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**Cour
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**International
Criminal
Court**

Original: **English**

No.: **ICC-01/21**

Date: **14 June 2021**

PRE-TRIAL CHAMBER I

Before: Judge Péter Kovács, Presiding Judge
Judge Reine Alapini-Gansou
Judge María del Socorro Flores Liera

SITUATION IN THE REPUBLIC OF THE PHILIPPINES

Public

Public redacted version of “Request for authorisation of an investigation pursuant to article 15(3)”, 24 May 2021, ICC-01/21-7-SECRET-Exp

Source: Office of the Prosecutor

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

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Section**

I. INTRODUCTION

1. Pursuant to article 15(3) of the Rome Statute (“Statute”), the Prosecution hereby requests authorisation to open an investigation into the Situation in the Republic of the Philippines (“Philippines”) between 1 November 2011 and 16 March 2019.

2. The Prosecution submits that there is a reasonable basis to believe that the Crime Against Humanity of Murder was committed from at least 1 July 2016 to 16 March 2019 in the context of the Philippine government’s “war on drugs” (“WoD”) campaign. Information obtained by the Prosecution suggests that state actors, primarily members of the Philippine security forces,¹ killed thousands of suspected drug users and other civilians during official law enforcement operations. Markedly similar crimes were committed outside official police operations, reportedly by so-called “vigilantes”, although information suggests that some vigilantes were in fact police officers, while others were private citizens recruited, coordinated, and paid by police to kill civilians. The total number of civilians killed in connection with the WoD between July 2016 and March 2019 appears to be between 12,000 and 30,000.²

3. These extrajudicial killings, perpetrated across the Philippines, appear to have been committed pursuant to an official State policy of the Philippine government. Police and other government officials planned, ordered, and sometimes directly perpetrated extrajudicial killings. They paid police officers and vigilantes bounties for extrajudicial killings. State officials at the highest levels of government also spoke publicly and repeatedly in support of extrajudicial killings, and created a culture of impunity for those who committed them.

4. The same types of actors also allegedly committed strikingly similar crimes in the city and region of Davao (“Davao”), starting in 1988 and continuing through 2016. Given the similarities between those killings and the nationwide WoD killings from July 2016 to March 2019, and the overlap of individuals involved during both periods, the Prosecution requests that the 2011-2016 events in Davao be included within the requested investigation.

5. The Court has jurisdiction over these crimes. While the Philippines’ withdrawal from

¹ The term “security forces” is used to refer broadly to members of Philippine law enforcement (including the Philippine National Police and Philippine Drug Enforcement Agency) and members of the Armed Forces of the Philippines. Other “state actors” have included various officials at the national and local government level. *See* para. 83-86 below.

² *See* para. 19, 120 below.

the Statute took effect on 17 March 2019, the Court retains jurisdiction with respect to alleged crimes that occurred on the territory of the Philippines while it was a State Party, from 1 November 2011 up to and including 16 March 2019.

6. The Prosecution appends to this Request a table of contents (Annex 1); a risk assessment (Annexes 2 and 3); a chronology of relevant events (Annex 4); and an explanatory glossary of relevant names of institutions and of other acronyms (Annex 5). The Prosecution confirms its readiness to provide additional information or respond to any questions by the Chamber pursuant to regulation 28 of the Regulations of the Court.

II. LEVEL OF CONFIDENTIALITY

7. [REDACTED].

8. [REDACTED].

III. THERE IS A REASONABLE BASIS TO BELIEVE THAT CRIMES WITHIN THE JURISDICTION OF THE COURT HAVE BEEN COMMITTED

A. Context of the WoD campaign in the Philippines

9. In 2015, the Dangerous Drugs Board (“DDB”), the body tasked with defining the Philippines’ policy and strategy on drug abuse prevention and control,³ commissioned a nationwide survey which estimated that there were 1.8 million drug users in the Philippines, a figure cited by the Government of the Philippines as the official number of drug users.⁴ In his public speeches, Philippine President Rodrigo Duterte has frequently inflated this number, claiming variously that there are “three million”⁵ and “four million addicts” in the Philippines.⁶ From as early as February 2016 and throughout the WoD, the Philippine Drug Enforcement Agency (“PDEA”) repeatedly reported that a high proportion of the country’s *barangays* were “drug affected” – meaning that a drug user, dealer (or “pusher”), manufacturer, marijuana cultivator, or other drug personality had been “proven” to exist in such locations – and

³ DDB, Vision, Mission, Mandate, undated, [PHL-OTP-0003-3832](#).

⁴ See, e.g., PNP, PNP Anti-Illegal Drugs Campaign Plan – Project: “Double Barrel”, Command Memorandum Circular No. 16 – 2016, [PHL-OTP-0003-2490](#) at 2491 (“[PNP, CMC NO. 16 – 2016](#)”).

⁵ PCOO, President Rodrigo Roa Duterte's Speech during the 80th National Bureau of Investigation (NBI) Founding Anniversary, 14 November 2016, [PHL-OTP-0003-3283](#) at 3286.

⁶ ABS-CBN News, Duterte defends killing of drug pushers, says they deserve death, 17 December 2016, [PHL-OTP-0002-0524](#) at 0525.

indicated that the WoD should continue until all *barangays* could be considered cleared.⁷ According to the DDB, the most-used drugs in the Philippines are methamphetamine hydrochloride (commonly known as “*shabu*”) and cannabis (marijuana).⁸

1. Period prior to the launch of the nationwide WoD campaign

10. During 1988-1998, 2001-2010, and 2013-2016, the current President of the Philippines, Rodrigo Duterte, served as Mayor of Davao City.⁹ Throughout his tenure as Mayor, a central focus of his efforts was fighting crime and drug use, earning him the nicknames “The Punisher” and “Duterte Harry” for the violent manner in which he sought to combat crime.¹⁰ On multiple occasions, Duterte publicly supported and encouraged the killing of petty criminals and drug dealers in Davao City.¹¹

11. During Duterte’s tenure as Mayor, Davao City police officers and the so-called “Davao Death Squad” (“DDS”), a vigilante group comprising both civilian and police members linked to the local administration, allegedly carried out at least 1,000 killings. Those killings share a number of common features with killings during the later national WoD campaign, including the victim profile, advance warning to the victim, perpetrator profile, the means used, and the locations of incidents.¹² In 2016 and 2017, two men, including a retired police officer, claimed during Philippine Senate hearings to have been part of the DDS and to have been ordered and

⁷ See, e.g., [PNP, CMC NO. 16 – 2016](#) at 2491; PDEA, 49.65% of Barangays Nationwide Drug-Affected: PDEA (Press Release No. 355/17), 22 July 2017, [PHL-OTP-0003-2727](#).

⁸ Philippine Dangerous Drugs Board, Statistics 2016, 18 April 2017, [PHL-OTP-0003-3809](#) at 3816, 3818, 3820. See also [PNP, CMC NO. 16 – 2016](#) at 2491.

⁹ BBC, Profile: Duterte the controversial “strongman” of the Philippines, 22 May 2019, [PHL-OTP-0003-0361](#) at 0363; CNN, Rodrigo Duterte Fast Facts, 22 March 2019, [PHL-OTP-0003-0384](#) at 0385; HRW, “You Can Die Any Time”: Death Squad Killings in Mindanao, April 2009, [PHL-OTP-0003-0886](#) at 0904-0906 (“[You Can Die Any Time](#)”).

¹⁰ Reuters, Factbook: Rodrigo Duterte on crime and punishment, 13 May 2016, [PHL-OTP-0003-0124](#) at 0124; BBC, Profile: Duterte the controversial “strongman” of the Philippines, 22 May 2019, [PHL-OTP-0003-0361](#) at 0365; News.com.au, The Philippines’ real-life Punisher, Davao City Mayor Rodrigo Duterte, urged to run for president, 2 July 2014, [PHL-OTP-0003-0378](#) at 0378; HRW, [You Can Die Any Time](#) at 0894.

¹¹ Reuters, Philippine death squads very much in business as Duterte set for presidency, 25 May 2016, [PHL-OTP-0003-0014](#) at 0016; Politiko Politics, Duterte shares grisly secret to keeping Davao City as PH’s safest, updated 5 October 2017, [PHL-OTP-0003-1287](#) at 1287-1288; Inquirer, Duterte confirms “ties” with Davao Death Squad, 25 May 2015, [PHL-OTP-0003-1290](#) at 1291; The Sydney Morning Herald, Philippine incoming President Rodrigo Duterte urges public to kill drug users, 6 June 2016, [PHL-OTP-0003-0022](#) at 0022-0025; News.com.au, The Philippines’ real-life Punisher, Davao City Mayor Rodrigo Duterte, urged to run for president, 2 July 2014, [PHL-OTP-0003-0378](#) at 0378-0381.

¹² HRW, [You Can Die Any Time](#) at 0908-0909. See also News.com.au, The Philippines’ real-life Punisher, Davao City Mayor Rodrigo Duterte, urged to run for president, 2 July 2014, [PHL-OTP-0003-0378](#); Inquirer, Summary: Allegations of “DDS” member in Senate hearing, 15 September 2016, [PHL-OTP-0003-2029](#) at 2029-2031.

financed by then-Mayor Duterte to carry out extrajudicial killings of suspected criminals and drug personalities.¹³

12. In 2016, Duterte ran for President of the Philippines. His campaign platform centred on promises to launch a war on crime and drugs, *inter alia*, by replicating the strategies he implemented in Davao City during his time as Mayor.¹⁴ On 9 May 2016, Duterte was elected President of the Philippines, and he was sworn into office on 30 June 2016.¹⁵

2. Period from the launch of the WoD campaign on 1 July 2016 onwards

13. Immediately after being sworn in, President Duterte publicly stated that he would kill suspected drug dealers and addicts, and he also urged the public to do so.¹⁶ On 1 July 2016, the Philippine National Police (“PNP”) – under the leadership of PNP Chief Ronald “Bato” Dela Rosa – issued Command Memorandum Circular No. 16-2016 (“CMC No. 16-2016”), launching Project “Double Barrel” and the national WoD campaign.¹⁷ CMC No. 16-2016 refers to the “[p]ronouncement of PRESIDENT RODRIGO R DUTERTE to get rid of illegal drugs during the first six months of his term”. The stated purpose of “Double Barrel” was the “neutralization of illegal drug personalities nationwide”.¹⁸ It involved conducting “operations against illegal drug personalities and dismantling of drug syndicates”, in order to “clear all

¹³ [REDACTED]; Rappler, Duterte: “Thousands” killed in Davao City drug war, 24 February 2017, [PHL-OTP-0003-2022](#) at 2024-2026; [REDACTED]; Inquirer, Summary: Allegations of “DDS” member in Senate hearing, 15 September 2016, [PHL-OTP-0003-2029](#) at 2029-2031; The Guardian, Philippines president ordered murders and killed official, claims hitman, 15 September 2016, [PHL-OTP-0003-0579](#).

¹⁴ CNN, Obama calls Duterte, highlights shared human rights values, 18 May 2016, [PHL-OTP-0003-0037](#) at 0037-0039; Metro, President-elect of Philippines pledges to kill 100,000 criminals in six months, 18 June 2016, [PHL-OTP-0003-0041](#) at 0041-0043; [REDACTED]; Philstar, Duterte admits to “bloody” presidency if he wins, 21 February 2016, [PHL-OTP-0003-1303](#); Inquirer, Kill the criminals! Duterte’s vote-winning vow, 16 March 2016, [PHL-OTP-0003-1305](#) at 1305-1308; Reuters, Factbook: Rodrigo Duterte on crime and punishment, 13 May 2016, [PHL-OTP-0003-0124](#) at 0124-0125.

¹⁵ PCOO, President Rodrigo Roa Duterte’s Speech during his Inauguration as the 16th President of the Republic of the Philippines, 30 June 2016, [PHL-OTP-0003-3291](#); CNN, Rodrigo Duterte Fast Facts, 22 March 2019, [PHL-OTP-0003-0384](#) at 0385.

¹⁶ The Guardian, Philippines president Rodrigo Duterte urges people to kill drug addicts, 1 July 2016, [PHL-OTP-0003-0101](#) at 0101-0102; HRW, The Philippines’ Duterte Incites Vigilante Violence: President Encourages the Jobless to Kill Drug Addicts, 19 April 2017, [PHL-OTP-0003-0657](#) at 0657-0658; Malay Mail Online, Philippine police kill 10 in Duterte’s war on crime, 2 July 2016, [PHL-OTP-0003-0047](#) at 0048; [REDACTED]; Time, Inside Philippine President Rodrigo Duterte’s War on Drugs, 15 September 2016, [PHL-OTP-0003-0254](#).

¹⁷ [PNP, CMC NO. 16 – 2016](#). See also Human Rights Council, Report of the United Nations High Commissioner for Human Rights on the situation of human rights in the Philippines, A/HRC/44/22, 4 June 2020, [PHL-OTP-0003-2968](#) at 2971 (“[A/HRC/44/22](#)”).

¹⁸ [PNP, CMC NO. 16 – 2016](#) at 2490-2491.

drug affected barangays in the country” and to “pursue the neutralization of illegal drug personalities as well as the backbone of illegal drugs network operating in the country.”¹⁹

14. Project Double Barrel had two basic components. The first, Operation Tokhang (or “Oplan Tokhang”, meaning operation “knock and plead”), focused on house-to-house visits, carried out to “persuade suspected illegal drug personalities to stop their illegal drug activities”.²⁰ The second, Operation High Value Target (“HVT” or “Oplan HVT”), focused on various types of operations targeting high-value and street-level targets involved in trafficking and selling illegal drugs, such as so-called “buy-bust” operations (a form of sting operation), serving search and arrest warrants, carrying out raids, and setting up checkpoints.²¹ Although these two components changed in some respects over time, they remained at the centre of the PNP’s WoD strategy throughout the period covered by this Request.

15. Between July 2016 and March 2019, the WoD campaign can be divided into six operational phases:

Phase 1 (1 July 2016 – mid-October 2016) saw the implementation of Project Double Barrel in the first three months following Duterte’s inauguration. It included law enforcement activities under both Operation Tokhang and Operation HVT.²² Amnesty International (“AI”) called this period “Duterte’s 100 days of carnage”.²³

During **Phase 2** (26 October 2016 – 29 January 2017), the implementation of “Project Double Barrel Alpha” expanded the scope of Double Barrel, focusing on the “neutralization of high value targets” and extending Operation Tokhang to “schools, business establishments, subdivisions and condominium”, in addition to visits to drug suspects’ residences.²⁴

¹⁹ PNP, PNP Operational Accomplishments – 1st Semester 2017, 29 January 2017, [PHL-OTP-0003-2523](#) at 2523; [PNP, CMC NO. 16 – 2016](#) at 2492.

²⁰ [PNP, CMC NO. 16 – 2016](#) at 2492. Regarding house visitations, see also generally [A/HRC/44/22](#) at 2971.

²¹ [PNP, CMC NO. 16 – 2016](#) at 2495; Dangerous Drugs Board, Philippine Revised Anti-illegal Drugs Strategy (PADS), 9 November 2018, [PHL-OTP-0003-3418](#) at 3450.

²² [PNP, CMC NO. 16 – 2016](#) at 2490, 2492.

²³ AI, Philippines: Duterte’s 100 days of carnage, 7 October 2016, [PHL-OTP-0003-0823](#).

²⁴ PNP – Police Regional Office One, PRO1’s Anti-Illegal Drugs Campaign levels up to Double Barrel-Alpha, 2 November 2016, [PHL-OTP-0003-2546](#) at 2547. See also PNP, PNP Operational Accomplishments 1st Semester 2017, 29 January 2017, [PHL-OTP-0003-2523](#) at 2523.

Phase 3 (30 January 2017 – 5 March 2017) saw the temporary suspension of police anti-drug operations, following the killing of Korean national Jee Ick Joo by PNP personnel.²⁵ The Anti-Illegal Drugs Group (“AIDG”), the body responsible for “coordinat[ing] all anti-illegal drug operations at all levels of command” within the PNP in the context of Operation HVT,²⁶ along with associated anti-illegal drug units from the national to police station level, were dissolved on Duterte’s orders.²⁷ Duterte ordered the PDEA to take over all anti-drug-related operations, while the PNP was ordered to clean its ranks of so-called “rogue” police, including those suspected to be involved in drug-related activities.²⁸ The Armed Forces of the Philippines (“AFP” or “armed forces”) were tasked with assisting the PDEA in its work.²⁹ On 27 February 2017, Duterte called for the resumption of PNP anti-drug operations.³⁰

Phase 4 (6 March 2017 – 10 October 2017) corresponded to the implementation of “Project Double Barrel: Reloaded”, which relaunched Project Double Barrel “with a few revisions in its mechanisms”.³¹ PNP Chief Dela Rosa promised that “this time it is going to be more extensive, aggressive and well-coordinated”.³² Dela Rosa also promised “a less bloody, if not bloodless” campaign.³³ During this phase, Operation Tokhang was renamed “Operation Tokhang: Revisited” and transformed into a “multi-sectoral Tokhang”, whereby representatives of religious groups and elected *barangay* officials or *Purok*

²⁵ PNP, PNP Operational Accomplishments 1st Semester 2017, 29 January 2017, [PHL-OTP-0003-2523](#) at 2523; The Manila Times, Resume drug war, 27 February 2017, [PHL-OTP-0003-1552](#) at 1554-1555; *see also* CNN Philippines, PNP Chief “Overwhelming evidence” vs. cop in Korean kidnap-slay, 27 January 2017, [PHL-OTP-0003-0223](#).

²⁶ [PNP, CMC NO. 16 – 2016](#) at 2495, 2501.

²⁷ PNP, PNP Operational Accomplishments 1st Semester 2017, 29 January 2017, [PHL-OTP-0003-2523](#) at 2523; Phil Star, Tokhang frozen AIDG dissolved; PNP out of drug war, 31 January 2017, [PHL-OTP-0003-1853](#) at 1853; ABS-CBN News, PNP disbands police anti-drugs group, 30 January 2017, [PHL-OTP-0003-1950](#) at 1951.

²⁸ PNP, PNP Operational Accomplishments 1st Semester 2017, 29 January 2017, [PHL-OTP-0003-2523](#) at 2523; Rappler, Duterte orders “cleansing” of PNP, extends drug war again, 30 January 2017, [PHL-OTP-0003-1860](#) at 1860-1862; GMA News Online, As anti-drug ops take a backseat, PNP to focus on “internal cleansing”, 30 January 2017, [PHL-OTP-0003-1947](#) at 1947-1948. *See also* PNP, Memorandum Circular No. 2017-013 PNP Internal Cleansing Strategy, 21 February 2017, [PHL-OTP-0003-2584](#).

²⁹ Al Jazeera, Philippines army may now join Duterte's “war on drugs”, 1 February 2017, [PHL-OTP-0003-0264](#) at 0264-0265.

³⁰ ACLED, Duterte’s War: Drug-Related Violence in the Philippines, 17 October 2018, [PHL-OTP-0003-0810](#) at 0816; Reuters, Philippine president to bring police back into war on drugs, 28 February 2017, [PHL-OTP-0003-0244](#) at 0244-0246.

³¹ RPIO Pro 7 on Facebook, On PNP’s Project Double Barrel: Reloaded, Oplan Tokhang: Revisited and Oplan HVT: Revalidated, 16 March 2017, [PHL-OTP-0003-2554](#) at 2554.

³² Davao Today, “Oplan Double Barrel” Reloaded: “More extensive, aggressive, well-coordinated,” says Dela Rosa, 6 March 2017, [PHL-OTP-0003-1673](#) at 1673.

³³ Rappler, PNP relaunches war on drugs, vows “less bloody” campaign, 17 April 2019, [PHL-OTP-0003-1687](#) at 1687.

(district) leaders participated in house-to-house visits.³⁴ Operation HVT was also renamed “Operation HVT: Revalidated” and targeted “prominent” officials and personalities suspected to be involved in the illegal drugs trade.³⁵ The PNP also established the Drug Enforcement Group (“DEG”) to replace the defunct AIDG³⁶ as a “national operational support unit with the mission and function to be the lead unit in police anti-drug operations”.³⁷

Phase 5 (10 October 2017 – 4 December 2017) saw a second suspension of the police’s involvement in anti-drug operations, following the highly publicised killing of teenager Kian Delos Santos by members of the PNP, and increased public criticism of the WoD.³⁸ Responsibility for “leading the all-out war against illegal drugs” was transferred to the PDEA exclusively³⁹ until 5 December 2017, when the PNP was again put in charge of conducting anti-drug operations.⁴⁰

Phase 6 (from 5 December 2017) signalled the return of the PNP to the conduct of WoD operations, under the supervision of the PDEA.⁴¹ During this phase, on 21 April 2018, Oscar Albayalde took over from Dela Rosa as head of the PNP. Albayalde reportedly confirmed his commitment to continuing “the programs of the previous leadership”.⁴²

³⁴ RPIO Pro 7 on Facebook, On PNP’s Project Double Barrel: Reloaded, Oplan Tokhang: Revisited and Oplan HVT: Revalidated, 16 March 2017, [PHL-OTP-0003-2554](#) at 2554; The Manila Times, PNP vows “less bloody” Tokhang, 7 March 2017, [PHL-OTP-0003-1704](#) at 1705.

³⁵ Manila Bulletin, “Less bloody, if not bloodless” illegal drugs campaign vowed, 7 March 2017, [PHL-OTP-0003-1716](#) at 1716.

³⁶ PNP activates Drug Enforcement Group; Double Barrel Reloaded, Tokhang Revisited, 7 March 2017, [PHL-OTP-0003-2551](#) at 2551; House of Representatives, Resolution No. 899, 16 March 2017, [PHL-OTP-0003-3501](#) at 3501.

³⁷ Davao Today, “Oplan Double Barrel” Reloaded: “More extensive, aggressive, well-coordinated,” says Dela Rosa, 6 March 2017, [PHL-OTP-0003-1673](#) at 1674.

³⁸ PCOO, Duterte orders PDEA to lead campaign against illegal drugs, 11 October 2017, [PHL-OTP-0003-3720](#) at 3720; The President of the Philippines, Memorandum Order No. 17, 5 December 2017, [PHL-OTP-0003-3319](#). See also The Guardian, Rodrigo Duterte pulls Philippine police out of brutal war on drugs, 12 October 2017, [PHL-OTP-0003-0269](#) at 0269-0270.

³⁹ Office of the President, Memorandum from the President, 10 October 2017, [PHL-OTP-0001-4065](#) at 4066; PDEA, PDEA takes the lead in the war on drugs, 12 October 2017, [PHL-OTP-0003-2556](#) at 2557. See also Rappler, PNP suspends Oplan Double Barrel, again, 12 October 2017, [PHL-OTP-0003-1463](#) at 1464-1465.

⁴⁰ Office of the President, Memorandum Order No. 17 directing the PNP and other law enforcement agencies to resume providing active support to the PDEA in the conduct of anti-illegal drug operations, 5 December 2017, [PHL-OTP-0003-3319](#) at 3320.

⁴¹ PDEA, Press release: PDEA welcomes the return of PNP in the fight against illegal drugs, 25 November 2017, [PHL-OTP-0003-2579](#) at 2580; Office of the President, Memorandum Order No. 17 directing the PNP and other law enforcement agencies to resume providing active support to the PDEA in the conduct of anti-illegal drug operations, 5 December 2017, [PHL-OTP-0003-3319](#) at 3319-3320.

⁴² Rappler, PNP chief Oscar Albayalde’s inaugural speech, 20 April 2018, [PHL-OTP-0003-1468](#) at 1473.

16. Since the launch of the WoD campaign, despite the high number of killings during police anti-drug operations, President Duterte has repeatedly and publicly confirmed his commitment to the continuation of the campaign.⁴³ Other senior government and PNP officials have also regularly spoken in support of Duterte's anti-drug policies.⁴⁴

17. WoD killings by Philippine security forces and "vigilantes" alike have generally targeted persons – most often male – allegedly involved in illegal drug activities, including those whose names appeared on so-called "drug watch lists" compiled by authorities or who had previously "surrendered" to the police in connection to Operation Tokhang.⁴⁵ The WoD campaign was purportedly designed to target both high-level (drug lords, manufacturers, distributors) and lower street-level (users and small-time drug dealers) "drug personalities".⁴⁶ However, the group most impacted by the campaign, and specifically by the killings, has been poor, low-skilled residents of impoverished urban areas.⁴⁷ For this reason, the Philippines' WoD has been described as effectively a "war on the poor".⁴⁸

18. Other types of individuals have also been killed in the context of the WoD campaign, such as public officials alleged to be involved in illegal drugs,⁴⁹ including civil servants, politicians, mayors, deputy mayors, and *barangay*-level officials;⁵⁰ members of Philippine

⁴³ See, e.g., BBC, Obama calls off meeting with Philippine leader after "whore" jibe, 6 September 2016, [PHL-OTP-0003-0137](#) at 0140. See also para. 101-104, 106-107 below.

⁴⁴ See para. 105, 107 below.

⁴⁵ See para. 72, 92 below.

⁴⁶ [PNP, CMC NO. 16 – 2016](#) at 2491-2492, 2505.

⁴⁷ [REDACTED]; AI, If you are poor, you are killed: Extrajudicial executions in the Philippines' "War on Drugs", January 2017, [PHL-OTP-0003-0582](#) at 0587, 0621 ("[AI, If you are poor, you are killed](#)"); HRW, License to Kill: Philippine Police Killings in Duterte's "War on Drugs", March 2017, [PHL-OTP-0003-0662](#) at 0686 ("[HRW, License to Kill](#)"); ABS-CBN News, War on Drugs: The Unheard Stories, [PHL-OTP-0003-1623](#) at 1628; ABS-CBN News, Poor Filipinos most vulnerable in Duterte's drug war study, 25 June 2018, [PHL-OTP-0003-1634](#) at 1634-1639; The Guardian, The people left behind by Philippines' brutal war on drugs, photo essay, 14 August 2018, [PHL-OTP-0003-0232](#) at 0232-0239; The Drug Archive, The Drug Killings: Who, What, Where, When, How?, undated, [PHL-OTP-0003-2996](#) at 2996.

⁴⁸ See, e.g., The Philippine Human Rights Information Center, The War on the Poor: Extrajudicial Killings and their Effects on Urban Poor Families and Communities, 22 September 2018, [PHL-OTP-0003-2465](#) at 2465. See also HRW, "Our Happy Family Is Gone": Impact of the "War on Drugs" on Children in the Philippines, May 2020, [PHL-OTP-0003-1218](#) at 1233.

⁴⁹ Duterte has described these individuals as "narco-officials" or "narco-politicians" and, during the period under scrutiny, publicly identified a large number of them by name. PCOO, President Duterte bares names of narco-politicians, 15 March 2019, [PHL-OTP-0003-3503](#) at 3503-3505; Philippine News Agency, Duterte bares names of 46 gov't officials linked to drugs, 14 March 2019, [PHL-OTP-0003-1697](#) at 1698; Philippine News Agency, Clean up act or clear your name, Go dares "narco politicians", 18 March 2019, [PHL-OTP-0003-1700](#) at 1700-1701. See also The New York Times, Rodrigo Duterte, Philippine President, Links 150 Public Servants to Drugs, 7 August 2016, [PHL-OTP-0003-0508](#).

⁵⁰ See, e.g., ABS-CBN News, Duterte's List: "Narco" politicians, lawmen, judges, 7 August 2016, [PHL-OTP-0003-1661](#) at 1661-1664; DILG, Drug list to be given to PNP regional directors – Sueno, 23 January 2017, [PHL-OTP-](#)

security forces suspected of being involved in drug activities or connected to drug personalities (sometimes referred to as “ninja cops”);⁵¹ and police assets or informants.⁵²

B. Murders allegedly committed in the context of the WoD since July 2016

19. The information reviewed by the Prosecution provides a reasonable basis to believe that between at least 1 July 2016 and 16 March 2019, members of Philippine security forces and other, often associated, perpetrators deliberately killed thousands of civilians suspected to be involved in drug activities. Although the precise number is difficult to ascertain, estimates of the total number of persons killed in connection with the WoD during this period range from 12,000 to 30,000.⁵³

[0003-3826](#); ABS-CBN News, Some congressmen, mayors tagged in new “drug list” – PDEA, 5 June 2018, [PHL-OTP-0003-2252](#); ABS-CBN News, Ozamiz mayor, 14 others killed in police raid, 30 July 2017, [PHL-OTP-0003-1793](#); PDEA, Press Release: PDEA says only 289 barangay official in PRRD’S narco-list, 14 March 2018, [PHL-OTP-0003-2659](#). In some instances, individuals connected to public officials alleged to be drug personalities were also killed, apparently as a result of this connection. [REDACTED].

⁵¹ ACLED, “Ninja” Cops: Duterte’s War on Police Linked to Illegal in the Philippines, 23 November 2018, [PHL-OTP-0003-1284](#); [REDACTED]; Philippine News Agency, Duterte increases bounty for “ninja cops” to P5-M, 18 August 2018, [PHL-OTP-0003-1571](#). See also [PNP, CMC NO. 16 – 2016](#) at 2496-2497; PNP, MC No. 2017-013 PNP Internal Cleansing Strategy, 21 February 2017, [PHL-OTP-0003-2584](#) at 3613; Office of the President, The President’s report to the people 2016-2018, 2018, [PHL-OTP-0003-3542](#).

⁵² [REDACTED]; Inquirer, “Bato” tells Antipolo cops: You will answer to me, 25 August 2016, [PHL-OTP-0002-0592](#).

⁵³ HRW, Philippines Duterte’s “Drug War” Claims 12,000+ Lives, 18 January 2018, [PHL-OTP-0003-0796](#) at 0796; AI, Philippines: Amnesty International calls for independent investigation of human rights violations committed in the context of the war on drugs, 19 February 2018, [PHL-OTP-0003-0799](#) at 0799; Commission on Human Rights, Inputs to the Report of the Office of the United Nations High Commissioner for Human Rights (OHCHR) on the implementation of the UN General Assembly Special Session on Drugs (UNGASS), 1 May 2018 [PHL-OTP-0003-3344](#) at 3347, para. 14; Reuters, War on numbers: Philippines targets drug killing data, 18 July 2019, [PHL-OTP-0003-0565](#) at 0566-0568; The Manila Times, Counting the killings: 20,000 and rising, 24 April 2018, [PHL-OTP-0003-1494](#) at 1494-1495; AI, “They Just Kill”: Ongoing Extrajudicial Executions and Other Violations in the Philippines’ “War on Drugs”, July 2019, [PHL-OTP-0003-1004](#) at 1013 (“[AI, They Just Kill](#)”); PhilStar, 29,000 deaths probed since drug war launched, 6 March 2019, [PHL-OTP-0002-0601](#). See also [A/HRC/44/22](#) at 2972, para. 22. While the Philippine government – the main source for this information – has released statistics on the number of persons killed in official anti-drug operations, its information on killings attributed by authorities to “unidentified” perpetrators has been unclear, at times contradictory, and even allegedly purposefully misleading. See, e.g., HRW, World Report 2019: Philippines – Events of 2018 – 2019, [PHL-OTP-0003-0803](#) at 0804; Reuters, War on numbers: Philippines targets drug killing data, 18 July 2019, [PHL-OTP-0003-0565](#) at 0566; [AI, They Just Kill](#) at 1013; The Atlantic, The Uncounted Dead of Rodrigo Duterte’s Philippine Drug War, 19 August 2019, [PHL-OTP-0003-0550](#) at 0553. Numerous sources have alleged that Philippine authorities actively engaged in an effort to misrepresent the total number of persons killed. See, e.g., Rappler, Timeline: The PNP’s use of the term “deaths under investigation”, 30 March 2017, [PHL-OTP-0003-1551](#); ABS-CBN News, Are #RealNumbers real? Rights defenders question state data on war on drugs, 6 April 2018, [PHL-OTP-0003-1806](#) at 1807; ACLED, Duterte’s War: Drug-Related Violence in the Philippines, 17 October 2018, [PHL-OTP-0003-0810](#) at 0812.

20. The relevant WoD killings can be grouped into two broad categories: (i) those perpetrated during official law enforcement anti-drug operations or in closely related contexts; and (ii) those perpetrated outside of official operations.

1. Killings during official law enforcement operations and related contexts

21. Between 1 July 2016 and 16 March 2019, according to the Philippine government's own numbers, members of the PNP and other security forces killed at least 5,281 civilians during police anti-drug operations.⁵⁴

22. The killings, according to the Philippine authorities, primarily occurred in the following contexts: during purported "buy-bust" operations; in the course of Operation Tokhang house-to-house visits; during "sweeps" or large-scale operations; in the context of other operational activities such as checkpoints, raids, arrest or search and seizure operations; and while victims were in police custody or in detention. According to non-State sources, however, official accounts regularly misrepresented the true nature of the operations conducted. For example, as highlighted below, while the PNP reported that many incidents occurred in the context of sting operations, witness accounts and other information were often inconsistent with that characterisation, suggesting instead operations deliberately aimed at killing the victims.⁵⁵

23. Regardless of the type of operation claimed by the authorities, the killings show a consistent fact pattern. As discussed below, in nearly all incidents reviewed by the Prosecution, Philippine authorities have claimed that the victim pulled a gun and shot at officers (or threatened violence), causing the officer(s) to return fire and kill the individual in self-defence.⁵⁶ However, as highlighted by a number of organisations documenting WoD killings, eyewitness testimony and other information suggests that most victims did not pose a threat to the police, and were instead killed in a premeditated manner.⁵⁷ The incidents described below

⁵⁴ PDEA, RealNumbersPH covering the period 1 July 2016 to 28 February 2019, March 2019, [PHL-OTP-0003-2538](#).

⁵⁵ See para. 24-30 below.

⁵⁶ See, e.g., [AI, If you are poor, you are killed](#) at 0587-0588; Reuters, Police rake up an almost perfectly deadly record in Philippine drug war, 5 December 2016, [PHL-OTP-0003-0003](#) at 0003-0004; Reuters, Special Report: Police describe kill rewards, staged crime scenes in Duterte's drug war, 18 April 2017, [PHL-OTP-0003-0092](#) at 0097. See also [A/HRC/44/22](#) at 2972-2973, para. 23-24.

⁵⁷ See, e.g., [AI, If you are poor, you are killed](#) at 0602-0610; ABS-CBN News, War on Drugs: The Unheard Stories: Cops gun down suspects begging for their lives, October 2016, [PHL-OTP-0003-2271](#); [REDACTED]; Reuters, Police rake up an almost perfectly deadly record in Philippine drug war, 5 December 2016, [PHL-OTP-0003-0003](#) at 0004. See also [REDACTED].

are merely representative of the various scenarios reported.

a. Killings during purported buy-bust operations

24. According to information from the Philippine authorities, more than half of the reported WoD killings by members of the PNP or other State agencies occurred in the context of “buy-bust” operations.⁵⁸ The PNP defines these as police operations during which a plainclothes officer acts as a “poseur buyer” of illegal drugs “for purposes of effecting the arrest of the offender”.⁵⁹ However, as discussed below, the accounts of eyewitnesses and other sources, such as video footage, show that in many cases the narrative of a buy-bust operation is not credible, and police killed the victims in cold blood. One police commander explained to Reuters: “There is no such thing as a legitimate buy-bust operation. The dealers know the cops and won’t sell to them.” He explained that a team of police officers “execute the target, who is almost always unarmed, then plant guns and drugs at the crime scene to justify the use of deadly force.”⁶⁰

25. For example, police killed Noberto Maderal on 19 October 2016. The police claimed that Maderal drew a gun and “tried to open fire” at plainclothes officers posing as drug buyers. The victim’s nephew, however, stated that Maderal was unarmed, and that he heard Maderal begging for his life before he heard the police fire two shots.⁶¹ Contrary to the police account, the nephew said three men in plain clothes entered their home (without identifying themselves) and dragged Maderal into the living room, fired two shots, and then left. Two neighbours corroborated the nephew’s account.⁶² In another incident, on 6 December 2016, in Payatas Village (Quezon City), 12-year-old Christine de Juan witnessed the police pushing her father, who had been on a drug watch list, into an armchair, face-first with his knees on the cushion, and then shooting him through the back of the head and in the chest at close range. The police

⁵⁸ [REDACTED].

⁵⁹ PNP, Revised PNP Manual on Anti-Illegal Drugs Operations and Investigation, [PHL-OTP-0004-3198](#) at 3243, sec. 3.1(a)(9)(c). *See also id.* at 3244-3247, sec. 3.1(b). This version of the manual is applicable to operations carried out under Project Double Barrel. *See* [PNP, CMC NO. 16 – 2016](#) at 2490.

⁶⁰ Reuters, Special Report: Police describe kill rewards, staged crime scenes in Duterte’s drug war, 18 April 2017, [PHL-OTP-0003-0092](#) at 0097.

⁶¹ Reuters, Police rake up an almost perfectly deadly record in Philippine drug war, 5 December 2016, [PHL-OTP-0003-0003](#) at 0004, 0006.

⁶² Reuters, Police rake up an almost perfectly deadly record in Philippine drug war, 5 December 2016, [PHL-OTP-0003-0003](#) at 0006. For another similar incident, see Reuters, Davao boys: How a secretive police squad racked up kills in Duterte’s drug war, 19 December 2017, [PHL-OTP-0003-0309](#) at 0324 (concerning the killing of Bernabe Sabangan).

report stated that de Juan was killed during a buy-bust operation, after he suddenly pulled out a gun and fired at the officers.⁶³

26. According to police, Neptali Celestino was killed after he shot at plainclothes officers during a buy-bust operation on 12 September 2016. Police reported that they found a .22 calibre revolver and three packets of *shabu* on him. However, according to Celestino's family, police entered their home, cornered Celestino, and shot him in front of his teenage sons. One son reportedly told the police that his father was unarmed and begged them not to shoot, but they shot and killed him anyway. Celestino had been on a watch list and had surrendered three days prior to his death, attending a "drug awareness" seminar run by police and *barangay* officials.⁶⁴

27. The PNP has consistently advanced the same general fact pattern for such killings, claiming that during a buy-bust operation there was an attempt by plainclothes officers to catch a suspect dealing drugs and that, in the course of the transaction, the victim "sensed" the presence of police, drew a weapon, and started shooting, thereby triggering a "shootout" during which police returned fire and killed the suspect.⁶⁵ According to PNP records, a weapon (often a .38 or .45 calibre gun, usually without a serial number) or drugs (typically *shabu* or marijuana) or drug paraphernalia were recovered from the body of the victim or from the scene.⁶⁶ Usually no harm to the police was reported, despite the claimed "shootout".⁶⁷

28. Independent sources, meanwhile, have reported a variety of scenarios that in reality suggest a targeted police raid (as opposed to a covert operation) aimed at killing the intended

⁶³ Rappler, Impunity: This is where they do not die, 25 November 2017, [PHL-OTP-0003-2090](#).

⁶⁴ Reuters, Killing Mosquitos, 7 October 2016, [PHL-OTP-0003-0283](#) at 0283-0284, 0288-0290.

⁶⁵ See [HRW, License to Kill](#) at 0719, 0739, 0788-0794; Reuters, Police rank up an almost perfectly deadly record in Philippine drug war, 5 December 2016, [PHL-OTP-0003-0003](#) at 0004; Al Jazeera, Philippines: Inside Duterte's killer drug war, 8 September 2016, [PHL-OTP-0003-0514](#); Rappler, Impunity: The Fifth Man, 5 December 2017, [PHL-OTP-0003-2287](#); Rappler, Impunity: This is where they do not die, 25 November 2017, [PHL-OTP-0003-2090](#); [REDACTED]. In some instances, police alternatively alleged that the victim was killed during a chase after the victim sensed the presence of the police. See [HRW, License to Kill](#) at 0731-0733.

⁶⁶ [REDACTED]. See also [HRW, License to Kill](#) at 0682-0683, 0709-0712, 0714-0715, 0717, 0719-0720, 0728, 0735, 0737, 0740-0742; ABS-CBN News, War on Drugs: "They surrendered – and got killed", [PHL-OTP-0003-2270](#); [REDACTED]; The Inquirer, "Tokhang" data: Slain suspects carried mostly .38-caliber guns, 14 February 2018, [PHL-OTP-0002-0603](#). [REDACTED].

⁶⁷ [REDACTED]. For similar conclusions reached by other sources, see [HRW, License to Kill](#) at 0728, 0733, 0739; [AI, If you are poor, you are killed](#) at 0606. With respect to the lack of casualties to officers, the police have claimed in a number of incidents that, when firing at police, the suspects missed or their weapons malfunctioned (jammed, etc.). See, e.g., [HRW, License to Kill](#) at 0719, 0739, 0788-0793; Reuters, Dead on Arrival: Philippine police use hospitals to hide drug war killings, 29 June 2017, [PHL-OTP-0003-0523](#) ("Dead on arrival"); [REDACTED].

victim. In a number of instances, armed men in plain clothes and with masked faces, later identified as police, reportedly arrived at the victim's house (often in a van or on motorbikes), barged into the house (frequently without identifying themselves), identified and confirmed the presence of their target, isolated the victim by moving him away from relatives or other potential witnesses, and then shot the victim.⁶⁸ In some cases, the victim was dragged into an alleyway and killed there or nearby.⁶⁹ In other cases reported by the police as buy-bust operations, witnesses claim the victim was asleep when the police raid took place.⁷⁰

29. Witness accounts also contradict other aspects of police reporting. For example, across a number of relevant incidents, witnesses claimed that the victim was unarmed,⁷¹ had already been subdued by police (such as handcuffed or in a surrendering position),⁷² or pleaded for his life before being shot by officers.⁷³ In many instances, while the police reported recovering a weapon and drugs from the victims, witnesses reported that these items had been planted or that the victim did not possess any such item at the time of the killing.⁷⁴

30. In other instances, although the police report indicates that the killing occurred in the context of a buy-bust or similar operation, making no mention of any arrest, the victims were

⁶⁸ See, e.g., [HRW, License to Kill](#) at 0714-0715, 0718-0721, 0726-0728, 0742-0743; [AI, If you are poor, you are killed](#) at 0604-0607; Reuters, Killing Mosquitos, 7 October 2016, [PHL-OTP-0003-0283](#) at 0289; Reuters, Burying the Truth: A family challenges the official story of a killing in Duterte's drug war, 7 December 2016, [PHL-OTP-0003-0522](#).

⁶⁹ See, e.g., [HRW, License to Kill](#) at 0737-0740; [AI, If you are poor, you are killed](#) at 0606; Reuters, Caught on Camera: Police tell one story of what happened in Barangay 19. Security Cameras tell another, 27 November 2017, [PHL-OTP-0003-0517](#).

⁷⁰ See, e.g., [REDACTED]; [HRW, License to Kill](#) at 0718-0719, 0726-0728, 0731-0733.

⁷¹ See, e.g., [AI, If you are poor, you are killed](#) at 0603-0607, 0612-0613; ABS-CBN News, War on Drugs: The Unheard Stories: Cops gun down suspects begging for their lives, October 2016, [PHL-OTP-0003-2271](#); Reuters, Killing Mosquitos, 7 October 2016, [PHL-OTP-0003-0283](#) at 0283; Reuters, Burying the Truth: A family challenges the official story of a killing in Duterte's drug war, 7 December 2016, [PHL-OTP-0003-0522](#); [HRW, License to Kill](#) at 0715, 0721, 0732.

⁷² See, e.g., [REDACTED]; [AI, If you are poor, you are killed](#) at 0599-0600, 0604; ABS-CBN News, War on Drugs: "They surrendered – and got killed", [PHL-OTP-0003-2270](#); [HRW, License to Kill](#) at 0709, 0713-0714, 0720, 0738-0739; [AI, They Just Kill](#) at 1017-1018.

⁷³ See, e.g., [REDACTED]; [AI, If you are poor, you are killed](#) at 0599, 0606-0607; [HRW, License to Kill](#) at 0709, 0742-0743; Reuters, Killing Mosquitos, 7 October 2016, [PHL-OTP-0003-0283](#) at 0289; ABS-CBN News, War on Drugs: The Unheard Stories: Cops gun down suspects begging for their lives, October 2016, [PHL-OTP-0003-2271](#); Al Jazeera, Philippines: Inside Duterte's killer drug war, 8 September 2016, [PHL-OTP-0003-0514](#); [REDACTED].

⁷⁴ See, e.g., [HRW, License to Kill](#) at 0709, 0717-0718, 0721-0722, 0742-0743, 0745-0747; [REDACTED]; ABS-CBN News, War on Drugs: "They surrendered – and got killed", [PHL-OTP-0003-2270](#); Al Jazeera, Philippines: Inside Duterte's killer drug war, 8 September 2016, [PHL-OTP-0003-0514](#); Reuters, Killing Mosquitos, 7 October 2016, [PHL-OTP-0003-0283](#) at 0289. See also generally Reuters, Special Report: Police describe kill rewards, staged crime scenes in Duterte's drug war, 18 April 2017, [PHL-OTP-0003-0092](#) at 0097; The Washington Post, In Duterte's Philippines, here's how one man survived when a death squad came after him, 4 August 2016, [PHL-OTP-0003-0524](#).

last seen alive being taken into police custody.⁷⁵ For example, police reported that Francisco Santiago Jr was killed during a buy-bust operation, after Santiago's companion took out a gun and shot at policemen, forcing them to fire back.⁷⁶ However, Santiago, who survived being shot, explained that police in fact held him in the local police station for 12 hours before bringing him to a dark alley, where they shot him in the chest.⁷⁷

b. Killings during purported Tokhang operations

31. Tokhang operations refer, officially, to operations in which the PNP, in some cases accompanied by local officials, visit drug suspects at their homes and urge them to abandon their involvement in drugs and to surrender to the police.⁷⁸ Information shows however that deliberate, apparently planned, killings took place during or after some such operations.⁷⁹

32. When reporting deaths during Tokhang operations, law enforcement agencies typically reported that drug suspects (or other persons targeted by the visits) reacted violently against the officers, who then used lethal force in response, killing the victim.⁸⁰ However, individuals who witnessed killings during Tokhang operations have consistently contradicted that official narrative. In some cases, the police appear to have used the cover of Tokhang operations to murder drug suspects, later reporting an alternate course of events in order to conceal the true nature of the operations.⁸¹ Sources also indicate that Tokhang operations were sometimes used by the police to ascertain or confirm the identity or presence of a drug suspect, who was then killed in a subsequent operation.⁸²

33. An emblematic case of murder and attempted murder in the course of a purported Tokhang operation involved Efren Morillo.⁸³ According to Morillo, police officers in civilian

⁷⁵ See, e.g., [REDACTED]; [HRW, License to Kill](#) at 0709-0712; [REDACTED].

⁷⁶ The Washington Post, In Duterte's Philippines, here's how one man survived when a death squad came after him, 4 August 2016, [PHL-OTP-0003-0524](#); Al Jazeera, Philippines: Play dead to survive Duterte's drug war, 23 September 2016, [PHL-OTP-0003-0518](#); [REDACTED].

⁷⁷ The Washington Post, In Duterte's Philippines, here's how one man survived when a death squad came after him, 4 August 2016, [PHL-OTP-0003-0524](#); Al Jazeera, Philippines: Play dead to survive Duterte's drug war, 23 September 2016, [PHL-OTP-0003-0518](#); [REDACTED].

⁷⁸ See [PNP, CMC NO. 16 – 2016](#) at 2492-2495, 2508 (defining the conduct of knock-and-plead operations). See also Reuters, Killing Mosquitos, 7 October 2016, [PHL-OTP-0003-0283](#) at 0287.

⁷⁹ [REDACTED].

⁸⁰ [REDACTED].

⁸¹ [REDACTED]; Rappler, Where the drug war began, 24 April 2017, [PHL-OTP-0003-2049](#) at 2064. [REDACTED].

⁸² [HRW, License to Kill](#) at 0676; [AI, If you are poor, you are killed](#) at 0600-0601.

⁸³ [AI, If you are poor, you are killed](#) at 0609; [REDACTED].

clothes detained him and four friends in a house, pointing guns at them and tying them up.⁸⁴ The policemen later shot each of the five in execution-style killings, some inside the house and some outside.⁸⁵ Morillo, who was wounded, played dead and heard many gunshots as well as screams and cries.⁸⁶ Other witnesses indicated that they saw one victim on his knees, crying and begging right before he was shot.⁸⁷ Morillo's account of the incident is supported by an independent assessment of the autopsy findings and medical records by Physicians for Human Rights.⁸⁸ The PNP, meanwhile, reported that the killings took place during a Tokhang operation and that the five men fired at the police officers, who shot back and killed four men, whilst Morillo was wounded and escaped.⁸⁹

34. In another incident, police reported that on 13 September 2016, Rex Appari was shot and killed during a Tokhang operation. According to the police report, patrolling officers identified themselves as police and approached Appari, who "suddenly drew out his gun and fired shot on the approaching lawmen but [...] missed his mark", after which the police were "constrained to retaliate."⁹⁰ By contrast, several witnesses reported that plainclothes police entered Appari's home and, in front of his mother and girlfriend, dragged out Appari, who was crying and begging the men to not to kill him. Reportedly, one of the armed men was overheard saying "Sir, you can have him brought down, sir, we're killing him. It's positive". The men subsequently shot Appari in the back of the head. After uniformed police later arrived and kept

⁸⁴ [REDACTED]; The New York Times, A Rare Survivor of a Philippines Drug Raid Takes the Police to Court, 10 February 2017, [PHL-OTP-0003-0521](#); [REDACTED]; Asian American Legal Defence and Education Fund, Congress Shine Light on Extrajudicial Killings in the Philippines; A Survivor's tale under oath, 24 July 2017, [PHL-OTP-0003-1055](#).

⁸⁵ [REDACTED]; Amnesty International Interview, Metro Manila 2 December 2016 cited in [AI, If you are poor, you are killed](#) at 0609; Rappler, Impunity: The Fifth Man, 5 December 2017, [PHL-OTP-0003-2287](#); Rappler, A gruesome tale of TakHang: Sir, may humihinga pa', 21 January 2017, [PHL-OTP-0003-2281](#).

⁸⁶ [REDACTED]; Rappler, Forensic evidence backs Tokhang survivor's claim of "merciless" execution' 6 December 2017, [PHL-OTP-0003-2282](#). [REDACTED].

⁸⁷ Rappler, Impunity: The Fifth Man, 5 December 2017, [PHL-OTP-0003-2287](#); Rappler, A gruesome tale of TakHang: Sir, may humihinga pa', 21 January 2017, [PHL-OTP-0003-2281](#).

⁸⁸ Rappler, Impunity: The Fifth Man, 5 December 2017, [PHL-OTP-0003-2287](#). The organisation found the account of Morillo was consistent with the available evidence, whereas there was a lack of evidence to support the police officers' account that the victims who died were killed in a gunfight. *Ibid.* On the basis of the accounts of Morillo and the other witnesses, murder charges were filed against the implicated policemen. [AI, If you are poor, you are killed](#) at 0609; Rappler, Tokhang victim files murder charges vs cops, 2 March 2017, [PHL-OTP-0003-2288](#).

⁸⁹ Inquirer, The Case Against Bato and Oplan Tokhang, 30 January 2017, [PHL-OTP-0003-2277](#); Inquirer, Former QC Cop in Payatas killing insists there was shootout, 12 October 2017, [PHL-OTP-0003-2276](#); [REDACTED].

⁹⁰ Rappler, Where the drug war began, 24 April 2017, [PHL-OTP-0003-2049](#) at 2058. [REDACTED].

the family outside, two more shots were heard from inside the home, and later his family saw that Appari had wounds to his head, gut, and chest.⁹¹

c. Killings in the context of “One Time, Big Time” operations

35. Police also killed victims during so-called “One Time, Big Time” (“OTBT”) operations, large-scale, high-intensity police operations in which activities like sweeps, buy-busts, and checkpoints are carried out simultaneously in multiple locations.⁹²

36. One well-known example is the death of 17-year-old Kian Delos Santos, killed by the PNP on 16 August 2017. Witness testimony and CCTV footage indicates that immediately prior to being shot, Delos Santos was dragged unarmed into an alley by police officers and was overheard begging for his life.⁹³ Delos Santos’s body was subsequently found dead in the same alley. An autopsy showed that he died of three gunshot wounds to the head and back, the first and second of which were fired when the victim was on the ground, facedown.⁹⁴ The police claimed, however, that Delos Santos was killed during an OTBT operation when he tried to evade arrest and opened fire on the police.⁹⁵

⁹¹ Rappler, Where the drug war began, 24 April 2017, [PHL-OTP-0003-2049](#) at 2061-2062. [REDACTED].

⁹² [REDACTED]; Rappler, How the PNP’s one-time, big-time operations work, 27 August 2017, [PHL-OTP-0003-1718](#); Sunstar, “Successful” big-time drug raid ops in Davao lauded, 20 May 2017, [PHL-OTP-0003-1754](#); Rappler, 32 dead, 107 arrested in Bulacan “one-time, big-time” operation, 16 August 2017, [PHL-OTP-0003-1733](#); ABS-CBN, Bloodiest week yet, At least 80 dead in Duterte’s war on drugs, 18 August 2017, [PHL-OTP-0003-1736](#); Philippine News Agency, 6 killed in Cebu “One Time, Big Time” operation, 18 July 2018, [PHL-OTP-0003-1777](#); Inquirer, 13 dead in One-Time-Big-Time cop operation in Central Visayas, 4 October 2018, [PHL-OTP-0003-1780](#); Manila Bulletin, 3 killed, P15M shabu seized in C. Visayas anti-drug operations, 10 December 2018, [PHL-OTP-0003-1784](#); Inquirer, 6 killed, 16 arrested in simultaneous police operations in Negros Oriental, 27 December 2018, [PHL-OTP-0003-1791](#).

⁹³ GMA News Online, Grade 11 Student Killed during anti-drug op in Caloocan, 17 August 2017, [PHL-OTP-0003-2273](#); Philstar Global, Boy, 17, killed in Caloocan drug operation, 17 August 2017, [PHL-OTP-0003-2280](#); Philstar, “Kian begged for his life before cops shot him”, 3 October 2017, [PHL-OTP-0003-2279](#); Reuters, Death of a Schoolboy, 25 August 2017, [PHL-OTP-0003-0547](#); Inquirer, Autopsy shows Kian died of 3 gunshot wounds, 21 August 2017, [PHL-OTP-0003-2275](#); GMA News Online, The Kian Delos Santos Case, 29 November 2018, [PHL-OTP-0003-2274](#); The Guardian, ‘Please Stop!’ Brutal killing of a Student in Philippines Drug War Sparks Nationwide Anger, 23 August 2017, [PHL-OTP-0003-0520](#); HRW, “Our Happy Family Is Gone”: Impact of the “War on Drugs” on Children in the Philippines, May 2020, [PHL-OTP-0003-1218](#) at 1235-1236.

⁹⁴ Inquirer, Autopsy shows Kian died of 3 gunshot wounds, 21 August 2017, [PHL-OTP-0003-2275](#).

⁹⁵ Rappler, How Kian Delos Santos was killed, according to Police, 20 August 2017, [PHL-OTP-0003-2283](#). According to the PNP report, a .45-caliber pistol, four cartilage cases and two plastic sachets containing white crystalline substances believed to be *shabu* were recovered from Santos’s body. *Ibid*. Three police officers, who had claimed self-defence, were later convicted for the killing. Republic of the Philippines, Regional Trial Court (National Capital Judicial Region), *People of the Philippines v. Arnel Oares Gastillo et al.*, Decision, 29 November 2018, [PHL-OTP-0003-3109](#) at 3113-3129, 3141-3142 (“*Kian case*”). See also HRW, World Report 2019: Philippines – Events of 2018, [PHL-OTP-0003-0803](#); Rappler, Court verdict cops lied, Kian Delos Santos helplessly killed, 29 November 2018, [PHL-OTP-0003-1478](#); Rappler, Rappler Talk: Prosecuting extrajudicial killings in the Philippines, 6 December 2018, [PHL-OTP-0003-1942](#). However, Caloocan City police chief Senior Superintendent Chito Bersaluna, in charge of operations including that in which Kian was killed, was removed

37. In some cases, victims were taken into custody by police and later found dead. Despite obvious discrepancies in the timeline, police claimed that such victims were killed in shootouts after resisting arrest. In one example, police reported that Christian De Leon and his nephew Joeward Valiente were shot and killed during an OTBT operation on 17 August 2017, after they resisted arrest.⁹⁶ However, CCTV and eyewitness accounts confirmed that the two victims were arrested and handcuffed earlier that night; they were later found dead with torture marks and multiple gunshot wounds on their bodies.⁹⁷

38. [REDACTED].⁹⁸ [REDACTED].⁹⁹ [REDACTED].¹⁰⁰

d. Killings in other official operations

39. Police frequently reported that killings at checkpoints or during patrols resulted from drug suspects refusing to stop and firing at the police, requiring the police to spontaneously return fire.¹⁰¹ However, the available information indicates that at least some of these reportedly reactive killings took place during planned operations.¹⁰²

40. For example, according to police, on 10 October 2016, Mario Rupillo was shot and killed by an anti-criminality patrol after he failed to stop his motorcycle and fired shots at the police. Witnesses, however, saw Rupillo brought in handcuffs into a police station, where he

from his position rather than charged with any crime, and nine months after Kian's death, was promoted to police chief of Bulacan province. HRW, Philippine Police Promotions an Affront to "Drug War" victims, 7 June 2018, [PHL-OTP-0003-1049](#); Inquirer, Command responsibility? Chiefs of erring cops go scot-free, 4 November 2018, [PHL-OTP-0003-2189](#).

⁹⁶ Rappler, Manila overnight police operation kills 25, arrests 119, 17 August 2017, [PHL-OTP-0003-2284](#).

⁹⁷ [REDACTED].

⁹⁸ [REDACTED].

⁹⁹ [REDACTED].

¹⁰⁰ [REDACTED].

¹⁰¹ [REDACTED]; ABS-CBN News, Maguindanao mayor tagged as "narco-politician" slain, 28 October 2016, [PHL-OTP-0003-2289](#); Reuters, Four drug suspects killed as Philippine police resume drugs war operations, 7 March 2017, [PHL-OTP-0003-0525](#); Cebu Daily News, 53 killed since December as PNP rejoins anti-drug war, 10 February 2018, [PHL-OTP-0003-2290](#); Rappler, Where the drug war began, 24 April 2017, [PHL-OTP-0003-2049](#).

¹⁰² See for example the incident concerning the killing of Samsudin Dimaukom, Mayor of Datu Saudi Ampatuan: ABS-CBN News, Maguindanao mayor tagged as "narco-politician" slain, 28 October 2016, [PHL-OTP-0003-2289](#); Rappler, Maguindanao mayor on Duterte drug list killed in shootout, 26 October 2016, [PHL-OTP-0003-2291](#); Reuters, Detained Philippine mayor on Duterte's drug list killed in prison shootout, 5 November 2016, [PHL-OTP-0003-0526](#); The New York Times, Philippine Mayor Accused of Drug Links by Duterte Is Killed by Police, 28 October 2016, [PHL-OTP-0003-0395](#); The Straits Times, Former Philippine mayor killed hours after President Duterte threatens to slit throats of big time drug dealers, 4 January 2019, [PHL-OTP-0003-0527](#); Rappler, The Duterte list: Judges, mayors, police officials linked to drugs, 7 August 2016, [PHL-OTP-0003-2292](#).

was interrogated and beaten and later dragged out of the station, with a sack over his head, and left in the back of a waiting tricycle. Later that day, Rupillo's body appeared in a hospital morgue. He had been shot seven times. Rupillo's brother stated that his body also showed signs of beating, including bruised kneecaps, swollen arms, and broken shoulders. Rupillo's brother also claimed that the gun allegedly recovered at the scene did not belong to Rupillo.¹⁰³

41. A similar incident involved the killing of 18-year-old Joshua Cumilang. A witness stated that he, Cumilang, and two other young men were sitting outside their shanty when two armed men in civilian clothing approached them, searched Cumilang, accused him of using marijuana, and then took him to a small alley beside the house. Cumilang's mother pleaded with the men not to do anything and just to arrest him, but men shot and killed Cumilang. The police report of the incident states that Cumilang was shot in self-defence during an anti-criminality patrol after he fired twice at officers.¹⁰⁴

42. Members of law enforcement also conducted raids resulting in the killing of drug suspects.¹⁰⁵ These incidents reveal a pattern in which police typically raided a house or other location, often when the victim was asleep or at home with his family, isolated the victim (such as by sending any witnesses to another room), and then shot the victim. Victims of such raids were frequently on drug watch lists or were suspected drug personalities. The police consistently reported that these deaths resulted from officers acting in self-defence.¹⁰⁶ Frequently, however, witnesses or family members claim they saw evidence being planted in the aftermath of such raids and that, contrary to the police account, the victim was not in possession of drugs or weapons at the time.¹⁰⁷

43. A number of killings also took place during search or arrest operations, or soon after the victim was taken into custody.¹⁰⁸ Information suggests that the police often carried out such

¹⁰³ Rappler, Where the drug war began, 24 April 2017, [PHL-OTP-0003-2049](#) at 2066-2069.

¹⁰⁴ Rappler, Where the drug war began, 24 April 2017, [PHL-OTP-0003-2049](#) at 2055.

¹⁰⁵ [REDACTED].

¹⁰⁶ See, e.g., [AI, If you are poor, you are killed](#) at 0603-0604; [HRW, License to Kill](#) at 0716-0717, 0736-0737, 0740-0741; HRW, "Our Happy Family Is Gone": Impact of the "War on Drugs" on Children in the Philippines, May 2020, [PHL-OTP-0003-1218](#) at 1238, 1252-1253, 1261.

¹⁰⁷ [AI, If you are poor, you are killed](#) at 0611-0614; [HRW, License to Kill](#) at 0673, 0715, 0716, 0742; HRW, "Our Happy Family Is Gone": Impact of the "War on Drugs" on Children in the Philippines, May 2020, [PHL-OTP-0003-1218](#) at 1253.

¹⁰⁸ [REDACTED].

operations with the intention of killing the victims, despite claims of self-defence.¹⁰⁹ In one incident, the police reported that three victims opened fire while being served with an arrest warrant.¹¹⁰ Witnesses, however, stated that the men did not fight back and that one of the victims, after being shot, was dropped from a window while still alive and left on the ground to bleed to death.¹¹¹

44. In several reported incidents, victims were last seen alive when arrested by the police.¹¹² For example, on 18 August 2016, Angelo Lafuente and two others seen taken into custody by police officers, who tied the victims' hands behind their backs and put them into a police van. Early the next day, police showed the victims' relatives photos of the three men's bodies, which the police claimed had been found in different areas in the neighbourhood. The victims' hands were still tied with the same plastic straps put on when they were detained earlier. The police report indicated that the victims were killed by "unknown" gunmen and made no reference to the victims having been taken into police custody hours earlier.¹¹³ In another incident, Danilo Dacillo was arrested by *barangay* officials as a suspected drug user and taken to the village hall. His aunt was later told by police that they had killed him.¹¹⁴

e. Killings of persons acknowledged to be in police custody or detention

45. The Philippine authorities acknowledge that some victims were killed while in police custody.¹¹⁵ As with other WoD killings, the authorities consistently claim the victims engaged in violence – such as waving a weapon or attempting to take an officer's weapon – causing officers to shoot and kill them. However, other information undermines the official accounts.

¹⁰⁹ See for example an incident concerning the killing of Ozamiz City Mayor Reynaldo Parojinog and several other associated individuals: Al Jazeera, Police kill Reynaldo Parojinog and wife in drug raid, 30 July 2017, [PHL-OTP-0003-0519](#); Rappler, Ozamiz mayor Parojinog killed in police raid, 30 July 2017, [PHL-OTP-0003-2285](#); ABS-CBN News, Vice Mayor Parojinog: They wanted me dead, 4 August 2017, [PHL-OTP-0003-2272](#); Manila Bulletin, Ozamiz mayor, 14 others killed in drug raid, 31 July 2017, [PHL-OTP-0003-2278](#). [REDACTED].

¹¹⁰ [REDACTED].

¹¹¹ Inquirer, Police Station 6, 23 October 2017, [PHL-OTP-0003-2084](#) at 2085.

¹¹² See, e.g., [HRW, License to Kill](#) at 0715-0716.

¹¹³ [HRW, License to Kill](#) at 0722-0723.

¹¹⁴ Rappler, Where the drug war began, 24 April 2017, [PHL-OTP-0003-2049](#) at 2070-2073; Rappler, Witnesses name Manila policeman behind drug-related summary killings, 27 April 2017, [PHL-OTP-0003-2332](#).

¹¹⁵ [REDACTED]; [AI, If you are poor, you are killed](#) at 0608-0610; Rappler, LIST: Suspected drug lords killed under Duterte gov't, 30 August 2016, [PHL-OTP-0003-2254](#); The Manila Times, Duterte probing "detailed" drug list, 17 July 2016, [PHL-OTP-0003-1382](#).

46. One example is the case of father and son Renato and Jaypee Bertes, who were killed on 7 July 2016 while being held at the Pasay City police detention centre after being arrested for drug-related offences.¹¹⁶ Police claimed the victims were shot in self-defence when they attempted to grab officers' guns while being transferred to their cell.¹¹⁷ Results of an investigation (including forensic examination) by the Philippines Commission for Human Rights ("CHR"), however, found that the two victims "had been incapacitated by the beatings before they were shot [and] Jaypee Bertes had a broken right arm", and thus could have engaged in the violent attack claimed by police.¹¹⁸

47. A similar example is that of Rolando (or Ronaldo) Espinosa Sr, former Mayor of Leyte, who was personally identified by Duterte as a high-value drug personality and later arrested by the PNP following a raid of his home.¹¹⁹ On 5 November 2016, Espinosa was reportedly killed in a "shootout" in his cell at the Leyte Sub-Provincial Jail in Baybay City.¹²⁰ However, following an internal investigation, the Philippine Department of Justice ("DoJ") concluded that members of the PNP planned the killing of Espinosa and his cell mate, and had "craftily executed the killings under the pretense of implementing a search warrant".¹²¹ These conclusions led to the indictment of several officers suspected of conspiring to commit the

¹¹⁶ Inquirer, Pasay cops who shot father, son face raps, 27 July 2016, [PHL-OTP-0003-2297](#); The New York Times, Chilling Tale in Duterte's Drug War: Father and Son Killed in Police Custody, 19 August 2016, [PHL-OTP-0003-0529](#); [AI, If you are poor, you are killed](#) at 0608; ABS-CBN News, CHR probe finds evidence of EJK in Bertes case, 21 April 2017, [PHL-OTP-0003-2299](#). [REDACTED].

¹¹⁷ Inquirer, Pasay cops who shot father, son face raps, 27 July 2016, [PHL-OTP-0003-2297](#). See also The New York Times, Chilling Tale in Duterte's Drug War: Father and Son Killed in Police Custody, 19 August 2016, [PHL-OTP-0003-0529](#).

¹¹⁸ The New York Times, Chilling Tale in Duterte's Drug War: Father and Son Killed in Police Custody, 19 August 2016, [PHL-OTP-0003-0529](#); Rappler, CHR: Police "tortured" father-son drug suspects killed in Pasay jail, 22 August 2016, [PHL-OTP-0003-2298](#); [AI, If you are poor, you are killed](#), at 0608. In light of these events, already in July 2016, the Pasay City police recommended the filing of murder charges and an administrative complaint against the two officers involved in the killing. Inquirer, Pasay cops who shot father, son face raps, 27 July 2016, [PHL-OTP-0003-2297](#). The alleged conduct of the two officers involved was also the subject of a senate inquiry. Inquirer, 2 Pasay cops refuse to testify in Senate inquiry, 23 August 2016, [PHL-OTP-0003-2300](#).

¹¹⁹ Rappler, The Duterte list: Judges, mayors, police officials linked to drugs, 7 August 2016, [PHL-OTP-0003-2292](#); GMA News Online, Duterte gives Leyte mayor 24 hours to surrender over alleged drug links, 1 August 2016, [PHL-OTP-0003-2293](#); [REDACTED].

¹²⁰ GMA News Online, From the arrest to the killing of Albura Mayor Rolando Espinosa, 5 November 2016, [PHL-OTP-0003-1703](#). According to ABS-CBN, the police alleged that Espinosa and Yap were in possession of drugs and guns and thus were being served a search warrant. ABS-CBN News, PNP to probe "killing pattern" in Espinosa-linked police ops, 14 November 2016, [PHL-OTP-0003-2294](#). [REDACTED].

¹²¹ ABS-CBN News, DOJ: Supt. Marcos, other cops conspired to kill Espinosa, 20 March 2017, [PHL-OTP-0001-4071](#). See also [AI, If you are poor, you are killed](#) at 0608; Al Jazeera, Philippines: Inside Duterte's killer drug war, 8 September 2016, [PHL-OTP-0003-0514](#). Photos of Espinosa's body retrieved by the PCIJ showed the mayor's body with "both of his hands empty of a gun", in contrast with "an official photo released by the CIDG which show[ed] a gun clasped in Espinosa's right hand". ABS-CBN News, PNP to probe "killing pattern" in Espinosa-linked police ops, 14 November 2016, [PHL-OTP-0003-2294](#).

killings.¹²² In March 2017, referring to the 19 police officers charged for Espinosa's killing, Duterte stated: "Who will I believe? The witnesses in jail, or my cops? My cops. They have been charged with murder. I will support them. There is no problem."¹²³ Other incidents of killings in detention demonstrate a similar pattern of conduct.¹²⁴

f. Justifications for killings advanced by the Philippine authorities are not credible

48. The Philippine authorities have not denied that people were killed during police anti-drug operations.¹²⁵ They have instead consistently contended that these deaths resulted from officers acting in self-defence during armed confrontations with drug suspects who "fought back" (a scenario known locally as "*nanlaban*").¹²⁶

49. The question of whether a particular perpetrator acted in self-defence is best addressed at the investigation and trial stages, as opposed to the preliminary examination stage.¹²⁷ This follows not only from the nature and extent of information typically available prior to an investigation, but also from the nature of analysis conducted during a preliminary examination. The purpose of the Prosecution's assessment at this stage is to determine whether there is a reasonable basis to believe that crimes within the Court's jurisdiction have been committed (*i.e.*, establishing subject-matter jurisdiction), not to assess or evaluate the alleged criminal responsibility of individual perpetrators for particular incidents.¹²⁸

50. However, because self-defence has been raised broadly and consistently by the

¹²² ABS-CBN News, DOJ: Supt. Marcos, other cops conspired to kill Espinosa, 20 March 2017, [PHL-OTP-0001-4071](#).

¹²³ Rappler, Where the drug war began, 24 April 2017, [PHL-OTP-0003-2049](#) at 2080.

¹²⁴ See, e.g., GMA News Online, From the arrest to the killing of Albuera Mayor Rolando Espinosa, 5 November 2016, [PHL-OTP-0003-1703](#); GMA News Online, Cops kill Kerwin Espinosa's drug source at Leyte prison, 11 August 2016, [PHL-OTP-0003-2295](#); The Manila Times, Killing of Albuera mayor premeditated – Senate committee report, 13 March 2017, [PHL-OTP-0003-2296](#); ABS-CBN News, PNP to probe "killing pattern" in Espinosa-linked police ops, 14 November 2016, [PHL-OTP-0003-2294](#).

¹²⁵ See, e.g., PNP, #RealNumbersPH Year 2 (from July 1, 2016 to December 31, 2018), [PHL-OTP-0003-2513](#) at 2513.

¹²⁶ See, e.g., [REDACTED]; Reuters, Police rake up an almost perfectly deadly record in Philippine drug war, 5 December 2016, [PHL-OTP-0003-0003](#); Reuters, Davao boys: How a secretive police squad racked up kills in Duterte's drug war, 19 December 2017, [PHL-OTP-0003-0309](#); DW, Can anyone believe what Duterte says?, 6 September 2018, [PHL-OTP-0003-0409](#) at 0409-0410; The Drug Archive, Building a dataset of publicly available information on killings associated with the anti-drug campaign, [PHL-OTP-0003-3037](#) ("[Building a dataset](#)").

¹²⁷ See [OTP, Comoros Article 53\(1\) Report](#), 6 November 2014, para. 20, 55-57. Self-defence is recognised as a ground for excluding criminal responsibility under article 31(1)(c) of the Statute. The applicability of article 31(1)(c) is dependent on the particular factual circumstances in which an alleged incident or act occurred.

¹²⁸ See generally [Kenya Article 15 Decision](#), para. 29, 32.

Philippine authorities as justification for alleged extrajudicial killings, this issue may be relevant not only to the criminal responsibility of individual perpetrators and the lawfulness of particular killings, but also to the Prosecution's determination of whether there is a reasonable basis to believe that the respective conduct collectively amounts to an "attack" within the scope of article 7(2)(a) of the Statute and/or whether any such attack was widespread or systematic under article 7(1) of the Statute.¹²⁹ Consequently, the Prosecution has carefully considered the arguments advanced by the Philippine authorities.

51. International standards and the PNP's own operational procedures allow law enforcement personnel to use intentional lethal force only exceptionally, namely when it is strictly unavoidable in order to protect life and all other means are insufficient to achieve that objective (*i.e.*, when the use of lethal force is necessary and proportionate).¹³⁰

52. In February 2018, the PDEA reported that between 1 July 2016 and 8 February 2018, 87 police officers were killed and 227 were wounded during anti-drug operations.¹³¹ However, to date, the Philippine authorities have not provided any detailed information on the precise circumstances (or identified the specific incidents) in which most of the reported deaths or injuries occurred.¹³² Further, on other occasions, Philippine authorities have provided significantly different (including lower) figures for the total number of relevant law enforcement casualties.¹³³ Despite these inconsistencies, the Prosecution acknowledges that

¹²⁹ This approach adopted in the present situation is also consistent with the duty under article 54(1)(a) relating to objectivity, which the Prosecution has previously indicated is also applied at the preliminary examination stage. See Statute, article 54(1)(a); OTP, [Policy Paper on Preliminary Examinations](#), November 2013, para. 30.

¹³⁰ [Basic Principles on the Use of Force and Firearms by Law Enforcement Officials](#), adopted by the 1990 UN Congress on the Prevention of Crime and the Treatment of Offenders, [PHL-OTP-0001-4114](#) at 4115-4116, Principles 4, 5, 9, 15, 16; Revised PNP Operational Procedures (December 2013), [PHL-OTP-0001-4124](#) at 4153-4154, Rule 8.1 (concerning the "Use of firearm when justified"); PNP, PNP Guidebook on Human Rights-Based Policing, [PHL-OTP-0003-2660](#) at 2687, 2690. See also [UN Code of Conduct for Law Enforcement Officials](#), UN GA Resolution 34/169 (1979), [PHL-OTP-0001-4118](#) at 4118-4119, art. 3 (and commentary). Regarding the burden of proof, the Philippine Supreme Court previously ruled that the invocation of a justifying circumstance means that the accused has the burden of proving the existence of such a circumstance, and that the presumption of regularity does not apply when any taint of irregularity is present in the police operation. [REDACTED]. See also [A/HRC/44/22](#) at 2973, para. 27.

¹³¹ PDEA, #RealNumbersPH Update: Drug Law Enforcers Killed and Wounded in Anti-Drug Operations, 14 February 2018, [PHL-OTP-0003-2726](#).

¹³² Nor is there information available from other sources to independently corroborate the Philippine government figures. The validity of statistics provided by the authorities has also been questioned. See, e.g., Reuters, Suspect Stats: As death toll rises, Duterte deploys dubious data in "war on drugs", 18 October 2016, [PHL-OTP-0003-0538](#).

¹³³ Benar News, Philippine Police Bump Up Drug-War Death Toll to 6,600, 19 June 2019, [PHL-OTP-0003-0578](#); Xinhua, 50 Police dead, 144 wounded in Philippines' war on drugs, 1 July 2019, [PHL-OTP-0003-0576](#); ABC News, 7,800 police in Philippines punished for deadly drug raids, 18 July 2019, [PHL-OTP-0003-0577](#).

there *could* have been *some* incidents in which use of lethal force was lawful.

53. However, the Philippine authorities' official narrative that killings were only committed in self-defence is consistently undermined by other information. As briefly discussed below, this information provides a sufficient basis to conclude that killings by law enforcement in connection with the WoD were, at least in large part, not justified by self-defence.

i. Indications of planning and intentional killings

54. As noted above, the Philippine authorities' descriptions of police killings have consistently been contradicted by other evidence, including accounts from eyewitnesses and survivors. In many incidents, it appears that the killings neither occurred in "shootouts" nor were otherwise justified, but instead resembled summary executions.¹³⁴

55. For example, witnesses frequently stated that victims were unarmed and did not resist arrest or violently confront the police,¹³⁵ and described seeing or hearing the victims surrendering to officers and/or pleading for their lives immediately before they were shot.¹³⁶ In some instances, security camera surveillance footage or other video evidence also

¹³⁴ See para. 21-64 above. See also [AI, If you are poor, you are killed](#) at 0587-0589, 0601-0613; [AI, They Just Kill](#) at 1013-1021; [HRW, License to Kill](#) at 0708-0722, 0725-0728, 0731-0743, 0745-0747; HRW, "Our Happy Family Is Gone": Impact of the "War on Drugs" on Children in the Philippines, May 2020, [PHL-OTP-0003-1218](#) at 1250, 1252, 1261; ABS-CBN News, War on Drugs: The Unheard Stories: Cops gun down suspects begging for their lives, October 2016, [PHL-OTP-0003-2271](#); [REDACTED]; Rappler, Impunity: In the Name of the Father, 8 December 2016, [PHL-OTP-0003-2091](#) at 2093-2096 (regarding the killing of five men on 14 August 2016 in Payatas-A); Reuters, Police rake up an almost perfectly deadly record in Philippine drug war, 5 December 2016, [PHL-OTP-0003-0003](#); Rappler, Where the drug war began, 24 April 2017, [PHL-OTP-0003-2049](#); [REDACTED].

¹³⁵ [AI, If you are poor, you are killed](#) at 0603-0608, 0611-0614; ABS-CBN News, War on Drugs: The Unheard Stories: Cops gun down suspects begging for their lives, October 2016, [PHL-OTP-0003-2271](#); Reuters, Caught on Camera: Police tell one story of what happened in Barangay 19. Security Cameras tell another, 27 November 2017, [PHL-OTP-0003-0517](#); [HRW, License to Kill](#) at 0707-0747; The Washington Post, In Duterte's Philippines, here's how one man survived when a death squad came after him, 4 August 2016, [PHL-OTP-0003-0524](#); Al Jazeera, Philippines: Play dead to survive Duterte's drug war, 23 September 2016, [PHL-OTP-0003-0518](#). In some cases, relatives of the victims also asserted that the victim did not even own or otherwise possess a gun. See, e.g., ABS-CBN News, War on Drugs: "They surrendered – and got killed"; [PHL-OTP-0003-2270](#); Al Jazeera, Philippines: Inside Duterte's killer drug war, 8 September 2016, [PHL-OTP-0003-0514](#); [REDACTED].

¹³⁶ See, e.g., [REDACTED]; [AI, If you are poor, you are killed](#) at 0599, 0604, 0606-0607, 0613; [HRW, License to Kill](#) at 0709, 0713, 0726-0728, 0731, 0734, 0736, 0742-0743; ABS-CBN News, War on Drugs: The Unheard Stories: Cops gun down suspects begging for their lives, October 2016, [PHL-OTP-0003-2271](#); ABS-CBN News, War on Drugs: "They surrendered – and got killed", [PHL-OTP-0003-2270](#); Al Jazeera, Philippines: Inside Duterte's killer drug war, 8 September 2016, [PHL-OTP-0003-0514](#); Reuters, Burying the Truth: A family challenges the official story of a killing in Duterte's drug war, 7 December 2016, [PHL-OTP-0003-0522](#); [REDACTED]; HRW, "Our Happy Family Is Gone": Impact of the "War on Drugs" on Children in the Philippines, May 2020, [PHL-OTP-0003-1218](#) at 1250, 1252, 1261; [REDACTED].

contradicted police accounts, while supporting witness testimony that the victims were unarmed, did not resist, or posed no threat at the time they were killed.¹³⁷

56. Some victims were last seen alive in police custody, and yet police reports indicated that the killings occurred during a buy-bust or similar operation, with no mention of any arrest.¹³⁸ One survivor described being held at a police station before the police drove him to a dark alley, shot him in the chest, and placed a gun next to him.¹³⁹ Other victims were seen surrendering to law enforcement (such as by lying or sitting down, kneeling, arms raised behind their head, handcuffed, hands tied, hands placed behind their head, etc.) or otherwise in a vulnerable position (such as sleeping, on the ground being kicked, etc.) before being shot.¹⁴⁰ [REDACTED].¹⁴¹

57. A number of statements by local officials and insiders also indicate that killings were planned in advance, rather than arising spontaneously when suspects “fought back”. One police commander in Manila, speaking to Reuters on condition of anonymity, stated that his officers were instructed to shoot at “sensitive areas” and that suspects who survived were shot again or smothered with their own clothing to “finish them off”.¹⁴² Another police commander told

¹³⁷ Al Jazeera, Philippines: Inside Duterte’s killer drug war, 8 September 2016, [PHL-OTP-0003-0514](#) (Eric Sison case); [REDACTED]; Reuters, Caught on Camera: Police tell one story of what happened in Barangay 19. Security Cameras tell another, 27 November 2017, [PHL-OTP-0003-0517](#) (Kian Delos Santos case); Reuters, Caught on Camera: Police tell one story of what happened in Barangay 19. Security Cameras tell another, 27 November 2017, [PHL-OTP-0003-0517](#) (case of Rolando Campo, Sherwin Bitas, and Ronnie Cerbito); Reuters, Operation Kill (an interactive multimedia supplement to the article “Caught on Camera”), 27 November 2017, [PHL-OTP-0003-0548](#) (with timeline of events and relevant video footage related to the killing of Campo and the others).

¹³⁸ See, e.g., [REDACTED]; [HRW, License to Kill](#) at 0710-0712, 0716; [REDACTED]; The Washington Post, In Duterte’s Philippines, here’s how one man survived when a death squad came after him, 4 August 2016, [PHL-OTP-0003-0524](#); Al Jazeera, Philippines: Play dead to survive Duterte’s drug war, 23 September 2016, [PHL-OTP-0003-0518](#); [AI, If you are poor, you are killed](#) at 0609.

¹³⁹ The Washington Post, In Duterte’s Philippines, here’s how one man survived when a death squad came after him, 4 August 2016, [PHL-OTP-0003-0524](#); Al Jazeera, Philippines: Playing dead to survive Duterte’s drug war, 23 September 2016, [PHL-OTP-0003-0518](#).

¹⁴⁰ See, e.g., [REDACTED]; [AI, If you are poor, you are killed](#) at 0599, 0603, 0606, 0608; ABS-CBN News, War on Drugs: The Unheard Stories: Cops gun down suspects begging for their lives, October 2016, [PHL-OTP-0003-2271](#); ABS-CBN News, War on Drugs: “They surrendered – and got killed”, [PHL-OTP-0003-2270](#); Vice, Bodies Every Night: Documenting the Brutal Philippine Drug War, 22 February 2017, [PHL-OTP-0003-0530](#); [HRW, License to Kill](#) at 0709, 0713, 0720; [REDACTED]; HRW, “Our Happy Family Is Gone”: Impact of the “War on Drugs” on Children in the Philippines, May 2020, [PHL-OTP-0003-1218](#) at 1250, 1252.

¹⁴¹ [REDACTED].

¹⁴² Reuters, Dead on arrival, 29 June 2017, [PHL-OTP-0003-0523](#).

Reuters that buy-bust operations were actually well-planned executions of targets chosen from lists of suspects drawn up by police and local officials.¹⁴³ [REDACTED].¹⁴⁴

58. Additionally, while authorities claim that police only killed drug suspects in self-defence, statements by some public officials suggest that they considered the killings an achievement and an integral component of the WoD campaign, regardless of whether they were justified. For example, Duterte praised the increasing number of police killings as proof of the “success” of his “war on drugs”.¹⁴⁵ Duterte also made a number of public statements encouraging members of security forces to kill drug suspects, regardless of whether they posed an imminent threat, and promising to shield such perpetrators from accountability.¹⁴⁶ During an interview with Reuters, Romeo Caramat, a police chief in Bulacan province, described the 17,000 drug dealers and users in his province as “a walking time bomb” and, in reference to the anti-drug campaign, expressed: “It will be bloody. You have a problem with dengue. You think you can solve it without killing mosquitos?”¹⁴⁷ In reference to killings during the first three months of the WoD campaign, one senior PNP police officer told The Guardian newspaper: “We are not that bad policemen or bad individuals. We are just a tool, we are just angels that God gave talent to, you know, get these souls back to heaven and cleanse them.”¹⁴⁸

ii. Victims’ wounds are inconsistent with self-defence

59. Victims often sustained wounds inconsistent with mere defensive action by the police. For example, many victims were shot multiple times, even 8 to 10 times and in one documented case 30 times, and a number of victims sustained gunshot wounds to their backs or at the back of their heads.¹⁴⁹ Sources stated that the bodies of victims displayed gunshot wounds to locations or from apparent angles suggesting that they were executed rather than killed in shootouts (such as wounds under the chin, to the temple or in the back, or from downward trajectories); indications that the victim had been restrained prior to being shot (such as bruises

¹⁴³ Reuters, Special Report: Police describe kill rewards, staged crime scenes in Duterte’s drug war, 18 April 2017, [PHL-OTP-0003-0092](#) at 0097.

¹⁴⁴ [REDACTED].

¹⁴⁵ [HRW, License to Kill](#) at 0676.

¹⁴⁶ See para. 103-104, 106-107, 115-116 below.

¹⁴⁷ Reuters, Killing Mosquitos, 7 October 2016, [PHL-OTP-0003-0283](#) at 0289.

¹⁴⁸ The Guardian, Philippines secret death squads: officer claims police teams behind wave of killings, 4 October 2016, [PHL-OTP-0003-0506](#).

¹⁴⁹ [REDACTED]; ABS-CBN News, War on Drugs: “They surrendered – and got killed”, [REDACTED]; [AL, They Just Kill](#) at 1017; [HRW, License to Kill](#) at 0728, 0730, 0792.

on the wrists); or signs of torture or ill-treatment (such as ligature marks on the victim's neck).¹⁵⁰ Many victims appear to have been shot at very close range,¹⁵¹ raising questions about police claims that they were killed during "firefights".

iii. Police planted evidence, tampered with crime scenes, and took other measures to conceal conduct

60. Sources suggest that police planted evidence at crimes scenes, produced false or misleading incident reports, and took other measures in an effort to conceal the manner in which the killings occurred and to support claims of self-defence.¹⁵² An officer with the Anti-Illegal Drugs Unit ("AIDU") in Metro Manila involved in WoD operations told AI that these practices were common among police officers.¹⁵³

61. One police commander explained to Reuters: "We have to plant evidence for the legality of the operation. We are ordered to do these operations, so we have to protect ourselves." The same police commander said that officers put a gun in the deceased suspect's hand and pull the trigger using the suspect's finger so that forensic testing shows that the suspect had fired a gun. He also contended that crime-scene investigators told officers to place the guns at a slight distance from the suspects, rather than in their hands, to make the scenes look more realistic.¹⁵⁴ Based on an examination of a sample of police reports on 25 operations in which 45 persons were killed in Metro Manila, the Office of the High Commissioner for Human Rights ("OHCHR") found that police repeatedly recovered guns – allegedly used by victims – "bearing the same serial numbers from different victims in different locations".

¹⁵⁰ See [REDACTED]; [HRW, License to Kill](#) at 0711; Reuters, Burying the Truth: A family challenges the official story of a killing in Duterte's drug war, 7 December 2016, [PHL-OTP-0003-0522](#); [REDACTED]; Rappler, Impunity: The Fifth Man, 5 December 2017, [PHL-OTP-0003-2287](#). See also [AI, They Just Kill](#) at 1019-1020; [REDACTED].

¹⁵¹ See, e.g., Reuters, Police rake up an almost perfectly deadly record in Philippine drug war, 5 December 2016, [PHL-OTP-0003-0003](#) at 0008; Reuters, Killing Mosquitos, 7 October 2016, [PHL-OTP-0003-0283](#) at 0289-0290; [REDACTED]; [AI, They Just Kill](#) at 1017 (regarding the case of Jovan Magtanong), 1020 (regarding the case of "Rodel"); [HRW, License to Kill](#) at 0713 (regarding the case of Oliver Dela Cruz), 0725 (regarding the case of Bonifacio Antonio); The New York Times, Death of Philippine Teenager Stokes Opposition to Duterte's Drug Crackdown, 23 August 2017, [PHL-OTP-0002-0600](#) (regarding 0877 (the case of Kian Delos Santos)).

¹⁵² See para. 29, 42 above. See also Reuters, Special Report: Police describe kill rewards, staged crime scenes in Duterte's drug war, 18 April 2017, [PHL-OTP-0003-0092](#); [AI, If you are poor, you are killed](#) at 0602, 0611-0614; ABS-CBN News, War on Drugs: "They surrendered – and got killed", [PHL-OTP-0003-2270](#); HRW, Philippines: Police Deceit in "Drug War" Killings, 2 March 2017, [PHL-OTP-0003-1056](#); HRW, World Report 2018: Philippines – Events of 2017, [PHL-OTP-0003-1053](#); [REDACTED].

¹⁵³ [AI, If you are poor, you are killed](#) at 0602, 0611-0614.

¹⁵⁴ Reuters, Special Report: Police describe kill rewards, staged crime scenes in Duterte's drug war, 18 April 2017, [PHL-OTP-0003-0092](#) at 0097-0098.

OHCHR indicated that such “pattern suggests the planting of evidence by police officers and casts doubt on the self-defence narrative, implying that the victims were likely unarmed at the time of the killing.”¹⁵⁵

62. Members of law enforcement also took other measures to conceal their conduct or to avoid generating evidence that would contradict their accounts. In a number of incidents, police disabled surveillance cameras in the immediate area.¹⁵⁶ Multiple sources reported a consistent pattern of police segregating the victim prior to carrying out the killing, either by moving the victim to a secluded area or sending away all potential witnesses from the scene.¹⁵⁷ A Reuters investigation also revealed a pattern of police manipulating evidence by bringing the bodies of victims to the hospital, despite the fact that they were not breathing, had no pulse, were cold to the touch or displaying signs of *rigor mortis*, or had injuries from which it would be impossible to survive, such as multiple gunshot wounds to the head and heart.¹⁵⁸ A police commander in Manila said this was done “to avoid crime scene investigations and media attention that might show they [police] were executing drug suspects.”¹⁵⁹

63. Sources have also alleged that police crime-scene investigations following the killing of drug suspects have been “perfunctory” and “opaque”, and highlighted difficulties that families and CHR investigators have encountered in getting access to autopsy results or police and forensic reports.¹⁶⁰ Victims’ relatives and witnesses have reportedly been deterred from

¹⁵⁵ [A/HRC/44/22](#) at 2973, para. 24.

¹⁵⁶ Reuters, Caught on Camera: Police tell one story of what happened in Barangay 19. Security Cameras tell another, 27 November 2017, [PHL-OTP-0003-0517](#); GMA News Online, Police “paralyzed” CCTV cameras in Parojinog homes for security purposes, 30 July 2017, [PHL-OTP-0003-2310](#); Philstar, Bato on Parojinog raid: Cutting CCTV cameras wrong, 31 July 2017, [PHL-OTP-0003-2311](#); [REDACTED]. See also Reuters, Special Report: Police describe kill rewards, staged crime scenes in Duterte’s drug war, 18 April 2017, [PHL-OTP-0003-0092](#) at 0097.

¹⁵⁷ [REDACTED]; [HRW, License to Kill](#) at 0713-0714, 0717, 0719; Reuters, Police rank up an almost perfectly deadly record in Philippine drug war, 5 December 2016, [PHL-OTP-0003-0003](#) at 0006; ABS-CBN News, War on Drugs: The Unheard Stories: “They surrendered – and got killed”, 2019, [PHL-OTP-0003-2270](#).

¹⁵⁸ Reuters, Dead on arrival, [PHL-OTP-0003-0523](#), and related interactive multimedia supplement, [PHL-OTP-0003-0546](#). See also Reuters, Caught on Camera: Police tell one story of what happened in Barangay 19. Security Cameras tell another, 27 November 2017, [PHL-OTP-0003-0517](#); Reuters, Davao boys: How a secretive police squad racked up kills in Duterte’s drug war, 19 December 2017, [PHL-OTP-0003-0309](#) at 0324; Physicians for Human Rights, Letter to the Secretary of Health Republic of the Philippines, 4 August 2017, [PHL-OTP-0003-1057](#) at 1057. [REDACTED]).

¹⁵⁹ Reuters, Dead on arrival, [PHL-OTP-0003-0523](#).

¹⁶⁰ Reuters, Police rake up an almost perfectly deadly record in Philippine drug war, 5 December 2016, [PHL-OTP-0003-0003](#) at 0004; [AI, They Just Kill](#) at 1019, 1036-1038; [AI, If you are poor, you are killed](#) at 0588, 0629-0631, 0633; HRW, “Our Happy Family Is Gone”: Impact of the “War on Drugs” on Children in the Philippines, May 2020, [PHL-OTP-0003-1218](#) at 1229; [REDACTED]. See also generally [A/HRC/44/22](#) at 2974, para. 29.

challenging police accounts or filing complaints, due to an environment of intimidation and fear of reprisals by police.¹⁶¹ One media source reported that local fishermen claimed the police hired them to dispose of the bodies of drug suspects in Manila Bay.¹⁶² Authorities have also allegedly outsourced WoD killings to hired hitmen, and conducted operations in a way designed to suggest they were perpetrated by “vigilantes”.¹⁶³

iv. Conclusion

64. The information above indicates that, contrary to official claims, many WoD killings by law enforcement were not justified. The use of force employed appears to have been unnecessary and disproportionate under the circumstances, and the killings therefore arbitrary and unlawful.¹⁶⁴ The Prosecution however acknowledges that a limited number of killings during official police operations may have been lawful acts of self-defence under article 31(1)(c) of the Statute. The role of self-defence or other justification in particular incidents will be examined on a case-by-case basis in the context of any authorised investigation.

2. Killings committed outside of official law enforcement operations

65. In addition to the killings described above, there is also a reasonable basis to believe that thousands of similar killings committed outside of official law enforcement operations between 1 July 2016 and 16 March 2019 were directly connected to the WoD campaign, despite being attributed by the police to “unidentified” perpetrators. The perpetrators of such killings appear to include law enforcement officers who sought to conceal their true identity, private actors who coordinated with and were paid by the police, and in some cases other private individuals or groups instigated to act by the government’s WoD campaign and statements by Duterte calling for drug suspects to be killed.¹⁶⁵ The term “vigilantes” (or “anti-

¹⁶¹ See, e.g., [REDACTED]; Reuters, Burying the Truth: A family challenges the official story of a killing in Duterte’s drug war, 7 December 2016, [PHL-OTP-0003-0522](#); [AI, If you are poor, you are killed](#) at 0588, 0632-0633; Rappler, Where the drug war began, 24 April 2017, [PHL-OTP-0003-2049](#) at 2085; Reuters, Killing Mosquitos, 7 October 2016, [PHL-OTP-0003-0283](#) at 0290; Reuters, Police rank up an almost perfectly deadly record in Philippine drug war, 5 December 2016, [PHL-OTP-0003-0003](#) at 0006; [A/HRC/44/22](#) at 2974, para. 29; HRW, “Our Happy Family Is Gone”: Impact of the “War on Drugs” on Children in the Philippines, May 2020, [PHL-OTP-0003-1218](#) at 1261; [REDACTED].

¹⁶² Al Jazeera, Philippine police “dumping bodies” of drug war victims, 28 July 2017, [PHL-OTP-0003-0539](#).

¹⁶³ See para. 71 below.

¹⁶⁴ See generally UN Commission on Human Rights, Summary or Arbitrary Executions – Report by the Special Rapporteur, Mr. S. Amos Vako, appointed pursuant to resolution 1982/35 of 7 May 1982 of the Economic and Social Council, E/CN.4/1983/16, 31 January 1983, [PHL-OTP-0003-2730](#) at 2739, para. 24-27, 2746-2747, para. 60-61, 66-67.

¹⁶⁵ See para. 67-71 below.

drug vigilantes”) has commonly been used as an umbrella term – including by the authorities, the media, and NGOs – to refer to private perpetrators of WoD-related killings.

66. Authorities have variously claimed that such killings occurred in the context of love triangles or feuds or rivalries between drug gangs and criminal organisations, and were not connected to the WoD.¹⁶⁶ While this may be true with respect to some cases, a significant number of these killings appear to be directly connected to the WoD, based on apparent links between the perpetrators and law enforcement, the profile of the victims, the motives for the killings, and the generally consistent types of *modus operandi* employed by the perpetrators.

a. Links to Philippine law enforcement

67. A number of perpetrators have come forward to say they were hired by police to carry out WoD killings.¹⁶⁷ For example, AI interviewed two private individuals who claimed to have been ordered and paid by police to kill alleged drug offenders, and to plant evidence at the crime scenes. Explaining their motivation, one of the paid killers said: “I’m helping the government take out the trash of society.” A police officer in Metro Manila told AI that police are sometimes involved in killings by hiring paid killers to carry them out.¹⁶⁸

68. [REDACTED].¹⁶⁹ In other instances, perpetrators have been identified as known police assets.¹⁷⁰

¹⁶⁶ CNN, Dead or alive: Is the Philippines’ war on drugs out of control?, 4 August 2016, [PHL-OTP-0003-0081](#) at 0086; Reuters, Killing Mosquitos, 7 October 2016, [PHL-OTP-0003-0283](#) at 0287.

¹⁶⁷ See, e.g., [AI, If you are poor, you are killed](#) at 0618-0619; BBC, Philippines drugs war: The woman who kills dealers for a living, 26 August 2016, [PHL-OTP-0003-0504](#); Al Jazeera (Facebook page), These hired killers in the Philippines say the police are using them to target drug criminals (video), 4 August 2016, [PHL-OTP-0001-2496](#); ABC News Philippines’ War on Drugs That Has Left Thousands Dead, 13 December 2016, [PHL-OTP-0003-0503](#); SBS Dateline, Getting Away With Murder, 25 October 2016, [PHL-OTP-0001-2504](#) from 00:17:47:11; [REDACTED]; Mirror, Husband and wife death squad execute 800 people in brutal Philippines war on drug dealers, 25 October 2016, [PHL-OTP-0003-0515](#); Rappler, “The Cops were showing off”: Murder in Manila Part 2, 5 October 2018, [PHL-OTP-0003-1418](#). See also Rappler, “Get it from the chief”: Murder in Manila Part 3, 6 October 2018, [PHL-OTP-0003-1419](#); Rappler, “What did the CSG do wrong?”: Murder in Manila Part 4, 8 October 2018, [PHL-OTP-0003-1420](#); Rappler, “I finish the job”: Murder in Manila Part 5, 9 October 2018, [PHL-OTP-0003-1421](#) (“I finish the job”); Rappler, “There are snakes everywhere”: Murder in Manila Part 6, 10 October 2018 (“[There are snakes everywhere](#)”); Rappler, “It’s war”: Murder in Manila Conclusion, 11 October 2018, [PHL-OTP-0003-1422](#).

¹⁶⁸ [AI, If you are poor, you are killed](#) at 0618-0619.

¹⁶⁹ [REDACTED].

¹⁷⁰ [REDACTED].

69. In some incidents, a connection between the perpetrators and the police is suggested by the course of events.¹⁷¹ In some cases, for example, the perpetrators have apparently relied on police to secure the perimeter in the lead up to the attacks.¹⁷² Witnesses of some incidents stated that almost immediately after the killing and once the unknown assailants left, police officers and/or crime scene investigators arrived at the scene.¹⁷³ In a few cases, witnesses described masked perpetrators speaking to police after the incident.¹⁷⁴ Some self-proclaimed killers claimed that after killing a target, they called the police, who then claimed responsibility for the killings as a result of a gunfight during an official police operation.¹⁷⁵

70. Further, some killings attributed to unknown assailants appear to have been committed directly by members of law enforcement in plain clothes who took measures to make the killings appear as having been perpetrated by private actors.¹⁷⁶ For example, a police officer from Metro Manila told AI that, in addition to hiring paid killers, the police sometimes themselves carried out vigilante-style killings, explaining:

The police officers usually [act as unknown armed persons] when they feel the target does not have the capacity to fight back, or if the family has the ability to file a case. If the target is a woman [...] we cannot conduct a police operation, because that would be an obvious rub-out since a woman can't fight back. So we would carry that out as vigilantes. If it's a bigger target [who owns a] gun, a known pusher, then we'd do it as a [police] operation.¹⁷⁷

71. The Guardian reportedly interviewed a senior PNP officer who explained the role of police in killings that were attributed to unknown assailants.¹⁷⁸ The officer claimed that he was

¹⁷¹ See, e.g., [HRW, License to Kill](#) at 0724-0725, 0729-0730, 0744-0745; [AI, If you are poor, you are killed](#) at 0627-0628; [AI, They Just Kill](#) at 1025.

¹⁷² See, e.g., [HRW, License to Kill](#) at 0709; ACLED, Duterte's War: Drug-Related Violence in the Philippines, 17 October 2018, [PHL-OTP-0003-0810](#) at 0810.

¹⁷³ Rappler, Impunity: Welcome to the end of the war, 7 February 2017, [PHL-OTP-0003-2249](#); [HRW, License to Kill](#) at 0709, 0713-0714, 0725, 0729, 0744-0745; [AI, If you are poor, you are killed](#) at 0711, 0713.

¹⁷⁴ [HRW, License to Kill](#) at 0713, 0734-0735.

¹⁷⁵ See, e.g., Rappler, "Get it from the chief": Murder in Manila Part 3, 6 October 2018, [PHL-OTP-0003-1419](#) (referring to two such incidents).

¹⁷⁶ See, e.g., [REDACTED]; [AI, If you are poor, you are killed](#) at 0587, 0614-0620, 0627-0628; [AI, They Just Kill](#) at 1025; [HRW, License to Kill](#) at 0709; The New York Times, President Duterte's List, 10 January 2017, [PHL-OTP-0003-0398](#) (noting one such incident where the perpetrators turned out to be local police officers); Rappler, Oriental Mindoro cops face murder raps over "riding-in-tandem" case, 13 October 2016, [PHL-OTP-0003-2250](#); [REDACTED]; On the President's Orders (documentary film directed by James Jones), 2019, [PHL-OTP-0002-0607](#) at 00:40:15:07-00:40:38:16.

¹⁷⁷ [AI, If you are poor, you are killed](#) at 0618.

¹⁷⁸ The Guardian, Philippine secret death squads: officer claims teams behind waves of killings, 4 October 2016, [PHL-OTP-0003-0506](#).

part of a police special operations teams tasked to execute targets suspected drug users and dealers.¹⁷⁹ They would conduct killings at night, wearing hoods and dressed in black, and then dispose of the bodies in the next town or under a bridge, with a cardboard sign reading “drug lord” or “pusher”. The officer explained: “We put placards in order for the media, in order for those investigating [the] bodies to redirect their investigation” and to lead them to think, “Why should I investigate this guy, he is a drug pusher, he is rapist, never mind with that one, I will just investigate the others. It’s a good thing for him that happened to him.”¹⁸⁰

b. Victim profile

72. Consistently across the relevant killings, the targeted victims were civilians suspected of being connected to illegal drug activities, including persons on drug watch lists, persons who had been publicly identified as drug personalities, and those who had previously surrendered to the authorities as part of Operation Tokhang.¹⁸¹ In some cases, the reason for the targeting was explicitly indicated on signs left on the bodies of victims.¹⁸²

c. Motives

73. Even if some perpetrators acted independently of law enforcement, the motives often appear to be directly related to the government’s WoD campaign. Philippine officials have at times acknowledged that killings were committed by vigilantes “fed up with current justice system”.¹⁸³ Members of one vigilante group considered themselves to be “soldiers in Rodrigo

¹⁷⁹ The Guardian, Philippine secret death squads: officer claims teams behind waves of killings, 4 October 2016, [PHL-OTP-0003-0506](#).

¹⁸⁰ The Guardian, Philippine secret death squads: officer claims teams behind waves of killings, 4 October 2016, [PHL-OTP-0003-0506](#).

¹⁸¹ [REDACTED]; [AI, They Just Kill](#) at 1016, 1025; [AI, If you are poor, you are killed](#) at 0615-0617; [HRW, License to Kill](#) at 0744-0745; Reuters, Killing Mosquitos, 7 October 2016, [PHL-OTP-0003-0283](#); Inquirer, The Kill List, 7 July 2016, [PHL-OTP-0003-1550](#); Rappler, Impunity: In the Name of the Father, 8 December 2016, [PHL-OTP-0003-2091](#); The Drug Archive, [Building a dataset](#); Rappler, Impunity: Welcome to the end of the war, 7 February 2017, [PHL-OTP-0003-2249](#); Rappler, Impunity: The Night Before Christmas, 27 December 2016, [PHL-OTP-0003-2248](#); [REDACTED]; Reuters, “Killing Mosquitos”: In Duterte’s drug war, local power brokers draw up the hit lists, 7 October 2016, [PHL-OTP-0003-0283](#); The Atlantic, The Uncounted Dead of Rodrigo Duterte’s Philippine Drug War, 19 August 2019, [PHL-OTP-0003-0550](#) at 0551, 0552, 0561; HRW, “Our Happy Family Is Gone”: Impact of the “War on Drugs” on Children in the Philippines, May 2020, [PHL-OTP-0003-1218](#) at 1256.

¹⁸² See, e.g., The Drug Archive, [Building a dataset](#); [REDACTED]; DW, Investigating Duterte’s drug war in the Philippines – facts and fiction, 9 May 2018, [PHL-OTP-0003-0212](#) at 0216; The New York Times, Philippine Police Resume War on Drugs, Killing Dozens, 2 February 2018, [PHL-OTP-0003-0104](#) at 0104; The New York Times, “They Are Slaughtering Us Like Animals”, 7 December 2016, [PHL-OTP-0003-0457](#) at 0469.

¹⁸³ See, e.g., CNN, Dead or alive: Is the Philippines’ war on drugs out of control?, 4 August 2016, [PHL-OTP-0003-0081](#) at 0086 (quoting Presidential spokesperson Ernesto Abella).

Duterte's war against drugs", and explained: "All we wanted was to do something about the drugs."¹⁸⁴

d. *Modus operandi*

74. Vigilante-style killings appear to most often fit one of three different types of scenarios. In one reported type of scenario, done in public, the perpetrator(s) arrived on motorbike – usually in pairs “riding in tandem” – or in a van, wearing hoods, caps, motorcycle helmets, or masks to conceal their faces. The perpetrators shot the victim, often at close range, usually in the head or chest (sometimes multiple times), and then swiftly fled the area.¹⁸⁵ Sources have highlighted that these killings, committed in public, were carried out in a manner suggesting they were conducted by professionally trained individuals.¹⁸⁶

75. In another type of incident, the perpetrators targeted victims in their homes.¹⁸⁷ Some victims were shot when they answered the door; in other cases, the perpetrator forcibly entered the premises and killed the victim.¹⁸⁸ Perpetrators sometimes instructed others to leave the room or house, or took other measures to clear the area prior to carrying out the killing.¹⁸⁹ Such incidents appear to bear notable similarities – in terms of manner and course of events – to raids carried out by the police during official anti-drug operations.¹⁹⁰

¹⁸⁴ Rappler, “Some people need killing”: Murder in Manila Part 1 – How a Manila gang finds the license to kill, 4 October 2018, [PHL-OTP-0003-1411](#); Rappler, “It’s war”: Murder in Manila Conclusion, 11 October 2018, [PHL-OTP-0003-1422](#).

¹⁸⁵ See [AI, If you are poor, you are killed](#) at 0615-0620; [AI, They Just Kill](#) at 1025; [HRW, License to Kill](#) at 0708, 0710; The Drug Archive, [Building a dataset](#); Rappler, [I finish the job](#); Rappler, Impunity: The Night Before Christmas, 27 December 2016, [PHL-OTP-0003-2248](#); [REDACTED]; HRW, “Our Happy Family Is Gone”: Impact of the “War on Drugs” on Children in the Philippines, May 2020, [PHL-OTP-0003-1218](#) at 1239, 1256, 1258.

¹⁸⁶ Reuters, Between Duterte and a death squad, a Philippine mayor fights drug-war violence, 17 March 2017, [PHL-OTP-0003-0505](#); Rappler, Impunity: A Halloween Massacre, 2 November 2016, [PHL-OTP-0003-2301](#); The Guardian, Philippine secret death squads: officer claims teams behind waves of killings, 4 October 2016, [PHL-OTP-0003-0506](#), [REDACTED].

¹⁸⁷ See, e.g., [AI, If you are poor, you are killed](#) at 0615; [AI, They Just Kill](#) at 1025; [HRW, License to Kill](#) at 0744-0745; UCA News, Philippines: Confession of a vigilante killer, 14 December 2017, [PHL-OTP-0002-0605](#); The Drug Archive, [Building a dataset](#).

¹⁸⁸ See, e.g., The Drug Archive, [Building a dataset](#); Rappler, Impunity: A Halloween Massacre, 2 November 2016, [PHL-OTP-0003-2301](#).

¹⁸⁹ See, e.g., Rappler, Impunity: Welcome to the end of the war, 7 February 2017, [PHL-OTP-0003-2249](#); Rappler, Impunity: A Halloween Massacre, 2 November 2016, [PHL-OTP-0003-2301](#); [HRW, License to Kill](#) at 0713, 0744-0745; [AI, If you are poor, you are killed](#) at 0615.

¹⁹⁰ See para. 24-44 above.

76. In other cases, the precise circumstances in which the victim was killed are unknown, and the body was discovered after having been disposed of in public locations, such as a street or alley (situations sometimes referred to as “body dumps”).¹⁹¹ The victims’ bodies were frequently found with their heads wrapped in packing tape, their hands or feet bound together, and a handwritten cardboard sign identifying the victim as drug user or dealer and warning others not to follow their examples.¹⁹² In some “body dump” cases, the victims were last seen alive being arrested or taken away by police, yet the police reports made no reference to any arrest nor provided any plausible explanation.¹⁹³

C. Places, time period, and persons or groups involved

77. An analysis of available information indicates that the examples of extrajudicial killings and related violence discussed above do not represent anomalies or exceptions. Rather, they appear to be a defining characteristic of the national WoD campaign, which has affected nearly every corner of the Philippines, spanned a number of years, and appears to implicate the highest levels of Philippine law enforcement and government.

1. Places of alleged crimes

78. The alleged crimes identified above were committed throughout the territory of the Philippines, in all 17 regions of the country.¹⁹⁴ At the regional level, the highest number of killings were recorded in the National Capital Region (also commonly referred to as Metro

¹⁹¹ See [REDACTED]; The Drug Archive, [Building a dataset](#); Rappler, Impunity: Murder as Meme, 1 December 2016, [PHL-OTP-0003-2302](#); ABS-CBN News, Duterte urged: “Stop cardboard justice”, 25 July 2016, [PHL-OTP-0003-2305](#). See also generally The Guardian, Philippine secret death squads: officer claims teams behind waves of killings, 4 October 2016, [PHL-OTP-0003-0506](#).

¹⁹² See [REDACTED]; [AI, If you are poor, you are killed](#) at 0615-0616; [HRW, License to Kill](#) at 0709, 0724-0725; The Drug Archive, The Drug Killings: Who, What, Where, When, How?, undated, [PHL-OTP-0003-2996](#); The Drug Archive, [Building a dataset](#); Al Jazeera, Philippines: Inside Duterte’s killer drug war, 8 September 2016, [PHL-OTP-0003-0514](#); Rappler, Impunity: In the Name of the Father, 8 December 2016, [PHL-OTP-0003-2091](#) at 2102-2102; DW, Investigating Duterte’s drug war in the Philippines – facts and fiction, 9 May 2018, [PHL-OTP-0003-0212](#) at 0216; The New York Times, President Duterte’s List, 10 January 2017, [PHL-OTP-0003-0398](#) at 0406; Rappler, Impunity: The Church of Resistance, 25 December 2016, [PHL-OTP-0003-2303](#); Rappler, Impunity: Murder as Meme, 1 December 2016, [PHL-OTP-0003-2302](#); HRW, “Our Happy Family Is Gone”: Impact of the “War on Drugs” on Children in the Philippines, May 2020, [PHL-OTP-0003-1218](#) at 1255.

¹⁹³ See, e.g., [HRW, License to Kill](#) at 0722-0723, 0729-0730.

¹⁹⁴ See The Drug Archive, The Drug Killings: Who, What, Where, When, How?, undated, [PHL-OTP-0003-2996](#) at 2997 (map “Where were they killed?”); ACLED, Duterte’s War: Drug-Related Violence in the Philippines, 17 October 2018, [PHL-OTP-0003-0810](#) at 0814 (map “Drug Violence Events in the Philippines (2016 – September 2018)”); ACLED, Press Release: Data Confirm Wave of Targeted Attacks in the Philippines, 3 July 2019, [PHL-OTP-0003-1283](#) (map “Targeted killings in the Philippines”). [REDACTED].

Manila), Central Luzon, Calabarzon, Central Visayas, and Ilocos regions.¹⁹⁵ The killings appear to have occurred on a particularly large scale in highly urbanised areas.¹⁹⁶

2. Time period of alleged crimes

79. The alleged crimes on which the Prosecution has focused its analysis began around 1 July 2016, immediately after President Duterte took power and publicly stated that he would kill suspected drug dealers and addicts, when the PNP issued CMC No. 16-2016, launching Project “Double Barrel” and the WoD campaign.¹⁹⁷ The alleged crimes continued through (and beyond) 16 March 2019.¹⁹⁸

80. These alleged crimes fall within the Court’s jurisdiction *ratione temporis*, because the Philippines deposited its instrument of ratification of the Rome Statute on 30 August 2011, and the Statute entered into force for the Philippines on 1 November 2011, in accordance with article 126(1) of the Statute. On 17 March 2018, the Government of the Philippines deposited a written notification of withdrawal from the Statute with the UN Secretary-General,¹⁹⁹ and in

¹⁹⁵ The identification of these locations derives from an analysis of the datasets: [REDACTED]; Armed Conflict Location & Event Data Project (ACLED), Philippines Dataset covering the period 01-07-2016 to 16-03-2019 (ORIGINAL), [PHL-OTP-0003-3146](#) (“[ACLED Dataset](#)”). The references to the [ACLED Dataset](#) should be read together with the relevant Coding Schemes as made available by ACLED to guide the reading of their datasets in general and specific instructions regarding their Philippines Drug War coding methodology. ACLED, Codebook, undated (downloaded 2019), [PHL-OTP-0001-4072](#); ACLED, FAQs: ACLED Sourcing Methodology, undated (downloaded 2019), [PHL-OTP-0001-4108](#); ACLED, Methodology and Coding Decisions around the Philippines Drug War, undated (downloaded 2019), [PHL-OTP-0001-4069](#). See also [REDACTED]; Rappler, Central Luzon: New killing fields in Duterte’s drug war, 24 February 2019, [PHL-OTP-0002-0584](#); ACLED, Duterte’s War: Drug-Related Violence in the Philippines, 17 October 2018, [PHL-OTP-0003-0810](#) at 0814.

¹⁹⁶ See ACLED, Duterte’s War: Drug-Related Violence in the Philippines, 17 October 2018, [PHL-OTP-0003-0810](#) at 0814. The Drug Archive, [Building a dataset](#); HRW, “Our Happy Family Is Gone”: Impact of the “War on Drugs” on Children in the Philippines, May 2020, [PHL-OTP-0003-1218](#) at 1228.

¹⁹⁷ [PNP, CMC NO. 16 – 2016](#), Section 1(a); The Guardian, Philippines president Rodrigo Duterte urges people to kill drug addicts, 1 July 2016, [PHL-OTP-0003-0101](#) at 0102; [REDACTED]. See also PCOO, President Rodrigo Roa Duterte’s Speech during his Inauguration as the 16th President of the Republic of the Philippines, 30 June 2016, [PHL-OTP-0003-3291](#) at 3292.

¹⁹⁸ See, e.g., [REDACTED]; [ACLED Dataset](#) (this version of the [ACLED Dataset](#) contains information on incidents that occurred between 1 July 2016 and 16 March 2019. However, the [ACLED Dataset](#) is continuously populated and thus a more recent version of the dataset would show incidents that occurred also after 16 March 2019 and up to the present time. For more information, see the ACLED website: <https://acleddata.com/#/dashboard>; The Drug Archive, The Drug Killings: Who, What, Where, When, How?, undated, [PHL-OTP-0003-2996](#) at 2999 (graph “When were they killed?”); ACLED, Duterte’s War: Drug-Related Violence in the Philippines, 17 October 2018, [PHL-OTP-0003-0810](#) at 0811 (graph “Vigilante vs. State Anti-Drug Violence over Time (2016-September 2018)”). Since 16 March 2019, sources have consistently reported that the WoD has continued unabated. See HRW, World Report 2021: Philippines – Events of 2020, [PHL-OTP-0002-0595](#); HRW, Killings in Philippines Up 50 Percent During Pandemic, 8 September 2020, [PHL-OTP-0002-0596](#); [REDACTED].

¹⁹⁹ UN, Rome Statute of the International Criminal Court – Rome, 17 July 1998 – Philippines: Withdrawal, 17 March 2018, [PHL-OTP-0003-2950](#).

accordance with article 127, the withdrawal took effect on 17 March 2019. While the relevant crimes appear to have continued after this date,²⁰⁰ the alleged crimes identified in this Request are limited to those during the period when the Philippines was a State Party to the Statute.²⁰¹

81. In the *Burundi* situation, Pre-Trial Chamber III held that a State Party's withdrawal from the Rome Statute does not affect the Court's exercise of jurisdiction over crimes committed prior to the effective date of the withdrawal.²⁰² This conclusion was recently confirmed by Pre-Trial Chamber II in the *Abd-Al-Rahman* case.²⁰³ The Court's exercise of such jurisdiction, moreover, is not subject to any time limit, particularly since the preliminary examination here commenced prior to the Philippines' withdrawal.²⁰⁴

3. Persons or groups involved

82. The available information indicates that WoD crimes were committed by both state actors – particularly members of law enforcement – and other perpetrators (“vigilantes”) alleged to have acted in coordination with state actors.

a. State actors

83. The available information indicates that the majority of crimes directly attributable to state actors were committed by members of the PNP, in some cases jointly with members of other law enforcement agencies and the AFP, and with the participation of various other state actors, including authorities from the national and local levels of government.

84. Under CMC No. 16-2016 and subsequent directives, the PNP, from the Police Director General down to the station level as well as specific anti-drug units and other PNP offices, was central to the planning, coordination, and implementation of WoD operations.²⁰⁵ For much of the period covered in this Request, individuals at the highest levels of command of the PNP were responsible for ordering, directing, and organising the overall conduct of WoD operations

²⁰⁰ See, e.g., HRW, “Our Happy Family Is Gone”: Impact of the “War on Drugs” on Children in the Philippines, May 2020, [PHL-OTP-0003-1218](#) at 1228; ACLED, Press Release: Data Confirm Wave of Targeted Attacks in the Philippines, 3 July 2019, [PHL-OTP-0003-1283](#).

²⁰¹ This, however, is without prejudice to the consideration of any relevant crimes of a continuous nature, even if they have continued after 16 March 2019. See [Burundi Article 15 Decision](#), para. 192.

²⁰² [Burundi Article 15 Decision](#), para. 24.

²⁰³ *Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman*, [ICC-02/05-01/20-391](#), para. 33.

²⁰⁴ See Rome Statute, article 127(2); [Burundi Article 15 Decision](#), para. 23-26.

²⁰⁵ [PNP, CMC NO. 16 – 2016](#) at 2495-2498, 2504-2506.

in which a large part of the alleged crimes were committed. This includes the two PNP Directors General (or “PNP Chiefs”) in charge of police operations during the relevant period, namely Ronald Dela Rosa²⁰⁶ and his successor Oscar David Albayalde,²⁰⁷ as well as, below them, the directors of the AIDG²⁰⁸ and later the DEG,²⁰⁹ as well as the PNP’s regional, provincial, and city-level directors in charge of coordinating operations on the ground.²¹⁰ Below the national level, the power to implement relevant WoD operations was delegated to “all police offices/units/stations and designated anti-drug units”.²¹¹ Accordingly, PNP commanders in charge of offices at progressively lower administrative levels (regional, district/provincial, city, and station-level) and commanders in charge of specialised anti-drug units attached to each level, were involved in and responsible for the conduct of anti-drug operations in areas under their jurisdiction and command, including those during which killings and related violence occurred, and in those areas where the highest concentrations of killings reportedly occurred.²¹²

85. The involvement of members of the PNP in the commission of the alleged crimes is also evidenced by data showing that the highest number of killings, whether by state actors or non-state actors, was recorded during the phases of the WoD when the PNP was involved in anti-drug operations, whether as the lead agency or under the PDEA (namely Phases 1, 2, 4 and 6).²¹³ By contrast, during the two phases when the PNP’s role in the WoD was temporarily suspended (namely Phases 3 and 5),²¹⁴ the number of killings abruptly and significantly

²⁰⁶ Rappler, Duterte’s “Bato”: Who is Ronald dela Rosa?, 19 May 2016, [PHL-OTP-0003-1438](#).

²⁰⁷ ABS-CBN News, Duterte formally appoints Albayalde new PNP chief, 13 April 2018, [PHL-OTP-0003-1982](#) at 1983, 1985.

²⁰⁸ See [PNP, CMC NO. 16 – 2016](#) at 2501-2504; PNP Facebook Page, PNP activates Drug Enforcement Group – Double Barrel Reloaded, Tokhang Revisited, 6 March 2017, [PHL-OTP-0003-2561](#).

²⁰⁹ See PNP Facebook Page, PNP activates Drug Enforcement Group – Double Barrel Reloaded, Tokhang Revisited, 6 March 2017, [PHL-OTP-0003-2561](#); PNP DEG, Functions, undated, [PHL-OTP-0003-2603](#); Rappler, What’s the new PNP Drug Enforcement Group like?, 10 March 2017, [PHL-OTP-0003-1873](#).

²¹⁰ [PNP, CMC NO. 16 – 2016](#) at 2492.

²¹¹ *Ibid.*

²¹² [PNP, CMC NO. 16 – 2016](#); para. 78 above.

²¹³ [REDACTED]. See also ACLED, Duterte’s War: Drug-Related Violence in the Philippines, 17 October 2018, [PHL-OTP-0003-0810](#) at 0815. See generally para. 15 above; PNP, PNP Operational Accomplishments – 1st Semester 2017, 29 January 2017, [PHL-OTP-0003-2523](#) at 2523; PNP, PNP activates Drug Enforcement Group; Double Barrel Reloaded, Tokhang Revisited, 7 March 2017, [PHL-OTP-0003-2551](#); House of Representatives, Resolution No.899, 16 March 2017, [PHL-OTP-0003-3501](#); The Manila Times, Resume drug war, 27 February 2017, [PHL-OTP-0003-1552](#) at 1552-1553, 1557.

²¹⁴ See para. 15 above. See also PDEA, PDEA takes the lead in the war against drugs, 12 October 2017, [PHL-OTP-0003-2556](#) at 2557; PDEA, First 100 days of PDEA DG Aquino, 27 December 2017, [PHL-OTP-0003-2569](#) at 2572-2575.

reduced, though it did not cease.²¹⁵

86. Other agencies besides the PNP also played an active role in anti-drug operations resulting in the commission of crimes. As mentioned, the PDEA, as the delegated national drug enforcement agency,²¹⁶ played different coordination roles in the WoD,²¹⁷ and PDEA members also participated in anti-drug operations.²¹⁸ The AFP participated in the WoD since at least February 2017²¹⁹ and was primarily tasked to support the PDEA in the conduct of anti-drug operations, in particular against high-value targets,²²⁰ though it also aided in the verification of so-called “narco-lists”.²²¹ Various officials falling under the Department of Interior and Local Government (“DILG”), the department with formal oversight of the PNP and of local government entities,²²² also contributed to relevant operations. For example, *barangay* and other local officials played an active role in compiling and validating drug watch lists used by police, and sometimes participated in anti-drug operations.²²³

²¹⁵ [REDACTED]. See also ACLED, Duterte’s War: Drug-Related Violence in the Philippines, 17 October 2018, [PHL-OTP-0003-0810](#) at 0815.

²¹⁶ PDEA website, Mandate and Functions, undated, [PHL-OTP-0003-2608](#) at 2611.

²¹⁷ See, e.g., [PNP, CMC NO. 16 – 2016](#), at 2493. See also Dangerous Drugs Board, Philippine Revised Anti-illegal Drugs Strategy (PADS), 9 November 2018, [PHL-OTP-0003-3418](#) at 3444; Manila Bulletin News, More to be added to narco-list, PDEA, 16 March 2019, [PHL-OTP-0003-1927](#) at 1927-1928; PDEA, Press Release: PDEA says only 289 barangay official in PRRD’s narco-list, 14 March 2018, [PHL-OTP-0003-2659](#); Inquirer, PDEA chief: Narco list needs “revalidation”, 5 March 2019, [PHL-OTP-0003-2238](#).

²¹⁸ See, e.g., [HRW, License to Kill](#), at 0720; SunStar, Kin of slain drug suspect question “dubious” operation, 12 August 2016, [PHL-OTP-0003-2239](#); Inquirer, Ex-Sorsogon town administrator killed in anti-drug operation, 11 March 2018, [PHL-OTP-0003-2240](#); Philippine News Agency, Drug suspect killed in Santa Rosa City, 25 May 2018, [PHL-OTP-0003-2241](#); Sunstar, Special Report: Who is to blame for the drug problem?, 28 April 2018, [PHL-OTP-0003-2242](#); Journal Online, Philippine Drug Enforcement Agency agents gun down armed suspect, nab 9, 9 March 2019, [PHL-OTP-0003-2244](#).

²¹⁹ Al Jazeera, Philippines army may now join Duterte’s “war on drugs”, 1 February 2017, [PHL-OTP-0003-0264](#) at 0264-0266. See also South China Morning Post, Duterte to allow military role in Philippine drug war, calls it national security threat, 2 February 2017, [PHL-OTP-0003-0258](#) at 0259-0260. See generally The President of the Philippines, Memorandum Order No. 17, 10 October 2017, [PHL-OTP-0003-3319](#); PCOO, Duterte orders PDEA to lead campaign against illegal drugs, 11 October 2017, [PHL-OTP-0003-3720](#) at 3720-3721.

²²⁰ ABC News, Philippine army to form task force for war on drugs, military chief says, 19 February 2017, [PHL-OTP-0003-0272](#); HRW, Abusive Philippine “Drug War” Gets Military Reinforcements, 1 February 2017, [PHL-OTP-0003-0880](#) at 0880; The Diplomat, How Will the Philippines’ Military Join Duterte’s Drug War?, 23 February 2017, [PHL-OTP-0003-0267](#); Manila Bulletin, PDEA inks MOA with AFP; PNP’s “Tokhang” on standby, 28 February 2017, [PHL-OTP-0003-1988](#) at 1988-1989. See also The President of the Philippines, Executive Order No. 15, 6 March 2017, [PHL-OTP-0003-3339](#), at 3340, sec.1, 3341, sec. 3.

²²¹ Narco-lists are lists of names of individuals, particularly public figures, allegedly involved in illegal drug activities (such as “narco-politicians” and “narco-officials”) compiled by authorities. See Manila Bulletin News, More to be added to narco-list, PDEA, 16 March 2019, [PHL-OTP-0003-1927](#) at 1927-1928; Rappler, Big funds, little transparency: How Duterte’s drug list works, 16 February 2020, [PHL-OTP-0003-2329](#).

²²² DILG, Powers & Functions, undated, [PHL-OTP-0003-3829](#); Congress of the Philippines, Republic Act No. 6975, 13 December 1990, [PHL-OTP-0003-3321](#) at 3321, sec. 2.

²²³ See, e.g., Reuters, “Killing Mosquitos”: In Duterte’s drug war, local power brokers draw up the hit lists, 7 October 2016, [PHL-OTP-0003-0283](#) at 0284-0286, 0291; Ateneo de Manila University, Ateneo School of Government, The Role of Mayors and Barangay Captains in the Philippines’ Anti-Drugs Campaign (ASOG

b. Other actors

87. As noted above, many WoD-related killings were also committed outside of official operations. Authorities have frequently attributed such killings to “unidentified” perpetrators or assailants, known in popular jargon as “vigilantes”, “death squads”, “unknown gunmen” or unidentified individuals “riding in tandem”.²²⁴ These perpetrators generally appear to fall within one of three categories: (1) private citizens prompted by Duterte’s calls for the public to help deal with the drug crisis by killing drug personalities,²²⁵ or motivated by a desire to assist the government’s WoD campaign, but acting independently of the Government,²²⁶ either alone, in pairs, or as part of more organised groups;²²⁷ (2) individuals or groups acting at the direction of, or in coordination with, members of the police, although not officially employed by them;²²⁸ and members of law enforcement who concealed their identity and carried out

Working Paper Series 18-002), June 2018, [PHL-OTP-0003-3008](#) at 3012-3014, 3029-3033; The Philippine Human Rights Information Center, The War on the Poor: Extrajudicial Killings and their Effects on Urban Poor Families and Communities, 22 September 2018, [PHL-OTP-0003-2465](#) at 2472; [HRW, License to Kill](#) at 0735, 0737-0738, 0740; Reuters, How a secretive police squad racked up kills in Duterte’s drug war, 19 December 2017, [PHL-OTP-0003-0309](#) at 0325-0326; Manila Bulletin, PNP Chief: Municipal chief, barangay captain to lead anti-illegal drugs ops, 4 March 2017, [PHL-OTP-0003-1936](#) at 1936-1936. *See also* [PNP, CMC NO. 16 – 2016](#) at 2492; DDB, Board Regulation No. 3 Series of 2017, Subject: Strengthening the implementation of barangay drug clearing program, 14 February 2017, [PHL-OTP-0004-3480](#) at 3481, sec. 3, para. 8-10; PDEA, PDEA sets out guidelines in strengthening the implementation of barangay drug clearing program, 18 February 2017, [PHL-OTP-0004-3489](#) at 3490; DILG Philippines Facebook post, BADAC – Barangay Anti-Drug Abuse Council, 19 October 2017, [PHL-OTP-0003-3825](#).

²²⁴ *See, e.g.*, [HRW, License to Kill](#) at 0676, 0735; [AI, If you are poor, you are killed](#) at 0642; Rappler, [I finish the job](#): Murder in Manila Part 5 – 9 October 2018, [I finish the job](#).

²²⁵ *See, e.g.*, CNN, Philippines’ Rodrigo Duterte: Public “can kill” criminals, 6 June 2016, [PHL-OTP-0003-0248](#) at 0248; HRW, The Philippines’ Duterte Incites Vigilante Violence, 19 April 2017, [PHL-OTP-0003-0657](#) at 0657-0658; Business Insider, The Philippines’ president has declared a war on drugs, and it’s turned normal people into hired killers, 5 September 2016, [PHL-OTP-0003-0507](#); The Guardian, Kill drug dealers and I’ll give you a medal, says Philippines president, 5 June 2016, [PHL-OTP-0003-0172](#) at 0172.

²²⁶ [REDACTED]; ABC News, Inside the Controversial President of the Philippines’ War on Drugs That Has Left Thousands Dead, 13 December 2016, [PHL-OTP-0003-0503](#); Rappler, “It’s war”: Murder in Manila Conclusion, 11 October 2018, [PHL-OTP-0003-1422](#) (purported member of a vigilante group reportedly responsible for killings explained: “All we wanted was to do something about the drugs.”). *See also* Rappler, “Some people need killing”: Murder in Manila Part 1 – How a Manila gang finds the license to kill, 4 October 2018, [PHL-OTP-0003-1411](#) at 1411.

²²⁷ Reuters, Between Duterte and a death squad, a Philippine mayor fights drug-war violence, 17 March 2017, [PHL-OTP-0003-0505](#); Inquirer, “Bonnet gang” kills 3 on drug watch list, 12 December 2016, [PHL-OTP-0003-2245](#); Philstar, ‘Bonnet Gang’ member killed in QC, 15 June 2017, [PHL-OTP-0003-2247](#); Rappler, “Some people need killing”: Murder in Manila Part 1 – How a Manila gang finds the license to kill, 4 October 2018, [PHL-OTP-0003-1411](#) at 1411; Rappler, “The Cops were showing off”: Murder in Manila Part 2, 5 October 2018, [PHL-OTP-0003-1418](#); Rappler, “Get it from the chief”: Murder in Manila Part 3, 6 October 2018, [PHL-OTP-0003-1419](#); Rappler, [I finish the job](#); Rappler, [There are snakes everywhere](#). [REDACTED].

²²⁸ [REDACTED]; HRW, World Report 2019: Philippines – Events of 2018, [PHL-OTP-0003-0803](#) at 0804; [AI, If you are poor, you are killed](#) at 0618-0620; BBC, Philippines drugs war: The woman who kills dealers for a living, 26 August 2016, [PHL-OTP-0003-0504](#); Al Jazeera (Facebook page), These hired killers in the Philippines say the police are using them to target drug criminals (video), 4 August 2016, [PHL-OTP-0001-2496](#); SBS

killings outside of official anti-drug operations (typically taking measures to make the crimes look as if they had been committed by “vigilantes”) but with the knowledge and implied or express approval of their superiors.²²⁹ Available information suggests there may be overlap between these categories.²³⁰ For example, one vigilante group reportedly killed some drug personalities based on their own initiative and selection, while at times instead targeting other individuals on instructions from local police.²³¹

D. Contextual elements of Murder as a Crime Against Humanity

88. There is a reasonable basis to believe that the alleged conduct was committed as part of a widespread and systematic attack directed against a civilian population pursuant to or in furtherance of a State policy.²³²

1. Course of conduct involving the multiple commission of acts referred to in article 7(1)

89. The available information provides a reasonable basis to believe that, since at least 1 July 2016, members of Philippine law enforcement and others carried out multiple acts under article 7(1) that collectively amount to an “attack” against the civilian population within the meaning of article 7(2)(a). The killings described in this Request are not the mere aggregate of a few isolated and random incidents,²³³ but rather were committed in the context of, or in connection with, the nationwide WoD campaign launched by Philippine authorities.

Dateline, *Getting Away With Murder?* (video), 25 October 2016, [PHL-OTP-0001-2504](#) at 17:24-20:08; Rappler, “The Cops were showing off”: Murder in Manila Part 2, 5 October 2018, [PHL-OTP-0003-1418](#); Rappler, “Get it from the chief”: Murder in Manila Part 3, 6 October 2018, [PHL-OTP-0003-1419](#); [REDACTED].

²²⁹ [REDACTED]; [AI, If you are poor, you are killed](#) at 0587, 0614-0620; [HRW, License to Kill](#) at 0709-0710, 0735; The New York Times Magazine, President Duterte’s List, 10 January 2017, [PHL-OTP-0003-0398](#) at 0401-0402; Rappler, Oriental Mindoro cops face murder raps over “riding-in-tandem” case, 13 October 2016, [PHL-OTP-0003-2250](#); [REDACTED]; The Guardian, Philippines secret death squads: officer claims police teams behind waves of killings, 4 October 2016, [PHL-OTP-0003-0506](#); Reuters, Special Report: Police describe kill rewards, staged crime scenes in Duterte’s drug war, 18 April 2017, [PHL-OTP-0003-0092](#) at 0094. *See also* para. 70-71 above.

²³⁰ [REDACTED]; Rappler, “The Cops were showing off”: Murder in Manila Part 2, 5 October 2018, [PHL-OTP-0003-1418](#); Rappler, “Get it from the chief”: Murder in Manila Part 3, 6 October 2018, [PHL-OTP-0003-1419](#); Rappler, [I finish the job](#); Rappler, [There are snakes everywhere](#).

²³¹ Rappler, “The Cops were showing off”: Murder in Manila Part 2, 5 October 2018, [PHL-OTP-0003-1418](#); Rappler, “Get it from the chief”: Murder in Manila Part 3, 6 October 2018, [PHL-OTP-0003-1419](#); Rappler, “What did the CSG do wrong?”: Murder in Manila Part 4, 8 October 2018, [PHL-OTP-0003-1420](#); Rappler, [I finish the job](#); Rappler, [There are snakes everywhere](#).

²³² *See Côte d’Ivoire Article 15 Decision*, para. 29; *Kenya Article 15 Decision*, para. 79.

²³³ [Gbagbo CD](#), para. 209; [Bemba TJ](#), para. 149.

90. The alleged acts share many common features in terms of i) their nature and characteristics (shooting from firearms, often multiple times and typically at the head or chest, often at close range, etc.); ii) locations (inside or nearby victims' homes, or in areas where the victims worked or frequented); iii) targets (individuals suspected of involvement in illegal drug activities, including those identified on drug watch lists, especially users and small-time dealers); and iv) the apparent aims underlying the acts (to eliminate and deter drug use and dealing through the demonstration of harsh consequences). Regarding the conduct of state actors, in particular, the perpetrators in most cases were members of the PNP, and the relevant acts consistently occurred during acknowledged police anti-drug operations, or while the victims were in police custody or detention for involvement in drug activities.²³⁴

91. Although some killings were attributed by the authorities to unidentified assailants, the description and *modus operandi* of such perpetrators was, in general, notably consistent across relevant incidents, suggesting some level of coordination among the perpetrators.²³⁵ Further, as discussed above, the available information indicates strong links to police and the WoD.²³⁶

2. Directed against a civilian population

92. On the basis of the available information, the targeted civilian population was primarily Filipino civilians suspected by authorities to be involved in drug-related activities, such as the production, use, or sale of illegal drugs. Many victims had been included on drug watch lists,²³⁷ and some had previously surrendered to the police in connection with Operation Tokhang.²³⁸

3. Pursuant to or in furtherance of a State or organisational policy

²³⁴ See para. 21-64, 83-86 above. See also The Drug Archive, [Building a dataset](#); [REDACTED].

²³⁵ See para. 74-76 above.

²³⁶ See para. 67-69 above.

²³⁷ See [AI, If you are poor, you are killed](#) at 0588, 0606, 0616; ACLED, Duterte's War: Drug-Related Violence in the Philippines, 17 October 2018, [PHL-OTP-0003-0810](#) at 0811; The Drug Archive, The Drug Killings: Who, What, Where, When, How?, undated, [PHL-OTP-0003-2996](#) at 2996; The Drug Archive, [Building a dataset](#); Reuters, Special Report: Police describe kill rewards, staged crime scenes in Duterte's drug war, 18 April 2017, [PHL-OTP-0003-0092](#) at 0097-0098; Reuters, Killing Mosquitos, 7 October 2016, [PHL-OTP-0003-0283](#) at 0284, 0287-0289, 0291. See also Rappler, Impunity: The red mark, 30 November 2017, [PHL-OTP-0003-2263](#); Rappler, Impunity: This is where they do not die, 25 November 2017, [PHL-OTP-0003-2090](#); Rappler, The Drug War: Monday, 21 October 2016, [PHL-OTP-0003-2264](#); [HRW, License to Kill](#) at 0718, 0727, 0735, 0737, 0739-0740, 0744-0745; [REDACTED].

²³⁸ See, e.g., Reuters, Killing Mosquitos, 7 October 2016, [PHL-OTP-0003-0283](#) at 0284-0285, 0288-0290; [AI, If you are poor, you are killed](#) at 0601, 0603; [HRW, License to Kill](#) at 0718, 0731-0732, 0736-0738, 0740-0741, 0745; [REDACTED].

93. The requirement of a “State or organisational policy” ensures that an attack against the civilian population has a “collective” dimension.²³⁹ A policy may consist of a pre-established design or plan, but may also crystallise and develop only as actions are undertaken by the perpetrators.²⁴⁰ It need not be bureaucratic, formalised, or precise, and may be implicit.²⁴¹ In general, it may be inferred from the manner in which relevant acts occur.²⁴²

94. The information available to the Prosecution provides a reasonable basis to believe that the killings described above were carried out pursuant to a State policy to kill suspected drug users and sellers and to instigate members of the public to carry out such killings (“WoD policy”). While WoD operations involved various legitimate activities (such as arrests), they have also reportedly encompassed the intentional extrajudicial killings of thousands of people.

a. Killings were allegedly committed by state forces in connection with a formal anti-drug campaign

95. On 1 July 2016, Ronald Dela Rosa issued CMC No. 16-2016, launching the WoD campaign.²⁴³ According to CMC No. 16-2016, the PNP “intend[ed]” to “address illegal drug problems in the barangays” and “pursue the neutralization of illegal drug personalities as well as the backbone of illegal drugs network operating in the country”.²⁴⁴

96. CMC No. 16-2016 contains various derivations of the words “neutralise” and “negate”, including instructions to law enforcement actors to neutralise drug groups, personalities, and PNP personnel who are involved in drug activities.²⁴⁵ The ordinary meaning of “neutralise” is to render harmless, or to put out of action, but its common euphemistic meaning is “to kill”.²⁴⁶ Similarly, the ordinary meaning of “negate” is to render ineffective or invalid; to nullify, cancel out; or to destroy.²⁴⁷ The available information indicates that these words were intended to denote, and have been interpreted by relevant domestic actors to include, killing.

²³⁹ [Al Hassan CD](#), para. 181.

²⁴⁰ [Ntaganda TJ](#), para. 674.

²⁴¹ See, e.g., [Bemba CD](#), para. 81; [Katanga CD](#), para. 396; [Gbagbo CD](#), para. 215; [Katanga TJ](#), para. 1108, 1110.

²⁴² [Katanga TJ](#), para. 1109; [Bemba TJ](#), para. 160 (fn. 361).

²⁴³ [PNP, CMC NO. 16 – 2016](#) at 2507 (Dela Rosa’s signature).

²⁴⁴ [PNP, CMC NO. 16 – 2016](#) at 2492, sec. 5. See also *id.* at 2490-2491.

²⁴⁵ [PNP, CMC NO. 16 – 2016](#) at 2491-2492, 2494, 2501, 2504, 2505, 2508. See ABS-CBN News, Carpio: “Neutralize” does not only mean to kill, 21 November 2017, [PHL-OTP-0003-1995](#) at 1995-1996; Rappler, Kill or arrest? SC’s Carpio pins down what PNP means by “neutralize”, 21 November 2017, [PHL-OTP-0003-2005](#) at 2007-2008.

²⁴⁶ Oxford English Dictionary, Neutralize, [PHL-OTP-0003-3001](#) at 3001-3002, accessed 1 May 2019.

²⁴⁷ Oxford English Dictionary, Negate, [PHL-OTP-0003-3006](#) at 3006, accessed 1 May 2019.

97. The term “neutralise” does not appear to be defined in any official PNP record.²⁴⁸ The PNP, however, has used the word in official communications to include killings. For example, in updating the public on Project Double Barrel in 2016, a PNP spokesman reportedly stated that 1,661 drug suspects had been “neutralized” and 29,910 arrested in 31,215 operations.²⁴⁹ After 26 drug suspects were killed in OTBT operations in Manila, a Senior Police Superintendent stated that similar operations would continue and residents should stop their illegal activities or be caught *or* neutralised.²⁵⁰ Police reports have also at times referred to the killing of individuals by law enforcement during anti-drug operations as “neutralization”.²⁵¹

98. PNP representatives have publicly and privately stated that they were following government policy in killing suspected drug personalities. After police in Bulacan province killed nine people during anti-drug operations, a police spokeswoman reportedly told media, “We are just following the marching orders of our new chief of the Philippine National Police”.²⁵² [REDACTED].²⁵³ Public statements by other Philippine officials²⁵⁴ leave little doubt that “neutralisation” not only encompassed killing, but that killing was encouraged.²⁵⁵

99. Following the launch of the WoD campaign with CMC No. 16-2016, there was a marked increase in killings of alleged drug personalities.²⁵⁶ There also appears to be a correlation between the points when the WoD campaign was suspended and recommenced and the peaks of killings throughout the period examined.²⁵⁷

100. Finally, there is a clear pattern of violence directed at the targeted population, with a general *modus operandi* and an apparent pattern of seeking to conceal the unlawful nature of

²⁴⁸ Free Legal Assistance Group (FLAG), Petition before the Supreme Court of the Philippines, 11 October 2017, [PHL-OTP-0003-2348](#) at 2350.

²⁴⁹ FLAG, Petition before the Supreme Court of the Philippines, 11 October 2017, [PHL-OTP-0003-2348](#) at 2424, Annex C.1 (reproducing GMA News Online, “Neutralized is better”: PNP ditches “killed” term in Oplan Double Barrel report, 18 October 2016); Philstar, PNP: DUI, not EJK; neutralized, not killed – 19 October 2016, [PHL-OTP-0003-2019](#) at 2020.

²⁵⁰ The New York Times, Philippine Drug War Logs Deadliest Week Yet: 58 Killed in 3 Days, 17 August 2017, [PHL-OTP-0003-0168](#) at 0170.

²⁵¹ [A/HRC/44/22](#) at 2972-2973, paras. 23-24.

²⁵² Malay Mail Online, Philippine police kill 10 in Duterte’s war on crime, 2 July 2016, [PHL-OTP-0003-0047](#) at 0048.

²⁵³ [REDACTED].

²⁵⁴ See para. 101-107 below.

²⁵⁵ See generally [A/HRC/44/22](#) at 2971-2972, para. 18.

²⁵⁶ See para. 15, 84-85 above.

²⁵⁷ [REDACTED]; [ACLED Dataset](#). See also para. 85 above.

the killing (for example, by planting evidence and falsifying reports).²⁵⁸ These commonalities exclude the probability that violence inflicted on suspected drug users and dealers occurred randomly or was perpetrated by isolated or uncoordinated individuals acting on their own.

b. Public statements by President Duterte and other high-level officials

101. The plethora of public statements made by Duterte and other Philippine government officials encouraging, supporting and, in certain instances, urging the public to kill suspected drug users and dealers also indicate a State policy to attack civilians.

102. Duterte already used a distinctive rhetoric as Mayor of Davao City (1988-1998, 2001-2010, and 2013-2016), declaring criminals to be “legitimate target(s) of assassination”²⁵⁹ and announcing that he maintained order in Davao by killing criminals: “Kill ‘em all”.²⁶⁰ He ran his presidential campaign on an anti-drugs and crime platform, drawing on his reputation for having been “tough” on drugs and crime as Mayor of Davao and telling reporters he had killed “around 1,700” people.²⁶¹ Duterte warned that, should he become President, the number of criminal suspects killed “will become 100,000”.²⁶²

103. Duterte promised to empower security forces to “shoot to kill” those who resisted arrest.²⁶³ During a presidential debate in February 2016, Duterte reportedly said, “If I become president, it would be bloody because we’ll order the killing of all criminals”.²⁶⁴ At a campaign rally in March 2016, he said: “Kill them all” [...] “When I become president, I’ll order the police and the military to find these people and kill them”.²⁶⁵ Duterte also reportedly outlined

²⁵⁸ See para. 21-76 above.

²⁵⁹ Reuters, Philippine death squads very much in business as Duterte set for presidency, 25 May 2016, [PHL-OTP-0003-0014](#) at 0016.

²⁶⁰ Politiko Politics, Duterte shares grisly secret to keeping Davao City as PH’s safest, updated 5 October 2017, [PHL-OTP-0003-1287](#) at 1287.

²⁶¹ Rappler, Duterte: I killed 700? No, make that 1,700, 8 December 2015, [PHL-OTP-0003-1297](#) at 1299. See also Metro, President-elect of Philippines pledges to kill 100,000 criminals in six months, 18 May 2016, [PHL-OTP-0003-0041](#) at 0041-0043; [REDACTED].

²⁶² Inquirer, Duterte confirms “ties” with Davao Death Squad, 25 May 2015, [PHL-OTP-0003-1290](#) at 1291; [REDACTED]. See also Metro, President-elect of Philippines pledges to kill 100,000 criminals in six months, 18 May 2016, [PHL-OTP-0003-0041](#) at 0041.

²⁶³ CNN, Obama calls Duterte, highlights shared human rights values, 18 May 2016, [PHL-OTP-0003-0037](#) at 0039.

²⁶⁴ Philstar, Duterte admits to “bloody” presidency if he wins, 21 February 2016, [PHL-OTP-0003-1303](#).

²⁶⁵ Inquirer, Kill the criminals! Duterte’s vote-winning vow, 16 March 2016, [PHL-OTP-0003-1305](#) at 1306.

his plan to news media: “I say let’s kill five criminals every week, so they will be eliminated.”²⁶⁶

104. As President-elect (from 9 May to 30 June 2016), Duterte continued to threaten to “kill” those involved in the illegal drug trade:²⁶⁷ He vowed to wipe out crime in six months by killing criminals and drug dealers²⁶⁸ and promised to allow police to shoot people involved in organised crime.²⁶⁹ In a nationally televised speech on 4 June 2016, Duterte reportedly urged citizens with guns to shoot and kill drug dealers who resist arrest or fight back: “Please feel free to call us, the police, or do it yourself if you have the gun – you have my support”. Duterte warned, “If you’re still into drugs, I will kill you, don’t take this as a joke. I’m not trying to make you laugh, son of a bitch, I will really kill you”.²⁷⁰

105. Other individuals who would go on to become high-level officials in the Duterte regime made similar comments prior to Duterte taking office, suggesting planning of the WoD policy.²⁷¹ Before being announced as the Duterte administration’s first National Police Chief, Dela Rosa explained the “focus” of the forthcoming WoD policy “will be killing those involved in drugs. There will be deaths in illegal drug trade. So the drug lords out there, watch out, because I am going after you”.²⁷² After he was announced as the incoming PNP Chief, Dela Rosa threatened that police involved in the distribution of illegal drugs “will be killed”.²⁷³

106. Immediately after taking office, Duterte made public statements outlining his policy to suppress or stop the sale and use of drugs in the Philippines, including through the elimination of those suspected of being involved in the illegal drug trade. In a speech on the very first day

²⁶⁶ Reuters, Factbook: Rodrigo Duterte on crime and punishment, 13 May 2016, [PHL-OTP-0003-0124](#) at 0125.

²⁶⁷ Inquirer, Duterte to order ‘shoot-to-kill’ for criminals, reinstate death penalty, 16 May 2016, [PHL-OTP-0002-0534](#) at 0536.

²⁶⁸ Reuters, Philippine death squads very much in business as Duterte set for presidency, 25 May 2016, [PHL-OTP-0003-0014](#) at 0016.

²⁶⁹ 51VOA, Philippines' Duterte Promises to Cut Crime, Corruption, 18 May 2016, [PHL-OTP-0003-0655](#); Center for Media Freedom and Responsibility, Death Penalty: Legal, Rights Issues Ignored, 4 June 2016, [PHL-OTP-0003-2344](#) at 2344.

²⁷⁰ The Sydney Morning Herald, Philippine incoming president Rodrigo Duterte urges public to kill drug dealers, 6 June 2016, [PHL-OTP-0003-0022](#) at 0023, 0025. *See also* The Manila Times, “Police drug dealers should be killed”, 5 June 2016, [PHL-OTP-0003-1358](#) at 1358-1359; [REDACTED].

²⁷¹ *See* Inquirer, Prospective PNP chief does a Duterte, says drug lords will be killed, 18 May 2016, [PHL-OTP-0003-1350](#) at 1351.

²⁷² Inquirer, Prospective PNP chief does a Duterte, says drug lords will be killed, 18 May 2016, [PHL-OTP-0003-1350](#) at 1351.

²⁷³ The Philippine Star, “Bato” to cops: I will kill you, too, if ..., 20 June 2016, [PHL-OTP-0003-1377](#) at 1377.

of his presidency, Duterte urged the crowd: “If you know of any addicts, go ahead and kill them yourself as getting their parents to do it would be too painful”.²⁷⁴ On 29 September 2016, Duterte told reporters that “[t]here are 3 million drug addicts (in the Philippines). I’d be happy to slaughter them”. Duterte reportedly said, “If Germany had Hitler, the Philippines would have...” and pointed to himself.²⁷⁵ In 2017, speaking about drugs and “narcopoliticians”, Duterte said, “Do not f*** with me. I will kill you.”²⁷⁶

107. As President, Duterte has made speeches to police²⁷⁷ and military²⁷⁸ personnel encouraging them to kill suspected criminals, clarifying that, “When I said that you go and destroy the drug industry, destroying means destroying including human life”.²⁷⁹ Duterte also announced that he had issued “shoot-to-kill” orders for a list of publicly identified politicians alleged to be involved in illegal drug activities.²⁸⁰ Other senior members of the Duterte administration have employed similar rhetoric in apparent attempts to incite violence against those involved with drugs, including referring to drug users and dealers as animals, fish food, or slaves in apparent attempts to dehumanise them.²⁸¹ For example, former Justice Secretary Vitaliano Aguirre II told reporters that, “[t]he criminals, the drug lords, drug pushers, they are

²⁷⁴ The Guardian, Philippines president Rodrigo Duterte urges people to kill drug addicts, 1 July 2016, [PHL-OTP-0003-0101](#) at 0102. *See also* HRW, The Philippines’ Duterte Incites Vigilante Violence: President Encourages the Jobless to Kill Drug Addicts, 19 April 2017, [PHL-OTP-0003-0657](#) at 0658.

²⁷⁵ BBC, Jewish leaders react to Rodrigo Duterte Holocaust remarks, 20 September 2016, [PHL-OTP-0003-0152](#) at 0153-0154; Reuters, Philippines’ Duterte likens himself to Hitler, wants to kill millions of drug users, 30 September 2016, [PHL-OTP-0003-0127](#) at 0128.

²⁷⁶ PCOO, Speech of President Rodrigo Roa Duterte during the 19th Founding Anniversary of the Volunteers Against Crime and Corruption, 16 August 2017, [PHL-OTP-0003-3213](#) at 3215 (original version), [PHL-OTP-0003-3849](#) at 3852 (English translation).

²⁷⁷ PCOO, Speech of President Rodrigo Roa Duterte during the Turnover Ceremony of 26 units Mitsubishi Patrol Vehicle and Inauguration of New Regional Crime Laboratory Office 11 Building, 15 January 2018, [PHL-OTP-0003-3800](#) at 3803 (original version), [PHL-OTP-0003-3922](#) at 3926 (English translation).

²⁷⁸ Rappler, Duterte to troops: massacre criminals, I’ll promote you, 21 September 2016, [PHL-OTP-0003-1345](#) at 1348. For a different translation of the same quote, *see* [REDACTED].

²⁷⁹ PCOO, Speech of President Rodrigo Roa Duterte during the Turnover Ceremony of 26 units Mitsubishi Patrol Vehicle and Inauguration of New Regional Crime Laboratory Office 11 Building, 15 January 2018, [PHL-OTP-0003-3800](#) at 3803 (original version), [PHL-OTP-0003-3922](#) at 3926 (English translation).

²⁸⁰ *See, e.g.*, Manila Standard, Duterte: Kill all the “narco-pols”, 6 August 2016, [PHL-OTP-0003-2340](#); Inquirer, Duterte, Palace defend shoot-to-kill order, 5 August 2016, [PHL-OTP-0003-1327](#) at 1328; The Sydney Morning Herald, “The Punisher” Rodrigo Duterte issues shoot-to-kill orders against politicians in drug war, 6 August 2016, [PHL-OTP-0003-0574](#).

²⁸¹ *See, e.g.*, Official Gazette, Rodrigo Roa Duterte, Second State of the Nation Address, 24 July 2017, [PHL-OTP-0001-3870](#); [REDACTED]; Rappler, Impunity: This is where they do not die, 25 November 2017, [PHL-OTP-0003-2090](#). The apparent impact of such statements is reflected in reports that some victims of apparent WoD killings had signs left beside their bodies which read, “you are a pusher you are an animal (*sic*)”. The New York Times, President Duterte’s List, 10 January 2017, [PHL-OTP-0003-0398](#) at 0406. *See also* Rappler, Impunity: Let Them Sleep, 17 November 2016, [PHL-OTP-0003-2266](#).

not humanity".²⁸²

108. On several occasions, generally following public criticism, Duterte or his representatives have attempted to distance Duterte from his own statements. For example, Duterte's spokesperson has attempted to explain Duterte's admissions about extrajudicial killings as not "serious" and just "being playful".²⁸³ However, those self-serving claims are not convincing in view of the available information, in particular the high number of WoD killings.

c. Financial incentives and pressure on physical perpetrators to commit killings

109. The available information indicates that state officials have offered and granted incentives such as cash payments, promotions, or awards²⁸⁴ for WoD-related killings, and applied other forms of pressure to encourage perpetrators to carry out killings.²⁸⁵

110. As early as his presidential victory party, Duterte was reported to have offered bounties to police and military for bringing in drug lords "dead or alive", promising more for a dead than a live drug lord.²⁸⁶ In August 2018, Duterte announced a 5 million Philippine peso bounty per head for any police officer involved in the drug trade or other illegal activities, again promising a higher amount for a killing than an arrest and signalling a policy which encompasses killings²⁸⁷

111. On 3 August 2016, the DDB, chaired by Duterte, issued Regulation "Operation Lawmen", formalising monetary rewards for police operational success in the WoD. Section 7

²⁸² Inquirer, Criminals are not human – Aguirre, 1 February 2017, [PHL-OTP-0003-1313](#) at 1314.

²⁸³ Philstar, Palace: Duterte "not serious" when he said EJKs "his only sin", 28 September 2018, [PHL-OTP-0003-2033](#) at 2035-2036. See also [A/HRC/44/22](#) at 2982, para. 80.

²⁸⁴ Reuters, Special Report: Police describe kill rewards, stages crime scenes in Duterte's drug war, 18 April 2017, [PHL-OTP-0003-0092](#) at 0098; Newtalk, Kill a criminal and I'll pay you, says new president of the Philippines, 5 June 2016, [PHL-OTP-0003-0090](#) at 0091; Philstar, CHR to Duterte: "Ninja cops" removal should not be by death, 19 August 2018, [PHL-OTP-0003-1429](#); [PHL-OTP-0003-0183](#) at 0183; PCOO, Speech of President Rodrigo Duterte during his meeting with the Filipino community in Qatar, 15 April 2017, [PHL-OTP-0003-3199](#) at 3206 (original version), [PHL-OTP-0003-3835](#) at 3843 (English translation); [REDACTED]; Rappler, Duterte to troops: massacre criminals, I'll promote you, 21 September 2016, [PHL-OTP-0003-1345](#) at 1347; ABS-CBN News, Metro police chief explains award for Caloocan police, 6 September 2017, [PHL-OTP-0003-1831](#) at 1832; Reuters, Special Report: Police describe kill rewards, stages crime scenes in Duterte's drug war, 18 April 2017, [PHL-OTP-0003-0092](#) at 0094. See also [REDACTED].

²⁸⁵ [REDACTED].

²⁸⁶ AP, Philippine poor get hit early in Duterte-inspired crackdown, [PHL-OTP-0001-3874](#).

²⁸⁷ Philstar, CHR to Duterte: "Ninja cops" removal should not be by death, 19 August 2018, [PHL-OTP-0003-1429](#). See also CNN Philippines, Police hailed for operation that killed 2 "ninja cops" after Duterte's bounty offer, 21 August 2018, [PHL-OTP-0003-0183](#) at 0183; Gulf News, Duterte announces bounty on rogue policemen, 18 August 2018, [PHL-OTP-0003-0182](#).

of the Regulation provides that police who arrest “target drug personalities/violators” or otherwise have “a meritorious case” are eligible for rewards.²⁸⁸ The available information indicates that police officers have in fact received cash rewards for WoD-related operations, including some which resulted in the arrest or death of drug personalities.²⁸⁹ A retired police intelligence officer told Reuters that police were paid per head for killing, ranging from 20,000 pesos for a street-level dealer and user to 5 million pesos for a drug lord.²⁹⁰ An active police officer working as part of an AIDU in Manila told AI that significant under-the-table payments were made for “encounters” in which alleged drug offenders are killed.²⁹¹ So-called vigilantes also reportedly received financial remuneration from state actors for alleged WoD-related killings, with several self-confessed perpetrators asserting that they were paid by police per killing at a rate dependent on the profile of the target.²⁹²

112. In addition to financial incentives, Duterte has reportedly offered promotions²⁹³ and medals²⁹⁴ for killing criminals. For example, Caloocan City Police Station reportedly won awards in 2017 for “the Highest Accomplishment in Project Double Barrel/Barrel Alpha, Highest Number of Arrested/Neutralized Top Most Wanted Person/High Valued Target and Most Number of Firearms Confiscated CY 2016.”²⁹⁵

²⁸⁸ DDB, Board Regulation No. 1 Series of 2016, 3 August 2016, [PHL-OTP-0003-3529](#) at 3534 (point b(3)).

²⁸⁹ GMA News Online, Duterte gave P6.8-M cash rewards to cops in 2016, 28 August 2017, [PHL-OTP-0003-1847](#) at 1847.

²⁹⁰ Reuters, Special Report: Police describe kill rewards, stages crime scenes in Duterte’s drug war, 18 April 2017, [PHL-OTP-0003-0092](#) at 0098.

²⁹¹ [AI, If you are poor, you are killed](#) at 0588.

²⁹² [AI, If you are poor, you are killed](#) at 0618; BBC, Philippines drugs war: The woman who kills dealers for a living, 26 August 2016, [PHL-OTP-0003-0504](#); SBS Dateline, Getting Away With Murder, 25 October 2016, [PHL-OTP-0001-2504](#); Mirror, Husband and wife death squad execute 800 people in brutal Philippines war on drug dealers, 25 October 2016, [PHL-OTP-0003-0515](#); Rappler, “Get it from the chief”: Murder in Manila Part 3, 6 October 2018, [PHL-OTP-0003-1419](#).

²⁹³ PCOO, Speech of President Rodrigo Duterte during his meeting with the Filipino community in Qatar, 15 April 2017, [PHL-OTP-0003-3199](#) at 3206 (original version), [PHL-OTP-0003-3835](#) at 3843 (English translation); Rappler, Duterte to troops: massacre criminals, I’ll promote you, 21 September 2016, [PHL-OTP-0003-1345](#) at 1347-1348.

²⁹⁴ The Manila Times, “Police drug dealers should be killed”, 5 June 2016, [PHL-OTP-0003-1358](#) at 1359; Inquirer, Duterte urges public to kill drug dealers, 5 June 2016, [PHL-OTP-0003-1404](#) at 1405; [REDACTED].

²⁹⁵ ABS-CBN News, Metro police chief explains award for Caloocan police, 6 September 2017, [PHL-OTP-0003-1831](#) at 1832. *See also* The Manila Times – Caloocan police got awards after Kian slay – 7 September 2017, [PHL-OTP-0003-1819](#) at 1819-1820.

113. Former police officers have also reportedly stated that police did not kill just for money but also out of fear of themselves being included on watch lists of drug suspects, with some officials killed for not cooperating,²⁹⁶ [REDACTED].²⁹⁷ [REDACTED].²⁹⁸

d. Failure to take steps to investigate or prosecute and promises of immunity

114. The existence of this policy can be further inferred from the apparent approval by Philippine authorities of alleged WoD killings. The Duterte administration has listed certain WoD killings under its official “accomplishments”,²⁹⁹ and officials have publically described the WoD as “successful”.³⁰⁰ After 32 drug personalities were killed during a police operation in Bulacan, Duterte stated, “They say that people died a while ago in Bulacan, 32, in a massive raid. That's good. If we can just kill about another 32 everyday then maybe we can reduce the — what ails this country”³⁰¹

115. The official endorsement of WoD killings can be inferred from reported promises to shield perpetrators from accountability. In a 2016 speech, Duterte said that where police are involved in a shoot-out, “I have to believe the story of the police, for simply, they are my subordinates and I am ultimately responsible for their deeds [...] if you do your duty, do not worry about cases, I will protect you, believe me [...] if there’s somebody who will go to jail, it’s me. I will assume full, legal responsibility”.³⁰² In a speech to the 10th Infantry Division, Duterte announced that, “Massacre 100 people, I’ll pardon all of you [...] plus a promotion to boot” [...] “For as long as I am president, nobody but nobody – no military man or policeman will go to prison because they performed their duties”.³⁰³

²⁹⁶ Reuters, Special Report: Police describe kill rewards, stages crime scenes in Duterte’s drug war, 18 April 2017, [PHL-OTP-0003-0092](#) at 0098.

²⁹⁷ [REDACTED].

²⁹⁸ [REDACTED].

²⁹⁹ PCOO, The Duterte Administration Year-End Report: 2017 Key Accomplishments, December 2017, [PHL-OTP-0003-3355](#) at 3379.

³⁰⁰ Anadolu Agency, Philippines calls first year of anti-drug war “success”, 30 June 2017, [PHL-OTP-0003-0108](#) at 0108-0109; Philstar, Palace: Drug war hugely successful, 26 December 2017, [PHL-OTP-0003-1395](#) at 1396. See also PCOO, Interview with Presidential Communications Office Secretary Martin Andanar, 11 September 2016, [PHL-OTP-0003-3278](#) at 3279 (original version), [PHL-OTP-0003-3916](#) at 3918 (English translation).

³⁰¹ PCOO, Speech of President Rodrigo Duterte During the 19th Founding Anniversary of the Volunteers Against Crime and Corruption, 16 August 2017, [PHL-OTP-0003-3213](#) at 3213 (original version), [PHL-OTP-0003-3849](#) at 3850 (English translation).

³⁰² PCOO, President Rodrigo Roa Duterte’s Speech during the 80th National Bureau of Investigation (NBI) Founding Anniversary, 14 November 2016, [PHL-OTP-0003-3283](#) at 3288.

³⁰³ Rappler, Duterte to troops: massacre criminals, I’ll promote you, 21 September 2016, [PHL-OTP-0003-1345](#) at 1347-1348. [REDACTED].

116. Duterte has continued this messaging of impunity throughout his presidency, reportedly vowing to pardon and promote police involved in the killing of Albuera Mayor Rolando Espinosa Sr, who Duterte claimed was involved in the drug trade.³⁰⁴ In a speech at the 1st General Assembly of League of Municipalities of the Philippines, Duterte said that if charges were filed against police, “You are hereby granted pardon”, “kill them again, I will pardon you”.³⁰⁵ Speaking to police in 2018, Duterte promised to shield police, asserting that those who encountered problems in the performance of their duties should never worry as “I will take care of you” [...] “I will not allow them to go to prison”.³⁰⁶

117. This rhetoric is reflected in the Philippine authorities’ failure to take meaningful steps to investigate or prosecute perpetrators of WoD killings. It appears that only a handful of “token” cases – focused on low-level, physical perpetrators – have proceeded to trial.³⁰⁷ Only one case, concerning the notorious murder of Kian Delos Santos, has proceeded to judgment.³⁰⁸ There is no information to indicate that any individual has been investigated for ordering, planning, or instigating any killings. Senior or commanding officers implicated in killings have been only temporarily relieved of duty and later moved or even promoted.³⁰⁹ NGOs have

³⁰⁴ ABS-CBN News, Duterte vows anew to pardon, promote cops who killed Espinosa, 1 February 2017, [PHL-OTP-0003-1383](#) at 1384.

³⁰⁵ PCOO, Speech of President Duterte at the 1st General Assembly of League of Municipalities of the Philippines, 14 March 2017, [PHL-OTP-0003-3261](#) at 3276 (original version), [PHL-OTP-0003-3898](#) at 3913 (English translation).

³⁰⁶ PCOO, Speech of President Rodrigo Roa Duterte during the Turnover Ceremony of 26 units Mitsubishi Patrol Vehicle and Inauguration of New Regional Crime Laboratory Office 11 Building, 15 January 2018, [PHL-OTP-0003-3800](#) at 3803 (original version), [PHL-OTP-0003-3922](#) at 3926 (English translation).

³⁰⁷ [AI. They Just Kill](#) at 1035-1036; HRW, “Our Happy Family Is Gone”: Impact of the “War on Drugs” on Children in the Philippines, May 2020, [PHL-OTP-0003-1218](#) at 1229; HRW, World Report 2019: Philippines – Events of 2018, [PHL-OTP-0003-0803](#) at 0804. On specific cases see, for example, GMA News Online, Pasay City prosecutor finds cause to charge cops in Berteses’ killings, 25 April 2017, [PHL-OTP-0003-2218](#) at 2218 (concerning the case against two police officers for the killing of Jaypee and Renato Bertese); Rappler, DOJ downgrades murder charges vs cops in Espinosa slay, 9 June 2017, [PHL-OTP-0003-2222](#); Time, Duterte has brazenly reinstated 19 police who murdered a Philippine mayor last year, 14 July 2017, [PHL-OTP-0003-0501](#) (concerning the case against police officers for the killing of Leyte mayor Rolando Espinosa); Manila Bulletin News, Denial of bail petition of accused cops gives Carl’s father hope in attaining justice, 19 August 2019, [PHL-OTP-0003-2201](#); ABS-CBN News, Court orders arrest of 2 cops in Caloocan teen slays, 25 January 2018, [PHL-OTP-0003-2208](#) at 2209-2211 (concerning the case against police officers for the killing of teenagers Carl Angelo Arnaiz and Reynaldo De Guzman); ABS-CBN News, Pampanga court grants bail to cop tagged as mastermind in Jee Ick Joo kidnap-slay, 7 May 2019, [PHL-OTP-0003-2177](#) (concerning the case against police officers for the killing of South Korean businessman Jee Ick-joo). See further generally [REDACTED]; Inquirer, Command responsibility? Chiefs of erring cops go scot-free, 4 November 2018, [PHL-OTP-0003-2189](#) at 2191.

³⁰⁸ [Kian case](#) at 3142-3143; AI, First conviction of police officers in “war on drugs” shows its deadly reality, 29 November 2018, [PHL-OTP-0003-0878](#). See also [A/HRC/44/22](#) at 2973, para. 26; [REDACTED].

³⁰⁹ See, e.g., Inquirer, Command responsibility? Chiefs of erring cops go scot-free, 4 November 2018, [PHL-OTP-0003-2189](#) at 2190-2191; HRW, Philippine Police Promotions an Affront to “Drug War” victims, 7 June 2018,

reported that overall a “climate of impunity” has prevailed.³¹⁰ OHCHR similarly found that “[d]espite credible allegations of widespread and systematic extrajudicial killings in the context of the campaign against illegal drugs, there has been near impunity for such violations.”³¹¹

118. The minimal prospects for accountability in the Philippines for alleged WoD crimes are underscored by the two Senate Committee hearings on the WoD concluding “with accusations of whitewashing”,³¹² as well as Duterte refusing access to the territory of the Philippines for investigations by the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions.³¹³ On 30 June 2020, in the context of the opening of the forty-fourth session of the UN Human Rights Council, Justice Secretary Menardo Guevarra announced the creation of an inter-agency committee, purportedly established to review over 5,000 anti-drug operations which resulted in killings,³¹⁴ but little information is available regarding its actual work or output. On 24 February 2021, Guevarra announced that the committee’s initial findings confirm irregularities in the police’s handling of WoD killings, including failures to observe standard procedures for handling crime scene evidence. The panel has reportedly referred cases for disciplinary action and criminal investigation; however, to date there appear to have been no further criminal prosecutions as a result.³¹⁵

119. [REDACTED].³¹⁶ [REDACTED].³¹⁷ [REDACTED].³¹⁸ [REDACTED]. The overall failure to take meaningful action to bring perpetrators to justice, particularly when combined

[PHL-OTP-0003-1049](#) at 1049-1050; Sun Star, Two choices for CCPO chief linked to EJK, 24 June 2019, [PHL-OTP-0003-2229](#) at 2230-2231.

³¹⁰ OBS and FIDH, Philippines: “I’ll kill you along with drug addicts”: President Duterte’s war on human rights defenders in the Philippines, February 2019, [PHL-OTP-0003-0831](#) at 0835, 0838.

³¹¹ [A/HRC/44/22](#) at 2973, para. 26.

³¹² AI, Philippines: Amnesty International Calls for Independent Investigation of Human Rights Violations Committed in the Context of the ‘War on Drugs’, [PHL-OTP-0003-0799](#) at 0801.

³¹³ Reuters, Philippines cancels visit by U.N. rapporteur on extrajudicial killings, 14 December 2016, [PHL-OTP-0001-3880](#); Philstar, Agnes Callamard still not welcome in Philippines – Palace, 28 February 2018, [PHL-OTP-0001-3879](#); PNA, Callamard is not persona non grata: Palace, 3 March 2018, [PHL-OTP-0001-3881](#). See also OHCHR, Press briefing note on attacks/threats by States against UN human rights experts, 21 November 2017, [PHL-OTP-0003-2892](#); [REDACTED].

³¹⁴ OHCHR, Human Rights Council opens forty-fourth regular session, hears High Commissioner’s update on the human rights implications of the COVID-19 pandemic, 30 June 2020, [PHL-OTP-0002-0598](#).

³¹⁵ HRW, Philippines Admits Police Role in “Drug War” Killings, 25 February 2021, [PHL-OTP-0002-0597](#); ABS-CBN News, Guevarra: Weapons in “nanlaban” cases not examined but justice system working, 24 February 2021, [PHL-OTP-0002-0602](#).

³¹⁶ [REDACTED].

³¹⁷ [REDACTED].

³¹⁸ [REDACTED].

with promises of immunity or protection from accountability, constitutes a form of encouragement to perpetrators to continue committing violent crimes against suspected drug users and dealers.

4. Widespread and systematic nature of the attack

120. The available information provides a reasonable basis to believe that the attack was carried out on a large scale and frequent basis, targeting and victimising a significant number of civilians in regions throughout the Philippines over a protracted period of time. According to available information, from 1 July 2016 until 16 March 2019, between 12,000 and at least 20,000 killings were committed in connection with the WoD campaign, of which over 5,300 are directly attributable to state actors.³¹⁹ The crimes occurred over a large geographic area, with all 17 regions of the country affected to varying extents.³²⁰ Moreover, the commission of the acts – particularly in certain periods – took place with a high intensity.³²¹ For example, during the first one hundred days in which the WoD campaign was implemented, according to some accounts, more than 3,000 individuals were killed in connection with the campaign.³²² Similarly, it was reported that in the first two years of the WoD campaign an average of 33 people were killed daily, according to figures provided by the PNP itself.³²³

121. The available information also provides a reasonable basis to believe that the attack was systematic.³²⁴ The systematic nature of the attack can be inferred from the evidence of a State policy outlined above,³²⁵ and it is further manifested by the apparent advance preparations made for the attack;³²⁶ the highly organised and coordinated nature of the attack;³²⁷ the

³¹⁹ See para. 19, 21 above.

³²⁰ See para. 78 above.

³²¹ See, e.g., The Drug Archive, [Building a dataset](#); The Drug Archive, Looking back: Day One, Year One of the anti-drug campaign, [PHL-OTP-0003-3038](#); The Drug Archive, The Drug Killings: Who, What, Where, When, How?, undated, [PHL-OTP-0003-2996](#) at 2999.

³²² Inquirer, Bato: PNP “winning war on drugs” in Duterte’s first 100 days, 3 October 2016, [PHL-OTP-0003-1586](#) at 1586; AI, Philippines: Duterte’s 100 days of carnage, 7 October 2016, [PHL-OTP-0003-0823](#) at 0823.

³²³ Philstar, PNP: 22,983 deaths under inquiry since drug war launched, 11 June 2018, [PHL-OTP-0003-2269](#); The Drug Archive, Looking back: Day One, Year One of the anti-drug campaign, [PHL-OTP-0003-3038](#). See also AI Jazeera, Duterte’s drug war: Death toll goes past 6,000, 16 December 2016, [PHL-OTP-0003-0516](#); [REDACTED].

³²⁴ For a similar conclusion reached by others, see [HRW, License to Kill](#) at 0761; [AI, If you are poor, you are killed](#) at 0588.

³²⁵ See [Bemba Article 58 Decision](#), para. 33; [Harun and Kushayb Article 58 Decision](#), para. 62.

³²⁶ See para. 13, 95, 103-107 above.

³²⁷ Such coordination and organisation among relevant actors is evident in the manner in which victims were identified and targeted (such as the use of “drug watch lists”); the planning and implementation of anti-drug operations during which the killings were carried out, as well as the physical perpetration of the acts; and activities

deliberate and near-exclusive victimisation of the targeted population;³²⁸ and the clear and consistent pattern of violence directed at the targeted population.

5. Nexus between the individual acts and the attack

122. The available information provides a reasonable basis to believe that there is a nexus³²⁹ between the identified individual killings and the attack, on the basis of factors including: (i) the geographical and temporal overlap between the attack and the identified crimes; (ii) the fact that in many instances the perpetrators of the identified crimes – members of Philippine law enforcement and affiliated perpetrators – also appear to be responsible for the attack; and (iii) the fact that the same category of persons (those suspected of involvement in illegal drug activities or otherwise connected to individuals involved in such activities) were both the object of the attack and the victims of the identified crimes.

E. Murders allegedly committed in Davao before July 2016

123. Extrajudicial killings which closely resemble the alleged WoD killings in 2016-2019 were reportedly carried out in the Davao area (“Davao”) also before 1 July 2016.³³⁰ The Prosecution therefore requests the Chamber to authorise the investigation into the situation from 1 November 2011 onward.

124. The information indicates that law enforcement and members of DDS killed more than 1,000 people in Davao from 1988 to 2016.³³¹ In 2015 Duterte publicly stated that “around 1,700” people had been killed.³³² For the period 2011-2015, the information indicates that there

undertaken by the perpetrators immediately prior to and after the killings (such as disabling surveillance cameras, turning off street lamps, planting evidence, and taking other measures to conceal their conduct). *See* para. 17, 28, 32, 38, 42, 60-62, 72 above.

³²⁸ *See* para. 17, 72, 92 above.

³²⁹ *Bemba TJ*, para. 164-165; *Katanga TJ*, para. 1124.

³³⁰ The Guardian, Philippines president ordered murders and killed official, claims hitman, 15 September 2016, [PHL-OTP-0003-0579](#); [REDACTED].

³³¹ HRW, [You Can Die Any Time](#) at 0908-0909; Reuters, Blood and benefits: Duterte imposes his hometown formula on the Philippines, 28 December 2016, [PHL-OTP-0003-0199](#) at 0200. *See also* News.com.au, The Philippines’ real-life Punisher, Davao City Mayor Rodrigo Duterte, urged to run for president, 2 July 2014, [PHL-OTP-0003-0378](#) at 0379; Inquirer, Summary: Allegations of “DDS” member in Senate hearing, 15 September 2016, [PHL-OTP-0003-2029](#) at 2030; New Naratif, The Duterte Playbook, 9 September 2017, [PHL-OTP-0003-2336](#); PREDA Foundation, The Victims of the Davao Death Squad: Consolidated Report 1998-2015, 6 May 2016, [PHL-OTP-0003-1060](#); [REDACTED]; Inquirer, What Went Before: Davao Death Squad Senate Inquiry, 23 May 2017, [PHL-OTP-0003-2321](#).

³³² Rappler, Duterte: I killed 700? No, make that 1,700, 8 December 2015, [PHL-OTP-0003-1297](#) at 1299.

were around 385 victims of extrajudicial killings in Davao.³³³ The majority of victims were young men suspected of involvement in small-scale drug dealing or minor crimes such as petty theft and drug use, while gang members and street children were also killed.³³⁴

125. The persons alleged to have perpetrated the pre-2016 killings in Davao are groups of local police officers and vigilantes, notably the DDS (which included both police officers and private citizens).³³⁵ [REDACTED].³³⁶ The available information suggests that local law enforcement were heavily involved in the DDS, and that some DDS members were in fact police.³³⁷

126. Persons involved in pre-2016 killings in Davao in some cases appear to be *the very same people* that were later involved in the WoD. Reuters documented the transfer of a group of police officers from Davao to Station 6 in Quezon City in Metro Manila after July 2016, one of whom said that Davao police brought “special kill skills” to Quezon.³³⁸ Moreover, after Duterte became President, some law enforcement personnel formerly based in Davao were promoted to command positions which were key to the execution of Duterte’s national WoD.³³⁹ Just as he has done as President,³⁴⁰ Mayor Duterte made statements publicly supporting and encouraging the killing of petty criminals and drug dealers in Davao, including, notably, during the 2011-2016 period. In 2015, Duterte announced that he maintained order in Davao by killing criminals.³⁴¹ [REDACTED].³⁴²

³³³ PREDA Foundation, The Victims of the Davao Death Squad: Consolidated Report 1998-2015, 6 May 2016, [PHL-OTP-0003-1060](#).

³³⁴ HRW, [You Can Die Any Time](#) at 0893, 0904, 0916-0918; Reuters, Duterte targets Philippine children in bid to widen drug war, 14 February 2017, [PHL-OTP-0003-0301](#) at 0304.

³³⁵ [REDACTED]; HRW, [You Can Die Any Time](#) at 0939-0943. [REDACTED].

³³⁶ [REDACTED].

³³⁷ [REDACTED]; HRW, [You Can Die Any Time](#) 0940. *See also* [REDACTED].

³³⁸ Reuters, Davao boys: How a secretive police squad racked up kills in Duterte's drug war, 19 December 2017, [PHL-OTP-0003-0309](#) at 0311.

³³⁹ DILG, Catalino S. Cuy, profile, undated, [PHL-OTP-0003-3830](#); PDEA, Change Has Come: PDEA Welcomes its 5th Director General, *Drug Buster: The Official Newsletter of the Philippine Drug Enforcement Agency*, Vol. 3, Issue 1 (2016), [PHL-OTP-0003-2623](#) at 2623; Inquirer, Duterte names ex-Davao City jail warden as new BJMP chief, 27 June 2019, [PHL-OTP-0003-2326](#); Reuters, Duterte’s War on Drugs: The boys from Davao, 19 December 2017, [PHL-OTP-0003-0549](#).

³⁴⁰ *See para.* 103-107 above.

³⁴¹ Politiko Politics, Duterte shares grisly secret to keeping Davao City as PH’s safest, 5 October 2017, [PHL-OTP-0003-1287](#) at 1287-1288. *See also* Rappler, Duterte: I killed 700? No, make that 1,700, 8 December 2015, [PHL-OTP-0003-1297](#) at 1299.

³⁴² [REDACTED].

127. The pattern of killings observed in Davao was virtually the same as the one reported during the WoD in 2016-2019. Sources also indicate that members of law enforcement killed suspected drug personalities in the course of anti-drug operations, and conducted visits to houses of suspected drug pushers, in operations known as “*tuktok*”, which appeared to follow a similar model to the Tokhang operations carried out during the WoD from 2016.³⁴³ Perpetrators of killings reportedly received payments for “successful” operations, with higher rewards for larger targets.³⁴⁴ Impunity is another consistently reported feature of the pre-2016 alleged killings.³⁴⁵

128. In conclusion, the available information indicates that the similarities between alleged crimes committed in Davao in 2011-2016 and the post-2016 WoD include: an asserted rationale for extrajudicial killings of fighting crime and drug use; public encouragement of killings by Duterte; an apparently consistent *modus operandi* and other shared features, such as advance warning, coordination between police and *barangay* officials in targeting victims, and payment for killings and subsequent impunity; perpetrators appear to be police and vigilantes; and the majority of victims appear to be drug users and petty criminals. Indeed, some sources have described the WoD as “rolling out on a national scale” the model which Duterte “honed” in Davao.³⁴⁶ These similarities demonstrate that the 2011-2016 events are sufficiently linked to the 2016-2019 events and should be included in the investigation.

F. Other crimes

129. The Prosecution notes that several of the incidents described above appear to have included severe beatings or other mistreatment of victims prior to the killings,³⁴⁷ as well as instances in which victims’ family members were forced to witness the killings.³⁴⁸ Such conduct may constitute the additional Crimes Against Humanity of Torture or Other Inhumane Acts under articles 7(1)(f) and (k) of the Statute. In light of the applicable page limit, the

³⁴³ Rappler, Dissecting and weighing Duterte’s anti-crime strategy, 6 May 2016, [PHL-OTP-0003-2338](#).

³⁴⁴ [HRW, You Can Die Any Time](#) at 0948-0949; [REDACTED].

³⁴⁵ [REDACTED]. Human Rights Council, Report of the Special Rapporteur on Extrajudicial, Summary of Arbitrary Executions – Addendum: Follow-up to country recommendations – Philippines, A/HRC/11/2/Add.8, 29 April 2009, [PHL-OTP-0003-2952](#) at 2956, para. 9, 2958, para. 20.

³⁴⁶ Reuters, Blood and benefits: Duterte imposes his hometown formula on the Philippines, 28 December 2016, [PHL-OTP-0003-0199](#) at 0200.

³⁴⁷ See para. 40, 43, 46, and 59 above.

³⁴⁸ See para. 25, 26, 34, and 41 above.

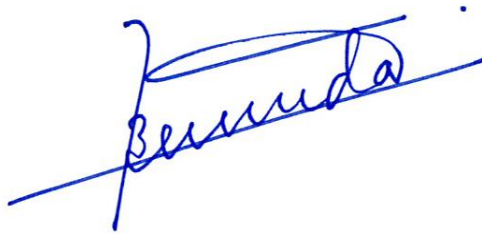
Prosecution has focused the current Request on the more prominent crime of Murder. However, the Prosecution requests that any authorised investigation also include these and other crimes which are sufficiently linked to the WoD campaign.³⁴⁹

IV. COMPLIANCE WITH RULE 48

130. The Appeals Chamber has held that a Chamber's decision under article 15(4) does not involve determinations on admissibility and interests of justice.³⁵⁰ Nevertheless, in determining whether to make a request under article 15(3), the Prosecution remains obliged under rule 48 to consider all the conditions under article 53(1)(a) to (c).³⁵¹ The Prosecution has done so, and has concluded that potential cases which would likely arise from an investigation into the situation would be both admissible and sufficiently grave to justify further action by the Court. The Prosecution has identified no substantial reason to believe that an investigation would not be in the interests of justice.

V. RELIEF REQUESTED

131. For the reasons set out in this Request and on the basis of the supporting material submitted to the Chamber, the Prosecution requests the Chamber to authorise the commencement of an investigation into the Situation in the Philippines, in relation to crimes within the jurisdiction of the Court allegedly committed on the territory of the Philippines between 1 November 2011 and 16 March 2019 in the context of the WoD campaign, as well as any other crimes which are sufficiently linked to these events.



Fatou Bensouda, Prosecutor

Dated this 14th day of June 2021
At The Hague, The Netherlands

³⁴⁹ See, e.g., [Georgia Article 15 Decision](#), para. 63-64; [Myanmar Article 15 Decision](#), para. 126-130.

³⁵⁰ [Afghanistan Judgment on Appeal](#), para. 34-35, 37, 46.

³⁵¹ [Afghanistan Judgment on Appeal](#), para. 35, 37, 48.