

# **Report on a tragic event in the National Penitentiary on December 1, 2004**

## **INTRODUCTION**

On December 1, 2004, the National Penitentiary was the scene of a tragic event which provoked the indignation and disgruntlement of all those in favor of a society which respects laws and principles. Immediately after being informed of this event, the NCHR dispatched a delegation to the site and, in keeping with its responsibilities, now submits to the public the resulting conclusions.

## **METHODOLOGY**

The methodology used for this report was as follows:

- Meetings with the actors in question:
  - a) the authorities
  - b) the victims
- Findings

## **THE FACTS**

On the morning of December 1, 2004, the officials in charge of the Civil Prison of Port-au-Prince, commonly referred to as the “Large Prison” (or “*Gran Prizon*” in Haitian Creole), attest to having been informed of a plan fomented by certain detainees in the prison’s *Titanic* wing designed to create a situation of tension and, at the same time, to provoke an escape. Thus, following searches conducted in suspected cells, bladed weapons such as knives, machetes, picks, sharpened tooth brushes and clubs were found.

The presumed instigators of the movement were identified by prison officials, who decided to transfer them to other prisons in the metropolitan area. This decision seems to have provoked discontent among the prisoners, and a situation of tension ensued. Armed with bladed and pointed weapons, they are said to have broken padlocks, beds and cooking pots and burned plastic objects that were in their possession. The prisoners who were revolting were said to have turned on the other detainees who had not joined their uprising. The police say that they attempted for two hours to quell the uprising. Unable to control the revolt, prison officials attest to having called upon special units of the Haitian National Police (PNH) to come to their assistance. Agents from the Brigade for Intervention and Maintenance of Order (CIMO) and the SWAT Team of the Haitian National Police (GIPNH/ Swat Team) arrived two hours late. They fired their weapons in all directions and at anything that moved, mistreating and beating prisoners who had been subdued.

## **RESULTS**

- Seven (7) detainees killed ;
- Seventeen (17) wounded by bullets ;
- Twenty-nine (29) others brutally beaten and mistreated ;

- Six (6) police officers wounded ;
- Eight (8) cells burned, including one (1) in the Titanic and seven (7) others in solitary confinement ;

Given the state of a number of the prisoners and the lax attitude shown by the authorities, there was no doubt but that a number of deaths were to follow. In effect, three (3) other detainees succumbed to their wounds. This brings the current death toll to ten (10).

*List of prisoners killed in the December 1<sup>st</sup> uprising*

Last name	First name	Age	Case number	Charge	Admitted	Legal status	Place and date of death
Pierre	Fanel	31 yrs	PN04-0735	Conspiracy and Robbery	02/07/04	Extended pre-trial detention	Penitentiary 01/12/04
Luxamar	Jean Ilfrid (alias Ti Pistolet)	32 yrs	PN04-08179	Conspiracy and abduction	23/08/04	Pre-trial detention	Penitentiary 01/12/04
Raphaël	Lorenzo (Dominicain)	28 yrs	PN04-06-23	Conspiracy, Robbery, First degree murder	02/06/04	Extended pre-trial detention	Penitentiary 01/12/04
Jean	Jacques Hervé	29 yrs	PN04-09-101	Attempted first degree murder	15/09/04	Pre-trial detention	Penitentiary 01/12/04
Pierre	Icrédet (alias Toulimen)	35 yrs	PN04-08-180	Kidnapping, abduction	20/08/04	Pre-trial detention	Penitentiary 01/12/04
Mingot	Pedro	20 yrs	PN04-10-90	Conspiracy	13/10/04	Pre-trial detention	Penitentiary 01/12/04
Laurore	Evens	25 yrs	PN04-11-169	Armed robbery and attempted first degree murder	24/11/04	Pre-trial detention	Penitentiary 01/12/04
Désir	Yves Guenson	31 yrs	PN04-08-88	Aggravated assault and battery	10/08/04	Pre-trial detention	Penitentiary 03/12/04
Sapa	Casimir	20 yrs	PN-04-06-174	Illegal possession of weapons and conspiracy	16/06/04	Sentenced	HUEH* 09/12/04
Joseph	Lovius (alias Nèg Pa)	–	PN04-09-240	Aggravated assault and battery	24/10/04	Pre-trial detention	HUEH* 11/12/04

\*HUEH = Hospital of the State University of Haiti (General Hospital)

On December 2, 2004, one day after the uprising, the prisoners who were victims were dumped like rubbish in the courtyard of the dispensary of the National Penitentiary. It was only at the end of the morning that the medical director of the Penitentiary Administration began to select the most serious cases for transport to the State University Hospital (General Hospital).

***List of detainees with gunshot wounds from the December 1, 2004 uprising***

<b>Last name</b>	<b>First name</b>	<b>Case number</b>	<b>Admitted</b>	<b>Comments</b>
Audescar	Valière	PN04-06332	30/06/04	
Charles	Mackenson	PN04-10200	20/10/04	
Delva	Evens	PN04-11176	25/11/04	
Désir	Yves Guenson	PN04-09206	23/09/04	(deceased 03/12/04)
Destiné	Renold	PN04-07257	19/07/04	
Dorolien	Osnel	PN04-09284	29/09/04	
Felix	Edwice	PN04-09280	29/09/04	
Jean	Dieulifort	PN04-09055	06/09/04	
Jean Basquin	Jn Junior	PN04-05203	31/05/04	
Joseph	Lovius	PN04-09240	24/09/04	(deceased 11/12/04)
Lefils	Léon	PN04-09152	17/09/04	
Léger	Daniel	PN04-07051	03/07/04	
Mathieu	Jean Ludson	PN04-09208	23/09/04	
Michel	Luckner	PN04-10207	28/10/04	
Myrtil	Jonas	PN04-07395	27/07/04	
Sapa	Casimir	PN04-06174	16/06/04	(deceased 9/12/04)
Tercy	Peterson	PN04-07449	30/07/04	

***List of detainees wounded and mistreated during the December 1, 2004 uprising***

<b>Last name</b>	<b>First name</b>	<b>Case number</b>	<b>Admitted</b>
Alexis	Litan	PN04-09287	29-09/04
André	Jean Junior	PN04-06129	11 /06/04
Antoine	Pierre Clausel	PN04-04031	03/04/04
Azor	Guerino	PN04-04165	29/04/04
Casséus	Evens	PN04-11065	12/11/04
Daniel	Jean Simon	PN04-09010	01/09/04
Delmé	Jean Gardy	PN04-10174	21/10/04
Dubuisson	Luckson	PN04-06131	11/06/04
Dumé	Jeanty	PN04-11041	10/11/04
Espérance	Gemice	PN04-06261	21/06/04
Etienne	Lemercy	PN04-10101	18/10/04
Exilas	Jean Louis Junior	PN04-09140	17/09/04
Guerrrier	Evens	PN04-07239	19/07/04
Jean	Kesner	PN04-06114	09/06/04

Joseph	Rolière	PN04-10186	26/10/04
Joseph	Ulrick	PN04-08124	13/08/04
Laguerre	Maxan	PN04-09085	14/09/04
Louis	Marsé	PN04-06219	18/06/04
Michel	Estin	PN04-07075	03/07/04
Milfort	Marc Olden	PN04-05208	31/05/04
Nazaire	Ted	PN04-08001	02/08/04
Petit Frère	Berthony	PN04-09204	23/09/04
Pierre	Johnny	PN04-11094	17/11/04
Pierre	Jonel	PN04-09262	28/09/04
Richard	Kernizan	Admission 3	
St Cyr	Renand	PN04-09092	14/09/04
Viaud	Claude	PN04-05150	24/05/04
Welch	Manèche	PN04-06138	11/06/04
Ylisse	Enock	PN04-06065	07/06/04

**NB: It should be noted that the names of the six (6) police officers wounded in this uprising do not appear on this list.**

For the public record, the NCHR esteems it necessary to present, in the following tables, the prison population of the country's various detention centers, including the National Penitentiary, before, during, and after the December 1, 2004 uprising :

***Incarcerated population as of November 30, 2004***

Detention center	Number	Men	Women	Boys	Girls	Men	Women	Boys	Girls	Total
		Detained	Detained	Minors Detained	Minors Detained	Sentenced	Sentenced	Minors Sentenced	Minors Sentenced	
Anse à Veau	53	41	2	0	0	10	0	0	0	53
Arcahaie	86	78	1	1	0	5	0	0	1	86
Cap Haïtien	129	116	8	1	1	2	1	0	0	129
Carrefour	71	70	0	1	0	0	0	0	0	71
Cayes	96	77	3	2	0	14	0	0	0	96
Coteaux	11	11	0	0	0	0	0	0	0	11
Delmas	31	0	0	30	0	0	0	1	0	31
Gde Rivière du Nord	38	34	0	0	0	4	0	0	0	38
Jacmèl	97	79	3	0	0	15	0	0	0	97

Jérémie	74	60	1	4	0	9	0	0	0	74
Pénitencier	1065	1041	0	0	0	24	0	0	0	1065
Pétion Ville	70	2	61	0	7	0	0	0	0	70
Saint Marc	131	111	2	1	0	17	0	0	0	131
<b>Total</b>	<b>1952</b>	<b>1720</b>	<b>81</b>	<b>40</b>	<b>8</b>	<b>100</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1952</b>

*Incarcerated population on December 1*

Detention Center	No.	Men Detained	Women Detained	Boys Minors Detained	Girls Minors Detained	Men Sentenced	Women Sentenced	Boys Minors Sentenced	Girls Minors Sentenced	Total
Anse à Veau	53	41	2	0	0	10	0	0	0	53
Arcahaie	86	78	1	1	0	5	0	0	1	86
Cap Haïtien	129	116	8	1	1	2	1	0	0	129
Carrefour	71	70	0	1	0	0	0	0	0	71
Cayes	96	77	3	2	0	14	0	0	0	96
Coteaux	11	11	0	0	0	0	0	0	0	11
Delmas	31	0	0	30	0	0	0	1	0	31
Gde Rivière du Nord	38	34	0	0	0	4	0	0	0	38
Jacmèl	97	79	3	0	0	15	0	0	0	97
Jérémie	74	60	1	4	0	9	0	0	0	74
Pénitencier	1070	1048	0	0	0	22	0	0	0	1070
Pétion Ville	70	2	61	0	7	0	0	0	0	70
Saint Marc	131	111	2	1	0	17	0	0	0	131
<b>Total</b>	<b>1967</b>	<b>1720</b>	<b>81</b>	<b>40</b>	<b>8</b>	<b>100</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1957</b>

*Incarcerated population as of December 2, 2004*

Detention Center	Number	Men Detained	Women Detained	Boys Minors Detained	Girls Minors Detained	Men Sentenced	Women Sentenced	Boys Minors Sentenced	Girls Minors Sentenced	Total
Anse à Veau	53	41	2	0	0	10	0	0	0	53
Arcahaie	78	73	0	1	0	4	0	0	0	78

Cap Haïtien	135	120	9	1	2	2	1	0	0	135
Carrefour	69	68	0	1	0	0	0	0	0	69
Cayes	96	76	3	2	0	15	0	0	0	96
Coteaux	12	12	0	0	0	0	0	0	0	12
Delmas	30	0	0	29	0	0	0	1	0	30
Gde Rivière du Nord	38	34	0	0	0	4	0	0	0	38
Jacmel	102	84	3	1	0	14	0	0	0	102
Jérémie	74	60	1	4	0	9	0	0	0	74
Pénitencier	1063	1041	0	0	0	22	0	0	0	1063
Pétion Ville	68	2	66	0	0	0	0	0	0	68
Saint Marc	122	102	2	0	0	18	0	0	0	122
<b>Total</b>	<b>1940</b>	<b>1713</b>	<b>86</b>	<b>39</b>	<b>2</b>	<b>98</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>1940</b>

### *COMMENTS*

The NCHR firmly condemns the machinations of the police during this uprising and believes that the tragic events which occurred at the National Penitentiary did not occur by chance, but rather are the consequence of the lax and indifferent attitude of the authorities concerned vis-à-vis those who violate human rights. Approximately three thousand (3,000) prisoners escaped from prison during the events leading to the departure for exile of President Jean Bertrand Aristide and, to date, nothing has been done to capture them. The events are also a result of extended pre-trial detention, of the trivial manner in which those placed in positions to protect life treat the right to life, and of the irresponsibility of the Direction of Penitentiary Administration (DAP) and the officials of the nation's largest corrections center. The NCHR considers it scandalous that prisoners were able to have in their possession machetes, knives, razor blades and other such things. How could they obtain them, given that access to prisons is forbidden to any visitors equipped with sharp instruments?

What happened at the National Penitentiary on December 1, 2004 constitutes a **serious violation of rights—to life, physical integrity, security, and human dignity—rights guaranteed by the 1987 Haitian Constitution and the international and regional instruments to which Haiti is a signatory.**

**The 1987 Haitian Constitution, in its Articles 19 and 44-1 respectively, stipulates:**

*The State has the absolute obligation to guarantee the right to life, health, and respect of the human person for all citizens without distinction, in conformity with the Universal Declaration of the Rights of Man.*

*Prisons must be operated in accordance with standards reflecting respect for human dignity according to the law on this subject.*

***The Universal Declaration of Human Rights stipulates in its Article 3:***

*Everyone has the right to life, liberty and security of person.*

***The American Convention on Human Rights sets forth in its Article 5:***

***Paragraph 1:*** *Everyone has the right to have his physical, mental and moral integrity respected.*

***Paragraph 2:*** *No one shall be subjected to torture or to cruel, inhuman or degrading punishment or treatment. All persons deprived of their liberty shall be treated with respect for the inherent dignity of the human person.*

The set of principles for the protection of all persons submitted to any form of detention or imprisonment is worded as such:

**1<sup>st</sup> Article:** *All persons subjected to any form of detention or imprisonment shall be treated with humanity and respect for the inherent dignity of the human person.*

#### **RECOMMENDATIONS**

The NCHR recommends that the competent authorities:

- Establish a mixed and independent commission on the events of December 1, 2004;
- Autopsy the cadavers;
- Take responsibility for the funerals for the victims;
- Take conservatory measures against all police agents having used excessive force during this uprising;
- Make these police available to the judicial system;
- Try the police officers and provide reparations to the families of the victims;
- Provide DAP agents with adequate means for their work, such as shields, tear gas, water, and other tools so that recourse to weapons is not the only alternative;
- Arrest all prisoners at large since the events which led to the toppling of the former government;
- Create and develop mechanisms within prisons allowing for guarantee of the effective respect of the rights of the prisoners;
- Apply Article 447 of the Criminal Investigation Code which orders the Magistrates to visit the centers of detention and retention in their jurisdiction at least once a month.