

*HOMICIDES, POLICE  
ABUSE AND IMPUNITY*

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*Human Rights  
Report of LGBT  
people in  
Colombia  
2010-2011*

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Bogotá, 2012  
It is an NGO working for the rights of the lesbian, gay, bisexual and transgender people (LGBT) in Colombia.  
**[www.colombiadiversa.org](http://www.colombiadiversa.org)**

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## Presentation

Giving continuity to the work started eight years ago, Colombia Diversa offers an updated landscape around the degree of respect and guarantees of human rights in respect to lesbians, gay men, bisexuals, and transgender people in the country. In its 2010-2011 edition, the report presents the main conclusions of an investigation focused on documenting, describing, and analyzing two of the most common human rights violations that have the greatest impact among the Colombian LGBT population: homicides committed due to hate or prejudice and police abuse.

Regarding the homicide subject, a rigorous qualitative study is presented concerning local judicial practices and prejudices that foment the impunity of these crimes. The chapter dedicated to police abuse constitutes a judicious examination on the design, implementation, and evaluation of some strategies formally undertaken by the National Police to reduce this type of violations of human rights.

Based on the evidence collected over more than a year of work, Colombia Diversa identified the characteristic traits of both victimization processes in the country, their context, and the social dynamics that are usually inserted, as well as the visible obstacles in the effective access to domestic justice. A product of this exercise, the 2010-2011 report collects a series of pointed recommendations to improve the state response before violations of human rights, in particular those that affect lesbian, gay, bisexual, and transgendered people.

## Justice is blind in the face of evidence of crimes because of prejudice against LGBT people

Public officials in Colombia continue to ignore the need to investigate discrimination and prejudice as possible motives of violence against LGBT people, despite the number of cases that continue to occur and whose victims are lesbians, gay men, bisexuals, and transgender people.

This document presents the general landscape around four aspects that give evidence of the vulnerable situation of this population: 1) the absence of information systems that can give account of the violations of their human rights; 2) the threats through pamphlets made between 2010 and 2011; 3) the characterization of LGBT people homicides in the same period, and 4) the actual state of access to justice by LGBT people<sup>1</sup>.

The non-existence of unified data bases (...) affects the consistency of the information collected by the state authorities.

<sup>1</sup> Colombia Diversa has Access to a database that registers the rights violations against LGBT people, for example, violations to the right to life and personal integrity. The information is extracted from four main sources: 1) Radio, printed media, and television; 2) complaints by non-government organizations and activists that defend the rights of LGBT people; 3) individual complaints of which Colombia Diversa has direct knowledge; 4) official information provided by State entities (Attorney General, National Police, public defenders, advocates, National Institute of Coroners and Forensic Sciences, among others); this last source is made up of data that was handed over as the result of Freedom of Information petitions (Derechos de Petición) made by Colombia Diversa. In particular, Colombia Diversa is thankful to the Santamaría Foundation of Cali and Caribe Afirmativo of Cartagena, organizations that annually contribute a large portion of this information through the data collected by their observatories of human rights and the reports for their corresponding regions.

<sup>2</sup> For each annual report, Colombia Diversa confirms with the authorities the number of homicides of LGBT people corresponding to previous years. It is habitual for these sources to report new data. In this way, it has

### 1 . Lack of information systems conceals crimes against LGBT people.

Colombia Diversa has expressed its preoccupation about the lack of unified information systems that make up a complete and up to date register of the violence against LGBT people. There have been some advances in The National Institute of Forensic Medicine information system, an institution that, even though it registers and reports violent acts related to LGBT people, only shows two categories, “man” and “woman”. This not only makes invisible, but also hinders the possibility of making a differential analysis of the victims, in what pertains to their sexual orientation as lesbian, gay, bisexual, or their identity as a transgender person. For example, the Coroner’s office reported the homicide of an unemployed man in Medellín in October 2010. When comparing the information against other sources, it could be established that, in reality, it was a transgendered woman, sex worker, and that at the time the body was removed, he wore a brassiere. If Colombia Diversa had not had access to additional information sources, this case would have remained as the murder of a gay man.

The non-existence of unified data bases not only subtracts visibility from the violations perpetrated against this population, but also affects the consistency of the information collected by the state authorities, generates confusions, and affects the forcefulness of the reports that are distributed, as the information will vary according to the source<sup>2</sup>.

### 2. Threats through pamphlet: LGBT people as a paramilitary objective

Since 2008 there were warnings about the massive circulation of pamphlets in various departments of the country, in which LGBT people received death threats. Often times these pamphlets were anonymous, but in other cases they were signed by paramilitary groups known as “criminal bands”. Through these pamphlets, socially marginalized groups of people were designated as war objectives, among which were LGBT people, so that they would be banished or eliminated from the places where these illegal organizations exert or pretend to exert territorial control.

Table No. 1 Threatening pamphlets against LGBT people by year and by department

DEPARTMENT	PAMPHLETS 2010	PAMPHLETS 2011
Atlántico	2	2
Bolívar	1	0
Cesar	1	0
Córdoba	1	1
Magdalena	2	0
Norte de Santander	1	2
Santander	1	0
Sucre	0	1
TOTAL PAMPHLETS	9	8

Sources: press information, complaints by social organizations, responses of freedom of information requests to local prosecutors and ombudsmen.

When contrasting the pamphlets against the number of homicides by department, it was not possible to establish a direct relationship that would determine the rise in the numbers. However,

been possible to modify and update the numbers for each of the preceding reports: During the investigation for this report, it was verified that the number corresponding to 2006-2007 was 99 LGBT people murdered, while for the period of 2008-2009, the number of victims was 164. In conclusion, the data on homicides of members of the LGBT population do not have definitive records.

the threats within these loose sheets represent a grave and imminent risk that is increasing with the indifference of the authorities. As no effective prevention mechanisms have been developed, the LGBT population is exposed to unjustified situations of helplessness, completely vulnerable to attacks such as those announced.

Since 2008 there were warnings about the massive circulation of pamphlets in various departments of the country, in which LGBT people received death threats.

### 3. 2010-2011 period: the highest amount of homicides of LGBT people since 2006.

At least 280 LGBT people were killed between 2010 and 2011. This is the highest amount of homicides reported by Colombia Diversa since 2006, when it began to publish these reports.

#### 3.1. Homicides by department

The five departments with the highest amount of reported homicides were Antioquia, Valle del Cauca, Bogotá D.C., Risaralda, and Norte de Santander. The high numbers corresponding to the first three places cannot be evaluated in an isolated manner: it must be noted that in Medellín, Cali, and Bogotá exist the largest and most outstanding LGBT organizations in the country, which also determine that in these cities the index of complaints is higher. As a consequence, the availability of information is also higher.

At least 280 LGBT people were killed between 2020 and 2011.

Table No. 2 Homicides of LGBT people by department

DEPARTMENT	2010	2011	HOMICIDES 2010-2011
Antioquia	67	18	85
Arauca	2	0	2
Atlántico	0	6	6
Bogotá	15	10	25
Bolívar	1	4	5
Boyacá	1	1	2
Caldas	5	4	9
Caquetá	0	1	1
Casanare	0	2	2
Cauca	1	1	2
Cesar	3	1	4
Chocó	1	1	2
Córdoba	1	1	2
Cundinamarca	5	0	5
Guajira	0	2	2
Guaviare	1	0	1
Huila	4	0	4
Magdalena	2	6	8
Meta	2	5	7
Nariño	1	2	3
Norte de Santander	8	4	12
Quindío	3	8	11
Risaralda	12	4	16
Santander	4	4	8
Sucre	1	1	2
Tolima	6	3	9
Valle del Cauca	23	22	45
<b>TOTAL HOMICIDES</b>	<b>169</b>	<b>111</b>	<b>280</b>

Sources: press information, complaints by social organizations, responses to freedom of information requests to local ombudsmen and prosecutors, National Police Force and The National Institute of Forensic Medicine.

In Medellín, Cali, and Bogotá exist the largest and most outstanding LGBT organizations in the country, which also determine that in these cities the index of complaints is higher.

### 3.2. Homicides due to prejudice

Colombia Diversa has created categories of analysis for the classification of homicides of LGBT people that allow the identification of those that, according to our parameters, would indicate they were committed due to prejudice. These can be differentiated from those that have evidence of having been perpetrated for different motives and other types of crimes that have no clue whatsoever about their motives (See following table)

Table No. 3 Homicides of LGBT people according to analysis categories

ANALYSIS CATEGORIES	YEAR 2010	YEAR 2011	TOTAL HOMICIDES
Homicides with no motive established	122	93	215
Homicides due to prejudices	44	14	58
Homicides whose motive is not prejudice	3	4	7
<b>TOTAL HOMICIDES</b>	<b>169</b>	<b>111</b>	<b>280</b>

Sources: press information, complaints by social organizations, responses to freedom of information requests to local ombudsmen and prosecutors, National Police Force and The National Institute of Forensic Medicine.

Table No. 4 Homicides due to prejudice according to sexual orientation or gender identity

ANALYSIS CATEGORIES	YEAR 2010	YEAR 2011	TOTAL HOMICIDES DUE TO PREJUDICE
Lesbian	5	1	6
Gay	16	7	23
Bisexual	0	0	0
Transgender	11	3	14
No determination of sexual orientation or gender identity	12	3	15
<b>TOTAL</b>	<b>44</b>	<b>14</b>	<b>58</b>

Sources: press information, complaints by social organization, responses to freedom of information requests to local ombudsmen and prosecutors, National Police Force and The National Institute of Forensic Medicine.

### 3.3. Crimes against the defenders of LGBT human rights

Between 2010 and 2011 there were homicides of, at least, four defenders of LGBT human rights. It is interesting that most of these occurred in the municipalities and not in the capital cities, as was the case in previous years.

### 4. Access to justice: prejudice against sexual orientation or gender identity is not a motive for homicide

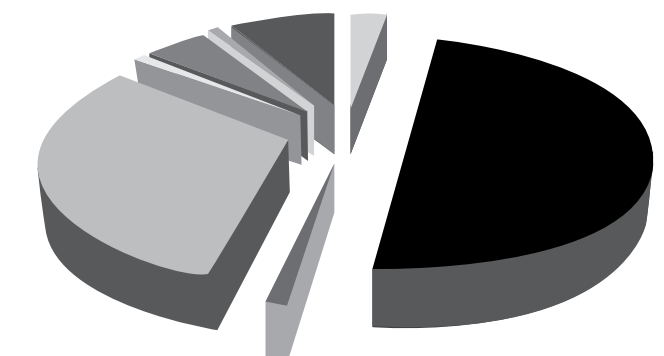
Colombia Diversa asked about the state of criminal processes related to homicides of lesbian, gay, bisexual, and transgender people with the purpose of determining the progress made during these investigations. In this sense, and to identify the possibility of access to justice of this population, the organization also analyzed some judicial decisions.

### 4.1. General landscape: most homicides of LGBT people are cases that have been filed away

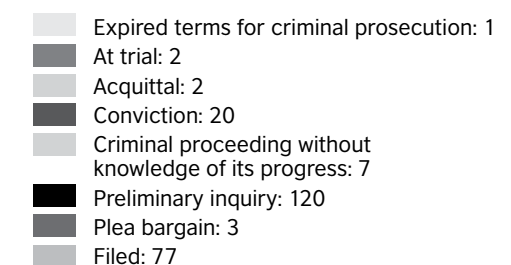
During the years of 2006-2011, Colombia Diversa registered 542 homicides of LGBT people. However, in what pertains 300 of these cases, there is no knowledge of the existence of closed or in progress criminal inquiries, mainly because the majority of these crimes were committed against unidentified people. The actual state of the remaining 242 is illustrated in the following graph.

During the years of 2006-2011, Colombia Diversa registered 542 homicides of LGBT people.

Graph No. 1 State of criminal processes (2006-2011)



Source: answer to freedom of information requests by local prosecutors.



In what concerns cases in which it could be ascertained that there exists a criminal proceeding, about half is in preliminary stage, that is, the authors of the crimes have not been identified or individualized. Of the processes in this stage, 90% occurred between 2008 and 2011.

Of the total criminal proceedings, 32% is filed due to the impossibility of establishing the identity of those that committed the homicides. The percentage of the criminal proceedings in this condition increases as time goes by: more than half of the crimes perpetrated between 2005 and 2007 are already filed.

Few criminal prosecutions achieve a definitive decision (plea bargain, acquittal, or conviction); however, even if this point is reached, it does not determine if justice is done. There is a particularity of the impunity that characterizes the cases of homicides of LGBT people: many of the criminal proceedings are conducted in a biased manner and in the course of these the motive of the crime is not established or not taken in to account. This characteristic prevents the identification of whether the homicide was due to the sexual orientation or the sexual identity of the victim, which implies that the cases remain unpunished even when there is a definitive decision as in the case of a guilty judgment.

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#### 4.2. State of judicial decisions: Convictions, acquittals, and plea bargains

The continuous invisibilization and the lack of inquiries about the motives of LGBT people homicides favor impunity and contribute to the generation of a discriminatory context that increase the vulnerability and risk of which this population is subject.

Many of the criminal proceedings are conducted in a biased manner.

##### a) Errors in procedure favor impunity

The attitude with which criminal inquiries of LGBT people homicides is approached is evidence of the prejudice since the opening of the criminal proceeding: Many cases of LGBT people homicides are qualified a priori as “crimes of passion”, and in this way the possible relationship between sexual orientation or gender identity of the victim and the crime is discarded.

These prejudices are proven through the identification of three factors present in the way that the inquiry is approached: a) the characterization that

the coroners/prosecutors make of the crimes as “crimes of passion”<sup>3</sup>; b) the errors in the collection and preservation of evidence<sup>4</sup>; and c) the prejudiced manifestations of the processing parts<sup>5</sup>.

Many cases of LGBT people homicides are qualified a priori as “crimes of passion”.

##### b) Aggravating factors become attenuating factors

The aggravating factor provided by Article 58 of the Criminal Code<sup>6</sup> is not applied: even when evidence that would be conducive to the aggravation of the punishment is found, it is usual for the judges to attenuate it. The criminal

investigator usually discard, from the beginning, the hypothesis of a cause and effect relationship between the sexual orientation or gender identity of the victim and the crime; it is habitual, when it is known that the victim was a LGBT people, that the inquiry is focused in collecting evidence that supports the hypothesis of a “crime of passion”.

##### c) The plea bargain favors the invisibility of prejudice crimes

In Colombia, crimes because of prejudice are not typified as an autonomous crime. However, as it was mentioned, the Criminal Code stipulates a cause for aggravation that foresees a harsher penalty when it is established that the motive was discrimination. Additionally, the legislation includes the possibility of a plea bargain or negotiation that

<sup>3</sup> One of the files analyzed by Colombia Diversa refers the following affirmation made by a CTI (Investigative Technical Corps): Personally I told my work team: this is about a crime of passion and it is about a person that was known by the victim, known, that had access to the house without the need to damage anything, that is a hypothetical theory that came up of the work team based on the violence of the body and the scene (...) personally he asked me my criteria of my experience with crimes of passion, the crimes where feelings and homosexual activity are related, and are characterized one, by the sharp object wounds, two, by the non-violent access to the unit, three, by the wounds on the upper part of the neck and face, my experience humbly in the modus operandi of crimes of passion gives me these theoretical bases, (...) I want it to be clear, the crime of passion is characterized by these variables that I just mentioned”. According to the criteria of the CTI investigator, the homicide of an LGBT person is, by definition, a “crime of passion”. Based on what was described, the case that was referred to by the cited officer was qualified in the inspection act as a crime of passion.

<sup>4</sup> To illustrate this statement, we cite the failures of one of the studied files: 1) There was no investigation regarding the existence of a link between the homicide and the work that the victim did at a public office, nor was it investigated whether the theft of her computer had any relation to the crime; 2) There was no evidence collected that could be relevant to the identification of the possible author of the punishable conduct, for example: fingerprints and/or DNA in the kitchen (glasses, silverware, and pots); samples of DNA from different areas of the apartment (television, sound system, bed); or samples of what could be thought to be blood in the bathroom; 3) Even if some samples were taken for the blood analysis, the containers broke during the trip and the samples contaminated each other; 4) Even if one of the syndicated had a wound caused by a sharp weapon on one of his arms, it was never evaluated whether it coincided with the wounds on the victim, that is, whether they were caused by the same weapon.

<sup>5</sup> The following considerations were found in the same case, made by the representative of the Public Ministry in the criminal proceeding: “What was important and should have been taken into the chain of custody and discovered here in this trial was, with the permission of a judge in order to avoid any violation of the individual rights, was to observe the intimate parts of the victim. That is important because if we are in presence of a crime of passion of whom here has been mentioned that the victim (...) was a promiscuous man, who would have sex with whomever he found on the street that he liked, one would have to ask: Who was (...) in the store? Who was (...) who worked at the Sándwich Cubano? Who was (...) the waiter? So many men who maybe came through his life, which would have meant bringing them here and debating them during this trial to identify precisely as a crime of passion, who would have been able to cause this horrific death that we have referred to.”

<sup>6</sup> Article 58. They are circumstances of greater punishment, in that they have been foreseen in another manner: (...) 3. That the execution of the punishable conduct is inspired in the motive of intolerance and discrimination in reference to race, ethnicity, ideology, religion or beliefs, sex or sexual orientation, or any disease or handicap of the victim

implies a reduction in penalty if the accused accepts the charges. This speaks of two directives that, in many occasions, discourage the punishment of crimes against LGBT people: because of the little importance given by the administration of justice to the identification of crimes due to prejudice, the plea bargain becomes another tool that contributes to impunity; in fact, the negotiation can be made on the circumstance of punitive aggravation, effectively making discrimination invisible as a motive of homicides.

Even if the negotiations and agreements with the implicated are part of due process of law, it is necessary that the criminal proceeding establish whether the motive has a relationship to the sexual orientation or gender identity of the victims, beyond whether or not harsher penalties are applied.

## Police abuse against LGBT people

Police abuse of lesbian, gay, bisexual and transpeople refers to both the action, and the negligence constitutive of human rights violations committed by officers of the National Police force while carrying out their duties. This includes physical and verbal abuse, harassment, arbitrary arrests, both selective and discriminatory application of the law, cruel, inhuman and degrading treatment, unsatisfactory detention conditions, discriminatory acts and abuse of duties in general by members of this institution of the state.

Between 2010 and 2011, Colombia Diversa noted at least 63 cases of police abuse against the LGBT population.

Since 2004, Colombia Diversa has documented<sup>7</sup> human rights violations relating to police abuse that have been committed on national soil. Between 2010 and 2011, Colombia Diversa noted at least 63 cases of police abuse against the LGBT population; of these, 23 occurred in 2010, and 40 in 2011. During this period, the cities with the most reported cases of police abuse were Cartagena, Barranquilla, Cali, Medellín and Bogotá.

<sup>7</sup> This study is made up of both official and unofficial data. The official data has come from public authorities involved in police abuse, be either in its commission, its prevention, its disciplinary control or in its legal investigation. Reports from local entities such as mayors and municipal governments were consulted. As for the unofficial data, this has come directly from victims, activists and human rights defenders, or has been extracted from public reports carried out by legal or disciplinary authorities; press, radio and television articles, as well as reports and data from LGBT organizations in the country, and in particular, Caribe Afirmativo (Cartagena) and Santamaría Fundación (Cali).

Table No. 1 Cities where police abuse has occurred (2010-2011)

CITY	NUMBER OF CASES
Cartagena	13
Barranquilla	11
Cali	9
Medellín	8
Bogotá	5
Armenia	4
Santa Marta	2
Pasto	2
Bucaramanga	2
Cartago	1
Corozal	1
Cúcuta	1
Honda	1
Manizales	1
Neiva	1
Riohacha	1
Total	63

Sources: reports from social organizations (29), the National Police (20), local prosecutors and ombudsmen (9), testimony directly from victims (2), the LGBT Community Center of Bogotá (2), other media (1).

## Characterization of police abuse against LGBT persons between 2010 and 2011

Physical or verbal abuse make up 50 of the 63 reported cases regarding police abuse, the majority of which was committed against transgender women and gay men. In general, this

kind of misconduct happens in or near to areas of night entertainment, such as bars and nightclubs, as well as places of prostitution, although some incidents have also been recorded in residential areas. Furthermore, these situations occur in the evening or nighttime hours, and are often accompanied by false accusations against LGBT people, usually concerning the commission of illegal activity or drug use.

“Told me that we had no right to call, because we are fags who are not real men, because we dress like women and that they hope somebody kills us.”

Another type of police abuse that has been verified is abuse by either one or multiple police officers against those who try to report acts which have violated their rights. For example, a transwoman who was the victim of an attack in the city of Cúcuta (North of Santander) called the National Police telephone line to inform them of what had happened to her, and the officer that answered her insulted her, and did not file the report. Another transwoman reported similar treatment on the same helpline: “An assistant answered me and told me that we had no right to call, because we are fags who are not real men, because we dress like women and that they hope somebody kills us.”<sup>8</sup> In Riohacha (Guajira) a group of transgender women were attacked in the street, and when they tried to report the incident to the police, the officer on duty not only attacked them verbally but also threatened to arrest them.

<sup>8</sup> Transcription of the complaint made by a transvestite who was never answered by the National Police, despite being in a dangerous situation on the street. The regional ombudsman in the north of Santander has since answered, after a petition from Colombia Diversa, 23 April 2012.

<sup>9</sup> Constitutional Court, Sentence T-909 in 2011, magistrate Juan Carlos Henao.

## The National Police discriminate against same-sex couples, and do not allow them to exercise their rights in the streets.

Police abuse is also evident in the arbitrary restrictions of liberty imposed upon LGBT people who frequent public spaces with their partner. Such abuse clearly inflicts upon the international law of human rights, and the precedent of the Constitutional Court of Colombia.<sup>9</sup> Cases recorded in the years 2010 and 2011 in Cartagena and Barranquilla show that the National Police discriminate against same-sex couples, and do not allow them to exercise their rights in public spaces.

Finally, the National Police has shown negligence in their duty to protect the LGBT population at risk from harassment or threats from individuals or armed groups outside the law. In Cali and Cúcuta, cases of police negligence are reported to have led to violent attacks by unidentified “social cleansing” groups against transgender people working in prostitution.

## Gaps between the issue of police abuse and the institutional offer available

In Colombia, physical and verbal abuse are generally prohibited in the Police Disciplinary Code and is classed as a serious misdemeanour (Law 1015 of 2006, Article 35). A violation of this kind results in suspension without pay for between 1 month and 179 days (Article

39). Additionally, depending on the severity of the offence, such attacks may also constitute an offence punishable under the Penal Code (Law 599 of 2000). Such offences can range from personal injury, cruel, inhuman and degrading treatment, to torture and attempted murder.

The National Police issued Temporary Police Directive 058 in 2009, and Police Directive 006 in 2010<sup>10</sup>, with the aim of adopting measures to deal with police abuse. The latter establishes measures for the “security and respect for the rights of the LGBT community” and intends “to convey to the LGBT community the importance of working with the National Police in the search for dialogue, in order to mitigate the levels of inequality.” Additionally, the Directorate General of Police, via the Human Rights Group, published the booklet: Police management based on humanism: dialogue with the community of sexual diversity, which outlines a policy of care and proposes to design mechanisms to allow interaction with vulnerable communities.

In spite of the existence of a national legal framework to punish these kind of human rights violations, from a total of 63 reported cases of police abuse between 2010 and 2011, only 20 resulted in disciplinary investigations in internal control offices of the National Police. 8 of these operations were shelved<sup>11</sup>, 4 led to sanctions for police officers, and as for the 8 other cases, it was not possible to obtain information about the status or progress of the investigation.

<sup>10</sup> The Inter-American Commission of Human Rights values these policies because they can represent a step towards better protection and recognition of the rights of LGBT people, as well as the defenders of the rights of this community. However, this international organization has received information about the lack of effective implementation of these directives. See: Inter-American Commission on Human Rights (2012), Second Report on the Situation of Defenders of Human Rights in the Americas, OEA / Ser.L / V / II.Doc. 66, December 31, 2011, p. 154.

<sup>11</sup> In three of these cases there is no information as to why the cases were shelved. In the others, the National Police reported the following reasons: in two cases there was no violation of the law; and in the other two, these respective reasons: “friendship between the prosecutor and the defendant” and the “discontinuance of the case with the determination that the act did not occur”; and “the lack of available facts or inability to identify the subjects.”

## Only about 30% of reported police abuse has resulted in the opening of disciplinary investigations.

It is concerning that for the 43 remaining reported cases of police abuse in this period, it is not possible to determine if a disciplinary inquiry or any other similar investigation was opened. This means that only about 30% of reported police abuse has resulted in the opening of disciplinary investigations.

These figures show a clear gap between the problem and the institutional response to the problem, namely in terms of the prevention, care and protection of the LGBT population against violations and abuse incurred by members of the National Police towards it.

Colombia Diversa identified some obstacles that hinder the effective prevention of police abuse and have structured an analysis in line with the basic stages in the cycle of public policy:

With regards to the development or design of the policies, Colombia Diversa found that prevention methods, such as the aforementioned Police Directive 006 of 2010, have no conceptual, strategic or operational basis in eradicating police abuse against the LGBT population.

Such methods do not recognize the existence of the problem, nor take into account the scale of the problem with

which it is faced. Furthermore, they do not stem from a clear identification of the problem. Neither do they respect the main constitutional laws relevant in the creation of strategies to care for the LGBT population who are victims of police abuse, such as the right to participation, for example, or access to information and access to justice. In addition, they often equate LGBT people with political and cultural collectives or communities, which answer to an internal framework and so respond in a uniform manner.

**Prevention methods (...) include religious elements, which is contrary to the secular and pluralistic nature of the Colombian State.**

Many members of the National Police are as unaware of the rights of the LGBT population as they are the legal consequences of power abuse and human rights violations. Similarly, other methods such as the booklet on “Police management based on humanism: dialogue with the community of sexual diversity”, not only lack legally binding force (having not been taken from any law or decree) but furthermore include religious elements, which is contrary to the secular and pluralistic nature of the Colombian State, as established in the Political Constitution of 1991. Police Directive 006 of 2010 contains no plan or method to control the prevention of police abuse, nor does it include strategies to determine its impact. Furthermore, it facilitates a wide discrepancy margin and creates confusion when trying to define concrete means to combat police abuse.

Moreover, none of these prevention methods include information on the system in place in the National Police to allow one to make a firm and true report about cases of police abuse, such as those reported by the LGBT population.

In terms of implementation, the national methods in place have multiple shortcomings. One such example includes the putting in place of training sessions, aimed at members of the police. In the majority of cases, these sessions are limited to studying human rights in general terms, without addressing the subject of police abuse, and in this case, abuse against the LGBT population. There are also no unified criteria for the number of training sessions that should be held each year, the minimum number of people to train, or of the goal that the sessions hope to achieve.

Another characteristic outcome of this process is the tendency for these training sessions to be considered as a means of punishment for police abuse, which undermines the importance of punishing human rights violations.

**Another characteristic outcome of this process is the tendency for these training sessions to be considered as a means of punishment for police abuse.**

Even though prevention strategies establish the designation of “liaison officers” within the National Police, the duties of these officers are not clear in regards to specific cases of police abuse, i.e. their powers are unclear in terms of whether they may file criminal charges or disciplinary complaints. Neither is there any indication as to the technical expertise of the officer, and so in departments where such officers have been appointed, patrol officers (low rank) or captains (mid-rank)<sup>12</sup> usually carry out these duties. This allows for noncompliance and lack of supervision for the methods that have been laid out and adopted for combating police abuse. Similarly, these officers are unsuitable for this role, given that is low and mid-rank

officers that are the main perpetrators of police abuse.

**Another officer of the same institution will investigate a police officer that has violated the rights of the LGBT population.**

Neither does the Police Directive 006 of 2010 make clear the specific route of care when faced with a report of police abuse, i.e. it does not indicate how to carry out disciplinary complaints, how to ensure access to penal justice and how to ensure the right to healthcare, should the victim require medical assistance.

**Reports of this type are closed in the investigatory stages, or end with a simple verbal reprimand.**

In turn, the disciplinary process set up by the National Police violates the principle of fair trial, as another officer of the same institution will investigate a police officer that has violated the rights of the LGBT population. In this way, the National Police becomes both judge and jury, and they consequently impose sanctions that are not proportional to what they should be. For example, the Police Command in charge of the Risaralda, Caldas, and Quindío departments, and the metropolitan area of Pereira, reported that police abuse is punishable by the following measures: “Verbal reprimands, tasks of the pedagogical type, attendance at ethical training courses, written work as deterrents to behavior that transcends or affects the public, without the need

<sup>12</sup> It should be remembered that within the National Police, the rank of officer is proportional to academic background, career path, recognition of work done, badges and respect among its members.

for invoking a disciplinary precedent.” This is thus evidence that reports of this type are closed in the investigatory stages, or end with a simple verbal reprimand. Such practices lead to a lack of credibility in the institution for the victims, and their subsequent disinterest in reporting abuse again in the future.

Finally, in terms of monitoring and evaluation, the methods for preventing police abuse neglect the implementation of plans or technical methods for evaluating results, and contain nothing to indicate that the impact of state action is being evaluated or measured. For example, Directive 006 of 2010 does not provide any effective, unified and periodic evaluation for the activities or performance of those involved in the implementation of the preventative measures. Neither is there an incentive or sanction system in place to assess police commandos who are committed to ensuring the rights of the country’s LGBT population.

## **In conclusion**

The National Police continues to violate the rights of LGBT people in Colombia. This institution is responsible for numerous cases of physical and verbal abuse occurring during the years 2010 and 2011, which remain without proper judicial investigation, or lack a punishment that is proportional to the seriousness of the acts. As such, the Colombian government ignores its general duties of rights and respect that it acquired in the field of international human rights.

In particular, the National Police is compromising the responsibility of the State to the American Convention on Human Rights, in which Article 1.1, paragraph one states the duty “to respect the rights and freedoms recognized herein and to ensure to all people subject to their jurisdiction the free and full exercise of those rights and freedoms, without any



discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition”.

Similarly, the inefficient way in which the Colombian state has developed and implemented programs aimed at preventing police abuse ignores the “duty to adopt provisions of domestic law” as laid out in article 2 of the same convention, according to which it is up to the States “to adopt, in accordance with their constitutional processes and the provisions of this Convention, such legislative or other measures as may be necessary to give effect to those rights or freedoms,” within its jurisdiction.