DISCRIMINATION,
a Never-ending Battle

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Report on the Human Rights of Lesbian, Gay, Bisexual and Transgender Persons

Colombia 2017

Colombia Diversa Caribe Afirmativo

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Homicides Motivated by Prejudice Against Gay Men

In 2017, 45 gay men were murdered. At least 20 of these crimes were reported to have been motivated by prejudice towards the sexual orientation of the victim. These crimes occurred in: Antioquia, Atlántico, Bogotá, Bolívar, La Guajira, Nariño, Norte de Santander, Santander, Tolima and Valle del Cauca. More than half (11 cases) took place in the victim's home, another four took place in vacant lots or isolated areas, three in public spaces and one in a hotel room.

22 *Dirección Nacional de Seccionales y Seguridad Ciudadana. Response to the right of petition sent by Colombia Diversa in January 2018.*

23 *Diario del Huila. "Asesinado miembro de la comunidad LGBTI en Garzón," digital edition of February 9, 2017.*

Year after year, gay men are murdered in their homes. As indicated in previous reports, beyond the objective of theft, which does not always happen, this type of crime seeks to send a message of rejection towards the sexual orientation of the victims due to the excessive violence to which the victims are subjected and, in some cases, by the positions in which the bodies are left or written messages left next to the victims' bodies. The following case is an example of this:

Gay man tortured and murdered in his home

Barranquilla, Atlántico

At the end of February, a 36-year-old gay man was murdered in his home with a knife. The victim was a tailor and was celebrating Saturday night at the carnival. On Sunday morning, when he returned home, he met some neighbours, whom he proposed to accompany him to his home to give them clothes and to have sex. One of them accepted the offer, but another one got upset because he did not want the victim to "include him in his weird stories."[24] However, a few hours later he went to the victim's home, where he found him with his friend. The man was visibly upset, but he told his friend that the problem was not with him but with the tailor. After his friend left, the man continued to argue with the victim and began to beat him, tied him up, gagged him and finally killed him. Relatives of the victim went to look for him the following Wednesday, since they had had no news of him. They found him in an advanced state of decomposition. The perpetrator was captured in May of that same year and confessed to the crime. Despite the brutality of the attack, the evident prejudiced motive and the defenselessness in which the attacker placed the victim, the perpetrator was not convicted of aggravated homicide but of simple homicide.[25]

The other 10 homicides motivated by prejudice against gay men occurring in their homes were in: Antioquia, Valle del Cauca, Tolima, Bogotá and Norte de Santander. In all cases, the excessive violence against the victim is an indicator of prejudice as a motive for these crimes.

In Bello, for example, a gay man was tortured, stabbed in the chest and then thrown out of his apartment window.[26] In Cúcuta, a gay man of Venezuelan nationality was murdered by two men, who tied his hands and feet with a cable, gagged him and strangled him.[27] It was determined that, in only

24 *Al Día. "El crudo relato del asesinato de Jhonny Enrique en manos de alias 'Chucky,'" digital edition of May 7, 2017.*

25 *Sectional Direction of Prosecutor's Offices of Atlántico. Response to the right of petition sent by Caribe Affirmativo in January 2018.*

26 *Instituto Nacional de Medicina Legal y Ciencias Forenses. Response to the right of petition sent by Colombia Diversa in January 2018.*

27 *La Opinión. "Un venezolano de la comunidad LGBTI fue asfixiado, amarrado y amordazado," digital edition of December 8, 2017.*

four of these cases, the perpetrators also have stolen money or valuable items from the victims' homes.

In half of the cases, the authorities have identified or captured those presumed responsible. Some were people who the victim met that same day or who contacted the victim through social networks, while in four cases those responsible had a relationship with the victim. However, this does not mean that the crimes were not related to prejudice, since they were murdered with extreme violence. In Medellín, for example, a gay man was hacked to death in several parts of the body by a man with whom he had been living for two months.[28] In Bogotá, a gay man was stabbed in the chest 15 times by a man with whom he had lived for two years.[29] Additionally, in three of these cases, the victim had been threatened or assaulted on previous occasions by their partner. Therefore, these crimes should also be treated as acts of gender-based violence between same-sex couples.

In addition to the homicides of gay men in their homes, in 2017, five were motivated by prejudice that took place in forested or rural areas. In these cases:

Gay man killed on the banks of the Pamplonita River

Cúcuta, Norte de Santander

At the beginning of September, a 51-year-old gay man was murdered with a knife on the banks of the Pamplonita River. The victim went jogging on the morning of September 4 along Avenida del Río and then disappeared. His body was found on September 9 in a state of decomposition, in an isolated area on a riverbank. He was bound hand and foot, was stabbed and strangled.[30]

Four similar homicides occurred in Antioquia, Nariño and Santander. In all cases, excessive violence against the victims is evident. In Tumaco, a gay man was tortured and impaled before being murdered in a rural area of the municipality.[31] In Jardín, Antioquia, a gay man was stabbed 48 times on the banks of La Salada River.[32] In Medellín, a gay man was murdered with a knife on the edge of a ravine and was found half-naked and with several stab wounds in his back, chest and neck.[33] And in the rural area of Girón, a

28 *Noticias Caracol. "La razón por la que un joven asesinó a su pareja en Medellín y vivió con su cadáver tres días," digital edition of June 6, 2017.*

29 *Q'Hubo. "Las cartas no predijeron su final," print edition of July 18, 2017.*

30 *Dirección Nacional de Seccionales y Seguridad Ciudadana. Response to the right of petition sent by Colombia Diversa in January 2018.*

31 *Caribe Afirmativo. "Asesinan a líder gay en Tumaco, Nariño," press release of May 26, 2017.*

32 *Sectional Direction of Prosecutor's Offices of Antioquia. Response to the right of petition sent by Colombia Diversa in January 2018.*

33 *Minuto 30. "Con múltiples heridas de arma blanca hallaron cadáver en la quebrada La Hueso en la Comuna 13," digital edition of July 19, 2017.*

gay man of Venezuelan nationality was found with a blindfold, several stab wounds to his chest and blunt force trauma to the head.[34] In none of these cases is there information on thefts as possible explanations for the crimes. It is therefore considered that the only motive was to punish the victims because of their sexual orientation and send a message of rejection that could be seen by other people, including family and friends. To date, none of these perpetrators have been identified or sanctioned.

Homicides of LGBT Human Rights Defenders

In 2017, six LGBT human rights defenders were murdered; that is, only one less than in 2016. These events occurred in Norte de Santander, Tolima, Nariño, Risaralda and Valle del Cauca, therefore, it is considered that LGBT human rights defenders continue to face serious risks against their lives, their integrity and their work in several areas of the country. The following is an example of this situation:

Gay man, human rights defender, killed

Tumaco, Nariño

At the end of May, a gay human rights defender was murdered in Tumaco. The victim was a member of the Fundación Afrocolombiana Arco Iris and had been forcibly displaced by armed groups in previous years. The victim was leaving his home in the early hours of the morning when hit men on a motorcycle shot him.[35] Witnesses said that, after shooting him, the attackers celebrated by shouting "we killed the sissy!" and fled the scene.[36] In July of the same year two people were arrested for this crime. One of them apparently belonged to a criminal group called "Gente del Orden."[37]

34 *Vanguardia. "Hallan cadáver con aparentes signos de violencia en Girón," digital edition of October 2, 2017.*

35 *Diario del Cauca. "A bala asesinaron a líder de la comunidad LGBTI saliendo de su vivienda en Tumaco," digital edition of May 29, 2017.*

36 *Caribe Afirmativo. Interview with members of the Fundación Arco Iris of Tumaco, June 13, 2017.*

37 *HSB Noticias. "Capturaron al asesino de un líder LGBTI en Tumaco," digital edition of July 28, 2017.*

The other murders of LGBT human rights defenders occurred in Norte de Santander, Tolima and Valle del Cauca. One of the victims was a community leader, while the other victims were leaders of the LGBT population. Only in two cases were the alleged perpetrators identified: a criminal gang that murdered the gay leader of Tumaco and a professional soldier who murdered the transgender leader of Chaparral. As for the other cases, the sources do not report information on those responsible. Furthermore, only in the case of Chaparral, the Prosecutor's Office considers that it was a femicide motivated by the gender identity of the victim. In other cases, it has not been clarified whether the crime was related to the victim’s bias towards sexual orientation or gender identity, or to their work.

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POLICE VIOLENCE AGAINST LGBT PEOPLE IN 2017

One Wednesday night—in late February—Édgar and his boyfriend Edwin were in a bar in Chapinero. When they left the bar, they had an argument. Some police assigned to the Comando de Acción Inmediata (CAI) [Immediate Action Commands] of Chapinero in the Parque de los Hippies arrived on site and asked for their documents. Although the two men told them they were a couple, the police accused Édgar of trying to rob Edwin, so they detained him and took him to the CAI. When they arrived, they beat him, spit on him and accused him of being a thief. Then they forced him to undress and squat for a cavity search, and they put their fingers in his anus. Édgar complained about the pain, but the agents told him not to complain because "that's what he liked." After that, they took him to the Unidad Permanente de Justicia (UPJ) [Permanent Unit of Justice]. When he left, they did not return his cell phone or the cash he was carrying.[66] Four months later, the Police Station of Chapinero, to which the CAI of the Parque de los Hippies is attached, was certified as an inclusive institution and free of discrimination with the stamp "Friendly Biz."[67]

66 El Tiempo. "Pareja gay denunció abuso de autoridad en el CAI Los Hippies," digital edition of March 27, 2017

67 Local Town Hall of Chapinero. "La Estación II de Policía de Chapinero es certificada como una institución incluyente y libre de discriminación," press release of June 2017.

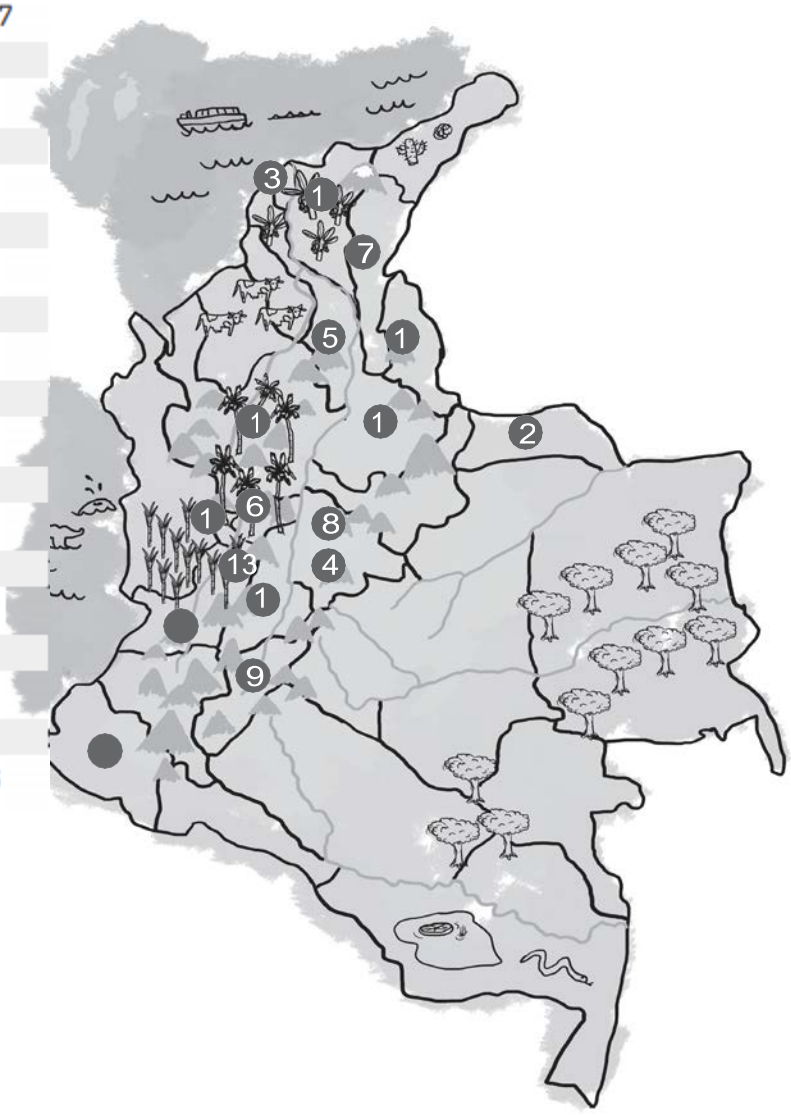
On July 30 of that same year, the new Police Code came into force, which includes sanctions for acts of discrimination against LGBT persons. However, this has not prevented the members of the police from continuing to violate the rights of LGBT people. Despite the efforts of civil society and institutions such as the Police and the Ombudsman's Office, police violence against LGBT people continues. Moreover, it is repeated year after year in an almost predictable manner: violence against transgender women in sex work areas, harassment against same-sex couples and groups of LGBT people, and profiling and criminalization of the most vulnerable LGBT people. The main risk factors also show no change and continue to promote police violence: exclusionary views of public space, criminalization of the poorest people, impunity actively promoted by the police and the passivity of other institutions. To which we must add a new factor: the fundamentalist movements that claim the public space to promote their discriminatory discourses. In light of these elements, the police violence against LGBT people recorded in 2017 will be analyzed.

Police Violence Persists

In 2017, 66 acts of police violence against LGBT persons were registered in 17 departments of the country. This means that there was a slight decrease compared to the 77 cases recorded in 2016. The highest number of events occurred in Antioquia and Bogotá, followed by Valle del Cauca, Quindío and Huila. In Antioquia they increased considerably, while they decreased in Valle del Cauca.

POLICE VIOLENCE AGAINST LGBT PEOPLE BY DEPARTMENT

		2016	2017
1	Antioquia	9	17
2	Arauca	1	1
3	Atlántico	1	4
4	Bogotá	23	11
5	Bolívar	1	-
6	Caldas	4	3
7	Cesar	2	-
8	Cundinamarca	-	2
9	Huila	3	5
10	Magdalena	2	2
11	Nariño	3	1
12	Norte de Santander	2	2
13	Quindío	2	5
14	Risaralda	3	-
15	Santander	1	4
16	Tolima	3	3
17	Valle del Cauca	17	6
	Total	77	66



Source: Colombia Diversa, Caribe Afirmativo and Santamaría Fundación. Information system for violence against LGBT people in Colombia, May 2018.

The 66 acts of police violence recorded in 2017 affected at least 75 LGBT people. Most of the victims were transgender, lesbian and bisexual women.

SEXUAL ORIENTATION OR GENDER IDENTITY OF VICTIMS OF POLICE VIOLENCE

Source: Colombia Diversa, Caribe Afirmativo and Santamaría Fundación. Information system for violence against LGBT people in Colombia, May 2018.

It is worrying that LGBT people who were victims of police violence in 2017 were mostly young. Of the 41 victims of whom age information is available, the average age is 24.

The majority of the victims had low levels of education and low-paid occupations or worked in the informal economy. Of the 75 LGBT people who were victims of police violence in 2017, information was obtained on the highest

level of education attained by 38 of them. The majority of the victims had little academic training: primary school (16), high school (16) and preschool (1). Four of the victims received technical training and one had professional training. Of the others, no information on education was obtained. As for occupation, 17 of the victims were engaged in sex work, nine were students, four were domestic cleaning staff or housewives, four were service or commercial activity workers, two were engaged in the informal economy, one was a teacher and one was dedicated to various trades. For the others, there are no records of occupation or economic activity.

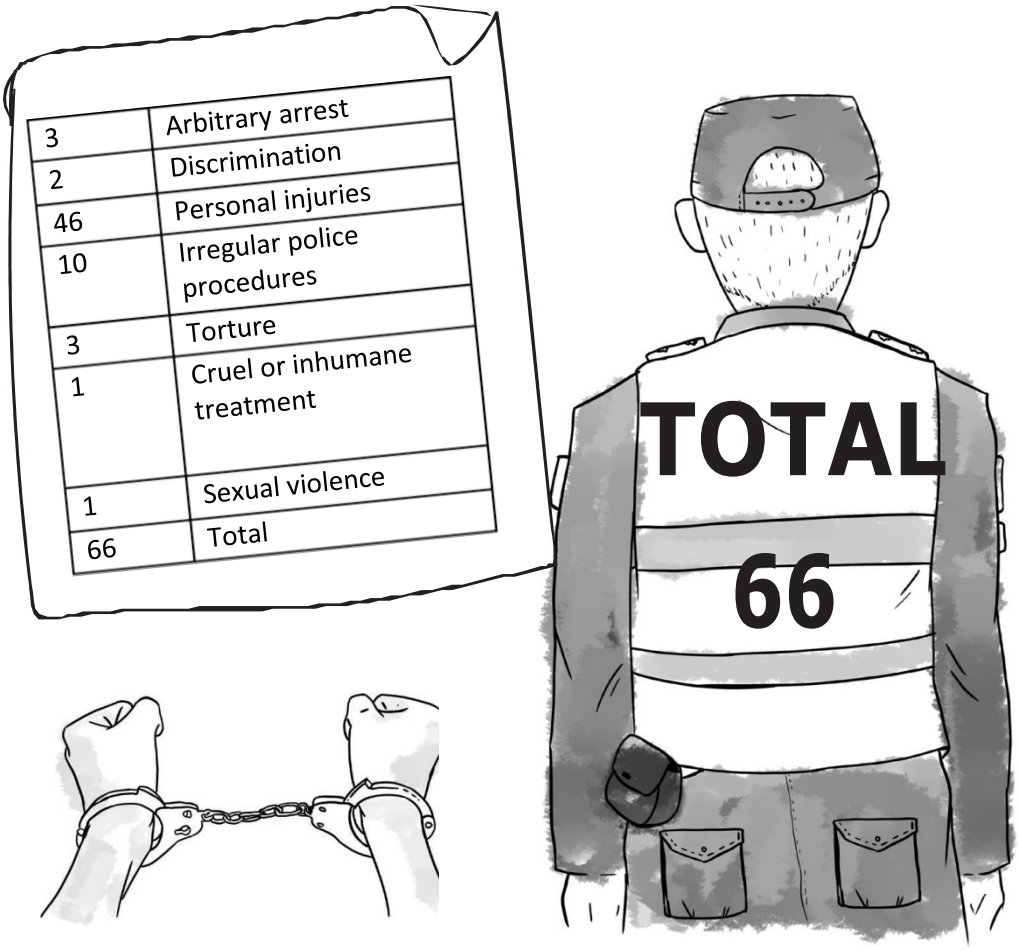
Most of the acts of police violence occurred in public spaces: 30 on public roads and six in sex work areas. Another eight occurred in police stations, two in commercial establishments, one in a hotel, one in the workplace of the victim and one more in the victim's home. Of 17 cases, there is no information about the place where the events occurred.

In 26 of the recorded events, the victims were detained; that is, more than a third of the victims were in the custody of police officers when they were assaulted by them. At least six of these cases involved arbitrary arrests, some because the victims were unjustifiably detained or because of prejudice towards their sexual orientation or gender identity, others because the victims were subjected to sexual violence, torture and other ill-treatment when they were in police custody. The other cases were reported by Medicina Legal, but this institution did not provide detailed information on the facts and circumstances of each case. Therefore, it is considered that the number of arbitrary arrests of LGBT persons may have been higher.

In this sense, of the 66 acts of police violence, it is considered that at least 17 were motivated by the prejudice of the police officers towards the sexual orientation or the gender identity of the victims. Therefore, in 25.7% of cases, the victims were assaulted, detained or discriminated against by members of the National Police for the simple fact of being lesbian, gay, bisexual or transgender. In these cases, the police are justifying [their actions] by pointing out that they used force or that they detained the victims because they were committing illicit activities; however, the excessive violence against them, the threats and insults due to their sexual orientation or gender identity, or the recurrence of police harassment in the same place or in the same period of time, were indications that prejudice was decisive.

Given that many of the sources did not provide detailed information on the cases and circumstances that arose, it is once again considered that the number of acts of police violence motivated by prejudice were much greater.

POLICE VIOLENCE ACCORDING TO MAIN VIOLATION



Source: Colombia Diversa, Caribe Afirmativo and Santamaría Fundación. Information system for violence against LGBT people in Colombia, May 2018.

Most of the acts of police violence recorded in 2017 correspond to violations to the lives and physical integrity of the victims, such as personal injuries, torture, sexual violence and cruel and inhuman treatment. Other cases correspond to violations of the right to equality, such as irregular police procedures and discrimination, and to freedom, such as arbitrary arrests. Next, some of these facts will be examined: first, as a form of criminalization of the most excluded LGBT people; and, second, as a restriction of the cultural and political participation of LGBT people.

Police Violence and the Criminalization of LGBT people

As noted in previous reports, one of the main forms of police violence are physical attacks, arbitrary arrests and irregular police procedures against transgender women in sex work areas. We consider that this constitutes a form of criminalization of the most excluded and vulnerable LGBT persons, since the police rely on prejudices and stereotypes about LGBT people to associate them to danger, for which they often apply coercive measures in an unjustified and arbitrary manner. One indication of this is that most of the victims of police violence are younger LGBT people with fewer educational and employment opportunities, and that they occur in sectors where victims have to survive in the midst of great precariousness and risks. These cases, in general, occur in sex work areas such as the Santa Fe neighbourhood in Bogotá, Parque Bolívar sector in Medellín, La Galería sector in Manizales, the Latino neighbourhood in Cúcuta and Parque Andrés López Galarza in Ibagué.

In Manizales, for example, every year there are incidents of police violence against transgender women in the sex work area of La Galería sector. According to reports from transgender women of the area and from organizations in that city, police violence in that sector occurs for two reasons. First, in compliance with the policies and orders of the municipal administration that seek to "recover" the public space of the historic centre of Manizales, Alfonso López CAI agents do not let them move to the centre and pursue them when they find them above 18th Street, which separates the sex work area from La Galería of the historic centre of the city.[68] Second, because they are accused of committing crimes such as stealing cell phones from their clients, even though there is no evidence that this actually happened. In both cases, this constitutes a form of profiling of transgender sex workers, which in turn promotes other human rights violations such as physical violence, arbitrary arrests and even acts of torture. The following is an example of this situation.

> Transgender woman sex worker was tortured by police officers in Manizales
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> At the end of February 2017, a transgender woman was arrested and tortured by Manizales police officers. The victim was in the sex work area of La Galería in the early hours of the morning. According to press releases, police officers seized a cell phone that had allegedly been stolen. Later, they detained her, threw her to the floor and

68 Colombia Diversa. Interview with a transgender woman, Manizales, January 2017.

beat her repeatedly, including her face.[69] This is considered a form of torture, since physical violence was used by a State agent as punishment for the crime allegedly committed by the victim and because the blows to the face could indicate that they were also motivated by discrimination. The injuries caused were so serious that the policemen had to drive her to Caldas Hospital, where she remained for several days. The police prohibited her from having contact with other people.[70] In addition, the transgender woman was prosecuted for violence against a public servant, but was not investigated for theft—the initial excuse the police gave for arresting her.[71]

In this case, the policemen justified the extreme violence against the transgender woman claiming that she was "in a high degree of exaltation and under the influence of alcohol," that "she began to insult the uniformed men and refused to leave" and that finally she attacked them.[72] Moreover, the police assured that the injuries on the victim's face were not the result of physical violence by the officers, but because the victim "fell and hit her face on the floor."[73] Although Medicina Legal certified that the victim had injuries caused by multiple sources and described the event as "violence against marginal groups" and not as a legal arrest.[74] The Metropolitan Police of Manizales decided to close the disciplinary investigation.[75]

In cases like these, the police criminalize LGBT people as an excuse to assault them and deprive them of their freedom. In some cases, in fact, criminalization is not only in practice, but victims are criminally accused of violence against a public servant if they defend themselves against violence. In 2017, there were five similar cases of physical assaults against transgender women in sex work areas and six physical assaults against LGBT persons who allegedly committed a crime or an infraction.

In Medellín, for example, a police officer hit a transgender woman several times in the face and body in the sex work area of Parque Bolívar, after a client accused her of theft.[76] And in Bucaramanga, a group of policemen cornered a transgender woman who was in the sex work area of La Concordia neighbourhood and one of the officers hit her several times in the legs and buttocks. To justify itself, the Metropolitan Police of

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69 La Patria. "Policías y transgénero se acusan de agresiones en el Centro de Manizales," digital edition of February 27, 2017.

70 Corporación Armario Abierto. Press release of February 28, 2017.

71 Metropolitan Police of Manizales. Response to the right of petition sent by Colombia Diversa in January 2018.

72 La Patria. Op. Cit.

73 La Patria. Op. Cit.

74 Instituto Nacional de Medicina Legal y Ciencias Forenses. Response to the right of petition sent by Colombia Diversa in January 2018.

75 Metropolitan Police of Manizales. Response to the right of petition sent by Colombia Diversa in January 2018.

76 Personería de Medellín. Response to the right of petition sent by Colombia Diversa in January 2018.

Bucaramanga assured the media that the victim had a history of stealing from her clients and that, on previous occasions, she had caused damage to the patrol cars and had cut her arms in front of the police, but they did not explain what the infraction was or the concrete fact for which they decided to use force against her at that specific moment.[77]

In cases like these, the police criminalize LGBT people to justify arbitrary or disproportionate acts. Sometimes, they claim that the victim was caught *in fraganti*, and in other cases, they point out the background or acts that the victim has committed in the past, as if the police had the power to arrest someone or make use of force without any arrest warrants or formal complaints against the victims. However, the victims' background does not have to be false to be able to say that they are acts of police violence based on prejudice. As previously stated, LGBT people do not have to be "good victims" for violence against them to be investigated and sanctioned effectively, especially when it comes to forms of gender-based violence by members of the police force. In this sense, criminalization does not justify police violence if an LGBT person who actually committed an offence or a crime is assaulted disproportionately by police officers, if they are hit in parts of the body that are central to the gender expression of the victims, such as the face or implants, or if they are victims of sexual violence, torture or other abuse. This clearly shows that beyond the possible objective justifications for applying a certain police procedure, police officers are motivated by the prejudice towards the sexual orientation, gender identity or gender expression of the victims.

Assaults Against Same-sex Couples, Groups of LGBT People and Violation of Cultural Rights

Of the 66 acts of police violence recorded in 2017, at least eight were violence or discrimination against same-sex couples or against groups of LGBT people. In these cases, it is determined that police prejudice is exhibited toward the public display of sexual orientation or gender identity of the victims. The following case is an example of this.

77 *Vanguardia. "Mujeres transgénero de Bucaramanga denuncian abuso policial," digital edition of November 20, 2017.*

Lesbian couple arbitrarily detained and assaulted by police

Bogotá D.C.

In mid-May, a lesbian couple was arbitrarily detained, insulted and beaten in the town of La Candelaria. The women went to the Torres Blancas CAI to report a man who was beating an animal. The officer refused to attend to the case, for which one of the victims told him "you never do anything." The women left the place, but the officer followed them and asked for their documents. The women refused to give him their documents, so the officer took them by the arm, put handcuffs on them and took them to the CAI. There, he hit them, insulted them and then led them to the UPJ.[78] The police did not report any investigation of these events.

Three other similar cases occurred in Bogotá, Cundinamarca, Huila and Tolima. In Soacha, for example, police officers arbitrarily detained and tortured three LGBT youths, who were taken by truck to the UPJ and, on the way, were assaulted with electric shocks.[79] In Neiva, police officers physically assaulted two 19-year-old transgender women in a public space.[80] And in Chaparral, police officers insulted and mocked two transgender women who were in the central park of the municipality at night.[81] In none of these cases did the available information indicate that the arrests and the use of force had been justified. On the other hand, mockery, insults and the excessive use of force indicate that they were motivated by the prejudice towards the public display of sexual orientation or the gender identity of the victims.

In addition to the violations of the right to life, integrity and freedom of LGBT people, these acts of police violence also impede their full participation in cultural and political life. The following case is an example of this:

Assaults and arbitrary arrests of transgender people during a protest

Bogotá D.C.

At the end of May, police officers physically assaulted and arbitrarily detained three transgender people who were at a protest in Plaza de Bolívar. The events occurred after a group of organizations called a sit-in at Plaza de Bolívar

78 *HSB Noticias. "Polémica por presunto abuso de la Policía que golpeó a pareja LGBTI en Bogotá," digital edition of May 18, 2017.*

79 *CINEP/Programa por la Paz. Noche y Niebla magazine, No. 55 January–June 2017, p. 108.*

80 *Instituto Nacional de Medicina Legal y Ciencias Forenses. Response to the right of petition sent by Colombia Diversa in January 2018.*

81 *Colombia Diversa. Interview with transgender woman, Chaparral, March 2018.*

to protest against the arrival of a bus with transphobic messages from the Spanish organization Hazte Oír, invited by Colombian organizations and politicians.[82] During the protest, there were clashes between the protesters, so the police intervened. Although the videos taken from the event did not show any violence on the part of the transgender people against the people who were accompanying the bus or the police, the uniformed officers beat a transgender man and broke his rib,[83] and another two were arrested.[84] The police did not report any investigation of these events. This is the first time that there has been a violent incident related to the fundamentalist protests of conservative groups that oppose the rights of LGBT people.

Similar events occurred in Bogotá and Medellín. In Bogotá, police officers arbitrarily detained and insulted a gay man in the Brasilia CAI. The victim was in Porvenir Park rehearsing with a group of dancers, when he was arrested by police officers and transferred to the CAI. According to the victim's complaint, when he identified himself as a gay man, the police reacted violently towards him and insulted him.[85] In Medellín, a patrol car arrived at a commercial establishment that a transgender woman manages, and the officers threatened and insulted her, and evicted the people who were there. According to the victim, the same patrol car has been responsible for past cases of abuse of authority and violence against transgender women in the centre of Medellín.[86].

A Dead End?

According to the information provided by the police, only 14 disciplinary investigations were opened for the 66 acts of police violence recorded in 2017. Of these, there are already four closed disciplinary investigations, one is under investigation and nine with unknown status. The four closed investigations correspond to three cases of irregular police procedures and one of torture. In none of the cases did the police report the reasons for the decision to close the investigation, even if they were serious human rights violations.

82 *Publimetro. "El bus de Hazte Oír que enfrentó a cristianos, a la población LGBTI y feministas en la Plaza de Bolívar," digital edition of May 20, 2017.*
83 *Instituto Nacional de Medicina Legal y Ciencias Forenses. Response to the right of petition sent by Colombia Diversa in January 2018.*
84 *Colombia Diversa. Interview with transgender leader, Bogotá, May 2017.*
85 *Direct complaint on October 9, 2017. Referred by la Secretaría Distrital de Integración de Bogotá.*
86 *Personería de Medellín. Response to the right of petition sent by Colombia Diversa in January 2018.*

INVESTIGATIONS OF POLICE VIOLENCE AGAINST LGBT PEOPLE

We only know of 14 disciplinary investigations for the 66 acts of police violence against LGBT persons in 2017. We do not know of any criminal investigation into these incidents.

Status of disciplinary investigation	 Preliminary investigation	 Archive	 Status of investigation unknown
Number of cases	1	49	9
Total investigations	14		

Source: Colombia Diversa, Caribe Afirmativo and Santamaría Fundación. Information system for violence against LGBT people in Colombia, May 2018.

One of the closed investigations was the one that was opened on two patrol officers of the Metropolitan Police of Manizales for the case of torture of a transgender female sex worker that was reviewed at the beginning of this chapter. Although the police did not indicate the reasons for which the investigation was closed, the facts suggests that the use of force was not considered unjustified or disproportionate since the victim "allegedly assaulted uniformed police officers and [was left] at the disposal of the competent authority for the alleged crime of violence against a public servant."[87] That is, instead of making a strict judgment of the necessity and proportionality of the force used, the police procedure was justified by blaming the victim for her behaviour. In addition, the investigation also did not take into account whether the victim's violence was in defence against the assault by the uniformed police officers.

In this sense, as has been pointed out in previous reports, there are no guarantees of access to justice in cases of police violence, when the police investigate themselves, not even when it comes to serious violations of human rights such as acts of torture, as in the case in Manizales. This institution does not investigate in an impartial and rigorous manner when a certain

87 *Metropolitan Police of Manizales. Response to the right of petition sent by Colombia Diversa in January 2018.*

police procedure was motivated by prejudice, but merely verifies if it is part of the repertoire of legally established police activities, and, if it is, concludes that the procedure was legal. And when it comes to the use of force, the Police do not make strict assessments of necessity and proportionality, nor does it compare the victims' or witnesses' version of the event with those of the officers involved, nor does it examine other possible sources of proof such as security camera recordings. It only takes the version of the investigated officers and uses the behaviour of the victim to justify the excessive and disproportionate use of force.

This same excuse is used not only to not investigate complaints of police violence, but it is constantly used to justify police violence in itself. This is not only done by the police, but also by other institutions such as the Procurator's Office and the Mayor's Office, since they justify their actions because of the supposed aggressiveness of the victims, especially when it comes to transgender women in sex work, so as not to thoroughly examine irregularities in procedures, possible prejudicial motives and unjustified police harassment against the most vulnerable LGBT persons. This constitutes a violation of the principle of due diligence in the investigation of cases of gender-based violence because the authorities are using negative gender stereotypes, such as the idea that all transgender women are delinquents and problematic, to justify police violence against them and not to adequately investigate these facts.

Another excuse that the police use to justify their lack of due diligence in cases of police violence is that the victims do not formally report these events. However, the police cannot make their duty to investigate and sanction these incidents conditional on the will of the victims to report these incidents. This is even more apparent when the police itself constantly sends a message of complicity and tolerance with the human rights violations committed by its officers by closing the vast majority of disciplinary investigations for acts of police violence against LGBT people.

The impunity actively promoted by the police is not compensated by the Attorney General's Office or the Prosecutor's Office. In 2017, no other disciplinary or criminal investigation was reported relating to acts of police violence, despite the fact that other institutions such as the Bureau of Urgent Cases[88] and some regional Ombudsman Offices[89] and Procurator Offices[90] sent complaints about cases of police violence against LGBT persons

88 The Bureau of Urgent Cases sent a case of police violence against an adolescent of the LGBT community in Bogotá to the Attorney General's Office and the National Police. However, neither of these two institutions opened a disciplinary investigation in this case.

89 The Regional Ombudsman of Tolima sent a case of police violence to the Provincial Attorney General's Office and the Department of Public Prosecutions, but neither of these institutions reported a disciplinary or criminal investigation in this case.

90 The Procurator's Office of Bogotá sent a case of police violence against a transgender man in Bogotá to the Attorney General Delegate for Military Forces and the Attorney General Disciplinary Delegate for Human Rights. To date, there has been no response from any of these delegates. Likewise, the Procurator's Office of Medellín sent a complaint of police violence against a transgender woman in Medellín to the Antioquia Regional Attorney General's Office, but this institution did not report any investigation

to the Attorney General's Office and the Prosecutor's Office. In this sense, we reach a dead end in which police violence continues and many institutions know that victims do not report for fear of retaliation, but those responsible for investigating and punishing the crimes do nothing.

The lack of due diligence on the part of the police, the Attorney General's Office and the Prosecutor's Office are especially serious when the victims are transgender and lesbian women. As we saw, they were the main victims of police violence in 2017. In addition, gender-based violence was found in many of these cases. The violence was motivated by gender stereotypes and the police officers took advantage of the victims' vulnerability and defenselessness. The victims were threatened, insulted or mocked because of their gender identity, gender expression or sexual orientation. Some cases even included acts of sexual violence. In this sense, there is a reinforced obligation to prevent, investigate and sanction these cases as forms of violence against women.

However, this is not happening. Not only are there no effective investigations into police violence, but so far we do not know of any cases in which prevention or protection measures have been taken, or that those responsible have been investigated or punished under the terms of Law 1257 of 2008 or of Law 1719 of 2014. In this sense, the Colombian State is not complying with the duty to eradicate violence against transgender and lesbian women, and guarantee that they live a life free of violence.

Best Practices in Cases of Police Violence

In terms of police violence, the institutions of the Public Ministry can take action to promote reports of police violence and even to promote investigations that the police and the Prosecutor's Office do not adequately process. In this regard, the Procurator's Office of Medellín reported that it has toured sex work areas where transgender women are attacked by police officers and has documented several cases reported by sex workers. When these acts happen, it has advised victims to file formal complaints and has referred them to other relevant institutions.[91] Likewise, other institutions such as the Ombudsman Offices of Magdalena, Nariño and Santander reported having knowledge of situations of police violence, although there were no formal complaints in this regard. Based on this information,

disciplinary investigation for acts of police violence in the department.

91 *Procurator's Office of Medellín. Response to the right of petition sent by Colombia Diversa in January 2018.*

they have conducted training sessions with the police to prevent the occurrence of new acts of violence.

This type of practice shows that police violence persists, although there are no formal complaints. In this sense, the Regional Ombudsman's Office of Magdalena reported that it had “informal knowledge about violence against transgender women who practice sex work in the historic centre of Santa Marta; but the two cases have refused to file a complaint and asked not to initiate any action or request against the police officers alleging that they work in that area and that they prefer to cope with the police because, if they complain or report, the police will go after them.”[92] In this way, the institutions can identify specific cases of police violence, barriers to access to justice and alternative ways to prevent these events that victims do not dare report in a formal manner.

Another example of good practice has been the judicial intervention of the Attorney General’s Office in the criminal investigation of the alleged extrajudicial execution of a transgender man who was at the Bogotá UPJ in December 2015. In 2017, the Attorney General Delegate for the Public Ministry in Criminal Matters constituted the special agency in the respective criminal process, which at that time was still in the investigation stage. From this, the Attorney General’s Office requested that the investigation be reassigned to the Specialized Prosecutor's Office 3, an outstanding branch in Bogota to investigate crimes against LGBT persons, since prior it was in charge of another office that does not have the same training to carry out investigations with a differential approach. Then, the Attorney General’s Office requested the procedural impetus of the investigation and insisted that they examine evidence that had not been taken into account.[93]

To date, the criminal proceeding continues in the investigation phase due to the fact that the Specialized Prosecutor's Office 3 changed its head of department and that the members of the police that were on duty in the UPJ at the time of the events are no longer in Bogotá. Aside from these types of obstacles, the Attorney General’s Office should promote the exercise of its powers of preferential power, administrative surveillance and judicial intervention in cases of police violence against LGBT persons to ensure that disciplinary or criminal investigations are not closed prematurely.

Lastly, the town’s Ombudsman's Office, through regional gender duos, has also promoted the investigation of cases of police violence. The gender duo of the Regional Ombudsman's Office of Tolima, for example, has received complaints of police violence against LGBT persons and has referred them to the police, the Attorney General’s Office and the Prosecutor’s Office for disciplinary and criminal investigation. Likewise, it has followed up on the cases through the Bureau

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92 Regional Ombudsman's Office of Magdalena. Response to the right of petition sent by Caribe Affirmativo in January 2018.

93 Attorney General Delegate for Human Rights. Response to the right of petition sent by Colombia Diversa in January 2018.

of Momentum and Promotion of Rights of the LGBT Community of the Mayor's Office of Ibagué.[94] These types of practices should also be replicated by the gender duos of each regional ombudsman's office.

94 *Regional Ombudsman's Office of Tolima. Response to the right of petition sent by Colombia Diversa in January 2018.*

THREATS AGAINST LGBT PEOPLE IN 2017

Sandra and Marina were a lesbian couple who lived in the municipality of Piendamó, in the centre of the department of Cauca, and worked as territorial leaders of the Corporación Anne Frank. At the beginning of April 2017, they were threatened by strangers, so they moved to Popayán. They spent a little over a month in that city, but in early May they returned to Piendamó after strangers entered the shelter room of the town hall where they were staying. Two days after their return, strangers attacked their home with stones at night. The next morning, they discovered graffiti painted on one of the walls of the house that said "Lesbians are going to die hps" (sic) and a threatening pamphlet in the entrance. After this, they moved back to Popayán. According to the Corporación Anne Frank, "it is presumed that neo-paramilitary groups are the perpetrators of the threats, as part of what they call 'social cleansing,'"[95] but the Victims Unit decided not to include them in the Victims Registry, assuring them that such armed groups do not operate in the area.[96] Although some protection measures were taken within the framework of Law 1257 of 2008, to date there is no known criminal investigation of these events, identifying and punishing those responsible, and the authorities aware of the case did not report more information about the fate of the two women.

95 Corporación Anne Frank. "Amenazas contra lideresas LGBTI en Cauca," press release of May 15, 2017.

96 Regional Ombudsman's Office of Cauca. Response to the right of petition sent by Colombia Diversa in January 2018.

In 2017, threats against LGBT people increased, particularly against defenders of this population. The case of the two leaders of Cauca shows why this problem worsens every year. On the one hand, there is the dangerous mix between social prejudices and the interests of armed groups that seek to control the population and the territory. On the other hand, there is a lack of effective measures to prevent, protect, investigate and sanction these acts. Finally, it is worrisome that in a context in which prejudicial discourses against this population continue and call for their rights to not be safeguarded, threats and other attacks against this population continue to increase.

The Trend Persists: Threats Against LGBT People Increase

In 2017, 60 threats against LGBT people were recorded, 11 more than those recorded in 2016. The departments in which the most threats were recorded were Cundinamarca and Bogotá D.C.

There were 22 cases with collective threats against couples or groups of LGBT people, or against the LGBT population in general, while the other 38 cases involved threats against individuals. At least 64 LGBT people were threatened, both individually and collectively.

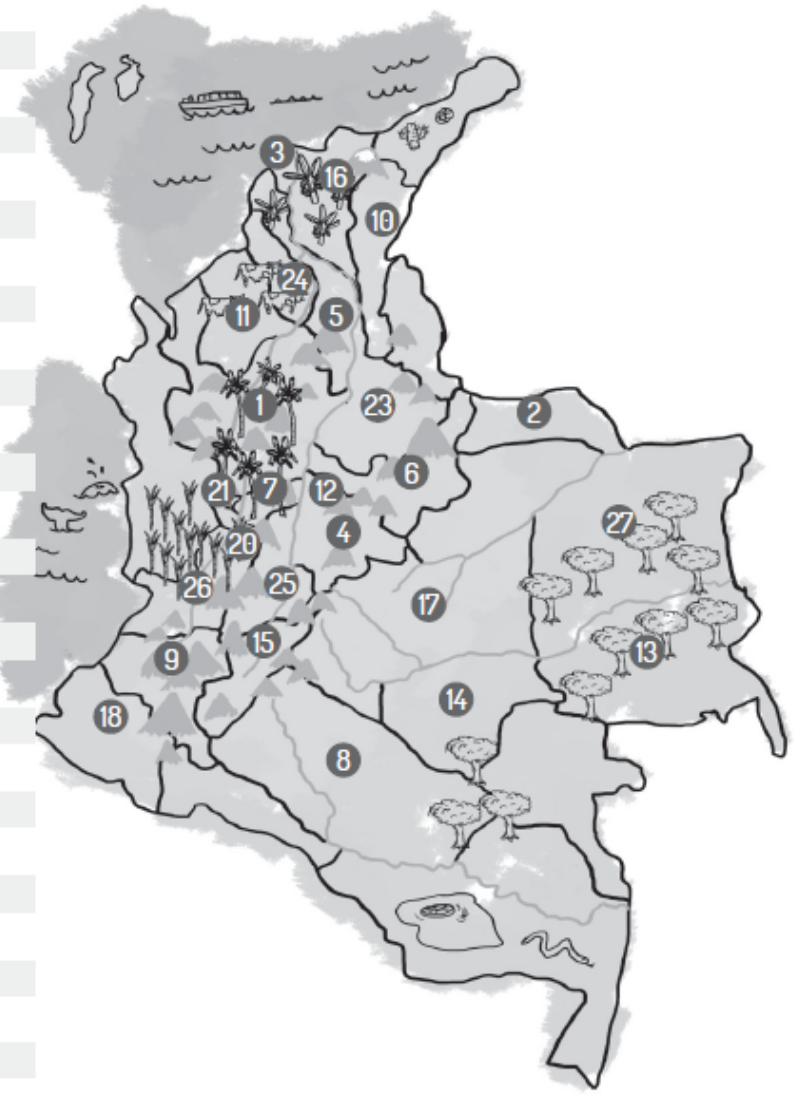
We had information on the alleged perpetrators of the threats in 18 of these cases. The vast majority were paramilitary groups and other post-demobilization criminal gangs linked to paramilitarism, mainly the Águilas Negras and the Autodefensas Gaitanistas de Colombia, and to a lesser extent, self-appointed groups such as La Cordillera, Fuerza Revolucionaria del Pueblo and Urabeños Unidos por Colombia.

SEXUAL ORIENTATION OR GENDER IDENTITY OF VICTIMS OF THREATS

Source: Colombia Diversa, Caribe Afirmativo and Santamaría Fundación. Information system for violence against LGBT people in Colombia, May 2018.

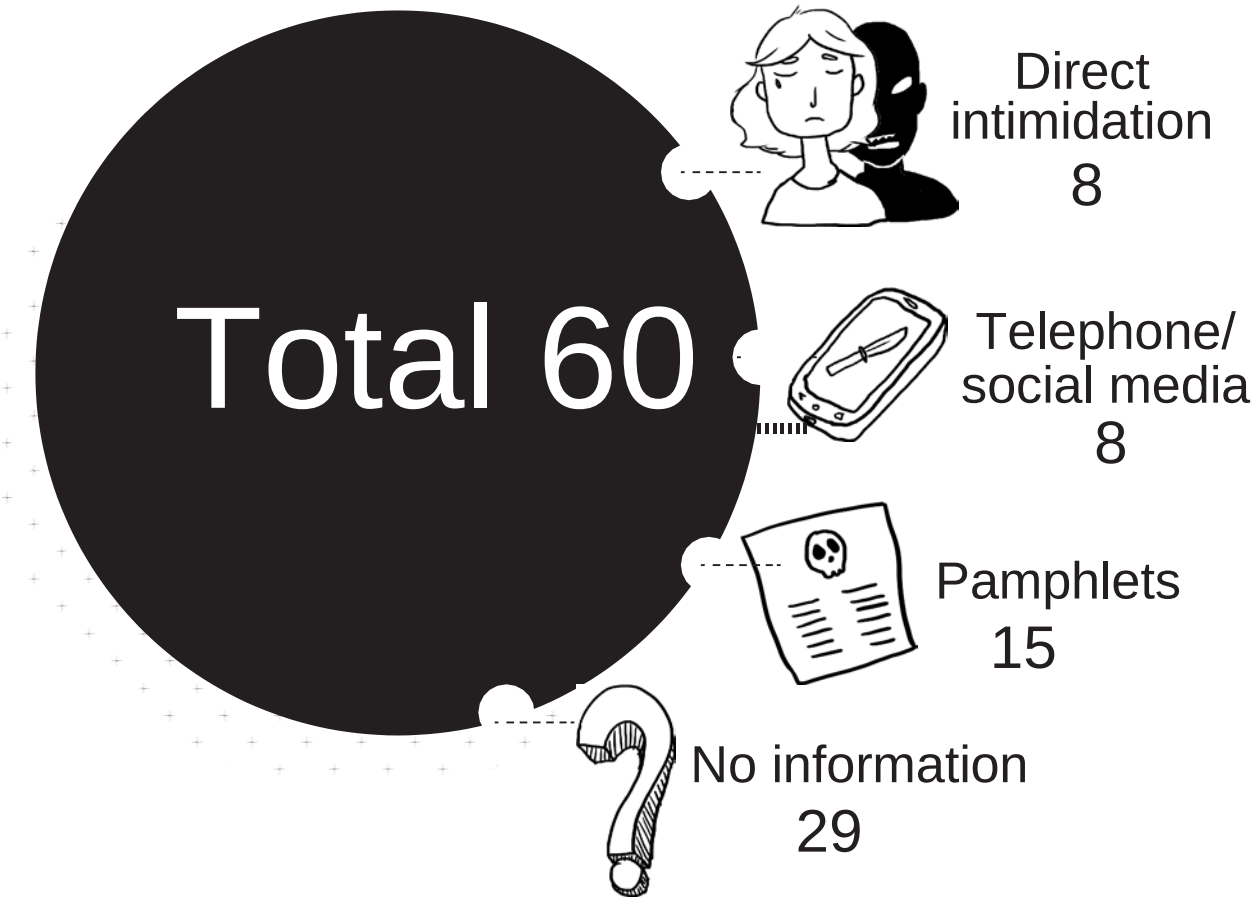
THREATS AGAINST LGBT PEOPLE BY DEPARTMENT

		2016	2017
1	Antioquia	1	2
2	Arauca	2	2
3	Atlántico	3	2
4	Bogotá	1	4
5	Bolívar	2	1
6	Boyacá	1	1
7	Caldas	-	3
8	Caquetá	-	3
9	Cauca	1	3
10	Cesar	-	2
11	Córdoba	2	3
12	Cundinamarca	3	10
13	Guainía	1	-
14	Guaviare	-	1
15	Huila	3	1
16	Magdalena	2	1
17	Meta	-	1
18	Nariño	2	4
19	Norte de Santander	-	3
20	Quindío	2	2
21	Risaralda	3	3
23	Santander	-	1
24	Sucre	2	1
25	Tolima	1	2
26	Valle del Cauca	17	3
27	Vichada	-	1
	Sin información	1	-
	Total	49	60



Source: Colombia Diversa, Caribe Afirmativo and Santamaría Fundación. Information system for violence against LGBT people in Colombia, May 2018.

THREATS ACCORDING TO METHOD USED



Source: Colombia Diversa, Caribe Afirmativo and Santamaría Fundación. Information system for violence against LGBT people in Colombia, May 2018.

Pamphlets were the most widely used method to threaten LGBT people in 2017. They were followed by threats via telephone or social media, and threats through direct victim intimidation.

----------THREATS ACCORDING TO ALLEGED PERPETRATOR

Person known by victim

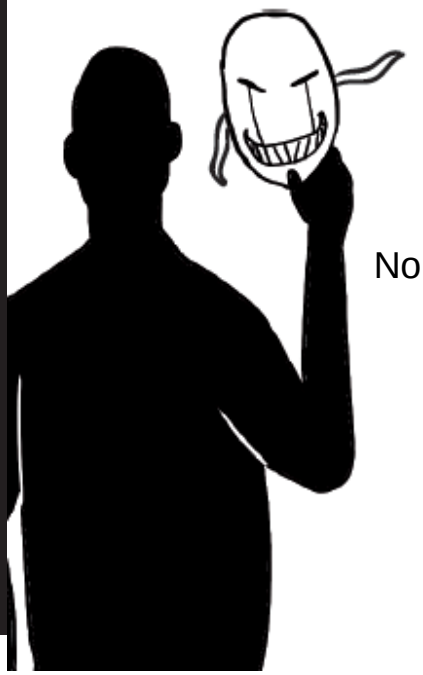
2

Paramilitaries

13

Armed Groups

2



No Information

42

Law Enforcement

1

Total 60

Source: Colombia Diversa, Caribe Afirmativo and Santamaría Fundación. Information system for violence against LGBT people in Colombia, May 2018.

The main threats posed against LGBT persons in 2017 were against those who are involved in social leadership or in the defence of human rights, and threats against the visibility of LGBT people, both in the context of the armed conflict and in community contexts. Next, each one will be examined.

At Risk LGBT Human Rights Defenders and Their Organizations

2017 was a tragic year for the defence of human rights in Colombia. The Somos Defensores program ensures that, despite the fact that the progress of the peace process led to the de-escalation of the armed conflict in several regions of the country and the reduction of homicides for socio-political reasons, homicides and other attacks against human rights defenders increased.[97]

In the case of LGBT people, although there were fewer homicides of defenders than in 2016, there was an unprecedented increase in threats against LGBT human rights defenders and their organizations: they went from five acts in 2016 to 26 acts in 2017. At least 27 LGBT human rights defenders were directly threatened. Most victims work for the rights of LGBT people, although others were representatives of victims of the armed conflict or worked to prevent the recruitment of children and adolescents by armed groups. Those threatened are part of organizations such as Sin Fronteras LGBTI of Soacha, Fundación Sucre Diversa, Rostros Diversos of Ocaña, Asociación Chaparral LGBTI Diversa, Plataforma LGBTI por la Paz, Mesa Municipal LGBTI of Pasto, Grupo de Acción y Apoyo a Personas Trans (GAAT), Fundación Montería Diversa, Colectivo León Zuleta and the sexual diversity sector of Marcha Patriótica. These events occurred in Atlántico, Bogotá, Bolívar, Caquetá, Cauca, Córdoba, Cundinamarca, Guaviare, Nariño, Norte de Santander, Quindío, Risaralda, Sucre and Tolima.

The paramilitary groups and post-demobilization criminal gangs linked to paramilitarism were responsible for at least seven of these threats, another was allegedly committed by law enforcement members, another by guerrilla groups and another by a neighbour of the victim. In terms of the other events, there is no information about the alleged perpetrators. With regards to the method used, seven were through pamphlets that circulated in public spaces, on social media or that were left in the home or workplace of the victims, another four were through direct intimidation of the victim in a public space or in their home, and two through telephone calls or messages through social media. In terms of the other events, there is not enough information about the method used.

97 Somos Defensores program. Piedra en el zapato. Somos Defensores program. Piedra en el zapato. 2017 Annual Report of the Sistema de Información sobre Agresiones contra Defensores y Defensoras de DD.HH. en Colombia (SIADDHH) [Information System on Violence against Human Rights Defenders in Colombia], p. 6

As noted in previous reports, LGBT human rights defenders face twofold risk due to their leadership or advocacy work, and to prejudice towards their sexual orientation or gender identity, which usually becomes more visible when they work for the rights of the LGBT population and women.[98] In this sense, the risk is not only attributed to the negative perception of the sexual orientation or gender identity of the defenders, who are seen as immoral, but their work is perceived as a defence or promotion of immorality.[99]

Some of the defenders and organizations threatened are community-based, who have dedicated themselves to accompanying LGBT people in cases of discrimination and violence, and to build support networks. The following case is an example of this.

Threats against transgender Montería leader

In August of 2017, a transgender woman defender of human rights and legal representative of the Fundación Montería Diversa received a threatening pamphlet that said "YOU HAVE HAD SEVERAL WARNINGS AND YOU HAVE DISREGARDED WHAT WE'VE TOLD YOU, YOU LESBIAN. WE KNOW HOW TO GET YOU AGAIN. LOOK OUT! GET OUT OF HERE. WE HAVE ALREADY TOLD YOU OR WE WILL GO TO YOUR HOUSE AND WE WILL BLAST IT WITH BULLETS, YOU LESBIAN. YOU SON-OF-A-BITCH, SHE LEFT THE OTHER ONE WHO CLAIMED TO BE A DEFENDER OF THE LESBIANS. BUT WE WILL KILL YOU IF YOU DO NOT LEAVE. YOU HAVE 24 HOURS TO GET OUT OF HERE. WE DON'T WANT TO SEE YOU IN THESE PARTS ANYMORE" (sic). A self-proclaimed paramilitary group "Urabeños Unidos por Colombia" signed the pamphlet. A few days later, two armed men went to the house of the leader and, through the door, they threatened to assassinate her if she did not leave the city.[100] At that time, the victim had a bulletproof vest and an emergency button provided by the Unidad Nacional de Protección (UNP) [National Protection Unit], as she had been threatened on several previous occasions. However, due to these new threats, she requested that the Unidad Nacional de Protección reassess her level of risk. Due to a lack of timely response from the UNP, the victim moved away from the municipality.[101]

98 In Order 098 of 2013, the Constitutional Court recognized: "the risk derived from leadership and civic, community and social work promoted by displaced women and women members of organizations working for the population displaced by the internal armed conflict." Likewise, it established that it is necessary to include "a differential perspective that meets the specific needs of the subjects of special constitutional protection, sensitive to ethnicity, gender, age, disability, sexual orientation and urban origin in both the evaluation of risk and in the interposition of protective measures."

99 A clear example of this is that the assertion of the rights of LGBT victims of the armed conflict was used as a reason to promote popular opposition to the Final Peace Agreement between the Government and the FARC-EP, since conservative and religious sectors stated that recognizing and repairing LGBT victims was the same as "promoting" homosexuality.

100 Ministry of the Interior. Response to the right of petition sent by Colombia Diversa in January 2018.

101 Caribe Afirmativo. Interview with transgender leader, Montería, September 2017.

Like her, another 15 leaders of the LGBT community were threatened in Bogotá, Caquetá, Córdoba, Cundinamarca, Norte de Santander, Quindío, Tolima and Sucre. In La Tebaida, for example, a transgender leader has been discriminated against, harassed and threatened on several occasions for hosting LGBT people from the municipality in her home and carrying out cultural activities for this community.[102] And in Bogotá, strangers threatened a transgender woman human rights defender and director of Fundación Grupo de Acción y Apoyo para Personas Trans through telephone calls.[103] In most of these cases, the sources did not report information on the alleged perpetrators, although it is considered that the threats are motivated by the work of visibilization and empowerment of LGBT people carried out by the victims.

In other cases, in addition to this, there are also other risk factors, such as the representation of victims of the conflict, belonging to alternative political movements or support for the peace process. In these cases, it is clearer that armed groups are responsible. The following cases are an example of this:

Threats against LGBT leaders who support the peace process

In October 2017, the Autodefensas Gaitanistas de Colombia threatened a transgender leader and a gay leader from Nariño, and the Mesa Social por la Paz LGBTI, Mesa Municipal LGBTI of Pasto and Plataforma LGBTI por la Paz, which brings together organizations from several departments of the country that support the peace process. In the pamphlet left in the home of one of the victims, the paramilitaries accused them of supporting the FARC and the ELN, branded them as "queers" and "scum," and gave them until October 31 to leave the country.[104] The transgender leader in Nariño has protective measures, but none of the sources reported other measures of prevention or protection for other LGBT human rights defenders threatened, nor investigations to identify and punish those responsible.[105]

In cases like these, we see that prejudice on the part of armed groups is coupled with threats for the work of victims in favour of human rights, victims of conflict and social justice. Similar events occurred in Bogotá, Bolívar, Cundinamarca, Cauca, Guaviare, Quindío and Risaralda, where LGBT victim board representatives who worked to prevent the recruitment of children and adolescents were threatened

102 Regional Ombudsman's Office of Quindío. Response to the right of petition sent by Colombia Diversa in January 2018.

103 Ministry of the Interior. Response to the right of petition sent by Colombia Diversa in January 2018.

104 El Diario. "Líderes LGBT denuncian amenazas de autodefensas," digital edition of October 26, 2017.

105 Ministry of the Interior. Response to the right of petition sent by Colombia Diversa in January 2018.

by armed groups, or support the peace process. In Armenia, for example, paramilitaries threatened a lesbian woman who was a victim of the conflict and a human rights defender, whom they accused of being a "guerrilla" and threatened her so she would abandon her work with the Mesa Departamental de Víctimas del Quindío [Departmental Bureau of Victims of Quindío].[106] And in Bogotá, paramilitaries threatened a transgender human rights defender and member of the sexual diversity sector of Marcha Patriótica, intimidated him at the entrance of his home, insulted him by saying "faggot," threatened to kill him for being a "guerrilla" and stole his computer, cell phone and USB sticks.[107]

With Greater Visibility Comes Greater Risks

Visibility is not only a risk for defenders. Other cases of threats against LGBT people in 2017 were against same-sex couples or groups of LGBT people who, without being activists or members of social organizations, were threatened by the simple fact of being visible in their neighbourhood, their municipality or their region. The following is an example of this situation:

Gay couple was threatened and attacked by neighbours

Medellín, Antioquia

In mid-June, a group of people attacked a gay couple in their home in Belén, east of Medellín. According to the victims, the attack occurred after they argued with neighbours from the subdivision, the neighbours then insulted them and told them they were "an embarrassment and a couple of fools." That same night, a group of about 10 young people, including the neighbour's son who had insulted them, attacked the couple's home at 10:30 p.m. The attackers broke the door, fired into the air with a firearm, insulted them, challenged them by saying "come out, you mistakes" in order to confront them and told them they had to leave the neighbourhood.[108] To date, there is no known criminal investigation into these events or prevention or protection measures for the victims.

106 *Police Department of Quindío. Response to the right of petition sent by Colombia Diversa in January 2018.*

107 *Marcha Patriótica. "Agresiones y hurto a integrante de Marcha Patriótica en Bogotá," press release of February 9, 2017*

108 *Cero Setenta. "'Locas, maricas y guayabas': discriminación LGBTI en Medellín", edition of July 24, 2017.*

In addition to this case, we recorded two other cases of threats against lesbian couples in Cauca and Cundinamarca. The first was the case of the two lesbian women threatened in Piendamó, which was reviewed at the beginning of this chapter. The second was a case of threats against a lesbian couple who lived in the rural area of Villeta.[109] Only in one do we have information on protection measures that have been assigned to the victims, and in neither case is there information on investigations to identify and punish those responsible.

Some of the other most common threats motivated by the rejection of the visibility of the sexual orientation and gender identity of the victims are those that warn of imminent extermination operations, or so-called "social cleansing." The following case is an example of this.

Threatening pamphlet against transgender women sex workers

Aguachica, Cesar

At the beginning of September, strangers used pamphlets to threaten alleged criminals, consumers of psychoactive substances and transgender women in sex work on Avenida 40 of Aguachica. The pamphlets indicated "to all the faggots [...] because of them, children are losing their childhood" and warned that "we do not want to see any more faggots at the intersection where they dress like women and rob citizens who pass by late at night. Change or die." They also threatened alleged criminals. Those responsible signed the pamphlet as the "Comunidad morrocollera" (sic).[110]

Six other similar threats of "social cleansing" were recorded in Cundinamarca, Santander, Magdalena, Norte de Santander and Valle del Cauca. In Barrancabermeja, for example, pamphlets were circulating signed by the Autodefensas Gaitanistas de Colombia, in which they threatened LGBT people, sex workers and alleged criminals.[111] In Santa Ana, Magdalena, pamphlets were circulating signed by a self-proclaimed group named "Fuerza Revolucionaria del Pueblo," threatening LGBT people, drug users and alleged criminals.[112] And in Cúcuta, unknown persons threatened LGBT people through WhatsApp messages, in which they warned that they did not want to see any person from the LGBT community on the street after 10:00 pm.[113] Although, in some cases,

109 Ministry of the Interior. Response to the right of petition sent by Colombia Diversa in January 2018.

110 El Espectador. "Amenazan a comunidad LGBTI en Aguachica," digital edition of October 11, 2017.

111 Extra. "Preocupación por anuncio de 'limpieza social' en Barrancabermeja," digital edition of April 10, 2017.

112 Zona Cero. "Con panfletos amenazan a miembros de la comunidad LGBTI en el Magdalena," digital edition of October 7, 2017.

113 Ministry of the Interior. Response to the right of petition sent by Colombia Diversa in January 2018.

the threats were attributed to armed or criminal groups, others were anonymous. In three cases, homicides of LGBT people were recorded shortly before or shortly after these threats circulated. To date, we do not know of any criminal investigation of these events.

At Risk LGBT people in Southern Cundinamarca and Caquetá

In 2017, the department of Cundinamarca reported for the first time the highest number of threats against LGBT people nationwide and the largest number of cases occurred in the municipality of Soacha, followed by Girardot and, finally Zipaquirá and Villeta. In previous reports, multiple threats against LGBT people were reported in Soacha, the majority perpetrated by paramilitary groups and post-demobilization criminal gangs. The four threats against LGBT people recorded in 2017 were also perpetrated by these groups: three by the Águilas Negras and one by the Autodefensas Gaitanistas de Colombia.

In February of 2017, a transgender leader from Soacha received a message signed from the Águilas Negras, in which they told her they knew where she was, insulted her and threatened her with a modified photo of her with a knife in her chest and several wounds. According to the victim, this occurred after she participated in organizing the marriage of two men in the municipality.[114] Two weeks later, the same paramilitary group sent her a pamphlet through social media in which they threatened her and other defenders and organizations.[115] And in mid-May, the Autodefensas Gaitanistas de Colombia left a threatening pamphlet at her home.[116] Later, in September, the Águilas Negras announced through pamphlets the execution of a so-called "social cleansing" against alleged criminals, drug consumers and dealers, and LGBT people under the excuse that in "bars and hair salons and others or rather brothels where the HIV disease (AIDS) is spreading, robberies, rapes, etc." (sic). The pamphlets directly mentioned 30 people, including 12 LGBT people, some of whom are activists or work in activities to raise awareness of the LGBT community. This happened while some

114 CINEP/Programa por la Paz. Noche y Niebla magazine No. 55 January-June 2017, p. 131

115 Delegate Ombudsman for the Prevention of Risks of Human Rights Violations and International Humanitarian Law. Response to the right of petition sent by Colombia Diversa in January 2018.

116 Regional Ombudsman's Office of Cundinamarca. Response to the right of petition sent by Colombia Diversa in January 2018.

of the threatened people were organizing Mujer T of Soacha.[117]

The case of Soacha is an example of the risk posed by the presence of armed groups for the LGBT community, especially when it becomes more visible through leadership, the defense of rights and actions that seek to empower or promote a positive image of this community. This risk situation has persisted through the years and has been alerted by the Ombudsman's Office in nine follow-up notes that reiterate the risk identified since 2011. The persistence of threats shows that the LGBT community of the municipality is still at risk.

After Soacha, Girardot was the other municipality of Cundinamarca where there were more violent acts against LGBT people. In March, "social cleansing" pamphlets circulated and threatened several people in the municipality, including LGBT people, and directly mentioned a transgender woman.[118] No armed group claimed the pamphlet. At the end of that month, a 40-year-old gay man was murdered with a gun by gunmen.[119] According to the police, this was not related to the threatening pamphlets that previously circulated in the municipality.[120] However, the Prosecutor's Office has not identified those responsible for this homicide or the previous threats; therefore, we are not excluding that these facts may be related. Shortly after, in April, strangers on a motorcycle threatened a transgender leader of the municipality. They intimidated her while she was walking through a public space and chased her home. The victim was assigned protection measures, but there are no known investigations that have allowed to identify and punish those responsible.[121]

Unlike Soacha, until now there have not been many incidents of violence against LGBT people in Girardot and its neighbouring municipalities. However, in 2017 the Ombudsman's Office warned about the expansion of paramilitary groups and guerrilla dissidence in the neighbouring province of Sumapaz, after the concentration of the FARC-EP in the Icononzo ZVTN. These groups would be responsible for several selective homicides and threats since the beginning of 2017, including threats of "social cleansing."[122] Although the risk report did not include Girardot or any other municipality in the neighbouring province of Alto Magdalena, the occurrence of threats of "social cleansing" followed by selective homicides of LGBT people in Girardot, could indicate that there is also a risk in this region. The authorities should investigate this, and, should evidence be found confirming this situation, the appropriate prevention and protection measures should be taken.

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117 Procurator's Office of Soacha. Response to the right of petition sent by Colombia Diversa in January 2018.

118 Regional Ombudsman's Office of Cundinamarca. Op. Cit.

119 HSB Noticias. "En Girardot asesinaron a otro estilista," digital edition of March 24, 2017. "Dos asesinatos en 24 horas, preocupan a los girardoteños," digital edition of March 23, 2017.

121 Ministry of the Interior. Response to the right of petition sent by Colombia Diversa in January 2018.

122 Delegate Ombudsman for the Prevention of Risks of Human Rights Violations and International Humanitarian Law. Response to the right of petition sent by Colombia Diversa in January 2018.

Another department in which threats against LGBT people have increased is Caquetá. In 2016, there were no threats against LGBT persons in that department, while in 2017 there were three; all against defenders of this community. At the beginning of July, two gay men, human rights defenders, were intercepted by strangers on the road that leads from Cartagena del Chairá to Florencia. The subjects were armed and dressed in civilian clothes, but did not identify themselves as members of any group. The perpetrators told the victims that they could not return to the municipality to talk about the rights of LGBT people and warned them that they were being "completely watched."[123] Shortly after, in mid-September, strangers threatened a transgender woman who was a victim of the armed conflict, human rights defender and leader of the LGBT community of the department. To date, those responsible for these threats have not been identified. In the case of the transgender leader, although the Regional Ombudsman forwarded the complaint to the National Protection Unit, this entity has not assigned any protection measure to the victim alleging that she has not "certified" that she is a human rights defender.[124]

In the first quarter of 2018, there were more threats against LGBT people in several municipalities of the department. At the beginning of 2018, the two gay leaders who were intercepted in Cartagena del Chairá were again threatened by strangers when they went to the municipality of Puerto Rico for an beauty pageant of the LGBT community[125] According to them, in the first months of 2018, two other leaders of the LGBT community were threatened in San José del Fragua and Paujil, and in San Vicente del Caguán, a transgender woman moved after being threatened. Apparently, some of these threats would have been perpetrated by FARC-EP dissidents. Therefore, it is considered that threats against LGBT leaders and people from several municipalities of the department between the end of 2017 and the beginning of 2018 may be related to the reconfiguration of armed groups in the department.

Despite Complaints, Threats Remain Unpunished

In previous reports, it has been pointed out that the threats fulfill their objective of sowing terror and silence among LGBT persons, since most of the cases are not reported. In all cases, the threats remain unpunished.

123 Colombia Diversa. Interview with gay leader, Florence, April 2018.
124 Ministry of the Interior. Response to the right of petition sent by Colombia Diversa in January 2018.
125 Colombia Diversa. Interview with gay leader, Florence, April 2018.

To date, only one conviction is known for threats against LGBT persons for one case that occurred in 2015, while the remaining 206 recorded cases (2012 - 2017), remain unpunished. This sends a message of tolerance on the part of the State towards these facts, which disincentives more victims to report the crimes.

In 2017, there were more LGBT people willing to report threats against them. Out of the 60 recorded cases, 56 complaints were made to the police, the Bureau of Urgent Cases, the Presidential Council for Human Rights, the Prosecutor's Office, Regional Ombudsman's Offices and Municipal Representatives. In total, 17 criminal investigations are registered for the 60 threats recorded in 2017; that is, 28% of the cases are being investigated criminally, a higher proportion than the number of threats in 2016 that were investigated by the Prosecutor's Office (18%).

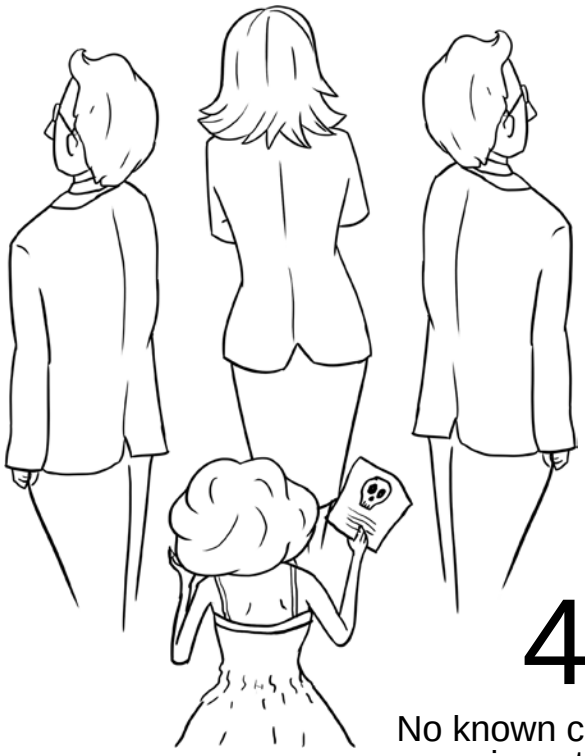
Although the victims are more willing to report, the Prosecutor's Office does not investigate these facts with due diligence. Of the 17 criminal investigations of threats against LGBT persons in 2017, seven are in the investigation stage and the others do not have information about the current status. Although it is not guaranteed that these investigations will be closed, this is the path followed by investigations for events reported in previous years: some have been closed because of atypical behaviour, that is, because the Prosecutor's Office considers that the denounced act does not constitute a crime of threat, while others are closed because the Methodological Investigation Programs are not developed and inevitably those responsible are not identified.[126]. Therefore, it is very likely that this will occur with investigations into threats in 2017, even more so when the Prosecutor's Office has not developed guidelines for the preparation of the Methodological Investigation Programs in cases of threats or strategies for these processes to progress adequately in order to identify and punish those responsible.

This situation does not improve with the police. On some occasions, that institution received complaints of threats and implemented preventive measures such as going on rounds to the place of residence or work of the victims, but did not assemble information on the crime so that the facts could be investigated by the Prosecutor's Office. This occurred in three cases of threats against LGBT human rights defenders.

The first was that of the Piendamó lesbian couple who were threatened in April and May 2017. Although their case was undertaken by the Ombudsman's Office, the Popayán Mayor's Office, the Victims Unit and the police, we were not aware of any criminal investigation into these facts. In this case, the police limited themselves to offering protection measures, but finally did not implement any measure alleging that the victims did not report

126 Colombia Diversa, Caribe Afirmativo and Santamaría Fundación. Entre el miedo y la resistencia. Report on the human rights of lesbian, gay, bisexual and transgender people in Colombia 2016, p. 67

COMPLAINTS AND INVESTIGATIONS OF THREATS AGAINST LGBT PEOPLE



56 complaints were made for the 60 threats against LGBT persons in 2017. However, the Prosecutor's Office only opened 17 criminal investigations for these complaints.

43
No known criminal investigation

10
No information on the status

7
Inquiry

Source: Colombia Diversa, Caribe Afirmativo and Santamaría Fundación. Information system for violence against LGBT people in Colombia, May 2018.

where they were going to relocate.[127] The second occurred in Sucre, where three gay men, human rights defenders, were threatened in March 2017. The Presidential Council for Human Rights and the Ombudsman's Office sent the complaint to the Sucre Police Department to take the corresponding actions; however, this institution did not report any investigation into the events and only "ordered the implementation of security measures consisting of rounds and supervising their place of residence and work, self-protection courses and permanent communication with the station commander and CAI."[128]. The same occurred in the case of the transgender leader from Córdoba

127 Regional Ombudsman's Office of Cauca. Response to the right of petition sent by Colombia Diversa in January 2018.

128 Police Department of Sucre. Response to the right of petition sent by Caribe Affirmativo

who was threatened in August 2017. The Bureau of Urgent Cases and the Ombudsman's Office sent the complaint to the National Protection Unit and the Montería Metropolitan Police. According to the Bureau of Urgent Cases, the Montería Metropolitan Police carried out some preventive and security measures while carrying out the risk analysis of the UNP, but they did not report any criminal investigation for these incidents.[129].

Worse still, in other cases the police does not take any action, neither preventive nor investigative, after receiving complaints about threats against LGBT people. At the end of March 2017, for example, a transgender woman was threatened via WhatsApp messages in El Zulia, Norte de Santander. In the same municipality, there were other threats against LGBT persons[130] and the murder of a transgender leader in 2016.[131] Despite these antecedents of risk, the Police Department of Norte de Santander did not take any action on the complaint filed by the Bureau of Urgent Cases and limited itself by pointing out that the victim does not meet the requirements to be a beneficiary of the UPN protection programs. The case was therefore referred to the municipal Procurator's Office of El Zulia, an institution that is neither competent to investigate cases of threats nor to provide protection measures.[132]

Something similar happened in Magdalena. In October 2017, threatening pamphlets were circulated against LGBT people and sex workers from the Barro Blanco district in the municipality of Santa Ana. The Ombudsman's Office of Magdalena informed the Police Department of this situation so that they could take the corresponding measures, but the Police Department of Magdalena stated that it did not record any case of threats against LGBT persons in its jurisdiction.[133]

In this sense, both the police and the Prosecutor's Office continually omit their duty to investigate threats against LGBT people. In doing so, they actively promote impunity, since they refuse to investigate these facts even when the victims formally report them or when other entities comply with referring them the complaints they receive. This bottleneck generated by the Prosecutor's Office and the police limits the actions that other actions may take.

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in January 2018.

129 Ministry of the Interior. Response to the right of petition sent by Colombia Diversa in January 2018.

130 Delegate Ombudsman for the Prevention of Risks of Human Rights Violations and International Humanitarian Law-Early Warning System. Follow-up Note 006-16, second to Risk Report No. 020-12.

131 Prensa Rural. "Asesinado joven de la comunidad LGBTI en Norte de Santander," press release of May 25, 2016.

132 Ministry of the Interior. Response to the right of petition sent by Colombia Diversa in January 2018.

133 Police Department of Magdalena. Response to the right of petition sent by Caribe Afirmativo in January 2018.

Best Practices in Cases of Threats Against LGBT People

Contrary to the lack of due diligence by the Prosecutor's Office and the police, the Ombudsman's Office has developed best practices in cases of threats against LGBT persons that should be strengthened and replicated by other entities. In addition to referring complaints to the Prosecutor's Office, the police and the National Protection Unit, and to designate judicial representation to some of the victims, the gender duos of some of the regional courts have requested that the Prosecutor's Office initiate investigations and that the prejudiced motives of these crimes be recognized.

The Regional Ombudsman's Office of Arauca, for example, reported that a lesbian woman appointed a legal representative who criminally denounced threats made to her and asked the Prosecutor's Office to promote the process and establish a precedent with the crime of harassment, recognizing that the threats were motivated by prejudice towards the sexual orientation of the victim. To date, there has been no response from the Prosecutor's Office to these requests.[134] For its part, the Regional Ombudsman's Office of Quindío appointed a public defender to a transgender woman, human rights defender, who has been repeatedly threatened and discriminated against by her neighbours in the municipality of La Tebaida. Likewise, it requested the Prosecutor's Office to unify the processes of threats and discrimination as a case of "systematic gender-based violence based on the victim's gender identity" in accordance with the parameters of Law 1257 of 2008.[135] The Prosecutor's Office has not responded to this request and, in the opinion of the Ombudsman's Office, this has prevented significant progress in the respective investigations.

In cases of LGBT human rights defenders, the Ombudsman's Office has not limited itself to sending complaints to the National Protection Unit, but through its participation in the Comité de Evaluación del Riesgo y Recomendación de Medidas (CERREM) [Committee for the Evaluation of Risk and Recommendation of Measures] has promoted that the risk of the victims be evaluated adequately. Thanks to these efforts, in two cases, the risk was assessed as extraordinary and protection measures were assigned to the victims. In this regard, the Ombudsman's Office has made important efforts to promote both investigations and preventive and protective measures for victims.

134 Regional Ombudsman's Office of Arauca. Response to the right of petition sent by Colombia Diversa in January 2018.

135 Regional Ombudsman's Office of Quindío. Response to the right of petition sent by Colombia Diversa in January 2018.

In terms of the Attorney General's Office, although this entity has exercised its role of judicial intervention in two criminal investigations for homicides of LGBT persons, similar actions are not known regarding preventive, disciplinary or judicial intervention in cases of threats against LGBT persons. On the other hand, although in June 2017 it issued Directive 002 of 2017 with guidelines for the protection of human rights defenders and their organizations, no regional Attorney's Office reported having taken preventive, disciplinary or judicial intervention measures in cases of assault to LGBT human rights defenders in accordance with the guidelines of Directive 002 of 2017.

Colombia Diversa and Caribe Afirmativo present their third joint report on the human rights of lesbian, gay, bisexual and transgender (LGBT) people in Colombia. The report focuses on homicides, police violence and threats against this community in 2017. These facts are analyzed as human rights violations that compromise the State's responsibility. The goal of this report is to promote effective actions that prevent, investigate, sanction and ensure non-repetition.

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