

To,  
Justice (Retd.) HL Dattu,  
Chairperson,  
National Human Rights Commission  
Manav Adhikar Bhawan Block-C,  
GPO Complex, INA,  
New Delhi – 110023

Date: 7<sup>th</sup> May, 2018

**Subject: Regarding complaint by 9 families of victims of extra judicial police killings in Uttar Pradesh and the spate of extra judicial killings by the police in State especially in the last year**

Dear Sir,

We would like to bring to your notice the brutal extra judicial killings that have been taking place in the State of Uttar Pradesh (UP). The state has unleashed a wave of victimisation of innocent people under the guise of allegedly maintaining law and order. Media reports and independent fact findings in Uttar Pradesh (UP) indicate that as many as 50 cases of “encounter” killings have taken place in UP since the Yogi Adityanath led BJP government came to power in March 2017. (A copy of the Indian Express report, *Uttar Pradesh encounter death No. 50: Same chase, same story* dated, 4<sup>th</sup> May 2018, is annexed as Annexure 1 at page \_\_\_\_ to \_\_\_\_). Further it has been reported that since Yogi Adityanath came to power in UP, over 1200 alleged encounters have taken place, 50 deaths in these encounters and many victim families harassed and victimised by the Police when they have filed police complaints, thus leading to a situation of complete impunity for the Police in these State sponsored killings and no protection, compensation or procedural redress for the victim families. (A copy of the India Today report, *Yogi Encounter Raj: UP Police slap rape cases on kin of those killed*, dated 4<sup>th</sup> April 2018, is annexed as Annexure 2 at page \_\_\_\_ to \_\_\_\_). In June 2017, Uttar Pradesh Chief Minister, Yogi Adityanath had bluntly stated in an interview aired on India TV that his police would not hesitate to ‘knock down’ the criminals if they did not mend their ways. (A copy of the India TV report, *‘Thok Denge’: We will knock down criminals in UP, says UP CM Yogi Adityanath in Aap ki Adalat*, dated 3<sup>rd</sup> June, 2017, is annexed as Annexure 3 at page \_\_\_\_ to \_\_\_\_). The Uttar Pradesh police suspended one of its officers, Suneet Kumar Singh, SHO, PS. Mauranipur, after his audio advising a criminal to manage two BJP leaders to avoid his death in a police encounter, went

viral on social media. (A copy of the Jantakareporter report, *Manage BJP leaders to avoid death in police encounter: UP cop suspended after sensational audio goes viral*, dated 15<sup>th</sup> April, 2018, and a CD with the audio clipping, is annexed as Annexure 4 at page \_\_\_\_\_ to \_\_\_\_\_).

Extra-judicial executions by police and security forces in India are commonly called 'encounter killings' or 'fake encounters'. The Hon'ble Supreme Court of India, in *Extra Judicial Execution Victim Families Association (EEVFAM) and Ors. Vs. Union of India (UOI) and Ors* **(2013) 2 SCC 493** has observed:

*"122. From the above, it is abundantly clear that the right of self-defence or private defence falls in one basket and use of excessive force or retaliatory force falls in another basket. Therefore, while a victim of aggression has a right of private defence or self-defence (recognized by Sections 96 to 106 of the IPC) if that victim exceeds the right of private defence or self-defence by using excessive force or retaliatory measures, he then becomes an aggressor and commits a punishable offence. Unfortunately occasionally, use of excessive force or retaliation leads to the death of the original aggressor. When the State uses such excessive or retaliatory force leading to death, it is referred to as an extra-judicial killing or an extra-judicial execution or as this Court put it in People's Union for Civil Liberties v. Union of India and another it is called "administrative liquidation". Society and the courts obviously cannot and do not accept such a death caused by the State since it is destructive of the rule of law and plainly unconstitutional."*

Referring to the case of fake police encounters in *Prakash Kadam v. Ramprasad Vishwanath Gupta*, **(2011) 6 SCC 189**, Hon'ble Justice Lodha in the *PUCL* case **(2014) 10 SCC 635** stated, that this Hon'ble court had warned policemen that they would not be excused for committing murder in the name of "encounter" on the pretext that they were carrying out the orders of their superior officers or politicians. The Court observed that the "encounter" philosophy is a criminal philosophy.

The Hon'ble Supreme Court and the National Human Rights Commission (NHRC) have, from time to time, issued specific guidelines to prevent such killings, by holding the police and state authorities to account, procedurally. Yet these illegal executions continue, with seeming impunity. According to official data released by the UP police, there were 1144 'encounters' in the State from March 20, 2017, to January 31, 2018, in which 34 criminals were killed and 2744 were arrested. (A copy of the report in Outlook India, *Uttar Pradesh Encounters: 1144 from March 2017 to January 2018*, dated April 1, 2018 is annexed as Annexure 5 at page \_\_\_\_\_ to \_\_\_\_\_). With a complete disregard for the guidelines in the cases of these encounter killings, as laid down by the Hon'ble Supreme Court and by the NHRC,

the authenticity of these official figures regarding “encounter deaths” are suspect. Besides the version of the victim’s families completely contradict the police version of encounters, leading to suspected cases of serious human rights violations in these extra judicial killings.

The following complaint is filed on behalf of 9 families residing in the state of Uttar Pradesh who have lost their kin in the recent extra-judicial killings and were willing to provide details of the manner in which their family member was killed by the police on affidavit. The complaint will highlight the suspicious circumstances of these incidents, which follow a strikingly similar pattern thus debunking the allegedly genuine encounter narrative of the police and will also indicate the manner in which the guidelines and procedures laid down by the Hon’ble Apex Court and the NHRC have been flouted.

### **Brief description of victims and family (complainants)**

#### 1. Victim - Ikram

Complainant No. 1 is Hanifa w/o Ikram (deceased victim, killing during an alleged encounter on 11<sup>th</sup> August 2017), R/O 13/279 Near Gurudwara Patti Mehar, Badot, Baghpat, UP.

(A copy of the fact finding report by Citizens against Hate, Affidavit by Hanifa, Ikram’s wife, the FIR, Post Mortem Report and Final Report u/s 173 CrPC are attached to this complaint as Annexure 6 at page \_\_\_\_\_ to \_\_\_\_\_).

#### 2. Victim - Nadeem

Complainant No. 2 is Mohd. Esha Ali s/o Immamuddin, R/o Village Bagowali, PS Nai Mandi, Muzaffarnagar. Mohd. Esha Ali is the uncle of Nadeem who was killed in an alleged encounter by officials of PS Kakroli on 8<sup>th</sup> September, 2017.

(A copy of the fact finding report by Citizens against Hate, Affidavit by Mohd. Esha Ali, Nadeem’s Uncle and the FIR are attached to this complaint as Annexure 7 at page \_\_\_\_\_ to \_\_\_\_\_).

#### 3. Victim - Shamshaad

Complainant No. 3 is Saliha w/o Shamshaad (deceased victim killed during an alleged encounter on 11<sup>th</sup> September, 2017), R/o Village Sherpur, Khanajadpur, Dist – Saharanpur, UP.

(A copy of the fact finding report by Citizens against Hate, Affidavit by Saliha, Shashaad’s wife, the FIR and Post Mortem Report are attached to this complaint as Annexure 8 at page \_\_\_\_\_ to \_\_\_\_\_).

#### 4. Victim – Mansoor

Complainant No. 4 is Javeda w/o Akbar, R/o Village Pathanpura, Jasmour No. 3, PS Behat, District Saharanpur, UP. Javeda is the mother of Mansoor s/o Akbar who was killed during an alleged encounter on 27th September, 2017, by the Meerut Police.

(A copy of the fact finding report by Citizens against Hate, Affidavit by Javeda, Mansoor's mother, the FIR and Post Mortem Report, relevant pages of GD entries, are attached to this complaint as Annexure 9 at page \_\_\_\_\_ to \_\_\_\_\_).

5. Victim – Sumit Kumar

Complainant No. 5 is Karam Chand s/o Chandramal, R/o Jainuddin Chirchita, PS Singhawali Ahir, Dist – Baghpat, UP. Karam Chand is the father of Sumit Kumar who was killed in an alleged encounter by officials of PS Kasna and PS Bisrakh on 3<sup>rd</sup> October, 2017.

(A copy of the fact finding report by Citizens against Hate, Affidavit by Karam Chand, Sumit Kumar's father, the FIR and Post Mortem Report are attached to this complaint as Annexure 10 at page \_\_\_ to \_\_\_\_\_).

6. Victim - Furkan

Complainant No. 6 is Akbari w/o Mir Hassan, R/o Village Titarwara, P.S.- Kairana, Distt.- Shamli, UP. Akbari is the mother of Furqan s/o Mir Hassan who was killed in an alleged encounter by officials of PS Budhana and STF, Muzaffarnagar on 22<sup>nd</sup> October, 2017.

(A copy of the fact finding report by Citizens against Hate, Affidavit by Akbari, Furqan's mother, and the FIRs are attached to this complaint as Annexure 11 at page \_\_\_ to \_\_\_\_\_).

7. Victim – Intezaar @Ramzani

Complainant No. 7 is Salma w/o Intezaar @ Ramzani (deceased victim), R/o Village Boodhiya Chungi, Jagadari, District Yamunanagar, Haryana. Salma is the wife of Ramzani who was killed in an alleged encounter by police officials of PS Akbarabad, Aligarh on 8<sup>th</sup> December, 2017.

(A copy of the fact finding report by Citizens against Hate and Affidavit by Salma, Intezaar @ Ramzani's wife, are attached to this complaint as Annexure 12 at page \_\_\_ to \_\_\_\_\_)

8. Victim - Aslam

Complainant No. 8 is Israna w/o Aslam (deceased victim) R/o Village Bunta, PS Garhi Pukhta, District Shamli, UP. Israna is the wife of Aslam who was killed in an alleged police encounter on 9<sup>th</sup> December, 2017.

(A copy of the fact finding report by Citizens against Hate and Affidavit by Israna Aslam's wife, are attached to this complaint as Annexure 13 at page \_\_\_to \_\_\_\_\_)

9. Victim - Shamim

Complainant No. 9 is Faku s/o Majid, R/o Village Sisona, PS Chapar, Dist – Muzaffarnagar, UP. Faku is the father of Shamim, who was killed in an alleged police encounter on 31<sup>st</sup> December, 2017.

(A copy of the fact finding report by Citizens against Hate, Affidavit by Faku, Shamim's father, the FIR and Post Mortem Report are attached to this complaint as Annexure 14 at page \_\_\_to \_\_\_\_\_).

**Inaccuracies in the police version of the alleged encounters and other facts that point towards these being incidents of extra judicial killings**

The present complaint, based on the statements of 9 families alleging extra judicial killing of their kin, constitute a gross violation of the right to life, a non derogable right enshrined in the Constitution and in international human rights law. The following table and analysis highlights the inaccuracies in the police versions in the above-mentioned cases that raise doubts as to whether these were cases of genuine encounters at all or rather were premeditated crimes that led to these extra judicial killings. The trends which can be seen in the facts and circumstances detailed by the complainants, show that the alleged police encounters are not spontaneous, rather there are signs of pre-meditated planning behind the encounter story and a repetition of sequence of events in the police version as detailed in the FIRs.

**TABLE HIGHLIGHTING INACCURACIES IN THE POLICE VERSION OF THE ALLEGED ENCOUNTERS BASED ON FIR's AND FAMILY TESTIMONY CONTRADICTING THE POLICE VERSION**

S. No	Name of the Victim, Date and Place of Incidence	Police Version (Based On FIR)	Family's Testimony	Injuries on the body
1.	<b>Ikram S/o Munshi</b>  11th August, 2017  Kairana Bypass, near Banjara Basti, Dist Shamli, UP.	<b>Spontaneous gun battle</b> -Receipt of intelligence or a tip off - 2 men had looted a motorbike- the police set up barricades to apprehend them. - The assailants tried to flee- were chased by the police- lost balance and fell- started firing at the police. - Police fired back in self defense. -Ikram injured- taken to CHC- succumbed to injuries.	<b>Abducted, tortured and killed</b> -On 10 August, 2017, Ikram had gone to the hospital with his son- Sajid, to check on a relative. -Ikram's wife informed Shakil and 5-6 other men on the same day when they came to his house that day enquiring about Ikram. They went to the hospital and abducted Ikram. Sajid saw his father outside the hospital with Shakeel and other men. - On 11 August, 2017, they got to	-As per post-mortem report, Ikram had 5 bullet wounds on his right knee, right thigh, right foot, left knee, left foot and 3 fractures on his right leg. Blackening found around the gunshot wounds. -Family's narrative: There were torture marks: broken ribs and arms, huge injury on the back of his head.

		<p>-The other accomplice escaped on foot- identified as Shakil by Ikram.</p> <p>- Co. Ankush Godara &amp; Co. Raghu Raj Singh received bullet injuries.(details of injuries not given in the FIR)</p> <p>- As per the FIR, 15 police officials of PS Kairana, PS Kotwali and officials of SWAT Team were involved in the police action.</p>	<p>know of Ikram's encounter through their relatives..</p> <p>- Minor sons threatened by the police when they went to the police station to inquire about the incident and when the Ikram's body was returned to the family after the Post Mortem.</p>	
2.	<p><b>Nadeem S/o late Irshad</b></p> <p>8th September 2017</p> <p>Jangal gram, near Jatwara Nahar Pul, PS Kakroli, District Muzaffarnagar, UP</p>	<p><b>Spontaneous gun battle</b></p> <p>-Receipt of intelligence or a tip off that 2 men on motorbikes looting other motorbikes- the police set up barricades to apprehend them.</p> <p>- Spotted the 2 men on the motorbike- asked them to stop.</p> <p>- They turned the bike and slipped- started firing at the police.</p> <p>-Police fired back in self defense.</p> <p>- Nadeem injured- sent to the hospital- succumbed to injuries.</p> <p>-The other unknown accomplice escaped on foot.</p> <p>- Sub Inspector (SI) Vijay Kr Tyagi got hit by a bullet in his arm.</p>	<p><b>Abducted , tortured and killed</b></p> <p>-An altercation took place between Nadeem and a local jeweller, who filed a false case against him.</p> <p>- Police asked for a bribe of Rs. 6 lakh to suppress the FIR.</p> <p>- On 5 September, 2017, Nadeem was picked up by the police from his village- taken to PS Nai Mandi and tortured.</p> <p>- On 6 September, 2017, family saw Nadeem in PS Nai Mandi police custody- waited outside till evening for his release.</p> <p>- Later heard that Nadeem was shown to have fled police custody.</p> <p>- Family got to know on 8th September that Nadeem has been killed in a police encounter</p> <p>- police officials regularly visit Nadeem's house and threaten Nadeem's mother, Samar Jahan, that she will be killed and murdered in a similar manner if they take any action.</p>	<p>- Post mortem report not provided to the family.</p> <p>- Family narrative: The body had torture marks: broken backbone, broken neck, broken arms &amp; legs, There was a gunshot wound in the forehead.</p>
3.	<p><b>Shamshaad S/o Shahid</b></p> <p>11th September, 2017</p> <p>Infront of ITC Gate, PS Sadar Bazaar, Saharanpur</p>	<p><b>Spontaneous gun battle</b></p> <p>- Shamshaad and his accomplice had fired a shot at SHO Nanota and his team at a checkpoint.</p> <p>-SWAT team, intelligence wing and police officers of PS Nanota and Sadar Bazaar were looking for them.</p> <p>-Motorbike was spotted- tried running away- chased by the police- surrounded by 24 officers.</p> <p>-Bike slipped- assailants fired at the police.</p> <p>-Police fired back in self defense.</p> <p>-Shamshaad injured- taken to the hospital- succumbed to injuries.</p> <p>-The other unknown accomplice escaped on foot, leaving gun behind.</p> <p>- SI Arun Pawar and Co. Arun Rana were injured in the police firing in their hand.</p>	<p><b>Abducted, tortured and killed</b></p> <p>-On 7 September, 2017, Shamshaad was brought to Vikas Nagar from Deoband jail. It was stated that he escaped along with an accomplice.</p> <p>-Saliha alleges that the police officers had illegally kidnapped Shamshaad on his way back- tortured and killed him on 11 September, 2017.</p> <p>- The day Shamshaad was shown as being absconding, police officers came to their house and took Shamshaad's three brothers with them.</p>	<p>-The post mortem report states that the body is 1-4 days old. It also records that 7th, 8th and 9th rib on the left side were fractured and that there were 3 gunshot wounds on the front left side of the chest and one on right knee joint.</p> <p>-Family narrative: The body had torture marks from beating on neck and other body parts. Body looked like it was 2-3 days old (since it was bloated).</p>

4.	<p><b>Mansoor S/o Akbar</b></p> <p>27th September 2017</p> <p>Gandhi Ghat, Gate No. 2, Pukhta Road, PS Sadar Bazar, Meerut.</p>	<p><b>Spontaneous gun battle</b></p> <p>-Receipt of intelligence or a tip off about 3 men on motorbikes looting a WagonR.</p> <p>-Spotted stolen car being driven by 2 accused- asked them to stop- sped away.</p> <p>- Police chased them- assailants started firing.</p> <p>-Police fired back in self defense.</p> <p>-Mansoor injured- sent to Medical College- declared dead.</p> <p>- The other unknown accomplice escaped on foot.</p>	<p><b>Abducted and killed</b></p> <p>-Mansoor had spent 3 years in jail where his mental health deteriorated because of electrocution and torture.</p> <p>- Released in 2015- was totally dependent on family assistance to eat, drink, walk.</p> <p>- On 26 September, 2017, Prashant Kapil (SHO, PS Sadar Bazar, Meerut) and Rashid Ali (SHO, PS Lisargate) visited Mansoor.</p> <p>- Took Mansoor- family had known them for 10-12 years, so no objection was raised.</p> <p>-On the morning of 27 September, 2017, a local police officer asked Akbar (father) to sign certain warrant papers- did not inform them of the killing.</p> <p>-The family was informed by the villagers, who were informed by media reports.</p>	<p>-Post-mortem report concluded bullet wound on the left side of his chest, with marks of tattooing around it.</p>
5.	<p><b>Sumit Kumar S/o Karam Chand</b></p> <p>3rd October, 2017</p> <p>ATS Chowk, Greater Noida, UP</p>	<p><b>Spontaneous gun battle</b></p> <p>-Receipt of intelligence or a tip off that criminals armed with . 315 bore rifle and other arms are roaming around in a Swift car.</p> <p>- The police officers reached the spot- they saw 4 people holding guns, standing near the car.</p> <p>-On being spotted by the police, they fired at them and ran away in the car.</p> <p>-The police chased them- the car lost balanced and crashed into a gate. The assailants got out of the car and started firing at the police.</p> <p>-Police fired back in self defense. - FIR names 16 policemen present at the spot.</p> <p>-Sumit injured- sent to the District Hospital- succumbed to the injuries. Identity confirmed through the voter ID card found in the assailant's pocket.</p> <p>- The other three unknown assailants managed to escape on foot.</p> <p>- SI Satish Kumar got injured with the bullet fired by the criminals. (details of injury not given in the FIR).</p>	<p><b>Abducted, tortured and killed</b></p> <p>-On 30 September, 2017, Sumit was abducted by 6-7 people from Balauni from a market place in a car which fled towards Baghpat.</p> <p>- The police officers refused to register Karan Chand's (father) complaint.</p> <p>- On 2 October, 2017, Baghpat police informed Sumit's family that he is in police custody for questioning regarding a theft and that he will be released the next day.</p> <p>- The FIR regarding the above mentioned theft does not name Sumit as an accused.</p> <p>- On the night of 2 October, 2017, the police came to Sumit's house and took away all his identification documents and threatened the family that they will be picked up and killed.</p> <p>-On the morning of 3 October, 2017, Karam Chand got to know from his relatives and through newspaper that Sumit has been declared absconding by the police in a case registered against him and a reward was announced on him.</p> <p>-In the afternoon of 3 October, . 2017, Praveen, Sumit's brother faxed complaint letters to DGP, UP Police, Chief Minister, UP, National Human Rights Commission. A complaint was also sent to Mr. Luv Kumar, SSP Noida, Gautam Budh Nagar, UP,</p>	<p>-The post mortem report recorded one gunshot wound on the left side of his chest, another bullet was recovered from from his rib cage. There was also an abrasion on his right shoulder blade region, below shoulder line.</p> <p>The family has been provided with just one page of the PM report.</p> <p>-Family's narrative: The family had to protest outside the mortuary to get Sumit's body. The body had marks of torture: backbone, arms, legs were broken, left eye was mutilated. His neck and back had blue injury marks.</p>

			<p>however no investigation was conducted.</p> <p>-In the night of 3 October, 2017, Sumit's family got to know from Noida News Channels that Mr. Luv Kumar, SSP Noida, has issued a press statement stating that officials of PS Kasna and Bisrakh and other officials were conducting a joint operation in which Sumit was killed in an encounter.</p> <p>-The news report also stated that Sumit was a gangster who was absconding from the police in cases of murder and dacoity and had an award of Rs. 50,000 on his head.</p> <p>- On 2 October, 2017, when police had declared Sumit as absconding, his family was asked for Rs. 3,50,000 as bribe through a mediator if they want the police to release Sumit. They are continuously followed and intimidated.</p> <p>-Sumit's brother Raj Singh and Pravin were implicated in a case false for charges of rape and dacoity.</p> <p>- Jitender Kumar, SHO of PS Kasna, who was involved in Sumit's killing, has now been promoted to DSP Meerut.</p>	
6.	<p><b>Furqan S/o Meer Hassan</b></p> <p><b>Date-</b> 22nd October, 2017</p> <p>Sugarcane fields near Badakta Canal Bridge, Budhana Police Station (P.S.), District Muzaffarnagar.</p>	<p><b>Spontaneous gun battle</b></p> <p>-Police saw 5 men on 2 motorbikes.</p> <p>-Police asked them to stop- assailants started firing- police started chasing.</p> <p>-Special Task Force intimated- arrives at location.</p> <p>-Police asked them to surrender.</p> <p>-2 assailants escaped on a motorbike.</p> <p>- 3 assailants ran into the sugarcane farm and started firing.</p> <p>- Police fired back in self defense; crossfire lasted 15 minutes.</p> <p>- 2 from these 3 assailants escaped on foot.</p> <p>- Furqan injured (constable confirmed his identity since he was a wanted criminal)- sent to hospital- declared dead.</p> <p>- There was a Rs. 50, 000 reward on gangster Furqan.</p> <p>- SI Adesh Tyagi and Co. Harvendar got injured. (details of injury not given in the FIR)</p>	<p><b>Abducted and killed</b></p> <p>-Furqan, along with Anees and Rahul, went to the bus station meet his brother-in-law on 22 October, 2017. Furqan's wife &amp; children were present with him.</p> <p>- Police officers of Special Task Force, Muzaffarnagar &amp; PS Budhana detained the three. Anees and Rahul were taken to PS Shahpur, they were shot in their legs and shown to be arrested (both currently in prison). Furqan was taken to the fields near Badakta Canal Bridge, PS Budhana and killed.</p> <p>- Villagers informed the family of the incident. Meer Hassan (father) met Anees and Rahul in prison. Entire incident narrated by them.</p> <p>- No documents were made available to Meer Hassan (father) despite repeated efforts.</p> <p>-Police have repeatedly threatened to kill Meer Hassan's other sons &amp; Anees &amp; Rahul in a similar fashion if they try to pursue legal action.</p>	<p>-Post mortem report not provided to the family.</p> <p>- FIR silent on the nature of Furqan's injuries.</p>

			- Meer Hassan (father) contested the reward claim- states that Furqan was not a wanted criminal. He was let out on bail one month ago.	
7.	<p><b>Ramzani</b> <b>S/o Shafiq</b></p> <p>8th December, 2017</p> <p>Near Nanau Chandigarh Road, Aligarh, UP</p>	<p><b>Spontaneous gun battle</b></p> <p>-Receipt of intelligence or a tip off about three men looting a car- police set up barricades to apprehend them.</p> <p>- Assailants fired at the police.</p> <p>-Police fired back in self defense.</p> <p>- Ramzani injured- sent to the hospital- succumbed to injuries.</p> <p>- The other two unknown accomplices escaped.</p>	<p><b>Abducted , tortured and killed</b></p> <p>-On 7 December, 2017, some men took away Aslam and Ramzani on the pretext that they will help them in surrendering before the Court in the cases registered against them.</p> <p>- On 9 December, 2017, Salma's (wife) brother received a call from the police- informing them of Ramzani's death in an encounter in Aligarh.</p>	<p>- Post mortem report not provided to the family.</p> <p>- Family narrative: The body had torture marks: fractured hands and legs. Clothes had no bullet marks- it seemed that he had died of torture and later shot.</p>
8.	<p><b>Aslam</b> <b>S/o Mausam</b> <b>Ali</b></p> <p>9th December, 2017</p> <p>Dadri, District Gautambudh Nagar, UP.</p>	<p><b>Spontaneous gun battle</b> (source - media report, FIR not provided to the family)</p> <p>-Receipt of intelligence or a tip off about 2 criminals roaming in Dadri to commit a crime - the police set up barricades to apprehend them.</p> <p>- Spotted two men on a motorbike- sped up to flee.</p> <p>- Police started chasing- assailants started firing.</p> <p>-Police fired back in self defense; crossfire lasted 15 minutes.</p> <p>- Aslam injured- sent to the hospital- succumbed to the injuries.</p> <p>- The other unknown accomplice escaped.</p> <p>- Inspector Saurav received a bullet injury on his thighs and Constable Vikas - bullet on his leg</p> <p>- Aslam was a known criminal, reward of Rs. 65000 on him.</p>	<p><b>Abducted , tortured and killed</b></p> <p>- Aslam had met a lawyer to surrender in the cases that were registered against him.</p> <p>- On 7 December, 2017, some men took away Aslam and Ramzani on the pretext that they will help them in surrendering before the Court in the cases registered against them.</p> <p>- Cousin Satar received a call from the police on 9 December, 2017- asking for Aslam's details (name of village etc.)- did not inform him of the killing.</p> <p>- Informed of the incident by village pradhan.</p> <p>- The body was given to the family on 10 December, 2017 at 4 AM- escorted by heavy police vehicles which stayed till burial.</p> <p>- FIR and Post Mortem Report not given to the family.</p>	<p>- Post mortem report not provided to the family.</p> <p>- Family narrative: The body had torture marks: blue back (result of probable beating), fractured arm and leg.</p> <p>- Media Reports state bullet injury on the head.</p>
9.	<p><b>Shamim</b> <b>S/o Faku</b></p> <p>30th December, 2017</p> <p>Forest near village Bhalwa, PS Jansath, Muzaffarnagar, UP</p>	<p><b>Spontaneous gun battle</b></p> <p>-Receipt of intelligence or a tip off from SWAT team and Special Cell Delhi Police-that Shamim along with his accomplices is planning to come to Jansath and commit road robbery in a Swift car.</p> <p>-A team of 17 police officers reached the spot, waiting for them.</p> <p>- A Swift car was spotted. Driver stopped- fired at the police, got out of the car and ran away in the opposite direction.</p>	<p><b>Tortured and killed</b></p> <p>- Shamim had loaned Rs. 1 lakh to Akram (relative)- when asked to repay, Akram tried to get Shamim arrested.</p> <p>-Akram was in constant touch with the police officers- called and insisted the Shamim be arrested- Sahiba (Shamim's sister) and other family members overheard one such conversation</p> <p>- Family alleges that Akram in connivance with officials of PS Jansath killed Shamim. .</p> <p>-The family found out about the</p>	<p>-Post Mortem Report records two bullet injuries, one bullet which entered the body from the back of the head and exited the body from the forehead and the second bullet which entered his body from his right temple and exited at an angle from his left temple.</p> <p>-FIR states that the accused was shot while sitting in a car from the</p>

	<p>-Shamim, who was sitting in the front seat also fired at the police.</p> <p>-Police fired back in self defense. Shamim was shot from the front.</p> <p>- Shamim injured- taken to the CHC- succumbed to his injuries.</p> <p>-The other unknown assailant escaped on foot.</p> <p>- Co Ashok Khari received bullet injuries (details of injury not mentioned in the FIR)</p>	<p>encounter on 31 December, 2017, through local newspapers. Police did not inform them about the same.</p> <p>- Family states that the police has been pressuring them since the encounter and even asked them to sign on some papers</p>	<p>front.</p> <p>-Family's narrative: There were marks of torture on the body.</p>
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**Analysis of facts and circumstances presented in the table above that bring to light the falsity in the police version of encounter deaths**

- a) **Abduction of victims before the incident:** In 7 out of 9 cases mentioned above, the eye witness accounts tell of police in uniform or in plain clothes abducting the victims a day before they are allegedly killed in an armed confrontation.
1. Ikram – Abducted from outside Aastha Hospital, Badot by Shakeel and 5-6 other men, a day before the alleged encounter. Sajjid, Inkram's minor son, saw Ikram for the last time, with Shakeel and others outside the Hospital.
  2. Nadeem – Three days before the alleged encounter, on 5 September, 2017, Nadeem was picked up by officials of PS Nai Mandi, from his village. Family members saw him in police custody at PS Nai Mandi.
  3. Mansoor – On 26 September, 2017, a day before the alleged encounter, Prashant Kapil (SHO, PS Sadar Bazar, Meerut) and Rashid Ali (SHO, PS Lisargate) visited Mansoor's house. They took Mansoor with them saying that he will be sent back in the evening. Since Mansoor's family had known these police officials for 10-12 years, so no objection was raised.
  4. Sumit Kumar - On 30 September, 2017, three days before his alleged encounter, Sumit was abducted by 6-7 people from Balauni from a market place in a car which fled towards Baghpat. Many people saw Sumit being taken away from the market place.
  5. Furqan – On the day of the alleged encounter, 22 October, 2017, Furqan, along with Anees and Rahul, were detained and taken from a bus stand, by a team of police officials of the Special Task Force, Muzaffarnagar & PS Budhana. Furqan's wife, children and his brother-in-law were a witness to this incident.

6. Ramzani - On 7 December, 2017, a day before the alleged encounter, some men took away Aslam and Ramzani on the pretext that they will help them in surrendering before the Court in the cases registered against them.
  7. Aslam - On 7 December, 2017, two days before the alleged encounter, some men took away Aslam and Ramzani on the pretext that they will help them in surrendering before the Court in the cases registered against them.
- b) **Victims absconding from police custody:** In 3 out of 9 cases where the family was aware that the victim was in police custody, they are first shown to have absconded from custody. Thereafter, the police receive information about the victims reportedly illegal activities, they are then shown as being killed in an alleged encounter.
1. Shamshaad – Shamshaad was in Judicial custody. On 7 September, 2017, Shamshaad was brought to Vikas Nagar from Deoband jail. It was stated that he escaped along with an accomplice. He was shown to have died in an alleged police encounter on 11<sup>th</sup> September, 2017.
  2. Nadeem -Three days before the alleged encounter, on 5 September, 2017, Nadeem was picked up by police officials. The evening, the family heard that Nadeem was shown to have fled police custody. Family got to know on 8th September that Nadeem has been killed in a police encounter.
  3. Sumit Kumar - On 30 September, 2017, three days before his alleged encounter, Sumit was abducted by 6-7 people from Balauni from a market place in a car which fled towards Baghpat. On 2 October, 2017, Baghpat police informed Sumit's family that he is in police custody for questioning regarding a theft and that he will be released the next day. On the morning of 3 October, 2017, Karam Chand (Sumit's father) got to know from his relatives and through newspaper that Sumit has been declared absconding by the police in a case registered against him and a reward was announced on him. The next day he was killed in an alleged police encounter.
- c) **Torture marks on the body of the victims:** Unlike the police version of the incident which details spontaneous gun battles with the victims, in 7 out of 9 cases, family narratives show evidence of torture of the victims. Family narratives point out multiple fractures in hands, legs, vertebral columns along with other torture injuries. In 2 out of these 7 cases,

injuries shown in Post-mortem reports corroborate the family narrative. For example:

1. Ikram – Ikram's wife states that there were torture marks on his body - broken ribs and arms, huge injury on the back of his head. The post-mortem report also states that Ikram had 5 bullet wounds on his right knee, right thigh, right foot, left knee, left foot and 3 fractures on his right leg.
2. Nadeem – Nadeem's uncle states that Nadeem's body had torture marks: broken backbone, broken neck, broken arms & legs, There was a gunshot wound in the forehead. Post Mortem Report has not been provided to the family.
3. Shamshaad – Shamshaad's wife states that his body had torture marks from beating on neck and other body parts. His body looked like it was 2-3 days old (since it was bloated).The post mortem report also states that the body is 1-4 days old. It also records that the 7th, 8th and 9th rib on the left side were fractured and that there were 3 gunshot wounds on the front left side of the chest and one on right knee joint.
4. Sumit Kumar – Sumit's father states that his family had to protest outside the mortuary to get Sumit's body. The body had marks of torture - backbone, arms, legs were broken, left eye was mutilated. His neck and back had blue injury marks. The post mortem report recorded one gunshot wound on the left side of his chest, another bullet was recovered from from his rib cage. There was also an abrasion on his right shoulder blade region, below shoulder line.
5. Ramzani – Ramzani's wife states that his body had torture marks - fractured hands and legs. His clothes had no bullet marks- it seemed that he had died of torture and later shot. Post mortem report not provided to the family.
6. Aslam – Aslam's wife states that his body had torture marks: blue back (result of probable beating), fractured arm and leg. Media Reports state bullet injury on the head. Post mortem report not provided to the family.
7. Shamim – Shamim's wife states that his body had marks of torture on it. Further the Post Mortem Report records two bullet injuries, one bullet which entered the body from the back of the head and exited the body from the forehead and the second bullet which entered his body from his right temple and exited at an angle from his left temple. The FIR, however, states that the accused was shot while sitting in a car from the front.

- d) **Tattoo marks around the bullet wounds, indication of closed range firing by the police:** The Post Mortem Reports for Ikram and Mansoor state that the bodies had tattooing marks and blackening of skin around bullet holes, indicating that the shooting had taken place at very close range, and could not be attributed to bullet marks in a shoot-out.
- e) **Direct bullet hits:** Six out of 9 cases have direct hits to the body, head, face or chest, again unlikely in a shoot-out.
1. Aslam – Media Report states that Aslam had a bullet injury on his head.
  2. Mansoor – Post Mortem Report states there is a bullet wound on the left side of the chest.
  3. Nadeem – Nadeem’s uncle states that the only visible bullet wound was a clean shot in the forehead.
  4. Shamim - The Post Mortem Report records two bullet injuries, one bullet which entered the body from the back of the head and exited the body from the forehead and the second bullet which entered his body from his right temple and exited at an angle from his left temple. The following fact completely falsifies the police version of the incident according to which the accused was shot while sitting in a car from the front.
  5. Shamshaad - The Post Mortem Report states the following bullet wounds – 3 bullets on the front left side of the chest, one bullet on right knee joint.
  6. Sumit Kumar – The Post Mortem Report states that Sumit’s body had one bullet injury on left side of his chest, and a bullet was recovered from his chest cage.
- f) **Awards declared on the victims:** In a 5 out of 9 cases, the complainants have revealed, that the police put the victims on most-wanted lists and with rewards on their head, just after the incident. For instance – In the cases of Sumit, Nadeem, Shamim, Aslam the media reports published after the encounter stated that the victims were known criminals with rewards on their heads between Rs. 15,000 to Rs. 65,000. The FIR recorded in Furqan’s case states that he is a known criminal with a reward of Rs. 50,000 on his head. The family members contest these claims of the police.
- g) **Identical sequence of events recorded in the FIRs:** The sequence of events which led to the ‘encounter’ as stated by the police in FIRs recorded by them, tend to be identical. In UP the FIRs in parts, even use exactly the same text, hinting at use of a common template by state police to record

the version of the incident. The FIRs identify the victim as aggressor, against whom the police shot in self-defence. On paper, these police “encounters” are said to comprise a spontaneous shoot-out between police officers and armed criminals in which the police are fired upon, and (in self-defence) fire back, killing the alleged criminals. In 7 out of 9 cases, the police has reportedly received a tip off from an informer about criminals planning to commit a crime or they have been informed of criminals who have looted bikes, cars etc and are on the run. Thereafter, in all the 9 cases the sequence of events is the same. The police in all these cases spot the criminals on motorcycles or cars and try to stop them. The criminals try to escape by firing at the police officials and are chased by the police. All the FIRs also state that during the chase, the vehicle used by the criminals loses balance, upon which the criminals abandon their vehicle and start firing at the police. Further another similarity seen across all the FIRs is that while the police has managed to injure one person, his accomplice always manages to escape, on foot, leaving his vehicle, despite heavy police presence.

- h) **Minimal injuries received by the police:** The pattern of injuries received by the police officers also show a set trend. For instance, the injuries to police officers in these incidents, as recorded in the FIRs, are consistently minimal, in 3 out of 9 cases, bullets hitting them in the arms or legs, and in all cases bullets just grazing past, even though the alleged criminals shot at them indiscriminately. Another trend in the FIR is that the bullets fired by the alleged criminals hit the bullet proof jackets worn by the officers during the ostensible exchanges of fire. In none of the cases, the police have seized these bullet proof jackets for further investigation.
- i) **Escape of unknown person in encounter:** As per police FIR, in all the cases there is/are unknown criminal(s) who manages to run away in an unbelievable fashion. This is remarkable considering the victim and alleged “criminals” are surrounded and trapped in a planned encounter, with the police far out numbering the criminals. This allows, police to add ‘unknown person(s) in the FIR. This unknown person is later shown to be ‘encountered’ in another case of fake encounter by the police.
- j) **Eye witnesses:** There is a serious lack of (civilian) public eye witnesses to the ‘encounter’ in the police claim but independent fact-finding team reports reveal that there are many witnesses to victims being taken away by police just prior to being reported killed in an encounter.
- k) **Family’s narrative on suspicion after the police picked up their relatives** – In two cases where family had knowledge of their relative being

picked up by police, they were already suspicious that they might be killed and shown to have been 'encountered'. Infact, these families also wrote to various authorities sharing their suspicion even before the person was killed.

1. Nadeem – He was picked up by the officials of PS Nai Mandi and was shown to have fled from custody the next day. Nadeem's family sent a letter through fax addressed to the National Human Rights Commission, district police officials and other authorities mentioning the illegal detention of Nadeem and that they now fear for his life.
  2. Sumit Kumar - On 30 September, 2017, three days before his alleged encounter, Sumit was abducted by 6-7 people from Balauni from a market place in a car which fled towards Baghpat. Many people saw Sumit being taken away from the market place. On 2 October, 2017, Baghpat police informed Sumit's family that he is in police custody for questioning regarding a theft and that he will be released the next day. On the morning of 3 October, 2017, Karam Chand (Sumit's father) got to know from his relatives and through newspaper that Sumit has been declared absconding by the police in a case registered against him and a reward was announced on him. In the afternoon of 3.10.2017, Praveen, Sumit's brother faxed complaint letters to DGP, UP Police, Chief Minister, UP, National Human Rights Commission. A complaint was also sent to Mr. Luv Kumar, SSP NOIDA, Gautam Budh Nagar, UP, however no investigation was conducted. The next day he was killed in an alleged police encounter.
- 1) **Police reprisal:** Family's and witnesses account or statement is neither recorded nor investigated, rather series of threats in the form of direct threats or fabricating false cases against witness, relatives etc are common in most of the case. In many cases police have filed cases against relatives and witnesses. They also use many extra-legal and informal methods as threat, for instance using informers to convey that all the relatives would be put behind bars or killed in 'encounters' or torture of arrested family members, or large police forces humiliating the family by constant home visits. The complainants have alleged that the police actively undermine family's ability to challenge police claims, and seek justice. The police have registered cases against victim's siblings, relatives and even parents, or instigated others to accuse family members of rape, all in a systematic attempt to intimidate and prevent victim families from challenging the police version and obtaining justice. The reprisal becomes particularly serious once family members begin to take action to challenge the police

and trigger the criminal justice system. The extent of planning to silence the victims is chilling. For example:

1. Furqan - all five brothers accused by police in various cases, 3 currently in jail, two out on bail. Meer Hassan, Furqan's father, wrote to the police (besides other authorities, including NHRC), seeking to have FIR registered against police personnel for the murder of his son. This was refused. He approached the courts to order the police to register the FIR. The complaint was dismissed by the courts, forcing Meer Hassan to file a writ in the High Court for such directions. Action is still awaited by the High Court. In the meantime, local police officers have been visiting the family and threatening them against taking any legal action against the police. This is particularly challenging for the family that are penurious – Meer Hassan works as a farm hand, sons work as labourers.
2. Sumit Kumar - On 02.10.2017, when police had declared Sumit as absconding, his family was asked for Rs. 3,50,000 as bribe through a mediator if they want the police to release Sumit. Thereafter in the night, NOIDA police came to Sumit's house and took away all his identification documents such as Aadhar Card and Sumit's mobile phone box. When Sumit's family tried to ask the NOIDA Police regarding Sumit's whereabouts, they threatened the family and stated that they will pick up all the members of the family and encounter them in different places. After the encounter, police has been meeting family's relatives through some mediators in order to get them to compromise on the case. Sumit's family also reports that they are being continuously followed and intimidated. Some time after the encounter, Sumit's brother Raj Singh and Pravin were implicated in a case false for charges of rape and dacoity.
3. Ikram – Ikram's minor sons were threatened by the police while giving Ikram's body back to the family. They had stated that Ikram's wife will also be killed in a similar manner if they pursue any legal actions.
4. Nadeem – Nadeem's uncle states that the police officials regularly come to their house and threaten Nadeem's mother, Samar Jahan, that she will be killed and murdered in a similar manner if they take any action.
5. Shamim – Shamim's wife has stated that police officials have been pressuring them since the encounter and have even asked them to sign on some papers.

## **VIOLATION OF THE SUPREME COURT GUIDELINES ON ENCOUNTER KILLINGS**

This Hon'ble Commission has from time to time, issued specific guidelines to prevent such killings, by holding the police and state authorities to account, procedurally. In the year 1997, following several complaints from various states regarding "fake encounters", the Hon'ble Commission had issued guidelines to the Chief Ministers of all states with regard to the kind of procedures to be followed while dealing with police encounters. In the year 2003, the Commission modified the guidelines and reissued them to all the states. Thereafter again in 2010, the Commission felt that most states were not following the guidelines issued by it, and the same was reissued to all the states and the guidelines were further modified.

Thereafter, the Hon'ble Supreme Court in **Peoples Union for Civil Liberties v. State of Maharashtra (2014) 10 SCC 635** had issue the following requirements to be followed in the matters of investigating police encounters in the cases of death as the standard procedure for thorough, effective and independent investigation:

*“31.1. Whenever the police is in receipt of any intelligence or tip-off regarding criminal movements or activities pertaining to the commission of grave criminal offence, it shall be reduced into writing in some form (preferably into case diary) or in some electronic form. Such recording need not reveal details of the suspect or the location to which the party is headed. If such intelligence or tip-off is received by a higher authority, the same may be noted in some form without revealing details of the suspect or the location.*

*31.2. If pursuant to the tip-off or receipt of any intelligence, as above, encounter takes place and firearm is used by the police party and as a result of that, death occurs, an FIR to that effect shall be registered and the same shall be forwarded to the court under Section 157 of the Code without any delay. While forwarding the report under Section 157 of the Code, the procedure prescribed under Section 158 of the Code shall be followed.*

*31.3. An independent investigation into the incident/encounter shall be conducted by the CID or police team of another police station under the supervision of a senior officer (at least a level above the head of the police party engaged in the encounter). The team conducting inquiry/investigation shall, at a minimum, seek:*

*(a) To identify the victim; colour photographs of the victim should be taken;*

*(b) To recover and preserve evidentiary material, including bloodstained earth, hair, fibres and threads, etc. related to the death;*

*(c) To identify scene witnesses with complete names, addresses and telephone numbers and obtain their statements (including the statements of police personnel involved) concerning the death;*

*(d) To determine the cause, manner, location (including preparation of rough sketch of topography of the scene and, if possible, photo/video of the scene and any physical evidence) and time of death as well as any pattern or practice that may have brought about the death;*

*(e) It must be ensured that intact fingerprints of deceased are sent for chemical analysis. Any other fingerprints should be located, developed, lifted and sent for chemical analysis;*

*(f) Post-mortem must be conducted by two doctors in the district hospital, one of them, as far as possible, should be incharge/head of the district hospital. Post-mortem shall be videographed and preserved;*

*(g) Any evidence of weapons, such as guns, projectiles, bullets and cartridge cases, should be taken and preserved. Wherever applicable, tests for gunshot residue and trace metal detection should be performed.*

*(h) The cause of death should be found out, whether it was natural death, accidental death, suicide or homicide.*

*31.4. A magisterial inquiry under Section 176 of the Code must invariably be held in all cases of death which occur in the course of police firing and a report thereof must be sent to the Judicial Magistrate having jurisdiction under Section 190 of the Code.*

*31.5. The involvement of NHRC is not necessary unless there is serious doubt about independent and impartial investigation. However, the information of the incident without any delay must be sent to NHRC or the State Human Rights Commission, as the case may be.*

*31.6. The injured criminal/victim should be provided medical aid and his/her statement recorded by the Magistrate or Medical Officer with certificate of fitness.*

*31.7. It should be ensured that there is no delay in sending FIR, diary entries, panchnamas, sketch, etc. to the court concerned.*

*31.8. After full investigation into the incident, the report should be sent to the competent court under Section 173 of the Code. The trial, pursuant to the charge-sheet submitted by the investigating officer, must be concluded expeditiously.*

*31.9. In the event of death, the next of kin of the alleged criminal/victim must be informed at the earliest.*

*31.10. Six-monthly statements of all cases where deaths have occurred in police firing must be sent to NHRC by DGPs. It must be ensured that the six-monthly statements reach to NHRC by 15th day of January and July, respectively. The statements may be sent in the following format along with post-mortem, inquest and, wherever available, the inquiry reports:*

*(i) Date and place of occurrence.*

*(ii) Police station, district.*

*(iii) Circumstances leading to deaths:*

*(a) Self-defence in encounter.*

*(b) In the course of dispersal of unlawful assembly.*

*(c) In the course of affecting arrest.*

*(iv) Brief facts of the incident.*

*(v) Criminal case no.*

*(vi) Investigating agency.*

(vii) Findings of the magisterial inquiry/inquiry by senior officers:

(a) disclosing, in particular, names and designation of police officials, if found responsible for the death; and

(b) whether use of force was justified and action taken was lawful.

31.11. If on the conclusion of investigation the materials/evidence having come on record show that death had occurred by use of firearm amounting to offence under IPC, disciplinary action against such officer must be promptly initiated and he be placed under suspension.

31.12. As regards compensation to be granted to the dependants of the victim who suffered death in a police encounter, the scheme provided under Section 357-A of the Code must be applied.

31.13. The police officer(s) concerned must surrender his/her weapons for forensic and ballistic analysis, including any other material, as required by the investigating team, subject to the rights under Article 20 of the Constitution.

31.14. An intimation about the incident must also be sent to the police officer's family and should the family need services of a lawyer/counselling, same must be offered.

31.15. No out-of-turn promotion or instant gallantry rewards shall be bestowed on the officers concerned soon after the occurrence. It must be ensured at all cost that such rewards are given/recommended only when the gallantry of the officers concerned is established beyond doubt.

31.16. If the family of the victim finds that the above procedure has not been followed or there exists a pattern of abuse or lack of independent investigation or impartiality by any of the functionaries as abovementioned, it may make a complaint to the Sessions Judge having territorial jurisdiction over the place of incident. Upon such complaint being made, the Sessions Judge concerned shall look into the merits of the complaint and address the grievances raised therein."

In Uttar Pradesh, evidence points (as indicated in the 9 cases listed above) to use of encounters as a means to instil fear in the minds of petty criminals, and to raise the image of the State government and the police, in the public eye, as being tough on crime and working in the interests of maintaining law and order. This has given way to police impunity and violation of due process laid down by the Hon'ble Supreme Court and the guidelines issued by this Commission.

#### **Notices issued by the Commission:**

On 22nd November, 2017, the Hon'ble Commission had taken suo moto cognizance of media reports about the Government of Uttar Pradesh, allegedly endorsing killings in encounters by police, seeking improvement in law and order situation in the State. It had issued a notice to the Chief Secretary, Government of Uttar Pradesh, calling for a detailed report in the matter within 6 weeks. Press release issued by the Commission had stated as follows:

*“The State government has, reportedly, described the encounters as an achievement and a proof of improvement in the law and order situation. The Chief Minister was quoted, in a newspaper on the 19th November, 2017, saying that “Criminals will be jailed or killed in encounters.... It [The Commission] has observed that even if the law and order situation is grave, the State cannot resort to such mechanism, which may result in the extra judicial killings of the alleged criminals. The reported statement of the Chief Minister tantamount to giving police and other State governed forces, a free hand to deal with the criminals at their will and, possibly, it may result into abuse of power by the public servants. It is not good for a civilized society to develop an atmosphere of fear, emerging out of certain policies adopted by the State, which may result into violation of their right to life and equality before law.”*

(A copy of the NHRC notice dated 22<sup>nd</sup> November 2017 to the Government of Uttar Pradesh is annexed as Annexure 15 at page \_\_\_\_\_ to \_\_\_\_\_).

A second notice was issued by the Hon’ble Commission on 5th February, 2018 taking suo motu cognizance of media reports that a 25 years old man was shot in NOIDA by Sub-Inspector of Uttar Pradesh police in the night of the 3rd February, 2018 who told his colleague that the encounter would earn him an out of turn promotion. Accordingly, the Commission has issued a notice to the Chief Secretary and the Director General of Police, Uttar Pradesh to look into the emerging scenario, personally and to take appropriate action to sensitize the police personnel not to abuse their power to harass innocent citizens. In the notice, the Commission had observed that it seems that

*“the police personnel in the State of Uttar Pradesh are feeling free, misusing their power in the light of an undeclared endorsement given by the higher ups. They are using their privileges to settle scores with the people. The police force is to protect the people, these kind of incidents would send a wrong message to the society. Creating an atmosphere of fear is not the correct way to deal with the crime”*

(A copy of the NHRC notice dated 5<sup>th</sup> February, 2018, to the Government of Uttar Pradesh is annexed as Annexure 16 at Page \_\_\_\_\_ to \_\_\_\_\_). In spite of these notices sent to the State Government by the Commission, the alleged encounters continue unabated.

**Analysis of 9 cases of extra judicial killings in light of the violation of procedural guidelines on encounter killings laid down by the Hon'ble Supreme Court:**

For this section kindly refer to the table highlighting the procedural lapses by the investigating authorities in each case is annexed as Annexure 17 at page \_\_\_\_\_ to \_\_\_\_\_ ).

The following paragraph highlights the violation of due process by the police officers investigating the alleged instances of police encounter, as laid down by the Hon'ble Supreme Court in PUCL vs. State of Maharashtra (supra)

- a) **Registration of First Information Report** – In all the 9 cases above, an FIR for attempt to murder and for possession of arms and ammunitions has been filed against the deceased victims. In none of the cases, has an FIR been filed against the concerned police officer who used a fire arm that led to death in the alleged encounter, as mandated by the Supreme Court guidelines. Since no FIR have been registered against police officers responsible, there is no case against police personnel and hence no investigation. Attempts by families to have FIRs for murder registered, were also denied. In Furqan's case, his father, Mir Hassan tried to get an FIR registered for murder of his son. An application u/s. 156(3) Cr.P.C. was filed before the C.J.M. Muzaffar Nagar, Case No.809/11 of 2017. The Magistrate dismissed the application on the ground that a magisterial inquiry by SDM Budhana is underway and that the documents show that Furqan was a criminal with 8 cases registered against him. In the case of Sumit Kumar, an application u/s 156(3) was filed before the CJM, Baghat on 23.10.2017 for filing an FIR against the police officers. On 3.11.2017, the application was dismissed by the CJM Baghat, stating that the said application should be filed in District Gautambudh Nagar. Thereafter an application u/s 156(3) was filed in NOIDA Court, which was also dismissed.
- b) **Information to the next of kin:** As per the guidelines, a death in encounter is to be reported to victim family, at the earliest. In most cases cited above, this was not done, and the information reached the family through other villagers, whatsapp and news reports. For example-
1. Aslam – Family was informed by the Village Pradhan. Police had called for information regarding Aslam, but did not inform the family about the encounter.
  2. Furqan – Family was informed by other people in the village.
  3. Ikram – Family was informed by relatives, minor son was threatened when he went to inquire in the police station

4. Mansoor – The day after the alleged encounter, at around 3.00 am, police official from PS Behat visited their house and asked Mansoor's father to sign on some papers. They did not inform them about Mansoor's killing and stated that those were warrant papers on Mansoor's name. Few hours later, early morning, villagers informed the family that the media is reporting about Mansoor's killing in an encounter. General Diary No. 5 recorded at 2.30 am on 27/9/2017 at PS Medical, Meerut states that at 2.30 am SHO Prashant Kapil informed the SHO of PS Behat Dist. Saharanpur, in a telephonic conversation, about the details of the encounter and the identity of the deceased accused and Co. 1049 Vinod Kumar was sent to give information about the incident and for necessary investigation. Thus, at 2.30 am the police officials of PS Behat were aware about the details of the encounter, and the identity of the deceased accused, yet deliberately hid the same from Mansoor's family.
  5. Sumit Kumar - In the night of 3.10.2017, Sumit's family got to know from NOIDA News Channels that Mr. Luv Kumar, SSP NOIDA, Gautam Budh Nagar has issued a press statement stating that officials of PS Kasna and Bisrakh and other officials were conducting a joint operation in which Sumit was killed in an encounter.
  6. Shamim - The family found out about the encounter on 31 December, 2017, through local newspapers.
- c) **Investigation by an Independent Body:** In none of the 9 cases, the investigation of the case is transferred to an independent body such as the State CID Department as is mentioned in the Supreme Court guideline. In 4 out of 9 cases, where the investigation has been transferred, it has been given to the neighbouring police stations. For instance:
1. Shamsaad - An Inspector level officer from PS Janakpuri made the IO in the case;
  2. Mansoor – The case has been transferred to Crime Branch, Meerut;
  3. Ikram - Investigation of FIRs transferred to SHO Umesh Roriya, PS Kandhla by SP, Shamli.
  4. Aslam – The case is being investigated by Crime Detection Branch, Noida, District Gautambudh Nagar.

It is pertinent to note that in the cases mentioned above the FIR talks about the involvement of more than one department or police station. For example - In Shamim's case the FIR talks about a joint operation conducted by police officials of PS Jansath, Muzaffarnagar, SWAT Team Muzaffarnagar and

Special Cell Delhi Police; In Shamshaad's case, as per the FIR the operation is carried out by officials of SWAT Team, Intelligence Wing and police officers of PS Nanota and Sadar Bazaar; Ikram – Officials of PS Kairana, PS Kotwali and officials of SWAT Team were involved in the police action. These cases, according to the NHRC Guidelines issued in 2010, should have been investigated by the CBCID.

- d) **Forensic Examination of evidentiary material** – Even though the FIRs speak of a forensic team being called to the scene of crime to collect evidentiary material, the reports/results of the forensic examination have not been shown by the police. For example in the cases of Ikram and Mansoor mentioned above, the police have filed final reports u/s 173 CrPC on the ground that the accused in the case died after the encounter. The final reports have been accepted by the Courts without asking the Investigation Officer to produce the reports of forensic examination of evidentiary material.
- e) **Magisterial Inquiry under Section 176 CrPC** – Only in two out of the 9 cases mentioned above, the complainants are aware of a Magisterial Inquiry being carried out by the police – Sumit Kumar and Furqan. In the rest of the cases, the family is not aware if a Magisterial Inquiry has been held. It is also pertinent to note that the complainants have not received any summons from the Police or Magistrate to give their statements. In two cases even Final reports has been filed without consulting the family. Further, the Supreme Court guideline also states that the report of the Magisterial Inquiry should be sent to a Judicial Magistrate having jurisdiction u/s 190 CrPC. The complainants have not been made aware if the said procedure has been followed in the cases.
- f) **Complaints to be sent to NHRC in case of partial investigation:** The Supreme Court guidelines state that the NHRC intervention can be sought in cases of encounter killings where there are serious doubts over an independent and impartial investigation being conducted. Among the present complainants, Nadeem, Furqan and Shamshaad had petitioned the NHRC at different stages. While in Furqan's case, a complaint was filed before NHRC stating that the accused police personnel have threatened the witnesses and family of Furqan with dire consequences if they pursue the encounter case against the police officials. NHRC had transferred the complaint to SSP Muzaffarnagar to take appropriate action, however, no action was taken by the SSP Muzaffarnagar. The families of Nadeem and Shamshaad have not received any response from NHRC. It is only in the case of Sumit Kumar, that NHRC took suo moto cognisance (case number – 30160/24/30/2017-AD). The case

is pending for receipt of documents from SSP and District Magistrate, Gautam Budh Nagar.

- g) **Investigation report to be sent to Court u/s 173 CrPC:** While the chargesheets have not been filed by the police in any of the cases, Final Reports u/s 173 CrPC have been filed in the case of Ikram and Mansoor. In both the cases the final report has been filed on the ground that the victim succumbed to his injuries and his accomplice could not be identified. This clearly shows that no investigation is being conducted into these cases of alleged police encounters.
- h) **Out of turn promotions and rewards:** It is being routinely reported in the local newspapers that police officers who are involved in carrying out these alleged police encounters are being awarded promotions and monetary rewards by the State Government in defiance of the Supreme Court guidelines that state that there should be no promotions or awards until the officer concerned has been cleared beyond doubt. Sumit's father has stated that SHO Jitender Kumar, PS Kasna, who was among those who encountered Sumit, has now been promoted as the DSP Meerut, despite there being no investigation into the officer's involvement.
- i) **Post Mortem Reports not being provided to the victim families** – While 8 out of the 9 complainants have received a copy of the FIR registered against their relative, only 4 out of the 9 complainants have received a copy of the Post Mortem Report. The Post Mortem Report is a crucial piece of evidence for the families to prove their claim of torture and direct bullet hits on the body which are not possible in a spontaneous gun shoot as is being claimed by the police. Among the complainants the families of Nadeem, Furqan, Ramzani have not received a copy of the Post Mortem Report. Aslam's family has not been provided with a copy of both, the FIR and Post Mortem Report. Karam Chand, Sumit Kumar's father states that they have received only one page of the post mortem report.

#### **PRAYERS:**

In light of the facts and circumstances mentioned above, and given the serious concerns regarding the safety of the complainants and witnesses, the complainants pray that the Hon'ble Commission may be pleased to issue the following directions:

- a) Reord the statements of the affected families and institute an independent inquiry into the 9 cases of alleged police encounter, under Section 12 (1) and Section 14 of the Protection of Human Rights Act, 1993, through the investigation team of the Commission, or through a body which is

independent from the Uttar Pradesh and the Central Government. The team constituted for conducting the inquiry should have medical and ballistic experts belonging to a State other than the State of Uttar Pradesh;

- b) Direct the investigating officials in these cases, to share, within a month's time, status of investigation and produce documents pertaining to the cases before the Commission and necessarily provide the same to the complainants. This must particularly include (i) FIRs registered in the cases; (ii) relevant chargesheets; (iii) General / Daily Diary register entry of the relevant Police Station, of the day of incident; (iv) Wireless log book record of the relevant PS (or district police wireless HQ, where such log is maintained) of the day of incident; (v) log book records of the day, of govt. vehicles used by all police officers engaged in the said encounter; (vi) Call Details Records (CDR) of mobile phones used by the deceased, and by all police officers engaged in the encounter (date range: one week prior to date of encounter to one week following);
- c) Order prosecution of Police officials against whom there is prima facie evidence of being involved in extra judicial killing and also against police personnel who have been involved in malicious investigation and/or have threatened the families against approaching grievance redress mechanism, including the NHRC, for seeking justice;
- d) Issue orders for protection of the complainants and their families and the eye witnesses in these 9 cases. This to prevent reprisal by police and state administration against victim families seeking the help of the Commission to secure justice;
- e) Provide compensation and relief grants to the complainants u/s 18 of the Protection of Human Rights Act, 1993.

Sincerely,

Affected families of victims killed in Extra Judicial killings in UP.

Complaint filed on behalf of the following families:

1. Hanifa, wife of Ikram (deceased victim);
2. Mohd. Esha Ali, uncle of Nadeem (deceased victim);
3. Saliha, wife of Shamshaad (deceased victim);
4. Javeda, mother of Mansoor (deceased victim);
5. Karam Chand, father of Sumit Kumar (deceased victim);

6. Akbari, mother of Furqan (deceased victim);
7. Salma, wife of Intezaar @ Ramzani (deceased victim);
8. Israna, wife of Aslam (deceased victim);
9. Faku, father of Shamim (deceased victim).

**ANNEXURE 17 - PROCEDURAL LAPSES BY INVESTIGATING AUTHORITIES**

S. No	Name of the victim, place & Date of incident	FIR against Victim	FIR against concerned Police Officials	Family informed by the Police	Agency investigating the case	Status of magisterial enquiry	Magisterial inquiry report sent to Judicial Magistrate	Chargesheet/Final Report u/s 173 CrPC	Complaints filed before NHRC	Complaints before other authorities	Statement recorded by Police/Magistrate
1.	<b>Ikram @Tola s/o Munshi</b> 11th August, 2017 Place: Kairana Bypass, near Banjara Basti, Dist Shamli, UP.	3 FIRs (785/2017, 786/2017, 787/2017) PS Kairana, Shamli District dated 11.8.2017 u/s 307 IPC and Sec 25 Arms Act against Ikram & Shakeel.	No	No. Family informed by relatives. Thereafter minor son went to PS Kairana to inquire, was threatened.	Investigation of 3 FIRs transferred to SHO Umesh Roriya, PS Kandhla by SP, Shamli.	Not known, Inquest Report u/s 174 CrPC prepared by SI Parinder Singh and signed by Prabha Singh, Nayab Tehsildar, Sadar Meerut.	Not Known.	Final report has been filed on the FIR No. 785/17, 786/17 and 787/17 on the ground that Ikram succumbed to his injuries and the accomplice called Shakeel could not be identified, statements of residents of Hajipur Mohalla saying that nobody called shakeel lives in that area relied upon..	None	A representation to the National Commission on Minorities	No.
2.	<b>Nadeem (s/o late Irshad)</b> 8th September 2017 Place: Jangal gram, near Jatwara Nahar Pul, PS Kakroli, District Muzaffarnaga	3 FIRs (0396/17, 0397/17 & 0398/17) related to the incident filed against Nadeem and an unknown accused in PS Kakroli, District Muzaffarnagar	No	No	Not known	Not known. No summons received by the family.	Not known	Not known	Family sent complaints to NHRC fearing for Nadeem's life when they got to know that he has been shown absconding from police custody on 6th Sep 2017	A representation to the National Commission on Minorities	No

S. No	Name of the victim, place & Date of incident	FIR against Victim	FIR against concerned Police Officials	Family informed by the Police	Agency investigating the case	Status of magisterial enquiry	Magisterial inquiry report sent to Judicial Magistrate	Chargesheet/Final Report u/s 173 CrPC	Complaints filed before NHRC	Complaints before other authorities	Statement recorded by Police/Magistrate
	r, UP	u/s 307 & 414 IPC, 25(3) of Arms Act 1959.									
3.	<b>Shamshaad s/o Shahid</b>  11th September, 2017  Place: Infront of ITC Gate, PS Sadar Bazaar, Saharanpur	FIR No. 433 dt 11.9.2017 filed in PS Sadar Bazaar against Shamshad and another unknown accused person, u/s 307 IPC and Section 41, 102 CrPC.	No	Not known	An Inspector level officer from PS Janakpuri made the IO in the case.	Not known. No summons received by the family	Not known	Not known	Yes, to SHRC also.	A representation to the National Commission on Minorities	No.
4.	<b>Mansoor S/o Akbar</b>  27th September 2017  Place: Gandhi Ghat, Gate No. 2, Pukhta Road, PS Sadar Bazar, Meerut.	2 FIRs (489/17 & 490/17) filed on 27/9/17 in PS Sadar Bazar, District Meerut u/s 307 IPC and Sec 25/27 of Arms Act against unknown accused persons. The accused killed in the police encounter was later identified	No	No. Next day, 27th September 2017, at around 3.00 am, police official from PS Behat visited their house and asked Mansoor's father to sign on some papers. They did not inform them about Mansoor's killing and stated that those were warrant papers on Mansoor's name. Few hours later, early morning, villagers informed the family that the media is reporting about Mansoor's	Crime Branch, Meerut	Not known. Inquest Report u/s 174 CrPC was signed by Santosh Kumar, Tehsildar, Sadar, Dist Meerut.	Not known	On 3.12.2017 a final report was submitted u/s 173 CrPC to CJM, Meerut for FIR Nos. 489/2017 and 490/2017 on the ground that the accused in the FIRs died on his way to the hospital.	None	A representation to the National Commission on Minorities	No.

S. No	Name of the victim, place & Date of incident	FIR against Victim	FIR against concerned Police Officials	Family informed by the Police	Agency investigating the case	Status of magisterial enquiry	Magisterial inquiry report sent to Judicial Magistrate	Chargesheet/Final Report u/s 173 CrPC	Complaints filed before NHRC	Complaints before other authorities	Statement recorded by Police/Magistrate
		as Mansoor s/o Akbar R/o by Co. Jayvardhan, Crime Branch Meerut.		killing in an encounter.  General Diary No. 5 recorded at 2.30 am on 27/9/2017 at PS Medical, Meerut states that at 2.30 am SHO Prashant Kapil informed the SHO of PS Behat Dist. Saharanpur, in a telephonic conversation, about the details of the encounter and the identity of the deceased accused and Co. 1049 Vinod Kumar was sent to give information about the incident and for necessary investigation. Thus, at 2.30 am the police officials of PS Behat were aware about the details of the encounter, and the identity of the deceased accused, yet deliberately hid the same from Mansoor's family.							

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5.	<b>Sumit Kumar s/o Karam Chand</b> 3rd October 2017 ATS Chowk, Greater Noida, UP	FIR No. 861 and 862 was filed against Sumit Gujjar and three other unknown accused persons u/s 307 IPC and Sections 25 and 27 of Arms Act 1959 in PS. Kasna Distt Gautam Budh Nagar, on 4.10.2017 at 12.10am on the statement of SHO Jitendra Kumar, PS. Kasna.	No. On 23.10.2017, an application u/s 156(3) was filed before the CJM, Baghpat. On 3.11.2017, the application was dismissed by the CJM Bagpat, stating that the said application should be filed in District Gautambudh Nagar. Thereafter an application u/s 156(3) was filed in NOIDA Court, which was dismissed and the case is currently pending in the Allahabad High Court.	No. In the night of 3.10.2017, Sumit's family got to know from NOIDA News Channels that Mr. Luv Kumar, SSP NOIDA, Gautam Budh Nagar has issued a press statement stating that officials of PS Kasna and Bisrakh and other officials were conducting a joint operation in which Sumit was killed in an encounter and 3 other unknown accused managed to escape.	Not known	A Magisterial Inquiry was initiated by SDM, Gautambudh Nagar and the family has given their written submissions to the SDM.	Not known	Not submitted.	NHRC took suo moto cognisance case number - 30160/24/30/2017 -AD, case is pending for receipt of documents from SSP and District Magistrate, Gautam Budh Nagar.	When family got to know that Sumit has been declared absconding from police custody, fearing that it is a ploy by police to kill him in an encounter, on 3.10.2017, Praveen, Sumit's brother faxed complaint letters to DGP, UP Police, Chief Minister, UP, National Human Rights Commission. A complaint was also sent to Mr. Luv Kumar, SSP NOIDA, Gautam Budh Nagar, UP, however no investigation was conducted.  Complaint letters written to City Magistrate, NOIDA, Gautam Budh Nagar, for initiating inquiry proceedings against the police officers. No response. On 17.10.2017, the	Statement submitted to SDM, Gautambudhnagar.

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										family again wrote complaint letters to SP Baghpat, SSP Gautam Budh Nagar, City Magistrate NOIDA, IG Police, Meerut.	
6.	<b>Furqan S/o Meer Hassan</b> 22nd October, 2017  Place: Sugarcane fields near Badakta Canal Bridge, Budhana Police Station (P.S.), District Muzaffarnagar.	4 FIRS (797/2017, 798/2017, 799/2017 and 800/2017) was lodged on 23.10.2017 in PS Budhana, District Muzaffarnagar, u/s. 147,148,149,307, 414 and 411 IPC; Section 41 and 102 CrPC and Section 3, 25, 27 and Section 4/ 25 Arms Act,1959 against Furqan and unknown accused persons.	No. A 156(3) CrPC application was filed before the CJM, Muzaffarnagar (Case No.809/11 of 2017) on 19.12.2017. Petition was dismissed on the ground that a magisterial inquiry by SDM Budhana is underway and that the police documents show that Furqan was a criminal with	No. Family got to know through villagers.	Not known	Pending, by Sub Divisional Magistrate (SDM), Budhana.	Not known	Not submitted.	On 17.11.2017 a letter was sent to the Chairman, National Human Right Commission pertaining to the alleged encounter. No action was taken.  A complaint (Case No. 3788/24/57/2018) was filed before NHRC after the 156(3) application was filed in Court stating that the accused police personnel have threatened the witnesses and family of Furqan with dire consequences if	Letters sent to S.D.M. Tehsil-Budhana, District Muzaffarnagar; DGP, UP Police, S.S.P. Muzaffarnagar, SHO, P.S. Budhana, District-Muzaffarnagar. No response from the authorities.	No

S. No	Name of the victim, place & Date of incident	FIR against Victim	FIR against concerned Police Officials	Family informed by the Police	Agency investigating the case	Status of magisterial enquiry	Magisterial inquiry report sent to Judicial Magistrate	Chargesheet/Final Report u/s 173 CrPC	Complaints filed before NHRC	Complaints before other authorities	Statement recorded by Police/Magistrate
			<p>8 cases registered against him.</p> <p>A Criminal Revision Petition (C.R. No. 1222/2018) is currently pending in the Allahabad HC against the Order of the CJM.</p>						they pursue the case. On 15.02.2018, NHRC transferred the complaint to SSP Muzaffarnagar to take appropriate action. Meer Hasan has not received any response from the SSP Muzaffarnagar as yet.		
7.	<p><b>Ramzani s/o Shafiq</b></p> <p>8th December, 2017</p> <p>Place: Near Nanau Chandgarh Road, Aligarh, UP</p>	FIR registered at PS Akrabad, District Aligarh.	No	Yes	Not known	Not known. No summons received by the family.	Not known	Not known	None	A representation to the National Commission on Minorities	No

S. No	Name of the victim, place & Date of incident	FIR against Victim	FIR against concerned Police Officials	Family informed by the Police	Agency investigating the case	Status of magisterial enquiry	Magisterial inquiry report sent to Judicial Magistrate	Chargesheet/Final Report u/s 173 CrPC	Complaints filed before NHRC	Complaints before other authorities	Statement recorded by Police/Magistrate
8.	<b>Aslam s/o Mausam Ali</b> 9th December, 2017 Dadri, District Gautambudh Nagar, UP.	FIR No.1083/2017, PS Dadri, District Gautambudh Nagar, filed against Aslam and one unknown accused, u/s 307 IPC. (FIR & PM Report not given to the family)	No	No. Cousin Satar received a call from the police on 9 December, 2017- asking for Aslam's details (name of village etc.)- did not inform him of the killing. - Informed of the incident by village pradhan.	Crime Detection Branch, Noida, District Gautambudh Nagar, Aslam's father received a S. 160 CrPC summons from them.	Not known. No summons received by the family.	Not known	Not known	None	A representation to the National Commission on Minorities.	Aslam's father has received summons u/s 160 CrPC for recording of his statement.
9.	<b>Shamim s/o Faku</b> 30th December, 2017 Forest near village Bhalwa, PS Jansath, Muzaffarnagar, UP	3 FIRs (840/17, 841/17, 842/17) filed on 31.12.2017 in PS Jansath, MNZ, u/s 307, 414 IPC, Sec 25/27 of Arms Act and Sec 41/102 CrPC against Shamim and another unknown accused person.	No	No. The family found out about the encounter on 31 December, 2017, through local newspapers.	Not known	Not known. No summons received by the family.	Not known	Not known	None	A representation to the National Commission on Minorities	No