

National Human Rights Defense Network (RNDDH)



*Theft of the corpus delicti and exhibits at the courthouse of
Port-au-Prince:*

*The RNDDH requires a thorough investigation and conviction of
the culprits*

November 19, 2020

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1. On October 19, 2020, evidence of the crime constituting the record relating to the murder of Monferrier Dorval were stolen.
2. In order to elucidate the circumstances of this theft, the National Human Rights Defense Network (RNDDH) has launched an investigation at the Palace of Justice of Port-au-Prince.
3. During the course of the investigation, alarming information was gathered about the seized items, confiscated by the judicial police and transmitted to the Justice authorities. This information reveals a total lack of strategy regarding the custody and preservation of the corpus delicti, exhibits and personal objects of the parties involved in the various ongoing cases in the jurisdiction.
4. From March 2018 to October 2020, at least 23 robberies and attempted robberies occurred at the Port au Prince Courthouse. Registry of the Public Prosecutor's Office, Investigation offices of most judges, Registry of investigation offices, Main Registry: no space has been spared to date.
5. In 17 of these cases, there was no record of a break-in on the doors that gave access to the spaces where these records were kept. This reveals that these objects were stolen by members of the administrative and judicial staff assigned to the courthouse of Port-au-Prince, or with their complicity.
6. In addition, between 2016 and 2017, cameras were installed in certain areas of the Court House in Port-au-Prince. Some of them were knowingly damaged and the others were abducted at the request of the magistrates.
7. The 24 security agents of the Ministry of Justice and Public Security, reinforced by the 20 agents of the National Police of Haiti (PNH), all assigned to the Palace of Justice do not seem to be able to secure the space. And, despite the fact that these are thefts of crucial elements, and to the limit unavoidable, to help the manifestation of the truth, none of these cases resulted in the condemnation of those involved.
8. Based on this information, the RNDDH recommends that the relevant authorities:
 - Organize the custody and preservation of the evidence of the crime, exhibits and personal effects of the parties involved in the cases, both at the Public Prosecutor's Office and at the Court of First Instance of Port-au-Prince;
 - Take all measures to effectively secure the premises of the Palace of Justice of Port au Prince;

- Meticulously register the evidence of the crime, exhibits and confiscated personal belongings;
- Secure and regularly check the evidence of the crime, exhibits and confiscated personal belongings;
- Investigate all cases of theft registered at the Palace of Justice of Port-au-Prince and prosecute all those involved;
- Take all necessary steps to put an end to these robberies involving the corpus delicti, exhibits and personal belongings of the parties involved in the ongoing cases;
- Provide Port-au-Prince court clerks with quality, flame-resistant materials and equipment.

I. INTRODUCTION

1. In recent years, several cases of disappearance of the corpus delicti, of exhibits and even of personal belongings seized or confiscated by the judicial police and transmitted to the authorities of the Justice, were registered in the court of first instance of Port-au-Prince.

2. However, the attention of the National Human Rights Defense Network (RNDDH) was particularly drawn by the latest robbery at the Palace of Justice of Port-au-Prince on October 19, 2020 during which, a part of the file relating to the assassination of Maître Monferrier DORVAL¹, was carried away.

3. If on that day, no evidence of a break-in was found at the door of the Registry of Investigation Offices, according to the information gathered, two (2) drawers of one (1) metal filing cabinet were smashed and their contents were stolen. They contained respectively a small suitcase with six (6) mobile phones and one (1) envelope containing more than one hundred and fifty thousand (150,000) gourdes.

4. Following this flight, the RNDDH has launched an investigation around the organization of the custody and preservation of files at the Palace of Justice of Port-au-Prince. The following report presents the findings of its investigation into the matter.

II. METHODOLOGY

5. As part of this investigation, the RNDDH went to the Palace of Justice of Port au Prince where

it met several times with the following people:

- The dean of the Court of First Instance of Port-au-Prince, Bernard SAINVIL;
- Government Commissioner Gabriel DUCARMEL;
- The Chief Clerk of the Court of First Instance of Port-au-Prince, Mozart TASSY;
- Jacques Edouard ACCILIEN, Administrator of the Public Prosecutor's Office;
- Chief Public Prosecutor Wilbert RHAU.

6. RNDDH also met with:

- Seven (7) judicial instructors;
- One (1) Alternate Government Commissioner;
- Two (2) justices of the peace assigned to the Port-au-Prince Peace Court, South Section;
- Fourteen (14) clerks;
- Two (2) Public Prosecutor's Clerk;
- Two (2) lawyers.

7. During these interviews, the RNDDH had access to some minutes drawn up by the magistrates of the peace, observing and/or verbalizing the cases of theft recorded at the Court of Justice of Port-au-Prince.

8. Subsequently, the spaces of the various Registries and some Investigation Offices were visited and photographed.

III.WHAT ABOUT THE EVIDENCE OF THE OFFENCE AND THE EXHIBIT?

9. The evidence of the offence is the object of the offence, i.e., the thing that proves that an act of crime was actually committed.

10. It may be the object that was used for the commission of the offence, but it may also be the things that are generated by the offence, which is the proceeds of the offence. Such is the case, for example, of the stolen thing, of the money constituting the ransom, in a case of kidnapping for ransom, of the knife that assisted in the commission of the murder or of the corpse of the victim of a murder or murder.

11. Article 22 of the current Code of Criminal Investigation establishes the importance of the body of the crime in the manifestation of the truth. This article states: In all cases of flagrante delicto, when the fact is of such a nature as to lead to an afflictive or shameful punishment, the Government Commissioner shall, if possible, travel to the place, without any delay, to prepare the trials-necessary to ascertain the body of the crime, its condition, the state of the scene, and

to receive statements from persons who may have been present, or who may have information to give.”

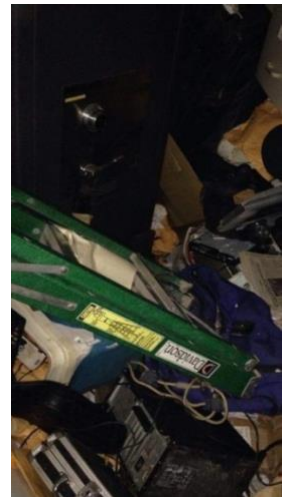
12. Moreover, according to article 10 of the Haitian Penal Code, the Corpus delicti may be the object of a special confiscation, constituting a sentence, to be pronounced by the Tribunal. Indeed, the article in question specifies that: The fine and the special confiscation, either of the body of the crime, when the property belongs to the condemned, or of the things produced by the crime, or of those which served or were intended to commit it, are common sentences in criminal and correctional matters”

13. For its part, the exhibit refers to any object or material that leads to the conclusion of a judicial inquiry and the involvement of the accused in the commission of the act. The exhibit binds the accused to the act committed.

14. Evidence is used at all stages of the open investigation against persons in conflict with the law, until court decisions are issued. It is in this sense that the Code of Criminal Investigation states that:

- “If there are papers or effects in the accused’s home that can be used for conviction ... , the Commissioner of the Government shall keep a record of it and shall examine the said instruments or papers.” (Article 27)
- The investigation will be public, on penalty of nullity. The Public Prosecutor’s Office, the civil party or its defender shall present the case; The minutes or reports, if drawn up, shall be read by the Registrar; The witnesses for and against shall be heard, if necessary, and the reproaches proposed and judged; Evidence that can be used as evidence ... shall be represented to the witnesses and parties; ...” (Rule 166)
- “In the course of or following the depositions, the dean of the Criminal Court shall cause the accused to be represented with all evidence relating to the offence that may be used for conviction and shall order him to respond personally if he acknowledges it: the Dean of the Criminal Court will also have them represented to witnesses, if necessary.” (Rule 262).

15. Thus, in the light of these various articles of the Haitian Penal Code and the Code of Criminal Investigation, the corpus delicti and exhibits are of particular importance for the manifestation of the truth. Their seizure, confiscation and preservation shall be the responsibility of the judicial authorities or any other depositaries designated by them. They participate in the process of respecting the rights to judicial guarantees, thus helping to bring justice to those who are due justice.



IV. ORGANISATION OF THE CORPUS DELICTI OF THE ACCUSED AT THE COURT OF FIRST INSTANCE IN PORT-AU-PRINCE

a) Port au Prince Courthouse Security Organization

16. The Public Prosecutor's Office is staffed by eight (8) security guards, two (2) of whom provide night surveillance.

17. Sixteen (16) separate security officers are assigned to the Port-au-Prince Trial Court. One (1) is responsible for night surveillance.

18. These twenty-four (24) officers are recruited by the Ministry of Justice and Public Safety. They have firearms, which seem to be the only equipment that is deemed mandatory to be available to them to carry out their duties. They wear a uniform that makes it easy to identify them. However, a few of them often pass through the courthouse in plain clothes, and in these cases, it is not easy to know whether they are in office or not.

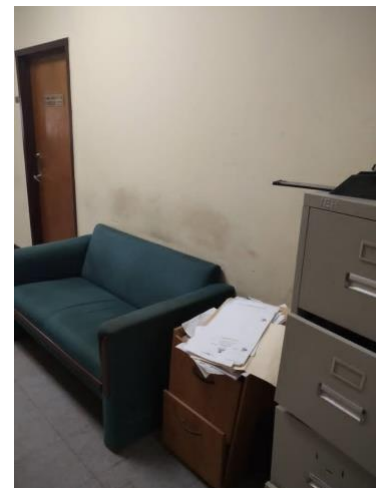
19. In addition, twenty (20) officers of the National Police of Haiti (PNH) complete the security corps of the Palace of Justice of Port au Prince. They are present day and night.

b) Receipt of files at the Port-au-Prince Courthouse

20. In general, files from the police institution are received at the Registry 2 of the Public Prosecutor's Office at the Court of First Instance of Port-au-Prince. This Registry is responsible for transferring them, together with all the documents received, to the Administration and Processing Unit (CAT). This is a body in which parquet floors are assigned, working in shifts and called upon to make an initial processing of files.

The corpus delicti, exhibits and all other objects constituting the files are kept in the Prosecutor's Office, in an unimaginable disorder.

21. Subsequently, the CAT returns the files to Registry 2, with the mention of the Deputy Commissioner of the Government designated to process them, with the responsibility of Registry 2 to proceed with their distribution to the designated public prosecutors.



22. Files that arrive sealed or stapled at Registry 2 make their way in the state in which they were received. Sometimes it is the Public Prosecutor himself who closes the files in envelopes, where possible, depending on the nature of the objects constituting them.

23. According to the Public Prosecutor's Office, there is no formalism for receiving files from the police institution. All objects from which firearms are collected, handled by the prosecutor's office clerks or by any other member of the judicial staff.

24. After the files are processed, those that are filed without action are kept at the Public Prosecutor's Office. Those that give rise to legal proceedings are then transferred to the Registry 1 of the Public Prosecutor's Office for communication to the Investigating Office in cases requiring judicial investigation. For cases that must give rise to citations to the correctional, they are sent directly to the Criminal Registry which is responsible exclusively and as its name indicates, for correctional and criminal cases.

25. The files to be transferred for judicial inquiry are, for their part, communicated to the Registry of Investigation Offices where they are received by the head of this Registry.

c) Corpus delicti of the crime evidence and exhibits to the Prosecutor's Office

26. According to the information collected, two (2) adjoining rooms, one of which is smaller than the other, constitute the Registry 1 of the Public Prosecutor's Office at the Court of First Instance of Port-au-Prince. This is where the bodies of the crime, the evidence and the objects belonging to the victims and/or the individuals being prosecuted and detained are kept.

27. The Registry 1 of the Parquet has sixteen (16) filing cabinets, seven (7) metal cabinets and one (1) shelf, generally in poor condition.

28. Items that cannot be stored in file drawers or cabinets due to their size are spread out on the floor. However, the paintings constituting bodies of the crime and/or exhibits are attached to the wall of Room 1 of the Registry 1 of the Prosecutor's Office.

29. The Parquet also has one (1) safe installed in Registry 1 where are kept the objects considered as being precious such as jewelry, money, etc. A combination gives access. Only two (2) persons are known, the Chief Prosecutor's Clerk and another Public Prosecutor's Clerk to whom he has decided to entrust this combination, in the event that he is ever prevented.

30. However, there is no record of the details of the valuable items kept in the safe in question. However, it should be noted that it has never been damaged to date.

31. According to the prosecutors interviewed, the judicial authorities often do not realize the absence of an object or a piece in a file, only when it comes to judicial follow-up. Indeed, there is an unimaginable disorder at the Parquet that the different photos cannot really reflect.

No register kept up to date indicates the contents of the filing cabinets and safes at the Court House of Port-au-Prince

d) Custody of the corpus delicti and exhibits to the Court of First Instance, before their transmission to an investigating Cabinet

32. Files received from the Prosecution, often unsealed and rarely stapled, first pass through the Registry of Investigation Offices which consists of a small space where two (2) cabinets and six (6) metal filing cabinets of different dimensions, serve to preserve the corpus delicti, exhibits, any other objects constituting the records received as well as the various registers of the Tribunal.

33. The Registry of Instructional Offices also has one (1) safe where the high value items that have been transferred, along with the records, are kept.

34. Following a flight attempt recorded on the night of May 16-17, 2019, the lock on this safe was damaged. The steps to have it repaired did not succeed, the craftsmen contacted in this sense having solicited a sum of one hundred thousand (100.000) gourdes for the related works. Since then, the files that were there have never been extracted for the necessary follow-up.

35. The combination of the safety deposit box installed in the Registry of Investigation Offices is known by the Chief Clerk and the Registrar in question.

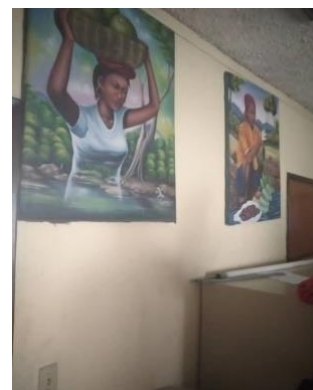
36. In the dean's office there is a filing cabinet where, with the dean's authorization, the valuables are now kept, with the Registry of Instructional Offices' safe out of service. However, as with the Public Prosecutor's Office, there is no up-to-date record of the contents of this binder.

37. Thus, the files received from the Public Prosecutor's Office remain in the Registry of Investigation Offices until the appointment by the dean of an investigating magistrate.

e) Custody of the corpus delicti and Exhibits in Investigation at the Instruction Cabinets

38. At the transmission of the files to the investigation offices, the corpus delicti as well as the evidence are generally communicated at the same time. The Criminal Investigation Chambers shall be provided with metal filing cabinets with locks in which the files for which the judicial instructors are responsible shall be placed.

39. The fact that the records are not sealed or even simply stapled does not prevent the magistrates-instructors from receiving them.



40. When it is impossible to insert them in the filing cabinets, the bodies of the crime, exhibits, personal belongings of the parties involved in the files, are deposited in a corner of the office.

41. However, if some judges agree to take charge of the corpus delicti and exhibits, others categorically refuse to keep them in their criminal investigation chamber for security reasons. In these cases, all the documents in their charge are stored in the Registry of Investigation Offices.

No routine verification of the corpus delicti, exhibits and personal belongings stored at the Courthouse is carried out.

42. It was also reported to the RNDDH that at least one investigation firm decided to have the corpus delicti and evidence communicated to it, to the Main Registry, for which Tassy MOZART is responsible. This is Magistrate Godely Joseph.

f) Custody of personal effects of parties involved in ongoing files

43. According to the information collected, the personal effects of individuals arrested and held at the orders of the Justice, kept by the judicial authorities awaiting trial, are mostly stolen. These are usually jewels and large sums of money. They are rarely if ever - handed over to the people concerned.

V. VIEWS OF THE JUDICIAL AUTHORITIES ON REPEATED THEFTS AT THE PORT-AU-PRINCE COURTHOUSE

a) Views of some judges on registered cascading flights

44. According to the judges interviewed in this investigation, a cabinet can be vandalized without the magistrate realizing it, except when carrying out a follow-up in a case. This statement reveals that no routine verification of the bodies of the crime, exhibits and even personal effects of the individuals prosecuted, is carried out at the Palace of Justice of Port-au-Prince.

Magistrates are particularly concerned that those who carry the bodies of the crime and exhibits of evidence are very familiar with the precincts of the Palace of Justice

45. They are very concerned that those who carry the objects of the files so easily seem to clearly belong to the universe of the courthouse because, they know the space, have a good knowledge of the location of these files and can go anywhere within the Tribunal without committing a break-in.

46. However, the magistrates, for their part, do not necessarily know where all the bodies of

the crime, exhibits or any other objects of the files for which they are responsible are located. They also pointed out that it is the clerks who are in fact the

b) Some Clerks' Views on Thefts repeated at the courthouse

47. The clerks assigned to the Registry of Investigation Offices are required to keep the corpus delicti not accepted by the various investigation offices. However, because of this situation and the increased risk of theft, few are willing to take on this role as the head of this Registry.

48. According to them, the small room serving as the Registry of Investigation Offices welcomes anyone wishing to follow up in any way, such as litigants, lawyers, judges, clerks, etc. Admission is free. No identity checks are carried out. There is also no accreditation system to access this Registry.

49. The last Registrar to accept the role of Registrar of Instructional Offices took office in July 2020. However, he set out his conditions that, he would only keep this position for a period of three (3) months, the time for the administrator of the Tribunal to find someone else. From the start of the judicial year currently underway, he had already wanted to return the keys to the Registry and was asked to wait a little longer.

50. According to the Syndicat des Greffiers d'Haïti (SYGH) - which has denounced on several occasions, the cases of repeated thefts recorded at the Palace of Justice of Port-au-Prince - the clerks in charge of keeping the keys are not involved in what is happening at the Tribunal. In most cases, they are not even able to accurately indicate the dates and times when these thefts were committed.

From 2018 to today, at least 23 cases of theft have been registered at the Port-au-Prince Courthouse.



VI. BALANCE OF RECORDED THEFT AT PORT AU PRINCE COURTHOUSE FROM 2018 TO 2020

51. From March 2018 to October 2020, at least twenty-three (23) cases of theft and attempted theft were registered at the Court House in Port-au-Prince:

- At least three (3) cases of theft and attempted theft in 2018;
- At least thirteen (13) cases of theft and attempted theft in 2019;
- At least seven (7) theft and attempted theft in 2020;

52. The following information was collected on the theft registered in 2018:

- In March 2018, unidentified individuals took away one (1) firearm that was in the investigative office of Justice Loubens ELYSÉE. No break-in was registered. Following this theft, the magistrate had the lock of the door of his office changed;
- During 2018, mobile phones that were in the office of magistrate Rénord RÉGIS were stolen. No break-in was recorded.
- During 2018, the lock of the office of investigating judge Godely JOSEPH was filled with a substance similar to glue. The magistrate had to call in a technician to replace the damaged lock. No theft was recorded.



53. Information on flights and attempted flights registered in 2019 is as follows:

- On May 14, 2019, having wished to retrieve from the Main Registry the bodies of the crime relating to a file in process, the investigating office of Judge Godely JOSEPH noticed that two (2) filing cabinets that were there, were opened by break-in. The clerk assigned to the office of Judge Godely JOSEPH hastened to request a justice of the peace in order to establish the fact. On the same day, Magistrate James SAINT JEAN of the South Section Peace Tribunal was transported to the scene and found that all the envelopes containing bodies of the crime and stored in the two (2) binders mentioned above, were torn. Three (3) mobile phones and at least two (2) laptops have disappeared. Some of the bodies of the crime taken away constituted files whose investigation was the responsibility of the magistrate Jacques Hermon CONSTANT. These files were in fact redistributed before the magistrate Godely JOSEPH after the departure of the judicial system, of the magistrate Jacques Hermon CONTANT;
- On the night of 16-17 May 2019, an attempted theft was recorded at the Registry of Training Offices. The lock on the safe in the safe has been damaged. Although it could not be opened despite attempts to saw it, the trunk was badly damaged and is now unused. Nothing could be stolen that day;
- On 10 July 2019, the investigating office of Judge Legroise AVRIL was vandalized. Mobile phones, firearms, money, laptops and a gold ring were stolen. The three (3) filing cabinets in this cabinet were damaged, however the door lock remained intact;
- On 23 July 2019, the investigating office of Judge Merlan BELABRE was vandalized. In-process files and removal orders were taken away. Numerous bodies of the crime also disappeared, including one (1) firearm, money and one (1) mobile phone. There was no

evidence of a break-in on the door but the filing cabinet was damaged;

- In September 2019, the investigating office of Judge Annie FIGNOLÉ was robbed. Three (3) firearms, three (3) mobile phones and one hundred and seventy-eight (178) cartridges were carried away despite the fact that the clerk assigned to the office of the magistrate, scattered these cartridges. No break-in was recorded;
- On October 15, 2019, Registry 1 of the Prosecutor's Office was robbed. The titular judge Phillipe VINCENT assigned to the Peace Court of the South section was required to draw up minutes of statement of facts. Door locks were broken and filing cabinets damaged and vandalized. It was not possible to identify what was taken away;
- On December 3, 2019, the investigating office of Judge Jean Etienne MERCIER was vandalized. Three (3) pistols, six (6) chargers, ten (10) mobile phones, one (1) tablet, one (1) battery charger, numerous cartridges and earrings were carried away;
- On December 20, 2019, the office of Dean Bernard SAINT-VIL was robbed. A large sum of money recorded in the file of Arnel BÉLIZAIRE disappeared. However, no evidence of a break-in was found on either the door to the dean's office or the lock in the filing cabinet where the files were located.

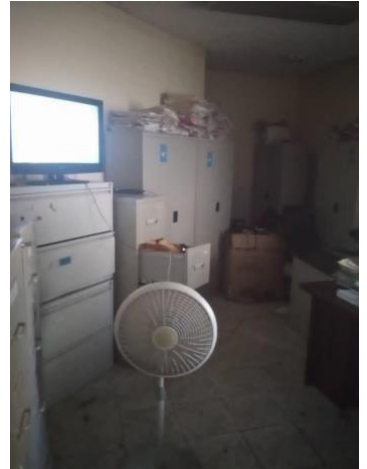
According to the inventory compiled by the clerk Diego Juanito POMPÉE, one (1) wallet, jewelry, three hundred (300) bills of one thousand (1,000) gourdes totaling the sum of three hundred thousand (300,000) gourdes were taken away.

Disappearance of a large sum in the Office of Dean Bernard SAINT-VIL on December 20, 2019, the DCPJ has still not released the results of its investigations.

As a result of this theft, the aforementioned clerk was transferred and according to more than one, the money seems never to have been deposited in the dean's office.

Seized of the matter, the Central Directorate of the Judicial Police (DCPJ) has not yet rendered the results of its investigation.

- In 2019, the investigating office of Magistrate Berge O. SURPRIS was vandalized on two (2) occasions. Mobile phones, firearms were stolen. There was no evidence of a break-in.
- In 2019, the door giving access to the office of magistrate instructor Etzer ARISTILDE was damaged. However, it appears that no objects were stolen.
- The filing cabinets located in the office of magistrate Jean Wilner MORIN were smashed in 2019. Many bodies of the crime including mobile phones, firearms, as well as the personal laptop of the clerk attached to the magistrate in question were taken away. No break-in was found;
- Also, in 2019, the investigating office of magistrate Paul PIERRE was vandalized.
- Between December 31, 2019 and January 5, 2020, Registry 1 of the Prosecutor's Office was robbed again.



54. The following information was collected on theft registered in 2020:

- On July 29, 2020, Chief Prosecutor's Clerk Wilbert RHAU claimed that the premises of his personal office were vandalized and a large sum of money was taken away. Justice of the Peace Carmin BAPTISTE was required to ascertain and verbalize the facts because, bodies of the crime and exhibits of several files have disappeared including that of Arby Frantz LARCO, arrested on the evening of December 24, 2019, for unlawful possession of firearms and ammunition.

The RNDDH met with Maître Gabriel DUCARMEL, government commissioner at the Court of First Instance of Port au Prince, around this theft incident. And, despite the fact that the magistrate has a report drawn up by Justice of the Peace Carmin BAPTISTE, he affirms that according to him, it cannot be theft as no break-in was found and the safe where the money should be stored was not damaged. He believes that, as soon as he has to work on the files whose objects have disappeared, the clerk-prosecutor will manage to give him all the documents relating to them.

According to rumors circulating in the corridors of the Palace of Justice of Port-au-Prince, five thousand (5,000) US dollars and more than five hundred thousand (500,000) gourdes were stolen from the personal office of the clerk-prosecutor Wilbert RHAU.

5,000 American dollars and 500,000 gourdes disappeared at the office of the prosecutor Wilbert Rhau. For having chosen to keep this money in his office but not in the safe of the Public Prosecutor's Office, the Chief Commissioner demands that he return this amount.

Also, according to rumors, the prosecutor's clerk, after having assured to have moved him to a safe place, admitted to having used the money for the construction of his house in Delmas 75, Caradeux area.

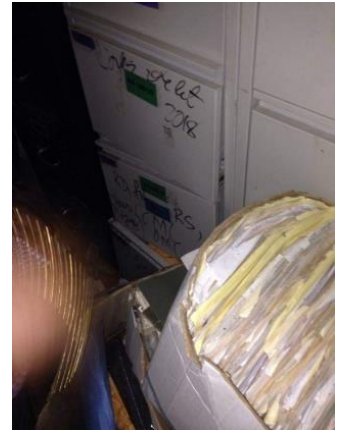


Wilbert RHAU told the RNDDH that he was not present on July 28, 2020, for medical reasons. The next day, when he arrived at the office, he first noticed that the lock on his door was resisting him. And after he opened it, he noticed a bunch of messed-up envelopes on the floor and his filing cabinet was smashed. Other personnel were also able to see the damage. He subsequently appealed to Justice of the Peace Carmin BAPTISTE to draw up the report relating to it.

The public prosecutor Wilbert RHAU also claimed that the government commissioner Gabriel DUCARMEL summoned him about the theft. However, after receiving the report drawn up by the magistrate requested for this purpose, the Commissioner accused him of his negligence, arguing that the stolen amount should have been placed in the safe of the Prosecutor's Office but not in his personal office. Therefore, held responsible for this theft, he was asked to hand over the money, namely the five thousand (5,000) US dollars as well as a large amount in gourde of which he does not remember the exact amount. He also refuted all the rumors circulating on his own account and suggesting that he himself would have stolen the aforementioned money.

It should be recalled that in addition to the money seized in connection with this case and transferred to the Prosecutor's Office, the police authorities had discovered in the residence of Arby Frantz LARCO thirty-nine (39) firearms including assault rifles, three hundred and twenty-four (324) Magazines, forty-three thousand (43,000) cartridges, tactical vests, tear gas tubes, etc.

- On August 12, 2020, the office of investigating judge Jean Etienne MERCIER was vandalized. The computer screen disappeared;
- On August 15, 2020, the same firm was ransacked again. On that day, the computer case, whose screen had been taken away on August 12, 2020, was stolen;
- On October 23, 2020, one (1) mobile phone constituting the body of the crime in a case was stolen from the investigative office of Justice Merlan BELABRE;
- In 2020, it was found that firearms, telephones, files as well as money that were in the investigating office of Judge Chavannes ETIENNE disappeared; On September 12, 2020, Judge Vincent PHILIPPE of the Court of Peace, section South of Port au Prince, was required to take minutes of the fact;
- In 2020, another case of theft was recorded in the office of Magistrate Berge O. SURPRISE. Once again, mobile phones, firearms were taken away. Once again, no evidence of forced entry was found. This time, no justice of the peace was required to verbalize the facts.
- As mentioned above, on October 19, 2020, part of the corpus delicti relating to the murder of Monferrier Dorval at the Registry of Investigation Offices. In this regard, on September 17, 2020, four (4) individuals arrested in connection with the assassination of Maître Monferrier DORVAL were detained. They are Modeler SENEJEAU alias Abiby, Makender FILS-AIMÉ, Valery DORT and Vilpique DUNÈS alias Jah. He had been arrested with in his possession two thousand three hundred and thirty-seven (2.377) US dollars, one hundred and ninety-three thousand two hundred and thirty-five (193.235) gourdes, five (5) bank cards, one (1) iPhone 10 mobile phone, one (1) firearms and three (3) firearms licences.
- These objects as well as the aforementioned amounts were seized by the judicial police and transferred to the Prosecutor's Office at the Court of First Instance of Port au Prince. Today, it is rumored in the corridors of the Parquet that this amount was also stolen.



VII.MEASURES TAKEN BY JUDICIAL AUTHORITIES

55. In general, when a theft is registered in one of the investigating offices of the Court of First Instance of Port-au-Prince, the clerks-It is their duty to inform the Chief Registrar and/or the Dean of the Tribunal, who shall be responsible for requesting a justice of the peace to draw up minutes of theft. However, since this procedure is not sacramental, some clerks themselves require justices of the peace or draw up an inventory of the lost objects or values themselves

before subsequently submitting them to the chief clerk.

56. At the level of the Prosecutor's Office, all theft files were entrusted to the Deputy Government Commissioner Bed-Ford CLAUDE who generally requests an investigation by the Central Directorate of the Judicial Police (DCPJ).

The cameras installed in 2016 and 2017 to check in and out of the Parquet were sabotaged. Those that were inside the offices of the parquet floors, uninstalled at their insistence.

57. According to Jacques Edouard ACCILIEN, the administrator of the Public Prosecutor's Office, who met in connection with this investigation, between 2016 and 2017, measures were adopted to strengthen the security of the Public Prosecutor's Office. In this sense, cameras had been installed in the offices of the magistrates. However, they fought so valiantly that it was decided to remove them.

58. The cameras that had been installed in the other areas of the Parquet were sabotaged and the wires cut. It was even reported to the RNDDH that during the sabotage of the camera wires, even the internet wires were severed.



59. On July 22, 2020, during a visit by Prime Minister Joseph JOUTHE and the Minister of Justice and Public Security, Maître Rockefeller VINCENT, the Dean Maître Bernard SAINVIL took the opportunity to raise the issue of insecurity at the Palace of Justice in general. However, to date, no response appears to have been provided.

60. Moreover, following a correspondence addressed to Maître Levelt MILORD Director of Judicial Affairs at the Ministry of Justice and Public Security by the Justice Sector Strengthening Program (JSSP), concerning the JSSP's concerns about the repeated disappearance of many materials and equipment, Maître Levelt MILORD gave formal instructions to the Public Prosecutor's Office to conduct an investigation.

61. In this regard, on September 28, 2020, Justice of the Peace Carmin BAPTISTE was requested by the Public Prosecutor's Office and drew up his report according to which, materials and equipment bearing the tag of the United States Agency For International Development (USAID), were indeed stolen. These are the following:

- Four (4) UPS,
- Three (3) office computers,
- Five (5) USB keyboards,
- Five (5) USB mouse.

62. These stolen materials and equipment were installed at Registry 2 of the Public Prosecutor's Office where five (5) staff positions assigned to the Computerized Management of Court Cases (GICAJ) program are located. The investigation seems to have not yet been completed.

63. Most recently, on October 30, 2020, Government Commissioner Gabriel DUCARMEL told the RNDDH that he had requested eight (8) additional security agents to strengthen the security of the Public Prosecutor's Office and thus increase their number to sixteen (16).

64. At the time of writing this document, the Public Prosecutor's Office began a process of filing Registry 1. In this sense, three (3) rooms located at the rear of the main building were arranged to receive files. However, this space already houses seven (7) shelves and five (5) cabinets in poor condition. In addition, some wall sections ooze when it rains and the last rains caused at least one (1) of these rooms to flood.



65. Finally, it should be noted that various members of the administrative and judicial staff met at the courthouse of Port-Au-Prince in the context of this investigation complain about the quality of the equipment and materials made available to them in order to keep the various files for which they are responsible. For example, they believe that the locks on filing cabinets are easily tampered with, and that they are also vulnerable to fire.

VIII.COMMENTS AND RECOMMENDATIONS

66. This survey conducted by the National Network for the Defense of Human Rights (RNDDH) proves that, if for several years, thefts of the bodies of the crime and exhibits are regularly perpetrated at the Palace of Justice of Port-au-Prince, from 2018 to 2020, They have intensified.

67. In addition, the personal effects of the various parties involved in ongoing cases, seized or confiscated by the judicial police and transferred to the relevant authorities, are systematically stolen.

68. While it is true that it was the theft of part of the corpus delicti relating to the murder of Maître Monferrier DORVAL that prompted the RNDDH to carry out this investigation, Nevertheless, it remains true that the organization is very concerned about the flagrant lack of a policy of custody and preservation of the elements constituting the files at the Court House in Port au Prince. And it is precisely because of this lack of policy relating to the preservation of the bodies of the crime that those constituting the record of the assassination of Maître Monferrier DORVAL could be carried away. In this sense, the RNDDH remains convinced that the troubling circumstances surrounding his assassination should have led the custodians of these objects to keep them in a secure space.

69. Seventeen (17) of the twenty-three (23) incidents of theft from 2018 to 2020 at the Port-au-Prince Courthouse – 74% of them – no break-ins were observed on the doors leading to the

places where these objects were previously deposited. Only the filing cabinets and metal cabinets were damaged by the burglars. This reveals that these robberies were committed by individuals who were part of the administrative and judicial staff assigned to this courthouse, or with their complicity.

70. In addition, there is no doubt that these cascading theft have a major impact on the progress of outstanding cases and cause serious harm to those who are deprived of their liberty and awaiting trial. Indeed, the theft of the corpus delicti and exhibits prevents the Justice to render a sound decision, based on the facts and respectful of the rights to the judicial guarantees of all parties involved. On the one hand, with these repeated disappearances, people awaiting trial are likely to spend much more time in prison, and on the other hand, the civil party is completely erased from the equation because, according to article 294 of the Code of Criminal Investigation, it has the right to demand restitution and damages for damages suffered. This section states that: Once the accused has been convicted, the Government Commissioner shall make a requisition to the Tribunal for the purposes of the Act. The civil party will make its findings for restitution and damages. In this specific case, how can we demand the return of objects that have been stolen by those who are called to play a partition in the administration of justice?

71. The RNDDH regrets that the absence of a register kept regularly up to date, showing the various objects that are kept in the Courthouse, prevents to verify the extent of the damage recorded to date. However, he remains convinced that the current situation is being deliberately maintained because it suits those who want to continue to be able to dispose of the valuables confiscated by the judicial police and transferred to the Justice for legal action.

72. The RNDDH recalls in this sense that the subtraction, destruction and removal of criminal documents or proceedings or other papers, registers, acts and effects contained in public archives, registries or repositories, or delivered to a public depository, in this capacity, are imputable to the clerks, archivists, notaries or any other depositaries. Indeed, according to Article 213 of the Penal Code, «Whoever has been guilty of the subtractions, abductions or destruction mentioned in the previous article, will be punished with imprisonment.» And, “If the crime is the work of the depository itself, it will be punished for forced labor in time.”

73. In addition, twenty-four (24) security agents recruited by the Ministry of Justice and Public Security and reinforced by twenty (20) agents of the National Police of Haiti (PNH) are assigned to the Palace of Justice of Port au Prince. Many of them provide security at night. However, their uninterrupted presence does nothing to prevent these flights.

74. The dean of the Court of First Instance of Port-au-Prince, Maître Bernard SAINVIL as well as the various government commissioners who succeeded each other at the head of the Public Prosecutor’s Office in this area, do not seem shocked by these numerous scandals that splash and discredit the Haitian judiciary. For, in spite of the fact that the corpus delicti and evidence

constitute objects essential to the manifestation of the truth, not even administrative sanction - has never been taken and no legal proceedings have ever been instituted against the custodians of these objects, with a view to putting an end to these thefts, in all likelihood, organized.

75. At this rate, it is clear that litigants cannot be asked to rely on the judicial authorities when the personnel themselves seem unable to resist the *corpus delicti*, exhibits and personal effects of the parties involved in the cases. Since these are objects belonging to them in some cases or worse, the products of their packages, In other cases, these repeated thefts at the Palace of Justice of Port au Prince contribute to reinforce the lack of confidence of the Haitian population in general and of the litigants in particular, in the Justice and in its administration.

76. The dysfunction of the various services at the Palace of Justice of Port-au-Prince, the dizzying rise in the rate of illegal and arbitrary preventive detention, the systematic violation of the rights to judicial guarantees of persons deprived of liberty, Together with the theft of the *corpus delicti*, exhibits and personal effects of the parties prove, if need be, that today more than ever, the situation at the Palace of Justice in Port au-Prince is catastrophic. This situation therefore requires the immediate intervention of the supervisory body represented by the Superior Council of Judicial Power (CSPJ) as well as the intervention of the Ministry of Justice and Public Security.

77. The administrative and judicial staff assigned to the Public Prosecutor's Office, the Dean of the Court of First Instance of Port au Prince, as well as to all the services without distinction of the Courthouse, must be subject to a serious vetting. And, tough decisions must be taken against those involved in this immeasurable fiasco that today represents the operation of the Port au-Prince courthouse.

78. Based on these considerations, the RNDDH recommends that judicial authorities:

- Organize the custody and preservation of the *corpus delicti*, exhibits and personal effects of the parties involved in the cases, both at the Public Prosecutor's Office and at the Court of First Instance of Port-au-Prince;
- Take all measures to effectively secure the premises of the Palace of Justice of Port au Prince;
- Meticulously register the *corpus delicti*, exhibits and confiscated personal belongings;
- Secure and regularly check the *corpus delicti*, exhibits and confiscated personal belongings;

- Investigate all cases of robberies registered at the Palace of Justice of Port-au-Prince and prosecute all those involved;
- Take all necessary steps to put an end to these robberies involving the corpus delicti, exhibits and personal belongings of the parties involved in the ongoing cases;
- Provide Port-au-Prince court clerks with quality, flame-resistant materials and equipment.

Source

¹ On the evening of 29 August 2020, Maître Monferrier DORVAL was riddled with bullets in front of the barrier of his residence, at Pèlerin 5, near the house of the President of the Republic, Jovenel MOÏSE. The judicial investigation of the case is entrusted to the magistrate Rénord RÉGIS and at least four (4) people are to date detained.

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