors who give orders to, supervise or otherwise command and control law enforcement officials, or who are responsible for the planning and preparation of law enforcement operations.⁵⁸

As far as possible, officials must use non-violent means and, prior to the use of force, exhaust other means of negotiation and control and be suitably equipped so that, if necessary, force is used gradually and in a manner appropriate to the level of resistance encountered, depending on the “degree of cooperation, resistance or aggression” at any given moment.⁵⁹

The fact that some groups or individuals use violence in a demonstration does not, per se, make the entire protest violent, nor does it authorize the security forces to use force to disperse it.⁶⁰ In such cases, the authorities must make every effort to distinguish between individuals who are engaged in violence and those who are not and act in accordance with the law, ensuring that although those who use violence forfeit the right to peaceful assembly, they retain all other rights, subject to normal limitations.⁶¹

50 UN, *International Covenant on Economic, Social and Cultural Rights*. See www.ohchr.org/en/professionalinterest/pages/cescr.aspx

51 Expert opinion provided by Maina Kiai, former United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, before a public notary on 31 October 2017 (evidence file, folios 37344 and 37359).

52 Inter-American Court, *Case of López Lone et al. v. Honduras*, Preliminary Objection, Merits, Reparations and Costs, Judgment of 5 October 2015, Series C No. 302.

53 Inter-American Court, *Case of López Lone et al. v. Honduras*, Preliminary Objection, Merits, Reparations and Costs, Judgment of 5 October 2015, Series C No. 302.

54 Amnesty International, *Use of force: Guidelines for implementation of the UN Principles on the Use of Force and Firearms by Law Enforcement Officials*.

55 Inter-American Court, *Case of Women Victims of Sexual Torture in Atenco v. Mexico*, Preliminary Objection, Merits, Reparations and Costs, Judgment of 28 November 2018, Series C No. 371, para. 162.

56 UN Special Rapporteur on extrajudicial executions, Doc. UN: A/61/311 (2006), paras 42 and 44.

57 Inter-American Court, *Case of Women Victims of Sexual Torture in Atenco v. Mexico*, Preliminary Objection, Merits, Reparations and Costs, Judgment of 28 November 2018, Series C No. 371, para. 162.

58 Amnesty International, *Use of force: Guidelines for implementation of the UN Principles on the Use of Force and Firearms by Law Enforcement Officials*.

59 Inter-American Court, *Case of the Landaeta Mejías Brothers et al. v. Venezuela*, Judgment of 27 August 2014, para. 134.

60 The conduct of specific participants in an assembly may be deemed violent if the authorities can present credible evidence that, before or during the event, those participants are inciting others to use violence and such actions are likely to cause violence; that the participants have violent intentions and plan to act on them; or that violence on their part is imminent. Isolated instances of such conduct will not suffice to taint an entire assembly as non-peaceful. Human Rights Committee, General Comment No. 37, 27 July 2020, CCPR/C/GC/37, para. 19.

61 Inter-American Court, *Case of Women Victims of Sexual Torture in Atenco v. Mexico*, Preliminary Objection, Merits, Reparations and Costs, Judgment of 28 November 2018, Series C No. 371.

In any case where the use of force by state agents has caused the death or injury of one or more person, the state has an obligation to provide a satisfactory and convincing explanation of what happened and to disprove allegations about its responsibility, with appropriate evidence.⁶²

The deliberate use of potentially lethal force to maintain order in the face of threats that are not extremely serious, for example, to protect private property or prevent the escape of a criminal suspect or a prisoner who does not pose a serious and imminent threat to life or injury to third parties, cannot be considered a proportionate use of force.⁶³

4.1.1. DEPRIVATION OF LIFE BY EXCESSIVE USE OF FORCE

Under international standards, law enforcement officials must respect the right to life of everyone in the context of police operations. Any deprivation of the right to life must be strictly necessary to protect another life and resorted to only when another less harmful option is not possible.

That is why the deprivation of life, when it lacks a legal basis or is in some way incompatible with the laws or procedures that protect it (for example, in certain cases, legitimate defence), is, in general, arbitrary.⁶⁴ In this sense, the Inter-American Court has established that when state agents use illegitimate, excessive or disproportionate force, resulting in the loss of life, it is considered an arbitrary deprivation of life.⁶⁵

The following case reflects how ill-treatment by the police in the context of the crisis resulted in a human rights violation.

A) ALEX NÚÑEZ SANDOVAL: ARBITRARY DEPRIVATION OF THE RIGHT TO LIFE

On Sunday, 20 October 2019, Alex Núñez Sandoval, who was 39 years old at the time and the father of three children, participated in a demonstration in the Maipú commune, Santiago Metropolitan Region.

He returned home at 21:00 and went out again with an acquaintance. According to the complaint filed by Alex's family, at that moment a Carabineros vehicle arrived, a group of officers got out and, without saying a word, began to beat him. The complaint details how the police knocked him to the ground when he tried to run away and kicked him in the middle of the body and in the head for several minutes, before leaving him in the road.⁶⁶

Eventually Alex managed to get to his feet and go home; his face was disfigured and he was in great pain and exhausted. There he described to his family what had happened. He pointed out that those who attacked him were Special Forces officials. His family told him that he should go to a health centre, but he refused and said that he just wanted to rest.

62, Inter-American Court, *Case of Díaz Loreto et al. v. Venezuela*, Preliminary Objections, Merits, Reparations and Costs, Judgment of 19 November 2019, Series C No. 392, para. 88.

63 Human Rights Committee, General Comment No. 36, 3 September 2019, CCPR/C/GC36, para. 18.

64 Human Rights Committee, General Comment No. 36, 3 September 2019, CCPR/C/GC36, para. 17.

65 Inter-American Court, *Case of Nadege Dorzema et al. v. Dominican Republic*, Merits, Reparations and Costs, Judgment of 24 October 2012, para 85 to 90. See also: Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*, 7 September 1990.

66 Complaint filed by Alex Núñez' family for the crime of torture followed by homicide, Case RUC 1910052627 of the Santiago 9th District Court.

According to his brother, at 07:00 he heard that Alex's breathing was very laboured, so he turned him on his side, Alex vomited blood and never regained consciousness. Alex was treated at his home by the Emergency Medical Service and transferred to the Posta Central.⁶⁷ He was diagnosed with a head injury. The doctor who treated him explained to his family that Alex had an inoperable oedema, that only 5% of his brain was functioning and that his lung was damaged.⁶⁸ Alex died at 03:15 on 22 October.

The autopsy carried out by the Forensic Medical Service (Servicio Médico Legal, SML) determined that the head injury was the cause of death. Additionally, the following injuries to his body were recorded: acute subdural haematoma with signs of intracranial hypertension and Duret's haemorrhage; soft tissue polytrauma as well as bilateral pulmonary contusion. The SML stated that these were recent injuries and attributable to third parties.⁶⁹ Amnesty International consulted an independent forensic doctor on the results of this examination who confirmed the findings.

Judicial investigation

The Office of the Attorney General for Cases of High Complexity (Fiscalía de Alta Complejidad) initiated an investigation for homicide based on the complaint made by Alex's former wife. Subsequently, the National Human Rights Institute (INDH), Alex's family and the State Defence Council (Consejo de Defensa del Estado, CDE) filed complaints for the crimes of homicide, torture followed by homicide and unlawful coercion resulting in death, respectively.

The State Defence Council presented its complaint on 3 February 2020, when there was more information regarding the circumstances surrounding Alex's death. This refers to two relevant pieces of evidence that were in the investigation case file.⁷⁰

One is the police report from the Investigative Police (Policía de Investigaciones, PDI) that established that the injuries on Alex's body were attributable to third parties and that the cause of death was a head injury.⁷¹ The other was a statement by a second lieutenant in the Carabineros, which gave reasonable grounds for presuming that members of the Carabineros took part in the incident and conspired to try to conceal the circumstances in which Alex was beaten and, at the same time, incriminate other police officers.⁷²

Amnesty International accessed parts of the investigation case file with statements from the Carabineros in the context of the internal process that reveal numerous contradictions in the statements of the officers who had been at the scene.⁷³ The investigation remained open and no one was under formal investigation at the time this report was completed.

In July 2020, following a request for information under the Transparency Law, the National Police informed Amnesty International that a disciplinary process associated with Alex Núñez Sandoval had been initiated but was still ongoing.⁷⁴

4.1.2. HARM TO PHYSICAL INTEGRITY USING LETHAL WEAPONS

Firearms using live ammunition should never be used as tactical tools in the policing of demonstrations because they are specifically designed to be lethal. They should only be used if someone's life or physical integrity are in danger.⁷⁵

67 As stated in the complaint filed for the crime of unlawful coercion resulting in death by the State Defence Council (CDE), Case RUC 191005262724-4 of the Santiago 9th District Court.

68 Complaint filed by Alex Núñez' family for the crime of torture followed by homicide, Case RUC 1910052627 of the Santiago 9th District Court.

69 Forensic Legal Service, Autopsy Report on Alex Núñez, dated 2 December 2019.

70 Complaint filed by the CDE, Case RUC 191005262724-4 of the Santiago 9th District Court.

71 Police Report No. 20190614208/05369/702, dated 14 November 2019, of the Metropolitan Homicide Brigade of the Chilean Investigative Police, cited in the complaint filed by the CDE, Case RUC 191005262724-4 of the Santiago 9th District Court.

72 Statement provided for the complaint made through Police Report No. 10871, Complaint filed by the CDE, Case RUC 191005262724-4 of the Santiago 9th District Court.

73 Statements given by a 1st corporal, a 2nd corporal and two second lieutenants of the 25th Police Station of Maipú, and a witness confrontation procedure between the second lieutenants conducted in the context of the internal administrative process of the Carabineros, investigation case file, Case RUC 1910052627-4 of the Santiago 9th District Court.

74 RSIP Response No. 51476 of Carabineros to a request for information under Transparency Law No. AD009W0051476.

75 UN *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*, Principle 9, 1990.

The “protect life” principle demands that lethal force may not be used intentionally merely to protect law and order or to serve other similar interests (for example, it may not be used only to disperse protests,...or to safeguard other interests such as property). The primary aim must be to save life.”⁷⁶

That is why there are no circumstances in which lethal force can be justified in order to disperse a protest or a demonstration, much less the firing of such weapons indiscriminately during the policing of demonstrations.⁷⁷

In line with international standards, the Carabineros protocol establishes that firearms using lethal ammunition can only be used as an extreme measure, in situations of “level 5” lethal aggression, which pose a grave risk to someone’s physical integrity or life.

Despite these national and international standards, during October 2019 members of the Carabineros fired 515 cartridges containing lethal “live” ammunition (9mm, 38 and 5.56mm calibre), according to official statistics provided by the police force.⁷⁸ This figure was 250% higher than the average use of this type of ammunition in the first six months of the year, suggesting that the highest usage in October occurred in the context of the protests.

During all of 2019, the amount of 9mm ammunition fired was 1,582 rounds. In October alone, 419 9mm rounds were fired, and it was the only month of the year that lethal 5.56mm long gun ammunition was used.⁷⁹

The INDH filed complaints on behalf of seven people whom the Carabineros allegedly shot with lethal ammunition during the period between 18 October and 30 November 2019.⁸⁰

As part of the verification of images related to the crisis, Amnesty International identified at least one event in which a Carabineros official was seen firing lethal ammunition at protesters who did not pose a risk to his life or that of others in the vicinity.

Carabineros officer firing a semi-automatic pistol using lethal ammunition at protesters. 22 October 2019, Viña del Mar. -33.0256374, -71.5519358



This video, together with the statistics cited above, show that the Carabineros used lethal force in violation of international standards in the context of the crisis.



76 UN, *Report of the special rapporteur on extrajudicial, summary or arbitrary executions*, Christof Heyns, 1 April 2014, A/HRC/26/36, paras 72 and 73.

77 Human Rights Committee, General Comment No. 37, 27 July 2020, CCPR/C/GC37, para. 88.

78 Official information provided by the Carabineros to the Chilean media outlet CIPER on 14 July 2020. [Seeciperchile.cl/2020/08/18/carabineros-revela-que-disparo-104-mil-tiros-de-escopeta-en-las-primeras-dos-semanas-del-estallido-social/](https://seeciperchile.cl/2020/08/18/carabineros-revela-que-disparo-104-mil-tiros-de-escopeta-en-las-primeras-dos-semanas-del-estallido-social/)

79 Official information provided by the Carabineros to the Chilean media outlet CIPER on 14 July 2020. [Seeciperchile.cl/2020/08/18/carabineros-revela-que-disparo-104-mil-tiros-de-escopeta-en-las-primeras-dos-semanas-del-estallido-social/](https://seeciperchile.cl/2020/08/18/carabineros-revela-que-disparo-104-mil-tiros-de-escopeta-en-las-primeras-dos-semanas-del-estallido-social/)

80 INDH, List of legal actions filed by the INDH, updated as of 6 April 2020.

4.1.3. HARM TO PHYSICAL INTEGRITY CAUSED BY LESS LETHAL WEAPONS

4.1.3.1 RUBBERIZED BUCKSHOT

Weapons using less lethal ammunition, such as riot-control shotguns which fire kinetic impact projectiles, should be used only for the purpose of dealing with an imminent threat of injury. State agents should not resort to this type of weapon in ordinary crowd control situations and demonstrations.⁸¹ Such weapons are subject to strict requirements of necessity and proportionality and may only be used in situations in which other measures have proven to be ineffective in dealing with a threat.⁸²

This type of ammunition must be designed so on impact with the human body it only causes pain and bruising but does not penetrate the skin, because of the risk that carries. Rubber bullets are designed for this purpose.⁸³ The proper use of this type of ammunition has three aspects: angle of fire, precision and distance.

Based on this, officers should only fire from the distance that is allowed, according to the type of ammunition available, so as not to cause serious injury.⁸⁴

In addition, they must shoot with precision towards a specific target, exclusively those individuals engaged in acts of considerable violence against other people. This is why kinetic impact projectiles should not be fired randomly into a crowd.⁸⁵

Finally, the shot must be directed below the waist, in such a way as to reduce the risk of causing damage to physical integrity or damaging a vital area, principally the head and chest.⁸⁶

For this reason, the use of any ammunition that causes disproportionate damage to the target must be prohibited, as well as those weapons such as pellet shotguns or multiple shot ammunition that are notoriously inaccurate and therefore pose a high risk of causing serious injuries, even to people at whom they are not directed.

However, as will be shown below, during the protests in Chile, the riot-control shotguns, which fired cartridges of 12 pellets each, did not comply with international standards on the use of force and the nature of less lethal weapons, given that, firstly, the pellets consisted of a rubber and metal alloy that penetrates the body on impact. And secondly, because being multi-shot kinetic impact weapons, the 12 pellets scatter and are notoriously inaccurate.

A 24-year-old man, wounded by multiple rubberized buckshot in the context of the crisis. 19 October 2019.⁸⁷



81 OHCHR, *Guidance on less-lethal weapons in law enforcement*, 7.1. Kinetic Impact Projectiles, 82 Human Rights Committee, General Comment No. 36, 3 September 2019, CCPR/C/GC36, para. 14.

83 OHCHR, *Guidance on less-lethal weapons in law enforcement*, 7.1. Kinetic Impact Projectiles,

84 OHCHR, *Guidance on less-lethal weapons in law enforcement*, 7.1. Kinetic Impact Projectiles,

85 OHCHR, *Guidance on less-lethal weapons in law enforcement*, 7.1. Kinetic Impact Projectiles,

86 OHCHR, *Guidance on less-lethal weapons in law enforcement*, 7.1. Kinetic Impact Projectiles,

87 Photo of the COLMED report "La Experiencia del Departamento de Derechos Humanos de Colegio Médico de Chile". COLMED authorized the use of the photographs contained in that document in this report by Amnesty International.

Any analysis in this report on the incorrect use of this ammunition (distance, angle of fire, etc.) is made on the understanding that it should not have been used at all as it is incompatible with international law on the use of force.

Amnesty International identified and verified 75 incidents in which Carabineros officials used shotguns firing multiple kinetic impact ammunition (rubberized buckshot) in a manner inconsistent with international standards.

In various videos verified by the specialist DVC team, it can be seen that the excessive use of force by the Carabineros occurred daily throughout the country.

Carabinero officer firing a Benelli M3 shotgun at fleeing protesters who pose no threat. 22 October 2019. Valparaíso, Chile. -33.0466363, -71.619343



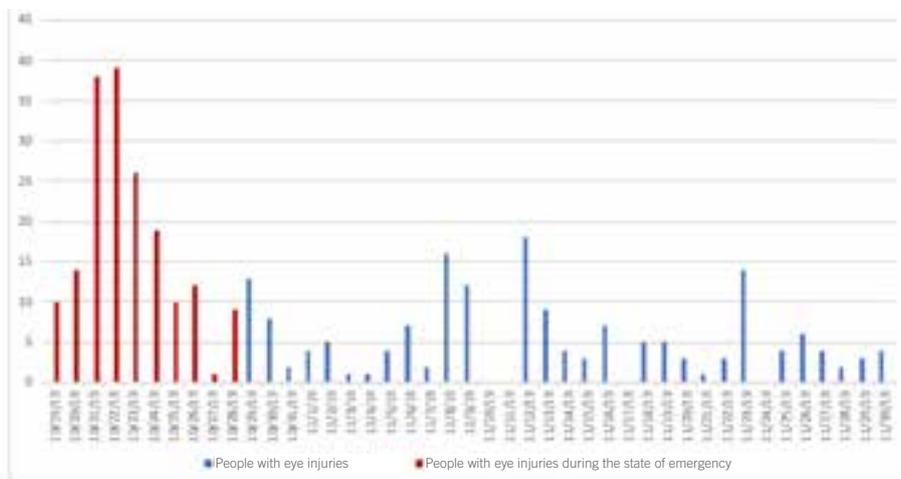
National Police official firing a shotgun to disperse protesters. 29 October 2019. Santiago, Chile. - 33.4400311, -70.6402137



The illegitimate use by members of the Carabineros of shotguns firing multiple kinetic impact ammunition in the context of the crisis was not limited to the events verified by Amnesty International.

According to the INDH, as of 30 November, 347 cases of eye trauma were registered in the country, mostly caused by metal and rubber buckshot, that is, caused by 12-gauge ammunition, fired by members of the Carabineros using riot-control shotguns.⁸⁸

The number of people with eye trauma injuries in health facilities for observation recorded by the INDH, according to registration date⁸⁹



According to statistics provided by the Public Prosecutor's Office, as of 30 November, 1,938 cases of people who reported having sustained firearm injuries, including by pellet shotguns fired by members of the Carabineros, in addition to 285 cases of eye injuries, were under investigation.

The INDH filed complaints on behalf of 493 people who were reportedly injured by the Carabineros officials during the period 18 October to 30 November 2019. In 202 of these complaints, the victims reported being shot at close range; while in 322 complaints, the victims reported being shot in the upper body.⁹⁰

The same statistics from the Carabineros support the complaints. These note that members of the force fired 147,360 12-gauge ammunition rounds between October and November 2019. Each cartridge contained 12 rubberized buckshot. During October alone, once the social crisis had begun in the middle of the month, the Carabineros fired 104,341 rounds (with 12 pellets in each).⁹¹ This is a very high number given that this ammunition should only have been used in situations where a person's life or physical integrity was at risk, as described above.

Although in November the amount of 12-calibre ammunition fired fell to 43,019 rounds, eye injuries continued at virtually the same rate.⁹² This means that although fewer rounds were fired, the number that hit people in the head remained constant. If the accumulated experience up to then is taken into account, this could indicate an intent to cause injury.⁹³

RESUMEN AÑO 2019							
NRO.	MES	CART. 9MM	CART. .38	CART. 8.56MM	CART. CAL. 12 12X70	CART. CAL. 12 PERDIGON PLOMO NRO. 4	CART. NEUTREX 20 MM
1	ENERO	90	21			46	5
2	FEBRERO	62	30			22	2
3	MARZO	63	46			50	
4	ABRIL	163	93			10	4
5	MAYO	126	32			55	1
6	JUNO	101	50			55	5
7	JULIO	128	21			40	3
8	AGOSTO	98	52			31	6
9	SEPTIEMBRE	94	24			548	2
10	OCTUBRE	419	77	19	104.341	8	9
11	NOVIEMBRE	158	56		43.019		11
12	DECEMBRE	73	40		3.928		7
TOTALES		1582	542	19	152245	18	55

88 According to the information from the Eye Trauma Unit in the 2019 INDH Annual Report, of the 259 patients treated (up to 3 December) for eye trauma in the context of protests by this unit, more than 60% had a very high degree of vision impairment (20/200), blindness in one eye, or had had to undergo eye evisceration or removal procedures.

89 INDH, Annual Report of the National Institute of Human Rights, Derechos Humanos en Chile en el contexto de la crisis social, 17 October – 30 November 2019, p. 37.

90 INDH, List of legal actions filed by the INDH, updated as of 6 April 2020.

91 Official figures given by the Carabineros to the Chilean media outlet CIPER on 14 July 2020. See ciperchile.cl/2020/08/18/carabineros-revela-que-disparo-104-mil-tiros-de-escopeta-en-las-primeras-dos-semanas-del-estallido-social/.

92 From the start of the protests in mid-October to the end of the month, COLMED recorded 126 cases of severe eye trauma. As of 30 November, it recorded 340 cases (and the INDH 347). That means that, during the month of November, in 30 days, there were at least 214 cases according to COLMED figures.

93 That information was also requested by Amnesty International under the Transparency Act, but the request was refused. See ciperchile.cl/2020/08/18/carabineros-revela-que-disparo-104-mil-tiros-de-escopeta-en-las-primeras-dos-semanas-del-estallido-social/

These figures show the widespread use of shotguns by members of the Carabineros in the context of the crisis, which was incompatible with international law. The following cases highlight the consequences of these violations.

A) GUSTAVO GATICA VILLARROEL: BLINDED IN BOTH EYES

On Friday, 8 November 2019, around 17:00, Gustavo Gatica Villarroel, a 21-year-old psychology student, went to “Plaza Italia” (Plaza Baquedano) in Santiago to join the demonstration that had regularly assembled there on Fridays since the beginning of the crisis. An hour and a half later, when he was in the middle of a group of protesters at the intersection of three streets,⁹⁴ Carabineros officials, Special Forces units, Special Police Operations Group (Grupo de Operaciones Policiales Especiales, GOPE) and other public security forces began firing riot-control shotguns loaded with rubberized buckshot at protesters.⁹⁵

Gustavo was hit directly in both eyes by the projectiles. According to his statement, he received no help from Carabineros officials, who fired tear gas bombs around him and several others injured by the shootings while they were being treated by a health post stationed there.

Gustavo was transferred to the emergency department of the Santa Maria Clinic, where an initial examination of his face indicated that there were “foreign metal density bodies lodged in posterior right ethmoidal cells” and “a foreign body of metal density in the lateral aspect of the left orbital cavity”, also presenting “signs of a burst left eyeball” as well as “likely traumatic lesions of the right eyeball, which presents signs of partially haematic content in its dependent appearance.”⁹⁶

After two operations and 17 days in hospital, Gustavo was discharged on 26 November. In a press release, the Santa Maria Clinic noted that the severity of his injuries means that he would be permanently blinded in both eyes.⁹⁷ Gustavo required new surgery in January for an eye implant.⁹⁸

Gustavo Gatica having his eyes cleaned at home.



Judicial investigation

Amnesty International had access to the investigation case file Rol Único de Causa (RUC) 1901217258-6 court case on the crime of “very serious injuries” (“lesiones grave gravísimas”),⁹⁹ initiated by Gustavo’s brother’s complaint to the Attorney General’s Office on 9 November 2019.¹⁰⁰ Gustavo’s family, the State Defence Council and the INDH subsequently filed complaints for the crime of unlawful coercion (apremios ilegítimos) resulting in very serious injuries.

94 Calles Doctor Corbalán, Carabineros de Chile and Av. Vicuña Mackenna.

95 Ballistics Expert Report No. 160/2020 of the Investigation Brigade of Crimes Against Human Rights of the Chilean Investigative Police, dated 10 February 2020, Case RUC 1901217258-6 of the 7th Santiago District Court, investigation case file, Vol. II, p. 8.

96 CT examination of Gustavo Gatica’s eye sockets and face at the Santa Maria Clinic on 8 November 2019.

97 Press Release by the Santa Maria Clinic dated 26 November 2019 concerning the condition of Gustavo Gatica.

98 Gustavo Gatica Villarroel’s admission form, Clínica Santa María, dated 17 January 2020.

99 Penal Code, Article 397 No.1.

100 Web log, folio 11-1611, Case RUC 1901217258-6 of the Santiago 7th District Court, investigation case file, vol. II, p. 54.

It should be noted that the Carabineros had a contingency plan for 8 November, called “Resumen de Medios 08 de noviembre de 2019” in which it referred to the events as a “Day of Unauthorized Demonstrations” (“Jornada Manifestaciones No Autorizadas”) and defined the action as “Intervention Plaza Italia”. The plan detailed the special forces personnel involved and the logistics earmarked for it.¹⁰¹

The plan, which was part of the contingency plan, together with Service Letter No. 311 dated that day, the Special Forces Prefecture (Prefectura de Fuerzas Especial, FFEE) of the Public Order and Intervention Control Unit of Carabineros de Chile, showed the deployment of each tactical commander. The service commander, Gama-1 (G-1), colonel, was the Special Forces prefect on that date and was in charge of the operation.¹⁰²

Gama 2 (G-2), lieutenant colonel, was Sub-Prefect of Services 1 of Special Forces services on that date. Gama-3 (G-3), lieutenant colonel, deployed to the south, was the Sub-Prefect of Services 2 of Special Forces and finally, the tactical commander in the east, (Condor), was a senior officer from the 40th Police Station.

The use of pellet shotguns was widespread, especially in the area where Gustavo was wounded. In various internal Carabineros documents, which appear in the investigation files, the police justify their use. They state that “violent protesters” confronted police personnel “throwing all kinds of blunt objects such as stones, iron bars, sticks, fireworks, metal ball bearings fired with slingshots and Molotov-type incendiary bombs” and set up “barricades in order to block the path of police vehicles”.¹⁰³

They also pointed out that the use of force was gradual, that in the first instance water cannon were used and tear gas grenades were fired by hand and by 37 calibre munitions. They said that when they saw that “the physical integrity of police personnel was at risk, as well as the high degree of destruction of property... they used the riot-control shotguns armed with non-lethal 12-gauge ammunition, with rubber pellets.”¹⁰⁴

In the intervention on 8 November alone, the FFEE fired 1,117 12-caliber cartridges; the GOPE, 897 rounds of the same cartridges;¹⁰⁵ and officers from the Carabinero NCO School (Escuela de Suboficiales de Carabineros, ESUCAR), whose Macul 33 and Macul 35 units were present in the area, fired 576 cartridges.¹⁰⁶

00:22 HORAS CONSUMOS, DETENIDOS Y PERSONAL LESIONADO		CONSUMOS									
ECSP.	ADSA	C.S	POLVO	G.NUC	37MM	12MM	G.F	ARM	LES.E		
G-1	-	-	-	-	30	125	-	-	-	-	-
G-2	-	-	10	03	40	125	-	-	-	-	-
G-3	-	-	10	04	13	178	-	32	-	-	-
LA-045	0200	-	-	-	-	-	-	-	-	-	-
LA-018	1000	-	-	-	-	-	-	-	-	-	-
GR1PC 13	-	-	-	30	10	31	01	-	-	-	-
GR1PC 3	-	-	10	03	23	40	05	-	-	-	-
SEC 24	-	-	-	10	20	-	10	01	-	-	-
SEC 9	-	-	-	-	13	31	-	-	-	-	-
PTE JARDINIA	-	-	10	01	42	75	01	01	-	-	-
LA-016	20.000	10	-	-	-	-	-	-	-	-	-
SEC 14	-	-	-	-	23	25	-	01	-	-	-
C-40	-	-	24	-	05	02	-	-	-	-	-
SEC 5	-	-	-	35	10	01	05	02	-	-	-
GR1PC 8	-	-	-	20	50	125	01	04	-	-	-
LA-020	40.000	10	-	-	10	-	-	-	-	-	-
SEC 1	-	-	-	05	14	-	-	-	-	-	-
GR1PC 1	-	-	-	10	30	50	02	-	-	-	-
LA-031	50.000	40	-	-	-	-	-	-	-	-	-
SEC 17	-	-	-	04	45	-	-	02	-	-	-
LA-045	10.000	-	-	-	-	-	-	-	-	-	-
C-40*	-	-	-	-	-	-	-	02	05	-	-
LA-020	30.000	-	-	-	05	-	-	-	-	-	-
SEC 22	-	-	-	-	12	25	-	01	-	-	-
PTE BRASERO	-	-	-	-	25	125	01	-	-	-	-
SEC 20	-	-	-	-	25	75	02	02	-	-	-
SEC 14	-	-	-	02	10	50	01	-	-	-	-
LA-018	10.000	30	-	-	04	-	-	-	-	-	-
TOTAL	135.000	111	44	14	553	1111	45	22	45	-	-

Ammunition used by the FFEE in the “Plaza Italia Intervention” operation on 8 November 2019.

101 Carabineros document: Plano correspondiente a “Jornada de Manifestaciones – Actividad Intervención Plaza I”, Case RUC 1901217258-6, Santiago 7th District Court, investigation case file, Vol. III, p. 25.
 102 Case RUC 1901217258-6 of the Santiago 7th District Court, investigation case file, Vol. III, p. 17.
 103 Complaint record 9619 dated 9 November 2019, from the 3rd Police Station of Santiago, addressed to the Central North Local Attorney General’s Office, Case RUC 1901217258-6 of the Santiago 7th District Court, investigation case file, Vol. III, p. 159; Official Minutes No. 381 of the Prefecture of Special Operations GOPE, Case RUC 1901217258-6 of the Santiago 7th District Court, investigation case file, Vol. III, p. 573; Statements made as part of the Administrative Process, Case RUC 1901217258-6 of the Santiago 7th District Court, investigative case file, Vol. III, pp. 159 et seq.
 104 Administrative Process Concluding Opinion, Case RUC 1901217258-6 of the Santiago 7th District Court, investigative case file, Vol. IV, p. 589.
 105 The major identified as Beta 4, GOPE head of operations and intervention, declared in the administrative process that he used a riot-control shotgun firing 12x70mm cartridges, Case RUC 1901217258-6 of the Santiago 7th District Court, investigative case file, Vol. III, p. 152.
 106 The Libro de Novedades de Servicio Macul 33 records the use of 126 12-calibre cartridges fired by the captain heading the unit, p.459, Vol. III of the file. The Libro de Novedades de Servicio Macul 35 records the use of 450 12-calibre cartridges, without specifying which official fired them, Case RUC 1901217258 of the Santiago 7th District Court, investigative case file, Vol. III, p. 473.

The officials who fired their riot-control shotguns the most times are those who were present in the area in which Gustavo was injured and at the time when this occurred.

Official present in which the use of 12-calibre riot-control shotguns were recorded ¹⁰⁷	Number of shots fired	Number of pellets aimed at protesters
G-1	125	1.500
G3	178	2.136
Grifo 6 (Ariete 3)	50	600
Grifo 3 (Ariete 2)	60	720
Grifo 8 (Ariete 6)	125	1.500
Funcionarios GOPE (Unidades Beta 3 y 4)	897	10.754
Macul 33 - capitán, jefe unidad Macul 33	126	1.512
Macul 35 - mayor, jefe Macul 35 *it is not possible identify exactly who fired the two shotguns assigned to the unit	450	5.400
TOTALES	2.011	24.132

As has been detailed in the section on the use of force by state agents, international human rights standards establish that one of the principles to be observed is proportionality. This means that there must be a balance between the degree of resistance or aggression experienced by a police officer and the level of force that is applied to achieve a legitimate objective, such as, for example, that the person submit to police control. This principle implies that the use of force is limited in that it must not cause more harm than the harm its use is seeking to prevent.

According to the records, at the time Gustavo was wounded, the operation had been declared “level 4” situation; that is, a non-lethal threat, which allowed the use of the riot-control shotguns with multiple kinetic impact ammunition (later it was declared a “level 5” situation, which allowed the use of lethal ammunition). Although the logbook records prior to Gustavo being wounded stones and some Molotov cocktails were thrown at the police, it does not conclude that it was necessarily proportionate to fire more than 2,000 rounds of ammunition.¹⁰⁸

The judge of the Santiago 7th District Court indicated at the arraignment hearing of the person alleged to have fired the shots that wounded Gustavo, that:



107 1901217258 Case RUC 7 of the Santiago 7th District Court, investigation case file, Vol. III, pp. 152, 181, 183, 459 and 473.
108 Case RUC 1901217258-6 of the Santiago 7th District Court, investigation case file, Vol. III, p. 173.

“What is clear is that when you see in the filming the point when the defendant fires the riot-control weapon or even before that, it is not clear how the protesters were putting the physical integrity of Carabineros officials at risk. Furthermore, the officer in charge of the Special Forces turns his back on the protesters with the clear view that at no time is the physical integrity of the police officers at risk, in fact, there is a considerable distance between the officials and the protesters, who are also behind an make-shift barricade they erected. Therefore the Court understands that in those specific situations there was no possibility that particularly the affected person could attack Police personnel.”¹⁰⁹

On the other hand, and as gathered by the investigation of the Attorney General’s Office (and reaffirmed by the court hearing the case),¹¹⁰ the videos of that point in the demonstration corroborate the fact that some protesters threw stones and, to a lesser extent, incendiary objects, and that buildings were damaged. Although it was recorded that some police officers were injured that day as a result of attacks by the protesters, the severity of the injuries to the officers would not justify firing riot-control shotguns indiscriminately more than 2,000 times using extremely harmful ammunition (which in turn, was multiplied by the 12 pellets that each cartridge contained, equivalent to more than 24,000 pellets).

According to official data, the officials injured in the “Plaza Italia Intervention” and their injuries were as follows: ¹¹¹

Unit	Number of people injured	Injuries
FFEE Prefecture and police operations	6	5 cases of contusions to the upper and lower limbs 1 orthopaedic fracture to the left foot.
ESUCAR	15	14 cases of people hit by stones or blunt objects in the upper and/ or lower limbs causing extreme pain. 1 person hit by a heavy object in the head causing injuries to the neck and left shoulder.
GOPE	-	No reference to injuries on 8 November 2019 in the investigation case file.

The following injuries were recorded among the protesters, against whom at least 725 gas grenades were thrown by hand or fired with grenade launchers,¹¹³ and more than 2,600 rounds were fired by riot-control shotguns during Friday, 8 November 2019:

Ministry of Health – Report on the Situation in the Metropolitan Region	
Injuries	Number of cases
Ruptured eyes, total loss of vision	1 (Gustavo Gatica) ¹¹⁴
Life-threatening injuries ¹¹⁵	1
People hospitalized	7
People needing emergency treatment	184

The large number of protesters requiring emergency medical attention - including hospitalization for serious injuries, ¹¹⁶ compared with the much smaller number of injured police officers - is a strong indication of the excessive use of force and the use of ammunition in an uncontrolled manner.

109 Arraignment Hearing, 21 August 2020, Case RUC 1901217258-6 of the Santiago 7th District Court.
 110 109 Arraignment Hearing, 21 August 2020, Case RUC 1901217258-6 of the Santiago 7th District Court.
 111 Case RUC 901217258-6 of the Santiago 7th District Court, investigation case file, Vol. III, pp. 183, 459 and 469.
 112 Although there are documents presented by the GOPE, which would give more details of its intervention, they are illegible. In any case, page 573 of the Official Minutes of the GOPE Service Record, Vol. III of the case file, does not record injured officers.
 113 Investigation case file, Sase RUC 1901217258-6 of the Santiago 7th District Court, Vol. III, pp. 181, 459 and 573.
 114 He was treated at a private health centre (Clínica Santa María).
 115 Person with craniocerebral trauma with subarachnoid trauma, according to the Reporte Estado de Situación SS Metropolitanos del Ministerio de Salud.
 116 Ministry of Health, Reporte Estado de Situación SS Metropolitanos, Datos relacionados con disturbios desde el 23 de octubre al 18 de noviembre de 2019. Also Police Report 717 of the Chilean Investigative Police of August 2020, Case RUC 1901217258-6 of the Santiago 7th District Court.

In Gustavo's case, analysis of six videos of the moment when he was injured shows how on several occasions officer G-3 and tofficers G-1 and Grifo 6 had unjustifiably fired their weapon (there was no apparent danger to which they are reacting), with an inappropriate angle of fire (they shot at an angle likely to damage the upper part of the body) and indiscriminately towards the crowd (they were hidden behind a wall and they shot practically without looking into the crowd).

G-3 fired towards the upper part of the protesters' bodies, without even identifying a specific target and in the absence of a specific concrete threat.



After more than nine months of investigation, on 21 August 2020, the Attorney General's Office laid formal charges for the crime of unlawful coercion resulting in very serious injuries against G-3, second Special Forces sub-prefect. This stated that G-3 "took cover behind one of the walls of the building located on Calle Carabineros de Chile... and **abusing his position, with the intention of inflicting punishment**, fired the Hatsan model Escort 12-gauge riot-control shotgun directly at the upper part of protesters' bodies, hitting the victim, Gustavo Gatica Villarroel, who was in the group referred to, precisely between it and the shooter and at a distance of 24.5 metres. At the time the aforementioned shot was fired, there was no risk to the physical integrity of the Police in the terms described ".¹¹⁷



117 Presentation of the Attorney General's Office at the arraignment hearing dated 21 August 2020, Case RUC 1901217258-6 of the Santiago 7th District Court.

Accepting what was indicated by the Attorney General's Office, the judge of the Santiago 7th District Court considered that it had been established that "at the moment the defendant fires the riot-control weapon or even before that, one cannot see how the protesters put the physical integrity of Police officials at risk"¹¹⁸ Regarding the actions of G-3, the magistrate added that "indeed there is an intention here to cause a serious injury, to inflict pain on a person and that in this case this resulted in a very serious injury "¹¹⁹

B) D.S.A.G.: LOSS OF VISION IN ONE EYE AND MULTIPLE INJURIES

On Sunday, 20 October 2019, at approximately 15:30, a 15-year-old student with the initials D.S.A.G. was in a small green area by the roadside on Cerrillos street in the commune of Lo Espejo, Metropolitan Region. She was accompanied by her 13-year-old brother and their 16-year-old friend. A dozen people were demonstrating peacefully at the scene.

In an interview with Amnesty International, D.S.A.G stated that a vehicle like the ones used by the Carabineros radio patrols approached and a police officer leaned out of the passenger window. At that moment a protester yelled "get down." However, she did not manage to do that, and pointed out, that she did not think they could shoot.¹²⁰

D.S.A.G. she said she remembered that the officer, who was about 15 meters away from her, looked at her, aimed at her and shot her in the upper part of the body, without warning. D.S.A.G. lost consciousness and was revived by her friend. After the shot, the police vehicle reportedly fled the scene, without verifying whether she was injured or they required assistance.

A video that circulated on social media shows that protesters managed to stop a private vehicle to take her to the Pedro Aguirre Cerda Primary Care Service (SAPU), where she was referred to the Eye Trauma Unit of El Salvador Hospital where she was admitted with a diagnosis of severe eye trauma. On 26 October, she underwent surgery to remove the pellet and two days later she was discharged.¹²¹

According to the teenager, in her statement to the Attorney General's Office, a scan carried out in the Eye Trauma Unit of El Salvador Hospital shows that she permanently lost 95% of her vision in her left eye as a result of the impact of the pellet.¹²²



D.S.A.G after receiving medical treatment.



118 Argumentation of the Judge of the Santiago 7th District Court at the time of ruling on the request to order the preventive detention of the accused, in the arraignment hearing dated 21 August 2020, in the Case RUC 1901217258-6. He added that, without prejudice to the fact that there is evidence that the victim was carrying a blunt object, in no case does this justify the official's actions.

119 Argumentation of the Judge of the Santiago 7th District Court at the time of ruling on the request to order the preventive detention of the accused, in the arraignment hearing dated 21 August 2020, in the Case RUC 1901217258-6.

120 Interview with Amnesty International in November 2019.

121 Hospital Barros Luco epicrisis of patient D.S.A.G., dated 28 October 2020.

121 Hospital Barros Luco epicrisis of patient D.S.A.G., dated 28 October 2020.

122 Statement of D.S.A.G. before the Attorney General's Office in investigation of Case RUC 1901181471-1 of the Santiago 10th District Court.

Judicial investigation

The judicial investigation began with a complaint made by D.S.A.G.'s father to the South Metropolitan Region Attorney General's Office for the crime of unlawful coercion resulting in very serious injuries.¹²³ Subsequently, her mother filed a complaint for the same crime.

On 29 November, more than a month after the events, the South Metropolitan Regional Prosecutor's Office requested that the Department of Internal Affairs of the Carabineros (Departamento de Asuntos Internos de Carabineros de Chile, DAICAR) to identify the officials involved and their resume, documentation of the respective shift, a full copy of the administrative or disciplinary investigation, and photographic recognition media which could be shown to the victims.¹²⁴

The Carabineros responded to the request three months later, on 26 February 2020 and identified two officers who had carried riot-control shotguns that day in that area: a captain sub-commissioner of services of the Lo Espejo 11th Police Station and a lieutenant chief of the subdivision of the Espejo 11th Station.¹²⁵

However, the investigation concluded that "it was not possible to place the officials mentioned in the previous paragraph at the scene of the incident, given that there are no evidence or documents to prove it."¹²⁶

Various Carabineros internal regulations require the keeping this type of record.¹²⁷ In this case, however, there was no record of the use of the shotgun, of the return of received and unused ammunition, of the route taken, or whether there were developments while they were on duty. Despite this, an administrative investigation was not initiated into these facts.¹²⁸

At the time this report was completed, the investigation by the Attorney General's Office was still open but there had been little progress and no one had been formally charged.¹²⁹ The information available to Amnesty International indicates, that the Carabineros did not initiate an administrative investigation into the complaint of human rights violations by police officials.¹³⁰

C) RENZO INOSTROZA: SIGHT LOSS AND MULTIPLE INJURIES

On the afternoon of Sunday, 21 October 2019, iRenzo Inostroza, a 24-year-old university student, went to the Gran Avenida José Miguel Carrera to see what was happening at the demonstrations in the commune of La Cisterna, Metropolitan Region.

At approximately 18:15, as he was walking back home with a friend along the Gran Avenida, where very few people were still present, an armed National Police official reportedly kicked his friend in the back. Renzo, who was recording what was happening with his cell phone, challenged/rebuked the official telling him that he had recorded his last name, which was identifiable on his uniform.

123 Case RUC 1901181471-1 of the Santiago 10th District Court.

124 Special Instruction (Instrucción Particular), No. 3184 dated 29 November 2019 issued in the Case RUC 1901181471-1 of the 10th Guarantee Court of Santiago.

125 DAICAR Report No. 190 to the Attorney General's Office, dated 26 February 2020, incorporated in the investigation case file, Case RUC 1901181471-1 of the Santiago 10th District Court.

126 DAICAR Report No. 190 to the Attorney General's Office, dated 26 February 2020, incorporated in the investigation case file, Case RUC 1901181471-1 of the Santiago 10th District Court.

127 Weapons and Ammunition Regulation of the Carabineros, No. 14 of 1996.

128 DAICAR Report No. 190 to the Attorney General's Office, dated 26 February 2020, incorporated in the investigation case file, Case RUC 1901181471-1 of the Santiago 10th District Court.

129 An order to initiate an investigation was issued on 29 November 2019, addressed to the investigation brigade of crimes that violate human rights of the PDI through Official Letter 3183-2019; the results of the investigation have yet to be received by the Attorney General's Office.

130 According information received dated 14 July 2020 through RSIP response No. 51476 of Carabineros to the request for information under Transparency Law No. ADO09W0051476.

Amnesty International was able to verify in the video provided by Renzo that Renzo said to the police officer: “You have been recorded, I caught your last name, dummy.”¹³¹ At that moment, as he continued recording, Renzo was hit by 19 pellets in the face and body, causing serious injuries. Renzo was assisted by members of the fire rescue service. The police officers did not offer any aid to Renzo, despite the fact that it was the shots they fired that wounded him.

According to the Urgent Care Document (Documento de Atención de Urgencia, DAU) issued by the Barros Luco Hospital, when he was admitted, Renzo presented with: A wound to the face, in the nasal region, with loss of fluid continuing through the left nostril, left pericocular haematoma, eye mobility not assessable, due to pain and reactivity, left eye pupil preserved with hyphema. The injuries caused the almost total and permanent loss of vision in his left eye.¹³²

Renzo was hit by several other pellets: one in his right forearm, three in his left leg, one in his right leg, one hit him in the big toe of his left foot and another one was lodged in his nose. As a result, Renzo had to undergo 10 operations during the 22 days he was hospitalized. In January, the doctors finished removing the pellets that had been embedded in the rest of his body.

Renzo Inostroza in the Barros Luco Hospital



131 Facebook. See m.facebook.com/story.php?story_fbid=10220595456059075&id=1314571264
 132 DAU Barros Luco Hospital dated 21 October 2019 relating to the patient Renzo Inostroza.

Judicial investigation

The South Metropolitan Regional Attorney General's Office initiated an investigation into the incident, for the crime of unlawful coercion resulting in serious injuries. Subsequently, Renzo filed a complaint for the same crime. The INDH filed another complaint for the crime of aggravated torture.

According to the statements of Renzo and his friend, the same official (referred to here as Official A) who hit and then shot them. However, according to the information provided by the defence, another official (referred to here as Official B) confessed to having fired the shots, stating that he fired into the street from the window of a public building, without justification.

On 25 June 2020, at the request of the Attorney General's Office in charge of the investigation, the Santiago 11th District Court set a hearing date for November to lay formal charges against Official A for the crime of abuse against individuals and against Official B for the crime of causing very serious injury.¹³³ According to a Carabineros administrative process, as of 14 July 2020 the case remained pending, despite the images and the statement of Official B.¹³⁴

D) ALEJANDRO TORRES: LOSS OF SIGHT IN ONE EYE

On 23 October 2019, Alejandro Torres, aged 45, was working as a cameraman for the Mega television channel in the city of Concepción. At approximately 16:30, he was in Chiguayante commune near a supermarket that had been looted.

As he was preparing to film a group of protesters running towards him, he felt something hit him in the eye, causing him to fall to his knees. At that moment, a passer-by helped him and pointed out the National Police official who had fired the shot that injured him, presumably with a riot gun. The official (Major X) himself, when he saw the Alejandro was injured, took him to an emergency service, where it was determined that Alejandro had sustained a "pellet impact in the left eye area with loss of vision and periorbital haematoma".¹³⁵

Alejandro was treated at the Concepción Regional Hospital and then at the Alemana Clinic in Santiago, where he underwent treatment for several months. The Forensic Medical Service said that: "The visual acuity of the left eye was totally compromised, without the possibility of rehabilitation. Vision with one eye significantly compromises the perspective of depth and is an impediment to correctly carrying out daily life and work".¹³⁶

133 Ruling of 25 June 2020 of the Santiago 20th District Court, Case RUC 1901146108-8.

134 According to information provided by the Carabineros on 14 July 2020, RSIP Response No. 51476 of the Carabineros to a request for information under Transparency Law No. ADO09W0051.

135 DAU No. 144166/2019 of the Guillermo Grant Benavente Hospital in Concepción dated 22 October 2019.

136 Forensic Medical Service, Istanbul Protocol medico-legal examination, Injury Report No. 976/19, dated 26 December 2019.

Alejandro Torres during an interview with Amnesty International in November 2019.



Judicial investigation

The Regional Attorney General's Office initiated an ex officio investigation for unlawful coercion with very serious injuries. Alejandro also filed a complaint in his capacity as victim, for the crime of very serious injuries as a crime against humanity. Finally, the INDH filed a complaint for attempted homicide.

For their part, the National Police filed a police report in which they justified the actions of the official who fired the shot that wounded Alejandro. They stated that the officials were dispersing a large number of protesters who were also trying to enter the supermarket and had started throwing stones at them. They claimed they used the shotguns at a distance of 40 meters.¹³⁷

In his statement to the Investigative Police (Policía de Investigaciones, PDI), Alejandro said that that day he had been scared and surprised to see how the police fired riot-control shotguns aimed at face level and not towards the lower part of the body, as stipulated in the regulations.

His testimony was in line with those of witnesses; of Major X himself, who acknowledged that his shots were the cause of Alejandro's injuries; ballistic expert reports from the area; videos; and medical reports. Based on this, the PDI concluded in its report that "according to the information provided in this police report, the veracity of the incident under investigation was established."¹³⁸ Despite this, at the time this report was completed, the criminal investigation remained open and no formal charges had been brought. In addition, a Carabineros administrative process of 14 July 2020, was also pending.¹³⁹

E) JORGE ORTIZ: MULTIPLE INJURIES

On Tuesday, 29 October 2019 at 16:30, Jorge Ortiz left home to carry out his role as a human rights observer for the INDH, where he worked. He went, together with a group of 20 observers, to a march in the "Plaza Italia" area of Santiago; the observers formed four-person teams. All wore their distinctive uniform and ID. Jorge's group observed incidents taking place in "Plaza Italia" towards the west and crossed to the south side of the Alameda to be able to observe police actions.

According to Jorge's testimony, at that moment National Police personnel suddenly fired towards the south carriageway of the Alameda, so the INDH team moved away and walked along the edge of a building, where a police official appeared, shooting and aiming towards the area where the INDH team was located. Six pellets hit Jorge Ortiz's body and he fell on one of his companions.

An INDH official and a protester picked Jorge up, applied a tourniquet and crossed over to a medical rescue team who administered first aid.¹⁴⁰ He did not receive help from the police, even though, according to his testimony, they had seen him fall. Jorge said the police knew they were shooting at INDH observers, because of the distance and because they were in plain sight. INDH officials who act as observers wear an easily identifiable yellow jacket.

The INDH team left the scene on foot and arranged for a car to take Jorge to the Central Post Office and from there to the Mutual de Seguridad centre, from where he was discharged at approximately midnight.¹⁴¹

The outpatient care epicrisis indicates that the injuries were consistent with impact by pellets in the lumbar region, buttock and left thigh. All six wounds are 1.5 cm in diameter, apparently the projectile did not enter the body. The discharge diagnosis concludes: "Complex dorsal region wound; thigh wound, complex; gluteal wound, simple."¹⁴² Due to the degree of penetration, two of the wounds required stitches.¹⁴³

137 Complaint number 02471, dated 22 October 2019, issued by the 7th Chiguayante Police Station of the Carabineros.

138 PDI Police Report, dated 30 October 2019 issued to the Attorney General's Office in Case RUC 1901144164-8 of the Concepción District Court.

139 According to information provided by the Carabineros on 14 July 2020, RSIP Response No. 51476 of Carabineros to the request for information under Transparency Law No. ADO09W0051476.

140 CNN, Observador del INDH recibió 7 balines durante marcha en el centro de Santiago: www.cnnchile.com/pais/observador-indh-7-balines-marcha-santiago_20191029/

141 Report of injuries issued by the Mutual de Seguridad on 29 November 2019.

142 Outpatients Department epicrisis issued by the Mutual de Seguridad on 29 October 2019 at 23:54.

143 As a result of his case, there were numerous comments against the INDH claiming that it was a setup. Likewise, Jorge Ortiz was subjected to personal threats and photos of his house were published, exposing his family.

Jorge Ortiz after being hit by the pellets. 29
October 2019.¹⁴⁴



Amnesty International notes that, although they are not presented in this report, there were cases in which the authorities obstructed the work of lawyers, human rights defenders and medical personnel and prevented them accessing police stations or hospitals. Similarly, there were cases of people being beaten or shot and injured with pellets while providing first aid, as well as activists and defenders threatened or repressed by police officers for carrying out their work during the social crisis.¹⁴⁵

Judicial investigation

The Central North Attorney General's Office for Crimes of High Complexity is the body responsible for criminal investigations of the crime of unlawful coercion. The INDH also filed a complaint in the case.

On 12 November, the Attorney General's Office issued an order to the Human Rights Brigade of the Chilean Investigation Police, to investigate, requesting a series of steps, including taking statements from the victim and witnesses, requesting security videos from municipal

cameras and requesting information from the Carabineros regarding: deployment of officials and units in the area, including the officer in charge; details of the weapons and riot-control equipment envisaged for these units; copies of the books where the allocation and return of these materials are recorded; determining whether officials were equipped with Go Pro cameras and copies of the recordings if they were; and copies of communications from the CENCO Communications Centre regarding the units that participated in the relevant operation.¹⁴⁶

As of 31 August 2020, the INDH lawyers taking forward the complaint had not received information regarding the results of these efforts.

144 TwitterINDH. See

twitter.com/inddhh/status/1189291617238298624?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwtterm%5E11892916172382_98624&ref_url=https%3A%2F%2Funiversal.cl%2Fcontenido%2F7089%2Fobservador-del-instituto-nacional-de-derechos-humanos-fue-herido-por-carabineros

145 Amnesty International, interview with COLMED staff; with INDH staff; with human rights defender María Ribera; and the Ombudsperson's Office in November 2019.

146 Investigation Order dated 12 November 2019, issued in Case RUC 1910054816-2 of the Santiago 7th District Court.

F) M.I.V.Q: RUPTURE OF THE RIGHT EYE

On 22 October 2019, a 14-year-old boy with the initials M.I.V.Q. was in Plaza Belén, La Tortuga area, Alto Hospicio commune, Tarapacá Region. He was looking for his younger sister, who was participating in a demonstration. At that moment, National Police personnel began to disperse the crowd using chemical gases and firing metal and rubber buckshot, one of which hit M.I.V.Q.'s right eye.

The youth was transferred to the Emergency Primary Treatment Service (SAPU) Dr Pedro Pulgar Melgarejo in the Alto Hospicio commune and, due to the seriousness of his injuries, was then referred to the Iquique Regional Hospital. There, he was diagnosed with “severe eye trauma of the right eye, caused by the impact of a pellet”, a “perforating scleral wound” and “foreign body in the lateral wall of the maxillary sinus.”¹⁴⁷

Due to the severity of the injury, he was transferred to the Eye Trauma Unit of El Salvador Hospital in Santiago, where, on admission, he was diagnosed with “eye rupture (right eye) with orbital fracture associated with a pellet in the intertemporal fossa. Orbital CT showed fracture of the medial and lateral wall and the right maxillary sinus. On 25/20, surgery was performed in the Eye Trauma Unit. An exploration of the wall of the eyeball was performed, verifying extensive scleral damage and rupture, with significant evisceration of the uveal content. Eyeball repair performed and poor visual prognosis explained.”¹⁴⁸

After surgery to remove the pellet, the total loss of vision in the right eye was confirmed.¹⁴⁹

Judicial investigation

The Attorney General's Office began an investigation of the case for the crime of causing “very serious injuries.” The National Service for Minors (Servicio Nacional de Menores, SENAME), through the Legal Representation Programme for Children and Adolescents Victims of Crime (PRJ), and the INDH filed complaints for the same crime.

Regarding the progress of the investigation, the victim's legal representatives informed Amnesty International that there was a ballistic report from the Chilean Investigative Police (PDI) that confirms that what caused the injury was a pellet. Likewise, it was established that those who fired with riot-control shotguns were two identified National Police officials and that it would be complicated to determine which of the two officials fired the shot that caused the youth's injury, because the pellets are not traceable and, therefore, the ammunition does not reveal who fired it.¹⁵⁰



M.I.V.Q after his eye was ruptured.



147 According to the information contained in the complaint filed by the NNA SENAME Legal Representation Programme before the Alto Hospicio District Court, Case RUC 190144300-4.

148 El Salvador Eye Trauma Unit epicrisis report dated 28 October 2019.

149 El Salvador Eye Trauma Unit epicrisis report dated 28 October 2019.

150 Interview with a lawyer from the Iquique PRJ of the Corporación Opción, dated 7 August 2019.

4.1.3.2. CHEMICAL DETERRENTS AND WATER CANNON

Less lethal weapons, such as tear gas and water cannon, tend to have indiscriminate effects.

Therefore, when used, all reasonable efforts must be made to limit risks, such as causing a stampede or injuring bystanders. They should only be used as a last resort after a verbal warning, giving those participating in a gathering the opportunity to disperse.¹⁵¹

Devices that have indiscriminate effects and a great potential to cause harm should only be used in situations of more generalized violence in order to disperse a crowd and only when all other deterrents cannot contain the violence.¹⁵² They can only be used when people are able to disperse and not when they are in a confined space or when public roads or other exits are blocked.¹⁵³ People must be warned that these means are to be used and they must be allowed to disperse. In addition, their use should be avoided near hospitals and schools.¹⁵⁴

In general, projectiles containing irritants should not be fired at an individual and should never be aimed at the head or face, due to the risk of death or serious injury from trauma.¹⁵⁵ Using a gas launcher as a shotgun is especially serious. Grenade launchers can have a range of up to 125 meters and if fired at shorter distances the projectiles can be lethal or cause serious harm to physical integrity.¹⁵⁶

As noted in the introduction, on 19 November 2019, the Director General of the National Police gave the order that riot-control shotguns should only be used as an extreme measure to protect the life of the police officer or a third party.¹⁵⁷

During the first five days of protests, the Chilean Medical College established that at least 4% of the injuries requiring emergency treatment were caused by the impact of tear-gas canisters.¹⁵⁸ They were also responsible for around 13% of the eye injuries treated by the Eye Trauma Unit at El Salvador Hospital in Santiago.¹⁵⁹ The Chilean Medical College condemned the increase in their use.¹⁶⁰

In an interview with Amnesty International, on 16 April 2020, staff from the Attorney General's Office said that, since the restrictions on the use of riot-control shotguns, there had been a noticeable increase in the use of grenade launchers to fire tear-gas grenades (37 calibre), directly at the bodies of protesters.

Analysis of the video evidence by Amnesty International revealed 79 incidents in which police officials used water cannon, chemical agents and their respective launchers in a manner incompatible with international law.

These included 31 incidents in which chemical agents or water cannon were unnecessarily or disproportionately deployed against protesters; seven incidents in which chemical agents were deployed in inappropriate physical locations, such as enclosed spaces or near hospitals; and 41 incidents in which the launchers of these chemical agents were misused, for example, by shooting directly at people's bodies rather than at a safe angle to avoid physical injury.

The following videos illustrate the inappropriate use of water cannon, tear gas, and gas launchers.

151 Human Rights Committee, General Comment No. 37, 27 July 2020, CCPR/C/GC37, para. 85.

152 OHCHR, *Guidance on less-lethal weapons in law enforcement*, 7.2-7.3 chemical irritants.

153 OHCHR, *Guidance on less-lethal weapons in law enforcement*, 7.2-7.3 chemical irritants.

154 Amnesty International, *Use of force: Guidelines for implementation of the UN Principles on the Use of Force and Firearms by Law Enforcement Officials*.

155 European Court of Human Rights, *Ataykaya v. Turkey*, Judgment of 22 July 2014, paras 56–57.

156 Carabineros, Directorate of Logistics, Armaments and Ammunition Department, "Características Munición Control Orden Público", folio 00532.

157 Level 5 of use of force in accordance with Carabineros Circular 1832.

158 Analysis of cases reported and verified by experts from the Human Rights Department of the Medical College of Chile from 18 to 31 October 2019.

159 Public consolidated health report from 18 October to 18 December 2019, provided to Amnesty International by the Ministry of Health in response to a transparency request. The Eye Trauma Unit treated 239 patients with eye trauma during the period from 18 October 2019 to 30 November 2019, of which 13% had tear gas as a "possible causal agent" of the injuries.

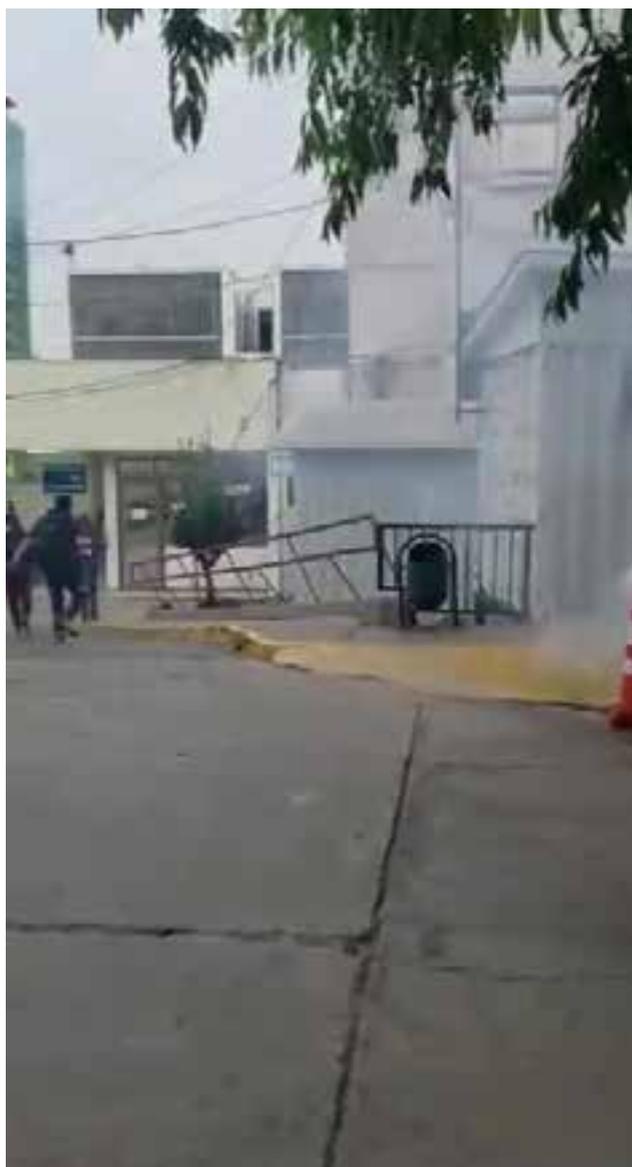
160 Presentation by the Secretary on Human Rights of the Medical College of Chile before the Senate Human Rights Commission on 4 November 2019.

National Police use tear gas unnecessarily against peaceful protesters in the Plaza de los Tribunales in Concepción, Chile, 20 October 2019. -36.825636, -73.046179



A police officers fires tear gas directly at the body and not at a safe angle to avoid physical harm, Santiago, Chile. 12 November 2019. -33.4427626, -70.647688

Tear gas deployed by National Police officers at the Gustavo Fricke Hospital in Viña del Mar, Chile, 9 November 2019.



The INDH filed complaints on behalf of 106 people who had suffered injuries from shots fired with a grenade launcher during the period 18 October 2019 to 30 November 2019. It also filed 34 complaints on behalf of victims who suffered injuries or harm as a result of the chemical agents used.¹⁶¹

A) FABIOLA CAMPILLAI: LOSS OF SIGHT AND SENSE OF SMELL AND TASTE

On 26 November 2019 at around 20:40, Fabiola Campillai, a 36-year-old mother of three, left her home in the San Bernardo district, Metropolitan Region, to go to her place of work for the night shift. Her sister, Ana María, went with her because there had been reports of disturbances near her house earlier. In conversation with Amnesty International, Fabiola said that, had there been disturbances at that time, she would not have gone to work. When they reached the corner of their road, Fabiola and Ana María saw a police line at the intersection of Avenida Portales and Calle Fermín Vivaceta. Fabiola explained that, without prior warning, the police began firing tear-gas grenades with grenade launchers to where she and her sister were standing. Fabiola explained that in less than 30 seconds they fired three shots and that the third tear-gas canister hit her in the face.

161 INDH, List of legal actions filed by the INDH, updated as of 6 April 2020.

The impact caused Fabiola to fall to the ground with her face covered in blood. Neighbours came to help her while her sister approached the police to ask them to take her to hospital.¹⁶² She says that, in response, a police officer threw a hand grenade directly at her feet.¹⁶³ According to the information in the investigation case file, National Police officials withdrew from the scene, throwing a smoke grenade and firing a final tear gas grenade from a grenade launcher aimed at the spot where Fabiola had fallen.

With the help of the neighbours, Fabiola was taken by car to the San Bernardo Parish Hospital, from where she was transferred to the Barros Luco Hospital and then to the Work Safety Institute (Instituto de Seguridad del Trabajo IST) because the injury occurred on the way to work.

Her IST admission report stated: “Referred to the Barros Luco Hospital, which records: small bifrontobasal haemorrhagic contusions, no compressive effect and no surgery indicated; polytrauma; emerging trauma to the head; facial fracture: Lefort II fracture, nasal fracture, fracture of the eye socket, bilateral eye injuries; multiple bilateral eyelid wounds, compromised at the edges; loss of tissue substance in the nasal and orbital region; exposed and depressed comminuted naso-orbital fracture; bilateral ocular flare; haemorrhagic paramedian frontal nasal contusion; post-traumatic bifrontal subarachnoid haemorrhage; bilateral naso-fronto-ethmoid complex fracture with rupture of both eyeballs, which reaches the greater wing of both sphenoids; right trimalar fracture “.¹⁶⁴

Fabiola was hospitalized between 26 November 2019 and June 2020 and underwent two operations and multiple treatments. She was temporarily discharged due to the pandemic, but will have to return to hospital for reconstructive surgery at least once. As a result of her injuries, Fabiola permanently lost her sight and her senses of smell and taste. She said that she is learning to live all over again.

Fabiola Campillai and the injuries caused by the impact of a tear-gas canister.



162 Statement made by Ana María Campillai to Amnesty International, dated 21 June 2020, and statement by Ana María Campillai before the Attorney General's Office, dated 28 November 2019: “I went to the police asking for help and I told them: ‘you dumb cops, since you fired this shit, help my sister, please, she’s bleeding’ and one of the officials, who didn’t have a shield...took the grenade he had in his other hand, pulled off the safety catch and threw it at my feet, it was a smoke grenade and it started to release smoke when he threw it.”

163 The lieutenant of the 14th San Bernardo Police Station stated on 11 February to the Attorney General's Office that “in Fermín Vivaceta, the only thing I saw was a woman who was in that street going towards the police officials, not listening if something was said, at that moment he threw a bomb to reach her, taking precautions so that she would not be affected, and it passed her to the side”, p. 90 of the investigation case file.

164 Report of the Forensic Medical Service No. 723-20, Medical Physical Examination, Istanbul Protocol No. 61, Fabiola Andrea Campillai Rojas of 13 April 2020.

The Forensic Medical Service determined that the injuries were caused by “a blunt object, which hit her in the middle third of her face, more than 3 cm in diameter, with dimensions such that it produced the simultaneous rupture of both eyeballs, fractures of the floor of both eye sockets and of all nasal bones and the shock wave continued backwards and fractured the bones of the base of the skull, it also produces traumatic subarachnoid haemorrhage in both frontal lobes of the brain. This object travelled along an oblique path from top to bottom on the face and from front to back and did so at high energy.” It adds that “the injuries would have been fatal if timely and effective medical aid had not been provided.”

Judicial investigation

Amnesty International had access to the investigation case file for the crime of causing very serious injuries to Fabiola.¹⁶⁶ Fabiola, the INDH, the State Defence Council (Consejo de Defensa del Estado, CDE) and the Municipality of San Bernardo also filed complaints for the same crime.

The Attorney General’s Office summoned 17 police officials to testify, most of them from the 14th San Bernardo Police Station (hereinafter 14th Police Station), along with some from the 62nd Police Station in the same commune. It seized the video of the Go Pro camera of the captain in charge of the operation, the weapons used by him and another captain, and ammunition from the police station for analysis by the Carabineros Forensics Department (Departamento de Criminalística de Carabineros de Chile, LABOCAR).

The video from the Go Pro camera, which was made public in July 2020, showed how events had unfolded. It showed that there was not a large number of protesters to disperse, that they did not pose a threat to the officers, and that after inappropriate and unjustified use of the grenade launcher, the officers left the scene, despite realizing that a woman had been injured by a tear-gas canister.

Despite the existence of this audiovisual record, the main officers involved in the incident, in their statements both before the Attorney General’s Office and in the internal National Police process, justified their intervention with smoke and gas bombs and denied having fired directly at Fabiola’s body,¹⁶⁷ and realizing that she had been injured.¹⁶⁸

On 5 March 2020, before the Attorney General’s Office, Captain M. of the 14th Police Station, who fired the third shot that hit Fabiola, repeated the events reported in the complaint and in the captain sub-commissioner’s statement on how the operation that culminated in the shooting unfolded.¹⁶⁹

However, Captain M. pointed out that he had been authorized to use gas-launcher carbines (grenade launchers) since December 2019, which implies that at the time when his shot hit Fabiola, he was not authorized to use them.¹⁷⁰

165 Istanbul Protocol Supplement No. 61-2020, Medical Legal Report No. 723-2020, dated 17 July 2020.

166 Case RUC 1910081966-3 of the San Bernardo District Court, investigation by the Western Metropolitan Attorney General’s Office, initiated in response to complaint record No. 882 of the 62nd Police Station of San Bernardo.

167 The captain sub-commissioner of the 14th San Bernardo Police Station testified before the Attorney General’s Office on 11 February 2020, stating that there were approximately 30 protesters present and that when they were approaching, he fired a first shot with the gas launcher, his lieutenant fired the second, and Captain M. the third. “unaware of its initial and final trajectory since I did not see it”, and then ordered the group to throw one more grenade to retreat. P. 92 et. seq., Volume III, investigation case file, Case RUC 1910061966-3 of the San Bernardo District Court.

168 “(...) observo que los manifestantes comienzan a acercarse, por lo que decido hacer uso de la carabina lanza gases que portaba, recuerdo que el teniente (de la 14a Comisaría de San Bernardo), (...) efectúa un segundo disparo con su carabina, (...) consecutivamente el capitán M realiza un tercer disparo con dirección a la calle Fermín Vivaceta, desconociendo su trayectoria inicial y final, ya que no lo vi, existiendo un cuarto o quinto disparo (...) para luego replegarnos y retirarnos del lugar antes de las 21.00 h.” [I saw the protesters were starting to come towards us, so I decided to use the carbine gas launcher that I was carrying, I remember that the lieutenant... fired a second shot with his carbine, then Captain M fired a third shot towards Fermín Vivaceta street, unaware of its initial or final trajectory because I didn’t see it, there being a fourth or fifth shot... then we regrouped to withdraw from the scene before 21:00”. Later, he added that “estando ya al interior del vehículo, le comento al conductor que el capitán M. “se había piteado a alguien [lo había matado].” [“when already inside the vehicle, I said to the driver that Captain M had done for someone [had killed them]”. Statement by the deputy captain of the 14th San Bernardo Police Station, p. 92 et. seq., Volume III, investigation case file, Case RUC 1910061966-3 of the San Bernardo District Court.

169 The main difference is that the sub-commissioner speaks of 30 protesters, the captain identified as M. refers to 60 protesters.

170 He confirmed this in his statement, dated 27 November 2019, made in the context of the administrative process initiated by the National Police, p. 25 of the administrative process, Order No. 13467/2019/3 initiated on 29 November 2019.

Regarding the shots, he stated: “the captain (sub-commissioner) used the carbine gas launcher, later the lieutenant did also.”¹⁷¹ Then a fourth shot was fired (that is, after Fabiola had already been hit by the tear-gas canister), later they threw smoke bombs and, after they had already passed through the tunnel, “the lieutenant threw a last tear-gas canister at the same intersection.” He pointed out that he fired in a parabolic arc,¹⁷² and said that there could be no certainty that what caused the injury was a tear-gas canister “it could be any type of weapon, it could have been earlier or later. A huge stone or a hammer.”¹⁷³

Statements by other officials, the video from the Go Pro camera of the captain sub-commissioner of the 14th Police Station, two reports from the University of Chile regarding the nature of the projectile that caused the injuries to Fabiola, and from the Forensic Medical Legal Service which examined the projectile refute this claim and indicate that the blow is consistent with a projectile fired with a grenade launcher and that it was a single-shot rifle, which was aimed directly at Fabiola’s face.¹⁷⁴

Additionally, the lieutenant¹⁷⁵ stated that he had seen a group of people take someone into the passage and acknowledged that he threw another tear-gas canister into the area before leaving.¹⁷⁶

In addition to the statements of the officials, the Attorney General’s Office notes that, according to the information contained in the investigation case file, there was no demonstration in that location, the free movement of vehicles and pedestrians was not obstructed, and there was no risk to the lives of passers-by or the police at the scene, so the use of a gas grenade launcher was not justified.¹⁷⁷ Likewise, witnesses confirmed that the police officers shot directly at Fabiola and saw her fall wounded, at which point they continued firing tear gas and smoke bombs, then retreated without going to her aid.¹⁷⁸

On 28 August 2020, the Attorney General’s Office charged Captain M. as perpetrator of the crime of unlawful coercion causing very serious injuries to Fabiola Campillai.¹⁷⁹

B) NATALIA ARAVENA: LOSS OF THE RIGHT EYE

On 28 October 2019, Natalia Aravena, a 24-year-old nurse, left her home to go to a march starting in front of the Palacio de la Moneda in Santiago at 17:00. She said that when she got there, she saw a member of the National Police firing water canon to disperse people, despite the fact that the people who were there were demonstrating peacefully and there were even passers-by who were not participating in the march, including children.

Natalia explained that the water canon advanced, even though people were raising their arms, and that police officers later appeared on foot firing gas with grenade launchers. According to Natalia’s testimony, at first they fired into the air, but then they began to fire at people, who started to run towards the small surrounding streets.

Natalia ran into one of those streets, she turned to see if the police were still chasing her and she heard the shot fired by the grenade launcher and immediately felt the impact in her right eye. A young man helped her to enter a building to give her first aid. The police officials did not offer any help.

Later, a private car took her to the Central Post Office, where she was transferred to the Indisa Clinic, a private facility. There, she was diagnosed with a ruptured eye, and loss of vision in the right eye. She was hospitalized in the Intensive Care Unit (ICU). Finally, she was taken to the Pasteur Clinic for surgery, where they confirmed that she had lost her right eyeball. Since then, she has undergone various operations such as corneal and palpebral suture, evisceration with implant and blepharoplasty.

171 p. 2, Volume III of the investigation case file, Case RUC 1910081966-3 of the San Bernardo District Court.

172 p. 5, Volume III of the investigation case file, Case RUC 1910081966-3 of the San Bernardo District Court.

173 p. 5, Volume III of the investigation case file, Case RUC 1910081966-3 of the San Bernardo District Court.

174 He also stated that he learned about it from the press: “no supe de lesionados en el lugar, no vi ni escuché de lesionados”, “vi ni escuché pedir ayuda a nadie” and “se acercó nadie a pedir ayuda”. [“I did not know of any injuries at the scene, I did not see or hear any injured people”; “neither did I see or hear anyone asking for help” and “no one came over to us to ask for help.”] P. 4, Volume III of the investigation case file, Case RUC 1910081966-3 of the San Bernardo District Court.

175 Statement given to Attorney General’s Office by the lieutenant of the 14th San Bernardo Police Station. Cause RUC 1910081966-3.

176 A policeman from the same police station stated that “al realizar el tercer disparo la gente avanzó al primer pasaje y se juntaron alrededor de alguien que estaba en el suelo, lo toman y lo llevan al interior de ese pasaje”. [“when they fired the third shot, the people moved towards the first passage and gathered around someone who was on the ground, they picked them up and took them into that passage.”] Statement by the police officer from the 14th San Bernardo Police Station, dated 21 February 2020, volume III, pp. 53 and 55 of the file. MININT counted up to 13 demonstrations in the Metropolitan Region.

177 Arraignment hearing of Captain M., dated 28 August 2020, before the San Bernardo District Court, in Case RUC 1910061966-3.

178 Statements by residents of Población 5 Pinos, given on 7 February 2020 to the National Police administrative prosecutor in administrative process 13467/2019/3, pp. 93 and 96.

179 Arraignment hearing of Captain M., dated 28 August 2020, before the San Bernardo District Court, in Case RUC 1910061966-3.

Natalia Aravena after being hit in the eye by a tear-gas canister.



Judicial investigation

The Central North Attorney General's Office for Crimes of High Complexity initiated a criminal investigation into the incident for the crime of unlawful coercion causing extremely serious injuries, based on two complaints filed. Natalia and the INDH filed complaints for the same crimes.

Among the procedures carried out, it is clear that the Attorney General's Office requested Natalia's medical records to add them to the investigation,¹⁸⁰ which she says are in the investigation case file.

As of 31 August 2020, there is no evidence of further progress in the investigation, nor is there evidence that the National Police has initiated an internal process regarding the incident involving Natalia.

4.1.4. HARM TO PHYSICAL INTEGRITY USING PHYSICAL VIOLENCE

As mentioned above, international standards state that any use of force by law enforcement officials must be legal under domestic law. Likewise, force must always be necessary and proportionate to the threat being countered.



¹⁸⁰ Background information contained in the written brief presented by the Attorney General's Office in Case RUC 1901185569-8 dated 20 November 2019, No. 2470324.

However, the INDH filed complaints on behalf of at least 630 people who reported having been beaten by the National Police between 18 October 2019 and 30 November 2019, the majority during arrest or when they were already in custody.¹⁸¹ In addition, it filed complaints on behalf of 20 people who were allegedly run over by National Police officials.

According to the Attorney General's Office, as of 30 November, 4,158 cases of unlawful coercion, 1,038 of abuses against individuals and 134 crimes of torture were being investigated. It also investigated 192 acts of forced nudity, 58 acts of "sexual abuse with contact", 15 of threats of sexual crimes and nine acts constituting rape or aggravated sexual abuse.¹⁸²

Amnesty International analysed and verified 35 videos in which National Police officials appeared to use physical force in breach of international law. These include 16 incidents in which officials unnecessarily used physical force against people who had adopted a peaceful stance; 15 incidents in which the National Police used force disproportionately during the course of an arrest; and four incidents in which the National Police used unnecessary and disproportionate physical force against minors. In addition to this, nine videos were verified in which National Police vehicles are seen running over protesters, or seem to try to do so, in violation of domestic law and international standards. The number of incidents of this type indicate that they were not isolated incidents but rather a police practice to inflict pain.

Although the use of shotguns, water cannon and chemical deterrents is (poorly) regulated by domestic law, National Police officials are not authorized by law to use their vehicles to inflict physical harm on protesters under any circumstances.

The illegality of this practice – in the context of police operations under national and international law – makes it, *prima facie*, a violation of international human rights law.

National Police officials beating peaceful protesters with batons, Valparaíso, Chile, 24 October 2019. - 33.0461823, -71.6242585



181 List of legal actions filed by the INDH updated as of 6 April 2020
182 Attorney General's Office, *Annual Statistical Report 2019*.

National Police officials repeatedly beat a person they have restrained, Santiago de Chile, 11 November 2019. - 33.480707, -70.5732821



*National Police officials use physical force against people who appear to be minors.
Santiago, Chile, 28 November 2019. -33.442768, -70.631875*

National Police on a motorcycle deliberately running over a protester, Viña del Mar, Chile, 14 November 2019. -33.026444, -71.552028



Amnesty International has documented a series of cases showing that National Police officials used physical force in a manner inconsistent with international standards in the context of the crisis.

A) MOISÉS ÓRDENES: EYE LOSS AND SERIOUS INJURIES TO THE BODY

On Monday, 21 October 2019, at approximately 20:40, 55-year-old Moisés Órdenes, was demonstrating peacefully in the Plaza Ñuñoa area, Ñuñoa commune, Metropolitan Region. Moisés was beating a frying pan and wooden spoon (“caceroleaba”) and recording on his phone as the demonstrations that had gone on throughout the afternoon were dispersing.

Suddenly, and without any provocation, a group of officials from the Special Forces (Fuerzas Especiales, FFEE) began to attack him violently, first shoving him and then beating him with riot-control batons. Moses was kicked in the back violently, which knocked him over and he fell, slamming his face on the ground.

The officials continued to beat him with their fists, feet and batons on his face, head and the rest of his body while he was on the ground; this was broadcast live by the Chilevisión channel’s news cameras.¹⁸³ When he managed to stand up, his face bleeding profusely, the officers detained him and put him in a police vehicle.

Moisés Orders being beaten by FFEE officers.



At approximately 21:40, Moisés was transferred to the emergency room of El Salvador Hospital, where the following injuries were recorded: multiple trauma, with “a. closed left eye severe trauma; b. closed trauma to the left thorax contusions; c. dental fracture left central incisor; d. reduced anterior left shoulder dislocation; e. non-displaced comminuted left nasal fracture; i. multiple rib fractures (9-10-11) and mild left pneumothorax”.¹⁸⁴

On that occasion, Moisés spent nine days in El Salvador Hospital. On 20 November, he had to be readmitted due to a perforated lung. He was finally discharged on 10 December.¹⁸⁵ The beating resulted in the loss of his left eye¹⁸⁶ and retinal detachment in his right eye, as well as injuries to the body.¹⁸⁷

Judicial investigation

The judicial investigation was initiated by a complaint from the Attorney General’s Office. Moisés’ family and the INDH also filed complaints. ¹⁸⁸ The Attorney General’s investigation began for the crime of torture, but in July 2020 this was changed to the crime of torture resulting in very serious injuries, forging public documents and obstructing the investigation.¹⁸⁹

The officials involved in the events belonged to the 28th Special Forces Police Station and in the internal process their account of events was not consistent with what is shown in the images broadcast on television, other videos of the scene and the statements of witnesses.¹⁹⁰

To justify their actions, they stated that in Plaza Ñuñoa around 300 people were erecting barricades and throwing heavy objects.¹⁹¹ Furthermore, they stated that Moisés had insulted them, threatened to kill them and tried to attack them with the frying pan in his hands, which is why they had tried to restrain him. They accused him of having put up “stubborn resistance” and claimed to have used “necessary and proportionate force” to subdue him.

183 Chilevisión, Special forces beating a protester in Ñuñoa. See youtu.be/24ZhmG6apKM

184 El Salvador Hospital report of medical history of patient Moisés Órdenes Corvalán, dated 23 October 2019.

185 Hospitalization medical report that appears on p. 596 of the investigation case file, Case RUC 11901144406-K of the Santiago 8th District Court.

186 Certificate issued by the Eye Trauma Unit of El Salvador Hospital, dated 22 October 2019, which sets out a diagnosis of blunt eye trauma of the left eye with zero vision.

187 Post-operative Protocol No. 24618 of El Salvador Hospital, dated 26 December 2019.

188 Detention order No. 5506, 22 October 2019, the 18th Police Station of Ñuñoa.

189 Formal charges brought, dated 13 July 2020, Santiago 8th District Court in Case RUC 1910052627-4.

190 P. 401 of the investigation case file, Case RUC 11901144406-K of the Santiago 8th District Court.

191 “...there were disturbances and bonfires there, in addition heavy objects were being thrown, people were ignoring us, adopting a totally indifferent and aggressive attitude”. Detention order No. 5506, 22 October 2019, 18th Police Station of Ñuñoa, p. 5 of the investigation case file, Case RUC 11901144406-K of the Santiago 8th District Court.

This description is contradicted by the images broadcast on television, those recorded by Moisés with his own mobile phone at the time of the attack, those recorded by other people present at the scene and by the security cameras in Plaza Ñuñoa at that time.¹⁹²



Image from a security camera of the moment when Moisés Órdenes was attacked which shows that there was practically no one else in that location.

The PDI report concluded that “the sole purpose of the conduct displayed by the police officers was to inflict severe blows and suffering on the victim, without any justification, which were grave in view of their special condition of vulnerability and the nature of injuries sustained”.¹⁹³

The PDI summoned the officials involved to testify; they exercised their right to remain silent. The officials testified in the administrative process,¹⁹⁴ where they gave the same account, reaffirming what was indicated in the detention record and identifying themselves in the images, but not their colleagues.¹⁹⁵

Based on the investigation, the Attorney General’s Office identified the 13 officials who participated in the incident, who were formally charged with the crimes of torture causing very serious injury; five were charged with having actively tortured Moisés and eight with having allowed torture to occur and doing nothing to stop it. The officer in charge of the operation was a lieutenant who was head of Section 2 of the 28th Special Forces Police Station (FF33 43-02) and is one of those who beat Moisés.

Of the 13 officials charged with torture, 11 were also charged with falsifying a public document, because of the false information they gave in relation to the complaint and in their statements during the administrative process, and for obstruction of the investigation, because of their lack of cooperation during the investigation and their contradictory statements.

B) CRISTÓBAL FLEN: PHYSICAL INJURIES

On Sunday, 20 October 2019, Cristóbal Flen was taking part in a public demonstration in the main square of Isla de Maipo, Metropolitan Region, with a group of people; the atmosphere was calm.

At approximately 20:30, after a protester was run over by a police vehicle and protesters responded by throwing stones at the vehicle, a group of armed police officers began to shoot to break up the demonstration and beat some protesters with batons.

Cristóbal was detained by four National Police officials, who began to beat him with batons and to kick and punch him all over his body, mainly in the face, for several minutes. According to Cristóbal, they also hit him on the head with the door of the vehicle he was put in.



192 P. 273 of the investigation case file, Case RUC 11901144406-K of the Santiago 8th District Court.

193 Page 34 of PDI Police Report 20190662073, dated 11 December 2019.

194 Process 13184/2019/1 of the Administrative Attorney General of the Carabineros, ordered by the Special Forces prefect (G-1).

195 Pages 615 to 617 of the investigation case file, Case RUC 11901144406-K of the Santiago 8th District Court.

Moment when Cristóbal Flen is thrown to the ground and kicked by a group of police officials.



He was left handcuffed and bleeding for at least two hours before being taken to a health centre, along with eight other detainees, to have his injuries examined. Finally, they were all transferred to Isla de Maipo Accident and Emergency (SAPU) where he needed seven stitches to his right eyebrow.¹⁹⁶ From there, they were taken to Isla de Maipo Sub-Police Station, where officials formed the detainees in a line at the entrance of the compound, called the “blind alley”, where they beat them with batons. At 03:00, they were all taken to the Talagante Police Station, where they were stripped one by one and forced to do “squats.” The following morning, Cristóbal and the other detainees were brought to court, where they were charged with abusing the police (maltrato a los carabineros). The detainees reported that they had been victims of torture and unlawful coercion by the National Police.

Cristóbal went to a medical centre again the day after he was beaten. There they recorded the true nature of the injuries, stating: “In the right supraciliary region, a linear wound of approximately 4.5 cm by 3 mm was observed, sutured with 7 stitches... more erythema is observed in the upper eyelids as well as pain, in bilateral lower eyelids there is oedema plus erythema plus tenderness, in the conjunctiva there is injection towards the left side and in the right eye conjunctival injection towards the right side. ... In the left dorsal region, a painful haematoma of approx. 20 cm by 10 cm approximately. On the lateral side of the left thigh, a haematoma of approx. 2 cm by 3 cm with tenderness, no bleeding. On the left arm, a haematoma of approx. 2 cm by 2 cm with tenderness was observed. Pain in the left shoulder on movement”.¹⁹⁷



Cristóbal Flen after he was beaten by police officials.



196 However, the emergency treatment record (Dato de Atención de Urgencia, DAU) did not include either the injuries or the fact that Cristóbal arrived with officials from the Carabineros, and indicated that it was an “accident en route”. DAU No. 18476828, SAPU Isla de Maipo, dated 21 October 2019, 03.39.

197 DAU, SAR María Eugenia Torres, dated 21 October 2019 at 14:55.

Judicial investigation

Following the complaint filed by Cristóbal, the West Metropolitan Attorney General's Office launched a criminal investigation. Subsequently, the INDH filed a complaint for the crime of torture and unlawful coercion.

A Forensic Medical Service expert report of his injuries of 21 February 2020 concludes that: "Regardless of the psychological consequences that the injured person has, which were not evaluated by this expert, recovery from the injuries took 60 days, therefore they were injuries of a serious nature. The injuries were consistent with beatings using fists, feet, sticks and canes".¹⁹⁸

The investigation case file contains statements from Cristóbal and two other detainees giving an account the beatings and squats.¹⁹⁹ The investigation had made no further progress than that indicated, an order for a DPI investigation has yet to be issued, so no process to identify the officials responsible has been initiated.²⁰⁰ A National Police administrative process remained pending as of 14 July 2020.²⁰¹

C) JOSUÉ MAUREIRA RAMÍREZ: BEATINGS AND RAPE

On 21 October 2019, around 02:00, Josué Maureira Ramírez, a 24-year-old medical student at the Catholic University of Chile, was detained by National Police officials from the 51st Pedro Aguirre Cerda Police Station. He was apprehended in a Santa Isabel supermarket in the Pedro Aguirre Cerda district, Metropolitan Region. The officials transferred him to a police vehicle driven by another official in which there was a woman police officer, both also from the 51st Police Station.

Josué explained that in the vehicle all the officials used degrading expressions alluding to his sexual orientation, lowered his pants and made comments about the size of his penis and his nail varnish.

He stated that the two police officers who detained him beat him several times with their fists and kicked him. In turn, the police official kicked him in the face to punish him for an swearing at him. On arrival at the 51st Pedro Aguirre Cerda Police Station, one of the officers hit him again as he got out of the car.

The young man reported that, inside the police station, the five male National Police officials beat him with their fists and kicked him, while they pinned him to the ground, taking advantage of a blind spot where the security cameras could not capture images.

198 Expert report of injuries from the Forensic Medical Service RM-MLP 008-2020, dated 21 February 2020, p. 1 in the investigation case file, Case RUC 1910057727-8 of the Talagante District Court.

199 Pp. 5 and 15 in the investigation case file, Case RUC 1910057727-8 of the Talagante District Court.

200 The investigation that has made progress is the one against Cristóbal Flen by virtue of the facts that emerged following his detention; he was formally charged with causing aggravated damage ("daños calificados") and public disorder offences (desórdenes en espectáculos públicos). The simplified procedure hearing date was set for 2 October 2020.

201 According to information provided by the Carabineros on 14 July 2020, RSIP Response No. 51476 of the Carabineros to a request for information under Transparency Law No. ADO09W0051.

Later, two other officials, in the company of the two officers who detained him, allegedly transferred him to a section of the police unit, where they forced him to bend over while they held him by the arms, pulling down his pants and inserting a retractable baton into his anus. While the rape was taking place, the two officials who had attacked him earlier allegedly swore and used degrading expressions such as “look at the faggot bastard. Do you like it in the hole?”²⁰² At around noon, he was transferred, along with a group of people accused of robbery and abusing police officers, to a detention review hearing. At the hearing they were treated as an organized group. Josué explained that he was not allowed to speak to report the harassment he had suffered. There he was charged and placed in preventive detention. After he was able to communicate with his parents and the INDH from prison, he was referred to the SML so his injuries could be examined.

The SML found that Josué had multiple ecchymotic contusions and traumatic bruises to the neck, chest, and upper and lower limbs. The anal examination carried out by the SML revealed cuts to the buttocks, ecchymotic lesions and traumatic lacerations of the anal opening, compatible with his report.²⁰³

Judicial investigation

The Attorney General's Office launched an investigation into crimes of torture and aggravated torture. The victim filed complaints for the human rights violations suffered through the Catholic University, the INDH and the State Defence Council and the Municipality of Pedro Aguirre Cerda.

The prosecutor in charge of the case listed a series of reports confirming the torture and unlawful coercion of Josué, as well as witness statements that confirmed the physical attacks, kicking and punching, and offensive expressions about his sexual orientation.²⁰⁴ Facial recognition of the three officers who were in the police vehicle as Josué's assailants was also carried out.²⁰⁵

The torture that took place inside the Police Station was substantiated based on recordings recovered from the 51st Police Station, analysed in police report No. 177 of 2019 of the Department of Internal Affairs

202 p. 3 of the criminal complaint for the crime of torture and aggravated torture filed by Josué Maureira in Case RUC 1901142805-6 of the Santiago 10th District Court.

203 Report dated 25 October 2019, reports listed in a written brief from the Attorney General's Office dated 21 April 2020, relating to the appeal regarding the resolution on replacing precautionary measures dated 17 April 2020. Case RUC 1901142805-6 of the Santiago 10th District Court.

204 Reports listed in a written brief from the Attorney General's Office dated 21 April 2020, relating to the appeal regarding the resolution on replacing precautionary measures dated 17 April 2020 Case RUC 1901142805-6 of the Santiago 10th District Court.

205 Reports that, according to what was indicated by the Attorney General's Office in a previous individualized brief, had already been evaluated by the Santiago Court of Appeals and the Santiago 10th District Court at the time of ruling on the precautionary measures applied to the accused in December 2019 and January 2020. Case RUC 1901142805-6 of the Santiago 10th District Court.

Prisoners of the Carabineros²⁰⁶ and the statement of the so-called “reserved witness”²⁰⁷ and a victim in another case, who also reported having been attacked by officials of the 51st Pedro Aguirre Cerda Police Station on 21 October.²⁰⁸

The sexual violence experienced by Josué was underscored in the sexological report prepared by the SML,²⁰⁹ which describes the existence of physical and anal injuries, consistent with the victim’s account, and a complementary report 2839-2019,²¹⁰ which concludes that the injuries “could correspond to a partial penetration with a blunt object such as a retractable baton”. The report also states that “the development over time of the injuries is in accordance with the victim’s account of the events that occurred from this sexual assault to the examination... A violent consensual sexual relationship cannot be ruled out, but it is unlikely because of the account.”²¹¹

Likewise, the SML report, in line with Istanbul Protocol No. 120/2019, concluded that there was consistency between the record of physical symptoms and disabilities and the allegations of abuse and that the injuries could be explained by the action of blunt objects and anal penetration, with a grave forensic prognosis and would heal in 32-35 days.²¹²

The seven National Police officials from the 51st Pedro Aguirre Cerda Police Station who allegedly attacked Josué were charged, four of them with torture and two with aggravated torture (tortura calificada), since the crime of torture was accompanied by sexual abuse.²¹³

On 17 April, the precautionary measures of 24-hour house arrest imposed on three of the seven defendants in the case as of that date were replaced by the Santiago 10th District Court with a night-time curfew and they were barred from leaving the country and approaching the victim. The court based this decision on the pandemic affecting the country, which would mean a delay in the investigation and so justify reducing the intensity of the measures.

Defence counsel for the accused alleged that there was “new evidence” in order to request this easing of precautionary measures. The court considered that the investigation reports were, on the contrary, sufficient at this stage of the procedure to support the contention that the crimes had been committed and that the accused participated in them.²¹⁴

On 28 March 2020, two of the defendants, both National Police officials, lodged a complaint against the prosecutors in charge of the investigating the case for allegedly withholding evidence exonerating them from the district court at the time formal charges were laid. The complaint, which has few precedents in the country, was declared inadmissible in the first instance by the court, but was later found admissible by the Santiago Court of Appeals. The investigation remains open.²¹⁵

On 10 August 2020, the Santiago 10th District Court granted the Attorney General’s Office an extension of the 60-day period to investigate.



206 It states: “CD Núm. III: (i) Cámara Núm. 516_14_R_20191021015000”, 01.58.40 hours, a large number of police officers outside the bathroom area on one side of the cells, which does not record the entire scene since the bathrooms are a blind spot; (ii) Camera No. 517_14_R_20191021020000, 02.03.04 hours, the victim is seen on the ground being kicked in the head by a police official. Report listed in a written brief from the Attorney General’s Office dated 21 April 2020, relating to the appeal regarding the resolution on replacing precautionary measures dated 17 April 2020 Case RUC 1901142805-6 of the Santiago 10th District Court.

207 A witness (whose identity is protected) describes the existence of the aforementioned blind spot on one side of the unit’s bathrooms, further indicating that at one point in the night he heard “a man shouting, in desperation: ‘Help... they are raping me, they are drawing blood, help me, please!’ Then there was noise as if someone were being brought into to the police station and blows as if they were beating him, until we heard no more screams. The noise of the beating came from the same area near the bathrooms where I had been forced to undress and do squats before.” Written brief from the Attorney General’s Office, dated 21 April 2020, relating to the appeal regarding the resolution on replacing precautionary measures dated 17 April 2020. Case RUC 1901142805-6 of the Santiago 10th District Court.

208 Reports listed in a written brief from the Attorney General’s Office dated 21 April 2020, corresponding to the appeal regarding the resolution on replacing precautionary measures dated 17 April 2020. Case RUC 1901142805-6 of the Santiago 10th District Court.

209 Dated 25 October 2019, listed in the written brief from the Attorney General’s Office dated 21 April 2020 relating to the appeal regarding the resolution on replacing precautionary measures dated 17 April 2020. Case RUC 1901142805-6 of the Santiago 10th District Court.

210 Complementary Report dated 8 November 2019, cited in a written brief from the Attorney General’s Office dated 21 April 2020, relating to the appeal appeal regarding the resolution on replacing precautionary measures dated 17 April 2020. Case RUC 1901142805-6 of the Santiago 10th District Court.

211 Written brief from the Attorney General’s Office dated 21 April 2020 relating to the appeal regarding the resolution on replacing precautionary measures dated 17 April 2020. Case RUC 1901142805-6 of the Santiago 10th District Court.

212 The above in conjunction with other medical and psychological examinations cited in the written brief from the Attorney General’s Office dated 21 April 2020, appeal regarding the resolution on replacing precautionary measures dated 17 April 2020. Case RUC 1901142805-6 of the Santiago 10th District Court.

213 Detention review hearing, 27 December 2019, Case RUC 1901142805-6 of the Santiago 10th District Court.

214 Without prejudice to the clarity of the decision of the 10th District Court regarding the rejection of this claim of the alleged existence of new exculpatory evidence, information circulated in the media and on social media indicating that this evidence had been accepted by the court and that the easing of precautionary measures was due to this. Faced with this false news, the Unit for Prevention and Support for Victims of Sexual Violence of the Faculty of Law of the Catholic University (Unidad de Prevención y Apoyo a Víctimas de Violencia Sexual de la Facultad de Derecho de la Universidad Católica) issued a public statement on 19 April 2020 clarifying what happened at the hearing and the true grounds for the court’s decision, which, according to the statement, at no time accepted the existence of this alleged “new evidence”.

215 Case RUC 2010017178-4 of the Santiago 10th District Court.

4.2. WIDESPREAD VIOLATION OF RIGHT TO PHYSICAL INTEGRITY

The American Convention on Human Rights²¹⁶ and the International Covenant on Civil and Political Rights,²¹⁷ among other binding instruments to which Chile is a party protect the right to physical integrity.

Likewise, the Inter-American Convention to Prevent and Punish Torture²¹⁸ defines torture as any act intentionally performed whereby physical or mental pain or suffering is inflicted on a person for purposes of criminal investigation, as a means of intimidation, as personal punishment, as a preventive measure, as a penalty, or for any other purpose. Torture shall also be understood to be the use of methods upon a person intended to obliterate the personality of the victim or to diminish his physical or mental capacities, even if they do not cause physical pain or mental anguish.²¹⁹

The Inter-American Court of Human Rights considers “torture” to be any act of ill-treatment that is intentional, causes severe physical or mental suffering and is committed for any purpose or objective by a public official.²²⁰

In the case of *Norín Catrimán et al. v. Chile*, the Court established that “the violation of the right to physical and mental integrity of the individual has different levels and encompasses torture and other types of abuse or cruel, inhuman or degrading treatment, the physical and mental aftereffects of which vary in intensity according to endogenous and exogenous factors that must be demonstrated in each specific situation.”²²¹

The former refer to the characteristics of the treatment, such as the duration, method used or the way in which the suffering was inflicted, as well as the physical and mental effects that these may cause. The latter refer to the conditions of the individual who endures his suffering, including age, sex, health, and any other personal circumstance.²²²

That is why in its judgment in *Quispialaya Vilcapoma v. Peru*, the Inter-American Court determined that the right to physical integrity of a soldier had been violated when he was hit in the right eye with the butt of his superior’s weapon. As a result of the attack, Mr Quispialaya suffered from constant headaches and fever and eventually lost the sight in his eye.²²³ Although the state argued that it was an accident during the application of a disciplinary measure, the Court established that the suffering both physical and moral inflicted on the victim was not justified.²²⁴

Similarly, the European Court of Human Rights held that there was a violation of the prohibition on torture and inhuman or degrading punishment or treatment in the *Muradova* case, where the plaintiff lost the sight of one eye due to excessive use of force by Azerbaijani police. In this case, the Court relied on the harm and consequences to physical integrity, the trauma and the long-term medical treatment that caused the victim considerable mental suffering.²²⁵

In another case against Turkey, the European Court condemned the state for the death of a person as a result of the impact of a gas canister. This Court noted that when fired with grenade launchers, these canisters have the potential to injure or even kill and therefore must be explicitly distinguished from other uses of tear gas. In this case, the Court accepted that the gas canister had been fired directly and horizontally at the plaintiff, and not in an arc as it should have been, given the injury caused and the fact that the Turkish state had not investigated the incident sufficiently to prove otherwise.²²⁶

216 Signed at the Inter-American Specialized Conference on Human Rights (B-32) of the Organization of American States in San José, Costa Rica, from 7 to 22 November 1969, ratified by the State of Chile on 10 August 1990.
217 Adopted by United Nations General Assembly by Resolution No. 2200, 16 December 1966. Ratified by the State of Chile on 10 February 1972.
218 Adopted at the OAS General Assembly, 12 September 1985 and ratified by the State of Chile on 15 September 1988.
219 OAS, Inter-American Convention to Prevent and Punish Torture, Art. 2.
220 Inter-American Court, Case of *Bámaca Velásquez v. Guatemala*, Merits, Judgment of 25 November 2003, para. 157. Case of *Rosendo Cantú et al. v. Mexico*, Preliminary Objection, Merits, Reparations and Costs, Judgment of 31 August 2010, para. 110.
221 Inter-American Court, Case of *Norín Catrimán et al. (Leaders, members and activist of the Mapuche Indigenous People) v. Chile*, Judgment of 29 May 2014.
222 Inter-American Court, Case of *Norín Catrimán et al. (Leaders, members and activist of the Mapuche Indigenous People) v. Chile*, Merits, Reparations and Costs, Judgment of 29 May 2014, para. 388.
223 Inter-American Court, Case of *Quispialaya Vilcapoma v. Peru*, Preliminary Objections, Merits, Reparations and Costs, Judgment of 23 November 2015, para. 114.
224 Inter-American Court, Case of *Quispialaya Vilcapoma v. Peru*, Preliminary Objections, Merits, Reparations and Costs, Judgment of 23 November 2015, para. 128.
225 European Court of Human Rights, Case of *Muradova v. Azerbaijan*, no. 22684/05 of 2 July 2009.
226 European Court of Human Rights, Case of *Ataykaya v. Turkey*, no. 50275/08, 22 October 2014.

Furthermore, the Inter-American Court has established that rape is torture and that “rape must also be understood as act of vaginal or anal penetration, without the victim’s consent, through the use of other parts of the aggressor’s body or objects, as well as oral penetration with the virile member.”²²⁷

The Court has also stated that rape may constitute torture even when it is based in a single incident and takes place outside state facilities. This is because the objective and subjective elements that classify an act as torture do not refer either to the accumulation of incidents or to the place where the act is carried out, but to the intention, the severity of the suffering and the purpose of the act.¹²⁸

In this section Amnesty International sets out the reasons that lead it to conclude that the Carabineros repeatedly used force in an unlawful, unnecessary and disproportionate manner in the context of the crisis, injuring thousands of protesters and inflicting serious injuries on many of them. In many cases this constituted a violation of the right to physical integrity.

In addition, the acts of torture and other cruel, inhuman or degrading treatment were not committed in isolation. Injuries such as eye injuries or physical abuse, were widespread (that is, they were not isolated events) according to official figures from the Ministry of Health, the Attorney General’s Office and the INDH.

Amnesty International has identified numerous occasions on which members of the National Police deliberately used physical force – beating people with batons, punching and kicking them – when there was no actual and genuine need to do so. They did so disproportionately, without any relation to the nature of any potential threat, or once the people were already in state custody. In addition, several hit-and-run incidents were recorded, which were far from being accidental, and where protesters were deliberately targeted. In one case, the injuries caused by these blows resulted in loss of life and in another, the violence constituted sexual torture. In relation to cases of injuries caused by potentially lethal weapons, the multiple kinetic impact ammunition used caused a high level of harm because the pellets penetrated the skin and dispersed on being fired. This ammunition should not have been used because it does not comply with standards on the use of force with less lethal weapons.

Despite this, this ammunition was fired in a practically uncontrolled and indiscriminate manner, especially during October 2019. Although in November there was a substantial reduction in the amount of ammunition used, its effectiveness in causing harm increased, as explained above. In addition, in numerous interventions, riot-control shotguns loaded with this ammunition were used as a tactical tool to control demonstrations.²²⁹

These weapons were used on many occasions against protesters who did not present a risk to the life of the agents or third parties, or who posed a threat considerably less than that caused by said ammunition. The fact that hundreds of people sustained eye injuries shows that the already indiscriminate firing was on numerous occasions aimed at parts of the body where there was a high risk impact could prove fatal, such as the head and chest, as shown by the evidence presented. Officers were also identified firing indiscriminately or at random, without any specific target.

The gas was also used disproportionately as a dispersion tool. It was also fired with grenade launchers and, on multiple occasions, the canisters hit people’s bodies in order to cause harm rather than to disperse them.



227 Inter-American Court, *Case of the Miguel Castro Castro Prison v. Peru*, Merits, Reparations and Costs, Judgment of 25 November 2006, para. 310.

228 Inter-American Court, *Case of Fernández Ortega et al. v. Mexico*, Judgment of 30 August 2010, para. 128.

229 According to the Department of Weapons and Ammunition, by 2019, at the national level, there were a total of 2,494 operational 12-gauge Hatsan Escort-type shotguns, of which 985 were distributed to Special Forces, 205 to GOPE, and 1,304 to others. At least 258 officials were authorized to use the shotguns loaded with rubberized buckshot. According to the ammunition purchase information, between 2015 and 2017 the Carabineros bought a total of 486,717 TEC Harseim cartridges and between 2015 and 2019, 17,226 “non-lethal impact, 12 calibre”, possibly of the super-shock type. More than 250,000 TEC Harseim cartridges, were purchased in 2017 as well as 12,226 of the super shock type in 2019.

The cases in this chapter show that, for a month and a half and in a continuous and widespread manner, state officials inflicted deliberate pain and suffering, with the intention of causing suffering or knowing that the probable result of their actions was to cause suffering. This suffering or harm was inflicted by threats and beatings, as well as by serious injuries to numerous protesters, many with physical and psychological consequences. On the other hand, the lack of traceability of the ammunition used (unlike lethal ammunition, these weapons do not leave a specific marking)²³⁰ encouraged a sense of impunity.

Although it is true that numerous cases of damage to property were reported, as well as injuries to National Police personnel, the disproportion in the number of those injured, as well as case studies and visual evidence regarding the repeated unnecessary and disproportionate use of force, give reason to believe that this was National Police policy and not isolated cases where officials acted on their own initiative. Underpinning this policy was an assumption that harming people's physical integrity was a necessary evil in order to re-establish "public order". The intention of the actions that resulted in these violations was to intimidate and punish protesters and to stop the protests whenever they took place. Command responsibility for this is discussed below.



230 When a bullet is fired from a pistol or rifle, there are marks and grooves cut into the bullet that coincide with the rotation of the pistol or rifle, so that it is possible to identify which weapon fired a given bullet. This is not the case with a shotgun or grenade launcher.

5. COMMAND RESPONSIBILITY

Organizational structure of the National Police

The Carabineros has two main levels of command: the strategic or managerial and the tactical or operational.²³¹

Strategic commanders are in charge of defining and executing institutional plans, policies and strategies relating to their respective functions, for example, in the areas of order and security, human resources or support services.

According to the regulations governing the organization of the Carabineros, the main strategic commanders in charge of defining institutional policies and strategies in response to the protests were: the Director General, who, in his capacity as “highest authority” of the institution, is responsible for “upholding the principles and tenets of the institution, establishing, consolidating, disseminating and developing policies and defining the strategies required to achieve the objectives of the Carabineros”;²³² the Deputy Director General, whose function is “to develop, implement and coordinate all the policies and actions derived from the senior administration of the institution”;²³³ and the Director of Order and Security, who is in charge of “planning, organizing, directing, monitoring, evaluating and coordinating at a strategic level (security and public order)”, which is implemented throughout the units for which they are responsible.²³⁴

The latter was the most relevant directorate in matters of maintaining public order as their mandate is to “manage the duties of the police in their different roles” and oversee the coordination of operations and manage all operational information and analysis.²³⁵

Together, these three positions had primary responsibility for defining the institution’s strategic response to the crisis.

Operational commanders are the senior officers directly responsible for overseeing the planning and implementation of police functions in specific territorial areas.

The main operational commanders in the context of the protests were the Area Headquarters, which “exercise jurisdiction over the territory of one or more regions” and report directly to the Director of Order and Security — for example, the head of the Metropolitan Area or the head of the Valparaíso Area — and the heads of the prefectures, who “exercise jurisdiction over one or more provinces and/or communes, and report directly to the heads of their respective areas.”²³⁶

In the case of the Metropolitan Region, in particular (which is analysed more extensively in this report), there were subdivisions whose heads were also important operational commanders in the context of the crisis.

These were the Head of the Metropolitan Zone and the Head of Area Control, Public Order and Intervention. Below this, are the Prefecture of Special Forces, a specialized unit in charge of “ensuring and fulfilling the constitutional mission of maintaining public order”, in particular “guaranteeing public order in meetings and or public demonstrations”.²³⁷

Its commanders, its prefect and subordinate deputy prefects were also in charge of overseeing and directing a large number of operations in the Metropolitan Area in the context of the crisis.

231 Carabineros Regulation, No. 1 of 2018.

232 Carabineros Regulation, No. 1 of 2018.

233 Carabineros Regulation, No. 1 of 2018.

234 Carabineros, General Directorate, General Order 2435 of 30 September 2016,

235 Carabineros Regulation, No. 1 of 2018.

236 Carabineros Regulation, No. 1 of 2018.

237 General Order 2610 of 25 October 2018, Organizational and Operational Directive of the Carabineros Special Forces Prefecture.

Amnesty International considers the widespread violations of the right to physical integrity of the protesters during the crisis in Chile would not have been possible if the heads and superior officers, whether they belonged to the Carabineros or other areas of government, had exercised appropriate control over their subordinates.

The repeated pattern of wrongful actions in the context of demonstrations suggests that commanders deliberately (or at least culpably) failed to fulfil their responsibility to prevent harm to people's physical integrity. That is, if they did not order these actions, at the very least they tolerated them or issued orders that tacitly allowed human rights violations and crimes under international law, such as torture, to be committed.

Any arbitrary death or harm to physical integrity must be duly investigated by the civil authorities.²³⁸ As part of these investigations, among other things, the possible individual criminal, disciplinary and administrative responsibility of senior officers and other superiors should also be explored with respect to these violations when they were committed by their subordinates.²³⁹

The Inter-American Court has established that in this type of investigation a series of aspects must be considered to guarantee a thorough investigation, which requires the investigation of all possible commanders responsible. This type of investigation should take into account:

1. Knowledge: if “there is evidence that the authorities knew or should have known that the acts were occurring”. This does not only mean noting in real time that such acts were occurring as “[i]t is not necessary for the superior to have specific details of the wrongful acts committed or about to be committed; rather, it is sufficient that he has some general information that alerts him to **possible wrongful acts** of his subordinates.”²⁴⁰

The following, therefore, analyses the detailed knowledge that operational and strategic commanders had about the misuse of weapons (mainly shotguns and tear gas), both in real time and after operations.

2. Hierarchy and organization: whether “there was sufficient evidence that the officials had the material capacity to prevent and punish the acts. ... [whether] the police maintained their **organizational capacity**, which is demonstrated by testimony revealing that the police agents were able to adapt their conduct based on verbal orders or in the presence of the media”.²⁴¹

The following analyses how the operations were planned and functioned in relation to the established hierarchy and the instructions that guided police actions in the operations.

3. Failure to prevent harm: Finally “a third indication that would have justified the opening of lines of investigation into the command responsibility relates to the failure to take steps to prevent and/or to punish the acts”.²⁴²

This chapter analyses how a series of key measures to avoid harm were not taken, such as disciplinary sanctions to punish these actions and thereby prevent the same officers who were accused of violating human rights from continuing to exercise operational functions.

238 Human Rights Committee, General Comment No. 36, 3 September 2019, CCPR/C/GC36, para. 13. In conjunction with the Inter-American Court, Case of the La Rochela Massacre v. Colombia, Merits, Reparations and Costs, Judgment of 11 May 2007, Series C No. 163, para. 205.

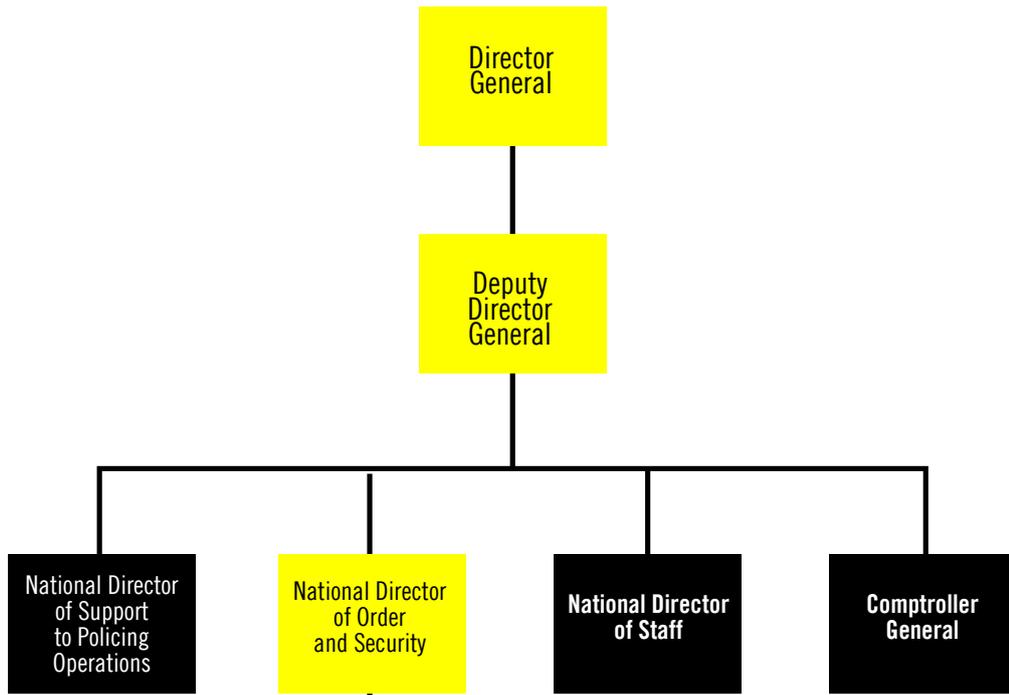
239 Human Rights Committee, General Comment No. 36, 3 September 2019, CCPR/C/GC36, para. 27.

240 In this jurisprudence, the Court took into account, among other information, that the operation was given extensive media coverage in real time and was supervised by land and air by the superior officers of those who were executing it and accordingly considered that they did have sufficient information indicating a risk that human rights violations might occur. Inter-American Court of Human Rights *Case of Women Victims of Sexual Torture in Atenco v. Mexico*, Preliminary Objection, Merits, Reparations and Costs, Judgment of 28 November 2018, Series C No. 371, para. 296.

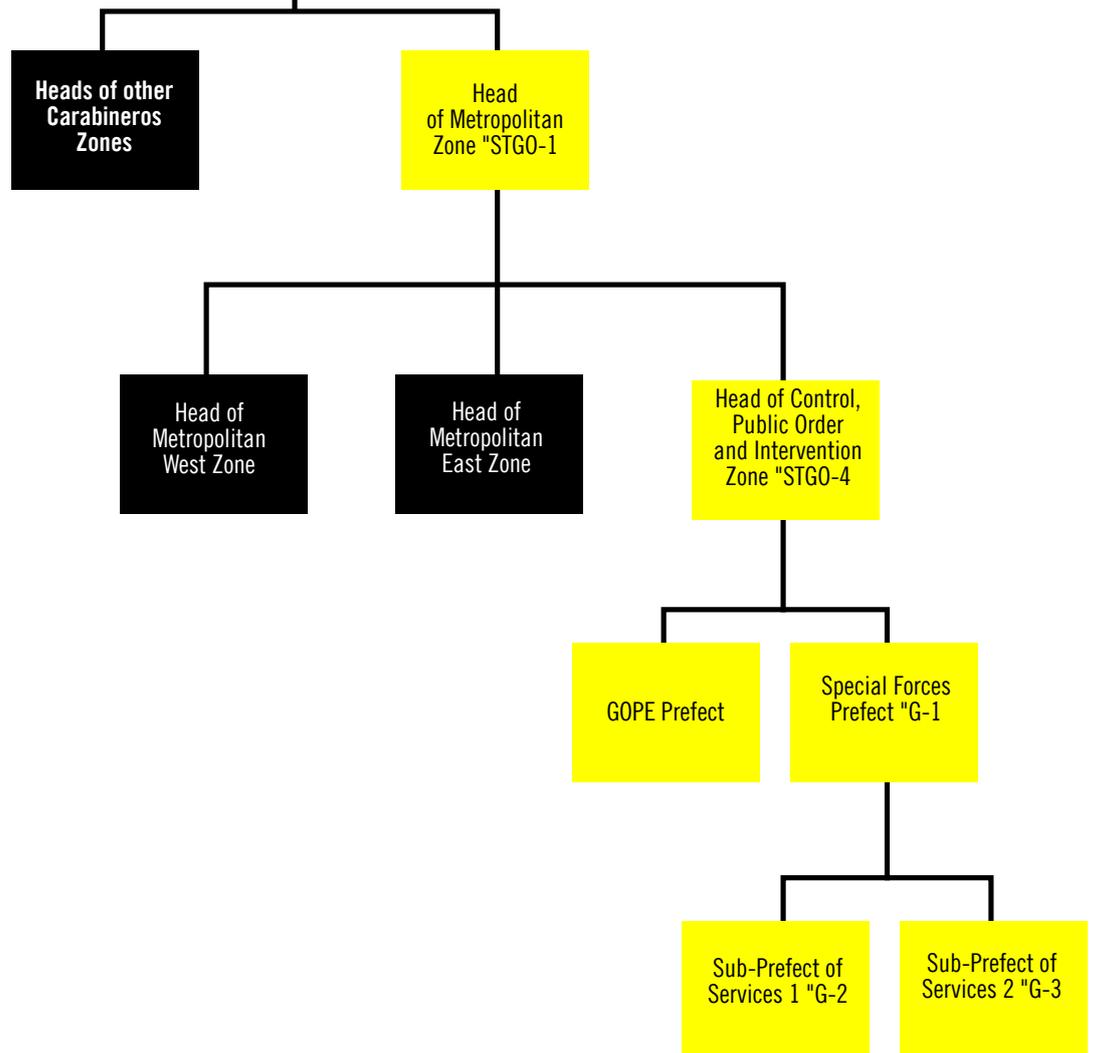
241 Inter-American Court, *Case of Women Victims of Sexual Torture in Atenco v. Mexico*, Preliminary Objection, Merits, Reparations and Costs, Judgment of 28 November 2018, Series C No. 371, para. 296.

242 Inter-American Court, *Case of Women Victims of Sexual Torture in Atenco v. Mexico*, Preliminary Objection, Merits, Reparations and Costs, Judgment of 28 November 2018, Series C No. 371, para. 296.

Strategic Commanders



Operational Commanders



5.1 KNOWLEDGE OF HUMAN RIGHTS VIOLATIONS

In line with Principle 24 of the UN Basic Principles on the Use of Force and Firearms, law enforcement agencies must adopt the necessary measures to ensure that superior officers are held responsible **if they know, or should have known**, that law enforcement officials under their command are resorting, or have resorted, to the unlawful use of force and firearms, and **they did not take all measures** in their power to prevent, suppress or report such use.

The Inter-American Court has established in numerous judgments that **knowledge of risk** by state officials is a key element in determining their responsibility. This is based both on actual knowledge and on the duty to know of the existence of a real and immediate risk to life and/or physical integrity, and the reasonable possibilities of preventing or avoiding that risk.²⁴³ Therefore, ignorance cannot be claimed if commanders and superiors did not exercise adequate supervision and control.

This section describes the channels through which different institutions passed information about the events that occurred in the context of the crisis to superior officers in the Carabineros, showing that they were or should have been aware of the violations that were occurring day after day.

5.1.1. COMMUNICATIONS FROM EXTERNAL SOURCES

During the protests, social media and the media were full of information about possible human rights violations by National Police personnel. This was frequently done with direct references to official police accounts. The Carabineros Human Rights Unit confirmed in a meeting with Amnesty International that a (very small) number of internal processes were initiated ex officio after incidents were identified through open sources.²⁴⁴

In addition to their access to this type of mass, albeit unverified, information, the National Police had access to data from two organizations whose information was crucial and reliable: the National Human Rights Institute (INDH) and the Attorney General's Office.

The INDH is a public, autonomous and independent institution with a mandate to defend and promote human rights at the national level. One of its functions is to initiate legal actions on behalf of the victims of human rights violations, especially those that are particularly grave.²⁴⁵

The National Police and the **INDH** maintained some degree of collaboration during the crisis, with the INDH sharing the judicial complaints it was filing against police officials, on the basis of which the National Police opened subsequent administrative investigations.

A statement by the Director General of the National Police in the Gatica case file notes: “from the outset I decided to consolidate this information [from the INDH] and facilitate its work through the Human Rights Directorate. They undertook to send the complaints on paper and for those cases internal proceedings were going to be initiated”.²⁴⁶

Amnesty International was able to verify this practice was following during the crisis by means of a document provided by the Ministry of the Interior, dated 19 November 2019, prepared by the National Police. This includes up to 274 judicial complaints filed by the INDH, which are compared with the administrative investigations opened by the National Police.²⁴⁷ According to information received, these complaints were also brought to the attention of the Director General, through his chief of staff, for approximately one month from the start of the protests.²⁴⁸ In other words, the Director General of the National Police had knowledge of the details of the cases of most concern to the INDH from the beginning of the crisis.



243 Inter-American Court of Human Rights, *Case of Gómez Virula et al. v. Guatemala*, Preliminary Objection, Merits, Reparations and Costs, Judgment of 21 November 2019, Series C No. 393, para. 56; Inter-American Court of Human Rights, *Case of Alvarado Espinoza et al. v. Mexico*, Merits, Reparations and Costs, Judgment of 28 November 2018, Series C No. 370, para. 276.

244 Amnesty International meeting with the Chilean Police Human Rights Unit on 6 November 2019. 245 Law 20405 on the National Institute of Human Rights, 10 December 2009.

245 Law 20405 on the National Institute of Human Rights, 10 December 2009.

246 Case RUC 1901217258-6 of the Santiago 7th District Court, investigation case file, Vol. III, p. 18.

247 At that time, administrative processes in 91 of the 274 complaints were ongoing.

248 Meeting between Amnesty International and INDH staff in August 2020.

Between 18 October and 30 November 2019, the INDH filed 577 complaints in relation to the conduct of National Police officials.²⁴⁹ Among other relevant information, these complaints included the cases of:

- 238 people injured with pellet shotguns fired by the police officers, including at least 20 children and adolescents.
- At least 140 cases of shooting above the waist with pellet shotguns.
- At least 92 complaints in which the victims stated that they had been hit by pellets fired from a shotgun at close range.
- 281 people who reported having been beaten during detention or while in custody.
- 117 people subjected to forced nudity.
- 53 people who suffered eye injuries in the context of the protests.

Some complaints were filed against the Director General of the Carabineros, for example, the one filed in the case of Fabiola Campillai for the crime of unlawful coercion resulting in very serious injuries. In the judicial investigation, the Director General appointed a defence lawyer, which suggests that he would have known the content of the complaint.

The second external source through which the National Police had knowledge of the complaints of human rights violations being made against its members is the **Attorney General's Office**.

When the Attorney General's Office initiates an investigation for possible crimes committed by members of state institutions, it normally requests information in writing from the respective institution or orders the Investigative Police (PDI) to go to the offices of the state agency to carry out the investigation.

According to information gathered by Amnesty International, this was the process through which the National Police recorded Gustavo Gatica's injuries and opened an internal investigation into the case.²⁵⁰

In addition to this direct communication between the two institutions, information and statistics regarding investigations into public disturbances and "institutional violence" were published by the Attorney General's Office at various times on its website. During the period under review, at least seven press releases issued related to possible human rights violations.²⁵¹ Consequently, the National Police senior officers had no grounds for not knowing the scale of the complaints that were being made against police officials.

249 List of legal actions filed by the INDH updated as of 6 April 2020.

250 As confirmed by the Attorney General's Office in its communication to the prosecutor of the administrative proceedings in the case of Gustavo Gatica, investigation case file RUC 1901217258-6 of the 7th District Court of Santiago.

251 Press releases dated 22 and 30 October and 6 (two press releases), 8, 26 and 27 November, Attorney General's Office, Press office, Press releases from 18 October to 30 November 2019.

On 14 November, the Attorney General's Office formally requested information from the Director General of the National Police in order to streamline the criminal prosecution process. In particular, it asked for the specific description of the ammunition used, the applicable regulations regarding the identification of agents, details about units operating in the area and the types of weapons they had, as well as regulations on the use of go-pro cameras and the use of force.²⁵²

As already mentioned, according to the statistics published by the Attorney General's Office, as of 30 November 2019, there were 5,558 ongoing investigations into possible violations by the security forces in the context of the crisis. This included 4,170 investigations into possible violations committed by the National Police.

These figures, which in many cases would have been communicated to the National Police directly by the officials from the Public Prosecutor's Office or the PDI, make it clear that senior officers in the National Police knew or should have known that the forces under their control were committing possible human rights violations accumulating as possible criminal offences.

5.1.2. OFFICIAL INTERNAL COMMUNICATION

In addition to external sources, information on possible human rights violations would also have been available to senior National Police officials through multiple internal channels.

These include the Institution's Directorate for Order and Security, which is in charge of the management, oversight and coordination of the country's police services, providing guidance through various departments such as the **Police Operations Department** (Departamento de Operaciones Policiales, OS1).²⁵³

As part of this, the OS1 carries out a range of functions, including proposing regulations, orders and/or verbal or written instructions; proposing courses of action for the police; and "receiving, processing and evaluating accounts of daily incidents that are serious, significant and/or have major consequences" in the operational areas of the country, "in order to deliver accurate, timely and verified information to the national director of order and security and senior officials to inform their decision-making".²⁵⁴

This department, through its Operations and Information Management Centre, is responsible for maintaining constant communications with regional National Police units, in order to provide daily reports on significant events to the police high command.

According to a 25 November statement by the Director General contained in the criminal case file on the Gustavo Gatica case, as of 18 October 2019, the "major" events included those in which civilians were "affected". This means that superior officers in the National Police were informed daily of the civilian wounded via the information collected by the OS1.²⁵⁵

According to electronic document 103879764, issued by the Director of Order and Security (DIOSCAR), of 20 October 2019, regional units were obliged to provide the OS1 with the following information each time incidents occurred: information on "detainees", "civilians injured", "police injured", "private damage", "damage to collective transport", "damage to official vehicles", "weapons seized" and the use of "deterrents" such as "riot-control shotguns, gas launchers, CS grenades, etc.", in addition to general information about the particular incident.

In other words, DIOSCAR had access to a plethora of information on the incidents that were taking place at the operational level, including information on the injured, the use of shotguns and, therefore, potential human rights violations.

Amnesty International has also had access to copies of the daily reports provided by the Department of Criminal Analysis to superior officers in the National Police with the information collected by the OS1, where precise data is provided on injuries to civilians and possible human rights violations that were taking place throughout the country.



252 Official Letter from the Attorney General's Office FN 1043/2019 of 14 November 2019.

253 Carabineros, General Directorate, General Order 2435 of 30 September 2016, Directive on the Organization and Functioning of the Directorate of Order and Security of Carabineros.

254 Carabineros, General Directorate, General Order 2435 of 30 September 2016, Article 10.

255 This was also confirmed in his testimony as a witness in Case RUC 1901217258-6 of the 7th Guarantee Court of Santiago, pp. 30 et seq. of the investigation case file.

For example, report 288 on “Incidents of public order disturbances” indicates that between 18 and 19 November, the internal system registered 13 new civilian injuries, seven of them as a result of shotgun fire, and at least four classified as serious or less serious. The cumulative total number of civilians injured throughout the country as of that date was 1,011, according to their own records, of which at least 208 were classified as very serious, serious or less serious.²⁵⁶

The police figure that day for the total number those injured is much lower than that recorded by the Ministry of Health for the same period: 196 and 11,054 respectively. This difference is due to the fact that its registration system for recording injuries was based mainly on the observations and reports of operational officers in the regional areas.

According to the report “Individual registry of civilians injured with pellets or ballistic projectiles of which the Chilean Police has become aware”, of the 481 injuries to civilians wounded by the use of shotguns throughout the country up to 19 November 2019, at least 213 were the result of gunshot wounds above the waist and 46 of them resulted in eye trauma.²⁵⁷

In light of the existence of these statistical reports, everything suggests that, although the figures were much lower than the real ones, they were sufficient to indicate that the situation was critical. Statistical information, however, is not the only way in which superior officers learned of human rights violations that were committed on their watch. The National Police Complaints and Suggestions Department is an internal body to which individuals can report misconduct by police officials.

Between 18 October and 30 November 2019, this department received 351 complaints about the conduct of the police in the context of the crisis.²⁵⁸ Among them were complaints related to the unnecessary and excessive use of force by National Police officials, specifically in relation to the use of shotguns and tear gas against members of the public.

In accordance with article 33 of the Organization and Functioning Directive of the General Comptroller's Office, which regulates it, this department has a duty to prepare reports on complaints for distribution at the national level within the institution “for strategic institutional management, helping to improve the quality of police operations and services”, in addition to maintaining contact with the relevant units to respond to the complainants.²⁵⁹

Although, according to the information received, there were few complaints through this channel (compared to those made on social media, by the INDH and by the Public Prosecutor's Office), there was an internal distribution procedure for the information they had.

5.1.3. OVERSIGHT OF OPERATIONS

Amnesty International has obtained information indicating that high-level tactical officers in the National Police were directly involved in directing and coordinating some of the operations, at least in the Metropolitan Area.

Communication during the operations was through centres such as the GAMA Centre of the Special Forces Prefecture and Police Communications Command and Control Centre (CENCO) in Santiago. These tactical commanders would have had first-hand and real time knowledge of the behaviour of their subordinate officials.

CENCO, like the National Centre for the Management of Operational Deployment, has high-tech systems,²⁶⁰ with live monitoring through cameras, drones, radio and telecommunications,²⁶¹ where strategic commanders and the National Police operational high command²⁶² coordinate²⁶³ or oversee significant events.²⁶⁴

256 Department of Criminal Analysis, Report 288/19.11.2019, Eventos de Alteración al Orden Público, Contingencia día 18 y 19 de noviembre (desde las 6.00 h del 18 de noviembre hasta las 5.59 h del 19 de noviembre de 2019).

257 Department of Criminal Analysis, National Police Order and Security Directorate. Register according to information sent to the Department. Police Operations (OS1), by Regional Operational Units of the country, on 11/19/2019. 06:00 hours.

258 According to information provided by the National Police, in response to a transparency requests of 4 August 2019 in RSIP response No. 52650 and document titled “tramitación final 488248”.

259 General Order 2534, Directive of Organization and Operation of the Comptroller General of Carabineros of 28 November 2017.

260 TVCarabineros, National Centre for the Management of Operational Deployment and Services for the visit of Pope Francis, 14 January 2018. See www.youtube.com/watch?v=lbU_n9kDy5U&feature=youtu.be

261 Twitter Carabineros de Chile, Monitoring from the National Centre for Operational Deployment and Services, the arrival of His Holiness Pope Francis to Temuco, 17 January 2018. See twitter.com/Carabdechile/status/953610681235931136

262 According to the images published on official National Police social media, at least the heads of the Metropolitan Area, area directors, such as the director of public order, drugs and criminal investigation and OS9 personnel were present during oversight of the day of the Pope's visit.

263 Twitter Carabineros de Chile, Command and Control Communications Centre coordinating the most relevant police operations in #Santiago. 13 September 2018. See twitter.com/Carabdechile/status/1040275457323745281?s=09

264 Facebook Carabineros de Chile, Authorities, High Command and a special National Police staff monitored the day #PSU2020, from the National Centre for the Management of Operational Deployment, which was notable for passing off completely normally, 27 January 2019. See www.facebook.com/story.php?story_fbid=1387301674782183&id=317240651788296&scmts=scwspssdd&extid=xMfmqYEHxuQsAei

An example of this was the “Plaza Italia Intervention” on 8 November. The prefect of the Special Forces, G-1, (tactical or operational command) was in command, accompanied by Sub-Prefect of Services 1, (G-2), and Sub-Prefect of Services 2, (G-3) and the major of the 40th Police Station codenamed C ndor.

Under his command, personnel from the 28th Special Forces Commissariat²⁶⁵ and Beta personnel, belonging to the GOPE, among whom were beta 1, prefect of the Prefecture, Special Operations, GOPE; beta 2, service sub-prefect of Prefecture, Special Operations, GOPE; beta 3, administrative sub-prefect of the Prefecture, Special Operations, GOPE; and beta 4, head of operations/intervention of the prefecture, GOPE. In other words, it also had the support of four high-level operational commanders from the GOPE prefecture.²⁶⁶

Likewise, a large number of officials from ESUCAR, who used the code name Macul, participated as well as from the Prefecture of Police Operations.

In this operation, two frequencies were used, one for Command and Control and the other for GAMA.²⁶⁷ Most of the instructions were conveyed through GAMA, despite the fact that Command and Control would be the means of communication for such situations.²⁶⁸

The organization obtained the log from the GAMA Centre, called “Radio central service news relating to 8 November 2019”, which reported how the operation was developing at the time.²⁶⁹

This document records some of the orders of operational commanders, such as G-1, G-2, G-3, and other officers, and shows the level of hierarchy, coordination and exchange of information during the operation. These commanders knew which units were in which area; the time and place where officers used their shotguns; whether anyone was injured by the National Police and how serious the injuries were; whether a drone was present; and what type of threat they faced.



The log records the moment when “level 5” was activated.

Through observation, these commanders would have been able to identify whether the use of shotguns and gas launchers was appropriate and whether any protesters had been injured, as also reported on the radio, mainly from GAMA. At the end of the action, the amount and type of ammunition that each officer had fired was detailed.²⁷⁰

261 Twitter Carabineros de Chile, The arrival of His Holiness Pope Francis at Temuco was overseen from the National Centre for Operational Deployment and Services, 17 January 2018. See twitter.com/Carabdechile/status/953610681235931136

262 According to images published on official National Police social media, at least the heads of the Metropolitan Area, area directors, such as the director for public order, drugs and criminal investigation and OS9 personnel were present during the monitoring of the day of the Pope’s visit.

263 Twitter Carabineros de Chile, Desde la unidad Comando y Control, de la Central de Comunicaciones, se coordinan los procedimientos policiales m s relevantes de #Santiago, 13 September 2018. See twitter.com/Carabdechile/status/1040275457323745281?s=09. 264 Facebook Carabineros de Chile, Autoridades, Alto Mando y Plana Mayor especial de Carabineros monitorearon la jornada #PSU2020, desde el Centro Nacional de Gesti n de Despliegue Operativo, la cu l destac  por desarrollarse con total normalidad, 27 January 2019. See www.facebook.com/story.php?story_fbid=1387301674782183&id=317240651788296&scmts=scwspssdd&extid=xMfimgYEHxuQsAei

265 According to its Service Sheet, Ariete 3 was made up of four officials and their weapons were limited to four pistols with 1 magazine each, volume III, p. 163 of the investigation case file, Case RUC 1901217258-6 of the Santiago 7th District Court.

266 Document “Oferta Diaria Zona Copei Fecha 08-11-2019” of the GOPE Special Operations Prefecture, relating to extraordinary resources to support JZM. Document included as Annex 1 to document No. 787 of 6 December 2019, sent to the Santiago Central-North Attorney General for Cases of High Complexity by the GOPE Special Operations Prefecture, volume III, p. 27 of the investigation case file, Case RUC 1901217258-6 of the Santiago 7th District Court.

267 Witness statement in the investigation case file, Case RUC 1901217258-6 of the Santiago 7th District Court. “Existen dos frecuencias para este tipo de eventos, la primera de ellas corresponde a la interna de Fuerzas Especiales la que se denomina frecuencia GAMA y la segunda la Central de Comunicaciones de Carabineros, para este tipo de eventos se denomina Comando y Control. A su pregunta las situaciones cotidianas son informadas por Central GAMA tales como un pinchazo de ruedas, recarga de agua, poco stock de disuasivo, etc., en cambio las situaciones importantes o de relevancia siempre son informadas por Comando y Control y adem s por Central GAMA”. [“There are two frequencies for this kind of event. The first is the Special Forces internal one, known by the frequency GAMA Centre, and the second is the National Police Communications Centre one, which for this kind of event is known as Command and Control. To answer your question, everyday situations are reported by the GAMA Centre such as a tyre puncture, water refill, low deterrent stock, etc., on the other hand, important or relevant situations are always reported by Command and Control as well as the GAMA Centre”].

268 Witness statement in the Case RUC 1901217258-6 of the Santiago 7th District Court, “En cuanto a la que deja grabaci n de audio, puedo se alar que Comando y Control que es donde el mando imparte instrucciones, deriva procedimientos, nutre de informaci n y emite  rdenes, deja registro de grabaciones, mientras que GAMA, s lo genera una bit cora escrita.” [“As regards the audio recording, I can point out that Command and Control, which is where the command gives instructions, originates procedures, feeds information and issues orders, has a record of recordings, while GAMA only creates a written log.”]

269 Vol. III, p. 165, of the investigation case file, Case RUC 1901217258-6 of the Santiago 7th District Court.

270 Vol. III, p. 181, of the investigation case file, Case RUC 1901217258-6 of the Santiago 7th District Court.

In addition, the level of aggression encountered in a given place was reported through this channel. A Level 4 non-lethal threat (which according to the protocol allows the use of shotguns) and level 5, a lethal threat, where lethal ammunition against protesters would be allowed, were invoked, although there is no information that the threat to National Police personnel was such and that it constituted a specific threat to the life of an individual, rather than a general one.²⁷¹

In addition to these units, there were commanders above G-1 directing and coordinating the operation live, presumably from the Command and Control Centre, within CENCO or even in person.²⁷² These commanders gave orders as well as useful information about the situation on the ground.

Specifically, officer G-1 received several orders from STGO4. One of these orders said “G-1, reports that on the instructions of STGO4, A-2 move to the Plaza Italia sector” and “STGO4 reports that “there are 60,000 people in Plaza Italia.”²⁷³ Similarly, STGO1 ordered that a group of officers go “immediately” to an intersection.²⁷⁴

These commanders were the head of STGO1 Metropolitan Zone and head of STGO4 Control, Public Order and Intervention Zone, who not only had knowledge of the entire operation, but coordinated and directed it.

21:52 HORAS	DE STGO 4 COMUNICA QUE LA PARROQUEA QUE ESTA UBICADA EN VICUÑA/BARON PIERRE DE COUBERTIN, ESTARIA SIENDO SAQUEDA NUEVAMENTE POR ORDEN DE G-1, CONCURRE G-3, GRIFO 8 DEL ARIETE 6 AL LUGAR.-
21:56 HORAS	DE G-3 Y ARIETE 6 EN EL LUGAR PARROQUEA.-
22:02 HORAS	DE G-3 SOLICITA DISPOSITIVO DE TRASLADO DE IMPUTADOS EN EL VICUÑA/BARON PIERRE DE COUBERTIN, POR DETENIDOS EN EL LUGAR.-
22:04 HORAS	DE STGO 4 ORDENA QUE, C-40 Y LA-49 PROCEDEN POR BARRICADAS EN U. LA CATOLICA.-

Excerpt from the log where STGO4 gives orders and reports on current events

That is, the operational commanders, starting with G-1, knew how the operation was going in person and through the GAMA Centre and Command and Control.²⁷⁵ They also knew what ammunition each one used, as well as how their officers used their weapons through direct observation.

However, in addition, at least two other commanders had information through the CENCO and GAMA Command and Control. They knew the ammunition that each officer fired, the real threats faced by the police (stones and molotov cocktails) and, therefore, the possible risks to the physical integrity of protesters when shot with potentially lethal and even lethal ammunition.

In addition to first-hand knowledge on the part of the commanders involved in managing certain operations, such as the one referred to in “Plaza Italia”, detailed records are also kept on operations where superior officers can find out how an operation developed and if there were possible abuses by police.



270 Vol. III, p. 181, of the investigation case file, Case RUC 1901217258-6 of the Santiago 7th District Court.

271 The communications record an arrest with a firearm, without specifying what weapon or giving more details about the detainee, volume III, p. 73, of the investigation case file, Case RUC 1901217258-6 of the Santiago 7th District Court.

272 Witness statement in the investigation case file, Case RUC 1901217258-6 of the Santiago 7th District Court. “Fue en esa instancia, que mi mayor (...) avanzó hacia la Alameda con Corvalan, perdiéndolo de vista hasta la noche. En este lugar, se encontraba el lanza agua, vehículo tácticos, también se encontraba mi general (STGO4), paraban hartos vehículos porque se volvió como el centro de operación”. [“It was at this point, that my major...advanced towards Alameda con Corvalan, losing sight of him until nightfall. At that spot there was a water cannon, a tactical vehicle and my general [STGO4] was also there, they stopped a lot of vehicles because it became like a centre of operations”.]

273 Vol. III, p. 177, of the investigation case file, Case RUC 1901217258-6 of the Santiago 7th District Court.

274 Vol. III, p. 175, of the investigation case file, Case RUC 1901217258-6 of the Santiago 7th District Court.

275 “Mi coronel (...) andaba con dos radios, una con la frecuencia de Comando y Control y otra de la Central GAMA”. [“My colonel...had two radios on him, one with the Command and Control frequency and the other with the GAMA Centre one.” Statement in the PDI report made during the investigation of Case RUC 1901217258-6 of the 7th Guarantee Court of Santiago.

Amnesty International has had access to three types of internal records of this nature through court files, the first being the police report. Based on the copies accessed, this is an internal record created whenever major police incidents occur, including, for example, injured civilians or the use of weapons by officials.²⁷⁶

In the case of Alejandro Torres, for example, the police report²⁷⁷ established that “Major X proceeded to use the riot-control shotgun in order to disperse the protesters on two occasions, 40 meters apart...once dispersed protesters... one person claimed to have been injured in her left eye by the pellets, which is why the unit commissioner provided immediate assistance...the commissioner was accompanied by Captain A, NCO B, and Sergeant C.” That is, the report established the context in which the shots were fired (to disperse people and not because of a real threat), the provision of assistance and the officers present, among other things.

The police report drafted hours after the event that resulted in the serious injuries suffered by Fabiola Campillai described, once again, the circumstances surrounding the use of tear gas launchers by the relevant unit, as well as the injuries sustained by the victim, stating that Fabiola had suffered “facial trauma affecting both eyes caused by a blunt object.”

“Today at 19:45 CENCO reports that...an indeterminate number of individuals were found setting up burning barricades on the railway line, interrupting the normal flow, members of the 14th and 62nd Police Station presented at the scene. y 62va. Police station...”

In view of the continuing direct attack... personnel made gradual use of deterrents, consisting of 01 smoke grenade (pure)... 04 37-calibre tear-gas cartridges... in such conditions National Police personnel were able to ascertain that...individuals removed an individual from the scene who appeared to be injured, at this point due to the risk posed to the physical integrity of the police, they proceeded to withdraw using two 37-calibre tear-gas cartridges.

*Subsequently, it became known that at approximately 21:15 Fabiola Andrea Campillai Rojas entered the emergency department... presenting with an injury to the face, and was treated by the duty doctor, who diagnosed **‘facial trauma affecting both eyes caused by an unspecified blunt object’** of a serious nature, but not life-threatening.”*

This report shows that the description of the threat is extremely vague and that the injuries resulted from the use of the grenade launcher. It also states that, far from assisting the victim, officials fired more gas at passers-by in the area.

The second type of documents Amnesty International has had access to are official written minutes. Article 31 of the National Police Process Regulation requires officers to create a written record each time they deploy their weapons. These records include information about the circumstances surrounding the deployment of a weapon and the amount of ammunition used.

GOPE Official Minutes, No. 381 of 9 November 2019 states that on Friday 8 November “following serious public order disturbances the Prefect of the Special Forces Prefecture... requested this Beta unit to attend the intersection of Calle Carabineros de Chile with Av. Vicuña Mackenna” where “the riot-control shotguns were used, firing non-lethal rubber pellet cartridges, to prevent a greater harm and avoiding endangering the physical integrity of passers-by and National Police personnel”.²⁷⁸ It specifies the officer in charge at the scene and adds that they fired a total of 897 rounds.²⁷⁹

276 When law enforcement officers cause injury or death when using force or firearms, they shall immediately communicate the matter to their superiors. UN *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Principle 6.*

277 Report No. 02471 of 22 October 2019, issued by National Police of the 7th Police Station in Chiguayante.

278 Vol. III, p. 573, of the investigation case file, Case RUC 1901217258-6 of the Santiago 7th District Court.

279 Likewise, the Major identified as beta 4, GOPE head of operations and intervention of, declared in the context of the administrative process in the Gustavo Gatica case that, at around 18:00, G-1 requested the cooperation of the GOPE team on Calle Carabineros de Chile, between Doctor Corbalán and Vicuña Mackenna, as they were being overwhelmed by the protesters and added that he used the riot-control gun firing 12x70mm calibre cartridges. Vol. III, p. 152, investigation case file, Case RUC 1901217258-6 of the Santiago 7th District Court.

Again, these GOPE record provides relevant data, such as the fact that during the support operation relating to the incident at the intersection nearly 900 rounds of 12-gauge pellets were fired in total, “to avoid a greater harm” and “not endanger the public”, that is, not because there was a genuine risk.²⁸⁰

Similar information was obtained through incident logbooks, such as those of the Macul 35 and Macul 33 units of 8 November 2019. These state that a total of 450 12-calibre cartridges and 126 shots of this ammunition were fired, respectively.²⁸¹ These documents should have raised the alarm – if diligence had been exercised – about the possible unnecessary or disproportionate use of force using shotguns.

Another way in which senior officers can become aware of human rights abuses committed by their subordinates is through the body camera system, regulated by the Procedural manual for the registration and use of body video cameras in the police service. This manual establishes that members of the National Police who have body cameras at their disposal must use them during public order operations and when they fire their weapons.²⁸²

In the Metropolitan Region, as of 8 November 2019, National Police units had 204 official issue body cameras at their disposal, 108 of which were assigned to the Special Forces.²⁸³ If each shot must be recorded, there should be numerous records of police operations.

In addition, the images from these cameras must be stored at the headquarters of the respective unit and must be handed over internally or externally at the request of the authorities.²⁸⁴ This means that National Police superior officers had the power to request material about specific police procedures in order to determine the circumstances surrounding significant events.

An example of the information collected by this type of camera was evident in the case of Fabiola Campillai. Despite the fact that the police report stated that they had thrown the tear-gas canisters because they had been attacked by protesters,²⁸⁵ the images show that no such risk existed.²⁸⁶

00:06: First shot of the gas grenade launcher, which hits a tree and falls in the middle of the road.

00:15: Second shot from the gas grenade launcher, from the right hand side.

00:19: The captain sub-commissioner of the 14th Police Station says “another one”.

00:22: The third shot falls on Fermín Vivaceta street at the junction with Ángel Guido Passage.

00:23: Exclamation by the police officers. ...

00:37: People start screaming, there is a commotion.

00:38: An official who cannot be identified says “calm down, calm down, it didn’t hit them”.

00:40: The police line begins to withdraw.

00:53: Stone throwing is seen from Fermín Vivaceta Street. ...

01:09: The Captain sub-commissioner of the 14th Police Station indicates that those who used 37 CS ammunition must put it in the record.

01:26: The Captain sub-commissioner of the 14th Police Station tells staff members of the 62nd Police Station of San Bernardo to withdraw to their vehicles.

02:40: The Captain, identified as M., leaves a radio record that 37 rounds of CS ammunition has been used. ... 04:00: The Captain sub-commissioner of the 14th Police Station gets into the police vehicle, together with the 2nd Sergeant...and another official from the 14th Police Station. The latter asks, “That did for²⁸⁷ them didn’t it?”.

04:06: The Captain sub-commissioner of the 14th Police Station says “(M.) seems to have hit someone, he hit a woman...” the rest of the sentence is inaudible.

280. Official Minutes No. 381 of the Special Operations Prefecture, Vol. III, p. 573 of the investigation case file, Case RUC 1901217258-6 of the Santiago 7th District Court.

281 Incident logbook of Macul 33 and 35 relating to their time on duty on 8 November 2019, Volume III, File, pp. 459 and 473.

282 Article 5.4 of the Carabineros Operations Manual for Maintaining Public Order, Volume II, p. 195, of the investigation case file, Case RUC 1901217258-6 of the Santiago 7th District Court.

284 Article 5.5 of the Carabineros Operations Manual for Maintaining Public Order,

285 Extract from the police report: “Hoy a las 19.45 h CENCO informa que en la estación metro tren 5 pinos, se encontraba un número indeterminado de individuos instalando barricadas incendiarias en la línea férrea, interrumpiendo el flujo normal, constituyéndose personal de la 14va. y 62 va. Comisaría, percatándose en el lugar que (había) 30 sujetos encapuchados (...). En atención a la persistencia del ataque directo hacia el personal de Carabineros y la urgencia de restablecer la fluidez del servicio ferroviario, personal hizo uso gradual de elementos disuasivos, consistentes en 01 granada de humo (puro) para posteriormente y ante la evidente continuidad de la actitud hostil de los manifestantes, se hizo uso en forma progresiva y espaciada con el objetivo de disuadir a los atacantes de 04 cartuchos lacrimógenos calibre 37.” [“Today at 19:45 CENCO provided information that at the 5 Pinos metro train station, an unspecified number of individuals were setting up burning barricades on the railway line, interrupting normal service, members of the 14th and 62nd Police Station presented at the scene. Police station, observing that there were 30 hooded individuals... In view of the continuing direct attack on National Police personnel and the urgent need to restore service on the railway, personnel made gradual use of deterrents, consisting of 01 smoke grenade (pure), and then, given the evident continuing hostile attitude of protesters and in order to deter the attackers, resorted to progressive and spaced use of...04 37-calibre tear-gas cartridges.]

286 Information extracted from the Go Pro images from cameras worn by the Captain sub-commissioner of the 14th Police Station. The same data is highlighted in the National Police internal investigation, as recorded in the investigation case file, Case RUC 1910061966-3 of the San Bernardo District Court.

287 “¿Se la pitió, verdad?” [“pitio” is used informally in Chile meaning “to kill”].

287 “¿Se la pitió, verdad?” [“pitio” is used informally in Chile meaning “to kill”].

That is, the officials not only knew that they had injured someone, but they even thought that they might have killed them. These images, as will be seen later, were not incorporated effectively into the administrative process until February 2020.

This section has described the various ways in which National Police superior officers, such as the Director General and the Director of DIOSCAR, knew about the human rights violations that some officials under their command were committing, and committing repeatedly. Likewise, operational commanders such as STGO1, STGO4, and G-1 in the Metropolitan Zone, when directing operations, learned first-hand about the violations committed against members of the public. This knowledge, if proven in court, could engage their individual criminal responsibility.

5.2. FAILURE TO PREVENT HUMAN RIGHTS VIOLATIONS

In a judgment against Mexico for acts of torture committed in the context of a protest, the Inter-American Court established that the state incurred responsibility because it did not initiate criminal investigations into the superior officers in charge of the police operation, despite having sufficient evidence of their failure to prevent these violations. The Court stated: “it is for the State’s criminal judges to establish whether there was *dolus eventualis* (if the superior officers knew of the acts or evidence of them and ignored this, admitting the possibility of the result) or whether, to the contrary... [or] their possible responsibility by guilt (imprudence owing to organizing the operation with an undisciplined and disorganized police force) or negligence (underestimating the reports that reached them).”²⁸⁸ The Inter-American Court also took into account not only the knowledge that the commanders would have had about the operation *per se*, but also their subsequent actions, such as, for example, statements that “provided sufficient indication...of a possible offence of concealment” by the commanders.²⁸⁹

This chapter analyses the orders and omissions by senior officers with decision-making power in those areas that could have prevented human rights violations being committed repeatedly by their subordinates and takes into account the knowledge they had, as described in the previous section.

It looks at the provisions regarding multiple kinetic impact ammunition and the protocol on policing assemblies, the decisions made on logistics and human resources planning, as well as the orders issued regarding the use of force and human resources and the exercise of disciplinary powers.

5.2.1. HARMFUL AMMUNITION

The Human Rights Committee has established that states should ensure that all weapons, including “less lethal” weapons, are subject to strict independent testing and evaluate and monitor the impact on rights of those affected.²⁹⁰

Due to the threat of serious injury or death posed by certain types of ammunition that are not only rubber (such as rubberized buckshot),²⁹¹ the Committee established that their use should be limited to the exceptional threshold that applies to lethal ammunition and should only be used in the face of an imminent threat of death or serious injury.²⁹²

288 Inter-American Court of Human Rights, *Case of Women Victims of Sexual Torture in Atenco v. Mexico*, Preliminary Objection, Merits, Reparations and Costs, Judgment of 28 November 2018 Series C No. 371, para. 298.

289 Inter-American Court of Human Rights, *Case of Women Victims of Sexual Torture in Atenco v. Mexico*, Preliminary Objection, Merits, Reparations and Costs, Judgment of 28 November 2018, Series C No. 371, para. 303.

290 Human Rights Committee, General Comment No. 36, 3 September 2019, CCPR/C/GC36, para. 14.

291 UN, *Human Rights Guidance on Less-Lethal Weapons in Law Enforcement*, para. 7.5.8.

292 Human Rights Committee, General Comment No. 36, 3 September 2019, CCPR/C/GC36, para. 12; and UN, *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*, Principles 9 and 14.

As discussed in the chapter on use of force, kinetic ammunition used in policing protests must be precise and designed to cause pain and bruising, but not to penetrate the skin, because of the risk of injury that this entails.

Although the Carabineros used different types of equipment to police demonstrations, such as water cannon, tear gas and super shock type ammunition²⁹³ (up to 31 October),²⁹⁴ this section analyses the use of TEC Harseim kinetic multiple impact ammunition and 12-gauge rubberized buckshot. This is because the use of ammunition with these characteristics should have been prohibited from the beginning. Nevertheless, it was the most widely used ammunition discharged during the policing of protests in the period under discussion and the one that caused the greatest number of serious injuries.

a) Evidence of harm caused by this ammunition

From the first days of the crisis, images of protesters with bleeding wounds caused by TEC Harseim-type ammunition circulated in the media and on social media. By 19 October, several people had been seriously injured, some of them with eye injuries.²⁹⁵

On 20 October, the Chilean Medical College publicly alerted the authorities to multiple cases of people with eye injuries, including minors,²⁹⁶ and expressed its “concern about these cases, which are only a small sample of what happened in the country and that could increase in the following days.”²⁹⁷ This trend increased in the days and weeks that followed. Indeed the international press would describe as 20 days of protests as “an epidemic of eye injuries”.²⁹⁸

A series of technical reports prepared by National Police departments, to which Amnesty International has had access, show how dangerous this type of ammunition is.

A study carried out in 2012 by the Department of Criminal Information and Analysis (Departamento de Criminalística) the then National Police Crime and Drug Investigation Directorate, under the Sub-Directorate General,²⁹⁹ produced a study entitled Riot-control shotguns using cartridges with rubber pellets and their effects on the surface of the human body. Hatsan Escort-type shotguns and TEC Harseim 12-gauge cartridges were used for the study, and the effect of the ammunition when fired at pieces of wood at a distance of 5, 10, 15, 20, 25 and 30 metres was evaluated.³⁰⁰

At the shortest distance, the impact caused in a cranial bone fracture, facial bone fracture, ruptures of the eye, contusions with haemorrhagic laceration of deep structures at chest level, and rib and scapula fractures. In addition, it caused fractures of the carpal, metacarpal and metatarsal bones in the arms and legs. At 10 and 15 metres, most of the injuries were similar, but it was pointed out that in the event of an impact on the neck, there could be a “possible vascular injury, which could prove fatal”. At 15 meters, the possibility of a penetrating chest wound was reduced and the impact was limited to contusions.

As the distance increased, the severity of the injuries decreased, but at 20 and 25 meters it continued to cause contusions and possible head fractures and concussion, and the possibility of a fatal vascular injury to the neck remained, as well as ruptured eyes. On the abdomen, arms and legs it resulted mainly in abrasions and bruising.



293 Model 2581 12mm calibre cartridge, non-lethal impact, which is composed of a sack or bag which contains lead wrapped in a kevlar ballistic mesh, a cardboard cover and a sheath, whose effective range is 25 metres.

294 National Police General Directorate, Official Letter of 16 November in response to Official Letter 34138 of 4 November 2019 from the Ministry of the Interior.

295 Amnesty International learned of the case of Luis Jiménez, injured by a pellet on 19 October in the city of Temuco.

296 Specifically, it reported that at least five people had suffered serious eye injuries: two boys, aged nine and ten, were wounded by a projectile and one of them had to undergo surgery; another 14-year-old boy required emergency surgery after being hit in the chest; one person had a fractured jawbone; and dozens of people presented with the result of pellets hitting their bodies. Catastro de denuncias por agresiones recibidas por el Dpto. de DD.HH. del Colegio Médico de Chile”, 20 October 2019.

297 Medical College of Chile, Catastro de denuncias por agresiones recibidas por el Dpto. de DD.HH. del Colegio Médico de Chile”, 20 October 2019.

298 BBC, Protestas en Chile: la “epidemia” de lesiones oculares que ponen en entredicho al gobierno de Piñera, See www.bbc.com/mundo/noticias-america-latina-50354968

299 Carabineros, General Directorate, National Police Order 2563 of 25 March 2018.

300 See CIPER Chile: ciperchile.cl/wp-content/uploads/INFORME-CARABINEROS_compressed.pdf

The only distance at which the pellets could not pass through the wood and the injuries could be described as contusions, including bruises and abrasions, was 30 metres. However, even at that distance it was noted that if the projectile were to hit the eyes, it would cause them to rupture.

This study concluded that it was possible to establish that at a distance of between 5 and 25 metres there was “a clear possibility of causing serious injuries on the body surface, where as a result of the dispersal of the pellets, more than one part of the body can be affected Only at a distance of 30 metres was it observed that the pellets do not penetrate the wooden structure, so it is more feasible that at this distance or at a greater distance only minor injuries are caused, although there remains a risk of eye injury, which could result in the loss of an eye”.

The study also revealed that the ammunition is extremely inaccurate. With shots fired at a distance of 5 metres, dispersion was minimal, but the penetration and the damage was total. In contrast, at a distance of 30 metres, although the damage was much less, only two out of 12 pellets managed to hit the test table at which the shot was aimed.

This study should have been sufficient to ban the use of this ammunition, due to the impossibility of not causing unwanted harm, both due to its impact and its imprecision, since it is indiscriminate in effect.

Despite this, when they were interviewed by the Attorney General’s Office in September, both the Director General and the National Director of Order and Security said they did not know about the study,³⁰¹ the latter acknowledged that he knew about the harm that the ammunition causes: “when you fire a pistol, you can direct the bullet, and we’re taught that throughout our policing career. With a shotgun, on the other hand, you can’t direct the shot. If I fire at a distance of 8 or 10 metres, I can kill someone. At a greater distance the impact is less, but the dispersion of the pellets is greater. Which can also cause harm.”³⁰² In other words, despite denying knowledge of the internal report, both were equally aware of the effects of the pellets.³⁰³

The strategic commanders justified and maintained their use based on the fact that the seller had established that the pellets were made of rubber.³⁰⁴ According to one of the technical tender reports from 2017,³⁰⁵ TEC Harseim described the ammunition as “spherical rubber units”, weighing 0.7g, and whose initial velocity reached 320-370 m/s. A technical evaluation report of the TEC pellet, carried out by the Department of Arms and Ammunition on 18 May 2017,³⁰⁶ stated that the TEC Harseim ammunition “met all the minimum requirements requested”, despite the fact that its composition had not been tested.³⁰⁷

However, most of the conventional rubber pellets used by police officers in different parts of the world weigh around 0.3g and have an initial velocity of 152 m/s.³⁰⁸ The Department of Arms and Ammunition should have taken into account that TEC ammunition is twice as heavy and that it reaches twice the speed of a common rubber pellet, therefore its impact is at least 12 times as hard as that of conventional rubber bullets.³⁰⁹



301 The report was made public on 21 November after it was published by CIPER. Although the Director General said he knew about this after seeing what CIPER published, the Director of DIOSCAR said he did not know about this even at the time of the interview on 6 September at the Attorney General’s Office. See ciperchile.cl/2019/11/21/ya-en-2012-informe-de-carabineros-advirtio-que-escopetas-antidisturbios-provocan-lesiones-letales-y-estallido-ocular/

302 Volume IV, p. 18 of the investigation case file, Case RUC 1901217258-6 of the Santiago 7th District Court.

303 This knowledge was also confirmed at the operational level in the statements made by the PDI in the case of Gustavo Gatica, where several police officers state that although they did not know about the LABOCAR report, they were trained on the damage pellets can cause depending on distance. PDI report produced in the context of the investigation of Case RUC 1901217258-6 of the 7th District Court of Santiago.

304 Statements by the National Police Director General, 17 November 2019, www.biobiochile.cl/noticias/nacional/chile/2019/11/17/rozas-afirma-que-usan-balines-de-gomas-y-denuncia-uso-escopetas-artesanales-en-actos-vandalicos.shtml consultado el 01/08/2020

305 Technical report regarding 12-gauge riot-control pellets from the private bidding process 08-2017 of 18 May 2017.

306 According to National Police Regulation 14, the Department of Arms and Ammunition is the body in charge of proposing to the High Command the norms that should be established at the institutional level regarding the administration and control of arms and ammunition. It comes directly under the Logistics Department.

307 In the general description, where its physical characteristics were analysed, the report established “medición y certificado emitido por fabricante emitido en idioma español. Con sellos y firmas originales (...)”. [measurements and certificate issued by manufacturer in Spanish. With original stamps and signatures...]

308 An example of conventional ammunition would be 12-gauge rubber bullets. See www.defense-technology.com/wp-content/uploads/2020/06/12-Gauge-Stinger-32-Cal-Rubber-Ball-Round-3016.pdf

309 The mathematics would be: $E = 1/2 mv^2$. If the TEC round is going 350 m/s, then the energy it delivers is 42.8 joules. At 152 m/s, regular ammunition hits with 3.46 joules. The ECT is therefore some 12 times higher. See https://www.softschools.com/formulas/physics/kinetic_energy_formula/26/

Although this could have been the result of a technical error on the part of that department, the commanders responsible should have corrected it, particularly in view of the repercussions that the ammunition was having on the rights of those affected.

Eventually, and in response to the publication of a report by the University of Chile on 16 November 2019, the National Police Director General ordered a study of the pellets. The report, produced by the Department of Mechanical Civil Engineering (DIMEC) of the Faculty of Physical and Mathematical Sciences of the University of Chile, following a request from El Salvador Hospital Eye Trauma Unit (Unidad de Trauma Ocular, UTO),³¹⁰ established that the TEC Harseim pellets tested were 20% rubber and 80% silica (SiO₂), barium sulfate (BaSO₄), and lead (Pb).³¹¹

Subsequently, the National Police forensic laboratory (laboratorio de criminalística de Carabineros, LABOCAR) conducted two studies on 19 November on forensic issues and the composition of the pellets. Executive summary report No. 3 on the composition concluded that “on average the non-metallic mass [weight] present in the pellets was 53.4%”. It also established that “trace levels of lead, barium, aluminium, silicon and magnesium are present in the pellets, each at levels that do not exceed 1% of the total mass of the pellet”. It was thus confirmed that at least almost half of their composition was not rubber.

On the day the studies were completed, the Director General announced that the use of the pellets was suspended. He said that they would not be used as a riot-control tool, but only “like firearms, as an extreme measure and exclusively for self-defence when there is an imminent danger of death.”³¹²

b) Failure to fulfil the duty to prevent damage from pellets

According to a 25 November 2019 statement, in the criminal case file relating to the case of Gustavo Gatica, the Director General of the National Police alleged that they had two types of ammunition for that shotgun (TEC and supershock), but that the use of one or the other “is an operational issue and not within my remit. In general, non-lethal pellet ammunition was being used...and it is the one that has caused the greatest number of injuries”.

However, article 52 of the Organic Law on the National Police, which sets out the powers of the Director General of the National Police, states that they are responsible for “approving the acquisition, removal from service and disposal of weapons in accordance with institutional technical criteria, without prejudice to legal provisions on such matters”.³¹³

Likewise, Article 7 of the National Police Regulation on Arms and Ammunition establishes that “it is the responsibility of the heads of units to determine the kind of weapons and ammunition to be used in the various services, without prejudice to the instructions issued by the General Directorate or the corresponding prefecture”.³¹⁴

In addition to what is established in law, practice has shown that the Director General has the power to order the suspension of the use of certain ammunition and that this order can also be given with immediate effect.

On 28 October, for example, the sub-prefect of the radio patrol unit suspended the use of shotguns in its ranks through electronic document NCU 104275925. However, this order was immediately reversed by the Director General through email NCU 104337707, in which “it is clarified and reiterated” that said order had not been issued by the Director General and that the use of shotguns was still in full force.³¹⁵

310 The Eye Trauma Unit had already warned on 2 November that “interferencias producidas por objetos de tipo metálicos” were observed in the TEC pellets, Eye Trauma Report, Preliminary results obtained from the Eye Trauma Unit of El Salvador Hospital from 19 October to 2 November.

311 Ballistics Expert Report No. 160/2020 of the Investigation Brigade for Human Rights Crimes of the Investigative Police of Chile, dated 10 February 2020: ciperchile.cl/wp-content/uploads/informe-uchile.pdf

312 CNN, Mario Rozas suspende uso de balines tras peritajes realizados por laboratorio de Carabineros See www.cnnchile.com/pais/mario-rozas-suspende-uso-balines-antidisturbios_20191119/ El%20general%20director&text=Seg%C3%BAAn%20el%20C3%BAItimo%20informe%20del,perdigones%20y%2067%20por%20balines.

313 Law 18961. Constitutional Organic Law of the Carabineros of 7 March 1990.

314 National Police Armament and Ammunition Regulation No. 14, 1996.

315 Order and Security Directorate, Instrucciones con motivo de la contingencia, 19.11.2019 at 25.11.2019. See ciperchile.cl/wp-content/uploads/Documento-10.pdf Véase www.latercera.com/la-tercera-pm/noticia/la-instruccion-que-freno-el-uso-temporal-de-escopetas-antidisturbios-en-carabineros/882673/

Another example of this power of the Director General dates back to 2013, when a person lost his right eye after participating in a protest after being hit by a paint projectile fired by the National Police.³¹⁶ Due to the seriousness of the case, and as in the case of the crisis analysed in this report, the Chilean Medical College,³¹⁷ the Ophthalmology Society and Eye Trauma Unit staff spoke out against this ammunition because it is inaccurate and because if shot at the head it poses a serious risk of eye trauma.³¹⁸

According to the statements of the then president of the Medical College, on that occasion “we met directly with the Director General of the National Police at the time...who is also a lawyer. He immediately understood the situation and the next day he suspended the use of [paint] pellets.”³¹⁹ A week later, the suspension of this type of pellets and the preparation for a technical study to assess their use in future were made public.³²⁰

In the statement he gave as a witness before the Attorney General’s Office on 25 November, the Director General stated that, it was not until the University of Chile published its report on 16 November that he first started to have reasonable concerns about the composition of the pellets and the damage that they could cause. The Director of Order and Security gave a similar response when questioned by the Attorney General’s Office on 6 December: “the knowledge that we all had is that they were rubber pellets, until their composition was questioned.”³²¹

After several days, other authorities raised the alarm about the danger posed by the pellets. On 4 November, the Ministry of the Interior sent Official Letter 34138 to request information from the General Directorate of the National Police on the composition of the pellets and their use. However, it was not until 16 November that the Director General explained their use and stated that a study would be requested “from an independent technical body”, ignoring their widespread use and the evidence that already existed on the harm that their use causes.³²²

Finally, on 19 November, the Director General announced that shotguns using TEC ammunition could only be used “as an extreme measure” in the event of a risk to someone’s life.³²³ At that time, there were more than 250 people with eye injuries.³²⁴ While the daily average number of people injured by firearms registered by the INDH between 18 October and 18 November was 57, after the restrictions on the use of shotguns ordered by the Director General on 19 November, that average fell to 12 people injured per day by firearms.³²⁵ Similarly, the daily average of eye trauma injuries during the first month of the protests was nine cases, and after 19 November it dropped to four cases per day.³²⁶ These figures show that, although the measure was not enough by itself, it contributed to reducing harm to the physical integrity of protesters.

316 On 11 April 2013, Enrique Eichin, aged 58, was hit in his right eye by a paint pellet while participating with his family in a student march in the area of Estación Mapocho, Santiago. That day, there were reports that several people were injured, including at least four other people with eye trauma, as a result of the impact of this type of projectile used by the National Police. Enrique Eichin lost all sight in his eye as a result of the impact.

317 COLMED, See www.colegiomedico.cl/Default.aspx?tabid=760&selectmoduleid=2494&ArticleID=1509

318 EMOL., Colegio Médico recomienda al Gobierno suspender uso de balines de pintura en marchas.

See www.emol.com/noticias/nacional/2013/04/18/594183/medicos-rechazan-uso-de-balines-de-pintura-de-carabineros-en-marchas.html

319 CNN, Enrique Paris tras estudio sobre balines de Carabineros: “Este tipo de balines no debió haberse usado”. See www.cnnchile.com/lodijeronencnn/enrique-paris-estudio-balines-carabineros-salud_20191117/

320 Although the technical report indicated that its use should be terminated but that it was suitable for policing demonstrations, subsequent use was practically non-existent.

321 Statement of the National Police Director General to the Attorney General’s Office in Case RUC 1901217258-6 of the Santiago 7th District Court, investigation case file, volume IV, p. 18.

322 Carabineros, Request for information, 16 November 2019. See ciperchile.cl/wp-content/uploads/Documento-03.pdf

323 CNN, Mario Rozas suspende uso de balines antidisturbios. See www.cnnchile.com/pais/mario-rozas-suspende-uso-balines-antidisturbios_20191119/EI%20general%20director&text=Seg%C3%BAAn%20el%20C3%BAItimo%20informe%20del,perdigones%20y%2067%20por%20balines

324 COLMED, Forensic expert, Human Rights Department of the Medical College of Chile, March 2020.

325 Average calculated based on the number of people injured by firearms registered by the INDH under observation at health facilities by date. INDH, *Annual Report of the National Human Rights Institute, Derechos Humanos en Chile en el contexto de la crisis social, 7 octubre – 30 noviembre 2019*. P. 34

326 Average calculated based on the number of people with eye trauma injuries registered by the INDH under observation at health centres. INDH, *Annual Report of the National Human Rights Institute, Derechos Humanos en Chile en el contexto de la crisis social., 17 octubre – 30 noviembre 2019*. P. 37

This chapter shows how, despite having the power to do so, and knowing about the injuries that were continuously occurring due to the use of this ammunition, it took a month for the Director General Director of the National Police to adopt measures to prevent or reduce the harm to the physical integrity of people who were being injured every day, some seriously and irreparably, due to the use of this ammunition.

5.2.2 INADEQUATE PROTOCOLS

Given the wide variety of situations that operational officers may face when policing demonstrations, they have a certain degree of discretion in order to adapt to changing needs. To ensure that this discretion is in line with appropriate criteria, the commander must ensure that there is an adequate operational framework. This means that the framework, for example protocols on conduct, must be in accordance with the international standards and continuously revised;³²⁷ the equipment must be appropriate and its effects properly evaluated;³²⁸ officials must be equipped with a wide range of methods that allow differentiated use of force;³²⁹ training must ensure the appropriate use of force; and only those with specialized training may use firearms.³³⁰

Within the police operational framework, protocols or regulations on the use of force must be established in order to provide guidance to officials when policing demonstrations. These guidelines are subject to binding national regulations, most notably the Constitution;³³¹ the Constitutional National Police Organic Law (which establishes the military character of the force);³³² Decree No. 1364;³³³ and the Penal Code.

The Penal Code addresses crimes against life, integrity and personal liberty, namely: the crimes of homicide (aggravated, simple or misdemeanour); crimes of wounding, torture and unlawful coercion (ill-treatment); crimes of arbitrary detention; and criminal exemption based on legitimate defence – the main crimes analysed in this report.

The Penal Code, in light of the gravity of such conduct, explicitly addresses criminal command responsibility by omission in relation to the crimes of torture and unlawful coercion (ill-treatment) as well as failure to report a criminal act by certain officials.³³⁴ In addition, those who prevent the avoidance of a criminal act are held responsible, as well as those who “arranged for it to be carried out, facilitate the means with which it is carried out...without taking part in it.”³³⁵ In such cases, the responsibility of those who are in a position to guarantee the legal right affected by the omission is analysed.

Regarding the guidelines, on 9 March 2018, the State of Chile signed an Agreement to comply with the recommendations of the Inter-American Commission on Human Rights in the case of *Edmundo Alex Lemun Saavedra v. Chile*.³³⁶

Among other measures, it agreed to review and update Circular No. 1756 of 2013 on the use of force and General Order No. 2284 of 2014 on protocols for interventions to maintain public order, which were both repealed in March 2019 by Circular No. 1832 and General Order No. 2635, of the National Police General Directorate.³³⁷

327 UN Basic Principles on the Use of Force and Firearms by *Law Enforcement Officials*, Principle 1, 1990.

328 UN Basic Principles on the Use of Force and Firearms by *Law Enforcement Officials*, Principle 3, 1990.

329 UN Basic Principles on the Use of Force and Firearms by *Law Enforcement Officials*, Principle 2, 1990.

330 UN Basic Principles on the Use of Force and Firearms by *Law Enforcement Officials*, Principle 19, 1990.

331 The Constitution gives the Forces of Order and Security a state monopoly on the use of force in the domestic sphere. Article 101, second paragraph, Constitution of the Republic of Chile.

332 It confers on the National Police legal authority as a technical, armed and military police institution, in accordance with Law No. 18961 of 20 March 1990, arts 1 to 4.

333 Establishes the general guidelines on the use of force in police interventions to maintain public order, dated 13 November 2018, Ministry of the Interior and Public Security, published in Official Gazette No. 42221, dated 4 December 2018.

334 Penal Code, Article 150.

335 Penal Code, Article 15.

336 On 21 March 2017, the Inter-American Commission on Human Rights approved Merits Report No. 31/17 in case 12880, *Edmundo Alex Lemun Saavedra et al.*, in which it establishes Chile's responsibility for violations of the rights to life, physical integrity, equality and non-discrimination and the rights of the child and rights to judicial guarantees and to judicial protection. See www.interior.gob.cl/media/2018/10/PUBLICACION-ACUERDO.pdf

337 Circular No. 1832 of the General Directorate of the National Police dated 1 March 2019 “Uso de la Fuerza: Establece instrucciones al respecto; Orden General núm. 2635 de la Dirección General de Carabineros de Chile de 1 de marzo de 2019” Protocolos para el Mantenimiento del Orden Público approves new text and repeals the regulations listed.

The National Police Deputy Director General, who was responsible for drawing up these new protocols, set up a roundtable involving members of force.³³⁸ Initially, the Director of Order and Security was also directly in charge of the roundtable.³³⁹

It should be noted that the 2018 Settlement Agreement with the Inter-American Commission on Human Rights stated that civil society and the INDH would be involvement in realizing them. The latter, in a meeting with the National Police prior to the publication of the new protocols, delivered a document with 68 observations on the preliminary draft prepared by the police force, but received no response before publication. They noted that of the 68 observations made, only 10 had been accepted.³⁴⁰

These protocols (the circular and the general order) include the principles of necessity, legality, proportionality and command responsibility, the “differentiated use of tools and the gradual nature of interventions”, as well as special protection for children, adolescents and elderly and disabled people, among others.

However, they have serious shortcomings. The wording is mostly ambiguous, excessive discretion is granted to riot police officers, the type of assembly is determined according to closed categories, and certain definitions contravene international standards, among other things.

For example, four categories of demonstrations are defined: legal with authorization or without authorization, and illegal aggressive or illegal violent, which creates scenarios of a single type, which could be used to justify restrictive interventions against a whole demonstration rather than promptly addressing the source of any violence that may emerge.

Furthermore, the very definition of these categories in the protocol contravenes international standards. One characteristic of lawful demonstrations is that they are “calm”. The Human Rights Committee considers that campaigns of collective civil disobedience, direct action or any other form of peaceful expression, even if they are not “calm”, form part of the right to assembly.³⁴¹

Regarding demonstrations that are lawful but not authorized, the protocol includes references to “deterrence” (“disuasión”), “dispersal” (“despeje”) and “detention” (“detención), because they are spontaneous or have not been previously communicated to the authorities; these references do not appear in relation to authorized protests, even though such terms are relevant based on the level of violence.

However, according to international standards, a peaceful meeting in a public place does not require prior authorization and whether or not the authorities have been notified should not change the standard regarding the use of force in case of public order disturbances.³⁴²

On the other hand, the protocol defines a “violent illegal” demonstration as one in which “actions result in the violation of the rights of third parties, such as free movement on the roads”, which limits the right of assembly.³⁴³ In the type of gathering considered illegal, there is no dialogue phase and the police can resort to the use of water cannon and so-called “reactive tactical teams” can deploy gases. In other words, there may be scenarios where the obstruction of a public thoroughfare is taken to indicate that all possibilities for negotiation have been exhausted beforehand, in violation of human rights standards.³⁴⁴



338 Statement of the National Police Director General to the Attorney General's Office in Case RUC 1901217258-6 of the Santiago 7th District Court, investigation case file, volume IV, p. 18.

339 Statement of the National Police Director General in Case RUC 1901217258-6 of the Santiago 7th District Court, investigation case file, volume IV, p. 2.

340 Follow-up report on the settlement agreement in the case of Edmundo Álex Lemun Saavedra et al. Chile, approved by the INDH Council on 19 August 2019, in ordinary session no. 497.

341 Human Rights Committee, General Comment No. 37, 27 July 2020, CCPR/C/GC37, para. 16.

342 Human Rights Committee, General Comment No. 37, 27 July 2020, CCPR/C/GC37, para. 73. See also, Constitution of the Republic of Chile, Article 13, No. 13.

343 The Human Rights Committee, in its General Comment No. 37, notes that “extended blocking of traffic, may be dispersed, as a rule, only if the disruption is ‘serious and sustained’”.

344 UN *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*, principles 4 and 20, 1990.

Regarding weapons, it stipulates that firearms loaded with lethal ammunition may only be used as an extreme measure, when a level 5 lethal attack puts the physical integrity or life of a person at serious risk, in line with international standards. However, regarding the use of riot-control shotguns, it introduces their use in situations of level 4 active aggression, which implies non-lethal aggression and which, therefore, contradicts the principle of proportionality, because of the kind of ammunition that was used.

In addition to this, level 4, like other aspects, is poorly defined and indicates a certain degree of direct confrontation with the officer: “the person being restrained tries to attack the police officer to resist or evade restraint. Example: the person clenches their fists to attack or tries to hit the police officer with an object”. The wording of this definition is problematic, because according to the protocol, level 4 authorizes the use of certain weapons such as riot-control shotguns.

When describing the use of this weapon, it should be for their “necessary, legal, proportionate and progressive application, when the effect of other methods such as water cannon, smoke, gases and others, are insufficient”. This would permit the use of riot-control shotguns to disperse demonstrations and not solely in line with the criterion of proportionality to the threat that is being countered, as required by international standards.

It also establishes that they can be used “when the level of aggression makes their use advisable to avoid a greater harm” to people’s physical integrity. As a result of being defined so broadly, numerous police reports show that the fact that there were protesters throwing stones was interpreted as a sufficient level of aggression to use shotguns, regardless of whether the specific integrity of the officer was at risk.³⁴⁵ In relation to this weapon, it is not specified at what distance it should be fired or the angle of fire.

Similarly, with regard to chemical deterrents, the definition is equally problematic and does not explicitly regulate the use of the grenade launcher or “gas-launcher carbine”, but rather refers to the Public Order Control Operations Manual.³⁴⁶ As mentioned above, regional jurisprudence establishes that inadequate internal regulations do not exempt the state from responsibility. In this case, any ambiguity or contradiction in the protocol should have been corrected by the operational and strategic commanders in view of human rights concerns.

When asked by the Attorney General’s Office about the process of updating the regulations on the use of force, the Director of Order and Security said that it had been his turn to participate in the roundtables as substitute from January “since the responsibility fell to the Deputy Director General...I was involved at the start of the roundtables”. In other words, these strategic leaders were aware of the limitations of the protocol and the concerns that have arisen from a human rights perspective.

These concerns were based on the high number of pellet injuries that were being recorded, which indicated that the use of the weapon was not necessary or proportionate. The large number of bullet injuries to the chest and head showed that the weapon had an indiscriminate effect, and that on many occasions they were not aimed at less lethal parts of the body.

However, as will be analysed in depth in the chapter “Similar and imprecise orders”, commanders continued to rely on compliance with the protocol, despite knowing its notable shortcomings, particularly in light of the harmful outcomes.

On 10 November, the Director General made his first announcement on the “limited use of shotguns” with TEC ammunition and made explicit that their use was allowed in cases of “clear threat of attacks on public or private property.” In other words, for a month, shooting at people who threatened material goods was permitted. As mentioned above, it was on 19 November that the Director General announced that shotguns (with TEC Harseim ammunition) could only be used in cases of risk to life.³⁴⁷

345. Official Minutes No. 381 of the Special Operations Prefecture, Vol. III, p. 573 of the investigation case file, Case RUC 1901217258-6 of the Santiago 7th District Court.

346 It is framed on the basis of level 4 violence being decreed, (a category already poorly defined) and it briefly establishes that it will be used when personnel are being “violently attacked and overcome, or in order to avoid a greater harm” (“agredido y sobrepasado violentamente, o con el fin de evitar un mal mayor”).

347 CNN, Mario Rozas suspende uso de balines tras peritajes realizados por laboratorio de Carabineros, See www.cnnchile.com/pais/mario-rozas-suspende-uso-balines-antidisturbios_20191119/#:~:text=Mario%20Rozas%20suspende%20uso%20de%20balines%20tras%20peritajes%20realizados%20por%20laboratorio%20de%20Carabineros,-El%20general%20director&text=Seg%3BAN%20el%20C3%BAltimo%20informe%20del,perdigones%20y%2067%20por%20balines

This chapter has shown that despite commanders' obligation to ensure that there was an operational framework that was in line with international standards in the context of the protests, they failed to comply with this obligation and avoid harm to the population. This failure was principally the responsibility of the Director General and the Deputy Director General, whose duties, as noted above, include the development of the institution's policies and doctrines.

The protocols were flawed from their conception and the relevant strategic commanders did not modify them in a substantive way until more than a month after the start of the protests, when the use of pellet shotguns was at least limited.

5.2.3 STATIC PLANNING

In addition to issuing direct orders, another way in which superior officers can ensure that the forces under their command do not participate in human rights violations is by making sure that operational plans and strategies are in line with human rights standards.

According to international standards, senior officers have an obligation to ensure that operational plans and strategies are aimed at minimizing human injuries and are adapted appropriately when human rights violations occur.³⁴⁸

This means, among other things, promulgating police strategies and procedures in line with international standards, particularly the principles of necessity, proportionality and legality in relation to the use of force.

According to the UN Special Rapporteur on extrajudicial executions, when the operational plans prepared by superior officers do not take into account the mistakes of the past, in order to use that knowledge in the planning, preparation and oversight of gatherings and to avoid repeating similar violations, this should be considered "a breach of command responsibility".³⁴⁹

This section looks at how strategic and operational leaders developed operational plans, strategies and policies that were not consistent with human rights standards.

Strategic commanders

According to information to which Amnesty International had access, there were at least two main mechanisms through which National Police strategic commanders could have ensured that operational plans and strategies were adapted to address human rights concerns, thereby improving the policing of demonstrations. One of these mechanisms is the establishment of a Special or National **Plana Mayor**, a group of high-ranking officers from different functional perspectives assigned to advise the Director General when extraordinary events occur.

At other times, such structures have been put in place. In January 2020, for example, a Special Plana Mayor monitored live the Day of the University Selection Test (PSU) from the National Centre for Managing Operational Deployment.³⁵⁰ From this same centre, two years earlier, the Pope's visit to the country was overseen live.³⁵¹

In order to deal with the crisis discussed in this report, on 18 October 2019, the National Police Director General convened a National Plana Mayor via Exempt Resolution No. 119. This Plana Mayor aimed to "advise the National Police Director General on the decision-making process as the highest institutional authority, in the face of the crisis involving the Metropolitan Region and other regions of the national territory because of the serious disturbances of public order that have led to destruction of public means of transport, as well as public and private infrastructure".³⁵²

348 Inter-American Court of Human Rights, *Case of Zambrano Vélez et al. v. Ecuador*, Merits, Reparations and Costs, Judgment of 4 July 2007, Series C No. 166, para. 94.

349 UN Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, 2014.

350 See, Facebook, Carabineros de Chile at

www.facebook.com/story.php?story_fbid=1387301674782183&id=317240651788296&scmts=scwspssdd&extid=xMfimqYEHxuQsAei

351 Twitter Carabineros de Chile at twitter.com/Carabdechile/status/953610681235931136

352 Carabineros, General Directorate, Resolución exenta 119 of 18 October 2019.

It consisted of the Deputy Director General, who served as head of the National Plana Mayor, and the directors of personnel, police intelligence, order and security, support for police operations, finance, justice, health and welfare, as well as the head of the Department of Social Communications and the head of Borders and Special Services. These strategic National Police commanders, all with the rank of general, had an obligation under the Plana Mayor to advise the Director General from their respective areas on issues related to possible developments.

The National Plana Mayor, therefore, constituted a strategic planning space in which the National Police high command supervised and defined the institution's strategy for dealing with the protests.

As mentioned above, however, human rights violations continued day after day despite the high-level oversight through the Plana Mayor. In addition, as discussed below, abusive behaviour persisted throughout the period being analysed. This suggests that senior management in the police failed to ensure dynamic planning that incorporated urgent measures to improve operations from a human rights perspective.

In particular, it underscores the responsibility of the Director General as the "highest authority" of the institution in command of the Plana Mayor; as well as the Deputy Director General, the head of the Plana Mayor; and the Director of Order and Security, in charge of the Operations Department of the National Plana Mayor.³⁵³

Second, the National Police Director of Security and National Order, in particular, has a key role in "planning, organizing, directing, evaluating and coordinating at the strategic level the fulfilment of the institutional mission of security and public order". In other words, they are in charge of designing, adapting and implementing institutional plans and strategies related to security and public order operations.³⁵⁴

For this, DIOSCAR has the support of the Police Operations Department (OS1), which, in addition to providing information to the national director on incidents that occurred throughout the country, must "propose norms, orders and/or instructions" and "propose courses of action" and "supervise, oversee and coordinate" the operational plans and strategies proposed by the leadership.³⁵⁵

For this, the OS1 department has an "operations and information management centre", as well as a "section planning and deployment operation", whose purpose is to develop operational plans prepared by the Director of Order and Security when there are significant national events and the "department of information and coordination" is in charge of detecting "changes in scenarios regarding possible police and social developments that enable decision-making by the national director".³⁵⁶

This means that the Director of DIOSCAR, responsible for preparing, adapting and implementing institutional plans and strategies, has at their disposal a department dedicated to proposing these strategies and the corresponding modifications based on the information related to police incidents that have occurred throughout the country.

However, as we will see below, despite this, the strategy promoted by the Special Plana Mayor, including the Director of DIOSCAR, in response to the demonstrations was not modified, at least from a human rights perspective, despite the violations that took place daily throughout the country.

Operational commanders

While strategic commanders are responsible for designing, adapting, and monitoring overall strategies, plans and policies, operational commanders such as area chiefs and prefectures are responsible for developing plans and strategies related to specific operations. These plans, strategies and policies must also take into account human rights standards, such as the need to minimize injuries to civilians and to adapt plans based on mistakes identified.

353 Carabineros, General Directorate, Resolución exenta 52, 5 April 2019.

354 Carabineros, General Directorate, General Order 2435 of 30 September 2016, Article 3.

355 Carabineros, General Directorate, General Order 2435 of 30 September 2016, Article 10.

356 Carabineros, General Directorate, General Order 2435 of 30 September 2016, Articles 12 to 18.

Despite this requirement, Amnesty International has had access to information that shows that far from adopting strategies based on the principles of necessity and proportionality regarding the use of force, operational commanders adopted “attack” or **offensive strategies**, sometimes using shotguns and grenade launchers to disperse protesters, regardless of the harm this modus operandi caused.

For example, in the operation on 8 November in the “Plaza Italia” described earlier, National Police officials launched an attack at 18:07. This consisted of carrying out tactical movements whose main objective was to advance towards the mass of protesters, with the aim of dispersing them, clearing the road and detaining people.³⁵⁷

As part of that offensive action, several officials made use of their riot-control shotguns as they advanced eastward. This shows that, in the context of this demonstration, far from reacting to a specific threat, the operational commanders in charge — the aforementioned STGO-1, STGO-4, G-1, G-2 and G-3 — applied an offensive strategy that consisted of proactively dispersing protesters with a disproportionate use of force, no matter what.

In addition to the adoption of offensive strategies in the context of the crisis, Amnesty International has had access to copies of the operational planning documents prepared by the Metropolitan Region Public Order Control and Intervention Unit which show that operational plans were not adapted, despite the existence of daily information on the human rights violations that were being committed on a daily basis.³⁵⁸

This preparation and planning should have consisted of identifying potential incidents that could occur and organizing the logistics of the necessary operational resources. Specifically, the officials that should be made ready (taking into account their rank), the type of activity (preventive, social, demonstration, etc.), the places and the date of the intervention, depending on whether it was a permanent activity or not (that is, it had already occurred before the crisis or if it was due to the crisis), the arrival time, the head of service in charge and the means (police squads). This preparation focuses on adapting human and logistical resources based on the facts and in a flexible way.

However, the workforce planning that Amnesty International had access to shows that the planning carried out by operational commanders, at least in certain cases, remained static and was not adapted based on emerging human rights concerns.

According to the official document “Carta de servicio Núm. 311 correspondiente al día viernes 8 de noviembre de 2019” of the Order, Control and Intervention Unit of the Metropolitan Unit, whose commander was STGO-4, “permanent” activities were carried out that occurred before 8 November and 20 were projected activities of a “preventive”, “state of alert”, “demonstrations”, “parades”, “social” or “daily contingency” nature, where the information referred to above was briefly detailed.³⁵⁹

Among them, “projected activity No. 3” of “daily contingency preventive service”, from 19 October “until further notice”, throughout the day, undertaken by a total of 14 groups (eight squads and six ECOS), whose head of service is G-2, overseen by G-1, in various areas such as “Plaza Italia”. In addition to this, an organizational map that refers to the area of each commander and their contingent stands out.



357 PDI report carried out as part of the investigation into Case RUC 1901217258-6 of the 7th District Court of Santiago.

358 The planning documentation to which Amnesty International had access is the one delivered by the National Police in Case RUC 1901217258-6, after a request by the Attorney General's Office for “la planificación de las operaciones policiales de la comisaría FFEE correspondiente al día 08.11.2019, Región Metropolitana”.

359 Volume 3, p. 24, investigation case file for Case RUC 1901217258-6.

On 21 October, more than a dozen demonstrations were recorded throughout the Metropolitan Region.³⁶¹ Amnesty International identified the sub-prefect of the FFEE G-3 firing unjustifiably or indiscriminately with a 12-gauge Hatsan Escort AimGuard shotgun at protesters at least four times in the vicinity of “Plaza Italia”. In this context, officers C-40-A, FFEE 24-01, FFEE 18-17 and FFEE 14-08 were seen firing tear gas inappropriately directly at people’s bodies using AM 637-37/38mm Condor type launchers.

G-3 firing a shotgun inappropriately.

Santiago, 21 October 2019. -33.437316, -70.635883



FFEE 24-01 using grenade launcher to fire gas at the bodies of protesters. Santiago, 21 October 2019. -33.437316, -70.635883

Also, on 23 October, nearly 170,000 demonstrators were recorded in the Metropolitan Region.³⁶² The organization identified FFEE 16-02, GRIFO 4 and GRIFO 5 officers firing Hatsan Escort AimGuard 12-calibre shotguns indiscriminately at the intersection of Av. Sta. Rosa and Avenida O’Higgins.



³⁶¹ See www.cnnchile.com/pais/estado-de-emergencia-lunes-21-de-octubre-metro-estaciones-recorridos-pinera-protestas-minuto-a-minuto_20191021/

³⁶² Ministry of the Interior and Public Security, Gráficos marchas y manifestantes, 15.11.2019, 16.00 hours.

GRIFO4 shooting indiscriminately.

Santiago, 23 October 2019. -33.443367, -70.646094



Two days later, on 25 October, more than 1.2 million protesters took to the streets in the Metropolitan Region, according to official figures.³⁶³ On that day, there were several incidents involving the security forces and protesters. Officer FFEE 20-01 was identified firing into the crowd while advancing within a platoon made up of nine other police officials. In this platoon, which he appeared to command, there were at least two other officers firing repeatedly at the crowd, in the absence of any apparent imminent danger. In the images analysed of that day, most of the officers did not have a number marked on their helmets, or they covered them up.

FFEE 20-01 firing a shotgun at the crowd as he moves towards them.

Santiago, 25 October 2019, -33.4438048, -70.6507616



On 28 October there were protests and clashes with the security forces at various points on Av. Libertador Bernardo O'Higgins. Amnesty International identified officials FFEE G-3, FFEE 20-01, FFEE 23-01, FFEE 26-01, GRIFO 4, as well as Captain A.A.G. misusing their weapons repeatedly. Specifically 23-01 fires the riot-control shotgun as he runs towards peaceful protesters with hands up in what appears to be a "charge" or attack. Officers PTR 9, PTR12, C28A and FFEE 26-02 were also identified firing gas aimed at people's bodies.

363 Ministry of the Interior and Public Security, Gráficos marchas y manifestantes, 15.11.2019, 16.00 hours.

FFEE 23-01 firing at a group of peaceful protesters, along with officials from unit 23. Santiago, 28 October 2019. -33.443332, -70.648067



G-3 firing indiscriminately at protesters. Santiago, 28 October 2019. -33.4430282, - 70.6474628

*FFEE 26-01 shooting indiscriminately, for no apparent reason.
Santiago, 28 October 2019. -33.443332, -70.6480607*



*GRIFO 4 firing in a busy street at fleeing protesters.
Santiago, 28 October 2019. - 33.443917, -70.649667*

The following day, Amnesty International identified six officers who had misused their shotguns to disperse demonstrators, specifically FFEE 21-18, FFEE 26-01, FFEE 17-01, FFEE 43-09, G-3 and GRIFO 6. In one of the scenes, FFEE 17-01 can be identified firing one cartridge after another while running after protesters, followed by FFEE 17-04 firing gas into the crowd with a Condor AM 637-37/38mm launcher. In the same way, Officer FFEE 43-09 can be seen running towards protesters and aiming his weapon at an inappropriate angle on Av. O'Higgins in front of the Gabriela Mistral Centre. Likewise, Officer FFEE 26-01 was recorded in the vicinity of Vicuña Mackenna park shooting as he moved and almost randomly at the crowd that did not present any threat.

*GRIFO6 running and firing his shotgun at fleeing protesters.
Santiago, 29 October 2019. - 33.442736, -70.6460694*



*FFEE 26-01 firing indiscriminately at protesters in a park.
Santiago, 29 October 2019. -33.4423238, -70.6447279*

On 5 November, only 5,000 people came out to protest, according to official sources. Amnesty International obtained images of police repression in the areas of Lastarria, Vicuña Mackenna, Liceo Teresa Prats de Sarratea, Maipu, Las Condes and “Plaza Italia”. In the protests in “Plaza Italia” and Vicuña Mackenna, violations by at least four officials were identified: Subprefect G-2, G-3, FFEE 17-01 and GRIFO 6. In addition, a GOPE officer was identified firing his shotgun without justification, accompanied by several officers from the same prefecture. At least two officers, PTR8 and PTR9, were identified deploying tear gas inappropriately using with a Condor AM 637-37/38mm launcher.

G-2, barely takes aim before firing into the crowd. Santiago, 5 November.



GRIFO 6 pursuing of a large group of people while firing at them.

After several days of smaller protests, on 8 November at least 100,000 people took part in demonstrations in the Metropolitan Region. That day a high degree of confrontation between the police and protesters was recorded in the streets of Ramón Corvalán and Carabineros de Chile. There is a record of the repeated use of the riot-control shotguns by the sub-prefects G-2 and G-3, C-40, GRIFO 3, GRIFO 6, and G-1, GRIFO 8, and GRIFO 13 in the criminal case file.

*Unidentified officer, shoots from an official vehicle, holding the weapon with one hand and firing at random. Santiago, 8 November 2019.
-33.4381261, -70.6362585*



*G-3, shoots into the crowd from behind a wall, aiming at the upper part of the body and barely looking. Santiago, 8 November 2019.
-33.4385239,-70.6354685*



On 12 November, more than 80,000 people took to the streets in the capital region, the majority of people concentrated in "Plaza Italia". Officers C-28, C-28B, FFE 43-06, GRIFO 3, FFE 26-01, and G-2 can be identified making inappropriate use of their weapons. The latter was identified firing from behind an official vehicle without any apparent danger to his life, as well as at point-blank range at a young man who ran off after giving him a shove. C-28 was seen on at least four occasions firing without justification.

C-28 shooting to disperse people. Santiago, 12 November 2019. -33.4374071, -70.6358203



G-2 firing to disperse the crowd. 12 November 2019. -33.4375348, -70.6361861.



On 15 November, FFEE 43-03 was identified shooting protesters fleeing on Av. Bernardo O'Higgins and FFEE-0B firing without any apparent need in the vicinity of "Plaza Italia". Likewise, Officer PM-43D was identified misusing of his weapon in Parque Forestal.

PM-43D firing in the absence of any specific threat. Santiago, 15 November 2019. -33.4362845, - 70.6398803



Officer PM43D was also identified three days later, on 18 November, firing tear gas straight at protesters. C-28 was also identified three times firing inappropriately. Officer FFEE OB was identified on four different occasions firing unnecessarily, and on at least two of them chasing protesters and shooting at them multiple times as they fled. Likewise, FFEE G-2 was recorded firing at night with apparent poor visibility and in the absence of any apparent imminent danger.

*FFEE OB running toward protesters and shooting at them at close range.
Santiago, 18 November 2019. - 33.4374638, -70.6365243*



On 26 November, G-3 was identified firing at the protesters at an inappropriate distance. Several of the officers observed that day were from GOPE and would not be identifiable.

*G-3 firing his gun at protesters in the absence of any apparent imminent threat.
Santiago, 26 November 2019. -33.4370078, -70.6367358*



Amnesty International identified the constant unjustified and excessive use of force over the period analysed. National Police officials were identified undertaking offensive actions using shotguns and grenade launchers. In total, 52 incidents were identified in which officials from the Metropolitan Area Special Forces Prefecture used their shotguns in a manner contrary to international law and 29 in which they fired grenade launchers directly at people's bodies. Twenty-two specific officers who misused their shotguns were identified, 11 of whom participated in various operations on different days. Likewise, 15 specific officers were identified firing gas directly at people's bodies, of which at least four were seen on different days.

Notable among them are G-3, who participated in events of at least eight days (of the 12 days analysed) and is recorded misusing his shotgun on at least five of them; G-2 and GRIFO 3, who were present during operations on four different days and operated on all of them in a manner contrary to international law; FFEE 26-01, GRIFO 6 and C-28B, who were seen on three different days making inappropriate use of their shotguns; PM43D, FFEE 17-01, FFEE 20-01, FFEE 23-01, FFEE OB, GRIFO 4, 43-09, who were seen at least twice; and finally, officers GRIFO 8, GRIFO 5, FFEE 27-01, FFEE 21-18, FFEE 18-01, FFEE 19-01 and FFEE 02-16, who were also identified making misuse their shotguns on at least one occasion.

Of these officers that are seen day after day, it is important to note that G-3, GRIFO 3, GRIFO 6, FFEE 23-01³⁶⁴ and FFEE 26-01³⁶⁵ are five of the officers who were deployed as part of the operations carried out on 8 November. Specifically, the first three are known to have participated in the police operation "Intervention Plaza Italia" on 8 November, in the area where Gustavo Gatica was injured. During that operation, G-3 fired a total of 178 rounds; GRIFO 3 a total of 60; and GRIFO 6 a total of 50 cartridges.³⁶⁶

364 The name of Officer FFEE 23-01 appears in service record 311 of 8 November 2019, as Section Chief of the First Shift, for the "USACH Patrol".
365 The name of Officer FFEE 26-01 appears in service record 311 of 8 November 2019, as Section Chief of Night Squad 1, of night-time services.
366 Case RUC 1901217258-6 of the Santiago 7th District Court, investigation case file, Vol. III, p. 17.

In conclusion, this section shows that officers, mainly from the Metropolitan Region Special Forces Prefecture, are repeatedly seen making excessive use of force against the protesters (including armed attacks). In addition, operational commanders (in this case STGO-1, STGO-4, G-1, G-2 and G-3), far from modifying strategies and complying with the principles of necessity and proportionality in the use of force, adopted and maintained (at least during the period analysed) a strategy whose objective was to disperse people at all costs, regardless of whether protesters were seriously injured.

However, it should also be noted that the operational commanders devise and modify their strategies based on the more general operational framework established by the strategic National Police commanders. In this case, the Director General and the members of the National Plana Mayor, especially the Deputy Director General and Director of Order and Security, had an obligation to ensure that the institution's strategic framework for responding to the protests was in line with human rights standards.

However, according to the information analysed, the strategy and planning for the protests at a macro level, far from avoiding abuses and guaranteeing good management, supported offensive strategies using pellet shotguns, coordinated by the Special Forces Prefecture, the arm of the key institution responsible for policing demonstrations. The demonstrations, in many cases far from being managed, were attacked.

5.2.4. SIMILAR AND IMPRECISE ORDERS

One of the most important ways that senior officers can exercise control over the forces under their command is by issuing orders that respond to changing circumstances.

In a judgment on human rights violations in the context of the protests, the Inter-American Court established that, although there is insufficient evidence that the authorities issued express orders to attack:

- (i) responsibility for the harm to physical integrity may arise not only from the issuing of orders, but also by instigation, incitement, or when, being in a position to prevent it, this is not done;
- ii) the orders may be implicit rather than explicit; and
- (iii) the instructions may not necessarily be criminal in themselves; rather, it is sufficient that there is a substantial probability that crimes are committed in the execution of the instruction.³⁶⁷

Amnesty International had access to documentation showing that commanders at both the strategic and operational levels within the institution notably failed to ensure effective oversight of the units under their control. Because the Carabineros is a hierarchical institution of a military nature,³⁶⁸ the oversight that the highest commanders should have carried out in specific areas takes on special relevance, since they knew, or should have known, that their subordinates were committing human rights violations and crimes under international law.



³⁶⁷ Inter-American Court of Human Rights, *Case of Women Victims of Sexual Torture in Atenco v. Mexico*, Preliminary Objection, Merits, Reparations and Costs, Judgment of 28 November 2018, Series C No. 371, para. 302.

³⁶⁸ Law 18961, the Constitutional Organic Law of the Carabineros of 7 March 1990.

Strategic level commanders

As described above, the main strategic commanders responsible for overseeing the institution's response to the protests were the Director General, the Deputy Director General, and the Director of Order and Security. Amnesty International has had access to copies of the written and verbal instructions issued by these strategic commanders.

Written instructions

The Ministry of the Interior provided Amnesty International with a list of written instructions issued by strategic commanders in the context of the crisis, during the period between 20 October and 17 November.³⁶⁹ Over 28 days, these strategic level commanders issued 33 written instructions, of which four were specifically on the use of force and weapons by National Police units throughout the country.

On 20 October 2019, the Deputy Director General issued electronic document 103875202 on the principle of legality with respect to the use of firearms and information related to police operations in accordance with the law.

That same day, the Director of Order and Security issued electronic document 103879764, which included guidelines on the use of force in accordance with Circular 1832. Nine days later, on 29 October, the Director General issued document 104337707 which reiterated that the use of shotguns was authorized according to "Circular 1832 dated 1 March 2019 (use of force)". And on 9 November, the Director of Order and Security issued electronic document 104965128, which reaffirmed that the use of tear gas and riot-control guns should be in line with the protocol and ordered a **"day of re-instruction for the personnel who are currently authorized to use them"**.

According to the information provided to Amnesty International by the Ministry of the Interior, these were the only written instructions issued by National Police strategic commanders in relation to the use of force and the appropriate use of pellet shotguns until 17 November 2019.

In addition to the apparent scarcity of written orders, their content, in practice, was not sufficient to prevent the human rights violations that were taking place, of which, as described above, the strategic commanders were aware. The four written orders were limited to instructing the National Police to use force in accordance with the law and protocol, without giving specific instructions to ensure the appropriate use of force and therefore changing the policing strategy as regards demonstrations.

Document 103875202, for example, instructs members of the National Police to use force "adhering strictly to current law and regulations", without detailing the situations in which the use of force is considered legal and **instructs the Justice Department to "develop clear and precise instructions" in this regard. The disproportionate manner with which force was used on nearly every day analysed in this report, however, suggests that this order and the resulting guidelines were insufficient to ensure lawful police behaviour.**

Similarly, document 103879764, **like the protocols discussed above** establishes that "non-lethal force" (which is how shotguns with harmful ammunition were categorized) can be applied in the event of "active aggression" by protesters, without elaborating on the type of aggression that warrants the use of force and how it should really be implemented.

On the other hand, document 103879764 defines shotguns as "deterrents" together with tear gas, instead of identifying them as means that should only be used in the face of an actual and specific threat, as established by international standards.

Order 104337707 issued by the Director General reaffirms the use of shotguns in accordance with the protocol, although **by that date he would have already known that it was insufficient to prevent human rights violations.**



³⁶⁹ Directorate of Order and Security, *Instrucciones con motivo de la contingencia*, 19.11.2019 al 25.11.2019. See: ciperchile.cl/wp-content/uploads/Documento-10.pdf

As can be seen, none of these orders prescribes a substantive change in police conduct in the context of the demonstrations, despite commanders' knowledge that human rights violations were taking place due to the excessive use of force, among other things. The commanders limited themselves to reiterating the importance of the protocols, knowing that they were not sufficient to counteract conduct that violated human rights by officers under their command and they did not issue written orders aimed at modifying this conduct.

Verbal instructions

In addition to these written orders, the Director General and the Director of Order and Security issued verbal orders regarding the use of force almost daily. Amnesty International had access to transcripts of the orders these strategic commanders issued to tactical commanders such as STGO1, STGO2, or STGO4 between 22 October and 17 November.

According to information provided by the Ministry of the Interior to Amnesty International, orders were issued on 21 of the 26 days under discussion.³⁷⁰

On 24, 25, 27, 28, 29, 30 and 31 October and 1, 2, 8, 9 and 10 November, the orders issued by the Director General and the Director of Order and Security used the following formulations to give instructions on the use of shotguns and chemical deterrents and remained virtually identical:

"Regarding the use of riot-control shotguns, instructions are reiterated in accordance with circular one thousand eight thirty-two... their use must be rational and proportionate to the situation of the intended action and always take into account the instructions on handling and use set out and developed in the respective shooting practices, emphasizing that the shot must always be directed to the lower part of the body and never to the upper area or part of the body of protesters".

"We reiterate instructions that the commanders must ensure the rational use of chemical deterrents, which is considered as the fourth level of the use of force, it must be proportionate, rational and always taking special care with respect to the theatre of operations in which it will be used, bearing in mind that its use is general and directed at a group of people, with the sole purpose of having them leave a defined sector or site".³⁷¹

Regarding shotguns, the orders reiterated the flawed protocol and did not explicitly establish that these weapons should only be used in defensive situations in which the life or physical integrity of an individual or group is at risk, as established by international human rights standards. Additionally, although the orders stated that shotguns should be aimed at the lower half of the body, they did not specifically indicate the minimum distance from which they should be fired.

Following the wounding of Gustavo Gatica on 8 November, orders were issued by National Police strategic commanders slightly modifying the use of shotguns with rubberized buckshot.

According to the transcript of 11 November, the orders establish that "it is reiterated that the use of shotguns is limited to personal or third-party defence or damage to public or private property."³⁷²

From 12 November, it was established that "the use of shotguns is limited to use in personal and third-party defence, bearing in mind a gradual approach and proportionality." Although it remained a confusing formula that did not specify what constituted a threat to life or physical integrity and mixed it up with the gradual use of force, that was the day when the first substantive change was recorded. This brief and ambiguous instruction remained unchanged until at least 17 November.

In a similar vein, the orders surrounding the use of tear gas did not explicitly specify that it should be fired at a 45-degree angle³⁷³ despite the number of injuries that were being reported daily due to misuse of grenade launchers. According to INDH figures, more than 100 people were injured as a result of smoke and tear-gas grenades between 18 October and 30 November 2019,³⁷⁴ among them Fabiola Campillai, who, as mentioned above, lost her sight as a consequence of the use of this equipment (see "Fabiola Campillai case").



370 Communications Centre, Metropolitan Area, Carabineros, transcription of radio communications.

371 Document "Transcripción de las comunicaciones radiales efectuadas el día 24.10.2019 por intermedio de la unidad comando y control a las unidades y dispositivos de servicio en la población, conforme a las órdenes impartidas por el Sr. General Director de Carabineros". The formulation used in this transcript regarding the use of riot-control guns and chemical deterrents remains practically identical to that in the transcripts of the radio orders for the other days mentioned.

372 Document "Transcripción de las comunicaciones radiales efectuadas el día 11.11.2019 por intermedio de la unidad comando y control a las unidades y dispositivos de servicio en la población, conforme a las órdenes impartidas por el Sr. General Director de Carabineros".

373 Although the Protocols on the use of force do not address the use of gas launchers, the National Police manual on public order policing operations does.

374 INDH, List of legal actions updated as of 6 April 2020.

In addition to the fact that the orders did not give key instructions that could have prevented human rights violations, there are indications that the National Police strategic command did not effectively follow up on their instructions or ensure that they were explicit. When the Director General was asked, during his testimony as a witness by the Attorney General's Office on 25 November 2019, if he knew if the orders on where to direct the shots were complemented with instructions to minimize harm to people, he said: "I am convinced they were, but due to level of competency, I don't know how it was put into effect".

Likewise, when asked if he knew if the order to comply with the protocol was complemented by instructions on the distance that there must be between the target and the shooter to cause less harm, he replied: "I don't know the detail. I do know that the Directorate of Order and Security has issued or reiterated the instructions on the use of shotguns."³⁷⁵ In other words, the Director General did not give precise instructions or ensure that other people did so.

Likewise, the Director of Order and Security, when asked by the Attorney General's Office on 5 December about whether the protocols are supplemented "with instructions on where shots should be aimed...and the distance between the shooter and the target," replied: "In the certification phase [course for those authorized to use shotguns] the conditions and characteristics of the use of the weapon are covered" and "I understand that in the technical characteristics of the ammunition there are also references to its correct use".

When the Attorney General's Office pressed him on whether as a the person in charge of order and security he instructed any sort of order about the riot-control shotguns and the number of eye injuries, the Director reiterated: "What I do is transmit the instructions of the Director General. Particularly what has been reiterated on several occasions is the need to adhere to the protocols. That was repeatedly [sic]. ... Those instructions were aligned with the protocol and what has been established". In other words, he also had not issued detailed orders and limited himself to reiterating the general instructions to comply with the protocol, despite his fundamental role supervising police conduct in the areas under his command.

In addition to the vague nature of the verbal orders regarding the use of force and the correct use of service weapons, it should be noted again that, as with the written orders, no verbal instructions to which Amnesty International had access appear to instruct a genuine change in police behaviour in dealing with the protests. In other words, despite the knowledge that the operational commanders had about the violations that were taking place, they did not order any change in strategy towards a proportionate and defensive model that would be appropriate to safeguard the demonstrations and to properly police outbreaks of violence.

The fact that for a month the strategic command of the National Police gave vague and general orders that were practically identical, without incorporating nuances or specific messages to minimize the harm; that they did not supervise how the orders were transmitted; and that the orders were in essence not in line with international standards and regulations, constitutes a breach of their obligation to do everything possible to guarantee respect for human rights as regards the use of force. In other words, the orders issued deliberately or at least culpably failed to instruct their subordinates on the appropriate use of weapons.

Operational or tactical level commanders

As mentioned above, operational commanders are those who directly supervise policing in the different regions of the country, for example, the heads of the regional units or the heads of the prefectures who report to each unit.

375 Statement in Case RUC 1901217258-6 of the Santiago 7th District Court.

According to information compiled by Amnesty International, Metropolitan Area operational commanders did not issue effective orders to prevent human rights violations by forces under their control.

According to the statement of an official of the Special Forces Prefecture in case file RUC 1901217258-6, before each operation the commander gave “permanent instructions...regarding the correct use of weapons...but not specifically referring to the consequences caused by their use.”³⁷⁶ In statements in the same file, several Special Forces officials stated that there was no coordination of the use of riot-control shotguns or grenade launchers, and that the officers had “autonomy over shooting”.³⁷⁷ In other words, there was no control over how and when each officer fired, nor over the amount of ammunition used.

In the operation already described on 8 November in the “Plaza Italia”, while the Head of Metropolitan Zone (STGO-1), the Head of Control, Public Order and Intervention Zone (STGO-4) and the different heads of the Special Forces Prefecture (G-1, G-2 and G-3) directly supervised the operation live, both in the field and in the respective communication centres, according to the transcripts of the radio orders for that operation, those commanders did not issue specific orders to the forces under their control to limit the use of force or to adopt moderate and defensive police procedures, which allowed more than 2,000 TEC pellet cartridges to be fired.

The problem of the lack of effective supervision by the operational commanders in the Metropolitan Area was exacerbated by the fact that some operational commanders or service chiefs had used excessive force against the protesters themselves and their conduct was replicated down the chain of command. In other words, far from exercising effective control over their subordinates, these commanders encouraged the commission of violations.

An example of this during the same incident in “Plaza Italia” on 8 November is when (G-1), the FFEE prefect in command of the operation, fired 125 12-calibre cartridges and 40 37-calibre (gas) cartridges. The Sub-Prefect of Services 1 (G-2), fired 125 12, 40 and 37-calibre cartridges and the Sub-Prefect of Services 2 (G-3), fired 178 12, 43 and 37-calibre cartridges.

As discussed in the chapter on planning, Amnesty International obtained footage of G-3 acting inappropriately repeatedly during this and other days. Although there are no images of G-1 or G-2 from that day, it has been possible to identify the latter in several other incidents when he used his shotgun unnecessarily.

This chapter has shown that both strategic and operational commanders failed to effectively supervise the forces under their command through the transmission of orders despite having knowledge of the violations that were being committed.

In particular, the strategic commanders, including the Director General, the Deputy Director General and the Director of Order and Security are notable in that for a month they repeated almost automatically that the protocol should be respected, knowing not only that it did not meet the requirements of international norms and standards, but that it was not enough to avoid serious injuries, such as those committed on a daily basis. They did so all the while failing to give any more precise instructions on how police procedures should be carried out to comply with international standards.

Likewise, operational commanders, such as STGO 1, STGO 4, G-1, G-2 and G-3 in the Metropolitan Area, replicated this dynamic and allowed the forces under their command to engage in excessive use of force and failed to give instructions to stop such practices. In addition they themselves, in the case of the latter three, were personally involved in the misuse of pellet shotguns, thus tacitly reinforcing this conduct among officials under their command.

In summary, both the strategic and the operational commanders mentioned above gave orders that implicitly consented to the illegitimate actions of officials despite having information detailing the human rights violations being committed. It is Amnesty International’s understanding that this omission can only be interpreted as part of a deliberate strategy that prioritized the dispersal of the demonstrations regardless of the cost in terms of harm to people’s physical integrity.



376 Second Sergeant statement to the PDI, investigation case file, Case RUC 1901217258-6 of the Santiago 7th District Court.

377 Interview with second corporal, second corporal and second sergeant in statement to the PDI, investigation case file, Case RUC 1901217258-6 of the Santiago 7th District Court.

5.2.5. INEFFECTIVE DISCIPLINE

Another way that senior officers can ensure that forces under their control do not commit human rights violations is simply by applying appropriate sanctions aimed at punishing such conduct.

UN Basic Principle No. 22 states that there must be “effective reporting and review procedures” when the use of force and weapons results in injury or death and independent administrative or prosecutorial authorities must be in a position to exercise jurisdiction in such situations.³⁷⁸

In addition, the Inter-American Court has considered relevant the decisions that disciplinary proceedings may have produced, bearing in mind the symbolic value of the message of censure of public officials as well as their role in controlling the actions of these public officials, particularly in situations where human rights violations occur as part of generalized patterns.³⁷⁹

For example, in the case of *González et al. (“Cotton Field”) v. Mexico*, the Court considered that administrative or criminal sanctions play an important role in creating the appropriate type of capability and institutional culture to prevent “those responsible for such serious irregularities [being] allowed to continue in their functions or, worse still, to occupy positions of authority”. This addresses the fact that the absence of such sanctions “may create impunity together with conditions that allow the factors that produce the context of violence to persist or deteriorate”.³⁸⁰

Internal control is key to respect for and protection of human rights. It is for this reason that international standards establish the duty of superior officers to guarantee that their subordinates are investigated and, where appropriate, punished when human rights violations or police malpractice are committed in general.

Chilean regulations also reinforce this premise. Article 9 of the National Police Disciplinary Regulation establishes that it is the duty of National Police law enforcement officials “to know and address the offences committed by subordinates”, establishing the duty of superior officers to discipline units under their command for any misconduct committed.³⁸¹

In the National Police, there are two main means by which superior officers can apply disciplinary measures on the units under their control: direct disciplinary measures and investigations. This section analyses the actions of senior commanders in disciplinary matters.

Direct disciplinary measures

Article 12 of the Carabineros Disciplinary Regulation establishes that superior officers may apply disciplinary measures when “the offence is reliably established by observation of the leadership with disciplinary powers.”³⁸² This means that when a superior officer in the National Police – typically those in charge of commanding units at the operational level and above – directly observe that the forces under their command are engaged in misconduct, they can issue immediate sanctions in accordance with their respective disciplinary powers.

In connection with this, article 127 of the Regulation for the selection and promotion of National Police officials, stipulates that “when a misdemeanour committed that gives rise to an administrative process or investigation is so grave that it is an obstacle to the retention of the official in the institution and the accused confesses his responsibility, or it becomes evident, the commander who orders the process may suspend them immediately for ‘misconduct’, without issuing a conduct report, until the conclusion of the process or investigation”.³⁸³



378 UN Basic Principles on the Use of Force and Firearms by *Law Enforcement Officials*, Principle 22, 1990

379 Inter-American Court, *Case of the La Rochela Massacre v. Colombia*, Merits, Reparations and Costs, Judgment of 11 May 2007, Series C No. 163, Paragraph 206.

380 Inter-American Court, *Case of González et al. (“Cotton Field”) v. Mexico*, Preliminary Objection, Merits, Reparations and Costs, Judgment of 16 November 2009, Series C No. 205, para. 377.

381 Reglamento de disciplina de Carabineros Núm. 11 of 2000.

382 Reglamento de disciplina de Carabineros Núm. 11 of 2000.

383 Art. 127 of Reglamento de selección y ascensos de Carabineros de Chile.

This was confirmed by the Comptroller General in opinion No. 3800 of 17 January 2013, when the National Police considered that it was not possible to immediately dismiss an official who had killed a young Mapuche. The Comptroller General established that the National Police: “has legal mechanisms to order the dismissal of officials who, in its opinion, have committed serious misconduct, regardless of the existence of a judicial ruling concerning the same incidents... allowing the police authorities to order the discharge of Personnel Disappointed to the Institution on grounds of professional ethics, for engaging in conduct that seriously damages or violates discipline, morality or institutional prestige; this measure must be adopted by reasoned resolution, with immediate effect.”³⁸⁴

However, despite the existence of these immediate disciplinary powers, according to the information that the Ministry of the Interior made available to Amnesty International in November 2019, and which was reaffirmed by the National Police in public presentations before the Congressional Human Rights Commission on 6 July 2020, no official had been sanctioned in the context of the crisis using the form of direct discipline described in this section.³⁸⁵

This meant that those officers whose superiors had information that they were committing human rights violations continued to operate and carry out the same functions, since none of the possible sanctions were applied (availability,³⁸⁶ suspension,³⁸⁷ separation from service,³⁸⁸ discharge³⁸⁹ or dismissal³⁹⁰) to at least allocate them to different duties which would remove the possibility of their committing new violations.

Investigations

The other method by which superior officers can exercise their disciplinary powers over the forces under their command is by initiating investigations. Article 12 of the Disciplinary Regulation establishes that “offences that are not observed with certainty, or for which the accused does not confess responsibility, must be clarified through an investigation, which will be subject, as appropriate, to the norms contained in the Regulation on administrative processes”.

According to these regulations, the commanders empowered to order these investigations are the following senior officials: the Director General and the Deputy Director General; the heads of National Police Directorates; the heads of National Police Units; the Secretary General; the heads of the National Police Prefectures, and the directors of National Police educational establishments and hospital.³⁹¹ In essence, those who have the power to order these investigations are the strategic and operational high-ranking officers previously described.

The responsibilities of the senior officers who order these investigations include, among other things:

- Appointing an investigator;
- Setting the length for the investigation;
- Evaluating of the probative value of the statements of the witnesses and of all testimony;
- Examining the investigation, once it is completed, in order to ensure that the circumstances and individual responsibilities have been properly established;
- Authorizing the reopening of investigations if necessary;
- Delivering the final verdict based on the conclusions and taking into account their own assessment; and
- Imposing the appropriate administrative sanctions.

384 Office of the Comptroller General of the Republic, Dictámenes Generales Municipales, Dictamen 3800 de 2013.

385 Commission on Human Rights and Indigenous Peoples of the Chamber of Deputies of Chile, Session 99, 6 July 2020.

386 This consists of leaving the party involved assigned to any division, without performing a specific position or function.

387 This consists of depriving them for the duration of the punishment of all functions inherent to their employment, as well as promotions.

388 This involves the removing the official from the ranks of the institution by means of a supreme decree.

389 This consists of removing the official from active service, in accordance with the rules set out in the Regulation for the selection and promotion of National Police personnel, No. 8.

390 This should be applied in accordance with the provisions of the Regulation for the selection and promotion of Carabineros personnel, No. 8. The effects on temporary rights should be aligned to legal and regulatory provisions.

391 In accordance with article 3 of the Chilean Police Process Regulation.

The hierarchical superiors of the commander ordering the investigation are also empowered to examine the final report and modify the decision of the subordinate commander, if they deem it appropriate.³⁹²

Likewise, according to article 92 of the Process Regulation, when a superior officer instructs a junior officer to open an investigation, this superior officer is responsible for reviewing the completed investigation and, therefore, assumes a supervisory role in the respective disciplinary process.

Therefore, it should be understood that the superior officers in the National Police, including the strategic level commanders, have a supervisory function in investigation processes and are responsible for ordering, reviewing and finalizing the conclusions of these procedures, in addition to determining appropriate sanctions.

Amnesty International has examined files relating to the investigation process and found multiple problems. Of the 12 cases presented in this report, the administrative files on 10 remained open. Of these, only two cases had resulted in some type of sanction, nine months after the events, and those were not imposed for the conduct resulting in injury reported as the main violation. Amnesty International had access to four of these administrative processes that reveal the unwillingness of the strategic and operational police commanders to punish human rights violations.

1. Slow and ineffective investigations

Senior officers have a responsibility to address offences by subordinates as quickly as possible.³⁹³ This ensures that any official who engages in inappropriate behaviour is promptly reprimanded and thus prevents such behaviour being repeated.

However, according to documents analysed by Amnesty International that describe the number of investigations opened in each National Police operational area, as of 8 November 2019, only 346 administrative investigations had been opened on cases that occurred in the context of the crisis and none had resulted in sanctions being imposed. This was despite the fact that by that date the National Police had registered almost 800 civilian injuries through its internal information process and the Ministry of Health had registered more than 8,000.

Of the 346 open investigations, only three related to the Special Forces Prefecture in the Metropolitan Area and one to the GOPE Prefecture.

As of 11 March 2020, 1,144 investigations were under way. Some 60% of these (695) had concluded, but only 83 officials had been sanctioned. Of these, 14 had been discharged or separated from the service, 44 had been arrested³⁹⁴ and 25 issued with warnings or reprimanded.³⁹⁵ In other words, only 14 have ceased to exercise their functions, this despite the fact that by then 50 police officers were the subjects of formal criminal charges.³⁹⁶

On 6 July 2020, more than eight months after the protests began, the National Police informed the Congressional Human Rights Commission that 1,272 administrative investigations had been opened regarding incidents that occurred in the context of the crisis, of which 80% (1,025) had already been completed. By that date, 175 police officials had been sanctioned, of whom only 16 had been dismissed from their duties.

These figures show that the investigations were not expedited in those cases where there was significant evidence and that they resulted in few sanctions, given the number of human rights violations recorded in the context of the crisis. Especially noteworthy is the very small number of police officials who were separated from their duties through these disciplinary processes, which indicates a failure on the part of commanding officers to separate officials who had committed human rights violations from the institution.

392 Carabineros Disciplinary Regulation, No. 11 of 2000. In accordance with article 9 of the Carabineros Disciplinary Regulation.

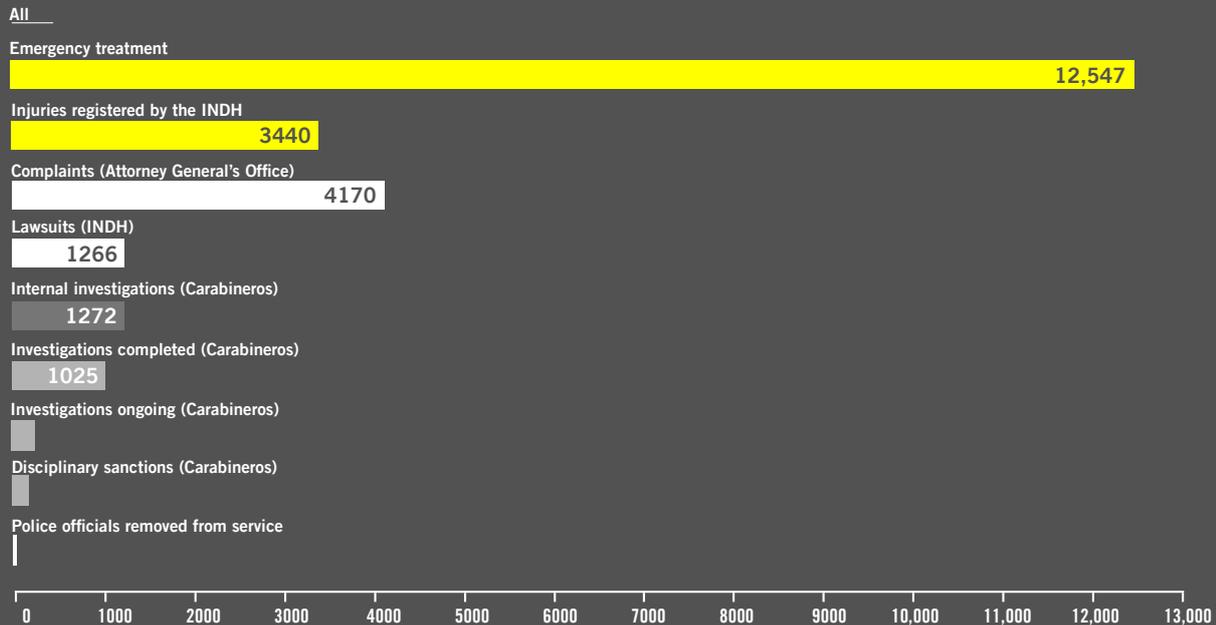
394 This involves a sanction of between five and 20 days for officials appointed by supreme decree (Personal de Nombramiento Supremo) and up to 30 days for officials appointed by the National Police Director General (Personal de Nombramiento Institucional). The arrest with service requires the individual to fulfil the role of ordinary or extraordinary services. When not on duty, they must remain in the barracks, room or home, as appropriate. (Article 25) of the Carabineros Disciplinary Regulation.

395 This is a verbal reprimand by a superior, in accordance with the Carabineros Disciplinary Regulation.

396 Presentation of the National Police Deputy Director to the Congressional Human Rights Commission. 11 March 2020.

Human rights violations were not punished

This graph compares the number of people injured during the protests and the formal complaints filed against police officials with the number of internal investigations initiated and sanctions imposed by the Carabineros. Use the drop-down menu below to find out more on each of the categories.



The cases documented by Amnesty International show these administrative processes were slow and ineffective. In the case of Moisés Ordenes, the police beating was broadcast live on a television network. The administrative process initiated by the National Police on 23 October was closed, on the basis that actions that resulted in Moisés' injuries had been proved and the sanctions put forward to the Special Forces Prefect was that the lieutenant leading Section 2 of the 28th Special Forces Commissariat (FFEE 43-02) be separated from the service and five other officials who participated in the events and subsequent arrest be dismissed.

However, as of 14 July 2020, the Special Forces Prefect, G-1, still had not issued an such order.³⁹⁷ In December 2019, the Attorney General's Office indicted 12 officials for torture and another on 13 July. Eleven of the 13 were also prosecuted for falsifying a public instrument, due to the false information they included in their report regarding the complaint, and for obstructing the investigation, based on their statements in the administrative process.³⁹⁸ Yet, by end of the period covered by this report, the administrative process remained open and no sanctions had been imposed.

In the case of Alejandro Torres, the administrative process of the Concepción National Police Prefecture of 29 October shows that several processes were carried out. Among them is the transcript of audios from the Trunking radio communication system ("Chiguayante saqueos Chiguayante"), which describe the moment in which Alejandro was wounded and the "Initial Document, Guard Chiguayante 7th Police Station", which expands the police report, also included in the proceeding, where it is acknowledged that Major X had injured Alejandro and that when he became aware of this, the Major offered assistance.³⁹⁹



397 In response RSIP51476 to a request for information under Transparency Law AD009W0051476 from the Sub-Comptroller General Department of Public Information and Lobby of the Carabineros, 14 July 2020.

398 P. 113 Investigation case file, Case RUC 1901217258-6 of the Santiago 8th District Court.

399 Ordinary electronic document 104087236 of the Prefecture of Concepción of 24 October 2019. See also part of complaint number 02471 dated 22 October 2019, issued by police officials of the 7th Chiguayante Police Station.

It is notable that Major X stated to the PDI that “once that smoke cleared, I realized that some 30 or 40 metres from me... there was a man squatting touching his face...pointing out to me that something had hit his eye... I immediately asked one of my police officers to take one of our vehicles and transfer him... I immediately began to analyse what happened and concluded that it was highly probable that my shot injured this person.”⁴⁰⁰ As of July 2020, the National Police confirmed to Amnesty International that even though the officer had accepted responsibility, the case was still pending.⁴⁰¹

This situation was repeated in the case of Renzo Inostroza, who was seriously injured for remonstrating with an officer. Despite the fact that official B (mentioned above) acknowledged the shots and injuries caused to Renzo, he continued in his same functions and the administrative process was still pending as of July 2020.⁴⁰²

In addition to these irregularities, the High Command provided inaccurate information to the public regarding the progress of the processes. On 12 December 2019, the National Police Director General affirmed that “some of the investigations that are being carried out have reached the administrative certainty that the police involved bear responsibility”⁴⁰³ and gave some examples of cases such as “the case of the medical student, the person who died in Maipú, that there is a connection between the institution and...the aggression suffered by a person in the Ñuñoa square”. The cases referred to are those of Josué Maureira, Alex Núñez and Moisés Órdenes, and in none of them were the possible perpetrators punished.⁴⁰⁴



400 Statement by Major X that appears in Police Report No.20190591694/01817/709 of the PDI, dated 30 October 2019, delivered to the Concepción Attorney General’s Office. P. 47 investigation case file, Case RUC 1901144164-8 of the Concepción District Court.

401 In response RSIP51476 to a request for information under Transparency Law AD009W0051476 from the Sub-Comptroller General Department of Public Information and Lobby of the Carabineros, 14 July 2020.

402 In response RSIP51476 to a request for information under Transparency Law AD009W0051476 from the Sub-Comptroller General Department of Public Information and Lobby of the Carabineros, 14 July 2020.

403 Biobio Chile, General Rozas confirma responsabilidad de carabineros en una serie de actos denunciados tras 18/O. See www.biobiochile.cl/noticias/nacional/chile/2019/12/12/general-rozas-confirma-responsabilidad-de-carabineros-en-una-serie-de-actos-denunciados-tras-18o.shtml

404 The National Police informed Amnesty International on 14 July 2020 that the administrative investigations into these three cases remained pending.

2. Flawed investigations

As already mentioned, it is the responsibility of senior officers to ensure that investigations focus on establishing the circumstances and individual responsibilities surrounding specific incidents.

Amnesty International has had access to five internal investigation files and has observed that these investigations, far from trying to discover the truth about an incident in order to apply disciplinary measures, appear to be aimed at acquitting National Police officials of legal or administrative responsibility for causing injury to civilians.

For example, the administrative process relating to **Gustavo Gatica's** injuries was initiated on 11 November as a result of a visit by the Investigative Police to the headquarters of the 28th Special Forces Commissioner, in the context of the initial proceedings ordered by the Attorney General's Office.⁴⁰⁵

In this proceeding, there is a description of the officers that used the shotgun in the "Plaza Italia" sector on 8 November 2019, at the approximate time when Gustavo and other people were injured, according to the statements of the most of them, as well as the radio station's log, among others.⁴⁰⁶

The National Police internal attorney general in charge of the investigation concluded, on 9 December, that there were eight police officials who used riot-control shotguns during that day: G-1, Grifo 6, Beta 3, Beta 4, the head of Macul 33, leader No. 1 GOPE, a non-commissioned officer and a sergeant No. 1 Police Operations Prefecture.⁴⁰⁷

However, there were multiple shortcomings in the investigation, some of them serious. First, all the transcripts of the statements of the officials who were at the scene are practically identical, indicating a certain degree of coordination in order to avoid legal or administrative liability.

Almost all of the officials who testify, for example, said vaguely and generally that the protesters were throwing "life-threatening blunt objects" ("objetos contundentes que ponían en riesgo la vida"). Despite similarities in the responses, the investigating officer did not ask follow-up questions to determine details of the actual circumstances surrounding the events.

In fact, one of the conclusions of the proceeding is that "with regard to the use of riot-control shotguns, their use was the result of a necessary, legal and progressive application of measures, since the application of water cannon and tear gas was insufficient given the high level of aggression of the protesters; consequently, the conclusion is that no official infractions by the police personnel involved were observed." According to official records, during that day, National Police personnel fired more than 2,600 12-calibre cartridges (made up of 12 rubber and metal pellets each) and more than 600 37-calibre cartridges (gas grenades) at protesters.

Second, there were shortcomings in the proceeding with regard to the recordings of the CCTV cameras and the police cameras at the scene. As part of the investigation, only a closed circuit television tape and a police force camera were reviewed, despite the fact that several officers present at the scene had this equipment at their disposal. In addition, the description of both the images from the surveillance cameras and the body cameras focuses solely on the fact that certain protesters acted violently and that National Police subsequently used various tactics to counter this aggression.

The analysis seems aimed at absolving National Police officials of responsibility rather than trying to determine which official was responsible for the injuries sustained by Gustavo.

Third, it concludes that it is "impossible to establish who fired the shots and whether they actually caused Gatica's injury" and that "after carrying out the relevant analysis...it is considered that the conclusion is that the personnel who used the riot-control shotguns fully complied with the protocol for maintaining public order", adding that "it is not certain that it is the ammunition used by the National Police that caused the eye injuries to citizen Gustavo Gatica Villarroel".⁴⁰⁸

405 Volume IV, p. 555, of the investigation case file, Case RUC 1901217258-6 of the Santiago 7th District Court.

406 The proceeding includes, among other evidence: the communications registered in the document called "Novedades del servicio de la central de radio correspondiente al día 8 de noviembre de 2019" on the use of riot-control shotguns by Special Forces and GOPE officials, audiovisual records of some of the portable cameras worn by FFEE personnel that day, etc.

407 Closure of the process, volume IV, p. 575, investigation case file, Case RUC 1901217258-6 of the Santiago 7th District Court.

408 Closure of the process, volume IV, p.575, investigation case file, Case RUC 1901217258-6.

It continues: “there are no scientific and technical instruments that allow, in the first place, identification of which of the eight individual officials...possibly caused the injuries, and it cannot be ruled out that they could have been provoked by the same protesters who used different items to attack police personnel.”⁴⁰⁹

However, the PDI ballistic expert report of 1 February 2020 on pellets extracted from Gustavo’s body concludes that it was “two black 8 mm diameter pellets, which were part of cartridges for 12-gauge shotguns, of the riot-control type, which are generally used by branches of the Armed Forces and of Order and Security forces, in line with their regulations.”⁴¹⁰ The images analysed above show the position and direction of police shooting.

Finally, the prosecutor omitted at least two officials who fired their shotguns that day at the intersections of Carabineros de Chile with Dr. Corvalán. Firstly, G-3, who was present at the scene and fired 178 times. Second, the Macul 35 unit, which fired the shotgun(s) in the sector, 450 times.⁴¹¹

G-3 was, at that time, the subprefect of services 2 of the Special Forces (third in command of FFEE), and that day he fired his shotgun 178 times and was in one of those in positions from where they could have injured Gustavo. Despite this information, G-3 was not questioned and his body camera was not checked.

The process was closed on 9 December. However, after the broadcast in April 2020 on a television channel of a video showing the moment when Gustavo was shot and wounded by police,⁴¹² the National Police reported that the investigation had been reopened due to new evidence emerging.⁴¹³

Finally, on 19 June 2020, the National Police said that an official had been discharged in relation to the case for breach of administrative protocol (downloading the images from his Go Pro camera to his personal computer before handing them over to the Attorney General’s Office), but not for the attack on Gustavo. That official was G-3, who was accused of wounding Gustavo Gatica in August 2019.

Faced with public questioning about G-3’s exclusion from the proceeding, on 6 July 2020, the Deputy Director General declared before the Human Rights Commission of the Chamber of Deputies that G-3 “is incorporated into the proceeding immediately in the days after [it started].”⁴¹⁴

However, Amnesty International found that in its more than 300 pages, with records from 8 November to 17 January 2020, G-3 was not questioned or included among the eight officers identified as present at the scene of the incident.⁴¹⁵ In other words, despite the fact that the National Police knew that G-3 was suspected of responsibility for the incident, it withheld information with the apparent intention of diverting the attention of the Attorney General’s Office, which could constitute a criminal cover-up.

As mentioned above, it is – in general terms – the responsibility of the superior officer ordering the investigation to review and approve its conclusions. In this case, that commander was G-1, the prefect of the Special Forces’ Metropolitan Zone, head of the police operation in which Gustavo blinded and who used his shotgun 125 times at the scene. But in addition, his superiors STGO1 (Head of Metropolitan Zone) and STGO4 (head of the Control, Public Order and Intervention Zone) were coordinating the operation remotely, which indicates that G-1 was following orders. Due to his position as prefect of FFEE, he was in charge of approving the investigation despite the fact that he had participated in the events being investigated.



409 Volume IV, p. 593, of the investigation case file, Case RUC 1901217258-6 of the Santiago 7th District Court.

410 Volume II, p. 9, of the investigation case file, Case RUC 1901217258-6 of the Santiago 7th District Court.

411 Macul 35’s service incident book notes that they used riot-control shotguns, and Macul 33 notes that another Macul used a riot-control shotgun at the scene.

412 T13, Unpublished images of the day that Gustavo Gatica was injured. See www.t13.cl/noticia/nacional/reportajes-t13-ineditas- imagenes-del-dia-hirieron-gustavo-gatica

413 El Mostrador, Caso Gustavo Gatica: Fiscalía pide acceso a nuevas imágenes inéditas y Carabineros reabre sumario. See www.elmostrador.cl/dia/2020/04/09/caso-gustavo-gatica-fiscalia-pide-acceso-a-nuevas-imagenes-ineditas-y-carabineros-reabre-sumario/

414 Cooperativa, Caso Gustavo Gatica: Carabinero fue dado de baja por incumplir protocolos. See www.cooperativa.cl/noticias/pais/manifestaciones/caso-gustavo-gatica-carabinero-fue-dado-de-baja-por-incumplir-protocolos/2020-06-19/182926.html

415 Even the captain of FFEE, Grifo 6, mentions in his statement in the investigation that G-3 was present at the scene, but despite that statement G-3 was not summoned to testify or considered in the administrative process up to the date it was originally closed, 9 December 2019.

In the case of Fabiola Campillai, who was blinded in both eyes, the administrative investigation was similarly slow, flawed and a mere formality, without any genuine interest in finding the truth. As in the case of Gustavo Gatica, the officials who participated in events were not punished for the most serious incident, but were dismissed for ancillary offences.

The same complaint that initiated the criminal investigation also sparked an internal administrative investigation. On the day of the incident, after it had been ascertained that someone had been seriously injured as a result of the intervention, all officials from the 14th Police Station attended to testify in front of the unit leader.⁴¹⁶

As in Gustavo's case, the first statements were repeated almost verbatim and are apparently a mere formality. They repeatedly stated that there were lots of aggressive protesters and denied that grenade launchers were used to fire gas canisters in an inappropriate way and that they had noticed anyone being injured. The interrogator did not formulate any questions or follow up on the answers given to him.⁴¹⁷

On 28 November, a formal order was issued to initiate proceedings, after the preliminary investigator communicated to the prefect of Maipo Prefecture that it was a significant investigation and that this could constitute a crime, and suggested that the evidence be transferred to a higher ranking officer, as there might be officers of higher rank than him involved.⁴¹⁸ Following this request, three more prosecutors took up the case and unnecessarily delayed it being concluded.⁴¹⁹

In general, Amnesty International considers the investigation to be flawed. Go Pro camera videos were incorrectly handled. The images were seen by those involved and their superiors on the same day, 26 November, at the 62nd Police Station,⁴²⁰ and returned to those involved. They were formally delivered to the administrative prosecutor on a CD, but it was empty. The content was finally handed over on 12 February 2020.⁴²¹

Among the administrative failures identified by Amnesty International with respect to the conduct of those involved were: the unnecessary and disproportionate use of force through the use of gas with grenade launchers, which caused serious injuries to a civilian who did not pose any threat to the officers; the failure to comply with the obligation to assist a person injured by the use of force by the police, who fled the scene after seeing the injured person fall; throwing a smoke bomb directly at a person calling for help; providing a grenade launcher for use by an officer not authorized or trained to use it; handing over an empty CD instead of the requested images; and making false statements during the administrative process.

However, on 14 August 2020, the National Police stated publicly that it had dismissed two captains from the 14th Police Station, one for not having carried out inquiries to verify the state of health and provide assistance to a victim and not complying with the related legal process; and the other, because it was proved that, although he knew someone was injured, he did not take any initiative to assist, in addition to making statements containing contradictory facts about what happened.⁴²² There is no mention of shooting in a member of the public illegitimately and causing serious injuries.

In proceedings relating to the case of **Alex Núñez**, who died reportedly after being beaten by FFEE officials, four officials who were at the scene of the incidents gave three different versions of what might have happened to the victim. Despite this, the official who questioned them did not make further inquiries.

This lack of a real and genuine will to arrive at the truth was also evidenced in a "face-to-face" process, where despite flagrant contradictions, the interrogator limited himself to writing down the answers. In other words, the process was a mere formality, without any real aim to clarify the facts.

As of July 2020, the National Police confirmed to Amnesty International that Alex's case was still pending, despite the fact that the officer had accepted his responsibility.



416 Statement by the captain sub-commissioner of the 14th San Bernardo Police Station, volume III, p. 92, investigation case file for Case RUC 19100061966-3.

417 Administrative process 13467/2019/03, initiated on 29 November 2019, official statements on pp. 18 to 58.

418 Administrative process in investigation case file, Case RUC 1910061966-3 of the San Bernardo District Court, p. 65.

419 A higher-ranking officer was appointed as an administrative prosecutor, but he retired from the National Police soon after having carried out few inquiries. In February 2020, the commissioner of the 62nd Police Station in San Bernardo was appointed as the new administrative prosecutor. The new prosecutor carried out procedures such as taking statements from neighbours, gathering plans of the area to determine the distances from which shots were fired, summoning the main officers involved to testify again. He also noticed that the CD of images delivered on 28 November 2019 was empty and requested the images again in February 2020. Based on the images, the three officials were questioned again to explain what they meant by the exclamations after the third shot, such as "it didn't reach him", "that did for him", "M. hit him" and others recorded in the audio of the video. They contradicted previous statements, regarding the place where the shots fell and other aspects of the scene. On 20 February 2020, the prosecutor issued a partial view in which he indicated that new information had emerged that needed to be clarified, and at the same time communicated his resignation from the commission since he was being transferred to another police station. A third prosecutor was then appointed in the case, a major from the 64th Paine Police Station, who took statements for a third time from those involved and incorporated other evidence.

420 p. 95 Volume III of the investigation case file, Case RUC 1910061966-3 of the San Bernardo District Court.

421 Administrative process in investigation case file, Case RUC 1910061966-3 of the San Bernardo District Court, p. 90

422 Public Statement of Carabineros, dated 14 August 2020.

3. *Not all cases were investigated*

In other cases, despite their seriousness, the National Police did not order an investigation of the facts.

In the case of the minor **D.S.A.G.**, who lost an eye as a result of shotgun fire, DAICAR confirmed to the Attorney General's Office in February 2020 that there was no internal investigation process into the incident.⁴²³ On 14 July 2020, the National Police confirmed to Amnesty International that there were no internal process in the case.⁴²⁴

In this case, the obligation to initiate proceedings arises not only because the superior was not duly informed of the use of the ammunition, but also because despite the consequences of the misuse of the riot-control shotgun, no help was provided to the victim.

The case of **Natalia Aravena**, the 24-year-old nurse who sustained a ruptured eye after being hit by a tear gas bomb directly in the face, was also not the subject of an administrative process. This despite the fact that National Police were notified that there was an investigation by the Attorney General's Office, in addition to a complaint from the INDH and another from the victim.⁴²⁵

It should be noted that, as described above, while as of 30 November 2019 the Attorney General's Office was investigating 4,170 complaints against the National Police, by 6 July 2020, the police force had opened 1,272 investigations in relation to incidents that took place in the context of the crisis. This indicates that there are numerous cases of possible human rights violations about which National Police commanders have not opened investigations.

4. *Failure by senior officers to supervise*

As mentioned, senior officers who open investigations are generally responsible for monitoring their progress. Strategic commanders in the National Police, in particular the Director General, have a responsibility to ensure the effectiveness of the disciplinary process more broadly.

The Director General, for example, has the power to "dictate the pertinent complementary norms, to facilitate the application" of the Process Regulation, as well as a general duty to keep the disciplinary measures established under review. This power gives them the authority to "review disciplinary sanctions ex officio" and "confirm, void, postpone or modify the sanctions imposed".⁴²⁶

According to information from the Ministry of the Interior, on 30 October, the Director General replied to a letter from the Ministry of the Interior, stating that he had not issued any general order or other type of regulation that modified the administrative or disciplinary procedures of the National Police. Between 18 October 2019 and 17 November 2019, the Director General issued a written instruction regarding disciplinary proceedings, according to the information provided to Amnesty International by the Ministry of the Interior, namely document 104841707 of 7 November, which "provides for pertinent administrative actions" on the "report on judicial actions filed by the INDH."



423 DAICAR Report No. 190 to the Attorney General's Office dated 26 February 2020. Sheet 2/4.

424 RSIP No. 51476 dated 14 July 2020 from the Public Information Department and Lobby of the Carabineros, relating to request for public information No. AD009W0051476.

425 In response to the aforementioned request for information via the Transparency Law, the National Police did not include the case of Natalia Aravena among the cases that had an administrative investigation pending.

426 Carabineros Disciplinary Regulation, No. 11 of 2000.

This information would suggest that the Director General had effectively not exercised his powers to establish additional rules on disciplinary processes to ensure that all officials accused of possible human rights violations faced administrative investigation processes and sanctions.

In addition, in an audio leaked to the press of the Director General giving a private speech at the School for non-commissioned officers⁴²⁷, the senior commander stated that:

“There are some things I want to tell you. You have the full support, the full backing of this Director General. How do I show this? I am not going to dismiss anyone using police procedures. No one. Even if they force me to, I'm not going to do it... (Applause) You have full support, full support, in the area of the law and of the regulations. You can count on us... As long as we are united, as long as we stick together, as we are now, as we always do, no one will be able to harm us.”⁴²⁸

This speech, coupled with the lack of instructions on disciplinary policy, indicates a lack of will on the part of the National Police Director General to ensure that those responsible for perpetrating human rights violations were removed from their duties or sanctioned in any way.

In addition to this general responsibility to ensure the effectiveness of the investigations by adapting the policies and instructions, the Director General also failed to fulfil his supervisory role with respect to the most serious or emblematic cases, including the investigations that he himself ordered.

In the case of Alex Nuñez, for example, according to Official Letter 95 from the National Police to the Minister of the Interior, “the National Police Director General has stipulated that the Leadership of the Metropolitan Area order... an administrative process be initiated”. This indicates that the Director General ordered a junior commander to open this investigation, giving him an oversight role in the process. However, during the period covered by this report, that process was still pending, as mentioned above.

In addition, in reply to questions from the Attorney General's Office about processes in the case of Gustavo Gatica, the Director General indicated that he knew that there was a process, but did not know who was in charge of it. In addition, he added “it is enough for me to know that the process exists, but due to the volume of information, although I would love to, I do not know other details.” Likewise, he stated that “despite the importance of the case, I did not formally inquire about who was involved”.⁴²⁹

Despite the power of the Director General to issue additional instructions in relation to investigations and disciplinary procedures, he did not exercise that authority in the context of protests to ensure that members of the police who committed human rights violations were punished.

This section has shown that National Police commanders adopted a permissive strategy in the face of human rights violations committed by members of the institution in the context of the crisis. Investigations were in many cases slow, even in those where there was considerable evidence, and ineffective, while sanctions were rare and not in proportion to the number and severity of the human rights violations committed during the crisis.

In many cases, investigations were not even opened. The operational commanders who became aware of these violations in the context of the crisis were those responsible in the first instance for not carrying out these disciplinary processes effectively, mainly the heads of the units and prefectures where these violations were committed. In addition, the performance of the Director General, who was responsible for supervising the effectiveness of the disciplinary function of the institution, is of note.

The Director General, by refraining from issuing additional regulations on disciplinary policy, as well as suggesting that no one would suffer any consequences for carrying out human rights violations, contributed to an environment of tolerance that would have fostered the commission of these crimes against protesters.

427 The National Police explained shortly afterwards that the Director General was referring to due process in the procedures. See the press release: www.docdroid.net/sfkDBom/comunicado-carabineros-pdf

428 La Tercera, *Filtran audio de Mario Rozas: “A nadie voy a dar de baja (...) aunque me obliguen”*. See www.youtube.com/watch?v=EBrKOU6b3SY

429 Statement of the National Police Director General in Case RUC 1901217258-6 of the Santiago 7th District Court, volume IV, p. 37.

5.3 THE ROLE OF THE EXECUTIVE

This report focuses on research and analysis of the conduct of Carabineros officials. This does not mean that Amnesty International considers that there were no indications of possible individual criminal, administrative or political responsibility on the part of officials of the Executive, which is in command of the National Police, but simply that this is not the focus of this document. On the contrary, the organization considers that the investigations carried out in all the areas mentioned should encompass all officials, up to the highest level, who could be responsible, by action or omission, for human rights violations and, in their case, crimes under international law committed in the context of the human rights crisis.

Amnesty International considers that officials in the Executive did not exercise adequate control over the National Police, particularly given the scale of the reports of human rights violations, which were public knowledge.

Amnesty International had access to the exchange of letters between the Ministry of the Interior and the Carabineros between 18 October and 30 November.⁴³⁰ On 23 October, the Ministry of the Interior sent three letters to the National Police and formally requested information on people who had reportedly been injured or killed by police officials. It also requested information on whether disciplinary proceedings or other additional measures had been opened in those cases and requested daily updates. In addition, it requested detailed information on the death of Alex Núñez.⁴³¹

According to the information received, the Director General responded to the request a week later, on 30 October, attaching data from police reports on 342 injured civilians. He also explained that there had been no modification of the National Police disciplinary policy and reported on only 16 administrative processes, despite the number of injuries reported directly by observation. Regarding the death of Alex Núñez, he stated that the National Police had filed a complaint, interviewed the family and sent the body to the Forensic Medical Service. He concluded that an administrative process had been opened “notwithstanding the foregoing, at the time of this report it is not possible to link National Police personnel to such incidents.”⁴³²

A few days later, on 25 and 26 October, the Ministry of the Interior requested information on six specific cases, among them that of Alejandro Torres.⁴³³ The response of the Director General, also dated 30 October, provided general data and did not specify that the police record itself contained an acknowledgement that “Major X”, who fired, had committed “a misdemeanour causing injury”.⁴³⁴

On 31 October, the Ministry of the Interior sent an Official Letter instructing that support be given “in all areas” to the National Police officials injured. In addition, it requested that the Human Rights Directorate and the Education Directorate strengthen compliance with protocols, laws and the Constitution.⁴³⁵

The following written communication is dated 4 November. In it, the Ministry of the Interior asked for the first time about “the nature of the ammunition used by Special Forces units.” The Director General responded 12 days later, defending its use and stating that he would commission an independent study. In that same communication, he also requested information on training in relation to Circular No. 1832 on the use of force, which, as has already been stated, was inadequate.⁴³⁶



430 Ord. 10.552 dated 15 April 2020 from the Ministry of the Interior and Public Security in response to a request for information under the Transparency Law.

431 Ministry of the Interior and Public Security Official Letters 33100, 33102 and 33104 of 23 October 2019.

432 Official letter from the National Police General Directorate of 30 October 2019, in response to Official Letter 33104 from the Ministry of the Interior and Public Security of 23 October 2019.

433 Ministry of the Interior and Public Security Official Letter 23236 of 26 October 2019.

434 Investigation case file, Case RUC 1901150540-9 of the Concepción District Court, p. 9. 435 Ministry of the Interior and Public Security Official Letter 33922 of 31 October 2019.

435 Ministry of the Interior and Public Security Official Letter 33922 of 31 October 2019.

436 Ministry of the Interior and Public Security Official Letter 34138 of 4 November 2019.

On 8 November, the Ministry of the Interior requested information on the number of police human rights instructors who were acting as observers in police operations.⁴³⁷

Despite the fact that Ministry of the Interior Decree 1364 of December 2018 requires that the protocols regarding the use of force comply with international standards, not only was this not guaranteed from the beginning, but no changes were requested until 10 November 2019,⁴³⁸ when it was decided to form a technical team in order to work on modifications.⁴³⁹

On 18 November, the Ministry of the Interior requested that a roundtable be created to review the Emergency Operations Manual, as well as to implement measures that had been agreed in the preceding days in relation to it. It also requested that progress be made “in the creation of Human Rights Directorate offices”.⁴⁴⁰

Two days later, on 22 November, the Ministry of the Interior sent two Official Letters to the Director General, where he reported on more than 335 INDH legal actions against the National Police and asked for reports on the results of the related disciplinary proceedings. That day, information was also requested on the video recording cameras and information on the measures taken in response to complaints in the country’s police units. Five days later, only the information regarding an INDH official allegedly injured by the National Police was requested.

It was not until 27 November that the Ministry of the Interior requested information on how the new orders regarding riot-control shotguns communicated by the National Police on 19 November were being implemented and how this was being verified. In other words, it took a week to monitor compliance with these new instructions, despite the fact that it was evident that this instruction was inadequate.⁴⁴¹ This lack of appropriate follow-up also occurred when the use of shotguns was limited on 10 November but questions about its implementation were not raised until 18 November.

The last communication, in almost a month and a half of analysis, took place on 29 November, when the Ministry of the Interior requested information on the case of Fabiola Campillai. This case was the ninth for which specific information had been requested from the National Police in a month and a half.

The Ministry of the Interior sent 16 Official Letters requesting information from the National Police, but there is no record that data was requested on the amount and type of ammunition fired (including lethal ammunition), or more precise information such as videos or radio recordings.

From these letters it is clear, firstly, that the Director General of the National Police provided limited information and according to his own timescale. Faced with this, the Ministry did not demand that more comprehensive information be provided and with greater speed and diligence.

Second, the Ministry limited itself to requesting information without questioning it, despite the fact that there was evidence of an unwillingness on the part of the National Police to prevent violations, such as, for example, their refusal to modify the disciplinary policy (despite the lack of immediate sanctions), the minimal number of processes initiated and its defence of the ammunition used.

Third, precise orders were not issued to bring an end to human rights violations and the orders that were issued were not made promptly. Although on 10 November the use of pellets was restricted, this measure was insufficient, delayed by more than a week as an extreme measure and did not prohibit their use. Furthermore, these requests were not thorough as there were relevant issues that were either not raised or were requested late. Specific information was requested in only a minimal number of cases.

437 Ministry of the Interior and Public Security Official Letter 34563 of 8 November 2019.

438 On 10 November 2019, after the attack on Gustavo Gatica in which he lost his sight in both eyes due to rubberized buckshot fired from a riot-control shotgun, the Minister of the Interior, the Secretary General of the Presidency and members of the National Police High Command had recently met in person and agreed to restrict the use of riot-control shotguns.

439 Ministry of the Interior and Public Security Official Letter 34729 of 12 November 2019.

440 Ministry of the Interior and Public Security Official Letter 35383 of 18 November 2019.

441 Ministry of the Interior and Public Security Official Letter 36629 of 27 November 2019.

According to the information provided in response to a request made under the Transparency Law, no communication was sent from the Ministry of the Interior to the Ministry of Health, but there was a formal exchange relating to the number of injured people and the types of injuries in order to deepen understanding of the causes.⁴⁴²

The Executive had access to the same external information previously analysed in the knowledge chapter (social networks, INDH and the Attorney General's Office) and also received first-hand information from specialized sectors that continuously informed it of reports of human rights violations.

For example, on 24 October, the Senate Human Rights Commission summoned a session on human rights violations that were taking place during the crisis. In this session, representatives of the Medical College of Chile explained to staff of the General Secretariat of the Presidency⁴⁴³ the seriousness of the injuries that they were observing resulting from the actions of the security forces.⁴⁴⁴ During those first days,⁴⁴⁵ the Chilean Society of Ophthalmology sent letters to the Ministry of Health to express its concern about the number and severity of cases they were treating at the Eye Trauma Unit (Unidad de Trauma Ocular, OTU) of El Salvador Hospital.⁴⁴⁶

Subsequently, on 4 November, before the same Senate Committee, the President of the Chilean Society of Ophthalmology presented and delivered a detailed report on eye injuries to the Minister of the Interior and the Minister of Defence. This document called for "the immediate cessation of the use of pellets as a method of riot-control because they are not a safe. If these weapons continue to be used, the cases of patients blinded as a result of eye trauma will continue to increase, leading to irreparable physical, social and emotional harm."⁴⁴⁷

These types of presentations to the Senate Human Rights Commission continued until March 2020 and were attended by representatives of the General Secretariat of the Presidency.⁴⁴⁸

In addition to the failure to effectively monitor evidence of human rights violations committed by the National Police, the government at the highest level publicly supported police actions throughout the crisis and made only minimal reference to the victims of human rights violations.

The narrative of the Executive, as expressed by the President's main spokesperson, Sebastián Piñera, focused on acts of violence and the destruction of street furniture and downplayed the reasons behind the protests and stated that there was an "organized" movement whose aim was to attack the government.⁴⁴⁹ This vision of "war" and "destruction" was used to justify the use of the State Security Law,⁴⁵⁰ which had mostly been used during the regime of General Augusto Pinochet. This law violates the principle of legality and provides for the disproportionate and unjustified use of criminal justice to punish conduct in the context of protests.⁴⁵¹

442 Order No. 10552 of 15 April 2020 of the Ministry of the Interior and Public Security, in response to a request for information under Law 20285.

443 Ministry whose functions are to coordinate and give direct advice to the President of the Republic, the Minister of the Interior and each of the ministers and provide them with the necessary information to enable them to take decisions. Art. 1 Organic Regulation of the Ministry of the General Secretary of the Presidency.

444 Noting that "no hay respeto a las normas de procedimientos de las policías y normas militares. Están vulnerando todos los derechos. A través de las atribuciones de la Comisión pedimos que se exija a las autoridades que la fuerza policial no dispare a la cara (...), informamos traumas oculares graves y hay personas que quedarán ciegas de un ojo o perderán el órgano". ["there is no respect for police and military procedural regulations. They are violating every right. Through the powers of the Commission, we ask that the authorities demand that the police do not shoot people in the face...we report serious eye trauma and there are people who will be blind in one eye or lose their sight".] They added that there was underreporting of the true numbers of patients, noting that, as of 22 October, the Metropolitan Region alone had registered 1,183 injured, of whom 10 had life-threatening injuries and 160 were hospitalized. They also described the conduct reported, which included torture, cruel treatment, assault, shooting with rubber pellets and sexual abuse, among other crimes. See www.colegiomedico.cl/colegio-medico-expone-en-comisiones-de-derechos-humanos-del-senado-y-la-camara-de-diputados/

445 On 23, 24 and 26 October 2019, according to the statement of the Vice-President of the Chilean Ophthalmology Society, cited in the report of the Commission of the Chamber of Deputies tasked with investigating the basis of the constitutional accusation against the former Minister of the Interior and Public Security, Andrés Chadwick Piñera, dated 27 November 2019.

446 There was a significant increase in the number of patients treated and in the severity of injuries in the following days, mainly affecting a large number of young people. They expressly requested this information be conveyed to the Minister of the Interior, the General in charge of National Defence and the Director General of the National Police, Mario Rozas, so that the protocols could be reviewed and/or correctly applied when maintaining public order, avoiding new cases of severe eye injuries with grave prognoses and consequences. Vice-president of the Chilean Society of Ophthalmology, cited in the report of the Commission of the Chamber of Deputies tasked with investigating the basis of the constitutional accusation against the former Minister of the Interior and Public Security, Andrés Chadwick Piñera, dated 27 November 2019.

447 Chilean Society of Ophthalmology Eye Trauma Report, preliminary results obtained from the Eye Trauma Unit from 19 October to 2 November 2019, presented to the Senate Human Rights Commission on 4 November 2019.

448 On 13 November, 25 November, 9 December, 2019, with presentations from the INDH, the Children's Ombudsperson, a District Judge and victims.

449 Amnesty International analysed speeches by the President of the Republic, as well as the key figures in the Executive involved in handling the crisis during the analysis period covered by this report. Although the victims were mentioned and there are expressions of regret, these were minimal compared to the references to material damage, mainly to the Santiago metro, and the "organized" violence which was the focus of a large part of the discourse. There were constant expressions of support for the security forces, the Armed Forces, the National Police and the PDI. Although on some occasions the actions of these forces were criticized, it was merely suggested that the Attorney General's Office should investigate; no measures were taken to alter the situation.

450 "Estamos estudiando la posibilidad de aplicar la Ley de Seguridad del Estado. En algunos casos la vamos a aplicar. Para eso está la ley. Nadie tiene derecho a afectar la vida de los demás." ["We are looking at the possibility of applying the State Security Law. In some cases we will apply it. That's what the law is for. No one has the right to affect the lives of others."] See www.elmostrador.cl/noticias/pais/2019/10/18/acusan-a-pinera-de-apagar-el-fuego-con-bencintras-amenaza-de-aplicar-la-ley-de-seguridad-por-evasiones-masivas-del-metro/

451 For example, the State Security Law (Ley de Seguridad del Estado, LSE) considers that it is a crime against "national sovereignty" to seriously offend "national sentiment" ("el sentimiento patrio"). However, there is no definition of how someone might offend such a feeling, which is subjective, or of offences contrary to "internal security" involving conduct that "incites or encourages the subversion of public order or revolt, resistance or the overthrow of the constituted Government." ["inciten o induzcan a la subversión del orden público o a la revuelta, resistencia o derrocamiento del Gobierno constituido".] Similarly, the State Security Law establishes that causing "disorder designed to disrupt public tranquillity" will be punished as a public order offence. The law also sanctions those who "destroy or block free access to bridges or public roads", seriously restricting the right to assembly.

During the period covered by this report, 482 complaints were filed under the State Security Law⁴⁵² for different offences that ranged from looting (437), to public disorder, to attacks on National Police personnel (four).⁴⁵³

This narrative had its clearest expression during the ex officio hearing of the Inter-American Commission on Human Rights on 11 November, when state representatives said that their response had been proportionate to the seriousness of the damage that occurred. The Commission's rapporteurs questioned the state and criticized the fact that "while civil society makes a number of complaints, the State spends the vast majority of its time to report the large amount of material damage that has occurred".⁴⁵⁴

In a speech at the end of October, President Sebastián Piñera said: "the priority of our government at this moment is the priorities of Chileans. And I will be very clear, our priorities are, first, to restore and protect public order, the peace of our citizens, the safety of our compatriots, protecting their property, ending vandalism and rampant criminality; second, to urgently and strongly promote a new social agenda."⁴⁵⁵

On 27 November, a day after Fabiola Campillai lost her sight and senses of smell and taste after being hit with a tear-gas canister, President Piñera said: "today more than ever the National Police and the Investigative Police need our full support and backing to fulfil their constitutional mandate and the important mission of protecting public order and safeguarding the security of security. Of course, this mission must always be fulfilled within the framework of the law, of the protocols and of respect for the human rights of all. And if there are aberrations or non-compliance, they must be investigated by the Attorney General's Office and tried in the Law Courts."⁴⁵⁶

In December, the Chilean Congress accepted a constitutional accusation against the former Minister of the Interior, in post until 28 October 2019,⁴⁵⁷ whom it held politically responsible for serious violations of the constitutional rights to life and physical and mental integrity of thousands of people in the country, because of a deliberate failure to enact effective measures to prevent the abusive and disproportionate use of force and the commission of serious crimes by the Carabineros, among other things.⁴⁵⁸



452 Amnesty International is critical of the State Internal Security Law as it leaves room for repressive actions by the state in response to a number of behaviours that are not clearly specified or already sanctioned by other laws.

453 INDH, Annual Report of the National Institute of Human Rights, Derechos Humanos en Chile en el contexto de la crisis social, 17 October – 30 November 2019, p. 18.

454 Inter-American Commission on Human Rights, Human rights and the social protests in Chile. See www.youtube.com/watch?v=uZo9d7YcCf&t=6s

455 La Tercera, Piñera no descarta impulsar "reformas estructurales", pero dice que la prioridad hoy es el orden público y las reformas sociales [Piñera does not rule out promoting "structural reforms", but says that the priority today is public order and social reform]. See www.latercera.com/politica/noticia/pinera-no-descarta-impulsar-reformas-estructurales-dice-la-prioridad-hoy-orden-publico-las-reformas-sociales/884649/

456 Presidential Press office, Presidente Piñera impulsa medidas para sumar a más de 4.500 carabineros en las calles [President Piñera promotes measures to add more than 4,500 police officials on the streets]. See prensa.presidencia.cl/discurso.aspx?id=135058

457 President Piñera requested the resignation of his Minister of the Interior on 28 October 2019, in the first change of cabinet made due to the social crisis. This created expectations of greater control over extreme repression by the National Police by the new Interior Minister. However, this did not happen and the repression intensified as days went by, without the Executive taking effective measures to prevent it.

458 Constitutional accusation against the former Minister of the Interior, Andrés Chadwick Piñera, approved by the National Congress on 11 December 2019.

Finally, at least four complaints were filed and accepted by the Judicial Branch against the highest-level civilian authorities for crimes against humanity on the basis that the violations and attacks against the population had been systematic and widespread.

The first, which came before the Santiago 7th District Court on 1 November, alleges that the head of state and other officials were responsible for violation of article 5 of Law 20357 that deals with crimes against humanity, genocide and war crimes. Similarly, at least three more complaints were filed and accepted by the Chilean courts for possible crimes under international criminal law.⁴⁵⁹

6 . CONCLUSION

PHYSICAL INTEGRITY, A NECESSARY EVIL

I am going to use an analogy...we can say that during this time, in these past 30- something days, our society has suffered from a serious illness. Let's say it's like cancer... the treatment for cancer...when these medical tools are used good cells and bad cells are killed. This is the risk that we face when using tools such as firearms, it is complicated".⁴⁶⁰
(Head of the Eastern Metropolitan Unit of the National Police)

The previous section shows that widespread violations of the right to physical integrity were only possible because commanders and other superiors failed to prevent them. Amnesty International identified tacit orders and deliberate or culpable omissions on the part of National Police commanders.

It is Amnesty International's view that both the strategic and the operational commanders analysed in this report knew how their subordinates were operating day by day and the type of injuries they were causing. Beyond the publicly available and well known information published in the media and on social media, the INDH and the Attorney General's Office duly informed the National Police when complaints or reports were made against its personnel. Some complaints were addressed to the Director General.

In addition, strategic commanders such as the Director General and the Director of DIOSCAR had extensive internal information at their disposal about the violations committed by operational forces from departments such as OS1 (within DIOSCAR) as well as many other channels such as police records, detailed minutes, action logs, and information from Command Centres. Such information made it possible to gain detailed knowledge of operations and alert them to irregularities committed by their forces and their operational commanders, such as the Head of the Metropolitan Zone (STG01), the head of the control, public order and intervention zone (STG04), or Special Forces Prefecture commanders (G-1, G-2, and G-3), all in Santiago.

However, the strategic (and operational) commanders failed to prevent such violations through the effective mechanisms available to them.

For example, the Director General did not limit, much less prohibit, the use of TEC Harseim ammunition or make explicit modifications to the protocol until the composition of the ammunition was questioned and the number of eye injuries exceeded 250 cases.⁴⁶¹ This in the knowledge that the harm caused was not only due to the nature of the ammunition, but also to its misuse. During the period analysed, there was no mention of limiting the use of grenade launchers even though their misuse resulted in serious injuries.

460 Biobio Chile, "Se matan células buenas y malas": Bassaletti comparó escopetas antimotines y tratamiento del cáncer, ["Good and bad cells are killed": Bassaletti compares riot-control guns and cancer treatment]. See www.biobiochile.cl/noticias/nacional/region-metropolitana/2019/11/22/general-bassaletti-comparo-uso-de-escopetas-antimotines-con-el-tratamiento-contra-el-cancer.shtml

461 COLMED, Forensic expert, Human Rights Department of the Medical College of Chile, March 2020.

Similarly, the Plana Mayor Especial and the Director of DIOSCAR did not incorporate the lessons learned from a human rights perspective into the planning of the police response to demonstrations. And tactical commanders, such as STGO4 and the head of the control, public order and intervention unit, did not modify their operational plans, which remained substantively unchanged, beyond logistics, from the beginning of the crisis and allowed the same officers, such as the commanders of the Special Forces Prefecture to operate in the same way, violating human rights on a daily basis.

In addition, instead of giving precise instructions to reduce the number of injuries, the Director General and the Director of DIOSCAR kept to the same imprecise and repetitive orders and did not ensure that these were communicated to operational commanders with clear instructions

Furthermore, far from punishing abusive conduct, the Director General not only allowed but supported it with his statement that no one would be dismissed regardless of their actions. This support was evidenced in the number sanctions imposed, which was extremely small compared to the number of complaints filed with the Attorney General's Office and the INDH. Indeed, sanctions were not imposed even in cases where the official accepted responsibility and possible cover-ups were identified. Furthermore, the sanctions that were imposed were not for offences related to the most serious incident and therefore justified the illegitimate use of force that caused the harm.

In general, disciplinary investigations were often slow, a mere formality and ineffective since they lacked independence and there was a clear absence of any thorough review by strategic commanders in particularly serious cases.

This resulted in new serious injuries day after day, despite the fact that many of these grave practices could constitute criminal offences. This sense of impunity was partly aided by the fact that the ammunition used was not traceable.

In summary, shortcomings were identified in several of the institutional channels for preventing human rights violations, such as the use of ammunition, protocols, planning, orders and disciplinary punishments, among others. If due diligence had been exercised, then these human rights violations could have been stopped.

In light of the above, it is not difficult to conclude that the chain of shortcomings by strategic commanders, such as the Director General, the Deputy Director or Director of DIOSCAR, far from being accidental, was intentional or at least culpable due to repeated negligence; this must be clarified by the Chilean justice system. These shortcomings may also have been part of institutional policy whereby demonstrators were to be dispersed at all costs, even if that meant inflicting harm on people's physical integrity as a punishment was a necessary evil in order to restore "public order".

Amnesty International has concluded that, during the period under review, agents of the Carabineros committed widespread human rights violations against demonstrators, including violations of the right to physical integrity in the context of the protests. They deliberately inflicted severe pain and suffering on protesters with the intention of punishing, dispersing and breaking up the demonstrations. Harming people's physical integrity was seen as a necessary price to pay in order to restore public order.

These human rights violations could not have been widespread if the strategic commanders in the police force with the power to do so had taken all the measures necessary and available to them to prevent such violations (of which they were aware) being repeated on a daily basis.

Amnesty International considers that, given their role as guarantors during the period analysed, as a minimum, the Director General, the Deputy Director and the Director of DIOSCAR had an obligation to adopt all measures at their disposal to avoid serious or irreparable injuries. In other words, cases such as those of Gustavo Gatica and Fabiola Campillai could have been avoided if these strategic commanders had acted with due diligence within the framework of their duties.

Amnesty International believes that possible tacit orders and deliberate or culpable omissions by the Director General, Deputy Director and Director of DIOSCAR should be duly investigated by the Chilean Attorney General's Office from a human rights perspective.

The responsibility of operational commanders, such as those mentioned in this report in relation to the Metropolitan Area, must also be clarified. In all cases, the accused's rights to due process and judicial guarantees must be ensured.

Although in this report Amnesty International does not analyse the possible responsibilities of actors other than the National Police, it believes that the lack of control exercised over the National Police by the Executive calls for clarification of the political, administrative or criminal responsibility of all those – right up to the highest possible level – who, in their position as guarantors, knew or should have known had they acted with diligence, the scale of the human rights violations and had the capacity to prevent them, but did not do so.

7. RECOMMENDATIONS

1. ACCESS TO JUSTICE

The Chilean authorities must publicly acknowledge the seriousness of the human rights violations and crimes under international law that were committed during the crisis and adopt all necessary measures to provide reparation to the victims and prevent the repetition of incidents such as those analysed in this report.

The Attorney General's Office must continue to investigate the responsibility of all those in the National Police chain of command who were key to allowing widespread violations of the right to physical integrity. The position of each commander responsible, up to the highest level, who could have prevented people continuing to suffer irreparable harm on a daily basis must be clarified. In addition, the Judicial Branch must prosecute all those who may be responsible and, where appropriate, bring them to justice from a human rights perspective in such a way as to guarantee access to justice for the victims and their families, while guaranteeing the right to due process.

The Carabineros must, as a matter of urgency, initiate internal investigations into all personnel suspected of human rights violations and guarantee that no official, against whom there is a weight of evidence, remains in post until the investigation is concluded and their liability has been ruled out in good faith.

2. STRUCTURAL REFORM OF THE CHILEAN NATIONAL POLICE, CARABINEROS

The relevant authorities must effectively ensure that law enforcement agencies strictly adhere to international standards on the use of force.

Due to the limitations posed by its military nature and its organic structure, a wide-ranging and in-depth reform is needed, in line with the proposal made by the Senate Security Committee at the end of 2019.

It is essential that this reform involve not simply the modernization of some detailed aspects, but encompass a profound reform at the normative and cultural levels. The role of the National Police in a society that respects human rights must be taken into account as well as its structure, which mirrors that of a branch of the armed forces, and its relationship with the community and with the civilian authorities.

Specific reforms needed include:

1. Respect for and protection of human rights. In all the duties that they perform, members of the National Police must fully respect, ensure and promote human rights, permanently seeking to protect and foster these rights. The human rights unit of the National Police must have broad competencies and participate in decision-making at the strategic and operational level in such a way as to ensure comprehensive compliance.
2. Genuine subordination to the civilian authorities. The actions of the National Police must be subordinate to the direction and control of the civilian authorities and adhere strictly to the current legal framework. One of the paths that should be explored is the creation of a Ministry of Public Security, independent of the Ministry of the Interior, which can exercise effective and appropriate control over the institution.
3. System for control, monitoring and evaluation. A police force must be subject to an integrated system of supervision and accountability that takes into account both institutional policy and the citizen. To achieve this, the state must have the necessary tools and capacities to oversee, monitor and evaluate police policies with the aim of ensuring that decision-making is guided by rigorous and transparent evaluations.

This includes reform of the internal oversight body, whose functions and organic level must be modified in such a way as to ensure the independence and effectiveness of investigations. It also requires a reassessment of mechanisms for access to information about how the National Police operates, especially those aspects that are not accessible ostensibly for reasons of "national security" (like other branches of the Armed Forces), as a lack of information prevents appropriate evaluation and monitoring by civil society.

The following measures were identified as needing urgent implementation:

1. A ban on the use of TEC Harseim pellets and any other harmful multiple impact ammunition for public order duties. The firing of multiple impact projectiles is notoriously inaccurate, indiscriminate and arbitrary. Impact projectiles that are inaccurate or that create an impact with excessive energy (such as rubberized buckshot) should be banned.⁴⁶²

The effects and the appropriate use of projectiles and kinetic impact weapons should be independently evaluated and monitored before being used in public policing activities.

2. The development of policing protocols that are detailed, precise and fully in accordance with international law. This necessarily entails a precise description of when and how the use of force is necessary. The approval of expert bodies, such as the INDH and the Children's Ombudsperson's Office, should be required for the adoption of these protocols.

3. Review of administrative investigations with the aim of guaranteeing that no individual who has committed human rights violations remains in the National Police.

During the process of reforming the National Police, the Executive and the Legislature should facilitate a broad social dialogue that actively includes the participation of civil society and groups that have historically faced discrimination, such as Indigenous Peoples, people with diverse sexual orientation and gender identity, migrants, refugees, movements for the rights of women and girls and feminists, among others.

3. 3. CONSTITUTIONAL PROCESS TO GUARANTEE HUMAN RIGHTS

The human rights violations detailed in this report took place within the context of mass demonstrations in Chile to demand the guarantee of basic economic and social rights: decent health care, education, pensions, housing and work.

It is therefore essential that the authorities take account of the fact that the protests were sparked by these demands and that, therefore, the solution to the crisis must be accompanied by the justice, reparation and non-repetition measures necessary to guarantee the economic, social and cultural rights demanded.

Among the demands that emerged at the time was the need for a new constitution, as the Constitution currently in force in Chile does not adequately protect human rights, and especially economic and social rights. Therefore, Amnesty International believes that the constituent process agreed in November 2019 is a historic opportunity to address these demands from all sectors of the population and should be prioritized.

The future Constitutional Convention, whether it is 100% elected or mixed (50% elected and 50% composed of parliamentary representatives) must ensure the representation and inclusive participation of social actors and citizens, including municipalities, civil society organizations, regional assemblies and human rights defenders.

Executive and legislative authorities should consider in detail the use of quotas for groups that have historically been marginalized, excluded and discriminated against such as Indigenous Peoples, people with diverse sexual orientation and gender identity, migrants and women's rights movements. Whatever mechanism is decided on, their participation must be guaranteed and their proposals must be taken into consideration.

Members of the constituent process, from the Executive to Congress and the Constitutional Convention itself, must ensure that the new constitution respects, protects and fulfils all human rights, including economic, social, cultural and environmental rights, in a comprehensive and indivisible manner.

This guarantee should be taken into account not only in drafting the list of rights and incorporating international human rights treaties into domestic law, but also with regard to the role of the state as guarantor of these rights and appropriate mechanisms to enforce them.



462 Amnesty International, *The human rights impact of less-lethal weapons and other law enforcement equipment*, see www.amnesty.org/download/Documents/ACT3013052015ENGLISH.PDF

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