



CUBA

Compliance with the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment: Detention and Treatment of Human Rights Defenders

Submitted by The Advocates for Human Rights

a non-governmental organization in special consultative status with ECOSOC since 1996

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The Advocates for Human Rights (The Advocates) is a volunteer-based nongovernmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. The Advocates is the primary provider of legal services to low-income asylum seekers in the Upper Midwest region of the United States. A growing number of victims fleeing torture and cruel, inhuman, and degrading treatment in Cuba have requested legal assistance from The Advocates in applying for asylum in the United States. Information from asylum seekers about the human rights violations that they experienced in Cuba has been used in this submission with their permission.

EXECUTIVE SUMMARY

1. Cuba continues to arbitrarily detain people for prolonged periods. People who are detained lack legal safeguards and are charged with vague violations of the criminal code. Some are charged with nothing at all. Arbitrary detention often targets perceived political opponents of the Cuban Government, such as human rights defenders and members of opposition groups.
2. People in detention face physical abuse and trauma at the hands of Cuban security and police forces. Police and security forces burn them with cigarettes and beat them, resulting in broken bones, missing teeth, and other injuries.
3. Conditions in Cuba's prisons are inhumane. People in detention report overcrowding, a lack of medical care, and inadequate food and water. Despite Cuba's stated efforts to improve prison facilities, clients of The Advocates report poor air quality, including a lack of windows and fresh air.
4. The Advocates for Human Rights has received direct information about arbitrary detention based on political opinion; torture and cruel, inhuman, degrading treatment at the hands of Cuban police officers and security forces; and inhumane prison conditions.¹ The firsthand experiences of The Advocates' clients confirm that Cuba fails to provide people with adequate protection against torture and cruel, inhuman, and degrading treatment by law enforcement.

Cuba fails to uphold its obligations under the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

I. Cuba does not ensure that all detainees have access to fundamental legal safeguards during detention (Article 2, LOIPR paragraph 3).

5. During the last review of Cuba in 2012, the Committee expressed concern about the absence of fundamental legal safeguards for people deprived of their liberty, such as prompt access to a lawyer, independent medical examinations, and notification of a family member of a person's arrest.² The Committee urged Cuba to adopt "without delay" measures that would ensure detainees have prompt access to counsel, appear before a judge "without delay," have contact with family, and be informed of their rights and the charges brought against them.³
6. In its List of Issues for Cuba's third periodic review (LOIPR), the Committee requested updated information on legal safeguards for detainees, such as access to counsel and provisions requiring that all detainees be notified of their rights and the charges brought against them.⁴ In

¹ The case information presented in this submission is compiled from intake and other interviews conducted by The Advocates for Human Rights with asylum seekers from Cuba between 2018 and 2019 (hereinafter referred to as "Interviews conducted by The Advocates (2018-2020)"). Some details have been removed to maintain confidentiality and to protect the identities of clients and their families.

² United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, *Consideration of reports submitted by States parties under article 19 of the Convention: Concluding observations of the Committee against Torture*, (2012), U.N. Doc. CAT/C/CUB/CO/2, ¶ 8.

³ United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, *Consideration of reports submitted by States parties under article 19 of the Convention: Concluding observations of the Committee against Torture*, (2012), U.N. Doc. CAT/C/CUB/CO/2, ¶ 8.

⁴ United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, List of issues in relation to the third periodic report of Cuba, (2019), U.N. Doc. CAT/C/CUB/Q/3, ¶ 3.

its Replies to the List of Issues, Cuba provided some statistics on cases in which detainees had been immediately released.⁵

7. Article 94 of Cuba's 2019 Constitution guarantees a speedy trial to all people.⁶ Article 95 of Cuba's 2019 Constitution guarantees certain rights to persons deprived of their liberty.⁷ It stipulates that persons deprived of their liberty shall have access to counsel during all the proceedings of their case, "to be treated with respect for their dignity and physical, mental, and moral integrity, [and] to not be a victim of violence and duress of any kind in order to coerce a testimony."⁸
8. Under Cuban law, people can be detained for up to a week without access to a lawyer.⁹ Police have the power to detain an individual for 24 hours.¹⁰ After that time, the police must inform the instructor (a government official with judicial and police authority), who can order detention for an additional 72 hours.¹¹ After that time period, the instructor must inform the prosecutor, who has 72 hours to end the detention.¹² A detainee "may not consult a lawyer or examine the evidence against him until an official decision" is issued by the prosecutor.¹³ During this time, there is no requirement that a judge or court review a person's detention.¹⁴
9. On October 28, 2021, Cuba's National Assembly approved new legislation, stemming from the 2019 Constitution, to establish a wider range of legal rights for people deprived of their

⁵ Convención contra la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes, *Respuesta de Cuba a la lista de cuestiones relative al tercer informe periódico*, (2020), U.N. Doc. CAT/C/CUB/RQ/3, ¶¶ 2-22.

⁶ CUBA'S CONSTITUTION OF 2019 art. 94.

⁷ CUBA'S CONSTITUTION OF 2019 art. 95.

⁸ CUBA'S CONSTITUTION OF 2019 art. 95.

⁹ Human Rights Watch, "Cuban report to the United Nations regarding International Human Rights Instruments, June 1997: III. Impediments to Human Rights in Cuban Law", accessed March 16th, 2022, <https://www.hrw.org/reports/1999/cuba/Cuba996-03.htm>

¹⁰ Human Rights Watch, "Cuban report to the United Nations regarding International Human Rights Instruments, June 1997: III. Impediments to Human Rights in Cuban Law", accessed March 16th, 2022, <https://www.hrw.org/reports/1999/cuba/Cuba996-03.htm>; Inter-American Commission on Human Rights, *The Situation of Human Rights in Cuba Seventh Report: Chapter III Right to Security and Personal Liberty*, (Oct. 4, 1983), OEA/Ser.L/V/II.61, ¶¶ 12-13.

¹¹ Human Rights Watch, "Cuban report to the United Nations regarding International Human Rights Instruments, June 1997: III. Impediments to Human Rights in Cuban Law", accessed March 16th, 2022, <https://www.hrw.org/reports/1999/cuba/Cuba996-03.htm>; Inter-American Commission on Human Rights, *The Situation of Human Rights in Cuba Seventh Report: Chapter III Right to Security and Personal Liberty*, (Oct. 4, 1983), OEA/Ser.L/V/II.61, ¶¶ 12-13.

¹² Human Rights Watch, "Cuban report to the United Nations regarding International Human Rights Instruments, June 1997: III. Impediments to Human Rights in Cuban Law", accessed March 16th, 2022, <https://www.hrw.org/reports/1999/cuba/Cuba996-03.htm>; Inter-American Commission on Human Rights, *The Situation of Human Rights in Cuba Seventh Report: Chapter III Right to Security and Personal Liberty*, (Oct. 4, 1983), OEA/Ser.L/V/II.61, ¶¶ 12-13.

¹³ Institute on Race, Equality and Human Rights, *Condenas premeditadas: Análisis de la situación de la administración de justicia en Cuba*, June 2019, (Washington, D.C.: Institute on Race, Equality and Human Rights), ¶ 73.

¹⁴ Institute on Race, Equality and Human Rights, *Condenas premeditadas: Análisis de la situación de la administración de justicia en Cuba*, 2019, (Washington, D.C.: Institute on Race, Equality and Human Rights), ¶ 74.

liberty.¹⁵ Activists and other experts have expressed concern that the new legislation, which will enter into force in 2022, will not help the thousands of people currently in detention nor remedy the situation in future.¹⁶

10. Credible secondary sources confirm that the number of arbitrary arrests and arbitrary detentions in Cuba remains high. Between January and August of 2020, a human rights observatory reported 1,028 arbitrary detentions.¹⁷ There were reports of at least 200 arbitrary detentions in January 2020 alone.¹⁸ In November of 2021, authorities took “at least 1,030 repressive actions” against human rights defenders, journalists, and other opponents of the government.¹⁹ These actions included 197 arbitrary arrests, including 14 that became violent.²⁰ Many of these actions were in response to peaceful demonstrations on November 15, 2021.²¹
11. Arresting authorities do not always ensure respect for legal safeguards. International Human Rights Organizations report: “Security officers rarely present arrest orders to justify detaining critics.”²² Criminal charges lodged against people who are arbitrarily arrested include vague offenses such as “attack,” “disrespect of public officials,” “pre-criminal dangerousness to society,” “failure to pay fines,” or “public disturbance.”²³
12. Multiple clients of The Advocates confirm that few legal safeguards exist to guard against arbitrary arrest and detention. Several clients reported that authorities arbitrarily arrested and detained them after attending a protest.²⁴ None of these clients enjoyed any legal or procedural safeguards.²⁵
13. Credible secondary sources describe other cases of arbitrary detention. For example, José Ernesto Morales Estrada has been arrested more than 90 times since he began working as a human rights defender in 2014. In January 2018, Mr. Morales Estrada was taken to a police station where a high-ranking police officer demanded Mr. Morales Estrada’s cell phone password. When he refused, the policeman struck him, opened the door, and eight police

¹⁵ Reuters, “Cuba approves laws granting greater rights as criticism of protesters’ arrests heats up”, accessed March 16th, 2022, <https://www.reuters.com/world/americas/cuba-approves-laws-granting-greater-rights-criticism-protesters-arrests-heats-up-2021-10-28/>

¹⁶ Reuters, “Cuba approves laws granting greater rights as criticism of protesters’ arrests heats up”, accessed March 16th, 2022, <https://www.reuters.com/world/americas/cuba-approves-laws-granting-greater-rights-criticism-protesters-arrests-heats-up-2021-10-28/>

¹⁷ Human Rights Watch, *World Report: 2021*, (New York, N.Y.: Human Rights Watch, 2021), 186.

¹⁸ Rut Diamint & Laura Tedesco, *Trapped in Cuba*, Open Democracy, Feb. 18, 2020, <https://www.opendemocracy.net/en/democraciaabierta/atrapados-en-cuba-en/>.

¹⁹ Observatorio Cubano de Derechos Humanos, “Noviembre, el segundo peor mes de 2021 en Cuba con al menos 1.130 acciones represivas,” accessed March 14th, 2022, <https://observacuba.org/noviembre-segundo-peor-mes-2021-cuba-acciones-represivas/>.

²⁰ Observatorio Cubano de Derechos Humanos, “Noviembre, el segundo peor mes de 2021 en Cuba con al menos 1.130 acciones represivas,” accessed March 14th, 2022, <https://observacuba.org/noviembre-segundo-peor-mes-2021-cuba-acciones-represivas/>.

²¹ Observatorio Cubano de Derechos Humanos, “Noviembre, el segundo peor mes de 2021 en Cuba con al menos 1.130 acciones represivas,” accessed March 14th, 2022, <https://observacuba.org/noviembre-segundo-peor-mes-2021-cuba-acciones-represivas/>.

²² Human Rights Watch, *World Report: 2019*, (New York, N.Y.: Human Rights Watch, 2019), 164.

²³ Inter-American Commission on Human Rights, *Annual Report 2018, Chapter IV.B Cuba* (Washington, D.C.: Inter-American Commission on Human Rights, 2018), ¶ 31.

²⁴ Interviews conducted by The Advocates (2018-2020)

²⁵ Interviews conducted by The Advocates (2018-2020).

officers surrounded him and informed him they would take him to jail for contempt of authority. The police ultimately released Mr. Morales Estrada after approximately four hours but gave him a warning and a fine for public disorder. He was never informed of his rights or the reasons for his detention—nor did he receive any document outlining the details of his detention, as is required under Cuban law.²⁶

II. Cuba does not provide prison officials or law enforcement with effective training on human rights and the prohibition against torture (Article 10, LOIPR paragraph 15).

14. In its LOIPR, the Committee sought detailed information on any Cuban training programs for public servants, including prison officials, on the topics of human rights and the prohibition against torture.²⁷
15. In its response, the Cuban Government explained that the Office of the Attorney General of the Republic carried out 38 training actions on human rights issues that impacted 46% of prosecutors and various military and governmental specialists.²⁸ Cuba also stated that “all law enforcement officers and prison system officials” are trained on “necessary knowledge and skills, including on the Convention.”²⁹ Cuba did not indicate whether there are any tools to assess the effectiveness of these programs.
16. Cuban officials, in response to allegations of human rights abuses, categorically deny their existence rather than investigate the allegations. In the cases of José Ernesto Morales Estrada and Rigoberto González Vigoa, for example, Cuba denied that they were arbitrarily detained and interrogated because “there is no evidence in the records” of relevant police units of the interrogations of those two men.³⁰
17. As other sections of this report detail, whatever training in place is ineffective, as arbitrary detention as well as torture and cruel, inhuman, and degrading treatment persist.

III. Cuban authorities engage in torture and cruel, inhuman, and degrading treatment, including gender-based violence, during interrogations and pretrial detention (Article 11, LOIPR paragraph 17 and LOIPR Paragraph 1).

18. In its LOIPR, the Committee sought information on the procedures in place for ensuring compliance with article 11 of the Convention and information on interrogation rules, instructions, methods, and practices or arrangements for custody.³¹

²⁶ Institute on Race, Equality and Human Rights, *Condenas premeditadas: Análisis de la situación de la administración de justicia en Cuba*, 2019, (Washington, D.C.: Institute on Race, Equality and Human Rights), 52.

²⁷ United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, *List of issues in relation to the third periodic report of Cuba*, (2019), U.N. Doc. CAT/C/CUB/Q/3, ¶ 15.

²⁸ Convención contra la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes, *Respuesta de Cuba a la lista de cuestiones relative al tercer informe periódico*, (2020), U.N. Doc. CAT/C/CUB/RQ/3, ¶ 81.

²⁹ Convención contra la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes, *Respuesta de Cuba a la lista de cuestiones relative al tercer informe periódico*, (2020), U.N. Doc. CAT/C/CUB/RQ/3, ¶ 83.

³⁰ Institute on Race, Equality and Human Rights, *Condenas premeditadas: Análisis de la situación de la administración de justicia en Cuba*, 2019, (Washington, D.C.: Institute on Race, Equality and Human Rights), ¶ 28.

³¹ United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, *List of issues in relation to the third periodic report of Cuba*, (2019), U.N. Doc. CAT/C/CUB/Q/3, ¶ 17.

19. Many of The Advocates' clients from Cuba have experienced physical abuse and injury during interrogations by Cuban security officers and police officers.³² Their experiences are corroborated by a report that summarized that "[d]etainees are often beaten, threatened, and held incommunicado for hours or days."³³ For instance, after their failed escape from Cuba, two clients were beaten with clubs by police officers.³⁴ A police officer also attempted to rape one of our clients. When she defended herself, he beat her.³⁵
20. Credible secondary sources confirm that detained persons face physical abuse, injury, and isolation. For instance, Dr. Eduardo Cardet Concepción was detained and authorities arbitrarily suspended visits from his wife in retaliation for her allegedly spreading "false information" and because the visits "were not 'contributing to the re-education of Dr. Cardet Concepción.'"³⁶ Cuba also suspended Dr. Cardet Concepción's phone calls. Authorities ultimately reinstated phone calls and visits in November 2018, but effectively kept him incommunicado for half a year.³⁷
21. Another detainee, Mario Alberto Hernández Leyva, vice president of the Opposition Movement for a New Republic, experienced inhumane treatment in detention.³⁸ He was handcuffed in his cell in a standing position, and guards sometimes left him in a standing position all day and all night. After two months of this treatment, Mr. Hernández Leyva could not stand for 15 to 20 days, and he took five months to recover. He reported that the police also "gave me a beating that broke my mouth [and] left me out of air," the results of which took more than three weeks to recover.³⁹

IV. Prison conditions amount to inhuman treatment (Article 11, LOIPR paragraphs 18 and 19).

22. In its LOIPR, the Committee requested that Cuba provide information on steps to improve the prison system and reduce overcrowding, as well as detailed information on measures to avoid prolonged pretrial detention.⁴⁰
23. Cuba's response stated that authorities have spent more than 110,000,000 pesos to improve prison facilities, including common areas, as well as to waterproof roofs, install solar heaters,

³² Interviews conducted by The Advocates (2018-2020).

³³ Human Rights Watch, World Report: 2019, (New York, N.Y.: Human Rights Watch, 2019), 165.

³⁴ Interviews conducted by The Advocates (2018-2020).

³⁵ Interviews conducted by The Advocates (2018-2020).

³⁶ Institute on Race, Equality and Human Rights, *Condenas premeditadas: Análisis de la situación de la administración de justicia en Cuba*, 2019, (Washington, D.C.: Institute on Race, Equality and Human Rights), 99.

³⁷ Institute on Race, Equality and Human Rights, *Condenas premeditadas: Análisis de la situación de la administración de justicia en Cuba*, 2019, (Washington, D.C.: Institute on Race, Equality and Human Rights), 99.

³⁸ Institute on Race, Equality and Human Rights, *Condenas premeditadas: Análisis de la situación de la administración de justicia en Cuba*, 2019, (Washington, D.C.: Institute on Race, Equality and Human Rights), ¶ 160.

³⁹ Institute on Race, Equality and Human Rights, *Condenas premeditadas: Análisis de la situación de la administración de justicia en Cuba*, 2019, (Washington, D.C.: Institute on Race, Equality and Human Rights), ¶ 160.

⁴⁰ United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, *List of issues in relation to the third periodic report of Cuba*, (2019), U.N. Doc. CAT/C/CUB/Q/3, ¶ 18.

and improve electrical systems. Cuba asserted that prisons are operating at 81% capacity, suggesting that overcrowding is not an issue.⁴¹

24. Despite these claims, international organizations observe that Cuba's prisons "are overcrowded."⁴² As of 2020, Cuba's prisons held more than 90,000 people – about 794 persons in detention per 100,000.⁴³ These estimates are likely higher as there are an additional 37,458 people under judicial or police control in other ways.⁴⁴
25. Credible reports confirm inhuman prison conditions. Dr. Eduardo Cardet Concepción, for instance, was held in Holguin Provincial Prison, where the air quality was deficient. Dr. Cardet Concepción has asthma and suffered from bronchitis and other respiratory infections as a result of the prison's humid conditions. The prison also lacked windows to let in fresh air.⁴⁵
26. Prison officials and police also encourage detained persons to commit acts of violence against people who are detained on account of political opinion. For example, José Rolando Cáceres, a member of the Cuban Youth Dialogue Bureau, reported facing daily threats from other people in detention at the behest of the political police in July 2016. Ovidio Martín Castellano, a coordinator of the Patriotic Union of Cuba (UNPACU), also received beatings from other detainees at the request of the police in December 2017.⁴⁶
27. In its LOIPR, the Committee requested information on the steps Cuba is taking to ensure that detained persons are being provided an adequate diet and sufficient medical care. The Committee asked Cuba to address reports of poor hygiene, poor sanitary conditions, and limited access to drinking water in Cuba's prisons.⁴⁷
28. In its response, Cuba stated that detained persons "are guaranteed, without restrictions, primary and specialized medical and stomatological care, of quality and free of charge."⁴⁸ Cuba also explained that prisons are subject to "continuous and rigorous scrutiny" from state institutions and that prison regulations "provide for adequate living conditions."⁴⁹

⁴¹ Convención contra la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes, *Respuesta de Cuba a la lista de cuestiones relative al tercer informe periódico*, (2020), U.N. Doc. CAT/C/CUB/RQ/3, ¶ 90.

⁴² Human Rights Watch, *World Report: 2019*, (New York, N.Y.: Human Rights Watch, 2019), 168.

⁴³ Prisoners Defenders, "Prisoners Defenders' Exclusive, January 13, 2020: CONCLUSIONS OF THE DOCUMENTARY STUDY BY PRISONERS DEFENDERS — Cuba, with 90,300 inmates, makes the world's biggest prison by per-capita rate", accessed March 16th, 2020, ENG CUBA - With 90300 inmates makes the world's biggest prison by per-capita rate.pdf

⁴⁴ Prisoners Defenders, "Prisoners Defenders' Exclusive, January 13, 2020: CONCLUSIONS OF THE DOCUMENTARY STUDY BY PRISONERS DEFENDERS — Cuba, with 90,300 inmates, makes the world's biggest prison by per-capita rate", accessed March 16th, 2020, ENG CUBA - With 90300 inmates makes the world's biggest prison by per-capita rate.pdf

⁴⁵ Institute on Race, Equality and Human Rights, *Condenas premeditadas: Análisis de la situación de la administración de justicia en Cuba*, 2019, (Washington, D.C.: Institute on Race, Equality and Human Rights), 99.

⁴⁶ Institute on Race, Equality and Human Rights, *Condenas premeditadas: Análisis de la situación de la administración de justicia en Cuba*, 2019, (Washington, D.C.: Institute on Race, Equality and Human Rights), ¶ 159.

⁴⁷ United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, *List of issues in relation to the third periodic report of Cuba*, (2019), U.N. Doc. CAT/C/CUB/Q/3, ¶ 19.

⁴⁸ Convención contra la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes, *Respuesta de Cuba a la lista de cuestiones relative al tercer informe periódico*, (2020), U.N. Doc. CAT/C/CUB/RQ/3, ¶ 104.

⁴⁹ Convención contra la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes, *Respuesta de Cuba a la lista de cuestiones relative al tercer informe periódico*, (2020), U.N. Doc. CAT/C/CUB/RQ/3, ¶ 106.

29. Several reports of denial of medical care refute Cuba's claims. Individuals who engage in some form of protest in prison, such as a hunger strike, are reportedly denied medical care.⁵⁰ The Inter-American Commission on Human Rights has noted that Cuban prisons have a "lack of provision of medications and delays or total lack of medical assistance."⁵¹ The IACHR has also noted that access to potable water and food is in regular short supply, resulting in people in detention depending on family members to provide food and water. Alternately, people in detention must pay other detainees or prison guards simply to eat and drink.⁵²
30. Several of The Advocates' clients have reported being denied medical care. Police broke one client's finger during a beating but denied him any medication or treatment to mend it. Authorities also denied another client any water or medication to address his central diabetes insipidus, which causes an imbalance of fluids in the body. He developed skin growths and fell into a coma. He still has scars from the growths.⁵³
31. Other clients of The Advocates have reported that prison officials denied them food or water. One couple that was arrested after they tried to flee the country were denied food and water while in detention.⁵⁴
32. Other detained persons have also been denied necessary medical care. Yosvany Maragana reported not being provided medicine for her tuberculosis.⁵⁵ Gisela Padin Perera was detained for three days and did not receive access to medical treatment for her blood condition. She also went on a hunger strike to protest that she was denied contact with her husband and family. After three days without food or access to medicine, Ms. Padin Perera was not able to walk or stand, and she developed nausea and dizziness.⁵⁶

V. Cuban authorities conceal evidence that torture and ill treatment result in deaths of persons in custody (Article 11, LOIPR paragraph 23).

33. In its LOIPR, the Committee requested that Cuba provide statistical data on the number of deaths in custody, as well as how the deaths were investigated, the outcome of the investigations, and the measures adopted to prevent similar situations in the future. The Committee also requested information on whether relatives of the deceased received compensation for the death.⁵⁷

⁵⁰ Human Rights Watch, *World Report: 2019*, (New York, N.Y.: Human Rights Watch, 2019), 168.

⁵¹ Inter-American Commission on Human Rights, *Annual Report 2018, Chapter IV.B Cuba* (Washington, D.C.: Inter-American Commission on Human Rights, 2018), ¶ 96.

⁵² Inter-American Commission on Human Rights, *Annual Report 2018, Chapter IV.B Cuba* (Washington, D.C.: Inter-American Commission on Human Rights, 2018), ¶ 96.

⁵³ Interviews conducted by The Advocates (2018-2020).

⁵⁴ Interviews conducted by The Advocates (2018-2020).

⁵⁵ Inter-American Commission on Human Rights, *Annual Report 2018, Chapter IV.B Cuba* (Washington, D.C.: Inter-American Commission on Human Rights, 2018), ¶ 96.

⁵⁶ Institute on Race, Equality and Human Rights, *Condenas premeditadas: Análisis de la situación de la administración de justicia en Cuba*, 2019, (Washington, D.C.: Institute on Race, Equality and Human Rights), 70.

⁵⁷ United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, *List of issues in relation to the third periodic report of Cuba*, (2019), U.N. Doc. CAT/C/CUB/Q/3, ¶ 23.

34. In its response, Cuba emphasized that medical care is given to any person in detention who manifests illness and “strict control measures are taken to prevent detainees from self-harm.”⁵⁸ According to Cuba’s response, heart disease is the number one cause of custodial deaths. After a person in custody dies, a medical-legal commission must be formed to investigate the cause of death, including an autopsy. “Relatives who are actively involved in these proceedings are informed of the results.” Out of eight complaints filed for deaths between 2016 to 2019, violations were found in three cases “so disciplinary action was applied to three officials.”⁵⁹
35. Despite these efforts, there have been several reports of torture and ill-treatment resulting in deaths in detention, and lack of accountability for those deaths. For example, Alejandro Pupo Echemendía died in police custody. “Family members say his body showed signs of severe beatings; authorities contend he threw himself against a wall and died of a heart attack.”⁶⁰
36. Iván Michel Ponce de León died after receiving a “severe blow to his head” at a police station in Old Havana. One article reported that: “The doctors informed the family that the cause was a strong blow to the head with a blunt object, which contradicts the version of the police that says that the victim accidentally fell in the bathrooms of the police station.”⁶¹
37. Reidel Garcia Otero reportedly died in the Valle Grande prison from an alleged lack of medical care.⁶²

VI. Human rights defenders face harassment, arbitrary detention, and imprisonment (Article 16, LOIPR paragraph 33).

38. The Committee requested information about allegations of harassment, assault, arbitrary detention, and imprisonment of human rights defenders and journalists who try to document abuses.⁶³ In its response, Cuba denied the existence of raids, arbitrary detention, harassment, or intimidation. Cuba asserted that authorities “dedicate their efforts to preserving citizen peace and security and maintaining public order.”⁶⁴
39. Credible secondary sources show that “those who defend human rights in the country continue to face arbitrary violations of the right of free movement, liberty, security and personal

⁵⁸ Convención contra la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes, *Respuesta de Cuba a la lista de cuestiones relative al tercer informe periódico*, (2020), U.N. Doc. CAT/C/CUB/RQ/3

⁵⁹ Convención contra la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes, *Respuesta de Cuba a la lista de cuestiones relative al tercer informe periódico*, (2020), U.N. Doc. CAT/C/CUB/RQ/3, ¶¶ 121-26.

⁶⁰ Human Rights Watch, *World Report: 2019*, (New York, N.Y.: Human Rights Watch, 2019), 168.

⁶¹ Author unknown, *Detainee Dead Due to a Blow on His Head*, Eye on Cuba (April 19, 2019), <http://www.eyconcuba.org/en/event/man-dead-due-to-a-strong-blow-in-a-police-station/> ; see also Jorge Enrique Rodríguez, *Muere un ciudadano cubano por la brutal paliza de efectivos policiales de La Habana Vieja*, ABC Internacional (Jan. 5, 2019), https://www.abc.es/internacional/abci-muere-ciudadano-cubano-brutal-paliza-efectivos-policiales-habana-vieja-201905011925_noticia.html?ref=https%3A%2F%2Fwww.google.com%2F.

⁶² Inter-American Commission on Human Rights, *Annual Report 2018, Chapter IV.B Cuba* (Washington, D.C.: Inter-American Commission on Human Rights, 2018), ¶ 96.

⁶³ United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, *List of issues in relation to the third periodic report of Cuba*, (2019), U.N. Doc. CAT/C/CUB/Q/3, ¶ 33.

⁶⁴ Convención contra la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes, *Respuesta de Cuba a la lista de cuestiones relative al tercer informe periódico*, (2020), U.N. Doc. CAT/C/CUB/RQ/3, ¶¶ 157, 159.

integrity, and the guarantees of due process and judicial protection.”⁶⁵ Reports of harassment, assault, and imprisonment of human rights defenders who document abuses continue.⁶⁶

40. For example, human rights defender Madelyn Rodríguez Martín “has been under permanent threat and violently treated by officers of State Security.”⁶⁷ Mr. Morales Estrada, mentioned above, has been arrested more than 90 times since he began his work as a human rights defender in 2014.⁶⁸
41. Norberto Mesa Carbonell, co-founder of the independent civil society organization the Brotherhood of Negritude, was detained at 5:30 a.m. on the day of a Brotherhood event. Because police can detain anyone for 24 hours without significant limitation, they were able to prevent his participation in the event.⁶⁹

VII. Suggested recommendations for the Government of Cuba

42. The Advocates suggests the following recommendations:

Legal safeguards for detained and imprisoned individuals

- Implement the 2019 Constitution to ensure due process for anyone who is arrested, including independent and impartial tribunal’s review of every person’s arrest and detention within 24 hours of arrest.
- Amend the penal code to strike vague, subjective offenses—such as “disrespect of public official” that local officials use to effectuate arbitrary detentions. Ensure that crimes are defined in a manner that prohibits any interpretation that will violate Cuba’s international human rights obligations.
- Train security officers and police officers to limit the use of pre-charge and pre-trial detention, particularly when there is no threat of immediate harm to the public or any governmental institution.

Effective training programs on human rights

- Develop and implement a methodology to assess the effectiveness of training programs aiming to prevent torture and cruel, inhuman, or degrading treatment.
- Conduct regular monitoring of its training programs on human rights issues, including the Convention.⁷⁰

Interrogation

⁶⁵ Inter-American Commission on Human Rights, *Annual Report 2018, Chapter IV.B Cuba* (Washington, D.C.: Inter-American Commission on Human Rights, 2018), ¶ 113.

⁶⁶ Human Rights Watch, *World Report: 2019*, (New York, N.Y.: Human Rights Watch, 2019), 169.

⁶⁷ Inter-American Commission on Human Rights, *Annual Report 2018, Chapter IV.B Cuba* (Washington, D.C.: Inter-American Commission on Human Rights, 2018), ¶ 115.

⁶⁸ Institute on Race, Equality and Human Rights, *Condenas premeditadas: Análisis de la situación de la administración de justicia en Cuba*, 2019, (Washington, D.C.: Institute on Race, Equality and Human Rights), 52.

⁶⁹ Institute on Race, Equality and Human Rights, *Condenas premeditadas: Análisis de la situación de la administración de justicia en Cuba*, 2019, (Washington, D.C.: Institute on Race, Equality and Human Rights), ¶ 79.

⁷⁰ Convención contra la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes, *Respuesta de Cuba a la lista de cuestiones relative al tercer informe periódico*, (2020), U.N. Doc. CAT/C/CUB/RQ/3, ¶ 80.

- Take concrete steps to eradicate torture and cruel, inhuman, or degrading treatment or punishment by security and police officers, including, but not limited to, removal of suspected offenders from positions of contact with detained persons, accountability for persons found to have engaged in such conduct, and compensation to the victims.
- Ensure that defense counsel is present during any custodial interrogation.

Prison conditions

- Allow free and unfettered access to prisons for international observers and journalists.
- Take concrete steps to address overcrowding in prisons.
- Institute regulations to promptly remove from the police force any officer who is found to have encouraged detained persons to commit violence against other detained persons.
- Provide independent oversight to ensure that sufficient medical care, food, and water is being provided to all persons in detention.

Custodial deaths

- Ensure that every custodial death is subject to an independent review of the cause of death, including an independent forensic examination, and issue annual reports identifying each custodial death and its cause. If a prison officer played a contributing role toward a custodial death, ensure that the officer is held accountable.
- Immediately notify families of custodial deaths and inform them of the cause of death, regardless of whether they were not involved in the proceedings.⁷¹

Harassment, arbitrary detention, and imprisonment of human rights defenders

- Prohibit arbitrary detention intended to prohibit human rights defenders from exercising their rights to free expression and peaceful assembly.

⁷¹ Convención contra la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes, *Respuesta de Cuba a la lista de cuestiones relative al tercer informe periódico*, (2020), U.N. Doc. CAT/C/CUB/RQ/3, ¶ 123.