ACCESS TO GOVERNMENT INFORMATION AND H.R. 2635, HUMAN RIGHTS INFORMATION ACT

HEARING

BEFORE THE

SUBCOMMITTEE ON GOVERNMENT MANAGEMENT, INFORMATION, AND TECHNOLOGY

OF THE

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT
HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTH CONGRESS

SECOND SESSION

ON

H.R. 2635

TO PROVIDE A PROCESS FOR DECLASSIFYING ON AN EXPEDITED BASIS CERTAIN DOCUMENTS RELATING TO HUMAN RIGHTS ABUSES IN GUATEMALA AND HONDURAS

MAY 11, 1998

Serial No. 105–175

Printed for the use of the Committee on Government Reform and Oversight

U.S. GOVERNMENT PRINTING OFFICE

51–715 WASHINGTON : 1999

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402
ISBN 0-16-058288-1

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ACCESS TO GOVERNMENT INFORMATION AND H.R. 2635, HUMAN RIGHTS INFORMATION ACT

MONDAY, MAY 11, 1998

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON GOVERNMENT MANAGEMENT,
INFORMATION, AND TECHNOLOGY,
COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT,
Washington, DC.

The subcommittee met, pursuant to notice, at 10 a.m., in room 2154, Rayburn House Office Building, Hon. Stephen Horn (chairman of the subcommittee) presiding.

Present: Representatives Horn, Lantos, and Kucinich.

Staff present: J. Russell George, staff director and chief counsel; John Hynes, professional staff member; Randy Kaplan, counsel Matthew Ebert, clerk; and Faith Weiss, minority counsel.

Mr. HORN. A quorum being present, the subcommittee on Government Management, Information, and Technology will come to order.

We are here today to review the information security policies and the practices of the executive branch of the U.S. Government. There is broad agreement that the Government needs to safeguard sensitive information in the interests of both national security and individual safety. At the same time, there are often compelling reasons for allowing the public to access classified information. H.R. 2635, the Human Rights Information Act, presents Congress with the challenge of balancing these competing interests.

Many questions are raised by this issue. These include whether the Government needs to make fundamental changes to declassification and to classification generally; what role administrative costs and burdens should play in setting that policy; and what approach—targeted requests or broad and systemic efforts—would provide the most fair and effective declassification policy.

We should also consider these information policies from the perspective of the individual requester. I can recall our hearing 2 years ago when we were shocked to learn that it takes 4 years for the average citizen to get a copy of his or her file from the Federal Bureau of Investigation. I feel very strongly that when agencies take that long, they should be asking the President for the resources to get access to those files, as it is as much of their government obligation as many other things we do; and we need to get the truth about individuals so they can see it, if there are errors in the file and this kind of thing.

What is the current process to request classified information from the Government? What areas are commonly encountered? Are

individuals able to obtain requested information in a timely manner? Do they receive satisfactory explanations when the information is not declassified? Do the channels for appealing declassification decisions provide affordable, timely, and fair review?

Our first panel will address the provisions of H.R. 2635. The bill specifically provides a process for declassifying on an expedited basis U.S. Government documents relating to human rights abuses in Guatemala and Honduras. We will hear about the events that have motivated this bill: Why does it focus on these two countries, and why is this information being requested? Each country is in the process of overcoming decades of internal strife. In an attempt to establish a historical record and to secure the rule of law, these countries have established human rights and historical clarification offices.

[The text of H.R. 2635 follows:]

I

105TH CONGRESS
1ST SESSION

H. R. 2635

To provide a process for declassifying on an expedited basis certain documents relating to human rights abuses in Guatemala and Honduras.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 8, 1997

Mr. LANTOS (for himself, Mrs. MORELLA, Mr. LEWIS of Georgia, Mr. MCGOVERN, Mr. OBERSTAR, Mr. SABO, Mr. SERRANO, Ms. FURSE, Mr. SANDERS, and Mr. MEEHAN) introduced the following bill; which was referred to the Committee on Government Reform and Oversight

---

A BILL

To provide a process for declassifying on an expedited basis certain documents relating to human rights abuses in Guatemala and Honduras.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Human Rights Infor-
5 mation Act".

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Agencies of the Government of the United
2 States have information on human rights violations
3 in Guatemala and Honduras.
4 (2) Members of both Houses of Congress have
5 repeatedly asked the Administration for information
6 on Guatemalan and Honduran human rights cases.
7 (3) The Guatemalan peace accords, which the
8 Government of the United States firmly supports,
9 has as an important and vital component the estab-
10 lishment of the Commission for the Historical Clari-
11 fication of Human Rights Violations and Acts of Vi-
12 olence which have Caused Suffering to the Guate-
13 malan People (referred to in this Act as the "Clari-
14 fication Commission"). The Clarification Commis-
15 sion will investigate cases of human rights violations
16 and abuses by both parties to the civil conflict in
17 Guatemala and will need all available information to
18 fulfill its mandate.
19 (4) The National Commissioner for the Protec-
20 tion of Human Rights in the Republic of Honduras
21 has been requesting United States Government doc-
22 umentation on human rights violations in Honduras
23 since November 15, 1993. The Commissioner's re-
24 quest has been partly fulfilled, but is still pending.
25 The request has been supported by national and

1 international human rights nongovernmental organi-
2 zations as well as members of both Houses of Con-
3 gress.

4 (5) Victims and survivors of human rights vio-
5 lations, including United States citizens and their
6 relatives, have also been requesting the information
7 referred to in paragraphs (3) and (4). Survivors and
8 the relatives of victims have a right to know what
9 happened. The requests have been supported by na-
10 tional and international human rights nongovern-
11 mental organizations as well as members of both
12 Houses of Congress.

13 (6) The United States should make the infor-
14 mation it has on human rights abuses available to
15 the public as part of the United States commitment
16 to democracy in Central America.

17 **SEC. 3. DEFINITIONS.**

18 In this Act:

19 (1) HUMAN RIGHTS RECORD.—The term
20 "human rights record" means a record in the pos-
21 session, custody, or control of the United States
22 Government containing information about gross
23 human rights violations committed after 1944.

24 (2) AGENCY.—The term "agency" means any
25 agency of the United States Government charged

1 with the conduct of foreign policy or foreign intel-
2 ligence, including the Department of State, the
3 Agency for International Development, the Depart-
4 ment of Defense (and all of its components), the
5 Central Intelligence Agency, the National Reconnais-
6 sance Office, the Department of Justice (and all of
7 its components), the National Security Council, and
8 the Executive Office of the President.

9 **SEC. 4. IDENTIFICATION, REVIEW, AND PUBLIC DISCLO-**
10 **SURE OF HUMAN RIGHTS RECORDS REGARD-**
11 **ING GUATEMALA AND HONDURAS.**

12 (a) IN GENERAL.—Notwithstanding any other provi-
13 sion of law, the provision of this Act shall govern the de-
14 classification and public disclosure of human rights
15 records by agencies.

16 (b) IDENTIFICATION OF RECORDS.—Not later than
17 120 days after the date of enactment of this Act, each
18 agency shall identify, review, and organize all human
19 rights records regarding activities occurring in Guatemala
20 and Honduras after 1944 for the purpose of declassifying
21 and disclosing the records to the public. Except as pro-
22 vided in section 5, all records described in the preceding
23 sentence shall be made available to the public not later
24 than 30 days after a review under this section is com-
25 pleted.

1 (c) REPORT TO CONGRESS.—Not later than 150 days
2 after the date of enactment of this Act, the President shall
3 report to Congress regarding each agency's compliance
4 with the provisions of this Act.

5 **SEC. 5. GROUNDS FOR POSTPONEMENT OF PUBLIC DISCLO-**
6 **SURE OF RECORDS.**

7 (a) IN GENERAL.—An agency may postpone public
8 disclosure of a human rights record or particular informa-
9 tion in a human rights record only if the agency deter-
10 mines that there is clear and convincing evidence that—
11 (1) the threat to the military defense, intel-
12 ligence operations, or conduct of foreign relations of
13 the United States raised by public disclosure of the
14 human rights record is of such gravity that it out-
15 weighs the public interest, and such public disclosure
16 would reveal—
17 (A) an intelligence agent whose identity
18 currently requires protection;
19 (B) an intelligence source or method—
20 (i) which is being utilized, or reason-
21 ably expected to be utilized, by the United
22 States Government;
23 (ii) which has not been officially dis-
24 closed; and

1 (iii) the disclosure of which would
2 interfere with the conduct of intelligence
3 activities; or
4 (C) any other matter currently relating to
5 the military defense, intelligence operations, or
6 conduct of foreign relations of the United
7 States, the disclosure of which would demon-
8 strably impair the national security of the
9 United States;
10 (2) the public disclosure of the human rights
11 record would reveal the name or identity of a living
12 individual who provided confidential information to
13 the United States and would pose a substantial risk
14 of harm to that individual;
15 (3) the public disclosure of the human rights
16 record could reasonably be expected to constitute an
17 unwarranted invasion of personal privacy, and that
18 invasion of privacy is so substantial that it out-
19 weighs the public interest; or
20 (4) the public disclosure of the human rights
21 record would compromise the existence of an under-
22 standing of confidentiality currently requiring pro-
23 tection between a Government agent and a cooperat-
24 ing individual or a foreign government, and public

1 disclosure would be so harmful that it outweighs the
2 public interest.
3 (b) SPECIAL TREATMENT OF CERTAIN INFORMA-
4 TION.—It shall not be grounds for postponement of disclo-
5 sure of a human rights record that an individual named
6 in the human rights record was an intelligence asset of
7 the United States Government, although the existence of
8 such relationship may be withheld if the criteria set forth
9 in subsection (a) are met. For purposes of the preceding
10 sentence, the term an "intelligence asset" means a covert
11 agent as defined in section 606(4) of the National Security
12 Act of 1947 (50 U.S.C. 426(4)).

13 **SEC. 6. REQUEST FOR HUMAN RIGHTS RECORDS FROM OF-**
14 **FICIAL ENTITIES IN OTHER LATIN AMERICAN**
15 **CARIBBEAN COUNTRIES.**

16 In the event that an agency of the United States re-
17 ceives a request for human rights records from an entity
18 created by the United Nations or the Organization of
19 American States similar to the Guatemalan Clarification
20 Commission, or from the principal justice or human rights
21 official of a Latin American or Caribbean country who is
22 investigating a pattern of gross human rights violations,
23 the agency shall conduct a review of records as described
24 in section 4 and shall declassify and publicly disclose such

1 records in accordance with the standards and procedures
2 set forth in this Act.

3 **SEC. 7. REVIEW OF DECISIONS TO WITHHOLD RECORDS.**

4 (a) DUTIES OF THE APPEALS PANEL.—The Inter-
5 agency Security Classification Appeals Panel (referred to
6 in this Act as the "Appeals Panel"), established under Ex-
7 ecutive Order No. 12958, shall review determinations by
8 an agency to postpone public disclosure of any human
9 rights record.

10 (b) DETERMINATIONS OF THE APPEALS PANEL.—

11 (1) IN GENERAL.—The Appeals Panel shall di-
12 rect that all human rights records be disclosed to the
13 public, unless the Appeals Panel determines that
14 there is clear and convincing evidence that—

15 (A) the record is not a human rights
16 record; or

17 (B) the human rights record or particular
18 information in the human rights record quali-
19 fies for postponement of disclosure pursuant to
20 section 5.

21 (2) TREATMENT IN CASES OF NONDISCLO-
22 SURE.—If the Appeals Panel concurs with an agency
23 decision to postpone disclosure of a human rights
24 record, the Appeals Panel shall determine, in con-
25 sultation with the originating agency and consistent

1 with the standards set forth in this Act, which, if
2 any, of the alternative forms of disclosure described
3 in paragraph (3) shall be made by the agency.
4 (3) ALTERNATIVE FORMS OF DISCLOSURE.—
5 The forms of disclosure described in this paragraph
6 are as follows:
7 (A) Disclosure of any reasonably seg-
8 regable portion of the human rights record
9 after deletion of the portions described in para-
10 graph (1).
11 (B) Disclosure of a record that is a sub-
12 stitute for information which is not disclosed.
13 (C) Disclosure of a summary of the infor-
14 mation contained in the human rights record.
15 (4) NOTIFICATION OF DETERMINATION.—
16 (A) IN GENERAL.—Upon completion of its
17 review, the Appeals Panel shall notify the head
18 of the agency in control or possession of the
19 human rights record that was the subject of the
20 review of its determination and shall, not later
21 than 14 days after the determination, publish
22 the determination in the Federal Register.
23 (B) NOTICE TO PRESIDENT.—The Appeals
24 Panel shall notify the President of its deter-
25 mination. The notice shall contain a written un-

1 classified justification for its determination, in-
2 cluding an explanation of the application of the
3 standards contained in section 5.
4 (5) GENERAL PROCEDURES.—The Appeals
5 Panel shall publish in the Federal Register guide-
6 lines regarding its policy and procedures for adju-
7 dicating appeals.
8 (c) PRESIDENTIAL AUTHORITY OVER APPEALS
9 PANEL DETERMINATION.—
10 (1) PUBLIC DISCLOSURE OR POSTPONEMENT
11 OF DISCLOSURE.—The President shall have the sole
12 and nondelegable authority to review any determina-
13 tion of the Appeals Board under this Act, and such
14 review shall be based on the standards set forth in
15 section 5. Not later than 30 days after the Appeals
16 Panel's determination and notification to the agency
17 pursuant to subsection (b)(4), the President shall
18 provide the Appeals Panel with an unclassified writ-
19 ten certification specifying the President's decision
20 and stating the reasons for the decision, including in
21 the case of a determination to postpone disclosure,
22 the standards set forth in section 5 which are the
23 basis for the President's determination.
24 (2) RECORD OF PRESIDENTIAL POSTPONE-
25 MENT.—The Appeals Panel shall, upon receipt of

1 the President's determination, publish in the Federal
2 Register a copy of any unclassified written certifi-
3 cation, statement, and other materials transmitted
4 by or on behalf of the President with regard to the
5 postponement of disclosure of a human rights
6 record.

7 **SEC. 8. REPORT REGARDING OTHER HUMAN RIGHTS**
8 **RECORDS.**

9 Upon completion of the review and disclosure of the
10 human rights records relating to Guatemala and Hon-
11 duras, the Information Security Policy Advisory Council,
12 established pursuant to Executive Order No. 12958, shall
13 report to Congress on the desirability and feasibility of
14 declassification of human rights records relating to other
15 countries in Latin America and the Caribbean. The report
16 shall be available to the public.

17 **SEC. 9. RULES OF CONSTRUCTION.**

18 (a) FREEDOM OF INFORMATION ACT.—Nothing in
19 this Act shall be construed to limit any right to file a re-
20 quest with any executive agency or seek judicial review of
21 a decision pursuant to section 552 of title 5, United States
22 Code.

23 (b) JUDICIAL REVIEW.—Nothing in this Act shall be
24 construed to preclude judicial review, under chapter 7 of

1 title 5, United States Code, of final actions taken or re-
2 quired to be taken under this Act.

3 **SEC. 10. CREATION OF POSITIONS.**

4 For purposes of carrying out the provisions of this
5 Act, there shall be 2 additional positions in the Appeals
6 Panel. The positions shall be filled by the President, based
7 on the recommendations of the American Historical Asso-
8 ciation, the Latin American Studies Association, Human
9 Rights Watch, and Amnesty International, USA.

O

Mr. HORN. We welcome representatives from these offices to testify before us this morning. They may help us to understand a recent and very unwelcomed development. Monsignor Gerardi, the auxiliary bishop for the Archdiocese of Guatemala, was assassinated 1 week ago on Sunday, May 3. This assassination came 2 days after Monsignor Gerardi presided over the release of a report on human rights violations in Guatemala.

The second panel will focus on the process of requesting information from the Government and the importance of an effective declassification program.

Finally, we will hear from the administration on both the specific issues raised by H.R. 2635 and the broader subjects of classification and declassification policy. The views of the administration, particularly the agencies to which these information requests have been made, are essential to a full and balanced consideration of this bill. I am disappointed to announce, therefore, that two very important agencies we invited to this hearing refused to appear. We gave them plenty of notice; they knew this was coming. They originally said they would appear.

The refusal of the Department of State and the Department of Justice to go on the record is mystifying to say the least. The Department of State has refused to appear because they were not allowed to testify first and then leave before any nongovernmental witnesses testified. My opinion on this is that the Department of State and other agencies should testify, and then hear from the nongovernment witnesses, and the witnesses could tell them something they might learn if they stop to listen.

The Department of Justice has informed the subcommittee staff that they could not receive clearance on their views letter from the Office of Management and Budget in time for the hearing. When our staff checked with OMB last week to see if they turned in any testimony, guess what? They hadn't. So don't blame the Office of Management and Budget for not clearing it.

Now at quarter of 10 this morning the Department of State issued a letter to us, and we will file that in the record at the end of my remarks, and without objection it will be put in right here, and of course that isn't the point. Anybody can file a letter with any congressional committee in a hit-and-run operation, but we want a dialog, and we think these people should come up here and listen to you and listen to members of the committee on both sides of the aisle who have strong feelings on this subject, and then let's get a dialog and see where we are from there on.

We will hold a special hearing. If we have to subpoena them, we will subpoena them. But that is Justice and State and their contribution to this morning's dialog.

[The information referred to follows:]

United States Department of State

Washington, D.C. 20520

MAY 11 1998

Dear Mr. Chairman:

This letter responds to the Committee's request for views on H.R. 2635, the Human Rights Information Act.

The Department of State favors rapid and convenient citizen access to government information and recognizes that H.R. 2635 is an attempt to promote that access.

The U.S. Government's documents concerning human rights abuses of U.S. citizens and their family members, as well as to non-American citizens, in Honduras, Guatemala, and El Salvador have been the subject of one of the most intense and exhaustive release efforts undertaken by the Department of State. Various review projects ordered by the President and the Congress produced thousands of pages of releasable material and took hundreds of hours of review time in the Department of State alone. This voluminous information was provided to victims and their families. Much of this information is currently available from the Internet at foia.state.gov.

The State Department has completed most of its declassification and release work on documents pertaining to human rights violations in Honduras. Most of the documents requested by the National Commissioner on Human Rights of the Honduran government have been processed and released. We have released over 500 documents.

The Department has also made extraordinary efforts to release documents pertaining to human rights violations in Guatemala. In May 1996 we released 5,800 documents relating to cases from 1984 to the present. In June 1996 the Department, in conjunction with the CIA and the Department of Defense (DOD), released nearly 900 documents related to the Intelligence

The Honorable
Steve Horn, Chairman,
Subcommittee on Government Management, Information and Technology,
Committee on Government Reform and Oversight,
House of Representatives.

Oversight Board's Guatemala 1995-96 review. In May 1997 we released 400 additional documents associated with alleged human rights abuses against U.S. citizens in Guatemala which occurred prior to 1984.

As a result of these and other declassification reviews, over 7,000 documents related to human rights cases in Guatemala from 1954 to the present have been reviewed and released, including 30 cases involving American citizens. Additionally, the U.S. government is now involved in a special project to assist Guatemala's Historical Clarification Commission (*Comision para el Esclarecimiento Historico*).

We have given this project a high priority and have already released approximately 3,500 pages of documents to the Commission. In 1998 several thousand pages of documents were provided to the Commission in its efforts to provide an historical record of the massive human rights violations in that country over 36 years of internal armed conflict.

The Department undertook two projects on El Salvador in 1993 and 1994, resulting in the release of the maximum number of documents, while still protecting sensitive sources, relations with third countries and international organizations. Recently, at the request of several members of Congress and the Lawyers Committee for Human Rights, the Department reopened the project pertaining to the 1980 murders of four American churchwomen in El Salvador. At present we are making every effort to release all relevant information, including special evidence made available to Harold B. Tyler for his 1993 report on the case, to the victims' families, consistent with current declassification standards.

Thus, the Administration has effectively pursued maximum disclosure of human rights information pertaining to Honduras and Guatemala under the legal framework established by the Freedom of Information Act (FOIA). We do not believe that a new process for public disclosure of human rights records for Honduras and Guatemala outside the FOIA framework is either necessary or desirable. H.R. 2635 would, in effect, create a mini-FOIA with new and different criteria but limited to a particular set of documents.

In addition, H.R. 2635 could impinge upon the President's authority and flexibility to manage the

executive branch's classification and declassification programs. The requirement in Section 5 that non-disclosure of national security information should satisfy a "clear and convincing evidence" test is an example of a provision that raises this concern.

We believe that H.R. 2635 sets an unwise precedent in establishing a country-based priority for the release of documents. The disclosure criteria created by H.R. 2635 would alter existing FOIA standards and would, in effect, discriminate against other individual's who have equally compelling needs for information. It would also divert resources from other information declassification activities.

The Administration attaches the highest importance to advancing human rights within this hemisphere and we are committed to furthering the maximum disclosure of human rights information. We remain interested in working with the Committee and others in the Congress to explore ideas to strengthen the U.S. Government's ability to maximize disclosure of human rights information. We welcome additional discussion with you or your staff on this issue.

The Office of Management and the Budget advises that from the standpoint of the Administration, there is no objection to the submission of this letter.

We hope this information is useful to you. Please do not hesitate to call us if we can be of further assistance.

Sincerely,

Barbara Larkin

Barbara Larkin
Assistant Secretary
Legislative Affairs

Mr. HORN. I am now delighted to yield to my colleague, the gentleman from Ohio, Mr. Kucinich.

Mr. KUCINICH. Thank you very much, Chairman Horn. I just received this letter from the—one of the departments; I suppose it is relevant to this so——

Mr. HORN. It is State, I assume.

Mr. KUCINICH. State Department, same one that you have, where I take it they are justifying their refusal to come here this morning.

Well, in any event, I just want to go on record as saying that I would support the Chair in any effort to subpoena either the State Department or the Justice Department to testify on this matter. It does not bode well for this overall subject that two of the important departments were getting answers on these serious questions before us today of—essentially refused to cooperate with this committee. Again, I want those departments to know, if they have any representatives here sitting in the audience who are watching, that I would support the Chair's effort to issue subpoenas, so you are not going to escape accountability.

Today we are considering legislation introduced by my respected colleague, Mr. Lantos. I am a cosupporter of this bill, because I think it is time that the U.S. Government come clean on a sad chapter in our history. We are privileged to have as witnesses individuals who have dedicated their lives to working on human rights and who will be explaining the need for this legislation.

In particular, I would like to welcome Dr. Leo Valladares, the Honduran human rights ombudsman, and Mr. Federico Reyes of the Guatamalan Archbishop's Office of Human Rights, both of whom have traveled a great deal to testify before the subcommittee. Both Dr. Valladares and Mr. Reyes are dedicated to uncovering the truth and bringing human rights abusers to justice. I think their work ought to be fully supported; and people who work on human rights investigations do so at great personal risk to themselves and their loved ones. Many of the individuals here today and many others not present routinely jeopardize their own safety to bring peace to others who have suffered greatly. The world does take note and will stand behind your work.

The hidden truth about state-sponsored killings in Central America continues to cause widespread injustice. Two high-ranking Salvadoran military commanders were allowed to move to the United States in 1983. Ten years later, the El Salvador U.N. Truth Commission found that the same two military officials had covered up the brutal slaying of four American nuns in 1980. The U.S. Ambassador to El Salvador at the time of the murders, "knew immediately it was the military," and found it difficult to accept that the U.S. Government was not aware that these men "were all guilty of either ordering or then covering up the killing."

I make this note, Mr. Chairman, because I personally knew Sister Dorothy Kazel, and it is shocking that our Government may have knowingly aided former Salvadoran military officials who likely ordered her murder, and that three other sisters, all American citizens, were also murdered. I am offended and outraged that these men live in the United States and have not been held accountable.

The U.S. Government trained and financed military and intelligence units to fight Communist governments and leftist insurgents in Central America. The United States amassed mountains of classified information on the political and military leaders of El Salvador, Guatamala, and Honduras, with whom we developed close relationships. Some of these same political and military officials committed horrible human rights violations with impunity, protected by their American connections.

Victims of human rights abuses in Central America need the information contained in the files of the Department of Defense, the CIA, and the State Department. To them the information is a matter of life, death, and dignity, and would provide some closure to the families of the victims and help build a foundation for an accountable military and civilian government by bringing those responsible for crimes to justice that may prevent future bloodshed.

Bishop Gerardi founded the Guatemalan Archbishop's Office on Human Rights in 1984. Just 2 weeks ago he was murdered in his own garage, his head crushed by a cement block. Bishop Gerardi had just released a report card, "Guatemala: Never Again," on human rights violations during its 36-year civil war. His death was designed to threaten public confidence in the peace accord, to intimidate those who seek to uncover the truth, and warns Guatemalans that the horrors may not be over. The New York Times reports that many in Guatemala fear that the Government is covering up his murder and framing someone else.

The statistics from the Archbishop's report are staggering. Almost 1 million Government and military officials were involved in human rights abuses. Over 150,000 Guatemalans died or disappeared during the violence, and the military police were responsible for over 80 percent of these crimes. The report documented 422 massacres and compiled testimony on 55,000 murders, disappearances, tortures, rapes, assaults, and kidnappings.

In releasing his report, Bishop Gerardi emphasized that, "We cannot distort history, nor should we silence the truth. It is the truth that challenges each one of us to recognize our individual and collective responsibility and commit ourselves to action so that these abominable acts must never happen again." Bishop Gerardi drew on the Cain and Abel story from Genesis, asking: "What have you done? The voice of your brother's blood is crying to me from the ground." Much blood has been shed upon the ground in Guatemala.

The stories from Honduras are just as tragic. Honduran mothers gathered over grave sites to find their children. As one mother noted, "my son was not there, but these are the sons of someone."

The Baltimore Sun published a four-part series on the United States military and intelligence activities in Honduras. The series focused on Battalion 316, a military counterintelligence unit trained and funded by the CIA. According to the Sun, 24-year-old Ines Consuelo Murillo was tied, hung naked from a ceiling, and beaten repeatedly by members of Battalion 316. Her tormentors nearly drowned her and frequently electrocuted her. "It was so frightening the way my body would shake when they shocked me. They put rags in my throat so I could not scream," she said. "But I screamed so loud, sometimes I sounded like an animal. I would

even scare myself." In 1983 a CIA agent known as Mr. Mike visited her in a secret jail when she was being tortured by Battalion 316.

Mr. Chairman, in the interests of getting to our witnesses, I am going to submit the rest of my testimony here for the record. But I do want it said that for too long the U.S. Government has hidden its involvement with the military and paramilitary groups in Central America. Information relating to human rights abuses should be the highest priority for declassification. We cannot leave any stone unturned in exposing the hidden truth regarding human rights violations.

I have spent quite a bit of time studying this, Mr. Chairman. There is a book which you may be familiar with, "The Massacre at El Mozote," which talks about how an entire village in El Salvador was wiped out with the help of a paramilitary group which had received aid from the United States—733 people were murdered, a good many of them children and women. Our Government's official policy at the time was such that there was complete denial, as there is a denial going on all the time about human rights abuses that we unfortunately have been complicit in.

The American taxpayers should know how their tax dollars are used at times, and it is important to have a hearing like this. I congratulate Mr. Lantos for bringing this issue forward, because we need to know how Government policy affects other countries, and we also need to know how taxpayers' dollars are being used in support of torture and human rights abuses.

I don't believe the American people condone this, I don't believe the American people think that the Department of Justice and the Department of State ought not be held accountable and should not appear before us today to testify.

With that, I want to send this back to the Chair and thank the chairman for his indulgence.

[The prepared statement of Hon. Dennis J. Kucinich follows:]

Opening Statement of The Honorable Dennis J. Kucinich
GMIT Hearing: "The Human Rights Information Act"
May 10, 1998

Today we are considering legislation introduced by my respected colleague, Mr. Lantos. I am a co-sponsor of this bill, because it is time that the US government come clean on a sad chapter in our history. We are privileged to have as witnesses individuals who have dedicated their lives to working on human rights and who will be explaining the need for this legislation. In particular, I would like to welcome Dr. Leo Valladares, the Honduran Human Rights Ombudsman, and Mr. Federico Reyes of the Guatemalan Archbishop's Office of Human Rights, both of whom have traveled a great distance to testify before this Subcommittee.

Both Dr. Valladares and Mr. Reyes are dedicated to uncovering the truth and bringing human rights abusers to justice. We fully support the work of these institutions, and other similar groups. The people who work on human rights investigations do so at grave personal risk to themselves and their loved ones. Many of the individuals here today – and many others not present – routinely jeopardize their own safety to bring peace to others who have suffered greatly. The world does take note and will stand behind you in your work.

The "hidden truth" about state-sponsored killings in Central America continues to cause widespread injustice. Two high ranking Salvadoran military commanders were allowed to move to the US in 1983. Ten years later, the El Salvador U.N. Truth Commission found that the same two military officials had "covered up" the brutal slaying of four American nuns in 1980. The US ambassador to El Salvador at the time of the murders "knew immediately it was the military" and found it difficult to accept that

the US government was not aware that these men "were all guilty of either ordering or then covering up the killing."

I personally knew Sister Dorothy Kazel. I find it shocking that our government may have knowingly aided former Salvadoran military officials who likely ordered her murder, and those of three other Sisters, all American citizens. I am offended and outraged that these men live in the United States and have not been held accountable.

The US government trained and financed military and intelligence units to fight communist governments and leftist insurgents in Central America. The US amassed mountains of classified information on the political and military leaders of El Salvador, Guatemala and Honduras, with whom we developed close relationships. Some of these same political and military officials committed horrible human rights violations with impunity – protected by their American connections.

Victims of the human rights abuses in Central America need the information contained in the files of the DOD, the CIA, and the State Department. To them, the information is a matter of life, death, and dignity; it would provide some closure to the families of the victims and help build the foundations for an accountable military and civilian government by bringing those responsible for crimes to justice. It may prevent future bloodshed.

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In releasing his report, Bishop Gerardi emphasized that: "We cannot distort history, nor should we silence the truth. ... It is a truth that challenges each one of us to recognize our individual and collective responsibility and commit ourselves to action so that those abominable acts never happen again." Bishop Gerardi drew on the Cain and Abel story from Genesis, asking: "What have you done? The voice of your brother's blood is crying to me from the ground." Much blood has been shed upon the ground in Guatemala.

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The *Baltimore Sun* published a four-part series on the US military and intelligence activities in Honduras. The series focused on Battalion 316, a military counterintelligence unit trained and funded by the CIA. According to the *Sun*, 24-year old Ines Consuelo Murillo was tied, hung naked from the ceiling, and beaten repeatedly by members of Battalion 316. Her tormentors nearly drowned her and frequently electrocuted her. "It was so frightening the way my body would shake when they shocked me. They put rags in my throat so I would not scream," she said. "But I screamed so loud, sometimes it sounded like an animal. I would even scare myself." In 1983, a CIA agent, known as Mr. Mike, visited her in the secret jail where she was being tortured by Battalion 316.

One of the former Battalion torturers interviewed by the *Baltimore Sun* remembered that the prisoners "always asked to be killed. Torture is worse than death."

From the *Baltimore Sun* series and the internal CIA investigation that followed, we learned that the US government was aware that Battalion 316 was killing, torturing and kidnapping people. And yet, in 1983 the State Department reported that "There are no political prisoners in Honduras." Also that year, well after abuses of the Honduran Battalion 316 were known to our government, the US awarded the head of Battalion 316, General Alvarez, the Legion of Merit medal for "encouraging the success of democratic processes in Honduras." When General Alvarez was overthrown in 1984, he settled in Miami with his family.

The US government wanted to avoid any official mention of human rights violations that might jeopardize continued military funding for Honduras, which had climbed to a record $77.4 million in 1984. Because we needed the Honduran military and Honduran airfields and bases for access to its neighboring countries, our government turned a blind eye to the allegations of human rights violations by our Honduran ally.

The search for truth in Central America leads inevitably to the United States. Mr. Thomas Buergenthal, a distinguished US law professor who was a member of the UN Truth Commission for El Salvador, observes:

> "The American Government continues to this day to resist a full accounting of the brutal crimes committed in Central America during the cold war. ... As a rule, the people responsible for the crimes were either in the pay of our intelligence services or they were viewed as invaluable allies in the struggle against Communist subversion. That they were also frequently thugs and murderers mattered little during those years."

Mr. Buergenthal's experience trying to obtain information for the El Salvador Truth Commission led him to conclude:

> "The real reasons that officials deny access have little to do with national security. The predominant concern of the intelligence agencies tends to be the desire to coverup their own incompetence or to protect themselves against charges that they violated official United States policies by participating in or not reporting human rights abuses by their foreign counterparts. ... Since these agencies determine for themselves what information should be disclosed, they reveal little that will embarrass them."

I am sorely disappointed that the DOD and the State Department are not here today to discuss this bill and their response to these governments who have reached out for assistance. The State Department received a formal invitation from our Subcommittee to appear and declined to attend. The DOD was aware of this hearing, and on several occasions Subcommittee staff contacted the agency to invite it to testify, but the DOD did not return their calls. This does not reflect the accountability we should have from our own government.

In response to the Honduran human rights information requests, the DOD admits that it has at least 260 boxes of potentially relevant materials. From 260 boxes, the agency has released only 250 pages. I am holding in my hand everything DOD released to Honduras as a result of a 4 year search! This is not enough!

Moreover, the information released is almost useless. On the chart, I have an example. [Show Board 1] The title indicates the relevance of this "Information Paper" on "Honduran Armed Forces -- Human Rights and Corruption" -- and yet about 80% of this document has been redacted.

Our government must make good on its promise to help the full truth come out.

A *New York Times* editorial on Saturday recognized that "this Administration had done more than any previous one to declassify documents and reveal past American abuses" but urged the Administration to do more now that the Cold War is over. I strongly encourage the Clinton Administration to support enactment of this bill.

Moreover, the President should fulfill his promise to the people of Honduras and Guatemala by issuing an Executive Order immediately that would require the release of human rights information on these countries under the conditions set out in H.R. 2635. The President can take this action unilaterally.

For too long, the US government has hidden its involvement with the military and paramilitary groups in Central America. Information relating to human rights abuses should be the highest priority for declassification. We cannot leave any stone unturned in exposing the hidden truths regarding human rights violations.

Mr. HORN. I thank the gentleman for his helpful opening comments.

I now like to yield to the author of the bill, H.R. 2635, the gentleman from California, Mr. Lantos. His life has been devoted to human rights. He is the co-chairman, with John Porter of Illinois, of a bipartisan Human Rights Caucus. He has long been active in this area. In the course of your remarks, Mr. Lantos, it would be most helpful if you would explain how your bill would get at this when it becomes law.

Mr. Lantos.

Mr. LANTOS. Thank you very much, Mr. Chairman.

I first would like to commend you for holding this hearing on what I consider to be one of the most important issues to come before the Congress this session. Your own long commitment to the protection of human rights and your leadership on this issue in Congress is second to none.

I also want to commend and congratulate my good friend, the distinguished ranking member of this committee, Congressman Dennis Kucinich of Ohio, who although only in his first term has already established himself as an outstanding legislator and a champion of human rights. His cosponsorship and strong support of the Human Rights Information Act is just another expression of his sincere commitment to this all-encompassing issue. Dennis has been an outstanding advocate for the families and friends of the three American nuns and the lay worker tragically murdered in El Salvador in 1980, an issue on which he has provided exemplary leadership.

Mr. Chairman, I would like to put the issue, my legislation, and this hearing in some kind of a historical perspective, because I think it is important that we discuss an issue on which I believe there is great bipartisan unity in this body in opposition to the position of the administration. Secretary of State Madeleine Albright's recent observation that the United States is the "indispensable nation" on the face of this planet, in my humble judgment, is a very accurate and apt description. Had it not been for Franklin Delano Roosevelt, who turned around an isolationist Nation, and had we not assumed in the early forties our international responsibility as the indispensable Nation, history would have been different. We could be looking at a European continent dominated by Nazi Germany and an Asia run by imperial Japan. And through Republican and Democratic Presidents beginning with Franklin Roosevelt, the United States, with occasional lapses, has been the "indispensable Nation." Without the United States the world would be in infinitely worse shape.

I find it necessary to state this because in this particular instance our Government policy, I am convinced, is dead wrong. But I don't want either my very harsh comments concerning this policy and the general issue of my legislation to cloud the underlying reality that the United States is the indispensable Nation for trying to create a more civilized world, and I am profoundly convinced that my legislation is very much in line with that broad objective.

I think it is particularly appropriate that we are meeting on this legislation on the 50th anniversary of the Berlin Airlift, which is yet another example of how the United States, with courage and

determination, changed the course of history. What we are asking in this modest piece of legislation is merely to correct one of several mistakes our government has made over the last 60 years.

I was pleasantly surprised, Mr. Chairman, that on Saturday the New York Times devoted a major editorial to my legislation and this issue. I would like to quote from this editorial, which I think so appropriately summarizes what we are after. The title of the editorial is "A Timely Key for Unlocking History."

Despite the Clinton administration's promise to open cold war archives, Central American and Caribbean countries investigating recent abuses have found it difficult to get information they need. American intelligence and diplomatic officials serving in Honduras, Haiti, El Salvador, and Guatemala collected information about human rights, and many had relationships with the abusers. But when investigators in trials or truth commissions have sought the documents, declassification has often been incomplete and tardy. An effort to change this, the subject of a congressional hearing on Monday, deserves the administration's full support.

And I want to repeat this. I think this legislation does deserve the administration's full support as it enjoys the full support of distinguished Republicans and Democrats in this body.

The Human Rights Information Act would give agencies 120 days to make declassification decisions on requests from truth commissions and other official investigative panels. Currently the process can take years. Honduras has been waiting since 1993 for documents from the CIA. The bill covers only Central America and Caribbean nations, but can and should be broadened. It would also require the agencies to lean toward openness, applying standards that have been used successfully in the recent releases of documents on the Kennedy assassination, without revealing intelligence sources or methods. They require a precise definition of harm to national security before material can be withheld. This should combat the widespread practice of keeping material classified merely because it embarrasses the American government.

Administration officials say the bill will let Congress dictate matters that should be the prerogative of the President.

My measure gives the President the final say.

They also argue that this administration has done more than any previous one to declassify documents and reveal past American abuses. That is true. But since it is unincumbered by cold war abuses and the old enemy is gone, it should be doing more. Countries find it difficult enough to uncover the past, bring abusers to account and create respect for the law without having to wrestle with Washington along the way.

That is the editorial from the New York Times.

Mr. HORN. Without objection we will put it in the record at this point.

[The information referred to follows:]

A Timely Key for Unlocking History

Despite the Clinton Administration's promise to open cold-war archives, Central American and Caribbean countries investigating recent abuses have found it difficult to get information they need. American intelligence and diplomatic officials serving in Honduras, Haiti, El Salvador and Guatemala collected information about human rights, and many had relationships with the abusers. But when investigators in trials or truth commissions have sought the documents, declassification has often been incomplete and tardy. An effort to change this, the subject of a Congressional hearing on Monday, deserves the Administration's full support.

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Administration officials say the bill will let Congress dictate matters that should be the prerogative of the President. But the measure gives the President the final say. They also argue that this Administration has done more than any previous one to declassify documents and reveal past American abuses. That is true, but since it is unencumbered by cold-war abuses and the old enemy is gone, it should be doing more. Countries find it difficult enough to uncover the past, bring abusers to account and create respect for the law without having to wrestle with Washington along the way.

The NY Times, 9 May 1998, p. A22

Mr. LANTOS. I appreciate that, Mr. Chairman.

Mr. Chairman, I also would like to say a word about the tragic murder of the bishop in Guatemala and the break-in into the home of Carlos Federico Reyes Lopez of the Office of Human Rights of the Archbishop of Guatemala.

Just a few days ago, his materials and computer containing information of this hearing were taken, indicating the anxiety that perpetrators of outrages feel even today about information being made public. I strongly urge, Mr. Chairman, that this legislation be adopted. I think the administration would do well in its own self-interest not to fight what we are asking for. This administration is not responsible for the crimes committed many years ago. It should not now be in a position of attempting to participate in the coverup.

And before I close, Mr. Chairman, I want to express my personal appreciation to the director of the Human Rights Caucus on my staff, Hans Hogrefe, who has done such a superb job in preparing this hearing.

I ask that my prepared statement be included in the record, and I yield back the balance of my time.

[The prepared statement of Hon. Tom Lantos follows:]

Statement by Congressman Tom Lantos (D-CA)

House Committee on Government Reform and Oversight Subcommittee on Government Management, Information and Technology

Hearing on: The Human Rights Information Act (H.R. 2635)

Monday, May 11th, 1998

Thank you Mr. Chairman. I appreciate the opportunity to participate in this important hearing before this distinguished committee, even though I am not one of its Members. Mr. Chairman, I first would like to commend you for holding this important hearing on what I consider to be the most important issue which can possibly come up before Congress -- the protection of Human Rights and democracy. Your long commitment to the protection of Human Rights and your leadership on this issue in Congress is second to none. I also appreciate the bipartisan manner in which you and your staff worked with the distinguished Ranking Member of this Committee, my good friend from Ohio, Dennis Kucinich, who -- while in his first term -- has already established himself as an outstanding legislator and a champion of human rights in this

Congress. His cosponsorship and strong support of the Human Rights Information Act is another expression of his sincere commitment to Human Rights. Dennis has been an outstanding advocate for the families and friends of the three American Nuns and the layworker tragically murdered in El Salvador in 1980, an issue on which he has provided strong leadership.

- Mr. Chairman, today we will hear testimony on the Human Rights Information Act (H.R. 2635), which I have introduced as a companion bill to the legislation Senator Dodd has introduced in the Senate.

- As you know, the Human Rights Information Act with currently 79 cosponsors has found strong bipartisan support from many of my most distinguished colleagues, who are all leading voices in the defense of human rights.
  My bill is originally co-sponsored by the Honorable Constance Morella, James McGovern and Elizabeth Furse, as well as my good friends John Lewis, James Oberstar, Martin Sabo, Jose Serrano, Bernie Sanders and Martin Meehan and I thank them for their support.

- The bill I have introduced will dramatically improve the current declassification procedures of human rights documents pertaining to gross human rights violations in Guatemala and Honduras. This important bill strikes a perfect

balance between the need for speedy and comprehensive declassification and the need to protect legitimate U.S. national security interests.

- Let me briefly outline the provisions of the bill:

- 1) 120 days after enactment, each agency shall identify, review and organize all human rights records regarding activities occurring in Guatemala and Honduras after 1944. (Sec. 4 (b))

2) Provisions of the already enacted JFK Assassination Records Act protect legitimate National Security concerns. (Sec. 5)

3) The Act opens the procedures to human rights entities in other Latin American or Caribbean countries (Sec. 6)

4) Review of Decisions to withhold records will be made by the Interagency Security Classification Appeals Panel, an entity created by Presidential Executive Order 12958. (Sec. 7)

5) The Act creates two new position on this panel to be filled by the President, based on recommendations by the American Historical Association, the Latin American Studies Association, Human Rights

Watch and Amnesty International.

- This act will be of invaluable assistance to the work of my good friend, Dr. Leo Valladares, the Honduran Human Rights Commissioner, who is here today to testify before this Committee, and it will support the work of the Guatemalan Clarification Commission which will publish its final report some time this summer. In December 1993, Dr. Valladares had published a report entitled *The Facts Speak for Themselves* detailing the "disappearance" of close to 200 persons since 1980. Before the Commissioner concluded his preliminary report, he asked the U.S. Government for files and information. I, and many other members of the Congressional Human Rights Caucus have in several letters supported the requests made by Dr. Valladares. But, despite a Presidential executive order, declassification of relevant documents has been very narrowly focused and extremely slow. Only detailed and thorough consideration and investigation of human rights abuses in this area can achieve full accountability needed to rebuild peaceful and reconciled civil societies in these areas.

- While the Guatemalan Clarification Commission will soon complete its work, other efforts to fully account for past human rights violations will continue, and I hope as soon as possible with a governmental mandate. The recent

tragic and violent death of Guatemala's outstanding spiritual leader and human rights defender, Monsignor Juan Gerardi Conadera, the Auxiliary Bishop who served as General Director of the Guatemalan Archbishop's Human Rights Office, illustrates again in the most dramatic manner why the focus on Guatemala and Honduras as procedure examples in my bill is fully justified. Bishop Gerardi was murdered on April 26th, 1998, only two days after he officiated at the public presentation of *Guatemala: Never Again*, a report which in an outstanding and extremely difficult effort was nonetheless able to put the civil war death toll at 150,000 in addition to some 50,000 estimated disappearances. Needless to say, there is complete documentation for only the smallest number of cases, and the efforts by the Archbishop's Human Rights Office will continue, hopefully soon with the full support of the provisions of the Human Rights Information Act. Let us never forget that these staggering estimates reflect the suffering and pains of hundreds of thousands of individuals, families, and loved ones, which no statistics can ever do justice. This crucial report was prepared by the interdiocesan project, Recovery of Historical Memory (REMHI), which the Bishop coordinated. We are honored to welcome today Carlos Federico Reyes from the Archbishop's Human Rights Office as one of our witnesses, and I ask him to accept the condolences of the U.S. Congress and the American people for the tragic loss of Bishop Gerardi. Our strong involvement in Latin and Carribean America since 1944 produced

an extraordinary amount of documents related to human rights violations in this region unmatched in any other area. Our own involvement, the unique wealth and quality of information, and the internal and external threats to the emerging democracies are compelling enough to first and immediately review all human rights documents pertaining to this region.

- [However, I cannot state strongly enough that I am fully committed to our strong moral and legal obligation to protect human rights and emerging democracies globally, and I will therefore work as hard as I can to broaden the focus of the bill by opening the mechanisms outlined in my act to all national and inter-governmental human rights entities.]

- The governmental obligation to fully support and protect human rights and democracy has been the common ground which gave birth to our nation. The constitutional codification of the human rights concept, The Bill of Rights, soon had a much wider influence in countries all around the world in their quest for freedom and democracy. Successive U.S. Administrations have recognized the strong national commitment to human rights as a guiding principle and highest obligation in their foreign policies. As a result, the United States has freely accepted its obligation to the protection of human rights under international law by signing and ratifying various international human

rights treaties and covenants. Out of this understanding, a special moral obligation in all governmental policy arises with regards to the protection of human rights. Only a public fully informed about policies directly affecting these most fundamental rights here and abroad can make meaningful decisions in controlling its government and fully participate in a working democracy. The immediate declassification of documents pertaining to human rights violations should therefore be the paramount obligation of any U.S. administration, and this obligation deserves the full protection by law and the utmost attention within the priorities of any declassification process.

- The same applies to all the countless victims of human rights violations, their families, and the survivors. The United States should never forget its obligation to those people whose lives have directly or indirectly affected by our policies, and who are now rightfully seeking the most basic of all information: What happened to their relatives and loved ones, and who was responsible for it?

- I thank you again, Mr. Chairman, and I am looking forward to hearing the testimony of our witnesses.

Mr. HORN. We thank you very much for that eloquent statement. Just as a matter of practice, before this subcommittee, the minute you are introduced the full statement is put in the record, and that will be the same with the witnesses. We don't want you to read the whole statement. It is there in the record. What we would like you to do is summarize it so we can have more of an opportunity for questions and a dialog; and we don't rush witnesses, we just want the whole story to get out on the table.

Now with that, we are going to begin with the first panel, and I might say under the rules of the Government Reform and Oversight Committee and this subcommittee, all witnesses are sworn in before they testify. We have three panels this morning, and we will try to complete this hearing in a 3-hour period.

The first panel is Dr. Leo Valladares Lanza, the national commissioner of the Protection of Human Rights in Honduras. He will be accompanied by Susan Peacock, his interpreter. Also on that panel is Carlos Federico Reyes Lopez, Office of Human Rights, Archbishop of Guatemala, and Jennifer Harbury, a citizen. I think many of us know Miss Harbury's very eloquent statements made on "60 Minutes" and other shows over the last few years about her husband and what has happened to him.

So if the three witnesses and the interpreter would come forward, we will swear you in and begin.

Miss Peacock, the interpreter, is right there; Dr. Lanza is next, then Mr. Lopez and Miss Harbury.

[Witnesses sworn.]

Mr. HORN. The clerk will note that the three witnesses and the interpreter have been sworn in and have taken the oath, and we will now begin with Dr. Valladares Lanza. You set it at your own pace because—maybe paragraph by paragraph Miss Peacock can translate.

Please proceed.

STATEMENTS OF LEO VALLADARES LANZA, NATIONAL COMMISSIONER, THE PROTECTION OF HUMAN RIGHTS, HONDURAS, ACCOMPANIED BY SUSAN PEACOCK, INTERPRETER; CARLOS FEDERICO REYES LOPEZ, OFFICE OF HUMAN RIGHTS, ARCHBISHOP OF GUATEMALA; AND JENNIFER HARBURY, CITIZEN

[Testimony delivered in Spanish through interpreter.]

Mr. VALLADARES LANZA. Distinguished Mr. Horn and members of the subcommittee, thank you for the invitation to be present here today to support the Human Rights Information Act. As Honduras' chief human rights official, I have long sought to obtain from the U.S. Government information about abuses from the past decade. I express my gratitude to Members of Congress for their support, which has been critically important to my declassification efforts.

I am the national commissioner for human rights in Honduras. I serve as commissioner, also referred to as ombudsman, since 1992. As commissioner, I am to investigate human rights abuses committed by Honduran authorities, including the military and the police. I serve as advocate and spokesman for Honduran citizens who have filed complaints.

Honduran law establishes the independent nature of our investigations and the obligation to provide us information both from Government officials and entities. The commissioner does not have the power to prosecute cases where there is evidence of criminal wrongdoing. But, yes, he is obligated to pass information on to the Attorney General of the Republic, who formally charges those who are allegedly responsible.

During my first months as commissioner, I personally met with the families that had lost loved ones during the decade of the 1980's, and I listened to their emotional petitions. Their testimonies touched me deeply, so I decided to investigate. In the month of December in 1993 I presented my findings in a preliminary report entitled "The Facts Speak for Themselves." This report documents 184 cases of disappearances, indicating who is allegedly responsible in each case. The information was given to the Attorney General of the Republic so that he could bring charges. As a result, more than a dozen military police have been formally charged.

At the beginning of my investigation of disappearances I first submitted my declassification request to the U.S. Government. The administration of President Clinton expressed a willingness to cooperate, but said that my request was too broad. Twice I revised my request. On August 1, 1995, I personally handed an abridged version to the U.S. Ambassador.

I want to explain why United States information is of extremely great importance to human rights investigations in Honduras. Honduras has no legislation but allows for the preservation of state archives. Neither does Honduras have a legal process that permits the public disclosure of Government documents. Key Honduran files have been destroyed.

One example of this is an inspection done by human rights investigators of the offices of Honduran military intelligence. They found only empty file cabinets. They were told that military files are burned every 5 years for reasons of space. Consequently, our efforts to recover Honduran documents related to past human rights violations have not been fruitful.

It is known and recognized that the United States has the most sophisticated information system in the world. I admire the way that the public has access to many Government files. I believe that the meticulous records offer Hondurans the best opportunity to uncover historical documentation of human rights violations. To establish the historical truth, we need documents about the close collaboration between the United States Government and the Honduran Armed Forces in the 1980's.

I do not expect that information from U.S. files will definitively divulge the identity of violators. Nonetheless, I have the hope that the information will provide important clues. United States information complements that gathered in Honduras from exhumations and interviews with eyewitnesses, survivors of clandestine detention, and torture and former Honduran military.

My efforts to obtain human rights information from the U.S. Government are well documented. In the month of January this year I published an interim report on declassification that is entitled "In Search of Hidden Truths." This report describes the proc-

ess to date and analyzes part of the information that we have received. I should tell you that some documents have already been declassified. The State Department and the Pentagon have completed the search of their files, and they released approximately 2,500 and 150 pages respectively. The CIA turned over 36 documents on the disappearance of United States citizen Father James Carney, 94 documents on 5 Honduran cases, 21 documents on Gen. Alvarez Martinez, and 812 pages of previously declassified material.

I appreciate the willingness of the administration of President Clinton to respond to my declassification request, but I must say in all honesty that the process to obtain U.S. documents is frustrating. Although they have told me repeatedly that my request is being expedited, the response is too slow. You have to remember that in human rights, time is gold, and the clock is ticking.

To give an example, the CIA has yet to release records on the well-known military intelligence unit, Battalion 316. Neither has it declassified its inspector general's report completed last year in relation to the Honduran Army. Despite inexplicable delays, we maintain the hope that these documents will be released to us in the near future.

As far as substantive human rights content is concerned, we have to say that the information that has been given us is scant and inadequate. In fact, the content of many of the documents released is peripheral with relation to the specifics in my request. A number of documents, particularly those from the Defense Department and the CIA, are heavily redacted.

Allow me to give you an example. I requested information about a man who was a central figure in the Honduran Armed Forces at the time when terrible human rights abuses occurred in my country. His name, Gen. Gustavo Alvarez Martinez; he is accused of having ordered the extrajudicial execution of numerous citizens. My request with respect to Alvarez is very specific. In part it reads: "All records which mention Alvarez in reference to the use of kidnapping, disappearance, and torture against subversive groups or individuals, and in reference to violations of human rights, extralegal operations, activities of death squads, and the maintenance of clandestine jails."

The CIA released only 21 documents on Alvarez. Most of these documents talk about attempts by subversive groups to assassinate Alvarez instead of referring to actions of Alvarez directed against subversive groups or individuals. Documents of the Department of Defense also do not respond to this portion of my request.

In summary, the results of the declassification are disappointing. Much valuable time has elapsed since the presentation of my request, and unfortunately both the quantity and the content of the information obtained is unsatisfactory.

Having said that, I want to reiterate my commitment to work in good faith through the declassification process, and I continue with the hope that the information will be forthcoming and that it will be useful in our investigations. Providing substantive human rights information, the United States can help in the struggle in Honduras to end impunity and to build a more open democratic society. Honduras needs United States information because it will help de-

termine whether our authorities were responsible for human rights violations. The cycle of impunity must be broken. In those situations where Honduran authorities have been involved, they must be prosecuted for the crimes committed. If the rule of law is to be established in Honduras, authorities must be held responsible for their actions.

There is a word in English that has no translation in Spanish that I like a lot. It's "accountability." Without accountability, democracy cannot be consolidated. The Honduran people have the right to know the truth about human rights violations that occurred on their own territory. By giving support to the Human Rights Information Act, the Congress will contribute to the strengthening of Honduras' democracy.

Again, I appreciate the opportunity to share my views on this important matter. I appreciate all your efforts on behalf of my country. With your help, we will remove the veil of impunity that covers the truth. Always remembering what is said in the gospel, only the truth will make you free.

[The prepared statement of Mr. Valladares Lanza follows:]

Mr. Chairman and Members of the Subcommittee:

I thank you for the invitation to appear before you today to voice my support for H.R. 2536, The Human Rights Information Act. As National Commissioner for Human Rights in Honduras, I have long sought to obtain human rights information from U.S. government files for use in our ongoing investigations of past abuses. The support that I have received over the past several years from members of the U.S. Congress has been critical to my declassification efforts.

I have served as the National Commissioner for Human Rights in Honduras since 1992, when I was appointed by then-President Rafael Leonardo Callejas. After changes were made in Honduras' constitution, I was unanimously elected by our National Congress in 1996 to a six-year term as Human Rights Commissioner (Ombudsman).

According to Honduran law, as Human Rights Commissioner, I am specifically charged with the investigation of human rights abuses committed by Honduran authorities, including the military and the police. The law mandates that the investigations of abuses that I undertake be independent of the executive, legislative and judicial branches of government. Any Honduran government official or entity must give the Human Rights Commissioner information requested in the course of an investigation. I can also recommend that actions to be taken to correct abuses. Since the Human Rights Commissioner does not have prosecutorial power, in cases where there is evidence of criminal wrongdoing, I pass the information along to Honduras' Attorney General, who in turn brings formal charges against an individual.

Early on in my tenure as Human Rights Commissioner, I received numerous petitions from the families of individuals who had "disappeared" in Honduras in the 1980s. I was deeply touched by their testimonies and launched a formal investigation of cases of forced disappearances. In December 1993, I presented the findings of this investigation in a preliminary report entitled The Facts Speak for Themselves. This report documents 184 cases of disappearances.

It was during the course of the investigation of cases of forced disappearances in Honduras that I made my first request for the declassification of relevant human rights information in U.S. government files. The U.S. Administration expressed a willingness to cooperate and provide assistance, but indicated that my initial request was too broad in scope. I narrowed my declassification request two times, submitting an abridged final version [attached] to the U.S. Ambassador in Tegucigalpa, Honduras, on August 1, 1995.[1]

I welcome this opportunity to tell you why information held by the United States is so valuable to human rights investigations in Honduras.

Like most other Latin American nations, Honduras has no clear laws to preserve State archives. Neither do we have any legal process for public disclosure of government records. Key Honduran files have been destroyed. During an on-site inspection of an archive at the offices of Honduran military intelligence, our human rights investigators found only empty file cabinets. They were told that military files are burned every five years in order to free up additional storage space. Consequently, our efforts to recover relevant Honduran documents related to past human rights abuses have proven fruitless.

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[1] The first two declassification requests were submitted on November 15,1993 and December 21, 1993 respectively.

The United States, which has the most sophisticated archival and freedom of information system in the world, offers us the best opportunity and gives us hope that we can uncover historical documentation regarding human rights violations in Honduras. To establish the historical record, documents about the U.S. government's close collaboration with the Honduran military during the 1980s are critical to our human rights inquiries.

Though it is unlikely that information contained in U.S. files will definitively determine the identity of human rights violators, it may well provide clues that can be followed up by our investigators in Honduras. U.S. information complements that attained in Honduras from eyewitnesses to abuses, survivors or clandestine detention and torture, and former members of the Honduran military.

Information received to date

This past January, I published In Search of Hidden Truths, an interim report on my declassification efforts.[2] In this report I describe my persistent efforts to secure access to U.S. records containing significant human rights content. A chronology of my declassification quest is provided as an attachment.

A number of documents have been declassified in response to my request: The State Department released more than 2,500 pages of cable and memoranda, which officials stated reflected a thorough search of its files; the Defense Department initially made 34 records public, then conducted a second search which yielded 15 new records and 30 pages which had been previously released in response to a Freedom of Information Act (FOIA) request; the CIA

[2] In Search of Hidden Truths is posted at: www.seas.gwu/edu/nsarchive/latin_america/honduras/hidden_truths/hidden.html

turned over 36 documents on the disappearance of U.S. citizen Fr. James Carney, 94 documents on five other Honduran cases, 21 documents on General Alvarez Martinez, and 812 pages of previously declassified material.

I appreciate the Clinton Administration's willingness to respond to my declassification request, but the ongoing process to obtain U.S. documents has proven exceedingly frustrating. Although I am told that my request was expedited, the response has been excruciatingly slow. The CIA, for example, has yet to release either records on the notorious military intelligence Battalion 3-16 or the 1997 CIA Inspector Generals' report on the agency's relationship to the Honduran military. Despite inexplicable delays, I continue to hope that the release of these documents will occur in the near future.

The substantive human rights content of the information that has been made available to me has been scant and inadequate. In fact, the content of many of the documents released is peripheral to my specific requests for information. A number of documents, particularly those from the Defense Department and the CIA, are heavily redacted.

The cumbersome nature of the declassification process has been bitterly disappointing. Although much valuable time has elapsed since my request was submitted, both the quantity and content of the human rights information obtained has been unsatisfactory. Nonetheless, I am committed to working through the declassification process in good faith, and continue to hope that information will be forthcoming that is useful to our human rights investigations.

Conclusion

By providing substantive human rights information in a timely fashion, the United States can support efforts in Honduras to end impunity and to build a more open, democratic society. Hondurans need this U.S. information to help determine whether our authorities bear responsibility for human rights violations.

The cycle of impunity must be broken in Honduras! In those instances where Honduran authorities violated human rights, they must be prosecuted for the crimes they committed. If abuses are to end and the rule of law is to be established in Honduras, our authorities must be held accountable for their actions. Without accountability, democracy cannot be consolidated.

Honduran citizens have the right to know the truth about human rights violations that occurred on their own soil. By supporting the Human Rights Information Act, the U.S. Congress will contribute to the strengthening of Honduras' democracy.

Thank you for this important opportunity to appear before you today. I appreciate your efforts on our behalf. With your help, we will unveil the truth.

THE REQUEST FOR DOCUMENTS MADE BY THE NATIONAL COMMISSIONER FOR HUMAN RIGHTS TO THE GOVERNMENT OF THE UNITED STATES

KEY TOPICS:

I. DOCUMENTATION CONCERNING SIX CASES OF "DISAPPEARANCES".

II. DOCUMENTATION CONCERNING GENERAL ALVAREZ MARTINEZ.

III. DOCUMENTATION CONCERNING BATTALION 3-16.

I. THE CASES OF DISAPPEARANCES

We are requesting finished intelligence, reports, studies, notes, meeting minutes, biographical material, and any and all other documents referring to six cases of disappearance which took place in Honduras at the beginning of the eighties.

Specifically we request information about the following:

1. All the records concerning the disappearance of TOMAS NATIVI GALVEZ.
A professor and union leader, Nativi was taken from his wife's home and disappeared by six masked men shortly after midnight on June 11, 1981. His colleague and union partner, FIDEL MARTINEZ, was also captured. Nativi's wife, Bertha Oliva, identified Captain Alexander Hernandez as one of the men that participated in the kidnapping; the rest were agents of the DNI. The Nicaraguan Ricardo "Chino" Lau could also have been involved.

2. All the records concerning the disappearance of JOSE EDUARDO BECERRA LANZA.
Becerra Lanza was disappeared from the center of Tegucigalpa the first of August 1982 by agents of the DNI. Years later, a member of the Nicaraguan Contra who had worked in Tegucigalpa admitted in a press interview that he had participated in the assassination of the young student. He revealed that Captain Alexander Hernandez handed him Becerra Lanza with instructions that he should be executed and disappeared. He revealed that Hernandez told him that the orders came from General Alvarez Martinez. Becerra Lanza was assassinated and his body buried somewhere between Tegucigalpa and Cholutaca.

3. All the records concerning the disappearance of GERMAN PEREZ ALEMAN.
Perez Aleman was disappeared August 18, 1982. Six well-armed men abducted the union leader in broad day light from a busy street in Tegucigalpa. A highway safety patrol car followed the vehicle into which Perez Aleman had been forced and overtook the abductors. Second Lieutenant Flores Murillo exited the first vehicle and identified himself as a G-2 agent, thus halting pursuit by the patrol car. According to a former member of the Battalion 3-16, the abductors then brought Perez Aleman to Tamara, where the unit regularly held prisoners in clandestine detention. On May 29, 1983 the Honduran Permanent Mission in Geneva informed the U.N. Working Group that, according to the documents provided by the Armed Forces of Honduras, the DNI was carrying out an investigation of the case. The Honduran government again informed the U.N. Working Group August 31, 1983 that it was conducting an investigation. The investigations did not produce results.

4. All the records concerning the disappearance of INES CONSUELO MURILLO SCHWADERER
On March 13, 1983, lawyer and political activist Ines Murillo Schwaderer was disappeared from the city of Choloma by members of Battalion 3-16. Her kidnappers took her to a clandestine detention center in San Pedro Sula where she was severely tortured. After more than a month, Murillo was transferred to a military installation near Tegucigalpa. The beatings and abuse continued. During her incarceration, Murillo recognized Second Lieutenant Marco Tulio Regalado Hernandez among her torturers. She also heard the voice of a North American visitor, called "Mr. Mike" by the Hondurans. (According to the testimony given before Congress in 1988 by CIA Deputy Director for Operations RICHARD STOLZ, a CIA official did visit Murillo in her cell during her detention by the 3-16). On May 31, Murillo's status was officially acknowledged and she was transferred to the DNI in the capital. The DNI, through its chief Maj. JUAN BLAS SALAZAR MEZA, assumed responsibility for her detention even though Military Intelligence had abducted, interrogated and tortured her. After Murillo's detention was publicized, she was transferred to a state prison, "CEFAS", where she stayed for 13 months until her liberation on July 5, 1984.

5. All the records concerning the disappearance of Father JAMES FRANCISCO CARNEY, known as "FATHER GUADALUPE."
A North American priest working in Central America, Father Carney (Father Guadalupe) crossed the border from Nicaragua to Honduras in July of 1983 with a small guerrilla column led by Jose Maria Reyes Mata. According to testimony supplied by Florencio Caballero, a former member of Battalion 3-16, Honduran soldiers captured the

guerrilla band in a military operation named "Patuca". Carney was then taken to the Contra supply base in El Aguacate, interrogated and thrown to his death from a helicopter. Caballero revealed that the orders for the Carney's disappearance came from the Chief of the Armed Forces Alvarez Martinez during an earlier planning meeting of the so-called "OPERATION PATUCA." According to Caballero, North American personnel were present at the planning meeting, including one man he knew only as "Mr. Mike", when Alvarez ordered his men to kill Carney and Reyes Mata after their interrogation.

6. All the records concerning the disappearance of GUSTAVO ADOLFO MORALES FUNEZ.
An economist and former union leader, Gustavo Morales was disappeared March 18, 1984, and forced into a blue van by several armed men. Supreme Court Magistrate Luis Mendoza Fugon and a FUSEP agent, who kept guard at the Ministry of Foreign Relations, were eyewitnesses of the kidnapping which occurred in the center of Tegucigalpa. Numerous petitions for writs of habeus corpus were presented in the days following Morales' detention but were not useful. Even though Mendoza reported what he had seen to the press, no authority requested that the Supreme Court of Justice make an official statement. This case was taken before the UN Working Group on Forced or Involuntary Disappearances.

II. GENERAL GUSTAVO ALVAREZ MARTINEZ

We are requesting finished intelligence, reports, studies, notes, papers, cables, memoranda, briefing papers, talking points, meeting minutes, biographical material, and any and all other documents referring to the General of the Honduran Army Gustavo Alvarez Martinez, from 1980, when he was Chief of Public Security Force (FUSEP), until March 1984, when he was expelled as Chief of the Armed Forces of Honduras.

Specifically we request:

1. All the records concerning General Alvarez's work gathering information about "subversive" movements in Honduras from 1980 to 1984. All records which mention Alvarez in reference to the use of kidnapping, disappearance and torture against "subversive" groups or individuals, and in reference to violations of human rights, extra-legal operations, activities of death squads and the maintenance of clandestine jails. Records concerning the appointment of Alvarez as the Chief of the Honduran Armed Forces in 1982. All records on General Alvarez's creation, in 1982, of the Military Intelligence Unit known as "Battalion 3-16" and records which mention connections between the General and the 3-16 through 1984.

2. All records discussing connections between General Alvarez and the Argentinean Armed Forces from 1980 to 1984. Records of a request Alvarez made to the Argentine Military to train Honduran police forces in 1980 when he was chief of FUSEP, and of Alvarez's establishment -- with Argentina's assistance -- of an anti-subversive unit within the FUSEP called the "Special Operations Unit" (Comando de Operaciones Especiales--COE). Also, any records concerning ongoing connections between the Argentine and the Honduran militaries until and including 1984.

3. Any and all records which mention General Alvarez in reference to the specific disappearances of Tomas Nativi Galvez (June 11, 1981), Jose Eduardo Becerra Lanza (August 1, 1982), German Perez Aleman (August 18, 1982), Ines Consuelo Murillo Schwaderer (March 13, 1983), Father James Francisco Carney known as Father Guadalupe (July 1983), and Gustavo Adolfo Morales Funez (March 18, 1984).

4. All records pertaining to the barracks coup against General Alvarez Martinez in March 1984 by then Vice President of Honduras General Walter Lopez Reyes.

III. BATTALION 3-16

We are requesting finished intelligence, reports, studies, notes, papers, cables, memoranda, briefing papers, talking points, meeting minutes, biographical material and any and all other documents generated by the United States government agencies between 1979 through and including 1984, about the Battalion 3-16, a unit of Military Intelligence established to monitor and destroy "subversive" organizations and individuals in Honduras. Furthermore, we request all documents which refer to the institutional precursors of 3-16. They are the "Group of 14", a special intelligence unit composed of members of the Honduran military, founded in 1979 and dissolved in 1982; and of the "Group of 10", a group which existed for some months in 1982 before the 3-16 was created later that year.

Specifically we request:

1. All records concerning the origins, structure, planning operations, training, and members of the Group of 10, Group of 14 and Battalion 3-16 from 1979 through and including 1984. All records which mention Battalion 3-16 and the other groups in reference to the use of kidnappings, disappearances, and torture against "subversive" organizations and individuals, and in reference to human rights violations, extrajudicial operations, death squad activities and the maintenance of clandestine jails.

2. Any and all records which mention the Battalion 3-16 and/or its predecessors in reference to the specific disappearances of Tomas Nativi Galvez (June 11, 1981), Jose Eduardo Becerra Lanza (August 1, 1982), German Perez Aleman (August 18, 1982), Ines Consuelo Murillo Schwaderer (March 13, 1983), Father James Francisco Carney known as Padre Guadalupe (July 1983), and Gustavo Adolfo Morales Funez (March 18, 1984).

3. All records concerning the following individuals who were members of the Battalion 3-16, of its precursors, or of other special anti-subversive units of the Armed Forces of Honduras or of the police:

Juan Lopez Grijalva (G-2)
Alexander Hernandez (Battalion 3-16)
Oscar R Hernandez (Battalion 3-16)
Segundo Flores Murillo (G-2)
Juan Ramon Pena Paz (Battalion 3-16)
Florencio Reyes Caballero (Battalion 3-16)
Jose Barrera Martinez (Battalion 3-16)
Marco Tulio Regalado Hernandez Lara (Battalion 3-16)
Mario Aadrubal Quinonez (Battalion 3-16)
Ciro Pablo Fernandez C. (Battalion 3-16)
Carlos Peralta (Group of the 14)
Luis A. Discua Elvir (Battalion 3- 16)
Luis Alonso Villatoro Villeda (Battalion 3-16)
Billy Fernando Joya Amendola (Battalion 3-16)
Vicente Rafael Canales Nunez (Battalion 3- 16)
Marco Tulio Ayala Vindel (Battalion 3-16)
Jordi Ramon Montanola (Battalion 3-16)
Inocente Borjas Santos (Battalion 3-16)
Juan Blas Salazar (DNI)

UNITED STATES GOVERNMENT AGENCIES

We request that the government of the United States look in the archives of the following agencies for documents concerning the three topics already cited:

I. The Central Intelligence Agency (CIA)

We specifically request that this agency search the following components and offices:

- Directorate of Intelligence, Office of African and Latin American Analysis
- National Foreign Assessment Center, Office of Political Analysis
- National Intelligence Officer for Latin America
- Office of Legislative Liaison
- Office of the Inspector General
- CIA Station, Tegucigalpa

Furthermore, we request that the Agency look for finished intelligence, notes, reports, cables, memoranda, briefing papers, policy papers, talking points, meeting minutes, biographical data, and any and all other documents created during the period from 1979 to and including 1984, inclusive, related to various additional topics.

Specifically we request:

1. All the records concerning the training and equipment provided by the CIA to Battalion 3-16 and its predecessors, including training given in conjunction with the Argentine Armed Forces at a camp in Lepaterique, Honduras. Documents should include an interrogation manual created by the CIA for Honduras in 1983, as well as a "revised" version created later. Documents should also include a CIA Inspector General report in 1988 on the CIA's training of the Honduran Armed Forces.

2. A copy of the 1986 letter written by CIA Director William Casey to the Senate Select Committee on Intelligence describing human rights in Honduras, and discussing connections between the National Directorate of Investigations (DNI) and "ELACH", a right-wing death squad.

3. All records generated by the Agency in response to, or related to, an article in The New York Times Magazine written by James LeMoyne June 5, 1988. This article discussed the CIA's role in the training of the Honduran military in interrogation techniques.

4. All records generated by the Agency related to a June 1988 hearing before the Senate Select Committee on Intelligence. At this hearing the Deputy Director for Operations, Richard Stolz, testified about the CIA's knowledge of a 1983 "Honduran Interrogation Manual".

5. A copy of the memorandum written by the CIA to the Senate Select Committee on Intelligence on July 10, 1989, entitled, "Inquiry into Honduran Interrogation Training".

II. Department of Defense (DOD)

Specifically we request that this agency search the following components or offices:

- Office of the Assistant Secretary of Defense for International Security Affairs (ASD/ISA), Inter-American Affairs
- Joint Staff, J-2, Western Hemisphere Division
- Joint Staff, J-3, Western Hemisphere Division
- Joint Staff, J-5, Western Hemisphere Division
- U.S. Southern Command, Quarry Heights, Panama
- U.S. MilGp, Tegucigalpa
- Joint Task Force Bravo (JTF-B), Soto Cano Air Force Base, Honduras

Furthermore, we request that the Agency look for finished intelligence, notes, reports, cables, memoranda, policy papers, briefing papers, talking points, meeting minutes, biographical data, and any and all other documents created during the period from 1979 to and including 1984, concerning one additional subject.

Specifically we seek:

**All the records produced in relation to the Department of Defense investigation into human rights abuses by the Honduran Security Forces. Articles in The New York Times and The Washington Post cited in the 1986 investigation. We attached copies of these articles.

III. Defense Intelligence Agency (DIA)

We specifically request that this agency search the following components or offices:

- Directorate for Research, Western Europe/Latin America Division
- DIADIR-5
- Defense Intelligence Officer for Latin America
- Central American Joint Intelligence Team (CAJIT), Washington DC
- Defense Attache Office, Tegucigalpa

IV. United States Army

We specifically request that this agency search the following components or offices:

- Office of the Deputy Chief of Staff for Intelligence
- Office of the Deputy Chief of Staff for Operations and Plans (ODCSOPS), Politico-Military Division, Western Hemisphere Regional Desk
- Deputy of the Army Inspector General
- US Army Intelligence and Security Command (INSCOM), including the Army Foreign Intelligence Activity
- 7th Special Forces Group (Airborne), 1st Group of the Special Forces, Fort Bragg, NC

In particular, we request the report of the visit made on April 22, 1984 to Battalion 3-16 by the Director of the School and Center for Military Investigation of the United States, General Sydney T. Weinstein.

V. National Security Council (NSC)

We specifically request that this agency search the following component or office:

- Restricted Inter-Agency Group (Central America)

VI. State Department (DOS)

We specifically request that this agency search the following components or offices:

- State Department Central Files
- Bureau of Intelligence and Research
- US Embassy in Tegucigalpa
- Other U.S. embassies, when appropriate (Argentina, Mexico)

Furthermore, we request that the agency look for finished intelligence, notes, reports, studies, cables, memoranda, policy papers, briefing papers, talking points, meeting minutes, biographical data, and any and all other documents created during the period from 1979 to and including 1984, inclusive, concerning additional subjects.

Specifically we request:

1. Copies of all drafts and versions of the annual reports on human rights reports produced by the U. S. Embassy in Tegucigalpa from 1980 to and including 1984.

2. All records concerning the temporary disappearance of the journalist Oscar Reyes and his wife Gloria on July 8, 1982. After their abduction by military personnel, Ambassador Negroponte discussed the case with General Alvarez Martinez, and the couple was eventually freed.

3. All records generated in response to the press conference held in Mexico in August 1982 by Colonel Leonidas Torres Arias, the ousted Chief of Intelligence of the Honduran Armed Forces. Torres Arias discussed the operations of Battalion 3-16 in great detail, including the unit's connection with various cases of disappearances.

4. All records concerning an October 1983 meeting held in the U. S. Embassy in Tegucigalpa between Scott Thayer, a political officer, and members of the Committee of Relatives of the Detained and Disappeared in Honduras (COFADEH).

5. All records concerning the Special Commission to Investigate Claims of Disappearances in Honduran Territory established June 14, 1984 by General Walter Lopez, Chief of the Armed Forces. The documents should include those generated in response to the release of the Commission's report on October 17, 1985.

6. All records produced in response to, or relating to, an article of The New York Times Magazine written by James LeMoyne June 5, 1988. The article discussed the role of the CIA in the training of the Honduran Army in interrogation techniques.

7. All records concerning the verdict handed down in July 1988 by the Inter-American Court on Human Rights, finding the government of Honduras guilty for the disappearance of Angel Manfredo Velasquez Rodriguez.

CHRONOLOGY OF THE HONDURAN DECLASSIFICATION PROCESS

1993 NOVEMBER 15: Initial letter from Dr. Leo Valladares Lanza, National Commissioner for the Protection of Human Rights in Honduras, to then U.S. Ambassador William T. Pryce requests U.S. government information for a preliminary report on human rights abuses in Honduras.

1993 NOVEMBER 23: Letter from five U.S. Senators and three Representatives to U.S. President Bill Clinton states: "... Dr. Valladares has officially requested access to all information the Government of the United States may have on this issue through our Embassy in Tegucigalpa. ... we urge you to make available any relevant facts and documents as soon as possible."

1993 DECEMBER 8: Letter from Pryce to Valladares indicates: "If you could provide us the names of the victims in the cases ... it would greatly facilitate our ability to provide you with whatever relevant information might be found in the archives of the Government of the United States."

1993 DECEMBER 18: Letter from Clinton to Senator Clairborne Pell, indicates: "We are willing to assist Dr. Valladares. However, it is not feasible to review all the reporting on Honduran human rights matters since 1980 for material related to all the 140-plus disappearance cases, as Dr. Valladares has so far requested ... Preliminary checks indicate that the Department of State's holdings of possibly responsive documents amount to well over 2,000 for the period 1981-84 alone."

1993 DECEMBER 20: Letter from 46 members of the U.S. Congressional Human Rights Caucus to then Honduran President Rafael Leonardo Callejas notes: "... Commissioner Valladares Lanza is completing a report on the cases of disappeared persons in Honduras. We wish to express our support for this initiative which will provide information and answers about the plight of disappeared persons in Honduras."

1993 DECEMBER 21: Follow-up letter from Valladares to Pryce to which is appended a "List of Questions on Topics About Which Information Is Requested from the United States Government". Questions are formulated on general topics and on specific human rights cases.

1995 AUGUST 1: Valladares hand-delivers a detailed declassification request to Pryce in Tegucigalpa. The request has been narrowed to six cases of "disappearances" (Fr. James Francisco "Guadalupe" Carney, Tomás Nativí González, José Eduardo Becerra Lanza, German Pérez Alemán, Inés Consuelo Murillo Schwaderer and Gustavo Adolfo Morales Fúnez), General Gustavo Alvarez Martínez and Battalion 3-16. It is directed to the: Central Intelligence Agency, Department of Defense, Defense Intelligence Agency, U.S. Army, National Security Council, and Department of State.

1995 SEPTEMBER 12: Six Senators and two Representatives send a letter to President Clinton indicating that: "The commissioner's new request appears reasonable and it is our hope that it will yield a prompt response."

1995 SEPTEMBER 15: Valladares meets in Washington, D.C. with John Hamilton, Acting Deputy Assistant Secretary of State for Inter-American Affairs, who turns over a packet of

documents which had previously been declassified and released to either The Baltimore Sun or to the family of Father Carney (FOIA Case #840322).

1995 SEPTEMBER 20: U.S. Senate Amendment No. 2722 reads: "It is the sense of the Congress that the President should order the expedited declassification of any documents in the possession of the United States Government pertaining to persons who allegedly 'disappeared' in Honduras, and promptly make such documents available to Honduran authorities who are seeking to determine the fate of these individuals."

1995 SEPTEMBER 28: Valladares meets in Washington, D.C. with Richard Feinberg at the National Security Council.

1995 OCTOBER 12: Then Executive Secretary Kenneth Brill at the U.S. State Department sends a memorandum to other government agencies which requests "cooperation and assistance" in responding to the Honduran request "for U.S. government documents pertaining to disappearances and other human rights abuses which occurred in Honduras in the early 1980's."

1996 FEBRUARY: Officials of the U.S. Embassy in Tegucigalpa release 588 pages of State Department documents on the case of Fr. Carney.

1996 MAY 29: Letter to Pryce from Valladares expresses eagerness: "to learn the status of our declassification request to other U.S. government agencies. To date, I have had no communication from the Central Intelligence Agency (CIA), the Department of Defense (DOD), the Defense Intelligence Agency (DIA), the U.S. Army or the National Security Council (NSC) regarding the declassification of information in response to our request. Any help which the State Department could provide in ascertaining the status of our requests with the various agencies would be most appreciated. Concretely, it would be extremely helpful to us to know the process which each agency has put in place to respond to our request, and how much longer we might anticipate waiting for the release of those documents."

1996 MAY 31: Letters from four Members of Congress to William J. Perry, Secretary of Defense, and John M. Deutch, Director of Central Intelligence, urges both agencies "to declassify documents in as broad a manner as possible and as quickly as possible", and expresses the belief "that U.S. documents should be declassified as quickly as possible because the information they contain could play an important role in efforts by the Hondurans to strengthen civilian institutions."

1996 JUNE 13: Valladares meets in Washington, D.C. with Hamilton at the State Department; Maria C. Fernández-Greczmiel, Deputy Assistant Secretary of Defense for Inter-American Affairs; and Lee S. Strickland, Chief of Information, Privacy and Classification Review Division, CIA.

1996 JUNE 14: Valladares addresses a Congressional Human Rights Caucus Staff Briefing on "Declassification and the Struggle to Stop Impunity in Honduras."

1996 JUNE 15: Letter from Valladares to Strickland at the CIA clarifies in writing his position on topics which they discussed at their meeting two days earlier.

1996 SEPTEMBER: Officials at the U.S. Embassy in Tegucigalpa turn over 2,033 pages of State Department documents.

1996 SEPTEMBER 30: Valladares meets in Washington, D.C. with Hamilton. No one at CIA is available to meet with Valladares.

1996 OCTOBER: Letter from Strickland to Valladares states that: "During the past week, I have discussed with our Executive Director the documents pertaining to Father Carney and can advise that the redaction process is complete and the documents are in the final stage of coordination. Once the coordination and approval by the Executive Director has been completed, copies of these documents will be sent to you. Furthermore, I can advise you that our Honduran Working Group has completed their task of locating relevant material and a decision on addressing this material is currently being considered by our Executive Director."

1996 OCTOBER: Memorandum from Ralph B. Novak, Deputy Director, Inter-American Region, Office of the Assistant Secretary of Defense to Donald McConville, Office Director, ARA/CEN, Department of State reports: "To date we have searched 140 boxes of documents covering the period in question: there are 120 additional boxes to be brought in from our archives and surveyed before the requirement can be completed. We are proceeding as expeditiously as possible, and at the current rate of search should complete the requirement no later than 31 December 1996."

1996 DECEMBER 3: Letter to Clinton from 34 Members of Congress "to request the expeditious and complete declassification of all U.S. documents pertaining to human rights violations in Honduras."

1996 DECEMBER 5: Valladares meets in Washington, D.C. with State Department officials and with Fernández-Greczmiel at the Department of Defense. No one at CIA is available to meet with Valladares.

1997 JANUARY 7: In response to the December Congressional letter Clinton indicates that: "The Department of Defense is in the final stages of its review and declassification responding to Dr. Valladares' request, and expects to complete work shortly. The Central Intelligence Agency is also close to releasing its documents related to the Father Carney disappearance."

1997 MARCH 13: The CIA releases 124 pages, consisting of 36 documents related to the Carney case and a "Summary of CIA Documents on Father Carney". The Defense Department releases 34 documents responsive to the entire Honduran request, clarifying that: "This is an initial submission; it is expected that an additional submission will be made in the near future." Most of the CIA and DOD documents are heavily excised.

1997 APRIL 1: Honduran Foreign Minister speaks with U.S. Secretary of State Madeleine Albright about declassification during a meeting in Washington, D.C.

1997 MAY 7: Valladares addresses a Congressional Staff Briefing on "The CIA in Honduras" sponsored by the Center for International Policy.

1997 MAY 13: Letter from 51 Members of Congress to President Clinton requests that he: "instruct the relevant agencies, namely the DOD and the CIA, to expedite the declassification

and release of documents on all of the subjects identified by Mr. Valladares, by an agreed upon date."

1997 MAY 22: Honduran President Carlos Roberto Reina in a press conference at the National Press Club in Washington, D.C. states: "Dr. Valladares' valiant efforts to discover the truth about past human rights abuses, and bring the perpetrators to justice, have been a major contribution to human rights, the rule of law and democracy itself. His efforts have been only partially successful, however, because much of the available evidence is in the possession of the United States government. While President Clinton has committed to sharing this evidence with us, and some documents were provided, some U.S. government agencies -- especially the CIA -- have refused to declassify their documents concerning human rights abuses by Honduran government officials during the 1980s. I intend to raise this issue with U.S. Government officials during my meetings in Washington this week."

1997 MAY 23: President Reina meets at the White House with Thomas F. McLarty, Counselor to the President and Special Envoy for the Americas.

1997 JUNE 13: Clinton's letter in response to the May Congressional letter gives target dates for the CIA and the Department of Defense release of documents responsive to Dr. Valladares' request and for the completion of a classified report on CIA activities in Honduras by the CIA Inspector General.

1997 JUNE 18: Fernández-Greczmiel of the Department of Defense informs Valladares of her hope that: "we can make this submission to you, through the State Department by early July."

1997 AUGUST 27: The CIA Inspector General's classified report on the CIA's relationship with the Honduran military is given to the Intelligence Committees of the U.S. Congress.

1997 AUGUST 29: The CIA releases 94 documents [313 pages] on the five human rights cases involving Hondurans which were included in the Valladares request. Most of the documents are heavily excised. They contain more information on the organization and activities of leftist groups in Honduras than they do on the kidnappings, illegal detentions, torture and extrajudicial killings in the individual cases in question.

1997 SEPTEMBER 25: Senator Christopher Dodd introduces The Human Rights Information Act (S.1220) in the U.S. Senate to require the Administration to declassify U.S. documents on human rights in Honduras and Guatemala.

1997 OCTOBER 8: The Human Rights Information Act (H.R. 2635) is introduced in the U.S. House of Representatives by Rep. Tom Lantos.

1997 OCTOBER 29: Senators Richard Shelby (Chair) and J. Robert Kerrey (Vice Chair) of the Senate Select Committee on Intelligence send a letter to the Director of Central Intelligence George Tenet requesting the declassification to the maximum extent possible of the recent CIA Inspector General's report on Honduras. The letter asks that Tenet report back to the Committee within four weeks on his intentions regarding declassification of the Inspector General report and on his response to the recommendations in the report.

1997 DECEMBER 1: Letter from Clinton to Morton Halperin, Chair, Advisory Board, Center for National Security Studies, indicates that documents from the CIA and the Department of

Defense which are responsive to Dr. Valladares' request will be released "by year's end," and specifies that the CIA release "will include the Inspector General's report."

1998 JANUARY 30: The U.S. Embassy in Tegucigalpa turns over a total of 66 pages of declassified records from DOD and the CIA. The DOD explains that a second search of its files for documents responsive to Dr. Valladares' response had yielded 45 pages. Of these, 15 pages are new documents and 30 pages are material previously released to the Carney family. The CIA releases 21 documents on General Alvarez Martinez.

1998 APRIL 23: The CIA makes available 812 pages of declassified material on Honduras which it had previously released in response to other FOIA requests.

Prepared by Susan Peacock, Visiting Fellow, The National Security Archive.

May 6, 1998

Dr. Leo Jose Valladares Lanza
Apartado Postal 1368
Tegucigalpa, Honduras, C.A.
tel. 001-504-221-0520
email: leval@conadeh.hn

FORMAL EDUCATION:

1972	Doctorate in Law, Universidad Complutense, Madrid, Spain.
1969	Licensed as Lawyer and Notary by the Supreme Court of Justice, Tegucigalpa, Honduras.
1967	Legal and Social Sciences Degree, National Autonomous University of Honduras.

PROFESSIONAL EXPERIENCE AND DISTINCTIONS:

1997-present	President of the Central American Council of Human Rights Procurators.
1997-present	First Vice President of the Ibero-American Federation of Ombudsmen
October 1996	Letelier-Moffit International Human Rights Award, Washington, D.C.
March 1996	Unanimously elected by the National Congress to serve as National Commissioner for Human Rights for a six-year term.
Febrary 1994	Awarded the Order of Bernando O'Higgins by the President of the Republic of Chile.
1992-present	Member of the Group of Human Rights Experts of the European Union's Multi-year Human Rights Program.
October 1992	Appointed by Honduran President Rafael Leonardo Callejas as National Commissioner for the Protection of Human Rights.
1990	President of the Inter-American Commission for Human Rights
1989	Vice President of the Inter-American Commission for Human Rights
1983-1988	Advisor to the Minister of Foreign Relations with the ranking of Ambassador.
1982	Member of the Technical-Legal Commission that drafted Honduras' Constitution.
1981-1982	Legal Advisor to the National Constituent Assembly
1966-present	Professor of the Philosophy of Law and Constitutional Law at the National Autonomous University of Honduras.

PUBLICATIONS:

* In Search of Hidden Truths: An Interim Report on Declassification, with Susan Peacock, January 1998, 217 pp.

* The Facts Speak for Themselves: The Preliminary Report on Disappearances, published in English by Human Rights Watch, July 1994, 271 pp.

* Las Ideas Juridicas de Castan, 1975, 200 pp.

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ONE HUNDRED FIFTH CONGRESS

Congress of the United States

House of Representatives

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Subcommittee on Government Management, Information, and Technology

Chairman Stephen Horn

CERTIFICATION OF NON-RECEIPT OF FEDERAL FUNDS

Pursuant to the requirements of House Rule XI, I certify that neither I nor the entity(ies) I am representing before the Subcommittee on Government Management, Information, and Technology has received any federal grant (or subgrant thereof) or contract (or subcontract thereof) during the current fiscal year or either of the two previous fiscal years.

By: [signature] 04-29-98

Name *Date*

COMISIONADO NACIONAL DE LOS DERECHOS HUMANOS DE HONDURAS

Title

COMISIONADO NACIONAL DE LOS DERECHOS HUMANOS DE HONDURAS

Organization Represented

Mr. HORN. We thank you very much for that most helpful statement. We will be getting into questions later, but we are now going to go to Mr. Reyes, and I believe he will tell us first what happened to his statement.

Mr. REYES LOPEZ. Good morning. First I want to apologize for not giving the written testimony because my copies and my computer were stolen in my home 4 days ago. I don't want to think and imagine who did it.

Well, this is not a presentation for the details from the outward problem in exhumations in the Archbishop's and Human Rights Office and his project recovered historic memory. I only want to give a brief statement about the Archbishop's Human Rights Office. It was founded in 1998 by Catholic Church and Monsignor Gerardi and Monsignor Prospero Penal del Barrio, were both the coordinators in the office and principal collaborators with our programs and mental health and transformation of conflicts and legal action; and since 1995 the project, the Recuperation of the Historical Memory until 24—April 24, 1998, the presentation day. Two days after Monsignor Gerardi, he was killed in his garage by cement block with 17 hits in the head and destroy all the bones from the face, frontal and the other parts.

I want to deliver this testimony in two parts. First, I want to give a brief statement and details of our program and the limits, the death threats, and the intimidations of our job and how these classified documents can help our program and the progress and after and before the signed peace. And then another little statement about this publication, Guatemala, "Guatemala: Never Again." This is four volumes and all the history, and I think this is complementary to the work on the commission and the historical clarification.

We began our job in 1996 and try to reach all the elements to give and all the testimonies give to the REMHI; this is the name of the project, and try to exhume, identify, try to reach all the elements, clarify all the past, all the present, and try to not repeat in the future. I have four grasp, and I want to see how is the job, how is the—all the elements, how is the shape of the—I don't know, the skeletons, all the identification, the clothes and the photograph from the woman with a fetus 7 months inside her body.

First, I want to thank all the invitation, especially with all the testimonies. We can help try to clarify the past and the present.

If you can see another photograph, this is one of the steps of this process, and you can recognize a woman, a naked woman. She was raped, and you can see in the middle of the photograph this is a little white part. This belongs to the fetus of 7 months.

And another photograph, maybe we can show how is the evidence, and we try to recover in the field and try to compare with the testimonies from the people first and from the declassified documents, second, and third, try to identify the people and give Christian burial.

This is another example from the mass grave—on the north of the capital from 1994, bodies recovered in the mass grave, and total 140 skeletons. This is one of examples, maybe 1974 or 1975 the nuncas presented to the REMHI, and tried to reach and exhume and try to collaborate with the public minister, with the

judges, with the police, and with the army. Well, some people in the army tried to give information about all these crimes.

At the end, in this part I want to show how is the forensic evidence, try to help to the people and try to compare it with the information in these classified documents. I don't know, is something like the examples, techniques, give to the people from the army and use and try to kill people, try to threat, try to intimidate all the—in all the country. You can see in the back on the photograph the machete wounds, and try to give as example in this community, not collaborate with the guerrilla. This is the knowledge.

And then I want to give a little statement about this publication "Guatemala: Nunca Mas." All the elements contained in this book, especially the volume two, contains information, the declassified documents, especially with the victims and techniques and the terror and the technology and the statement from the army, the police, the death squads, the human rights violations since psychiatric violations, sexual violations, and all the elements that try to clarify the past and try to see, and the use with the commission, the clarification of the past.

I want to give a little words about the Gerardi. I think he was, and he is for me, one of the people who tried to pressure the public minister, the Congress of the United States, the police, the civil patrols, and all the people who are involved in this kind of facts. For me, he was and he is alive, and I want to say in his words, Monsignor Gerardi: "Guatemala: Nunca Mas." Guatemala: Never Again.

I want to give these copies to you, and this one is proof. This is one of the principal reasons I think he was killed, because this is the truth and Guatemala is not accustomed to state the truth. And I don't want to—I don't want more deaths. I don't want to die, because my family and many people who work for me—near me is buried, there are death threats by death squads, by policeman, and by people from army. And I think this is one of the biggest efforts from me and for Guatemala is try to clarify all the past.

Thanks.

Mr. HORN. Well, we thank you for your testimony, and we will review those books with great care. Are you going to test my 4 years of Spanish, or is there also an English edition there? We will get our Spanish friends to help. My district director speaks Spanish fluently. She was born in Chihuahua, Mexico. So we will put her to work on that. We thank you for that testimony.

And now, Ms. Harbury. Jennifer Harbury is well-known to many in the country. And she has been a very brave American citizen to go and face up to a military government and face up to torture and brutality. It's a pleasure to have you here today, and we are sorry it is under such circumstances.

Ms. HARBURY. Well, I certainly want to thank the committee for inviting me to speak today. I certainly want to thank you, especially Mr. Horn, and certainly Mr. Lantos and Mr. Porter, also especially for their work on this bill. I'd like to thank both Mr. Valladares and my friend Fred Federico also for the really remarkable work they've been doing in Central America at great risk to themselves for so many years.

I'd like to just summarize my story. I think most of us know a number of the parts to my story, so I'll make it as brief as possible. There are three issues that I think are raised and established by my own case that are very typical of the situation we're dealing with in Central America, especially in Guatemala and in Honduras. First, although the facts of my case are very shocking in their brutality, it's simply a typical case.

And for that reason, I think it's a very good illustration of the humanitarian reasons we need to open these files, not only for the sake of people who were abducted and tortured, but for those of us who remain behind and don't know what happened to our family members. I think it's also very important to understand the facts of the case, because it's one of the few cases where we can see that the U.S. Government does have the information.

They so often say there's nothing for us to declassify; that is not true, there is a great deal. The third reason is I think it's become clearer step by step and following my case that there has been misconduct, frequent misconduct, perhaps a pattern of practice of misconduct, in refusing to timely and appropriately release information which is not of a matter of national security.

Again, I think most of you are fairly familiar with what became of my husband; his name was Efrain Bamaca Velasquez. He was a Mayan resistance leader in Guatemala for a number of years. He was captured alive on March 12, 1992 by the Guatemalan Army. I know now he was kept in a clandestine prison, several different clandestine prisons for more than 1 year, perhaps 2 years. He was tortured throughout that period of time.

He was repeatedly drugged by army physicians. He was kept in a full body cast to prevent his escape and was eventually assassinated without trial. The kindler and gentler version of the three versions I have of his death is that he was thrown from a helicopter into the ocean. Another is that he was dismembered and scattered across a sugar cane field so that I would never find him and be able to identify him.

What happened? I'd like to divide my summary into two parts also, the first just to say what happened, how did I find out what happened, who said what and when, and then briefly discuss some of the major documents I found out and received through my Freedom of Information Act litigation over a period of years. I think the most tragic issue in this case, and one that I feel is most appropriately brought before this committee, is that my husband's death could have been prevented if information had been timely and appropriately released, not only to myself, but to yourselves as Members of the U.S. Congress. That's not only true of my husband's case, but of a number of prisoners of war also being held and tortured.

Again, when I first learned that my husband disappeared, I was informed by the Guatemalan Army that they had found his body after the combat, that he had been killed in a skirmish. They found his cadaver and buried him in the nearby town of Retalhuleu. For nearly a year it was my understanding that he was dead and he died in combat. Given that situation, I did not come forward to any human rights groups, because there was an on-going civil war in Guatemala.

However, in early 1993, a young prisoner of war was actually able to escape from a military base alive and tell me that a hoax was being carried out by the army. They had in fact captured my husband alive and were subjecting him to long-term interrogation through torture in order to break him psychologically so that he would start releasing all of his information.

He was a very high-ranking commander who had been in the mountains for 17 years, and for military intelligence purposes was the "goose that laid the golden egg." They did not wish to kill him; they wished to break him. The last time this witness saw my husband alive was July 1992. He was strapped to a cot, hands and feet, stripped nearly naked. There was an unidentified gas tank next to the bed. His body was grotesquely swollen 2 to 3 times normal size, and arm and leg were heavily bandaged as if they had hemorrhaged, and he was raving. The man bending over the torture table was Col. Julio Roberto Alpirez, a School of the Americas graduate and a paid CIA informant, as we later learned.

They had actually called physicians to stand by to make sure they did not accidentally throw him into shock and kill him. They wanted to keep him alive. At that point, of course, I returned to Guatemala, opened the grave and found a body of a completely different person, 15 years too young, 5 centimeters too short, and different dental patterns, forensically impossible to be him. At that point, of course, I went repeatedly to the State Department, to the U.S. Embassy, to all Members of Congress, and to every human rights group on the face of the planet. I began to receive a great deal of support from everyone, except the State Department and the Embassy.

They told me repeatedly they would look into it right away. They didn't know what had happened to him. They would get back to me when they could. For the next 2 years, starting with March 1993, when I first went to them, they sent out this form letter to everyone, including almost everybody in the U.S. Congress who was making inquiry on my behalf. And it said repeatedly we have no independent information confirming the existence of any clandestine Guatemalan military prisons. We have no independent information regarding the whereabouts of Mr. Bamaca.

Mr. HORN. If we might, I would like those letters in the record at this point without objection.

[The information referred to follows:]

UNCLASSIFIED RELEASED

E4285

Guatemala, Guatemala

October 25, 1994

Dear Mr. Dodd:

Thank you for your letter of October 24 regarding the welfare of American citizen, Jennifer Harbury, who is currently carrying out a hunger strike over the disappearance of her husband, Efrain Bamaca Velasquez, a URNG guerrilla commander.

I would first like to advise you that Jennifer is in good health and spirits as of today, which is the 15th day of her hunger strike. She is drinking water, a special saline solution, and taking vitamins to maintain her strength. Embassy officers visit her every day to monitor her welfare and offer assistance. She has also arranged for a Guatemalan doctor to assess her state of health during regular visits.

As you know, Ms. Harbury has been most active in seeking the whereabouts of her husband, Efrain Bamaca, a top field Commander of the Guatemala National Revolutionary Unity (URNG) said to be personally close to guerrilla leader Rodrigo Asturias (aka "Gaspar Ilom"). Mr. Bamaca disappeared after a March 12, 1992 clash with a Guatemalan army unit near Retalhuleu. Shortly thereafter, the URNG made inquiries concerning his whereabouts and learned he reportedly had been buried after the clash in an anonymous grave nearby. In February 1993, two URNG guerrillas claimed in Geneva they had been held in clandestine Guatemalan Army prisons, with 36 others, before escaping. The guerrillas claimed to have seen Mr. Bamaca in March and July of 1992.

The grave in Retalhuleu, said to be that of Mr. Bamaca, has been the subject of two exhumation proceedings. The first such proceedings took place in 1992, with the assistance of the Office of the Human Rights Ombudsman. Then-Attorney General Asisclo Valladares appeared at the scene, however, and suspended

The Honorable
Christopher J. Dodd,
United States Senator,
100 Great Meadow Road,
Wethersfield, CT 06109.

327225
AMEMBASSY GUATEMALA
CONSULAR SECTION

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3161c

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/23/95
Case ID: 9542225B4

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proceedings on the grounds that there was no way to identify the exhumed body (dental records, x-rays, jewelry, etc.) and no one present who said that they could personally identify Bamaca. Ms. Jennifer Harbury, wife of Mr. Bamaca, contacted the Embassy on March 9, 1993, to request assistance in determining Mr. Bamaca's whereabouts.

On August 17, 1993, a forensic team participated in a second effort to exhume the grave in Retalhuleu. Ms. Harbury, a consular officer from the Embassy, and international human rights observers were also present. Following an exhaustive effort, it was concluded that the body in the grave was not that of Efrain Bamaca Velasquez.

The Embassy shares Ms. Harbury's interest in learning more about Mr. Bamaca's fate. A number of State Department officials have met with Ms. Harbury and my staff and I have done so on repeated occasions. We have repeatedly raised this case with Guatemalan authorities and continually emphasize the importance of respect for human rights. We will continue to pursue this and other human rights cases with them.

We have no independent information confirming the existence of clandestine Guatemalan military prisons. We note, however, that Human Rights Watch/Americas recently prepared a report documenting several cases in which persons claimed to have been held in secret army jails. We have no independent information regarding the whereabouts of Mr. Bamaca.

Guatemalan officials have made public statements of concern over Ms. Harbury's health during this hunger strike and have reiterated that they do not have Mr. Bamaca nor do they know of his whereabouts. We continue to press them on the issue and hope that they will be able to work with Ms. Harbury to resolve her questions.

In closing, I want to again emphasize that this Embassy remains committed to improving the human rights situation in Guatemala. I hope this is of assistance in responding to your constituent.

Sincerely,

Marilyn McAfee
Ambassador

DRAFTED:CONS:CMGORMAN

CLEARED:POL:LKUSNITZ
CLEARED:DHS:JFKBANE

APPROVED:THE AMBASSADOR

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RELEASED IN PART

B6

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United States Department of State

Washington, D.C. 20520

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NOV - 9 1993

Dear Senator Brown:

Thank you for your letter of October 12 informing us of the concerns of your constituent [redacted] regarding the whereabouts of Efrain Bamaca Velasquez. B6

Mr. Efrain Bamaca Velasquez, a top field Commander of the Guatemala National Revolutionary Unity (URNG), and believed to be personally close to Guerilla leader Rodrigo Asturias (aka "Gaspar Ilom"), disappeared after a March 12, 1992 clash with an Army unit near Retalhuleu. Shortly thereafter, the URNG made discreet inquiries concerning his whereabouts and learned he reportedly had been buried after the clash in an anonymous grave nearby. In February 1993, two URNG guerillas claimed in Geneva that they had been held in clandestine Guatemalan Army prisons before escaping. The guerillas claimed to have seen Mr. Bamaca in March and July, 1992.

The Office of the Human Rights Ombudsman assisted with exhumation arrangements last year, but then-Attorney General Acisclo Valladares appeared at the scene and suspended proceedings, allegedly because there was no way to identify the exhumed body. Ms. Jennifer Harbury, wife of Mr. Bamaca, contacted the Embassy on March 9, to request assistance in determining Mr. Bamaca's whereabouts.

On August 17, a U.S. forensic expert and a Guatemalan forensic team participated in the exhumation of the grave in Retalhuleu. Ms. Harbury, a representative of the U.S. Consular Section of the US Embassy in Guatemala, and international human rights observers were also present. Following an exhaustive effort, all present concluded that the body in the grave was not that of Efrain Bamaca Velasquez. Our embassy has been assured by Guatemalan authorities that Mr. Bamaca's case will remain open until he is found.

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MONKOWITZ, [illegible]
Date: 08/02/95
Case ID: [illegible]

The Honorable
Hank Brown,
United States Senate.

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We have no independent information confirming the existence of clandestine Guatemalan military prisons. We note, however, that America's Watch recently prepared a report documenting several cases in which persons claimed to have been held in secret army jails. We have no independent information regarding the whereabouts of Mr. Bamaca.

As you know, Guatemala's constitutional crisis was resolved with the election by the Guatemalan Congress of highly respected former Human Rights Ombudsman Ramiro de Leon Carpio as President on June 6. We believe that President de Leon represents the best hope in a generation of realizing fundamental change in the political culture of Guatemala. We will continue to support President de Leon's efforts to improve the human rights situation in his country.

I hope that this information has been of help in responding to your constituent. Please contact me if I can be of further assistance.

Sincerely,

Wendy R. Sherman
Assistant Secretary
Legislative Affairs

Enclosure:
Correspondence returned

[redacted]

[redacted] 18 [redacted] MAR 92 CIA 268388

[redacted]

TO: DIRNSA, DEPT OF STATE//FOR INR, DIA WASHINGTON DC,
TREASURY DEPT, WHITE HOUSE SITUATION ROOM,
USPACOM QUARRY HEIGHTS PM.

[redacted]

CENTRAL INTELLIGENCE AGENCY

[redacted]

DIST: 18 MARCH 1992
COUNTRY: GUATEMALA [redacted]
SUBJ: CAPTURE [redacted] OF GUATEMALAN GUERRILLA LEADER;

[redacted]

TEXT: 1. ON 12 MARCH 1992, ELEMENTS OF THE GUATEMALAN ARMY CAPTURED "EVERARDO," THE COMMANDER OF THE REVOLUTIONARY ORGANIZATION OF THE PEOPLE IN ARMS (ORPA) LUIS IXMATA BATTALION, ONE OF TWO ORPA COMBAT UNITS. THE GUERRILLA COMMANDER WAS CAUGHT IN AN AMBUSH NEAR SAN MARCOS, SAN MARCOS DEPARTMENT. ALTHOUGH LIGHTLY WOUNDED IN THE ARM, HE IS IN GOOD PHYSICAL CONDITION, IS BEING WELL TREATED BY THE ARMY, AND HAS BEEN COOPERATING FULLY WITH HIS CAPTORS. THE NEWS OF HIS CAPTURE HAS NOT BEEN PUBLICIZED.

2. [redacted]

3. "EVERARDO" TOLD [redacted] THAT HE HAS A CARD FROM A MEXICAN GOVERNMENT SOCIAL WELFARE AGENCY, THE STATE-OWNED NATIONAL FOOD DISTRIBUTION COMPANY-CONASUPO, WHICH ALLOWS HIM TO PURCHASE

000167

APPROVED FOR RELEASE
Date: [illegible] FEB. 1998

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CIA 000006

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NORI 450322

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[redacted]

[redacted]

DIA 000007

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RELEASED IN PART

E3C94

B6

3/9/93 14:30

I just got a call from Amcit Jennifer Harbury (home tel. [redacted]). She says she is the wife of Efrain BAMACA Velasquez, a URNG guerrilla whose nom de guerre is "Commandante Everardo."

B6

According to Harbury, the Army captured Bamaca on March 12, 1992. The former guerrillas who appeared and testified in Geneva recently claimed they saw him in captivity several months later; he was reportedly tortured.

The URNG made unspecified inquiries about his fate, as did Ramiro de Leon Carpio. Harbury was told he died and was buried in Retalhuleu, but recent reports from Geneva contradict that claim.

Harbury asked if we would make an inquiry to the military concerning his fate and welfare. I offered to pass to the Army a letter from her describing the facts of the case. She will be FAXing me the letter in a day or two. FYI.

Jeff

To: JohnK, Sue, George, Col C., Don, Len, Judy, Joanne

#327226
AmEmbassy
Guatemala
1992-95 Releasable
memo/Letters

yes

PA

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, ZAM
Date 08/01/95
Case ID: 95[illegible]

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[redacted]

[redacted] The following information [redacted] was provided by a [redacted] source [redacted]

[redacted]

CIA 000487

[redacted]

Z-078

~~SECRET~~

APPROVED FOR RELEASE
DATE JUNE 96

IOB 38

[redacted]

[redacted] the Guatemalan military currently holds members of the Guatemalan National Revolutionary Union (URNG) in a system of clandestine jails and coerces them to work against Guatemalan guerrillas. [redacted] two former URNG members, aliases "Willy" and "Carlos", who escaped from the military in late June 1992, were touring European countries relating stories of captured URNG members held in clandestine prison cells by the Guatemalan military. (Field Comment: [redacted] were referring to the two URNG members who claim to have escaped from a Guatemalan army clandestine prison and say that they saw Revolutionary Organization of People in Arms (ORPA) commander Efrain Bamaca alive in a clandestine prison. The escaped URNG members attended a human rights conference in Geneva to condemn clandestine prisons. [redacted] as of late June 1993, the URNG leadership does not believe that Bamaca is in fact dead, as his knowledge of ORPA and the URNG would be extremely valuable to the Guatemalan military.)

[redacted] stated that they believed the stories "Willy" and "Carlos" are telling, including descriptions of other individuals currently in their previous predicament. [redacted] stated that Bamaca was alive; however [redacted] neither confirmed nor denied the allegation [redacted]

[redacted]

[redacted]

SECRET

[redacted]

[redacted]

[redacted]

[redacted]

Thomas A. Twetten
Deputy Director for Operations

[redacted]

SECRET

SUBJECT: [redacted]

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RELAY
GUATEMALA CITY

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[redacted] F.36

SECRET [redacted] (b)(3)

[redacted]

186b

[redacted]

(b)(3)

[redacted]

[redacted]

Enclosed is a review of holdings on the Bamaca case that we requested from our ALA analysts. Their information and conclusions track closely with the information we forwarded to you earlier this afternoon. If you found this product helpful or have any comments, we would like to send them to the analysts, so they know how their "short fuse" product was received.

Approved for Release
Date June 1996

18

Z-106

SECRET [redacted]

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CIA 000504

[redacted]

SECRET

[redacted]

(b)(3)

186C

1. THE FOLLOWING INFORMATION IS PROVIDED IN RESPONSE TO REF A REQUEST FOR INFORMATION ON ALA HOLDINGS ON THE EFRIAN ((BAMACA)) VELASQUEZ, AKA 'COMMANDANTE EVARADO,' CASE.

2. ACCORDING TO EMBASSY REPORTING, GOG OFFICIALS MAINTAIN THAT REVOLUTIONARY ORGANIZATION OF PEOPLE IN ARMS (ORPA) LEADER EFRIAN BAMACA DIED FOLLOWING AN ENGAGEMENT WITH ARMY TROOPS IN MARCH 1992. THEY CLAIM HE FELL VICTIM OF A SELF-INFLICTED WOUND TO THE MOUTH, AND WAS BURIED IN AN UNMARKED GRAVE IN RETALHULEU. HOWEVER, AN AUGUST 1993 EXHUMATION OF THE UNMARKED GRAVE FAILED TO PRODUCE THE REMAINS OF COMMANDANTE EVARADO, OR OF ANY OTHER VICTIM WITH SUCH A TELL-TALE WOUND. SINCE THEN, HUMAN RIGHTS ACTIVISTS--LED BY JENNIFER HARBURY, A U.S. CITIZEN AND BAMACA'S REPUTED COMMON-LAW WIFE--ALLEGE THAT THE ORPA LEADER WAS CAPTURED AND SUBSEQUENTLY INTERNED WITH 35 OTHER GUERRILLAS IN A CLANDESTINE MILITARY PRISON. PRESIDENT DE LEON, MINISTER OF DEFENSE GENERAL ENRIQUEZ, AND OTHER SENIOR OFFICIALS REPEATEDLY HAVE DENIED THESE CHARGES, AND INSIST THAT SUCH CAMPS DO NOT EXIST. (C NF)

19

[redacted] P.33

SECRET

[redacted]

[redacted] REPORTING SUGGESTS THAT THE GUATEMALAN GOVERNMENT HAS SYSTEMATICALLY MISREPRESENTED ITS KNOWLEDGE AND USE OF CLANDESTINE MILITARY PRISONS, AS WELL AS THE PRESUMED DESTINY OF COMMANDANTE EVARADO. WHAT FOLLOWS IS A COMPILATION, IN CHRONOLOGICAL ORDER, OF ALL RELATED [redacted] REPORTING AVAILABLE TO ALA ON THE BAMACA CASE. [redacted]

IN MAY 1994, [redacted] MOD ENRIQUEZ GAVE VERBAL ORDERS TO ALL ZONE COMMANDERS TO IDENTIFY CLANDESTINE CEMETERIES AND PURGE INTELLIGENCE-RELATED DOCUMENTS. [redacted]

1.5c
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(b)(3)
S

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(b)(1)
(b)(3)
S

[redacted] IN MARCH 1992 PERSONALLY INTERVIEWED BAMACA WHEN HE WAS CAPTURED. BAMACA WAS SUBSEQUENTLY

20

SECRET [redacted]

CIA 000506

TAKEN AWAY BY UNIDENTIFIED MILITARY INTELLIGENCE OFFICERS FROM THE ARMED FORCES GENERAL STAFF, AND THE [redacted] OFFICER CLAIMS HE NEVER SAW BAMACA OR HEARD ANYTHING ABOUT HIS WHEREABOUTS OR STATUS AGAIN. THE ARMY OFFICER REPORTEDLY IMPLIED THAT BAMACA WAS IN GOOD, IF NOT EXCELLENT HEALTH, AT HIS TIME OF CAPTURE. [redacted] WHEN QUESTIONED WHY, IF BAMACA IS NOW DEAD, THE GUATEMALAN GOVERNMENT DOES NOT TURN OVER HIS REMAINS, THIS SAME OFFICER OPINED THAT TO DO SO WOULD OPEN THE GOVERNMENT (AND THE MILITARY) TO A FLOOD OF REQUESTS FOR THE WHEREABOUTS AND REMAINS OF VICTIMS OF THE LONG AND BLOODY CIVIL WAR. [redacted] OFFICER CLAIMED 'THE GOVERNMENT AND THE ARMED FORCES WOULD HAVE NOTHING TO GAIN BY RELEASING BAMACA'S REMAINS, AND WOULD ONLY BE OPENING THEMSELVES UP TO INTERNATIONAL CONDEMNATION AFTER DOING SO.' [redacted]

1.5c (b)(1) (b)(3) S

IN EARLY OCTOBER 1993, ARMY SPECIALISTS FRANCISCO ((SOLOBAL)) AND TIBURCIO ((HERNANDEZ)), EACH SERVING A 30 YEAR SENTENCE FOR THEIR ROLE IN THE MURDER OF U.S. CITIZEN MICHAEL DEVINE, PUBLICLY ALLEGED THE ARMY MAINTAINS CLANDESTINE CEMETERIES AND JAILS. [redacted] THE GUATEMALAN NATIONAL DEFENSE STAFF, WORRIED THAT THE ALLEGATIONS--WHETHER TRUE OR NOT--COULD DAMAGE THE ARMY'S IMAGE AT A TIME WHEN IT HAD MADE GREAT STRIDES TO IMPROVE ITS REPUTATION, SENT A SENIOR COUNTERINTELLIGENCE OFFICER TO MEET WITH THE IMPRISONED SPECIALISTS. ALTHOUGH THE SPECIALISTS ADMITTED TO HAVING EXAGGERATED THEIR ALLEGATIONS, [redacted]

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[redacted]

[redacted]

[redacted]

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[redacted] IN MID-MAY 1993 [redacted] GUATEMALAN [redacted] OFFICERS REPORTEDLY BELIEVED THE ACCOUNTS OF 'WILLY' AND 'CARLOS,' TWO URNG MEMBERS WHO TESTIFIED BEFORE THE UN HUMAN RIGHTS COMMISSION IN MARCH 1993 ABOUT THEIR EXPERIENCES AS PRISONERS AND WHO, PRIOR TO THEIR ESCAPE FROM ONE OF THESE CAMPS, CLAIM TO HAVE SEEN BAMACA ALIVE. [redacted] ONE OF THE OFFICERS REPORTED THAT BAMACA WAS ALIVE, ALTHOUGH THE OTHERS WOULD NEITHER CONFIRM NOR DENY THE ALLEGATION. [redacted]

[redacted] P.41

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[redacted]

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4. [redacted]

5. AS TO THE FATE OF BAMACA, ALA DOES NOT HAVE ENOUGH INFORMATION TO ASCERTAIN WHETHER HE IS STILL ALIVE. ALTHOUGH THE ARMY WOULD HAVE A STRONG INCENTIVE TO KEEP HIM ALIVE--FOR HIS SUPPOSED VAST KNOWLEDGE OF ORPA'S STRUCTURE AND PERSONNEL--AND TURN HIM AGAINST HIS FORMER COMRADES, HE JUST AS EASILY MAY HAVE DIED OF BATTLEFIELD WOUNDS AND BEEN BURIED IN AN AS-YET UNIDENTIFIED GRAVE. THE POSSIBILITY ALSO EXISTS THAT THE ARMY

[redacted] SECRET [redacted]

P.42

(b)(3)

EXECUTED BAMACA AFTER IT EXTRACTED WHATEVER INFORMATION IT COULD FROM THE ORPA LEADER. IN ANY EVENT, THE ARMY REMAINS VERY TIGHT-LIPPED ABOUT THIS CASE AND OTHERS LIKE IT, AND DOES NOT APPEAR INCLINED TO ADMIT ALL THAT IT KNOWS. [redacted]

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: DESIR, CECIL
Date: 08/27/98
Case ID: 9842204

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NUCCIO ADDENDUM TO BAMACA CHRONOLOGY

RELEASED

p. 4 Mid-May: Did McAfee see this report? When? When was it received in ARA? By whom? When did current action officers on Guatemala see it? (Nuccio, Oct. 19, 1994; JH?, PW?, AP?)

p. 6 October 21: Does Anna know of existence of mid-May report in her first meeting with Harbury?

p. 6 December 9, 1993: Nuccio and Guatemala desk officer Charles Harrington meet with Jennifer Harbury. With Harrington present Nuccio tells Harbury that we do not know more about Bamaca case than what we have been told by GOG.

p. 7 July 1, 1994: Nuccio meets with Harbury; she describes "offer" by MOD to release Bamaca if Harbury will drop case; asks Nuccio if he will assure MOD that she is sincere in offering to drop case in exchange for Bamaca's release; Nuccio expresses doubt that MOD has really made such an offer; Harbury claims McAfee has changed attitude about case and is no longer pressing it; Nuccio assures Harbury this is not true, agrees to bring up case with URNG and with MOD on his next trip to Mexico and Guatemala.

p. 7 August 10-11: Nuccio visits Guatemala, meets with MOD and raises Bamaca case; MOD rejects idea that he ever offered to release Bamaca, claims no knowledge of case; Nuccio urges MOD to take whatever steps on case are possible now before it becomes bigger issue in US-Guatemalan relations. Nuccio raises Bamaca case with Guatemala-based representatives of group of Friends.

p. 7 August 11-12: Nuccio visits Mexico, questions Bamaca commander Gaspar Ilom about Bamaca. Ilom recounts personal relationship with Bamaca, that he personally recruited him into ORPA faction of URNG, taught him to read, feels that he is "like a son." Ilom asks Nuccio to do all he can on case. Nuccio raises Bamaca case with Mexico-based representatives of group of Friends.

p. 8 September 29, 1994: Nuccio meets with Harbury, conveys essence of conversation with MOD and Ilom. Possible that Harbury is accompanied by Santiago Cabrera at this meeting. Cabrera reviews his testimony to OAS with Nuccio.

p. 8 October 19, 1994: Nuccio is presented with May 1993 report on Bamaca for first time, documenting that USG has had info on Bamaca case beyond what GOG has been telling us. A/S Watson reviews May 1993 report, concludes it is not definitive.

p. 9 October 26, 1994: Nuccio meets with URNG command in Mexico City. Raises Bamaca case. Asks ORPA commander Ilom what solution to Bamaca case is possible. Ilom says Bamaca must be released if alive. Nuccio asks

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what can be done if she is not alive. Ilom says case must be pursued through judicial process and body must be handed over. Nuccio asks what if body cannot be produced. Ilom says judicial process is answer. Nuccio has side conversation with Ilom, says that he now has new information about case. Ilom says that he has noted new activism on USG part and thanks Nuccio for efforts.

p. 10 October 27, 1994: Nuccio and Amb. McAfee visit Jennifer in central plaza during hunger strike, agree to meet later at ambassador's residence.

p. 10 Nuccio and McAfee meet at ambassador's residence that evening with Harbury. This is first meeting with Harbury in which Nuccio is aware of intelligence information about Bamaca. Goes beyond previous conversations to communicate conviction that Bamaca is not alive despite claims by Harbury that he has been seen alive during her hunger strike.

p. 11 November 9, 1994: ORPA commander Ilom calls Nuccio. Asks for help to prevent GOG from threatening Jennifer's health by making her attend pointless exhumations. Nuccio agrees to try, but points out that Harbury is attacking him personally, reducing his effectiveness. Ilom mentions NYTimes editorial charging Amb. McAfee and Nuccio with "silence" on case and says is unjust. Offers to send "messenger" to Harbury to warn her against "converting an attack on GOG and military into an attack on USG."

p. 11 November 11, 1994: Nuccio meets with URNG in Mexico City. Ilom takes credit for having ended Harbury hunger strike the day before by saying that he sent messenger to her that he had mentioned on November 11. Nuccio thanks Ilom and says that preservation of Jennifer's health is important since solution to the case will take a great deal of time.

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March 18: Jeff Moon speaks with JH by telephone: Discuss ground rules re confidentiality, procedures for exhumation, etc.

March 19: Embassy reviews HR Ombudsman's files on case.

March 21: JH writes to Jeff Moon describing marriage, attaching privacy act waiver.

March 22: COPREDEH (Guatemala's Presidential Human Rights Commission) contacted about case.

March 24: Jeff Moon speaks with JH by telephone, discussing informal inquiries to GOG, steps on exhumation proceedings.

March 26: Station and HR officer Moon speak to then-MOD Perez.

March 30: JH called Emb. and discuss ways to identify Bamaca.

May 7: JH calls Emb. and is advised that HR Ombudsman de Leon will not take her case.

Mid-May 1993: unidentified senior Guatemalan military officers claim that the army holds URNG members in clandestine jails. The officers reportedly believe the accounts of "Willy and Carlos" regarding seeing Bamaca alive. They also claim that there were 340 to 360 former URNG members under military control.

July 11: AMB meets with Pres. De Leon, suggests he abolish clandestine prisons if any exist.

Aug. 17: Retalhuleu exhumation. Embassy officer accompanies Harzury to witness exhumation, which did not produce Bamaca's body.

Aug. 30: JH meets MOD.

Sep. 2: JH appears at Consulate unexpectedly and leaves angrily because unable to meet consular officer Mary Granfield, who was away from Consulate at a meeting.

September 1993: JH goes on hunger strike for one week in Guatemala City.

Early October: two soldiers imprisoned for the murder of Michael Devine publicly claim knowledge of clandestine cemeteries and jails. According to an untested clandestine source, several former guerrillas collaborate with the army.

Oct. 21: JH meets DAS Patterson in Washington, who suggests she file case with UNHRC in Geneva.

Oct. 22: JH meets with DRL A/S Shattuck in Washington.

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WARNING (U) SECSTATE TREAT AS NOFORN.

SERIAL: (U) [redacted]

COUNTRY: (U) GUATEMALA (GT).

SUBJ: [redacted] CLANDESTINE MILITARY PRISONS (U)

WARNING: (U) THIS IS AN INFORMATION REPORT, NOT FINALLY EVALUATED INTELLIGENCE. REPORT CLASSIFIED [redacted]

DEPARTMENT OF DEFENSE

[redacted]

REF: (U) T-DCI-1250-02-90.

COMT: [redacted]

[redacted]

SUMMARY: [redacted] CLANDESTINE MILITARY PRISONS HAVE ALWAYS EXISTED IN GT AND STILL DO TO THIS DAY. FURTHER, [redacted] EFRAIN (BANACA) WAS NOT KILLED DURING A FIREFIGHT WITH ARMY TROOPS, BUT WAS CAPTURED, INTERROGATED AND KILLED.

TEXT: [redacted]

[redacted] REGARDING THE POSSIBLE EXISTENCE OF CLANDESTINE MILITARY PRISONS WHERE INSURGENTS OR POLITICAL PRISONERS HAVE BEEN OR WERE BEING HELD, [redacted] DID NOT KNOW OF ANY SPECIFIC PRISONS PER SE, BUT DID STATE THAT CLANDESTINE MILITARY PRISONS HAVE ALWAYS EXISTED IN GUATEMALA. [redacted] WENT ON TO STATE THAT TO THE BEST OF HIS KNOWLEDGE, THERE WERE NO CLANDESTINE MILITARY PRISONS IN GUATEMALA CITY ITSELF, BUT, [redacted] CONTINUED, WHENEVER INSURGENTS WERE CAPTURED BY THE ARMY, THEY WERE HELD INCOMMUNICADO IN ISOLATED LOCATIONS IN DIFFERENT MILITARY ZONES, INTERROGATED AND ONCE THE ARMY FELT IT HAD EXTRACTED ALL PERTINENT INFORMATION FROM THEM, THEY WERE KILLED AND THEIR BODIES DISPOSED OF.

2. [redacted] THE STATUS OF EFRAIN (BANACA) [redacted] DURING THE TIMEFRAME THE MILITARY ACTION INVOLVING BANACA HAD OCCURRED, THAT BANACA HAD BEEN HELD INCOMMUNICADO, INTERROGATED A NUMBER OF TIMES, AND THEN KILLED. [redacted] -- THE OFFICIAL STORY FROM THE GUATEMALAN ARMY IS THAT BANACA WAS EITHER KILLED DURING A FIREFIGHT WITH GOVERNMENT TROOPS OR IN LIEU OF BEING CAPTURED, KILLED HIMSELF. REPORTEDLY, HIS BODY WAS THEN DISPOSED OF IN AN UNKNOWN LOCATION. [redacted] GUATEMALAN ARMY DID NOT [redacted] PRISONERS OF WAR AND THAT WHEN ONE WAS BROUGHT FORWARD IT WAS NORMALLY FOR PROPAGANDA PURPOSES. [redacted] IDENTIFY A SPECIFIC LOCATION WHERE A POSSIBLE CLANDESTINE PRISON WAS LOCATED [redacted] COULD NOT BECAUSE THEY WERE NOT PERMANENT LOCATIONS, BUT WERE PLACES THAT WERE USED ON AN IRREGULAR BASIS, WHEN THEY WERE NEEDED, AND WERE NEVER IN THE SAME LOCATION.

3. [redacted] HE DID NOT PERSONALLY KNOW OF ANY SPECIFIC CLANDESTINE MILITARY PRISONS OR WHETHER THERE WERE ANY PRISONS STILL IN EXISTENCE, BUT, [redacted] BELIEVED THERE WERE PROBABLY STILL CLANDESTINE PRISONS IN EXISTENCE AND THAT IF THERE WERE IN FACT, CLANDESTINE MILITARY PRISONS, THEY WOULD BE UNDER THE CONTROL AND SUPERVISION OF THE DIRECTORATE OF INTELLIGENCE (D-2) OF THE NATIONAL DEFENSE STAFF.

COMMENTS: 1. [redacted] THIS IS NOT THE BT

[redacted] SECTION 02 OF 02 [redacted] 10767

[redacted]

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WARNING (U) SECSTATE TREAT AS NOFORN.

SERIAL: (U) [redacted]

COUNTRY: (U) GUATEMALA (GT).

SUBJ: [redacted] CLANDESTINE MILITARY PRISONS (U)

WARNING: (U) THIS IS AN INFORMATION REPORT, NOT FINALLY EVALUATED INTELLIGENCE. REPORT CLASSIFIED FIRST TIME [redacted] HAS RAISED THE QUESTION OF CLANDESTINE MILITARY PRISONS. [redacted] GENERAL RAMIO [redacted] (VERIFIED) NORMALES, THE MINISTER OF DEFENSE [redacted] INSISTS THERE ARE NO CLANDESTINE MILITARY PRISONS OR PRISONERS BEING HELD INCOMMUNICADO.

2. [redacted] ONE ISSUE WE BELIEVE MAY BE AFFECTING THE OFFICIAL RESPONSE FROM THE MINISTER IS THE INTERPRETATION OF THE TERM, "CLANDESTINE MILITARY PRISONS." IN THE MINDS OF THE ARMY LEADERSHIP, IT MAY REPRESENT A FIXED, SECURE SITE WHERE A PRISONER IS HELD. THOUGH THIS IS POSSIBLY FAR DIFFERENT FROM THE SEMI-PERMANENT SITES THAT HAVE REPORTEDLY BEEN USED, WHICH THEY MAY VIEW AS BEING FOR DETENTION PURPOSES ONLY, RATHER THAN INCARCERATION. THE LEADERSHIP MAY FEEL JUSTIFIED IN STATING THERE ARE NO "CLANDESTINE MILITARY PRISONS" BASED ON THIS PREMISE. THEY HAVE ALSO STATED THAT PRISONERS HAVE BEEN CAPTURED AND IN ESSENCE, TURNED TO SUPPORT THE ARMY. THE ISSUE THEN IS NOT WHETHER PRISONERS HAVE BEEN HELD, BUT WHETHER THE ARMY CONTINUES TO INCARCERATE, INTERROGATE, AND EVENTUALLY DISPOSE OF INSURGENTS THEIR PRISONER DURING MILITARY ENGAGEMENTS. [redacted]

APR 14 1995

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WARNING (U) SECSTATE TREAT AS NODIS.

SERIAL: (U) [redacted]

COUNTRY: (U) GUATEMALA (GT).

SUBJ: [redacted] CLANDESTINE MILITARY PRISONS (U)

WARNING: (U) THIS IS AN INFORMATION REPORT, NOT FINALLY EVALUATED INTELLIGENCE. REPORT ~~[illegible]~~

DEPARTMENT OF DEFENSE

DOI: (U) [redacted]

REQS: (U) [redacted]

SOURCE: [redacted]

SUMMARY: [redacted]
EFRAIN ((BAMACA)) WAS NOT KILLED DURING A FIREFIGHT WITH ARMY TROOPS, BUT WAS CAPTURED, INTERROGATED AND KILLED.

TEXT: [redacted]

[redacted] THE STATUS OF EFRAIN [redacted] THAT BAMACA HAD BEEN HELD INCOMMUNICADO, INTERROGATED A NUMBER OF TIMES, AND THEN KILLED [redacted] -- THE OFFICIAL STORY FROM THE GUATEMALAN ARMY IS THAT BAMACA WAS EITHER KILLED DURING A FIREFIGHT WITH GOVERNMENT TROOPS OR IN LIEU OF BEING CAPTURED, KILLED HIMSELF.) REPORTEDLY HIS BODY WAS THEN DISPOSED OF IN AN UNIDENTIFIED LOCATION [redacted]

COMMENTS: 1. [redacted]
BT

SECTION 02 OF 02 [redacted]

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WARNING (U) SECSTATE TREAT AS NODIS.

SERIAL: (U) [redacted]

COUNTRY: (U) GUATEMALA (GT).

SUBJ: [redacted] CLANDESTINE MILITARY PRISONS (U)

WARNING: (U) THIS IS AN INFORMATION REPORT, NOT FINALLY EVALUATED INTELLIGENCE. REPORT [redacted]

[illegible]: (U) [redacted]
[illegible]: [redacted]
PROJ: (U)
[illegible]: (U) [redacted]
PREP: (U) [redacted]

[illegible]
[illegible]

ACQ: [redacted]
DISSEM: (U) FIELD: EMBASSY AT GUATEMALA CITY.
WARNING: (U) REPORT [redacted]
[redacted]
[redacted]
[redacted]
[redacted]

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[redacted]

United States Department of State

Assistant Secretary of State
Bureau of Inter-American Affairs

Washington, D.C. 20520-6258

17

B2

November 9, 1994

UNCLASSIFIED
SECRET
MEMORANDUM

TO: IHR - Toby T. Gati

FROM: ARA - Michael Skol, Acting

SUBJECT: Access to DIA Intelligence Report

A significant DIA report [redacted] B2 related to the Bamaca case was flagged for our attention by Embassy Guatemala but, although we were shown it, we've been unable to obtain a copy.

Would you pursue this issue with the appropriate DIA officials.

DEPARTMENT OF STATE IS FPC CDR Date: 7/12/95
( ) RELEASE ( ) DECLASSIFY
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RELEASED IN PART December 12, 1993

George: B3,B5,B6,B7C,B7D UNCLASSIFIED

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B7C,B7D

This morning I met with [redacted] who claimed to be a contact of Jeff [redacted] also alleges to be a member of the [redacted] He also says that he worked for [redacted] He brought up the following topics:

B7C,B7D
B7C,B7D

[redacted]

B3,B7C,B7D

Bamaca: [redacted] claims that he spoke to one of the soldiers (nicknamed "Milo") who captured and detained Bamaca. According to this soldier, the unit that captured Bamaca was disbanded soon after this clash. The soldier did not have any other information on what happened to Bamaca. I asked [redacted] where Bamaca was taken after his capture and he claimed to the Army base nearest the capture site (he did not give a name) or another base in Santa Marlin in Huatepeque? (Note: I checked with DAO and these names do not exist.) [redacted] did not know the soldiers full name but stated that he [redacted] is married to the [redacted] added that the soldier is presently living in the US but that the soldier's mother can be reached at [redacted] I asked whether he thought Bamaca was dead or alive and [redacted] said he personally thought he was dead since he did not think the Army would have kept him alive for very long.

B7C,B7D

B7C,B7D

B7C,B7D

B7D
B7D
B6

Guatemala
Political Chrons
1990-94
Political Section
327227

Congress: According to [redacted] Deputy Chinchilla is offering Q 40-60,000 to those deputies who are willing to vote for his Presidency of Congress. This alleged Embassy contact claims that Ernesto Contreras, the deputy seeking to be the next president of Congress, is the brother-in-law of Arnaldo Vargas, the Guatemalan recently extradited to the US because of pending drug charges.

B7C,B7D

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 08/04/95
Case ID: 95422281

Drug Trafficking: The visitor claimed that drug trafficking is rampant in the Puerto Barrios region and that PAC leaders and military commissioners and Deputy Verganza are behind thi activity.

UNCLASSIFIED

Consulate's Comments and Recommendation: [redacted]

GRAFELD DECLARATION
CIVIL ACTION NO. 97-0305
ATTACHMENT 18

UNCLASSIFIED

B3,B5

can be reached at:

B7C,B7D

B7C,B7D

UNCLASSIFIED

~~SECRET NOFORN WNINTEL~~

INQUIRE=DOC26D
ITEM NO=00035083
ENVELOPE
CDSN = LGX856 MCN = 94101/25789 TOR = 941011940
RTTSZYUW RUEKJCS3348 101193Z ~~SSES~~--RUEALGX.
ZNY ~~SOSS~~S
HEADER
R 111937Z APR 94
[redacted]
R 111930Z APR 94
[redacted]
BT
CONTROLS
~~S E C R E T~~ SECTION 01 OF 02 [redacted] 003515

~~S E C R E T NOFORN WNINTEL ORCON~~

SERIAL: (U) [redacted]

/********** THIS IS A COMBINED MESSAGE **********/
BODY
COUNTRY: (U) GUATEMALA (GT).

SUBJ: [redacted] SUSPECTED PRESENCE OF CLANDESTINE CEMETERIES ON A MILITARY INSTALLATION (U)

WARNING: (U) THIS IS AN INFORMATION REPORT, NOT FINALLY EVALUATED INTELLIGENCE. ~~REPORT CLASSIFIED S E C R E T NOFORN WNINTEL ORCON~~

DEPARTMENT OF DEFENSE

[redacted]

REQS: (U) T-3CX-2250-02-90.

[redacted]

~~SECRET~~

~~ORCON NOFORN WNINTEL~~

~~SECRET~~

~~ORCON NOFORN WNINTEL~~

PAGE 0067

SUMMARY: ~~(S/NF/WN/OC)~~ SOUTHERN AIR BASE WAS REPORTEDLY USED IN THE MID-EIGHTIES AS AN OPERATIONS AND INTERROGATION CENTER FOR THE D-2. BODIES WERE REMOVED BY AIRCRAFT AND BURIED ON THE BASE AFTER INSURGENTS WERE TORTURED AND KILLED DURING INTERROGATION.

TEXT: 1. ~~(S/NF/WN/OC)~~ [redacted] THE SOUTHERN AIR BASE AT RETALHULEU [redacted] BETWEEN 1984 AND 1986. REPORTEDLY, DURING THIS PERIOD OF TIME, RETALHULEU WAS USED AS THE CENTER OF THE SOUTHWEST THEATER OF OPERATIONS FOR THE GUATEMALAN ARMY. THE COMMANDER OF THIS THEATER OF OPERATIONS DURING THIS TIME HAS FORMER MINISTER OF DEFENSE (MOD) GENERAL HECTOR ALEJANDRO ((GRAMAJO)) MORALES.

2. (~~S/NF/WN/OC~~) [redacted] DURING THIS PERIOD, THE DIRECTORATE OF INTELLIGENCE (D-2) RAN AND COORDINATED ALL OPERATIONS FOR THIS THEATER. THE SOUTHERN BASE ITSELF HAS USED AS BOTH AN OPERATIONS CENTER AND AS AN INTERROGATION CENTER BY THE D-2. SMALL BUILDINGS ON THE BASE THAT HAVE SINCE BEEN DESTROYED WERE USED AS HOLDING CELLS AND INTERROGATION ROOMS FOR CAPTURED INSURGENTS AND SUSPECTED COLLABORATORS WITH THE INSURGENTS. THERE WERE PITS DUG ON THE PERIMETER OF THE BASE, NOW FILLED WITH CONCRETE, THAT WERE ONCE FILLED WITH WATER AND USED TO HOLD PRISONERS. REPORTEDLY, THERE WERE CAGES OVER THE PITS AND THE WATER LEVEL HAS SUCH THAT THE INDIVIDUALS HELD WITHIN THEM WERE FORCED TO HOLD ON TO THE BARS IN ORDER TO KEEP THEIR HEADS ABOVE WATER AND AVOID DROWNING.

3. ~~(S/NF/WN)~~ ONE TECHNIQUE USED, [redacted] TO REMOVE INSURGENTS THAT HAD BEEN KILLED DURING INTERROGATION, AND AT TIMES, THAT WERE STILL ALIVE BUT NEEDED TO DISAPPEAR HAS TO THROW THEM OUT OF AIRCRAFT OVER THE OCEAN. IAI-201 ARAVA'S WERE NORMALLY PARKED AT THE SOUTH END OF THE RUNWAY AFTER MIDNIGHT, MANNED ONLY BY A PILOT AND CO-PILOT. D-2 PERSONNEL WOULD DRIVE BOUND PRISONERS AND BODIES OUT TO THE WAITING AIRCRAFT AND LOAD THEM ABOARD. THE PILOTS WERE INSTRUCTED TO FLY 30 MINUTES OFF THE COAST OF GUATEMALA AND THEN PUSH THE PRISONERS AND BODIES OUT OF THE AIRCRAFT. IN THIS WAY, THE D-2 HAS ABLE TO REMOVE THE MAJORITY OF THE EVIDENCE SHOWING THAT THE PRISONERS HAD BEEN TORTURED AND KILLED.

4. ~~(S/NF/WN/OC)~~ [redacted] WITHIN THE LAST TWO YEARS, AN OFFICER ASSIGNED TO THE SOUTHERN AIR BASE HAD ATTEMPTED TO IMPROVE THE QUALITY OF LIFE AT THE BASE FOR THE TROOPS BY ALLOWING

~~SECRET~~

~~ORCON NOFORN WNINTEL~~

~~SECRET~~

~~SECRET NOFORN~~

THEM TO GROW THEIR OWN VEGETABLES IN PLOTS OF LAND ON THE BASE. THE OFFICER HAS DENIED PERMISSION TO ALLOW THE SOLDIERS TO CULTIVATE THE IDENTIFIED PLOTS OF LAND BY THE BASE COMMANDER ON SEVERAL OCCASIONS. REPORTEDLY, A SENIOR SPECIALIST HAD TAKEN THE OFFICER ASIDE AND HAD INFORMED HIM THAT HE WOULD BE BETTER OFF TO DROP THE REQUEST, BECAUSE THE LOCATIONS HE HAD WANTED TO CULTIVATE WERE BURIAL SITES THAT HAD BEEN USED BY THE D-2 DURING THE MID-EIGHTIES WHEN RETALHULEU HAS AN OPERATIONAL CENTER FOR THE ARMY.

COMMENTS: ~~(S/NF)~~ [redacted] THESE TYPES OF ACTIVITIES CEASED IN GUATEMALA SEVERAL YEARS AGO AFTER INCREASED INTERNATIONAL PRESSURE ABOUT HUMAN RIGHTS ABUSES SURFACED. THE ARMY IS MORE SENSITIZED TO ILLEGAL ACTIVITIES OF THIS NATURE TODAY THAN THEY WERE IN THE PAST.

//IPSP: (U) PG 2250//.
//COMSOBJ: (U) 431//.
ADMIN
PROJ: (U).
INSTR: (U) U.S. NO.

[redacted]

WARNING: (U) ~~REPORT CLASSIFIED S E C R E T -- NOT RELEASABLE TO FOREIGN NATIONALS -- WARNING NOTICE - INTELLIGENCE SOURCES OR METHODS INVOLVED - DISSEMINATION AND EXTRACTION OF INFORMATION CONTROLLED BY ORIGINATOR.~~
~~DECL: OADR~~
~~BT~~

~~#3348~~

~~NNNN~~

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~~SECRET NOFORN NOCONTRACT~~

UNCLASSIFIED

SECRET

United States Senate

SELECT COMMITTEE ON INTELLIGENCE
WASHINGTON, DC 20510-6475

November 10, 1994

Dr. Anthony Lake
Assistant to the President for National Security Affairs
The White House Office
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Dr. Lake:

I am writing you to urge that you instruct the Intelligence Community, consistent with protecting sensitive intelligence sources, to permit the Department of State to share with Ms. Jennifer Harbury, a U.S. citizen, the available intelligence regarding the whereabouts of her husband, the Guatemalan guerrilla leader Efrain Bamaca Velasquez.

Mr. Bamaca and other guerrillas were defeated in an engagement with the Guatemalan Army in 1992. Guatemalan authorities have insisted that he shot himself rather than be taken prisoner. Information in Central Intelligence Agency files indicates, however, that as early as March 1992, sources reported that Mr. Bamaca had been captured and was being held prisoner by the Guatemalan Army.

Ms. Harbury has been attempting for years to force the Guatemalan Government to produce her husband's body, dead or alive. She is now several weeks into a hunger strike in Guatemala City to force the issue. There is a very real possibility that she will die before the Guatemalan Government finds her husband or his body, despite the best efforts of the U.S. Government to encourage a proper investigation of the matter.

I believe that a humanitarian concern for Ms. Harbury's welfare, as well as for the U.S. human rights policy in Guatemala, demands that Ms. Harbury be informed immediately of what the U.S. Government has learned regarding her husband. This may help assure her of the good faith of her own government, as well as give her reason to end her hunger strike, so that she might live to pursue further the cause of human rights.

Thank you for your assistance.

Sincerely,

Dennis DeConcini
Chairman

Declassified/Released on 4/25/95
under provisions of E.O. 12356
by D. Van Tassel, National Security Council
(F95-05)

UNCLASSIFIED

87

NSC 000146

13:26 FROM:NAT SECURITY ARCHIVE 2029947005 TO:212 222 0598 9426345 PAGE:02

memo sent to address via RMD courier. 11/21. Receipt #V 3177279.

Copies to:
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United States Department of State

Washington, D.C. 20520

November 21, 1994

UNCLASSIFIED

UNCLASSIFIED with [redacted] Attachment
DECL:OADR

MEMORANDUM FOR ANTHONY LAKE
THE WHITE HOUSE

Subject: Background Paper on Meeting with Jennifer Harbury

Attached is background information for your November 21 meeting with Jennifer Harbury.

Kenneth C. Brill
Executive Secretary

Attachments:
As stated.

DEPARTMENT OF STATE | IS/FPC/CDR | Date: 3/20/95
[X] RELEASE [X] DECLASSIFY
[ ] EXCISE [ ] DECLASSIFY IN PART
[ ] DENY
[ ] DELETE Non-Responsive Info
DOD Exemptions
DS Exemptions
NR Cases Only:
DS Citations
TS authority ref
[ ] CLASSIFY as [ ] S or [ ] C OADR
[ ] DOWNGRADE TS to [ ] S or [ ] C OADR

UNCLASSIFIED

~~SECRET~~
DECL:OADR
UNCLASSIFIED

Background Information on Harbury/Bamaca Case

American citizen Jennifer Harbury went on a hunger strike in Guatemala from October 11 to November 11 to protest the disappearance of her Guatemalan common law husband, URNG (Guatemalan National Revolutionary Unity) guerrilla Efrain Bamaca. Her fast attracted significant bipartisan Congressional, press and public interest in Harbury's situation, prompting hundreds of letters and phone calls to the State Department and NSC, as well as national media coverage, including a November 6 "60 Minutes" story and a "New York Times" editorial critical of the USG's handling of the case. In Guatemala, the GOG and press reaction to Harbury's allegations was negative, and the USG has been criticized for perceived pressure and interference.

Harbury ended her fast with a press conference announcing that she had "received news that high-level officials in the White House want to talk" to her. The request for a high-level meeting came to Vice President Gore's staff from Rep. Gejdenson (D-CT) on behalf of Harbury's attorney. However, by being able to point to high-level interest in her husband's case, Harbury achieved a face-saving way to end her hunger-strike.

Bamaca (nom de guerre: Everardo) disappeared in March 1992 following an armed confrontation with the Guatemalan army. Although the GOG maintains that they have no information on Bamaca's whereabouts, there is reason to believe that the Guatemalan military operates clandestine prisons and may have captured and possibly executed him. Harbury is an attorney who worked with Guatemalan asylum seekers in the U.S. and wrote a book based on her experiences while living for two years in Guatemala. She says that she met Bamaca, a guerrilla for seventeen years, in Guatemala in 1990 and entered into a common-law marriage with him in September 1991.

After Bamaca's disappearance, Harbury initially believed he was dead, but after learning that two other guerrillas claimed to have seen him in army custody, she initiated her campaign on his behalf. She attended an exhumation in May 1992 -- without identifying herself as Bamaca's wife -- that was stopped by Attorney General Acisclo Valladares on the grounds that the proceeding was illegal since no family members were present and there were no other means available to identify the cadaver, such as x-rays, dental records, or DNA samples. In her "60 Minutes" interview, she explained her silence on that occasion by saying that the army would discredit her ability to identify the cadaver if they knew she was Bamaca's wife. The GOG maintains that Harbury is an agent, or at the very least a pawn, of the URNG.

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RELEASED IN PART
B1,B2

UNCLASSIFIED SECRET

Department of State

FILE COPY

TELEGRAM

PAGE 01 GUATEM 16863 071512Z SECRET

ACTION INFO-00

INFO LOG-00 CCO-00 OASY-00 ADS-00 /000W
---------- 054857 071513Z /38

O 071512Z NOV 94 ZDK
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC IMMEDIATE 6243

S E C R E T GUATEMALA 01863

FROM CHANNEL
NSC FOR FEINBERG

DECAPTIONED

E.O. 12356: DECL: OADR
TAGS: PINR, PHUM, PGOV, GT
SUBJECT: CREDIBLE REPORT THAT ARMY MURDERED BARAHA

REF: B2

1. SECRET - ENTIRE TEXT

2. SUMMARY: REF CI CONTAINS APPARENTLY B1
CREDIBLE INFORMATION THAT THE GUATEMALAN ARMY CAPTURED BARAHA, INTERROGATED HIM AND ALMOST CERTAINLY DID AWAY WITH HIM. TO LEND MORE URGENCY TO THE NEED FOR ACTION, A/S WATSON OR OTHER SENIOR USG OFFICIAL MIGHT WISH TO PHONE PRESIDENT DE LEON AND INFORM HIM THAT THE AMBASSADOR WILL BE SEEKING AN URGENT AUDIENCE ON A MATTER OF UTMOST GRAVITY. AMBASSADOR WOULD PROVIDE

SANITIZED INFORMATION TO PRESIDENT ALONE, AND ASK HE HAVE IT INVESTIGATED.

END SUMMARY

3. WE CALL DEPARTMENT'S ATTENTION TO REF C. IT REPORTS THAT
[redacted] B1
INFORMED [redacted] THAT EFRAIN
BARAHA WAS CAPTURED BY THE ARMY, HELD FOR ABOUT A MONTH
AND INTERROGATED.
[redacted] B1
OPINION: BARAHA
WAS DISPOSED OF AT SEA

4. IN VIEW OF SERIOUSNESS OF THIS INFORMATION, WE BELIEVE AMBASSADOR SHOULD PASS A SANITIZED VERSION OF IT TO PRESIDENT DE LEON AT THE EARLIEST OPPORTUNITY. TO EMPHASIZE ITS IMPORTANCE AND URGENCY, A/S WATSON OR OTHER SENIOR USG OFFICIAL MIGHT WISH TO TELEPHONE PRESIDENT DE LEON AND INFORM HIM THAT THE AMBASSADOR WILL BE SEEKING AN APPOINTMENT ON AN URGENT BASIS. ALTERNATIVELY, DEPARTMENT MAY WISH TO DISPATCH A HIGH LEVEL USG OFFICIAL TO APPROACH THE PRESIDENT. IN EITHER CASE, THE AUDIENCE SHOULD TAKE PLACE AS SOON AS POSSIBLE.

5. WE RECOMMEND THAT THE TALKING POINTS WHICH WOULD BE PRESENTED IN WRITING RATHER THAN SPOKEN BECAUSE OF THE DANGER OF DISCLOSING STATE THE FOLLOWING:

BEGIN TEXT:

--WE HAVE RECEIVED INFORMATION THROUGH A RELIABLE SOURCE THAT EFRAIN BARAHA WAS HELD CAPTIVE AND INTERROGATED BY THE ARMY IN SAN MARCOS FOR ABOUT A MONTH AFTER HIS CAPTURE IN MARCH 1992. WHILE WOUNDED, HIS WOUNDS WERE NOT LIFE THREATENING. WE UNDERSTAND THAT SUBSEQUENTLY HE WAS KILLED.

GUATEM 16863 071512Z SECRET

--THIS REPORT, WHICH WE CONSIDER CREDIBLE, MAKES IT EXTREMELY UNLIKELY THAT BARAHA IS STILL ALIVE. HE WAS IN ARMY CUSTODY, AND THE ARMY PRESUMABLY IS AWARE OF HIS FATE.

--THE ARMY SHOULD BE CALLED UPON TO MAKE A FULL ACCOUNTING, AND THIS INFORMATION SHOULD BE PURSUED VIGOROUSLY. IF THE INVESTIGATION DOES INDEED WAY TO SEE IF IT CAN BE CORROBORATED. THOSE RESPONSIBLE SHOULD BE IDENTIFIED AND TRIED.

--IT IS IMPORTANT THAT THE APPROPRIATE STEPS BE TAKEN PROMPTLY TO ORDER NOT TO IMPEDE THE PEACE NEGOTIATIONS AND TO SHOW THAT IMPUNITY NO LONGER REIGNS IN GUATEMALA.

--BEYOND BARAHA, URGENT STEPS NEED TO BE TAKEN TO ENSURE THAT CITIZENS CURRENTLY HELD BY THE ARMY OR CAPTURED IN THE FUTURE ARE NOT MISTREATED OR KILLED.

6. COMMENT: THIS INFORMATION WILL PUT THE PRESIDENT IN A QUANDRY. THE PRESIDENT IS WELL AWARE OF THE EXTREME PRESSURE HIS GOVERNMENT IS UNDER TO DELIVER ON THE BARAHA CASE. AS A HUMAN RIGHTS LEADER HE WILL FIND IT MORALLY VERY DIFFICULT TO IGNORE. ON THE OTHER HAND, HE ALSO KNOWS THAT SERIOUS PURSUIT OF WHERE THE INFORMATION LEADS WOULD PROVOKE A CONFRONTATION WITH AT LEAST PART OF THE ARMY, OR THE ARMY ITSELF, WHICH CLOSES RANKS AND SHIELDS ITSELF BEHIND A WALL OF SILENCE AND NON COOPERATION. THE PEACE PROCESS WOULD ALSO BE JEOPARDIZED BY MILITARY CONCERNS THAT PAST HUMAN RIGHTS VIOLATIONS WILL BE SCRUTINIZED DESPITE THEIR PERCEIVED VICTORY IN ACHIEVING A TRUTH COMMISSION WITH RESTRICTED AUTHORITY) AND THEY MAY PUSH FOR AN IMMEDIATE AMNESTY, THEREBY TRANSGRESSING A SPECIFIC PROVISION OF THE HUMAN RIGHTS ACCORD. MOREOVER, THE INFORMATION WE HAVE CANNOT BE USED IN COURT AND IT IS EXTREMELY UNLIKELY THAT [redacted] B1
[redacted] WOULD BE WILLING TO TESTIFY BECAUSE OF THE EXTREME DANGER HE WOULD BE IN. WE EXPECT THE PRESIDENT WILL ASK FOR TIME TO CONSIDER HIS OPTIONS.

MCAFEE

United States Department of State
Office of FOI, Privacy & Classification Review
Review Authority: OLSON OSCAR
Date: 05/26/96
Case ID: 9512[illegible]

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JOINT STAFF
INFO SERVICE CENTER

FOXTROT
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[redacted]

S E C R E T SECTION 01 OF 02 [redacted] 010280

SECRET SPECAT NOFORN WHINTEL ONCON

WARNING: (U) THIS IS A DOD HUMINT SYSTEMS INTELLIGENCE INFORMATION SPECIAL REPORT CONTAINING SENSITIVE INFORMATION. STRICT CONTROL IS REQUIRED. NO FURTHER DISSEMINATION OR RELEASE OF INFORMATION IS PERMITTED WITHOUT THE APPROVAL OF DIA/DA.

WARNING (U) SECSTATE TREAT AS NOFORN.

SERIAL: (U) [redacted]

COUNTRY: (U) GUATEMALA (GT).

SUBJ: [redacted] A CONTINUATION ON THE FATE OF BAMACA (U)

WARNING: (U) THIS IS AN INFORMATION REPORT; NOT FINALLY EVALUATED INTELLIGENCE. REPORT CLASSIFIED [redacted]

DEPARTMENT OF DEFENSE

DOI: (U) [redacted]

REQS: (U) P-4003-2500-01-94; T-3CI-1100-02-90; T-3CI-2300-02-90.

[redacted]

SUMMARY: (S/NF/NOFORN) BAMACA WAS INTERROGATED PRINCIPALLY BY THE G-2 AND G-3 OF SAN MARCOS AND ASSISTED BY TWO MILITARY DOCTORS. [redacted] MAY HAVE VISITED BAMACA. ARMY OFFICERS NOTICE THAT EX-GUERRILLAS THAT WORK FOR THE ARMY ARE NOTICEABLY ABSENT.

TEXT: 1. (S/NF/NOFORN/OC-[redacted]) REPORTED THAT ACCORDING [redacted] ((LAMACA)) VELASQUEZ WAS INTERROGATED DURING HIS TIME IN MILITARY ZONE 18 (SAN MARCOS) PRINCIPALLY BY THE G-2 OF THE ZONE, MAJOR JULIO ALBERTO ((SOTO)) BILLAR, AND THE G-2, MAJOR MARIO ERNESTO ((SOSA)) ORELLANA. THESE OFFICERS WERE ASSISTED IN THE INTERROGATIONS BY TWO UNIDENTIFIED MILITARY DOCTORS ASSIGNED TO THE INFIRMARY AT MILITARY ZONE 18 HEADQUARTERS. [redacted] RELATED THAT THE DOCTORS PROVIDED THE NECESSARY DRUGS (NFI) THAT WERE USED IN THE INTERROGATIONS.

2. (S/NF/NOFORN/OC-[redacted]) BAMACA, [redacted] CONTINUED, WAS SUCH A SPECIAL PRISONER. THAT WHEN HE WAS MOVED TO THE MILITARY INFIRMARY FOR CARE, THE INFIRMARY WAS CLEARED OF ALL PATIENTS AND OTHER PERSONNEL TO PRECLUDE ANYONE FROM IDENTIFYING HIM. EVEN WITH THIS, THE MAJORITY OF THE OFFICERS ASSIGNED TO MILITARY ZONE 18 THAT WORKED AT THE HEADQUARTERS LEVEL WERE AWARE THAT BAMACA WAS BEING HELD IN A CELL IN THE G-2.

3. (S/NF/NOFORN/OC-[redacted]) DURING BAMACA'S INCARCERATION AT MILITARY ZONE 18, [redacted] STATED THAT: [redacted] VISITED MILITARY ZONE 18 AN UNUSUAL NUMBER OF TIMES (NFI). PRESUMABLY TO COORDINATE WITH THOSE CONDUCTING THE INTERROGATIONS OF BAMACA. [redacted] COMMENT: [redacted] STATED THAT BAMACA WAS NOT A COOPERATIVE PRISONER AND DID ATTEMPT TO ESCAPE, THEREBY FORCING THE ARMY TO INCAPACITATE HIM THROUGH THE USE OF A FULL BODY CAST [redacted]

4. (S/NF/NOFORN/OC-[redacted]) OVER THE LAST FEW WEEKS, [redacted] CONTINUED, ARMY OFFICERS HAVE NOTICED THAT EX-GUERRILLAS THAT WERE COOPTED AND NOW WORKED FOR THE ARMY HAVE BEEN NOTICEABLY ABSENT. [redacted] STATED THAT MOST OFFICERS HAVE NOT LIKED THE IDEA OF WORKING ALONGSIDE FORMER GUERRILLAS WHOM THEY PROBABLY FOUGHT DURING THE LONG WAR. [redacted] SPECULATED THAT THEIR DISAPPEARANCE IS PROBABLY LINKED TO A POSSIBLE DECISION BY THE ARMY LEADERSHIP TO KILL THE EX-GUERRILLAS BECAUSE OF THE DAMAGE THEY COULD DO TO THE ARMY WERE THEY TO TALK ABOUT WHAT THEY DREW.

5. (S/NF/NOFORN/OC-[redacted]) [redacted] CONTINUED THAT THERE WERE PROBABLY TEN TO FIFTEEN EX-GUERRILLAS WORKING FOR THE ARMY, WITH THE MAJORITY OF THEM DOING MILITARY INTELLIGENCE WORK IN CONTESTED ZONES, SUCH AS MILITARY ZONE 22 (PLAYA GRANDE) AND MILITARY ZONE 23 (PETEN). SOME OF THE EX-GUERRILLAS PROBABLY HAD INFORMATION ABOUT THE FATE OF BAMACA AS WELL AS THE FATE OF OTHER GUERRILLAS THAT WERE KILLED BY THE ARMY AND WOULD CERTAINLY POSE A THREAT GIVEN THE CURRENT SITUATION BY

S E C R E T SECTION 02 OF 02 [redacted] 010280

SECRET SPECAT NOFORN WHINTEL ONCON

WARNING: (U) THIS IS A DOD HUMINT SYSTEMS INTELLIGENCE INFORMATION SPECIAL REPORT CONTAINING SENSITIVE INFORMATION. STRICT CONTROL IS REQUIRED. NO FURTHER DISSEMINATION OR RELEASE OF INFORMATION IS PERMITTED WITHOUT THE APPROVAL OF DIA/DA.

WARNING (U) SECSTATE TREAT AS NOFORN.

SERIAL: (U) [redacted]

COUNTRY: (U) GUATEMALA (GT).

SUBJ: [redacted] A CONTINUATION ON THE FATE OF BAMACA (U)

WITH THE BAMACA CASE.

COMMENTS: 1. (S/NF/OC- ([redacted] COMMENTS) THE QUEST FOR INFORMATION CONCERNING THE FATE OF BAMACA CONTINUES. MOST DISTURBING IS THE BELIEF BY SOME GUATEMALAN ARMY OFFICERS THAT PERHAPS THOSE EX-GUERRILLAS THAT HAVE BEEN EMPLOYED BY THE ARMY, HAVE NOW BEEN PERMANENTLY REMOVED OUT OF FEAR THAT THEY WILL BE APPROACHED AND WILL DIVULGE WHAT THEY KNOW. WHILE THE OFFICER CORPS IS LOOKED UPON AS A CLOSED, TIGHT-LIPPED INSTITUTION, A FORMER GUERRILLA OUT OF MILITARY CONTROL WOULD PROBABLY FEEL NO HESITATION TO REVEAL WHAT HE KNOWS ABOUT THE FATE OF FORMER COLLEAGUES.

2. (S/NF/OC-[redacted]) [redacted] THEIR CHIEF OF STAFF, GENERAL JUAN LUIS ((QUILO)) AYUSO REPORTEDLY THE INCREASED CRITICISM THE ARMY HAS BEEN RECEIVING CONCERNING CLANDESTINE JAILS AND CEMETERIES. [redacted] GENERAL QUILO STATED THAT HE WOULD PUBLICLY RECOGNIZE AND RETIRE AS FORMER GUERRILLAS WHO HAD BEEN WORKING FOR THE G-2 OF THE CORONA WEEKS. [redacted]

1/2

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PAGE 1 OF 2
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-----NOTES-----

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SECRET SPECAT

SECRET SPECAT

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INFO SERVICE CENTER

[redacted] TO THE BEST OF OUR KNOWLEDGE, THIS EVENT NEVER OCCURRED.

3. (SYNTHETIC) [redacted] COMMENT: WE HAVE NO INFORMATION TO SUGGEST THAT OTHER FORMER GUERRILLAS HAVE BEEN RECENTLY KILLED BY THE ARMY OR THAT SUCH A DECISION WAS BEEN MADE BY THE HIGH COMMAND. WE DOUBT THAT IN THE CURRENT, HIGHLY CHARGED HUMAN RIGHTS CLIMATE IN GUATEMALA, THE ARMY WOULD RISK SUCH AN ACTION.

4. (GONE) EMBASSY COMMENT: PRECISELY TO PRECLUDE THIS POSSIBILITY, THE AMBASSADOR RAISED THIS ISSUE OF DESERTERS' PROTECTION WITH PRESIDENT DE LEON ON NOVEMBER 11.

//IPSP: (U) PG 2500; PG 1100; PG 2300//.
//CONSOB3: (U) 191; 111; 191//.
PROJ: (U).
COLL: (U) AB .
TRSTR: (U) U.S. NO.

[redacted]

WARNING: (U) REPORT CLASSIFIED S E C R E T SPECAT
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CONTROLLED BY ORIGINATOR.
DECLASSIFY

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PAGE 2 OF 2
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03 SECT MSG

SECRET SPECAT

THE WHITE HOUSE

WASHINGTON

November 28, 1994

Dear Barbara:

Thank you for your recent letter concerning the case of Efrain Bamaca Velasquez, the Guatemalan husband of U.S. citizen Jennifer Harbury.

Based on information available to us from a variety of sources we have concluded that Efrain Bamaca was wounded and taken captive by the Guatemalan army in March 1992. We have no information to indicate that he was alive beyond the first month after his capture. We have shared this information with the government of Guatemala and with Jennifer Harbury.

Ms. Harbury announced the end of her hunger strike on November 11. National Security Advisor Anthony Lake met with Ms. Harbury this week to discuss her concerns.

We have repeatedly raised this case at the highest levels of the Guatemalan government and will continue to do so. The Guatemalan President personally announced October 27 that he was appointing a special investigator to look into the 1992 disappearance of Efrain Bamaca. In addition, President de Leon said that the UN Verification Mission established by the ongoing peace process will play a role in looking into this case.

As these investigations proceed, I can assure you that we will continue to press the Guatemalan government at every opportunity for action and answers on the fate of Efrain Bamaca and on all other human rights cases.

Sincerely,

Bill Clinton

The Honorable Barbara A. Mikulski
United States Senate
Washington, D.C. 20510

1

G 89A 11/30/94

-- WE DO NOT KNOW WHETHER OR NOT JENNIFER HARBURY'S HUSBAND IS ALIVE.

-- BASED ON ALL THE INFORMATION AVAILABLE TO US FROM A VARIETY OF SOURCES, WE HAVE CONCLUDED THAT EFRAIN BAMACA WAS TAKEN CAPTIVE BY GUATEMALAN ARMY IN MARCH 1992.

-- WE HAVE NO INFORMATION TO INDICATE THAT HE WAS ALIVE MUCH BEYOND THE FIRST FEW WEEKS AFTER HIS CAPTURE.

-- IN THE ABSENCE OF SOLID EVIDENCE ON WAY OR THE OTHER, WE HAVE ASSUMED THROUGHOUT THAT HE COULD STILL BE ALIVE, AND WE HAVE ACTED ACCORDINGLY.

IF ASKED: (Did you have info he was thrown out of a helicopter?)

-- NO, THAT IS NOT THE CASE. WE HAVE BEEN AS FORTHCOMING WITH MS. HARBURY AS POSSIBLE, AND HAVE GONE TO EXTRAORDINARY LENGTHS TO GIVE HER ASSISTANCE.

DEPARTMENT OF STATE IS/FPC/CDR Date: 5/25/96

[X] RELEASE [ ] DECLASSIFY
[ ] EXCISE [ ] DECLASSIFY IN PART
[ ] DENY
[ ] DELETE Non-Responsive Info
FOIA Exemptions
PA Exemptions

MR Cases Only:
EO Citations
TS authority to:
[ ] CLASSIFY as [ ] S or [ ] C OADR
[ ] DOWNGRADE TS to [ ] S or [ ] C OADR

WS OFFICE Thursday 12/01/94 08:12 am Page: 001

To: Peg M. Willingham ROOM 4915
From: M. Lee McClenny
Subject: Mike Wallace Date Received: 11/30/94

Good brief...I mean good grief! I spoke quickly with AFW re this, recommending that we stick with the guidance: 1) We do not know whether Bamac is dead or alive; 2) We have no evidence that we was alive any time more than a few weeks after his capture; and 3) We have always acted on the assumption that he could be alive. If pressed on what we knew and when, the answer is that this is an intelligence matter that we cannot discuss. If pushed harder on this, about all that we can say is that we have consistently done everything we can to assist Ms Harbury in her search for her husband, including providing her with the pertinent information that we have on this case. We have not tried to conceal anything from her.

AFW agreed to points 1-3, but we didn't get into the rest. In any event, I would like to get your edits and comments on all of this, which will also require NSC clearance because of Lake's interest/meeting. The deadline, obviously, is today. Lee

---------- Original Memo ----------

To: M. Lee McClenny From: Peg M. Willingham
Subject: Mike Wallace Date Sent: 11/30/94

... can be reached on 212-975-2997. He says that he understands that Jennifer Harbury, now back in Guatemala, will have to add murder to the criminal charges she's filing because the army executed him; he adds that CBS has "pretty good information" that he was executed and that "all concerned -- and by that I mean State Department and elsewhere -- knew about it." He says he doesn't know if Jennifer Harbury knows this, and he "doesn't want to lay it on her" before talking to us first.

What he wants is State Department comment about what we knew and when we knew it, and if we've told Harbury. We have clear press guidance on that score but I'm sure he wants more than that. Good luck! Peg

DEPARTMENT OF STATE IS/FPC/CDR Date: 5/20/95

[X] RELEASE [ ] DECLASSIFY
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[ ] DENY IN PART
[ ] DELETE Non-Responsive Info
B(1)A Exemptions
B4 Exemptions

MR Cases Only:
EO Citations
TS authority to:
[ ] CLASSIFY as [ ] S or [ ] C OADR
[ ] DOWNGRADE TS to [ ] S or [ ] C OADR

DOS

UNCLASSIFIED

E5088

RELEASED

Dec. 22, 1994

Meeting w/ Jennifer Harbury

(1) Rick / Ann — We have no info that Bom had been killed.
JH seemed to accept that

(2) Since hunger strike, at least a dozen reports of sightings
* (3) JH — willing to write up a report on the info she has
* (4) Needs info that was reported
Where seen, what conditions

Inter-Am Court trial possibility after Inter-Am Comm.

(5) And to demonstrate [illegible], reasonably we relied on
it to be used in demarche.

GUATEMALA: Jennifer
Harbury (Bonaca Case)
(Disappeared Spouse)

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MOSKOWITZ, SAM
Date: 09/18/95
Case ID: [illegible]

UNCLASSIFIED

[redacted]

WHITE HOUSE SITUATION ROOM

DIST: BLAKEMAN, FEINBERG, NSC, SCHWARTZ

[redacted] ROUTINE CLASS: [redacted] DTG:251848Z JAN 95

FM: CIA

TO:
RUETIAA/DIRNSA
RUEHC/DEPT. OF STATE
RUEKJCS/DIA WASHINGTON DC
RUEADWD/DA WASHINGTON DC
RUENAAA/CNO WASHINGTON DC
RUEACMC/CMC WASHINGTON DC
RUEAHQA/CSAF WASHINGTON DC
RUEATRS/TREASURY DEPT
RHCBXAA/USCINCSO QUARRY HEIGHTS PM
RHEHAAA/WHITE HOUSE SITUATION ROOM
[redacted]

I certify that this document is a true copy, with excisions, of a document from the files of the National Security Council (#32, Access Case #95-28). It is CIA message 107893 dated January 25, 1995.

David S. Van Tassel
Director, Access Management
National Security Council

JIII

[redacted]
SECTION 1 OF 2
CITE CIA 107893

SERIAL: [redacted]

PASS: EXCLUSIVE FOR THE DIRECTOR, WHITE HOUSE SITUATION ROOM;

[redacted]
NSA FOR ZKZK OO ZRL DE (EXCLUSIVE FOR THE DIRECTOR, NSA); STATE EXCLUSIVE FOR THE ASSISTANT SECRETARY, INR; TREASURY EXCLUSIVE FOR THE SPECIAL ASSISTANT TO THE SECRETARY (NATIONAL SECURITY); DA: EXCLUSIVE FOR DAMI; CNO: EXCLUSIVE FOR NZZ; CMC: EXCLUSIVE FOR CIE; CSAF: EXCLUSIVE FOR IN; DIA EXCLUSIVE FOR THE DIRECTOR, DIA AND PASS TO HWS (DIRECTOR ONLY); USCINCSO EXCLUSIVE FOR USCINCSO.

CENTRAL INTELLIGENCE AGENCY

[redacted]

EXCLUSIVE DISSEMINATION TO ADDRESSEES LISTED AT END OF REPORT

DIST: 26 JANUARY 1995

COUNTRY: GUATEMALA

APPROVED FOR RELEASE
Date 23 June 95

[redacted]

Lucio Cevalán Castellanos
ABOGADO Y NOTARIO

(3)

[redacted]

SUBJ: AN ACCOUNT OF THE DEATH OF GUATEMALAN INSURGENT LEADER

EFRAIN BAMACA VELASQUEZ

DOI: EARLY MARCH 1992 TO MID-JANUARY 1995

SOURCE: [redacted]

I certify that this document is a true copy, with excisions, of a document from the files of the National Security Council (#32, Access Case F95-28). It is CIA message 107893 dated January 25, 1995.

David S. Van Tassel
Director, Access Management
National Security Council

[redacted]

TEXT: 1. [redacted] GUATEMALAN GOVERNMENT OFFICIAL LEARNED THAT GUATEMALAN REVOLUTIONARY [redacted] OF PEOPLE IN ARMS COMMANDER EFRAIN (BAMACA) [redacted], ALIAS "COMANDANTE EVERARDO," WAS KILLED BY COLONEL JULIO ROBERTO (ALPIREZ), [redacted] MILITARY OFFICERS SAID THAT IT WAS KNOWN WITHIN [redacted] THE ARMY THAT ALPIREZ WAS THE INDIVIDUAL WHO KILLED BAMACA, [redacted] SENIOR RANKING OFFICERS HAD DECIDED NOT TO DO ANYTHING WITH THE INFORMATION [redacted]

2. [redacted]

DIA

[redacted]

ACQ: [redacted] MID JANUARY 1995 [redacted]

[redacted]

Lucia Cuellar Castellanos
ABOGADO Y NOTARIO

[redacted]

SECRET

CIA 000570

[redacted]

/ / SECRET [redacted]

[redacted]

[redacted]

[redacted] PAGE 001 [redacted]

[redacted] FEB 95 [redacted]

[redacted]

(b)(1)
(b)(3)
S
1.5(c)

[redacted] DURING THE LATE AFTERNOON OF 26 FEBRUARY, [redacted] WAS COORDINATING INTELLIGENCE RELATED TO THE BAMACA CASE WITH THE POLITICAL SECTION [redacted] WHILE THE [redacted], HE OFFERED TO ALLOW [redacted] TO REVIEW THE DRAFT OF AN INTERNAL MEMORANDUM RELATED TO THE CASE WHICH HE WAS THEN TOUCHING UP. [redacted] READ THE MEMO ON THE [redacted] OFFICER'S WANG TERMINAL.

[redacted] THE INTERNAL MEMORANDUM QUOTED AN UNIDENTIFIED [redacted] OFFICIAL, WHO INTERVIEWED A GUATEMALAN MILITARY OFFICER [redacted] (COMMENT: THE OFFICER, WHOSE NAME WAS ALSO DELETED FROM THE MEMO BUT WHO THE [redacted] OFFICER SAID HE COULD IDENTIFY, IS [redacted] THE OFFICER REPORTEDLY WAS IN [redacted] WHEN EFRAIN ((BAMACA)) VELASQUEZ WAS BEING HELD THERE, AND MAY HAVE SEEN BAMACA AS LATE AS DECEMBER 1992. THE OFFICER TOLD [redacted] THAT BAMACA WAS MOVED AROUND A LOT FROM MILITARY POST TO MILITARY POST TO PROVIDE ADDITIONAL SECURITY FOR THE OPERATION. BAMACA REPORTEDLY WAS IMMOBILIZED WITH A CAST ON HIS LEG TO PREVENT HIM FROM ESCAPING. [redacted]

2-145

APPROVED FOR RELEASE
JUNE 96

SECRET

279

SECRET (b)(1) (b)3 S

[redacted]

[redacted] A DEFENSE ATTACHE'S OFFICE COMMENT WAS ATTACHED TO THE MEMO. IT SAID THAT THE DAO, WHICH ALSO KNOWS THE IDENTITY OF THE ARMY OFFICER, COULD VERIFY THAT THE OFFICER WAS POSTED IN [redacted] AT THE TIME HE CLAIMS. IN ADDITION, THE DAO NOTED IT REPORTED SEPARATE INFORMATION SUGGESTING THAT BAMACA HAD BEEN IMMOBILIZED WITH A CAST TO PREVENT HIM FROM ATTEMPTING AN ESCAPE. THESE DETAILS SUPPORT THE BONA FIDES [redacted]

[redacted] THE INFORMATION WAS STARTLING, AND VERY IMPORTANT. [redacted] ASKED WHY IT WAS NOT BEING DISSEMINATED IN CABLE CHANNELS, NOTING THAT IF [redacted] SAT ON SIMILAR INFORMATION, IT WOULD BE ROUNDLY CRITICIZED. [redacted] OFFICER SHRUGGED HIS SHOULDERS AND STATED THAT NOBODY HAD TOLD HIM TO PUT THE INFORMATION IN A TELEGRAM. DURING THE MORNING OF 27 FEBRUARY, [redacted] GIVEN A FORMAL DROP COPY OF THE MEMORANDUM. [redacted] TASKED [redacted] WITH DRAFTING UP A GIST TO HQS. [redacted] HAD A 1000 HRS MEETING WITH COAST GUARD OFFICIALS VISITING FROM PANAMA CITY, BUT WAS TO DRAFT THE CABLE IMMEDIATELY THEREAFTER.

(b)(1) (b)(3) S 1.5(c)

[redacted] WHILE [redacted] WAS AWAY AT THE MEETING, THE [redacted] OFFICER RETURNED [redacted] AND ASKED [redacted] TO RETRIEVE THE MEMO. HE SAID HE HAD MADE A MISTAKE AND WAS NOT AUTHORIZED TO PASS THE MEMO [redacted] AND WAS NOT EVEN SURE [redacted] WAS TO KNOW ABOUT IT. HE SAID THE EMBASSY WAS TO HAVE A MEETING ON THE INFORMATION LATER IN THE DAY (27 FEBRUARY). BUT THAT HE DID NOT KNOW WHETHER [redacted] WOULD BE INVITED. [redacted] SURRENDERED THE MEMO WITHOUT MAKING A PHOTOCOPY. ALL INFORMATION ABOVE IS FROM [redacted] MEMORY.

[redacted] DISTURBED THAT THE INFORMATION IS POSSIBLY BEING WITHHELD FROM [redacted] AND THE WASHINGTON COMMUNITY AT LARGE. IF NOT FOR GOOD PERSONAL RELATIONS WITH [redacted] OFFICER, [redacted] MAY HAVE NEVER KNOWN ABOUT THE EXISTENCE OF THE INFORMATION. WE ARE TROUBLED THAT WE ARE COORDINATING ALL INTELLIGENCE IN GOOD FAITH, BUT THAT THE EMBASSY IS NOT RETURNING THIS PROFESSIONAL FAVOR AND OBLIGATION. WE WILL ADVISE WHETHER [redacted] INVITED TO THE MEETING TO DISCUSS THE INFORMATION FROM THE PRISONER, AND WILL ELICIT COMMENTS [redacted] ON THE FINAL DISPOSITION OF THE MEMO. REQUEST HQS VIEWS.

[redacted] SECRET

SECRET

IMPUNITY CONTRADICTS THE SPIRIT OF MIAMI AND THE VISION OF A DEMOCRATIC HEMISPHERE ADVANCED BY OUR LEADERS. IT OBSTRUCTS PROGRESS TOWARD FREE TRADE. THE PRIVATE CAPITAL THAT FUELS DEVELOPMENT SEEKS SECURITY, NOT CHAOS. THOSE FEW WHO SEE THEMSELVES ABOVE THE LAW RISK THE PROGRESS UPON WHICH MILLIONS DEPEND.

IMPUNITY TEARS AT THE FABRIC OF A DEMOCRATIC SOCIETY. IT DESTROYS THE PUBLIC'S CONFIDENCE IN THE INSTITUTIONS WHOSE PURPOSE IS TO GUARANTEE THAT ALL CITIZENS RECEIVE EQUAL TREATMENT UNDER LAW.

IMPUNITY RUNS COUNTER TO THE BASIC PRINCIPLES OF LAW. WE BELIEVE THAT THE RIGHTS OF EVERY MAN ARE DIMINISHED WHEN THE RIGHTS OF ONE MAN ARE THREATENED. THAT IDEAL IS WHY THE UNITED STATES PLACES SUCH GREAT EMPHASIS UPON OUR POLICY OF HUMAN RIGHTS. OUR FAILURE TO DO SO WOULD BE TO BREAK FAITH WITH THE PRINCIPLES UPON WHICH THE OUR NATION WAS ESTABLISHED. THAT, WE CANNOT AND WILL NOT DO. THAT IS WHY WE CONTINUE TO PRESS VIGOROUSLY FOR THE EXTRADITION OF ACCUSED MURDERERS AND NARCOTICS TRAFFICKERS TO THE UNITED STATES, FOR A RESOLUTION TO THE CASES OF MICHAEL DEVINE AND NICHOLAS BLAKE AND FOR JUSTICE IN THE CASES OF JUNE WEINSTOCK AND DIANA ORTIZ. AND THAT IS WHY QUESTIONS CONTINUE TO SWIRL AROUND THE CASE OF EFRAIN BAMACA. WHAT HAPPENED THERE?

THAT SENSE OF TRANSPARANCY WHICH INCREASINGLY CHARACTERIZES RELATIONS BETWEEN STATES -- A REALITY TO WHICH ALL NATIONS ARE STRUGGLING TO ADAPT -- CAN BE BOTH THE CAUSE OF AND THE SOLUTION TO MANY OF THE CHALLENGES THAT CONFRONT US. THIS TRANSPARENCY, OR PUBLIC VIGILANCE, IS A TENET OF DEMOCRATIC GOVERNMENT.

NOW, IT IS BEING APPLIED INCREASINGLY TO INTERNATIONAL RELATIONS. IT IS A FACT OF THE AGE IN WHICH WE LIVE.

EVERY NATION HAS SUFFERED THE GLARE AND THE EMBARRASSMENT OF INTERNATIONAL PUBLICITY. THE NATURAL REACTION IS TO RETREAT, TO LOOK INWARD. IN TIMES PAST, THAT ATTITUDE MAY HAVE PREVAILED -- BUT NO MORE, BECAUSE INTERNAL CRISES ALMOST INEVITABLY HAVE INTERNATIONAL REPERCUSSIONS. LOOK AT THE CURRENT CRISIS IN MEXICO; OR SCANDALS OF POLICE ABUSE IN BRAZIL; OR THE RODNEY KING CASE IN LOS ANGELES. IN THESE CASES, WE HAVE LEARNED THAT THE ONLY WAY TO SOLVE A DIFFICULT PROBLEM IS TO CONFRONT IT, DIRECTLY AND TRANSPARENTLY.

THE GOALS OF THE SUMMIT OF THE AMERICAS HAVE BEEN CLEARLY ESTABLISHED. THEY CANNOT BE ACHIEVED BY COUNTRIES WORKING ALONE, BUT BY A HEMISPHERE WORKING TOGETHER. THE TASKS THAT CONFRONT US REQUIRE OUR

March 10 1995

Press Announcement in Guat. by Amb. Marilyn MacAfee

VS OFFICE

UNCLASSIFIED

RELEASED

E5913

1

To: Richard A. Nuccio
From: Valerie Mims
Subject: Richardson on Harbury

ROOM 6253

Date Received: 03/24/95
Forwarded By: VOCRECV

I don't think that you did anything wrong. Jesus, what fun jobs we have. Keep the faith, baby! Val

---------- Original Memo ----------

To: Valerie Mims
Subject: Richardson on Harbury

From: Richard A. Nuccio
Date Sent: 03/24/95

I was just called by a very angry Miguel Marquez on behalf of an even angrier Bill Richardson who wants to know why he was not informed of the intell info re the Bamaca/Devine cases that came to light earlier this year. Richardson feels that he was made to look foolish by negotiating with Jennifer and being so tough on the Guatemalans when in fact we were at fault. Within the limits of my own limitations on what I can say I tried to explain that this information should have come to Bill through the intell committee on which he sits. I acknowledged that I was remiss in not suggesting to him that he be sure to get an intell briefing when the new information arrived earlier this year. But I also said that when he does get his briefing he will see a far murkier picture than what has been said in the press. I also asked to see Richardson personally next week to offer a direct apology for any errors of omission I may have committed.

GUATEMALA
E-MAIL
1 of 3 (ARA)

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: OLSON, OSCAR
Date: 06/27/96
Case ID: 95[illegible]

UNCLASSIFIED

VS OFFICE

UNCLASSIFIED

Wednesday

1

E5943

Package Subject: Q&A Problem

Item Title: Q&A Problem

RELEASED D/C

3-29-95, 8:25am

We should not use the "legally proscribed from releasing classified intelligence to private individuals . . ." language I suggested yesterday; I'm sorry I steered you wrong on this. After our exchange of e mails I consulted INR's person in L. His comments are attached and make sense. Their view, in short, is that we (the exec. branch) could have made a decision to declassify the intell and share it with Harbury.

Sorry,

ps-let me know if I need to call anyone on the 7th fl. to correct this.

GUATEMALA
E-MAIL
1 of 3 (PBA)

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority OLSON, OSCAR
Date 08/27/98
Case ID 95122075

UNCLASSIFIED

Ms. HARBURY. I left an entire copy of all of these documents with your office, sir. And I can leave all of these also if you wish.

Mr. HORN. As you mention them, we will put them at that point.

Ms. HARBURY. OK. Given the situation, and given that I used to go to the morgues to help people identify the dead in Guatemala during my time as a human rights observer, I knew that time was of the essence, and my husband would be suffering horribly from the tortures he was undergoing. I, therefore, getting no help from the U.S. Embassy started a series of hunger strikes. The first was September 1993, right after I opened the grave. I was in front of military intelligence installations in the middle of Guatemala City which lasted 7 days. The second one was at the end of 1994, because I realized time was up, if he was alive, he would not be alive for much longer because the peace talks were coming to an end.

So I went on a hunger strike to the death. I didn't want to survive without him, if there was any way of keeping him alive. The Embassy sent someone to see me on a daily basis, and continued to inform everyone in the U.S. Congress and everyone else that they had no such information. One of those letters is dated October 25, that's about day 25 into my hunger strike. On day 30, as my hair was falling out and I was developing a heart murmur and I could not open my left eye, around then, that's when 60 Minutes came out and Mike Wallace said, "we're not sure why they won't tell her the truth. The embassy has a CIA report saying he was captured alive."

Mr. HORN. Put that up over there. And you can get back in your seat.

Ms. HARBURY. Thank you. Around that time, Mike Wallace came out on 60 Minutes saying, "We don't know why the embassy will not tell you the truth. They have a CIA bulletin saying he was captured alive." Day 32 of my hunger strike—by the way, the Irish prisoners died around day 25 on their hunger strike in Ireland—the U.S. Ambassador called me sheepishly into the Embassy and said, yes, we do have intelligence information showing he was captured alive in 1992. It was now almost 1995. He was lightly, but not seriously wounded. His wounds were not life threatening. We have no information if he's still alive.

I, of course, being an attorney said, what does that mean? Do you have any information that he's dead, and was told repeatedly, no, they didn't know what had happened to him and would assume he was alive for purposes of the investigation. Given the fallout politically from this announcement, I went back to Washington thinking I would be assisted.

I filed my Freedom of Information Act request and asked the National Security Council to give me all documents on the situation, because time was of the essence and his life was at stake. I got zero. It was a life and death situation. I was promised expedited processing under the act. I was given nothing.

I told them, March 12, the third anniversary of his capture, I'm back on the hunger strike. This time in front of the White House, please, I won't live through it a third time. He's definitely not going to live through it. And I would be pressured to assume he was dead, because, after all, it's been 3 years, terrible things happened

in Guatemala. He must be dead, but we don't know what happened to him, and we'll assume he's alive.

So of course, I went back on my hunger strike. And it was then that Senator Torricelli had the great courage and decency to come forward and tell me, no, he is dead. The State Department knows this. He was ordered killed upon orders of Col. Julio Roberto Alpirez years ago. At that point, I filed suit. And this is where the documents come in that I summarized in my report.

They include a document that showed that 6 days after my husband was captured in 1992, the CIA informed both the State Department and the White House in writing that Commander Everardo has just been captured alive, and the army will probably fake his death to better take advantage of his intelligence.

When I first went to the State Department in 1993, this was not released to me, nor to anyone in the U.S. Congress. They said at first, well, that's because we didn't have both of his names and we didn't, you know, feed it into our computer right. But here's the March notes from 1993 of my first meeting with them. Both names are present and spelled correctly.

More disturbing, 2 months later, in May 1993, they got a report saying that several, three military officials in Guatemala had been interviewed, that one of them said Everardo was still alive, and there were about 350 or more prisoners being held by the army. They continued to send out for the next year and a half a letter saying there was no independent evidence about any prisoners or any husband.

Then in September as I sat on my first hunger strike in front of a row of cannons, this report comes out saying, of course there's clandestine prisoners in Guatemala, the army has always held them that way, they're routinely interrogated and then killed and Bamaca has been interrogated and killed. Of course, he was captured alive. That was sent to the Embassy. It is also sent to the State Department as I sat in front of the row of cannons.

It was never reported to me. It was never reported to Congress. The form letter continued to go out. By Christmas they got a report from an Embassy contact that actually interviewed people who had helped to capture him. That was never given to me either. By the following spring, 6 months before my hunger strike, my long hunger strike that's reflected in that photograph, this document was sent around to a number of different agencies, and it says, yes, at the Retalhuleu base, they used to keep prisoners in pits filled with water so deep they had to hang on to overhead bars to keep from drowning. One technique used to remove insurgents that had been killed during interrogation, note the sanitized language, people don't drop dead from being asked their name and dog tag numbers, and at times they were still alive, had survived torture.

The need to disappear was to throw them out of aircraft over the ocean. Airbuses were normally parked at the south end of the runway after midnight manned only by a pilot and a copilot. The pilots were instructed to fly 30 minutes off the coast of Guatemala, then push the prisoners and body out of the aircraft. In this way they were able to remove the majority of evidence showing prisoners were tortured and killed.

By November, toward the end of my hunger strike, there's a report that starts coming in about how he was kept in a full body cast and drugged repeatedly and notices that no one—notes that no one has seen the other prisoners in a long time, perhaps they've been killed. If the information had come out a year and a half earlier, some of those lives might have been saved. As they continued to talk to me saying they had no information, notes like this were coming through.

You know, do we have any information he was thrown from a helicopter? Credible report that he was killed; we've told her we don't have any information. She seems to accept this, but then at the same time this, Colonel Alpirez had him killed a long time ago, everyone in the army knows. My third hunger strike was unnecessary, so was my second. These deaths were not necessary.

Again, I will close here just with the ending comments that I'm very concerned about the safety of all of my friends in Guatemala. Monsignor Gerardi was the most remarkable man. He's been killed because he told the truth. Human rights violations have continued in Guatemala for a year and a half after the signing of the peace accords because the killers in the army are still there. They have not been named.

They are not in fear of being named. There have never been any consequences for even 1 of the 440 massacres in Guatemala, 440 El Mozote equivalents or the 200,000 murders. If there are no consequences, not even the naming possible in the future, the killing will continue, of course, next may be one of these people, next may be a judge, next may be a street child, or next may be me. I continue for many years now to be under death threats myself. So I'm just asking you please help us with this.

Thank you very much.

[The prepared statement of Ms. Harbury follows:]

STATEMENT OF JENNIFER K. HARBURY

To: Subcommittee on Government Management, Information and Technology of the Committee on Government Reform and Oversight

Re: May 11, 1998 Hearing on the "Human Rights Information Act"

My name is Jennifer Harbury, I am a United States citizen, 46 years of age, and a licensed attorney at law. I have been deeply involved in human rights efforts with the people of Guatemala since 1984. I very much appreciate the invitation of the Subcommittee to share my experiences with regards to the release of information by certain U.S. agencies, and hope that the following information will prove to be of assistance.

For purposes of clarity I have divided the information into two parts. The first gives the history of my case, beginning with my husband's disappearance in Guatemala in 1992, and including official statements made to me and to the U.S. Congress during my three year effort to save his life. The second part summarizes the key agency documents I later obtained through litigation, and which clearly indicate who knew what in the U.S. government, and when they knew it. The picture formed is highly disturbing.

As discussed below, the documents indicate that many high level officials in U.S. agencies were fully aware that my husband and many other prisoners were being secretly detained, tortured, and executed without trial by the Guatemalan army. Despite the clear reports in their possession, they repeatedly sent letters to enquiring Congressional offices that there was no evidence that such prisoners existed and that they had no information as to the whereabouts of my husband. By the time the truth was told years later, my husband and I fear, many others, were dead and I was close to death after three highly dangerous and prolonged hunger strikes. Had the truth been told from the beginning, lives could have been saved.

My husband's death, from what I know now, was not an easy one. He was held in clandestine detention for more than a year, tortured repeatedly, drugged repeatedly by army physicians, and kept in a full body cast to prevent his escape. There are three versions of his murder. He was either beaten to death and buried under a remote military base, where local villager report that some 500-2000 other victims are buried as well; or he was thrown from a helicopter into the sea; or he was dismembered and scattered across a sugar cane field so that I would never be able to identify him. I must live now, with this difficult reality, as well as the reality that it did not have to happen.

I. Background Information :

My husband, Efrain Bamaca Velasquez, was a Mayan leader of the

resistance forces, or U.R.N.G., in Guatemala during that nation's tragic thirty five year civil war. He was also known as Commander Everardo. We met in 1990 when I travelled to the front lines to work on my first book about the war. We met again in 1991 while he was in Mexico City, assisting in the preparations for the peace negotiations on the issue of Mayan rights, and we married later the same year. He returned to the mountains in early 1992.

On March 12, 1992 Everardo vanished during a brief skirmish with the Guatemalan military forces. The Guatemalan army reported that he had been wounded during the combat, and had committed suicide in order to avoid being captured. They also stated that army officers had recovered his body, and buried him in the nearby town of Retalhuleu. For many months I believed that my husband was dead. However, in early 1993 I learned from an escaped prisoner of war that a hoax was being carried out. Everardo had in fact been captured alive and was being subjected to severe torture in a nearby military base. Because of his high rank and his unusual level of information, army officials were seeking to break him psychologically through long term torture. The goal was not to kill him but to force him to work as a secret informant for the army intelligence division. In order to avoid international human rights protests, military officials had falsely reported his death in combat. The witness also reported some thirty other secretly detained prisoners of war.

Upon receiving this information, I began my long effort to save Everardo's life, guarantee his rights under the Geneva Conventions, and obtain a fair trial for him. I asked for the same rights and treatment for all other clandestine prisoners as well. I began my efforts in early 1993, seeking the help of the OAS, the United Nations, the international human rights community and the U.S. Congress. All of these organizations immediately took steps to assist us. I first approached the U.S. Department of State in March of 1993, giving them all of the information I had. They told me they would look into the matter at once and assist me in all ways possible.

During the summer of 1993 I travelled to Guatemala and opened the grave where the army claimed to have buried my husband. The body was of a person far smaller than my husband, some 15 years too young according to forensic tests, and with completely different dental patterns. I reported all of this to the Department of State officials and was again told that they would look into the matter at once and give me all possible assistance. I was also told that they had asked military leaders about the case, and that they army denied having ever taken Everardo prisoner, and that the U.S. did not know what had happened to him. From then through late 1994, the Department of State sent a form letter to all inquiring Congressional offices, stating that they had no independent evidence that any secret prisoners existed, and that they had no information about the whereabouts of my husband.

I then began a series of highly dangerous hunger strikes in an

effort to save my husband's life. The first was for one week in September of 1993 in front of military headquarters in downtown Guatemala City. In October 1994, after I had exhausted all other avenues of assistance, I went on a hunger strike to the death in front of the National Palace. The Embassy expressed great concern and sent someone to speak with me on a daily basis, but continued to insist that no information existed. After some thirty days I was developing a heart murmur, was constantly cold and dizzy and could no longer open my left eye. My glucose level was dangerously low, and I was receiving constant threats and abuse from the authorities. At that point a "60 Minutes" broadcast aired, during which Mike Wallace reported that the U.S. Embassy in fact possessed a CIA report which clearly stated that Everardo had been captured alive by the Guatemalan army. Two days later, the U.S Ambassador called me to her office and, with some embarrassment, informed me that according to U.S. intelligence sources it had been concluded that Everardo had been captured alive by the Guatemalan army, that he had been lightly but not seriously wounded, and had been a prisoner of war for a period of time. No information existed to suggest that he was still alive. When I asked if evidence suggested that he was dead, I was told there was no more information. The Ambassador offered no explanation as to why such critical information had not been released long before.

During the ensuing political uproar I received an invitation to speak with high level officials at the National Security Council, and decided that I could best assist my husband by ending my hunger strike and returning to Washington. Nearly three years had passed and I was close to despair. I was very much aware that the delays in releasing the information might well have contributed to his death. When I met with the members of the National Security Council I made it very clear that time was of the essence with regards to saving his life, if he was in fact still alive, and that I needed all information about his situation at once. I was given many reassurances but no information. I met again and again with State Department officials and was given the same oddly worded message that there was no evidence that my husband was still alive. When I asked if there was evidence of his death I was told no, that nobody knew what had become of him, and that the U.S. government would assume he was still alive for purposes of the ongoing investigation. U.S. Rep. Richardson and former Ambassador Robert White travelled to Guatemala on my behalf and were given the same information. The U.N. monitoring team, or MINUGUA, was convinced to take the case on the grounds that Everardo might still be alive.

By then I had completely lost confidence in the different U.S agencies, and in January 1995 I filed Freedom of Information requests with all relevant agencies. Although expedited processing was granted in light of the exigent circumstances, I received no documents and no further information of any kind. I therefore resumed my hunger strike to the death on March 12, 1995, the third anniversary of his capture, but this time in front of the White House. I had not yet recovered from the earlier, 32 day strike and became very weak quite quickly. On the twelfth day, U.S. Rep.

Toricelli informed me that Everardo had been dead for some time. His extrajudicial execution had been ordered by Col. Julio Roberto Alpirez, a former CIA "asset".

During the uproar that followed, the official explanation offered to myself and to the public was that certain rogue operators in the CIA had kept the State Department in the dark about the situation, and that corrective steps were being taken.

However, I have slowly gained access to a number of documents through my federal lawsuit under the Freedom of Information Act. I believe these documents make it very clear that my husband's situation, as well as that of many other prisoners, was promptly and routinely circulated to many U.S. agencies, including the White House National Security Council and the State Department. For reasons known only to them, rather than promptly releasing the information once I sought assistance, they sent clearly disinformative communications to me, to the human rights community and to the U.S. Congress. As one internal legal bulletin makes clear, the State Department was not obligated to so disinform. As a member of the executive branch, officials could have made the decision to declassify the information and released it to me and to others at once. The failure to do so had life and death consequences.

III. Summary of U.S. Agency Documents:

NOTE: Copies of all documents referred to in this memorandum will be presented to the offices of U.S. Rep. Horne, and can be made available to any other Member upon request.

As I noted above, I first approached the U.S. Department of State in March of 1993, asking them for emergency assistance. From 1993 through the end of 1994, with the broadcast of the "60 Minutes" program, the State Department sent a form letter to all inquiring Congressional offices. This letter stated that they possessed "no independent evidence" that any secret prisoners existed, and that they did not know what had happened to my husband.

The files I have received reveal the following:

1. Both the White House and the State Department were issued a CIA bulletin on March 18, 1992, a mere six days after my husband's capture. It notes that he had been captured alive, that the army was keeping this matter a secret, and that the army would probably fake his death in order to best take advantage of his information. In March of 1993, when I first approached the State Department, they did not inform me or the U.S. Congress of this document.

2. I first sought State Department help in March 1993. In May 1993 the State Department received a CIA report that three Guatemalan military officers had been interviewed. One reported

that Everardo was still alive and the other three did not deny it. This report also went to the National Security Council. A separate State Department chronology shows that this document also reported that some 350 prisoners were in army hands. Despite this information, the Department of State continued to declare that no independent evidence existed as to any clandestine prisoners. Had they told the truth, lives might have been saved.

3. In September 1993 the Department of Defense sent to the State Department as well as the U.S. Embassy a report stating that Everardo had been captured alive, interrogated and killed. The report also states that clandestine military prisons have always existed in Guatemala and still do. It further states that the army, when it captured any POW, would hold them incommunicado, interrogate them, and then kill them and dispose of their bodies. When this report came in I had just completed my first and highly dangerous hunger strike just down the street from the U.S. Embassy in Guatemala City. Neither I nor the U.S. Congress was notified, and the same form letter continued to be sent. Had the truth been told, lives could have been saved.

4. In December of 1993, as I continued to fight for my husband's life, the State Department filed an internal memo regarding their interview with an unnamed source who evidently had spoken directly with Everardo's captors and knew where he had been held. This information was not shared with Congress or with me.

5. In April 1994 a Defense Department bulletin was issued. The dissemination list is blacked out on the copy released to me, but such documents were apparently routinely sent to State. It describes the routine torture of prisoners in the hands of the Guatemalan army, and the practice of throwing such prisoners, dead or alive after "interrogation" session, from a helicopter into the sea. The same form letter continued to be sent.

6. In Nov. 1994 the Department of Defense issued another report. Again, the dissemination list is blacked out, but I note that the final paragraph refers to an Embassy comment, and there is a warning to the State Department to keep the matter highly confidential, confirming that this information would have been shared with the Department of State and others. The report states that my husband was held for some time and "interrogated", as well as drugged repeatedly by army physicians, and kept in a full body cast to prevent his escape. The report also notes the conspicuous absence of the other POWs on the military bases. Had their existence been reported earlier, lives could have been saved.

III. State Department and National Security Council 1994-1995:

After being forced to give an embarrassing demarche by the

public reaction to the "60 Minutes" broadcast, U.S. officials confirmed to me that they did have evidence that Everardo was captured alive, and was only slightly wounded. He had been held as a secret prisoner for a time, but there was "no evidence that he was still alive". When I pressed for whether there was any evidence that he was dead, I was told that they did not know what had happened to him and that they would assume he was alive for purposes of the investigation. They also pressured me to presume him dead, based on the long time he had been missing, and based on the fact that he could not be found alive. The files, again, tell a different story.

1. Nov. 1994 press instructions from the State Department followed closely on a "credible" report they received that Everardo had been thrown into the sea. It repeats the official position described above. It also instructs that if asked if they knew he was thrown from a helicopter, one should answer "No that is not the case...we have been as forthcoming with Harbury as possible."

2. December 1994 : Another State Department internal memo notes that Mike Wallace of "60 Minutes" was accusing them of having information that my husband had been killed and was warning them that he would tell me. In the response memo, it is decided to maintain the official position.

3. Dec. 1994: Internal notes from a meeting with me report that State Department officials told me there was no information that Bamaca (Everardo) had been killed and that I seemed to accept this.

4. Jan. 1995 : A CIA report is sent to the State Department and the White House containing information that Col. Alpirez had killed my husband. This information was never passed on to me and the official story remained unchanged and was frequently repeated to me and to members of the Congress as well as international human rights organizations.

5. Feb. 1995 : An unnamed U.S. official notes that the information about Everardo's treatment, and the full body cast, is shocking and very important. The official also complains that this information is being withheld, and that the Embassy is not coordinating intelligence in good faith with the other agencies.

6. March 1995: Just two days before my third hunger strike, U.S. Ambassador Marilyn McAfee gave a public speech in which she said, " And that is why questions continue to swirl around the case of Efrain Bamaca. What happened there?"

7. April 1995 : An internal memo, shortly after Torricelli's disclosures, notes that the Department of State cannot claim to have been legally proscribed from giving me the information. As the executive branch, they could have simply declassified it and given it to me.

IV. CONCLUSION

It is clear from my own experience that United States agencies in fact possess a great deal of information about human rights cases. Much of this information, properly edited, can be released without any threat to the national security interests of the United States government. It is also clear that certain U.S. officials have acted in a highly recalcitrant, and at times deceptive, manner in releasing this information. I am therefore asking the members of this Subcommittee for its support of the Human Rights Information Bill, which I believe will have the following highly positive results:

1. Release of the information will help to bring peace and stability to Central America by helping to end the official impunity that has so long shielded those who commit torture and murder. It is precisely this impunity which recently lead to the brutal killing of Bishop Gerardi in Guatemala. The peace accords cannot be implemented if the civilian leaders, courts, and other institutions continue to be terrorized. In turn the terror will continue until the impunity is finally brought to an end. Releasing the information in our files will send a clear message that torture and murder will not be tolerated or protected by the United States government.

2. Release of the information will end the private agony of the family members of the "disappeared". This pain I know only too well from my own experience. The dead cannot be returned to life, nor can their suffering be erased. However, I ask that the survivors be granted the truth that they need in order to heal and continue with their own lives.

3. The new bill will have the very positive effect of clarifying to the various U.S. agencies in question, the correct practices expected by the United States Congress with regards to releasing the truth about human rights violations to family members and to Congress itself.

Once again, I thank you for your time and consideration to this most important bill.

Respectfully,

Jennifer K. Harbury

Mr. HORN. Thank you for that very moving statement. Let me put forth one question to all of you. Have you had an opportunity to read the legislation and see what we were seeking to accomplish here? Any of you have the opportunity to look at Mr. Lantos' bill?

OK. Ms. Harbury, how will that legislation, if passed by the Congress and signed by the President, be helpful?

Ms. HARBURY. In a number of different ways. If the basic underlying facts of these human rights cases are released, as some have been in my case, although of course not all, there will be a number of different benefits. No. 1, those who have perpetrated mass torture, murder, and terror in Guatemala will realize they will no longer be shielded by the U.S. Government. That in itself will act greatly to safeguard the lives of many of us.

It will also give the court officials in Guatemala and Honduras the information they need to regain civilian de facto control of their countries. There may be civilian administrations, but there is not civilian control, as we just found out with Monsignor Gerardi. It will help bring peace and stability in a great measure to both countries.

Second of all, it will help the family members of the disappeared, people like myself only in much worse circumstances, to begin to heal. I still have an elderly friend who gets up every night at 3 a.m., to iron her missing son's shirts. He's been missing for 15 years. Another friend of mine is searching for her two daughters. They were 6 and 7 when they disappeared in a house with their father, uncle, and grandfather. She could only find blood. There's a good chance they were sold into an adoption ring.

Third, I think it will help all of us U.S. citizens to regain faith in our own Government.

Mr. HORN. Mr. Reyes Lopez, have you had a chance to read Mr. Lantos' bill?

Mr. LOPEZ. Yes. I think it's——

Mr. HORN. How will it help you, that is what I want to make sure, and is there something that we are missing that isn't in the bill that we should add?

Mr. LOPEZ. No, no, no. And I want to say something about how the petition to try to help this, and it's possible to take or to have to declassify documents, try to identify techniques, and I don't know, the process to try to clarify the past and try to identify the present and—for example, the assassination for Monsignor Gerardi, this is by death squads, and I don't know, by night, how many people, what kind of weapons we can use—and I don't know, this is very helpful, but try to stop in the future maybe today, maybe tomorrow. And I think this is very helpful, not only from Human Rights Office, archbishops, and all the people from Guatemala. Thanks.

Mr. HORN. Mr. Valladares Lanza, is there anything in the legislation that you find particularly helpful or is there anything we are missing that should be in the legislation?

Mr. LANZA. I find that it is very important, because it specifies timeframes. At this moment I'm like a pilgrim who goes from agency to agency.

Mr. HORN. I think you are right on the timeframes. We still have documents from the First World War that are unclassified. I find

that so unbelievable that it boggles the mind, but they are still sitting in the executive branch and they have not been declassified. I think a time constraint on these things would solve a lot of the problems.

Mr. LANZA. I think also that it's very important at this time when we're talking about free trade and globalization that we also globalize democracy and respect for human rights. With this law, you are saying to Central America and the world, in general, we will not allow human rights violations anywhere in the world. We will not take an attitude of silence in order to hide impunity.

I am taking a risk to come here. Last Friday, a person came and under the pretense of saying that they wanted to present a complaint, what they wanted to do was to blackmail me. They had made up a lie that they intended to present to the press. So for us, it is very important because our lives are at play.

Mr. HORN. We thank you very much. And I now yield to the gentleman from Ohio for questioning.

Mr. KUCINICH. Thank you very much, Mr. Chairman, members of the panel.

I would like to respond directly to Senor Valladares Lanza.

[Following paragraph delivered in Spanish] I want to thank you for appearing before our committee. I want to assure you of our support for the truth and for human rights. We are together in our search for the truth, and in our search for justice. Please let the people know this. Thank you for your great support for human rights.

Now to get into some questions, I would like Dr. Valladares to explain his feelings on the usefulness of the Department of Defense document entitled, "Honduras Armed Forces, Human Rights and Corruption." Staff will put up board No. 1. Most of the document has been redacted. Do you think that it's likely that the redacted information may be highly relevant to your work?

Mr. LANZA. To be honest, practically this document doesn't help me. What's more, I want to tell you that many people in my country feel that I am a misled man; that they're never going to give me information. But I am a stubborn man.

Mr. KUCINICH. Nosotros juntos.

Mr. LANZA. And I think on other occasions they haven't just given me blacked-out documents, but they've also given me information that they've copied from the press. And, for example, I have another document here that refers to general information about my country, about major Honduran towns. I don't know what they have to say about Honduran major towns, but it's also blacked out. So I sometimes believe, and pardon me, but I believe that intelligence agencies classify absolutely everything probably to hide that which is really important.

Mr. KUCINICH. I have a few examples of some other documents you received from the Defense Department. And could you explain some of the problems with the information in the—just the documents displayed, if the staff would put up boards 2 and 3, typographical errors were made on names, no identifying marks by Officer Dade, no idea how long the document is.

I guess I would like to ask Dr. Valladares. Can you use these documents for subsequent prosecutions? Has the Department of

Defense provided, offered to provide you with the original documents? One of these documents simply discusses press reports. Do these documents provide much substantive information?

Mr. LANZA. This is what I referred to previously. These documents are not any more valuable than the paper they're written on. And I think you understand that we are trying to establish the truth and to establish justice in our country, so what this does to us is it makes us lose time. And I believe that you understand that my work involves determining whether or not Honduran authorities were responsible for abuses.

And if we look at many of the documents that have been released, they talk about circumstantial evidence, not the direct question of whether or not an authority was involved. I also want it to be clear that this information complements the information from our own investigations, because the evidence to be put forth we have to put forth as Hondurans. But the fact that we might find records here in the United States would obligate Honduran authorities to recognize that abuses were committed.

Mr. KUCINICH. In line with that, in your testimony, you state that the CIA has not yet released records on Battalion 316 or the 1997 CIA inspector general report and in its relationship with the Honduran military. Can you tell us the significance of these documents to your work?

Mr. LANZA. I would like to tell you something personal. When I published my report, the facts spoke for themselves. It produced commotion in my country. The President of the country at that time called me to his home. I said to myself, what an honor to be invited by the President himself to his home, but it was a trap. A man who is very angry and dressed in his military fatigues, Gen. Luis Alonso Discua Elvir, the commander of the armed forces, was there.

He began to address me, and I said "I don't have to be obedient to you. I am a free citizen." And he held up a file. He said if I created the Battalion 316, it was because I was asked to do so by the CIA. I share this as a personal testimony knowing that I am under oath. That's why these documents are important to us, and that's why I'm involved in this search.

Mr. KUCINICH. Thank you. In following up on the reference to the CIA, can you describe for this committee what access information in the CIA files would mean to the people of your country who have suffered as a direct result of the human rights violation by Battalion 316 and other military, paramilitary, or security forces?

And again, I want to state here for those who are just watching now that this is about human rights violations.

Mr. LANZA. I said that I received very emotional testimony, because the families of the victims want to know what happened with their loved ones. They want to have the personal satisfaction of knowing where the bodies are. On the other hand, we also have to understand that laws are only defended legally. Democracy is only defended democratically.

To erase this terrible past, we will only do it with the truth. With the truth, we can do justice, and with justice, comes reconciliation. In our countries, we now have electoral democracy, but we need to apply the law and to be able to determine who was responsible for

these abuses and to take those persons to trial. That would give us security in our system.

It is perhaps difficult for you to understand that I, a person who was elected unanimously by the Congress in my country, the authorities of my country still cannot guarantee my personal security. And I think that I have the obligation to continue to struggle, because this is the only way to construct a democracy, with the truth and with justice.

Mr. KUCINICH. Thank you very much, and I also want to say, Mr. Chairman, thank you for calling this hearing. I think in this hearing, in the spirit of this hearing, we also pay tribute to the memory of Bishop Gerardi, because it was his courage that enabled the report to be brought forward. And I would like to think that that courage still pervades the country of Guatemala, as well as represented by the witnesses here today. Thank you.

[NOTE.—The International Policy Report dated September 1997, may be found in subcommittee files.]

[The information referred to follows:]

Religious Task Force on Central America and Mexico

3053 Fourth St., NE • Washington DC 20017-1102 • (202) 529-0441

Statement on H.R. 2635, the "Human Rights Information Act," to the House Subcommittee on Government Management, Information, and Technology
May 11,1998
Room 2154 of the Rayburn House Office Building

For information: Margaret Swedish or
Sarah E. Finke
202-529-0441

We, the Religious Task Force on Central America and Mexico, come before you today to call upon the United States Congress to pass the Human Rights Information Act (HR 2635), legislation that could make a significant contribution towards healing the wounds left in the wake of civil wars and government repression in Central America.

Throughout the Central American region, courageous human rights workers continue to work to document the truth about rights violations committed during the past two decades, often at great risk.

For several years, the human rights, religious, and solidarity communities in the United State have been seeking truth from our own government as well. Efforts to declassify documents that could help clarify the human rights history in Guatemala and Honduras have been met often with frustration as documents are slow to be declassified and, when released, are heavily redacted as to make them largely useless to the quest for truth.

The people of Central America have been traumatized by the years of violence that they have endured. Hundreds of thousands have lost loved ones or been the victims of torture, illegal detention, death threats, and fear. Populations struggling to create democratic government responsive to their citizens must still confront the impunity which has left the perpetrators of abuses mostly at large in their communities or still in positions of power and influence.

Efforts thus far to document the truth about rights violations in Guatemala, Honduras and El

Salvador have revealed that the greatest perpetrators of human rights violations have been military, intelligence and government institutions supported by the United States government, with close relations to our own military and intelligence institutions. The United States continues to hold records that could help bring a measure of justice to the people of Central America and confront the impunity that still makes human rights work a high risk commitment.

This risk became all-too-evident with the brutal assassination on April 26 of Bishop Juan Gerardi Conedera, auxiliary bishop of Guatemala City and head of the Catholic Church's project for the *Recuperation of the Historical Memory* (REMHI).

His death came just two days after release of the REMHI report, the most comprehensive documentation of the history and causes of human rights violations in Guatemala during the 34-year civil war. His death is a reminder of the costs that many human rights and religious workers have paid in Central America in their search for truth and an end to the impunity that shielded -- and continues to shield -- perpetrators of human rights abuses.

We note also the death threats that have often accompanied the courageous work of the Honduran Human Rights Commissioner, Leo Valladares, who continues his pursuit for release of U.S. documents that could help clarify the cases of disappearances, political assassinations, torture and illegal detention in Honduras during the 1980s.

Because of the role the United States played in the Central American region throughout the decades of military dictatorship and civil war, the US government has a heavy burden of truth. To reveal that truth publicly is not only important to the healing of the region, but also to US citizens who have the right to know what their government has done in their names and with their tax dollars. We must ensure that this history of concealment of truth that helped cover up complicity of US agents and allies in the human rights debacle in Central America is not repeated.

We call on the US Congress to contribute to this important task by passing the Human Rights Information Act.

OFICINA DE DERECHOS HUMANOS
Arzobispado de Guatemala

In the Face of the Abominable Assassination of
Monseñor Juan José Gerardi Conedera
The Human Rights Office
of the Archbishopric of Guatemala
Announces:

1. Its profound pain and indignation for the cowardly and brutal assassination of Monseñor Gerardi, the founder and General Coordinator of this office.

2. On Sunday, April 26 at around 10:00 pm, when he was entering his house after doing a routine family visit, Monseñor Gerardi was attacked by an individual who was not identified. The assassin first hit Mons. Gerardi on the back of the head with a piece of cement, and later delivered blows to the bishop's face, disfiguring it. The individual returned to a site near the crime ten minutes later, having changed his clothes since they had been soaked with the bishop's blood. No object of value was stolen from the house, nor was his vehicle taken (which he was getting out of when attacked), nor was any personal item touched by the assassin.

3. Forty-eight hours earlier, Monseñor Gerardi had presided at the Metropolitan Cathedral, along with other bishops from the Guatemalan Episcopal Conference, for the public presentation of the report entitled, "Guatemala: Nunca Más." The report documents and analyzes tens of thousands of cases of human rights violations that occurred during the armed conflict. Mons. Gerardi was the coordinating bishop for the Interdiocesan Project "The Recuperation of Historic Memory" which produced the report.

4. Mons. Gerardi was Auxiliary Bishop of the Archdiocese of Guatemala since 1984. From 1967 to 1976 he was bishop of Las Verapaces, where he laid the groundwork for the Indigenous Pastoral. Later he was named bishop of El Quiché, where he had to confront the time of the worst violence against the population. The assassination of various priests and catechists and the harassment of the Church by the military obliged him to close down the diocese of El Quiché in June of 1980. Weeks before that, Mons. Gerardi had escaped an ambush. When he was president of the Episcopal Conference, the authorities denied him entry into his own country and he was forced to remain in exile for two years until he was able to return in 1984.

5. The assassination of Monseñor Gerardi is an ruthless aggression against the Church of Guatemala -- which for the first time has lost a bishop in a violent manner -- and against the a Catholic people, and represents a heavy blow to the peace process.

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Miami, Fla. 33166 - 6559

6. We demand that the authorities clarify this tragedy within a period of time not to exceed 72 hours, because if impunity is allowed to extend to this case it will bring a grave cost to the Republic of Guatemala.

7. To the people of Guatemala and the international community we ask your resolute support and solidarity in this difficult moment for the Catholic Church. This treacherous crime has shocked everyone, but in this time of trial we should remain firm and united in order to impede the violence and terror that the Guatemalan people have suffered take possession of Guatemala and force us to lose the political space which have been won at such great sacrifice.
As Monseñor Gerardi said, in his April 24 address at the presentation of the REMHI report, "We want to contribute to the building of a country different than the one we have now. For that reason we are recovering the memory of our people. This path has been and continues to be full of risks, but the construction of the Reign of God has risks and can only be built by those that have the strength to confront those risks."

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WASHINGTON OFFICE ON LATIN AMERICA
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Statement of the Washington Office on Latin America in support of the Human Rights Information Act and in commemoration of Bishop Juan Gerardi Conedera of Guatemala and Honduran human rights worker Ernesto Sandoval

Monsignor Juan Gerardi Conedera, Auxiliary Bishop of Guatemala City, was brutally murdered outside his residence late on Sunday April 26. This shocking act is a blow to the peace process and to progress toward reconciliation and greater respect for human rights in Guatemala. On February 10, Ernesto Sandoval, a defender of human rights, was assassinated in Honduras. These brutal killings, carried out to silence prominent supporters of human rights and to send a chilling message to the larger population, demonstrate that the transitions to peace and democracy in Central America are still very fragile.

These killings and the continued impunity enjoyed by military and paramilitary violators of human rights in Guatemala and Honduras (as well as many other nations of Latin America) demonstrate the need for the governments of these two countries to act forcefully to bring human rights violators to justice. The killings also demonstrate the urgent need for the United States government to declassify documents bearing upon human rights cases in Guatemala and Honduras.

Passage of the Human Rights Information Act (S. 1220; H.R. 2635) can help provide information to families on the fate of loved ones murdered or disappeared in Guatemala and Honduras and can contribute to bringing to an end a period of impunity for rights violators in these countries. The Washington Office on Latin America calls on Congress to pass the Human Rights Information Act as a major contribution to peace and reconciliation in Central America. Passing the Act will be a tribute to and commemoration of the lives of Bishop Gerardi, Ernesto Sandoval, and the countless other human rights defenders who have given their lives in the cause of freedom and dignity.

NE A25 THE NEW YORK TIMES OP-ED WEDNESDAY, APRIL 8, 1998

The U.S. Should Come Clean On 'Dirty Wars'

By Thomas Buergenthal

WASHINGTON

Seventeen years after the crime, four Salvadoran national guardsmen convicted of murdering three American nuns and a church lay worker in 1980 have publicly confessed for the first time that they had acted on "orders from above." The United Nations Truth Commission for El Salvador had reached the same finding in 1993, concluding that high Salvadoran officers, including the Defense Minister and the commander of the National Guard at the time, were involved in covering up the crime.

The four guardsmen were convicted of murder in 1984 and have been in a Salvadoran prison ever since. But the former Defense Minister, Gen. José Guillermo García, and the former National Guard commander, Col. Carlos Eugenio Vides Casanova, are living safely in Florida, according to published reports.

Although it remains to be proved who actually authorized the order to execute the nuns, who were abducted, raped and shot on Dec. 2, 1980, information about the two officers' role in the cover-up was readily available to anyone interested in learning the truth, including American officials who purported to investigate the murders.

The investigations carried out by the United States of this case and of other military-related atrocities in El Salvador, Honduras and Guatemala were flawed. And the American Government continues to this day to resist a full accounting of the brutal crimes committed in Central America during the cold war. As a rule, the very people responsible for the crimes were either in the pay of our intelligence services or they were viewed as invaluable allies in the struggle against Communist subversion. That they were also frequently thugs and murderers mattered little during those years.

Only two weeks after the nuns were murdered, United Nations Ambassador Jeane Kirkpatrick was quoted as saying: "I don't think the Government [of El Salvador] was responsible. The nuns were not just nuns; they were political activists. We ought to be a little more clear-cut about this than we usually are. They were political activists on behalf of the Frente [guerrilla movement] and somebody who is using violence to oppose the Frente killed them." Half a year later, Secretary of State Alexander Haig suggested that the nuns may have been killed trying to run a roadblock. After reading these declarations, the Salvadoran authorities could be forgiven for believing that the United States did not want to know the truth.

The cold war is long over, but the terrible violations of human rights that were committed by both sides in Central America remain to be fully investigated. That may be the only justice the many innocent victims and their families will ever get. Guatemala and Honduras have embarked on serious investigations. Despite promised United States cooperation, it has turned over very little information to the Central Americans. Important files were also withheld from the Truth Commission for El Salvador in 1992 and 1993.

> Years later, why can't we see the files on Central America?

American officials always give the same excuses: the need to protect sources and intelligence-gathering methods. But my own experience in trying to obtain information for the Truth Commission convinced me that the real reasons that officials deny access have little to do with national security. The predominant concern of the intelligence agencies tends to be the desire to cover up their own incompetence or to protect themselves against charges that they violated official United States policies by participating in or not reporting human rights abuses by their foreign counterparts. Since these agencies determine for themselves what information should be disclosed, they reveal little that will embarrass them.

It is high time for the United States to establish an independent commission to review the documents relating to the conflicts in Central America and to declassify all information that can be made public without endangering legitimate security interests. A genuine democracy has nothing to fear from the truth.

Some victims of the Central American conflicts of the late 1970's and 80's are now being expelled from the United States while many of those responsible for the violations of human rights enjoy our hospitality. The fact that the two Salvadoran officers were granted residency status in the United States suggests that, at the very least, we should be more careful in judging who is "an undesirable alien." □

Thomas Buergenthal, a professor of international law at George Washington University, was a member of the United Nations Truth Commission for El Salvador.

Panel Says C.I.A.'s Secrecy Threatens to Make History a Lie

By TIM WEINER

WASHINGTON, April 8 — The official record of United States foreign policy stands in danger of becoming "an official lie" if the Central Intelligence Agency keeps refusing to release cold-war documents from the 1950's and 1960's, a State Department historians' committee warns in a forthcoming report.

The refusal to publish cold-war history is "a violation of the law and of American standards," the committee and its chairman said in a report and a letter to Secretary of State Madeleine K. Albright. "This Republic cannot survive if Government is secret and not held accountable for its actions."

At the core of what the committee calls the "crisis" over the control of Government history is the C.I.A.'s continuing refusal to publish documents on its best-known cold-war covert activities, including paramilitary actions involving Cuba, Indonesia and Tibet, despite continuous promises of openness by the agency during back six years.

"If sufficient documentation cannot be declassified to provide the broad outlines of those covert activities, any U.S. Government documentary compilation about our foreign policy in situations where such activities took place will be so incomplete and misleading as to constitute an official lie," the chairman of the historians' committee, Warren F. Kimball, a professor of history at Rutgers University, told Secretary Albright in a letter accompanying the committee's report.

Mr. Kimball's letter said a new panel with the potential power to resolve some aspects of the problem met for the first time on Feb. 16. The three-person panel, with high-ranking members of the C.I.A., the State Department and the National Security Council, has the power to decide whether covert operations may be acknowledged by the United States Government. If the White House agrees to disclose the existence of these operations from the late 1940's, the 1950's and the 1960's, documents about them can be declassified.

"It's taken a long time to get to this point," a senior intelligence official said today. "The developments are positive, though there's not that much to show for it yet."

The State Department has published the official record of American foreign policy, "The Foreign Relations of the United States," continuously since 1861. These thick books contain primary documents from which history is written.

Continued publication of the series is imperiled by secrecy, the committee says. The panel, created by the State Department to insure the historical integrity of the official record, can recommend that the department prevent publication of volumes.

Under the law, Government records should be available to the public after 30 years, once they have been cleansed of potentially harmful secrets like the names of covert agents.

But the C.I.A. has not been able to live up to the law. The agency promised in 1993 to publish records on 11 major "cold-war" covert operations which it acknowledges having happened. To date, it has published a tiny fraction of its documents on two of the operations: the 1954 coup in Guatemala and the 1961 Bay of Pigs invasion of Cuba. It also belatedly admitted destroying almost all its records on its 1953 coup in Iran.

The C.I.A. has also refused to release records from the 1950's and 1960's on operations that have been chronicled by historians, but never acknowledged by the agency. If they are not acknowledged they do not officially exist, and Government documents about them stay secret.

COALITION MISSING

U.S. CITIZENS MURDERED, TORTURED, ASSAULTED OR MISSING IN GUATEMALA

May 11, 1998

Statement of Coalition Missing

Re : Declassification of Guatemala and Honduras Human Right Files

We, the undersigned members of Coalition Missing, wish to express our full and urgent support for the Human Rights Information Act, now pending in both Houses of the United States Congress. This Act would require the immediate declassification of all U.S. agency files containing information about human rights violations in both Guatemala and Honduras. As United States citizens who have suffered directly from the officially sponsored repression in Guatemala, we believe that this legislative measure will contribute enormously to peace and justice in Central America, as well as to restore faith in our own government.

By opening the files, and allowing the truth to be known at last about so many tragic events in both Guatemala and Honduras, the United States will be taking a strong stand for human rights, and simultaneously striking a blow against the official impunity that has so long shielded and strengthened the repression. We note that in Guatemala, to date, despite the 200,000 death squad victims and 440 massacres of Mayan villages, no intellectual author within the Guatemalan military has ever been held accountable in any court of law. The killers simply have nothing to fear. This situation has reaped grim results indeed. Although the peace accords were signed in late 1996, right wing violence has continued to silence Mayan leaders as well as civilian reformists and human rights activists. As the killers fear no consequences, the killing has continued. We need only cite the very recent and brutal murder of Bishop Gerardi, who was bludgeoned to death only 48 hours after presenting REMHI's human rights report on the war time atrocities. He had assigned some 85% of the crimes to the Guatemalan military. He was left dead and disfigured at his front door, with nothing stolen from his home. The very possibility of real peace in Guatemala is now at stake.

The time has come for the United States to send a clear and absolute message to those who commit such atrocities: that they will not be shielded or tolerated. Their names and actions must be disclosed. Only then can the civilian government and courts of law take true control of their own nation. Time is of the essence, and the lives of many others like Gerardi are at stake.

We urge too, that declassification be approved for humanitarian reasons. As members of the Coalition, we know only too well what it means to lose a loved one to such repressors, to wait in despair for a missing relative to return, to wait in terror for torture and even death. We know far too many friends in Guatemala who still search each and every day for news of a son or daughter or spouse who simply never returned home. An elderly woman irons her son's shirt at night when she cannot sleep, even though he has been missing for fifteen years. A mother despairingly searches for news of her small daughters. Are they dead? Were they sold into an adoption ring? Were they abused? Where are they now? From this agony there is no healing, no dimming of memory. Only the truth can set these people free, and we ask you to give our friends and neighbors in Guatemala this gift of peace and healing.

3321 12th St. Washington, DC 20017 T.(202)529-6599 F. (202) 526-4611 e-mail: ghrc@igc.apc.org
A PROJECT OF THE GUATEMALA HUMAN RIGHTS COMMISSION/USA

Lastly we ask that the files be opened in order to restore faith and confidence in the United States government. Far too many cases show that U.S. officials from various agencies greatly overstepped proper boundaries in working with these military regimes, becoming at times too closely involved in acts of repression, condoning such repression, or covering up for such repression by disinforming the American people. This situation does not call for turning our backs on our own government. To the contrary, as citizens we demand that our democratic mechanisms begin to take actions towards badly needed reforms. This in turn, requires that the whole truth and nothing but the truth be released. The very essence of our constitution prohibits secrecy in government for precisely this reason.

Sincerely

Trish Ahern
Adriana and Jeff Bartow
Marie Dennis
Jennifer Harbury
Lisel Holdenreid
Father Thomas Henehan
Brother Paul Joslin
Dr. Peter Kerndt, MD
Meredith Larson
Kimi Okada
Sister Dianna Ortiz, OSU
Chris Stoscheck and Candy Mingins
Claudia Stoscheck
John Wolfe
Jim Woods
Josh Zinner

Mr. HORN. I thank the gentleman, and I thank the panel. But before closing it—and you stole my punch line here, Dr. Leo Valladares—I want to read a few of the things into the record. We will put the whole resume into the record, as we do with all of you. But I think before us we have not only a brave individual, we have a person that has been recognized for three or four decades for his knowledge of human rights.

Dr. Leo Valladares Lanza started in 1966 as a professor of philosophy of law and constitutional law at the Autonomous University of Honduras. And just to look at a few of the things he has done: In the early eighties, he was a legal adviser to the National Constituent Assembly. He has been honored with the rank of Ambassador and adviser to the minister of foreign relations. He has been vice president of the Inter-American Commission for Human Rights and then president of that fine group in 1990. He has been honored in Europe, he has been honored many times in Latin America, and he has been honored in the United States. But I must say when he noted—and I noted a little before he said it—that in March 1996, he was unanimously elected by the National Congress to serve as National Commissioner for Human Rights for a 6-year term.

I was trying to think, has this Congress ever unanimously elected anybody that was at all controversial? But your Congress has done it. And I commend you for having the support across the board. He also has been the president right now of the Central American Council of Human Rights Procurators. His doctorate was originally received in Spain. So he comes from great academic credentials in this area. But even beyond that, he comes with great experience in the area. And he is putting his life on the line for the good of his country and the good of the world.

So we thank you very much for coming today. We really appreciate the testimony that both Ms. Harbury and Mr. Reyes gave.

So with that, we're going to move to panel 2. And we wish you well in all of these endeavors. Thank you.

If panel 2 would come forward. We will have Mr. McMasters there and Carlos Salinas next and then Kate Doyle. If you would raise your right hands.

[Witnesses sworn.]

Mr. HORN The clerk will note all three witnesses affirm. We will begin with Paul K. McMasters, the first amendment ombudsman for the Freedom Forum.

Mr. McMasters.

STATEMENTS OF PAUL K. MCMASTERS, FIRST AMENDMENT OMBUDSMAN, THE FREEDOM FORUM; CARLOS SALINAS, ADVOCACY DIRECTOR FOR LATIN AMERICA, AMNESTY INTERNATIONAL USA; AND KATE DOYLE, ANALYST, NATIONAL SECURITY ARCHIVE

Mr. MCMASTERS. Thank you, Mr. Chairman and the members of the committee for asking me here today and inviting me to give a press perspective on H.R. 2635, the Human Rights Information Act. I have worked three decades in daily journalism and presently serve as the member of the Freedom of Information Act committees

of both the American Society of Newspaper Editors and the Society of Professional Journalists.

I'd like to start my remarks by asking a question: How should the U.S. Government approach the enormous problem of declassifying natural security documents? Although that is not the immediate subject of H.R. 2635, it is the major issue lurking beneath the surface of the bill. In raising this broader issue, I do not mean to suggest, as this previous panel has attested, that the subject of human rights violations in Guatemala and Honduras is unimportant.

I think the sponsors of the legislation have set out compelling findings demonstrating why the public interest would be served by the release of additional documents. There is an important aspect of this broader issue, however, that must be kept in sharp focus as these matters are deliberated. A vital public interest also is served by the press providing a constant and credible flow of information between government and the people.

The press can only do that effectively, however, when commonsense policies are in place for the declassification of secret records. Historically, a culture of secrecy within the Federal Government has thwarted the press's efforts to get information to the public. That has adversely influenced the public's confidence in government, which, in turn, has a negative impact on elected officials' ability to make public policy.

I hope we all agree that ensuring maximum access to Government information and a presumption of openness by Government officials will work to improve Government and assure the vitality of our democracy. To do otherwise is to foster paranoia and conspiracy theories on the part of the public and a lack of accountability on the part of the Government.

Everyone who has looked at the classification process in the United States has agreed that we can continue to classify more records than require protection in the interest of national security. The backlog of documents awaiting declassification is measured in the billions of pages. The resources available for declassification are limited.

The issue continues to be how do we best apply the available resources so as to provide the most relevant information at the earliest possible date. The President, as you know, has power to direct agencies to declassify documents on subjects of his choosing, although exercising that power is easier said than done.

The Congress can enact laws, but legislation is an unwieldy and imperfect instrument for controlling and directing the classification process on a day-to-day basis. The public theoretically has a voice in such matters, but rarely counts. What is needed is a more systematic way of assessing priorities for declassification.

I note that the Government Secrecy Act of 1997 is pending before the Government Reform and Oversight Committee. I would like to call the subcommittee's attention to one element of that proposal. Section 5(c) of the bill would establish a 12-member National Declassification Advisory Committee. That advisory committee would, among other things, make recommendations concerning declassification priorities and activities.

A broadly based advisory committee is one way to collect and blend the views of the executive branch, the Congress, the press, academics, historians, interest groups, and others. As currently drafted, the membership of the advisory committee would be heavily populated with academics. I might suggest other points of view be represented, including the press and public interest groups, like the National Security Archive and the Federation of American Scientists.

Government information disclosure activities, like the Freedom of Information Act, already suffer from a shortage of resources. We have to find a way to support declassification in a way that does not undermine the disclosure of current information. I don't have to remind the members of the committee or the chairman that everyone pays a price for secrecy, as we've heard in the previous panel.

In the past, no one paid attention to the actual costs, either. This is one reason we face such an enormous burden in dealing with the mountains of secrets that have built up in the past. Sooner or later we are going to have to pay the cost for declassifying most of that information. In the meantime, we are creating 10,000 secrets a day and spending more than $5 billion a year maintaining as many as 10 billion pages of secrets. And, as the committee alluded to previously, one and a half billion of those documents are more than 25 years old.

No one questions the need to keep some Government information secret, but the need for some secrecy does not justify all secrecy, and we as a Nation pay too high a price for excessive secrecy. It deprives both the public and policymakers of needed information, impoverishes public discourse and dialog, and reduces the sweep and scope of intelligence analysis. It erodes public confidence in government at all levels, drains resources from real intelligence gathering, interferes with scientific and technological innovations and developments, retards economic competitiveness, expends millions of tax dollars each year, and as we have heard, allows brutal things to go on in our society as well as other societies.

Commonsense disclosure of classified material ensures good governments by making officials accountable. It encourages confidence in government leaders, and it enlivens public debate that engenders sound supported policy. In other words, it fulfills the Jeffersonian principle of an informed citizenry making democracy work. We have no choice but to set priorities and assign resources to deal with decisions made in the past.

H.R. 2635 is a useful proposal in advancing that mandate, because it makes us confront a series of important public policy questions surrounding declassification and openness in government.

I appreciate the opportunity to appear before the committee and speak about the general considerations on having a presumption of openness in our society and in our Government. I can't help but observe, after having heard the gripping testimony of the earlier panelists, that if these good people have the resolve to dig up the bodies in their countries, common decency should have a bureaucracy in the United States to dig up the records in the bowels of their basements and bring them forward to help solve this horrific problem.

Thank you, sir.

[The prepared statement of Mr. McMasters follows:]

Mr. Chairman. Members of the Committee. I would like to thank you for inviting me to provide a journalistic perspective on the declassification aspects of the Human Rights Information Act. I was a journalist for more than thirty years, have served as national president of the Society of Professional Journalists and presently serve on the freedom-of-information committees of both the American Society of Newspaper Editors and the Society of Professional Journalists. For the past few years I have worked exclusively on free press, freedom of information and other First Amendment issues at The Freedom Forum, a financially independent, non-partisan foundation dedicated to free press, free speech and free spirit. As First Amendment Ombudsman at The Freedom Forum, I write, lecture, and serve as a resource for the public and the press as these issues arise in Congress, the courts, and public discourse. Although The Freedom Forum does not take positions on legislation or lobby, it allows me to appear before Congressional committees and government commissions to speak on these issues.

I would like to begin my remarks today with a question: How should the United States Government approach the enormous problem of declassifying national security documents? Although that is not the immediate subject of H.R. 2635, it is the major issue lurking just below the surface of the bill. In raising the broader issue, I do not mean to suggest that the subject of human right violations in Guatemala and Honduras is unimportant. The sponsors of the legislation have set out compelling findings demonstrating why the public interest would be served by the release of additional documents.

There is an important aspect of this broader issue, however, that must be kept in sharp focus as these matters are deliberated: A vital public interest also is served by the press providing a constant and credible flow of information between government and the people. The

press can only do that effectively, however, when common-sense policies are in place for the declassification of secret records. Historically, a culture of secrecy within the federal government has thwarted the press's efforts to get information to the public. That, in turn, has adversely influenced the public's confidence in government, which in turn has a negative impact on elected officials' ability to make public policy. I hope we all agree that maximum access to government information and a presumption of openness by government officials work to improve government and assure the vitality of our democracy. To do otherwise is to foster paranoia and conspiracy theories on the part of the public and a lack of accountability on the part of the government.

In the 104th Congress, this Subcommittee heard testimony on H.R. 1281, the "War Crimes Disclosure Act." That proposal would have made it difficult for the government to continue to rely on outdated national security concerns as an excuse for withholding information about Nazi war criminals. The sponsors of that legislation also made a compelling case that unnecessary government secrecy was contrary to the public interest.

The 102nd Congress enacted into law the "President John F. Kennedy Assassination Records Collection Act of 1992," Public Law102-526. That law was passed in response to strong public and congressional interest in the immediate disclosure of records related to the assassination of President John F. Kennedy. The law established the Assassinations Records Review Board to direct and oversee the declassification and disclosure process. To date, more than three million pages of these files have been made available to the public, the press, researchers, historians, and others. The Board's work is not yet complete, but the process appears to have been highly successful. The public interest has clearly been served by the release of Kennedy assassination documents.

The Kennedy assassination records proposal became law in part because of the tremendous public attention to the subject that resulted from a popular movie. The "War Crimes Disclosure Act" became Public Law 104-309 in October 1996, but only in the form of a sense of the Congress resolution. The substantive provisions of the original proposal were dropped. (I should note that similar legislation is before the present Congress, also.)

Now, this Congress is deliberating the prospects for H.R. 2635, the "Human Rights Information Act."

I see nothing wrong with the Congress considering and enacting laws directing the declassification of documents on matters of significant public interest. Decisions about declassification are more routinely made by the agencies that created the documents, but the agencies do not always have a sufficient perspective to determine national priorities in a systematic way. Or, they may have other interests and conflicts that prevent a fair assessment of public priorities. Also, documents on any given national security subject are likely to be scattered throughout the files of many different agencies. Trying to coordinate declassification activities among various agencies under the current process is difficult at best.

Everyone who has looked at the classification process has agreed that we continue to classify more records than require protection in the interest of national security. The backlog of documents awaiting declassification is measured in the billions of pages. The resources available for declassification are, like the resources for other important functions, limited. The issue is always how do we best apply the available resources so as to provide the most relevant information at the earliest possible date.

The President has the power to direct agencies to declassify documents on subjects of his choosing, although exercising that power is easier said than done. The Congress can enact laws, but legislation is an unwieldy and imperfect instrument for controlling and directing the classification process. The public theoretically has a voice in such matters, but it rarely counts, the Kennedy assassination records being one of the exceptions.

What is needed is a more systematic way of assessing priorities for declassification. I note that the "Government Secrecy Act of 1997" (H.R. 1546) is also pending before the Government Reform and Oversight Committee. I would like to call the Subcommittee's attention to one element of that proposal. Section 5(c) of the bill would establish a 12-member National Declassification Advisory Committee. That Advisory Committee would, among other things, make recommendations concerning declassification priorities and activities. The idea for a permanent advisory committee originated with the 1997 report of the Commission on Protecting and Reducing Government Secrecy (the Moynihan Commission).

A broadly based advisory committee is one way to collect and blend the views of the Executive Branch, the Congress, the press, academics, historians, interest groups, and others. As currently drafted, the membership of the advisory committee would be heavily populated with academics. I might suggest other points of view be represented, including the press and public

interest groups like the National Security Archive and the Federation of American Scientists. Both of these organizations have been effective advocates for openness and monitors of classification policy and practice.

The idea of a more systematic approach to setting priorities is very attractive. I want to emphasize that I am focusing on the mechanism for setting priorities. The issue of resources has to be considered separately. Government information disclosure activities, like the Freedom of Information Act, already suffer from a shortage of resources. We have to find a way to support the declassification of documents in a way that does not undermine the disclosure of current information.

Everyone pays a price for secrecy. The Moynihan Commission, which I testified before, did a great job in highlighting the life cycle cost for classification. In the past, no one paid attention to the cost of classification. This is one reason why we face such an enormous burden in dealing with the mountains of classified information that built up in the past. Sooner or later, we are going to have to pay the cost for declassifying most of that information. In the meantime, we are creating 10,000 secrets a day and spending more than $5 billion a year maintaining as many as 10 billion pages of secrets, 1.5 billion of them twenty-five years old or older.

No one questions the need for secrecy of some government information. But the need for some secrecy does not justify all secrecy. And we all pay too high a price for excessive secrecy. It deprives both the public and policy-makers of needed information, impoverishes public discourse and dialogue, reduces the sweep and scope of intelligence analysis, erodes public confidence in government at all levels, drains resources from real intelligence gathering, interferes with scientific and technological innovation and development, retards economic competitiveness, and expends billions of tax dollars each year.

Common sense disclosure of classified material, however, ensures good governance by making officials accountable, encourages confidence in government and its leaders, enlivens public debate that engenders sound, supported policy. In other words, it fulfills the Jeffersonian principle of an informed citizenry making democracy work.

The Clinton Administration took a big step forward with the emphasis on declassification in Executive Order 12958 on Classified National Security Information. Hopefully, that will reduce the volume of classified information that the next generation will have to declassify. In

the meantime, we have no choice but to set priorities and assign resources to deal with the decisions made in the past.

H.R. 2635 is a useful proposal in advancing that mandate because it makes us confront a series of important public policy questions surrounding declassification and openness in government.

Thank you for the opportunity to appear before the committee on this important matter. I would be happy to answer any questions you might have later.

Mr. HORN. Well, Mr. McMasters, I appreciate that very eloquent statement that you have made. And you might tell us a little bit about the Freedom Forum.

Mr. MCMASTERS. Sir, the Freedom Forum is a foundation dedicated to free press, free speech, and free spirit, all of which apply in the issues before this subcommittee. It is a foundation designed for information and educational purposes. It does not take positions on legislation, and it does not lobby. But it allows its first amendment ombudsman, meaning me, the opportunity to speak before such bodies on such issues when invited.

Mr. HORN. Well, we thank you, and if you can stay, we'll have some questions of all three of you.

Mr. HORN. Carlos Salinas is a neighbor on Pennsylvania Avenue here with Amnesty International. I suspect that is one of the most highly respected organizations by Members of Congress on both sides of the aisle. Amnesty International has been in the forefront of trying to help achieve human rights under very difficult situations. So we appreciate your coming here and sharing your thoughts with us.

Mr. Salinas.

Mr. SALINAS. Thank you, Mr. Chairman, for this hearing on the Human Rights Information Act and for the support you and your staff have shown. We also appreciate the ranking member's support, especially his cosponsorship of the legislation, and that of his staff. We hope, Mr. Chairman, that you can promptly refer this bill to the full committee, and your leadership is deeply appreciated.

Amnesty International USA has registered the support of tens of thousands of Americans from Maine to Hawaii and Florida to Alaska. Here before me are more than 7,000 letters addressed to Members of Congress in support of the Human Rights Information Act. So far we've delivered 7 times the amount of letters that you see here. And that, in turn, is just one third of the total number of letters we've received supporting the Human Rights Information Act for Congress, 150,000 letters in total.

We also have made worry dolls. Our students across the land have made little figurines of brightly colored yarn such as this one. They've made 12,000 of them last spring in support of exhuming the truth in Guatemala. To give you a sense of what 150,000 letters and 12,000 worry dolls look like, I brought a picture with me that we would like to give you a copy. And in it, we show the fact that Americans support the Human Rights Information Act.

If that weren't enough of a reason, I do have three additional compelling reasons why we think you should be able to support wholeheartedly the Human Rights Information Act. The first is that the Human Rights Information Act is pro-family. While the term is not usually used to describe such initiatives, this bill is pro-family in a very profound way. The Human Rights Information Act will help families heal and achieve closure in these cases of horrific violence where parts of the family have been literally and violently torn away.

The Guatemala violence left tens of thousands dead and tens of thousands disappeared. Honduras also suffered, but not on such a massive scale. The pain has not healed in part because the whole truth is not known. Families have not recovered the bodies of the

disappeared and haven't been able to give them a decent burial. By releasing this information, we can help these families heal. If we can help them heal, why should we not do that?

The second reason to support the Human Rights Information Act is that it will fight crime. We're not talking about dozens of murders, but about the wholesale slaughter of entire villages, the mutilation of babies, the forced participation of families to torture each other. To top it off, the thugs and criminals who have done this have never been punished. Releasing information will help investigators and could help lead to the prosecution of these thugs. This will stop the criminals from further crimes and may deter others.

But this is, of course, a lot of talk. I want to show you something. This shirt was found by the skeleton of a 5-year-old boy in Alta Verapaz, Guatemala. The criminals who were responsible for the killing of this young boy and 140 others have never faced a court. Those who aided and abetted the crime have never faced the courts. Surely we must put an end to that. Surely we must ensure that those responsible face the courts and go to jail where they belong.

The third reason to support the Human Rights Information Act, sir, is that it will strengthen democracy. The civilian authorities have made repeated commitments to prosecuting the offenders. We should insist on that and make clear that the time is now for prosecutions. These will strengthen the rule of law and ultimately democracy.

These three reasons are important now, more than ever, as Honduras and Guatemala try to overcome their violent legacies. Investigations still trigger threats and attacks. The panel before us, all three of those courageous individuals have received death threats. Mr. Reyes, just a few days ago, received a direct death threat. Honduras lost human rights defender Ernesto Sandoval to an assassin in February, while Guatemala Auxiliary Bishop Juan Jose Gerardi Conedera was murdered just 3 Sundays ago. As in the past, in neither case has justice been served.

U.S. survivors like Meredith Larson, Sister Dianna Ortiz, and Jennifer Harbury all have filed Freedom of Information Act requests, only to learn that this process isn't very useful. The relatives of disappeared American priest Father James Carney received reams of blacked-out documents. Father Carney's sister, Eileen, and her husband Joe joined Ms. Harbury and I in a 1995 meeting with the National Security Council Director and the State Department's top human rights official, John Shattuck.

At that meeting, both officials said they would get us a declassification proposal in a month or so. That was the last we heard. Eileen has been waiting 18 years to give a decent burial to her brother. How much longer will she be kept waiting? The issue is that stark.

And you know, when discussing this issue we're frequently told that the problem with human rights activists is that we tend to present things way too starkly; that we tend to present things as either black or white. Well, maybe that's because when we ask for truth, all we get are black documents or white documents. This is not useful, yet this is what some would dare call declassification.

Passing the Human Rights Information Act could be one of the best contributions that the United States can make as we end the 20th century. It will help families. It will fight crime. It will strengthen democracy. It will also honor the legacies of heroes such as of Ernesto Sandoval and Monsignor Gerardi who dedicated and ultimately sacrificed their lives for truth. This here is Monsignor Gerardi, his is clearly the side of the struggle on which we all belong and in which you and the rest of the U.S. Congress belong.

The American people want the Human Rights Information Act passed. For the sake of Monsignor Gerardi and Ernesto Sandoval, all the courageous human rights defenders who are struggling to make our world a safer place, and for the sake of the survivors and tomorrow's children, we urge you to please pass the Human Rights Information Act.

Thank you very much.

[The prepared statement of Mr. Salinas follows:]

TESTIMONY BEFORE
THE HOUSE COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT
SUBCOMMITTEE ON GOVERNMENT MANAGEMENT, INFORMATION, AND TECHNOLOGY
HEARING ON THE HUMAN RIGHTS INFORMATION ACT, H.R. 2635,
BY CARLOS M. SALINAS
ADVOCACY DIRECTOR FOR LATIN AMERICA AND THE CARIBBEAN
AMNESTY INTERNATIONAL USA
11 MAY 1998

It is Amnesty International USA's distinct pleasure to testify about the Human Rights Information Act, H.R. 2635, a bill before Congress which we strongly support as we believe it is a crime-fighting bill that will strengthen democracy and human rights in the Central American nations of Guatemala and Honduras, and bring comfort and closure to families affected by brutal and inhumane violence. Because of the strengths of this bill, thousands of Americans have voiced their support for H.R. 2635 and have urged Congress to pass this measure.

Americans throughout the land support the Human Rights Information Act.

Amnesty International USA alone has registered the support of tens of thousands of Americans from Maine to Hawaii, and Florida to Alaska, in the form of letters and petitions addressed to individual Members of Congress. Indeed we have delivered such petitions to every member of this Subcommittee and most members of the Committee. This past Thursday, Amnesty International USA staff and volunteers delivered some 30,000 letters to Congressional offices, a process that will continue as we have approximately more than 150,000 letters to deliver.

We also know that Americans across the land are pleased with the fact that this hearing is taking place and for that we have Chairman Steve Horn to thank for his leadership. From the outset the Chairman and his staff, in particular John Hynes, have shown interest in this issue and compassion for the families whose pain the bill aims to end.

We are acutely conscious of the fact that this is a very short legislative year and that most bills do not die by being voted down, but rather, by not being discussed at all and thus we are especially grateful for the Chairman's leadership in considering this important bill. We hope the Chairman and members of the Subcommittee join their other colleagues on this Subcommittee such as the Ranking Member and Congressman Danny Davis in becoming co-sponsors of this bill. We also hope that the Subcommittee will promptly take action on this bill and favorably refer it to the Full Committee. Your continuing leadership after referral will be appreciated not just by us but also by the thousands of Americans who have taken the time to write or call in support of this Act.

Background on the Human Rights Information Act

The Human Rights Information Act (H.R. 2635, S. 1220) orders the declassification or release of U.S. government information about human rights violations in Honduras and Guatemala. It orders U.S. government foreign policy and intelligence agencies to release within 150 days "all human rights records regarding activities occurring in Guatemala and Honduras after 1944." The bill also allows records to be withheld if there is "clear and convincing evidence" that declassification would be harmful. In such cases, the bill clearly outlines the criteria for withholding information, and emphasizes balancing national security needs with the public interest. Decisions by agencies to withhold documents would be examined by the Interagency Security Classification Appeals Panel, a review panel established under Executive Order No. 12958. The bill also creates two additional positions for the Panel, whose members would be filled by the President from individuals recommended by four non-governmental organizations, which include Amnesty International USA.

Reasons to support the Human Rights Information Act

We are proud to support the Human Rights Information Act because we believe it will make a crucial contribution to the promotion and protection of human rights in Guatemala and Honduras. We support the Act for three compelling reasons:

Reason # 1. The Human Rights Information Act is pro-family.
The term "pro-family" is not usually used to describe initiatives such as this bill yet the Human Rights Information Act is pro-family in a very profound way. The Human Rights Information Act is pro-family because it will help families heal and achieve closure in cases of horrific violence, where parts of the family have been violently torn or made to "disappear."

The past few decades in particular have witnessed immense suffering in Guatemala and Honduras. The current suffering in Guatemala can be traced back to the 1954 overthrow of President Jacobo Arbenz in a coup d'etat that was engineered by the Central Intelligence Agency. This heralded a period of military governments that were first challenged in the 1960's by armed opposition groups. The government reacted with a fierce counterinsurgency campaign that left tens of thousands dead. This counterinsurgency became particularly harsh in the late 1970s and early 1980s during which time the military governments resorted to a scorched earth strategy. More than 500 villages were wiped off the face of the earth. Thousands of civilians were killed often after brutal torture or in wholesale massacres. Thousands of others were "disappeared," taken away never to be seen again. Millions of others, the "lucky ones," were forced to flee their homes, either into internal exile or abroad, to Mexico and to the United States.

Honduras also witnessed politically-driven violence, brutal murders and "disappearances" resulting from a deliberate governmental and military strategy that treated non-combatant civilians as legitimate military targets. During the early to late 1980s, a dirty war in Honduras targeted student activists, teachers, journalists, human rights lawyers and activists, trade unionists, leftist politicians and activists, and tortured, assassinated, and/or "disappeared" them.

The pain of the killings and other atrocities has still not healed, in part because the whole truth about these horrible violations has not been revealed. Survivors still do not know who ordered the killings nor do they know why their loved ones were brutally tortured and killed. Family members -- like the parents of José Eduardo Becerra Lanza "disappeared" in Honduras in 1982, or the family of Roger Gonzalez Zelaya, also "disappeared" in Honduras in April 1988 -- still do not know the whereabouts of their "disappeared" loved ones, or even whether they're alive or dead. We know for instance of mothers who still iron their son's shirts, decades after they were "disappeared," because they hope that all this time their son has been held in some secret prison and will unexpectedly return. Family members have not been able to properly grieve for relatives nor to give them decent burials. This uncertainty prolongs their agony. In addition, in villages and towns where every surviving family has lost parents, siblings, or children, this uncertainty affects all aspects of community life and growth

By releasing this information, we can help surviving families and rebuilding communities come to terms with the traumas of the past and recover the remains of the "disappeared" for forensic examination and burial. Indeed, if we can help grieving families heal by releasing this information to them, why shouldn't we do this?

Reason # 2. The Human Rights Information Act will fight crime.
As you know human rights violations are some of the world's most heinous crimes. The perpetrators are responsible not for dozens or even hundreds of brutalities but for tens of thousands. The crimes of which they are guilty are not everyday acts of violence, but crimes against humanity: the wholesale slaughter of entire communities, the mutilation of babies, the forced participation of family members in the torture of their own loved ones. Worse yet, the assassins and torturers are never punished: they are amnestied or are never prosecuted. Those responsible for tens of thousands of killings, "disappearances" torture and other brutalities walk the streets freely. Those that ordered these brutalities, or helped cover them up never had to pay for their criminal complicity.

Releasing specific information about these human rights violations, these crimes, will support judicial investigations and strengthen the judicial process by filling in some blanks and gaps in the official record. The fact is that those who know such details in Guatemala and Honduras are not talking. Nor are they adhering to court orders. Indeed, lawyers and judges involved in such cases find themselves subjected to death threats and under attack. Successful prosecutions will not only remove from circulation those human rights criminals who are still involved in similar or other criminal activity like organized crime, drug or armament trafficking or other smuggling. Successful prosecutions will

also send the unequivocal message that human rights violations and other violent crimes are no longer tolerated, especially such heinous crimes as the wholesale murder of non-combatant civilians, including children and elders, by state agents as a matter of official policy.

Reason # 3. The Human Rights Information Act will strengthen democracy.
Insofar as the Human Rights Information Act aids the criminal prosecution of torturers, kidnappers, and murderers, this Act strengthens the rule of law. The Act sends the clear message that no one is above the law, a message which will re-instill citizens' confidence in the legal institutions of their countries. Guatemalan and Honduran legal institutions are severely compromised today by a lack of credibility, not undeserved from the courts having witnessed, countenanced, or colluded in the covering up human rights crimes. Nevertheless, the current civilian authorities have made repeated commitments to prosecuting offenders. Their commitment, together with our support and assistance, means that the time is now for successful prosecutions of human rights criminals. Successful prosecutions will deter other violators and will strengthen the rule of law. The rule of law, ensuring equality under the law, is a key ingredient for any successful democracy, and Guatemala and Honduras are not exceptions.

The Process to Find the Truth

Guatemala
Civilian rule returned to Guatemala in 1986 with the inauguration of President Vinicio Cerezo Arevalo. The internal armed conflict continued unabated, while Cerezo took no significant action to end the impunity enjoyed by the army and the police. After an initial drop in human rights crimes, incidents of torture, murders, and "disappearances" soon surpassed their previous levels during his administration. After ten more years and one more coup, Guatemala reached the formal end of the internal armed conflict but not the end of human rights crimes.

Guatemala's civil war formally ended with the signing of a peace accord on 29 December 1996 between the Government and the armed opposition, the Guatemalan National Revolutionary Unity, URNG, *Unidad Revolucionaria Nacional Guatemalteca.* The signing of the final peace accord immediately enacted the 23 June 1994 Agreement on the Establishment of the Commission for the Historical Clarification of Human Rights Violations and Acts of Violence which have Caused Suffering to the Guatemalan People. This Clarification Commission was given only a year to compile, review, analyze, and present findings on violations and abuses committed by both sides during 36 years of armed conflict, clearly an impossible task. The Commission began operations on 1 August 1997. On 16 September 1997, the Commission submitted a declassification request to the U.S. government which was amended on 20 November 1997.

The Catholic Church which had closely monitored human rights developments, especially since the establishment of the Guatemalan Archbishop's Human Rights Office in 1989, also initiated a truth commission process in 1996. This truth commission, the

Interdiocesan Project to Recover Historical Memory, REMHI, *Proyecto Interdiocesano de Recuperación de la Memoria Historica*, sent 600 trained interviewers throughout Guatemala to conduct interviews in more than 15 Mayan languages. The Church's truth commission issued its findings on Friday, 24 April 1998, and found the security forces and its allies responsible for 90% of the 50,000 murders and 50,000 "disappearances" committed against civilians or captured prisoners.

In addition, there have been Freedom of Information Act requests filed by Americans directly or indirectly affected by this criminal violence such as Meredith Larson, who was subjected to a brutal stabbing in 1989; Sister Dianna Ortiz, subjected to a violent abduction and subsequent brutal and horrific torture; and of course, Jennifer Harbury, whose husband, armed opposition commander Everardo, was "disappeared" following a firefight with the Guatemalan Army in 1992. In most of these cases, the results have been largely disappointing because so little substantive information was released. High-level Administration officials, including the former Special Assistant to the President on National Security Affairs, Anthony Lake, have acknowledged that the FOIA process is not very useful to obtain this type of information.

Honduras

Honduras also experienced human rights violations committed in the context of a counterinsurgency war. As mentioned above, the security forces targeted people from all walks of life who were real or perceived supporters of the short-lived armed opposition.

The Honduran government's National Commissioner for Human Rights, Dr. Leo Valladares Lanza, began his courageous and invaluable work in 1992 to uncover the truth about human rights violations during the 1980s. In 1993 he published his first report, The Facts Speak for Themselves, which documented 179 "disappearances" in Honduras from 1980-1989. He has had an information request on a few specific cases outstanding with the U.S. government since 1993. One of these cases is the 1983 "disappearance" of the American priest, Father James Francis Carney.

We have been privileged to work with some of the relatives of Father Carney in trying to obtain the truth about his "disappearance," in particular with Joe and Eileen Connolly. Both Joe and Eileen joined Jennifer Harbury and others in a meeting we held in December 1995 with the then-Director for InterAmerican Affairs at the National Security Council, Richard Feinberg, and the Assistant Secretary for Democracy, Human Rights, and Labor, John Shattuck. At this meeting, both officials committed themselves to getting to us a declassification proposal in "a month or so." Two and a half years later, this proposal is still not forthcoming. The Connolly's have been waiting over 18 years to give a decent burial to Father Carney. How much longer must they wait for a funeral?

Current declassification

The Human Rights Information Act is needed because declassification so far, while better than in the past, has been inadequate, despite much Congressional attention. Members

from both House and Senate have repeatedly written the Administration requesting declassification of human rights records pertaining to Guatemala and Honduras.

The State Department has released the largest volume of information but Amnesty International and other human rights organizations have noted that much of the information released in the past was not very helpful, consisting of cables back and forth between the Embassy and the State Department, or documents already in the public domain. The recent release to the Clarification Commission appears to reflect a decision not to release anything with a designation above confidential. Yet as limited as these releases are, the State Department's effort stands in stark contrast to Defense Department agencies which have released very few documents.

On 23 May 1997, the National Archives made available to the public Central Intelligence Agency documents related to the coup d'etat in 1954. The CIA stated that they had released approximately one percent of the total volume of information and that more would be forthcoming, however we are not aware of any more releases. Even though minimal, this release was nonetheless useful in filling in at least some of the historical record of this pivotal period of Guatemala's history.

Recently, the Central Intelligence Agency released to the Guatemalan Clarification Commission close to sixty documents which at first glance seem to contain useful human rights information. While this is certainly welcome and appreciated, it does not cover the totality of violations: the Guatemalan Clarification Commission asked for information on 14 specific cases and "any records concerning violence during [the period 1978-1983]." Insofar as this most recent release may help clarify these 14 incidents and the 1978-1983 period, the documents are useful, but we must point out that they do not cover all of the human rights violations. The Human Rights Information Act covers all violations committed since 1944.

Our understanding is that Defense Department agencies have not released any significant information despite specific requests by the Guatemalan Clarification Commission. The "gisted" records, vague summaries sometimes even without date are not helpful at all and I append one such record by way of example from the recent declassification made available to the Commission. The Human Rights Information Act would of course apply to the Defense Department as well.

The Honduras documents have suffered a worse fate. The Honduran situation has not benefited from as much Congressional and public attention and so there have been far fewer documents released, for instance from the State Department, for Honduras than for Guatemala. The National Commissioner for Human Rights did initially request information on a large number of cases but on 1 August 1995, narrowed the request down to six specific human rights cases, including the "disappearance" of Father Carney, and information on two perpetrators of such crimes. Again, even if the Commissioner's request were fulfilled, it would not address all of the other cases of human rights crimes

in Honduras, thus pointing to the importance of passing the Human Rights Information Act.

Classification and National Security

The Human Rights Information Act will not harm national security nor will it unnecessarily reveal "sources and methods." Section five of the bill draws directly from the Congressionally approved and Presidentially ratified Assassination Records Collection Act of 1992, which sets out standards under which a classified record may be postponed. Amnesty International USA is not completely supportive of this section as we believe that there should be no withholding of information about human rights criminal activity. We note however that there is bipartisan recognition that the current classification regime is not working and that the Executive branch agencies tend to overclassify information.

On 3 March 1997, Senator Moynihan and Representative Combest, then Chairman of the House Permanent Select Committee on Intelligence, issued the report of the Commission on Protecting and Reducing Government Secrecy. This report was unanimously approved by the Commission which also included the then-Director of Central Intelligence John Deutch and the Chairman of the Senate Foreign Relations Committee Jesse Helms.

The Commission's report states that "...more information continues to be classified than national security needs require... Serious questions remain about the process by which classification decisions are made, and about the oversight, training, and accountability of those who make classification decisions. Particularly disturbing is the continued perception among many inside the Government that the current classification system simultaneously fails to protect the nation's core secrets while still classifying too much. Justice Potter Stewart's observation that 'when everything is classified, then nothing is classified' remains very relevant today." (pg. 19) In other words, the Commission found that excessive classification is a real problem.

The Commission also stated that "the use of sources and methods as a basis for continuing classification of intelligence information be clarified..." It noted that the National Security Act of 1947's mandate for the protection of sources and methods had, over the years, "come to serve as a broad rationale for declining to declassify a vast range of information about the activities of intelligence agencies" and that "the sources and methods rationale has become a vehicle for agencies to automatically keep information secret.... The statutory requirement that sources and methods be protected thus appears at times to have been applied not in a thoughtful way but almost by rote." (pg. 70)

The Human Rights Information Act carefully balances the public need with national security interests. Agencies can withhold documents if there is "clear and convincing evidence" that the national security threat is "of such gravity that it outweighs the public interest" or there is "substantial risk of harm" to an informant or that an "invasion of

privacy is so substantial that it outweighs the public interest" or that the disclosure would compromise a confidentiality arrangement and revelation is "so harmful that it outweighs the public interest."

President Clinton has supported the principle of openness and of providing information to victims and survivors. His Administration oversaw a significant release of U.S. government documents on El Salvador and certainly his Administration has carried out significant declassification with regards to Guatemala. However much information still needs to come to light.

The Time is Now

Both Honduras and Guatemala are still to this day struggling to overcome their violent legacies. Exhumations and investigations patiently continue in both countries despite death threats and attacks. Human rights defenders continue to be threatened and killed. This year alone, Honduras lost human rights defender Ernesto Sandoval to an assassin while Guatemala lost Auxiliary Bishop Juan José Gerardi Conedera to another cowardly murderer three Sundays ago. In both cases, the circumstances of their death remain murky and no assailant has been conclusively or even credibly identified.

In both cases, the armed forces and intelligence services contemptuously refuse to cooperate with investigations or even to admit any previous wrongdoing. There is no indication that the perpetrators and their supporters have learned anything from their bloody past. In the meantime, survivors grieve in silence and maintain a dim hope that someday they too will know the truth.

A survivor of torture once remarked to me "why should others know exactly what happened to me and not me?" She was referring to the circumstances of her torture, including the identity of the perpetrators, the location of the torture center, the sinister logic that led to and prolonged her torment. We agree with her - it is profoundly unjust and certainly prolongs the pain and suffering when information that such survivors knows exist is deliberately withheld. We believe she is entitled to the whole truth and nothing but the truth about the circumstances of her ordeal. We believe this is a right of all who have been brutalized by such crimes against humanity. Indeed, it is our collective right to know what has happened in our world, under our noses, in our name.

Passing the Human Rights Information Act will be one of the single most important contributions to peace and justice the United States of America can make as we close the 20th century. It is wholly consistent with the age-old American love of truth and will continue the legacy of human rights heroes such as Ernesto Sandoval and Monsignor Gerardi who dedicated and may have ultimately sacrificed their lives for the sake of the truth. Theirs is clearly the side of the struggle where you and the rest of the U.S. Congress belong.

Carlos M. Salinas, Advocacy Director for Latin America and the Caribbean, Washington Office of Amnesty International USA

Carlos M. Salinas, was born in Chile, did his undergraduate work in History and Economics at the University of Pennsylvania, and obtained his M.A. from Georgetown University in Latin American Studies. He has been involved with Amnesty International USA (AIUSA) since 1986 and has worked with AIUSA's Washington Office since May 1991. Previous to his current position, he was the student program coordinator for the Mid-Atlantic region of AIUSA.

Salinas is responsible for presenting Amnesty International's concerns on Latin America and the Caribbean before the U.S. Government and the wider Washington community, including foreign embassies and non-governmental organizations. Areas of particular emphasis include U.S. arms transfers and training of foreign militaries, the U.S. intelligence community, and regional human rights defenders.

Salinas was one of four delegates sent by Amnesty International to Guatemala in the wake of the self-coup by former President Serrano. He was also one of two Amnesty delegates sent to Chiapas, Mexico, to investigate human rights violations following the January 1994 uprising. Salinas frequently testifies before the U.S. Congress, interviews with national and international news media, and speaks before many different audiences.

Amnesty International

Amnesty International is an independent worldwide movement working impartially for the release of all prisoners of conscience, fair and prompt trials for political prisoners, and an end to torture and executions. In 1977, Amnesty won the Nobel Prize for Peace. It is funded by donations from its members and supporters throughout the world. The U.S. Section of Amnesty, AIUSA, has approximately 350,000 members while membership is more than one million worldwide.

Mr. HORN. Well, we thank you very much. That illustration of the all black and all white documents is certainly compelling. I remember documents I have tried to get as a congressional committee chairman, and they treat us just like they treat every other citizen around the country. And I think we have seen a little of that when they aren't here to testify.

Ms. Doyle, we're delighted to have you here as the third panelist. And you're a foreign policy analyst for the National Security Archive, you might want to tell us a little bit about that organization. And then go ahead and summarize your testimony.

Ms. DOYLE. Thank you very much, Mr. Chairman and members of the subcommittee. On behalf of the Archive, I'm very pleased to be here before you and to discuss the bill that is before you today.

On listening to the testimony that we've heard this morning already, I think there are two areas that I could discuss with you briefly that would add to what you have already heard about the importance of the Human Rights Information Act; one is to place the bill, the introduction of the bill, into a broader context of recent changes in the overall secrecy system of the United States, and show you how the Human Rights Information Act fits into that pattern of making advances on breaking down the secrecy quite nicely.

The second area I think I could touch upon is the Archive's experience in working with three truth commissions, all from Central America, over the last 5 or 6 years, and tell you a little bit about what the results of their requests to the U.S. Government for information has been.

First, Chairman Horn, a little background on the Archive. The National Security Archive is an independent nonprofit research institute and a library founded in 1985 by journalists and scholars, which obtains declassified documents through the Freedom of Information Act on issues concerning national security and foreign policy and then makes them available to the public through the library and through published collections.

The Archive's interests in this bill derives then from our longstanding commitment to public access, to helping try to open the secret files on a variety of issues, but it also lies in our close acquaintance and our work with Latin Americans, individuals, and institutions who have struggled to press their own governments for accountability, especially in the area of human rights.

In reading through the bill introduced by Representative Lantos and others, it appears to me that the act is perfectly consistent with U.S. laws and policies that are currently reshaping our outdated secrecy and classification systems. During the cold war we fashioned a vast architecture of secrecy to protect our national security interests; now we are designing a system for the post-cold war era, one that acknowledges the need to preserve true secrets—weapons specifications, war plans—while ensuring broad public access to Government records.

As we rethink our culture of secrecy, we're slowly opening our cold war archives to our own citizens and to the rest of the world. There have been a number of remarkable developments recently in this shift toward openness after the end of the cold war, and both Congress and the executive branch have played an important role. Some of the recent efforts include, for example, the congressional

initiative in 1991 to protect the integrity of the Foreign Relations of the United States series which the State Department produces every year, the definitive account, really, of U.S. diplomatic history.

Congress passed a law in 1991 to protect the series in response to complaints from historians who were compiling these histories and who found that Government secrecy was barring them from producing truthful and comprehensive accounts of U.S. history.

Another initiative from Congress was the John F. Kennedy Assassination Records Act, which was passed in 1992, and designed by Congress to open the secret archives on the Kennedy assassination to public scrutiny. The law created an extraordinary independent panel of historians to review and oversee the declassification process, something that's important to think about today, because the Human Rights Information Act tries to set up the same kind of oversight process.

President Clinton has also been, I think, at the forefront of trying to challenge the excessive secrecy of the past. He has signed off on three very seminal Executive orders, one of which, for example, in 1994 required the release of almost 45 million pages from the National Archives, most of which concerned World War II. I think this release represented the largest single declassification in the history of the United States.

He signed an Executive order on releasing satellite imagery, and finally in 1995 signed off on a Presidential directive that was really the first post-cold war directive on the overall classification system of national security information in the United States.

The Government's own Information Oversight Office, which I believe will testify after our panel, called this Executive order a "radical departure from the secrecy policies of the past," for it requires automatic declassification of many historically valuable documents.

And finally, the Moynihan report, which was issued last year, condemns the contemporary secrecy system as excessive, expensive, anachronistic, and dangerous to democracy. The report argues that Congress needs to play a greater role in the classification and declassification process.

Paralleling these broad initiatives on openness has been at the same time a series of targeted declassifications on a range of important issues. The Kennedy assassination was one. In addition to those documents, these targeted declassifications have resulted in the release of the intelligence community's national intelligence estimates or NIE's on the Soviet Union, for example. Thousands of formerly secret records on the American POW's and MIA's, DOE's holdings on human radiation experiments, and the VENONA intercepts which described Soviet espionage in the 1940's. A new bill currently before Congress would open U.S. archives on Nazi war crimes.

All of these efforts add up to what I believe is a really radical transformation of U.S. secrecy policies since the end of the cold war, and it's happened on these two tracks. On the one hand, executive action and changes in the law have brought about comprehensive reform in the overall system. At the same time, there have been mounting demands for more focused declassification on subjects of great public interest or urgency. Targeted releases of discrete document collections—like records concerning human

rights abuses in Latin America which would be provided to the investigating bodies that so desperately need them—are, we believe, complementary actions that Congress and the President can take concurrently with an examination of the overall secrecy system.

Finally, the Human Rights Information Act is consistent with efforts to open secret files on human rights abuses in Latin America and the Caribbean. I have to say that this administration, with congressional support and pressure which has been vital, has done more than any other to help clarify the past by declassifying crucial United States records on human rights abuses in such countries as El Salvador, Guatemala, and Honduras. In doing so, the administration has confronted some of the thorniest questions there are regarding the declassification of sensitive security matters. And Guatemala offers a case in point.

In 1996 President Clinton released his Intelligence Oversight Board report on Guatemala along with thousands of declassified documents. The report contained an unprecedented description of United States intelligence operations in a foreign country as well as critical new information on human rights abuses in Guatemala. What is the lesson of its release? It is simply that the Government can arrive at an appropriate balance between national security and the public's interest in a matter of profound sensitivity like intelligence operations overseas.

Despite these good intentions, however, the Government's record is not consistent. The Archive is in a somewhat unique position to report on U.S. efforts to provide human rights information. Since 1992 we have been working with three different official human rights investigative bodies in Central America: The U.N. Commission for the Truth in El Salvador, the Office of the National Commissioner for Human Rights in Honduras, Dr. Valladares' office, and the Guatemalan Historical Clarification Commission, which is Guatemala's version of the Truth Commission.

All three of these entities have formally requested human rights information from the U.S. Government, and in each instance the U.S. response has been vastly different. When the U.N. Truth Commission for El Salvador approached the Bush administration in 1992, for example, strong congressional pressure convinced the White House to establish an interagency working group to assist the Commission with access to documents. Yet by the time this U.N. Truth Commission issued its report in March 1993, little information of value had been provided to the staff from U.S. agency files. In fact, when President Clinton subsequently declassified some 12,000 documents on El Salvador later that year, in November 1993, members of the Truth Commission, now disbanded, realized that significant material had been withheld from them during their investigations.

The Historical Clarification Commission of Guatemala has also sought United States human rights information in support of its work, and to date the response of the Clinton administration has been timely and substantive. By mid-April of this year—that is some 6 months after the Guatemala Truth Commission's initial request—the Government turned over packages of documents, I think some 12 packages from the State Department, AID, CIA, and Department of Defense to the Guatemalan Truth Commission.

Although there are still significant gaps in the collection and the information that the Commission needs continues—some information continues to be withheld, this release does represent a serious effort on the Government's part. The Human Rights Commissioner of Honduras, however, has had an entirely different experience, and as he told you today that has been really bitterly disappointing to him.

For the Archive these three experiences, the work that these Commissions have done and the responses they've received from the U.S. Government, is perfect proof that we need some kind of legislative mechanism to standardize this process. We feel that the Human Rights Information Act is the appropriate legislative remedy for what has until now been really an ad hoc process in the hands of the Federal agencies alone. The bill simply brings the force of law to bear on the release of critical human rights information, and it does so in a simple and uncomplicated manner: One, by assuring the timeliness of the release of the records; two, by defining declassification standards—and doing so, by the way, by using language from JFK Assassination Records Act which has already been passed by Congress; and finally, by insuring oversight through an interagency panel again already established in the law.

Mr. Chairman, many of the democratic nations of Latin America and the Caribbean are struggling right now to reject the region's legacy of violence and turn the terms of newly signed peace accords into reality. But they face grave challenges. Throughout the region terrible internal conflict led to gross abuses against hundreds of thousands of men, women, and children during decades past. Today these same countries face the awesome task of building peaceful and truly civil societies out of what was left to them when the killing stopped. We can help them. The name of the South African "Truth and Reconciliation Commission" says it all to me: truth does indeed come before reconciliation. The United States can give Latin America some of the basic facts and truths they need like bricks and mortar for the construction of their new societies.

I appreciate this opportunity to testify before you today, and I look forward to working with you, Mr. Chairman, and with your staff to move the Human Rights Information Act forward.

Thank you.

[The prepared statement of Ms. Doyle follows:]

Mr. Chairman and members of the Subcommittee:

On behalf of the National Security Archive, I thank you for inviting me to appear before you today to discuss H.R. 2635, the Human Rights Information Act. The National Security Archive is an independent, non-profit research institute and library located at George Washington University which collects and publishes declassified records obtained through the Freedom of Information Act. Founded in 1985 by a group of journalists and scholars, the Archive has, over the years, become the world's largest non-governmental repository of declassified documents, with holdings of more than 1.7 million pages of material available to outside researchers through published and archived collections.

The Archive's interest in this bill derives from our long-standing efforts to promote the public's right to government information – including information about traditionally sensitive issues of national security and foreign policy -- to press for increased openness in government, and to challenge excessive government secrecy. Our interest also lies in our close acquaintance with the efforts of Latin Americans to press for accountability of their own governments, especially in the protection of human rights. Although the Archive does not advocate for or against any specific U.S. government policy or legislation except in favor of greater freedom of information, we are committed to speaking out for the people's "right to know," and so we welcome the opportunity to comment on the bill before you today.

The Human Rights Information Act is an important step toward balancing the government's need for secrecy and the requirements of an open and democratic society. Its purpose is simple. The bill offers nations of Latin America and the Caribbean that have experienced tremendous violence -- and whose citizens have suffered from the worst kinds of human rights atrocities -- the chance to obtain from U.S. archives urgently-needed information for official investigations into these abuses. To that end, the bill establishes a straightforward, legislative framework to regulate the release of records by:

1. Requiring agencies to respond in a timely and substantive manner to requests from Latin American and Caribbean governments, international entities and official truth commissions for information on human rights abuses;
2. Requiring agencies to use declassification standards that are more forthcoming than those presently available under the Freedom of Information Act -- to wit, standards already articulated in the JFK Assassination Records Act; and
3. Requiring review of agency decisions to withhold information by the Interagency Security Classification Appeals Panel (established in Executive Order 12958), and creating two new positions on the panel for experts in human rights to participate in the declassification review of human rights information.

The bill's objectives are consistent with U.S. foreign policy goals in Latin America and the Caribbean. President Clinton has stated repeatedly -- and Congress has

supported him -- that democracy, human rights and respect for the rule of law are central to U.S. policy in the region. The United States has spent huge sums of money and years of diplomatic energy to foster peace and reconciliation there. A crucial part of this effort is helping nations come to grips with the recent past in order to build a better future. Clarifying the truth about human rights is often a critical component to a country's struggle to promote the rule of law. As newly-democratic states in Latin America and the Caribbean confront their legacies of violence, the United States can assist them and simultaneously strengthen our own commitment to human rights by establishing a fair process by which these governments can obtain human rights records.

The Human Rights Information Act is also consistent with United States laws and policies reshaping our outdated secrecy and classification systems. During the cold war, we fashioned a vast architecture of secrecy to protect national security interests from the Communist threat. Now we are designing a system for the post-cold war age: one that acknowledges the need to preserve true secrets while ensuring broad public access to government records. As the United States creates secrecy and classification policies for the twenty-first century, we are slowly opening our cold war archives to our own citizens and to the world.

Both Congress and the executive branch have sought to change our culture of secrecy. Recent efforts include:

-- **Public Law 102-138, a congressional initiative which aimed to establish once and for all a thorough, accurate and reliable documentary record of major US foreign policy activities.** Signed by President Bush in 1991, the bill was intended to protect the integrity of the *Foreign Relations of the United States*, the State Department's definitive documents collection on U.S. diplomatic history, after historians involved in compiling the volumes complained that government secrecy barred them from producing truthful and comprehensive accounts of United States history.[1]

-- **John F. Kennedy Assassination Records Collection Act of 1992, designed by Congress to open the secret archives on the Kennedy assassination to public scrutiny.** The law created an extraordinary independent panel of historians to review and oversee the declassification process, and declared that "All government records concerning the assassination of President John F. Kennedy should carry a presumption of immediate disclosure."[2]

-- **Three presidential directives signed during President Clinton's first term of office which profoundly reshaped United States secrecy and classification policies:**

-- On November 10, 1994, the President signed Executive Order 12937, ordering the declassification of almost 45 million pages of historical records held in the National

[1] An extensive account of the controversy over the FRUS series may be found in Page Putnam Miller's chapter, "Access to State Department Records," in *A Culture of Secrecy: The Government Versus the People's Right to Know*. The volume is edited by Athan G. Theoharis and was published by the University Press of Kansas in 1998.

[2] Public Law 102-526, 102nd Congress. See Anna Kasten Nelson, "The John F. Kennedy Assassination Records Review Board," in ibid.

Archives, including a vast collection of previously secret documents on World War II. The release represented the largest single declassification in the history of the United States.

-- On February 22, 1995, President Clinton issued Executive Order 12951, for the first time requiring the review and declassification of satellite imagery from historical intelligence reconnaissance missions.

-- On April 17, 1995, President Clinton signed the first post-cold war directive on the overall classification system of U.S. national security information. According to the government's own information oversight office, Executive Order 12958 is a "radical departure from the secrecy policies of the past," and one which requires the automatic declassification of most historically valuable documents.[3]

-- **The "Moynihan Report," published by the Commission on Protecting and Reducing Government Secrecy in 1997.** Headed by Senator Daniel Patrick Moynihan, this bipartisan task force -- which counted Senator Jesse Helms and former CIA Director John Deutch among its members -- recommended reforms in the way the U.S. government creates and maintains secret information. Their report, which contains an exhaustive history of U.S. secrecy and classification policies, condemns the contemporary secrecy system as excessive, expensive, anachronistic and dangerous to

[3] Information Security Oversight Office, *1996 Report to the President*. Washington, D.C., 1997. Page 3. For the text of the executive orders, and for additional insight into recent executive decisions on secrecy policy, see also the Information Security Oversight Office reports for 1994 and 1995.

democracy. It also argues that Congress needs to play a greater role in the classification and declassification process.[4]

Paralleling these broad initiatives on openness have been a series of targeted declassifications on a range of important issues. In addition to documents on the Kennedy assassination, they have resulted in the release of the intelligence community's National Intelligence Estimates on the Soviet Union, thousands of formerly secret records on American POWs and MIAs, the Department of Energy's holdings on human radiation experiments, and the VENONA intercepts describing Soviet espionage in the United States in the 1940s. A new bill currently before Congress would open U.S. archives on Nazi war crimes.[5]

Thus efforts to radically transform United States secrecy policy since the end of the cold war have operated on two tracks. On the one hand, executive action and changes in the law have brought about comprehensive reforms in the overall system of secrecy and classification. At the same time, there have been mounting demands for more focused declassification on subjects of great public interest or urgency. Targeted releases of discrete document collections -- such as records concerning human rights abuses in Latin America which would be provided to the national and international investigating

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[4] *Secrecy*, Report of the Commission on Protecting and Reducing Government Secrecy, S. Doc. 105-2. Washington, D.C., 1997.

[5] For information on these initiatives and other issues concerning U.S. secrecy policy, see the monthly editions of the "Secrecy and Government Bulletin," written by Steven Aftergood of the Federation of American Scientists, at <http://www.fas.org/sgp/>.

bodies that so desperately need them -- are, we believe, complementary actions that Congress and the President can take concurrently with an examination of the overall secrecy system.

Finally, the Human Rights Information Act is consistent with President Clinton's commitment to opening secret files on human rights abuses on Latin America and the Caribbean to public scrutiny. With congressional support, this administration has done more than any other to help clarify the past by declassifying critical U.S. records on human rights in such countries as El Salvador, Guatemala and Honduras. In doing so, the administration has confronted some of the thorniest questions that face the government regarding the declassification of sensitive security matters. Guatemala offers a case in point. In June of 1996, President Clinton released his Intelligence Oversight Board report on Guatemala, along with thousands of pages of related State Department, CIA and Department of Defense documents.[6] The report contained an unprecedented description of U.S. intelligence operations in a foreign country, as well as critical new information on human rights abuses in Guatemala. Its release -- as well as the declassification of the accompanying documents -- showed that the government could arrive at an appropriate balance between national security and the public's interest in a matter of profound sensitivity.

[6] Intelligence Oversight Board, "Report on the Guatemala Review." June 28, 1996. A copy of this report is among the holdings of the National Security Archive.

But despite good intentions, the government's record is not consistent. The National Security Archive is in a unique position to report on U.S. efforts to provide human rights information. Since 1992, the Archive has worked closely with three official human rights investigative bodies in Central America: the United Nations Commission on the Truth for El Salvador, the Office of the National Commissioner for Human Rights in Honduras, and Guatemala's Historical Clarification Commission. The Archive's support has included research, access to declassified U.S. documents and technical advice.[7] We have also helped explain and analyze U.S. records as they have been released.

All three entities formally requested human rights information from the United States. In each instance, the U.S. response has been vastly different. When the U.N. Truth Commission for El Salvador approached the Bush administration in 1992, for example, it was initially rebuffed. Strong congressional pressure convinced the White House to establish an interagency working group to assist the commission with access to documents. Yet by the time the commission issued its report in March of 1993, little information of value had been provided to its staff from U.S. agency files. Indeed, when President Clinton subsequently declassified some 12,000 documents on El Salvador in November 1993, members of the commission realized that significant material had been withheld from them during their investigations.[8]

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[7] In the case of Honduras, the Archive also supports and houses a full-time research fellow, Susan Peacock, who serves as the U.S.-based liaison for the Human Rights Commissioner, Dr. Leo Valladares.
[8] One of the three U.N.-appointed commissioners of the El Salvador Truth Commission, Professor Thomas Buergenthal of George Washington University, later wrote an article detailing the commission's

The Historical Clarification Commission of Guatemala has also sought U.S. human rights information in support of its work. Inaugurated on July 31, 1997, the Guatemalan commission wrote to President Clinton last September requesting U.S. records on specific human rights cases and other issues relevant to its mandate. The response of the Clinton administration was timely and substantive. By mid-April, the U.S. embassy in Guatemala City had turned over 12 packages of documents from the State Department, AID, CIA, Department of Defense and two presidential libraries. Although there are significant gaps in the collection, and information critical to the commission's work continues to be withheld, the release clearly represents a serious effort on the government's part. The Clarification Commission has requested additional support from the United States. Its report is expected to be completed some time this summer.

The Human Rights Commissioner of Honduras, unfortunately, has had a very different experience. As Dr. Valladares wrote in a recent public report, the Clinton administration's response to the Honduran request has been profoundly disappointing.[9] While the State Department has provided more than 2,500 pages of documents, the CIA and the Department of Defense have produced very few records, with little relevance to

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work, including its relations with the U.S. government: "The United Nations Truth Commission for El Salvador" in *Vanderbilt Journal of Transnational Law*, Vol. 27, No. 3, October 1994. See also Buergenthal's op-ed in *The New York Times*, April 8, 1998, "The U.S. Should Come Clean on 'Dirty Wars'."

[9] *In Search of Hidden Truths*, Honduras, C.A., 1998. A copy of the report is posted at <www.seas.gwu/edu/nsarchive/latin_america/honduras/hidden_truths/hidden.html>.

the commissioner's investigations. It is unclear whether the administration intends to provide additional support to the Human Rights Commissioner.

The National Security Archive believes that the Human Rights Information Act is the appropriate legislative remedy for what has, until now, been an ad hoc process entirely in the hands of the federal agencies. The bill brings the force of law to bear on the release of critical human rights information to the Latin American and Caribbean nations that so urgently need it, and it does so in a simple and uncomplicated manner: by assuring the timeliness of the release of records, defining declassification standards, and ensuring oversight through an interagency panel already established by executive order.

Mr. Chairman, many of the democratic nations of Latin America and the Caribbean are struggling right now to reject the region's legacy of violence and turn the terms of newly-signed peace accords into reality. But they face grave challenges. Throughout the region, terrible internal conflict led to gross abuses against hundreds of thousands of men, women and children during decades past. Today, these same countries face the awesome task of building peaceful and truly "civil" societies out of what was left to them when the killing stopped. We can assist them in their efforts. As the name of the South African "Truth and Reconciliation Commission" makes clear, truth does indeed come before reconciliation. The United States can give Latin America and Caribbean nations some of the basic truths they need -- bricks and mortar for the construction of their new societies.

I appreciate this opportunity to testify today and I look forward to working with you, Mr. Chairman, and with your staff to move the Human Rights Information Act forward. I would be happy to answer any questions you may have."

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Biographical sketch

Kate Doyle is a foreign policy analyst and director of the Guatemala Documentation Project for the National Security Archive, an independent, non-profit research institute and library which collects and publishes declassified U.S. documents obtained through the Freedom of Information Act. For the past seven years, Doyle has served as the analyst in charge of the Archive's projects on Honduras, Mexico, the "drug war" in the Americas, and other aspects of U.S. policy in Latin America. She supervises the Archive's ongoing collaborative effort with the Historical Clarification Commission of Guatemala, and assists on the Freedom of Information Act lawsuits against the U.S. government brought by the Archive and others on behalf of Jennifer Harbury and Carol DeVine. She was project editor for the Archive's document publication, *El Salvador: War, Peace and Human Rights, 1980-1994*, and co-authored the 1994 report of the Washington Task Force on Salvadoran Death Squads, funded by a John D. and Catherine T. MacArthur Foundation grant to the Institute for Central American Studies. Doyle received her BA from Brown University in 1984 and her MA from Columbia's School of International and Public Policy, where she was an Alice Stetton Fellow. Her articles have appeared in *The Boston Globe, World Policy Journal, Current History* and *The Nation* among other publications.

An independent non-governmental research institute and library located at the George Washington University, the Archive collects and publishes declassified documents obtained through the Freedom of Information Act. Publication royalties and tax-deductible contributions through The Fund for Peace underwrite the Archive's budget.

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Chairman Stephen Horn

CERTIFICATION OF NON-RECEIPT OF FEDERAL FUNDS

Pursuant to the requirements of House Rule XI, I certify that neither I nor the entity(ies) I am representing before the Subcommittee on Government Management, Information, and Technology has received any federal grant (or subgrant thereof) or contract (or subcontract thereof) during the current fiscal year or either of the two previous fiscal years.

By: Kate Doyle — 5/8/98

Name KATE DOYLE — *Date*

FOREIGN POLICY ANALYST

Title

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Mr. HORN. We thank you for that very full statement.

One of the things you noted, Miss Doyle, and I sort of tend to agree with you, but a lot of people don't, is the benefit of targeted declassification. I would be curious what members of the panel think. Mr. McMasters might have a different view, and I am told people in the archival community are concerned that targeted declassification separates the documents from their context and makes them less useful in the long run.

What would you say to that criticism?

Ms. DOYLE. Well, there are a couple of issues here. One is—and this is something that Mr. McMasters would probably be interested in—how the targeted declassification affects or impacts users of the Freedom of Information Act. I can tell you that the National Security Archive is one of the most prolific users of the Freedom of Information Act, and it has never seen a clear difference in the time it has taken for us to receive documents in response to our FOIA requests due to any kind of targeted declassification effort that was going on.

That is a roundabout way of saying that the FOIA is so slow that I can't think of any time when a targeted declassification has ever actually hurt FOIA requesters out there by delaying the declassification of other documents.

With regard to the issue of documents being removed from their archival context, one of the wonderful things about targeted declassification is that it does put these documents out into the public realm, and they will be followed by the overall declassification efforts of the Government. One of the things I was trying to point out in my testimony is that these two things can coexist. The Executive order that President Clinton signed in 1995 can help to promote this automatic declassification of older records which will open the National Archives in general, and these targeted declassification efforts can identify specific small sets of documents for which there is an urgent need, and get those out in the forefront, but the older documents will catch up with them eventually.

Mr. HORN. Mr. McMasters, how do you feel about that?

Mr. MCMASTERS. Well, I don't disagree at all. In fact, I fully support what Miss Doyle says about targeted declassification. But I would like to add to that that it only works as long as you provide the resources to do that. You will hear more from Steve Garfinkel in the next panel, but I talked last week with some folks over there, and this legislation puts the responsibility for appeals with the Inter-agency Security Classification Access panel, which thus far has stayed on top of its docket, but it has only considered 77 cases.

I assure you, knowing the intelligence community and its resistance to this kind of legislation and the targeted release this law requires, that ISCAP will wind up with all sorts of new burdens and responsibilities, and there will be no way that it can meet the kinds of deadlines that this legislation sets.

The other thing about ad hoc declassification of material is in essence it gives information to people who have a ticket to the House or the Senate, and that's great especially when you have such a pressing issue as we have before us today. But a lot of times we

don't know how pressing an issue is until the documents are released.

So hand in hand with targeted release there have to be resources made available and a big-picture approach to the release of information, especially in this post-cold war era.

Mr. HORN. Mr. Salinas, do you have any comments on this question?

Mr. SALINAS. Yes, sir. I would just like to remind all of us, as Dr. Valladares so eloquently put it, that the clock is ticking. So the targeted declassification certainly is appropriate given the struggle that human rights defenders and all people in Guatemala and Honduran societies are facing.

But this bill also, in section 6, does set up a process for other human rights records in Latin America and the Caribbean so that if the highest-ranking judicial authority or duly constituted truth commission requests the documents, this process set forth in the bill would in fact be triggered. So it does set up an order for the review of these documents.

And one thing I would like to point out, too, in terms of Mr. McMasters' current point about the appeals panel meeting its deadline. The appeals panel as far as this legislation goes does not have any firm deadline. It just says to promptly review, but it is required only after its review has been completed. Then it has a deadline to publish its findings.

So in terms of having been forced to do something in a time which it cannot do, luckily this bill does not constrain it in that way.

Mr. HORN. Any other thoughts on this matter that haven't been put on the record?

Mr. MCMASTERS. We all worry about privacy, and rightly so, but I and I'm sure Miss Doyle has seen too how often privacy considerations are used to delay and deny the release of information. One of the best examples of that, of course, is Terry Anderson, who was held 7 years by kidnappers in Beirut. When he finally was released, he was continually rebuffed by Federal agencies on trying to get access to information about his captivity. He would receive responses that said that he couldn't have the requested information because it might violate the privacy of the terrorists who were holding him captive.

I would just point out to the committee that there is a potential for abuse in section 5's exceptions of allowing an unwarranted invasion of personal privacy.

Mr. HORN. I'm looking at page 6, line 17. Is that the one you see that is the biggest problem?

Mr. MCMASTERS. Yes, sir.

Mr. HORN. OK, just want to make sure we have it pinpointed.

What are your thoughts in legislating specific information requests? Obviously we have got a problem with that. It takes us years to get to this point. But I just wondered, do you feel that H.R. 2635 allows an agency that is about to testify within the language of this law—if it became a law—sufficient places for priority setting, shall we say, of what is really urgent? For example, we are talking about human rights cases being really urgent, but someone else might have an interesting historical view of something they

would like the documents to write, and they put one thing aside for the other.

And should this law and the existing law have that kind of power, or what do you suggest? Or have we got a sufficient apparatus to make those judgments right now?

Mr. MCMASTERS. I have to say that I am like you, Mr. Chairman, very disappointed that some agencies chose not to appear and to be a part of this dialog. Unfortunately that is all too typical. The intelligence community has been very good at, that is, despite whatever legislation may come down, still protecting billions of pages of information, a lot of which really does not need to remain secret.

And I do think that it will be difficult to penetrate that culture of secrecy, and that is why legislation is needed; because I don't think the initiatives that Miss Doyle, for instance, pointed out that have been happening here lately would ever have happened if they would have been left up to the intelligence community to bring forward. There is no incentive for it on their part. All the incentives are for keeping things secret. Nobody gets punished for overclassifying, many people get punished for underclassifying.

Mr. HORN. One of our problems is that a lot of agencies say, well, we just don't have the staff to do all this that you want us to do. What is the best way we should handle that, just take a percent off their budget when they have it—at least giving documents out within a X-month period?

In my opening remarks I noted my chagrin at learning a few years ago of the FBI taking 4 years for the average citizen to get their file. That is just crazy. And we are going to have to get back to this, I can see, because they should be asking the President for money, and if he won't appropriate it, let's finger him. On the other hand, if they don't ask for it, let's finger them.

Do you have a comment on that?

Ms. DOYLE. There have been a number of very interesting, creative solutions to that problem, one being—I remember someone came and spoke before the Moynihan Commission a couple years back talking about how the classifiers should be tithed, essentially the agencies should divvy up, you know, a buck a page for anything that they make secret, thereby creating the budget later on for the work that they would need to do and the staff time they would need to put in to declassify these same documents. But it's true that, as Mr. McMasters pointed out, the Government's own information oversight board or center, excuse me, office that Mr. Garfinkel will testify from today has pointed out the great cost of maintaining this information secret in comparison to the much smaller cost of opening these files up and making them public. So I really don't think that's an issue.

Mr. MCMASTERS. There is another thing that I see too infrequently, and that is oversight committees in Congress not holding agencies' feet to the fire on their freedom of information and declassification efforts. Often when they come before Congress for budget hearings, no questions are asked about what sort of backlog they have in providing information. I think that can be a very effective tool that Congress can use, especially in budget and oversight hearings.

Mr. HORN. I think that is a good suggestion, and I will have the staff share whatever we know on this with the various appropriations subcommittees. That should be done more regularly, and it should be done by the authorizing committees. One of your problems with the authorizing committees is they all get on those committees because they want to do good by that agency. They want to either feed people or help people or do something, and they see anything as detracting from that in terms of human resources as not feeding people or not helping people on welfare; and that either/or situation is just plain wrong. We should be thinking of a little food for thought which would go across all agencies and find out, as you have suggested, what the truth is and not sit on these records.

I know one case in the late 1950's in one intelligence agency they actually classified an issue of the New York Times top secret and threw it into the file. Now I don't know what you do, because nobody put on it what particular offending article was in there that should be top secret. But you know that got to silly season in some places of just overclassification, and that's why I cited that First World War example. That just should be released—period. And unless they have some hugely good reason, and if they do, the President likes reading history—send it up to him and have him decide it. But we need some place where the buck stops and action can be taken with people that have enough common sense on those boards to do that.

Do you have any questions?

The gentleman from Ohio.

Mr. KUCINICH. Thank you, Mr. Chairman.

Apropos of your comments, Mr. Chairman, when you consider the testimony we have received about newspaper articles being classified and travel descriptions of countries being classified, it is quite possible that there is an agency strategy here at work which classifies everything. Then when declassification is sought releasing material that is irrelevant, nonresponsive, contradictory, or misleading. So people wonder why we never get to the truth. I think we need to once again support this legislation, because it helps to more closely delineate the responsibilities of information release.

Would Mr. McMasters like to comment on that?

Mr. MCMASTERS. I think you're absolutely right, and I would repeat what I mentioned earlier, that in addition to that possible strategy, I think the overriding reason for overclassification and excessive secrecy has to do with the culture of secrecy that has grown up over the years and the fact that there are no incentives to do otherwise.

Somehow we have to provide incentives for folks in the intelligence community and in that bureaucracy to do the right thing when it comes to classification. That is one of the findings of the Moynihan Commission, and I think it's embodied in the Government Secrecy Act, that there is established the principle that secrecy is a form of regulation. So Congress therefore has a very positive role to play there.

Also that legislation brings up the idea of life cycle of a secret, and I think that is very important. Some life cycles will go longer, and some shorter, but at least those doing the classifying will have

some idea of what should be held secret for a specific period of time, what needs to be held secret for a longer period of time.

Mr. KUCINICH. I think your point is well taken, and I would respond by saying that in all of these proceedings I think it is good for us to reflect on how this widespread secrecy is consistent in a democratic society. It is a democracy. You know, these countries in Central America, Latin America, and other places around the world have different types of government systems. Certainly all of them may aspire to democratic principles at times, but we pride ourselves in the United States of America as upholding a democratic tradition and with that an openness. We are very proud of that. People fought for that, people have died for that so that we might enjoy this democracy.

When the country was founded, it wasn't, "We the People of the United States: Shh." It was, "We the People of the United States, in order to form a more perfect union, to establish justice," among other things.

So there is—we are confronted here with some responsibilities to protect national security, but at the same time we have to balance that with the requirements for openness, and we have to make sure that those agencies which are charged with the responsibility of national security do not use that as a pretext for covering up human rights violations, which is basically what this hearing is all about and what the need for the legislation is all about.

Now, I would like to ask Mr. Salinas, in looking at the CIA's written testimony, it states that section 5 of the bill that is proposed requires, and this is a quote from their testimony, "inordinately high showings of evidence incorporating convoluted public interest balancing tests, but ignoring totally the fact that families and relatives of sources remain perpetual targets for retaliation."

So they are raising the issue that people's human rights could be violated by the release of the information. How do you respond to that?

Mr. SALINAS. Well, I would ask them to review section 5 again. Section 5 is quite clear in setting forth the standards so that people who have collaborated with the U.S. Government, their lives aren't threatened, and that they are not harmed. Section 5, as Mr. McMasters pointed out, also has some provisions that we in Amnesty also are very uncomfortable with in terms of protecting privacy.

I mean, I think the people who have participated in violations should be protected to have a fair trial and should have that protected, not necessarily their privacy unless it's part of a fair trial. So it's actually troubling to hear that especially when the move is to recognize that there is a public interest. The Jeffersonian inperative of an informed citizenry is certainly alive and well, and I don't see anything convoluted about anyone trying to balance the public interest with national security. I think those are important principles.

Furthermore, the U.S. Government has already approved the standards that are set forth in section 5. This was part of the JFK Assassinations Review Act of 1992. So it's almost puzzling to see why that section would be troubling, given that it has created no problems so far that we're aware of.

Mr. KUCINICH. In your testimony now you mentioned that the family of Father Carney who disappeared in Honduras was promised a declassification proposal by the National Security Council in 1995, and they still have no information from the NSC. Are Father Carney's relatives still waiting for information from the U.S. Government?

Mr. SALINAS. Absolutely they're still waiting. They recently received a proposal from the administration that was not germane to that previous request. As I mentioned, it wasn't only the National Security Council, it was also the top State Department human rights officer, John Shattuck, who promised this proposal. We wrote several letters asking them what happened to this proposal that was going to come in a month or so, and we still have heard nothing. The relatives of Father Carney are still waiting. They have been offered a proposal which they're looking over, but it's certainly not what we were promised way back in 1995.

Mr. KUCINICH. All right. I would like to shift attention to another matter, because I know that Amnesty International has been involved in this. In my opening remarks I cited the case of four churchwomen, Maura Clark, Jean Donovan, Ita Ford, and Dorothy Kazel, who were abducted, raped, and shot to death on December 2, 1980, in El Salvador. We have learned recently in news reports that there is new information which suggests that high ranking officials of the Salvadoran army may have been involved in ordering the executions. You are familiar with those reports, of course.

Mr. SALINAS. Yes.

Mr. KUCINICH. Has Amnesty International sought further information from the Government in connection with those new reports?

Mr. SALINAS. Absolutely, and in fact that 1995 meeting that I alluded to, we were also joined by the nieces of Sister Ita Ford, who exasperatingly asked, how can you keep me from knowing this information when my daughters want to know why they'll never meet their grand aunt and why our grand aunt has been killed? They were also promised this proposal to declassify. They too are waiting. We were told in this meeting and they were told that they would have to wait in line just like anyone else for information.

Mr. KUCINICH. Who told them that?

Mr. SALINAS. It was one of the two officials. My memory is fuzzy about exactly which one.

Mr. KUCINICH. Officials of which Government?

Mr. SALINAS. Of the U.S. Government. It was either Mr. Richard Feinberg or Mr. John Shattuck who were trying to explain——

Mr. KUCINICH. They would have to wait in line to get information.

Mr. SALINAS. Yes, because other people also wanted to find out information. They were very deeply insulted by this. They have been waiting since 1980 to find out the truth about those horrible rapes and murders.

Mr. KUCINICH. Are you familiar with documents that were said to have been in the possession of the State Department that could have—that could possibly implicate the Salvadoran high command?

Mr. SALINAS. I know that the relatives have insisted that there are documents in possession by the agencies, and I believe that does include the State Department, that they have been seeking

and they have still been denied. So I know that that is still a pending matter. I was troubled to read in the New York Times that an official was claiming that they had already gotten everything they could get. That's nonsense.

Mr. KUCINICH. Would this legislation enable cases such as this to receive more light of day?

Mr. SALINAS. Well, we would hope so. It depends really on how the process in section 6 is interpreted. I think that could be one of the ways. The way the legislation is structured right now, it only releases the documents on Guatemala and Honduras, and only those requested by the high judicial authorities from either other nations or the duly constituted truth commissions.

Mr. KUCINICH. I believe it set a useful precedent, of course, and I just want it said that, well, we have legislation here that deals with Honduras and Guatemala, that there are cases that are relevant because some of the staging for support of the tragedies in El Salvador happened from Honduras, and so there is a connection there.

Mr. SALINAS. Absolutely. There's even a case from 1973 from Chile of a United States citizen, Mr. Horman, that was "disappeared" and subsequently met murder. His father went to the grave never finding out what exactly happened to his son, and his wife still wants the information.

Mr. KUCINICH. I want to submit for the record, Mr. Chairman, this article, "Salvadorans Who Slew American Nuns and Now Say They Had Orders." The families are still looking for information. This kind of legislation helps to set a useful precedent to get information, and I also want those families to know that we will persist in our efforts to bring justice in this matter and will not stop until we are able to determine the truth of it, and that means finally getting access to information that is currently being frustrated by the Department of State.

So thank you, Mr. Salinas and Mr. McMasters and Miss Doyle, for your testimony and for your work in this important area.

Thank you.

Mr. HORN. Without objection, this document will be placed in the record.

[NOTE.—The document referred to can be found on page 163.]

Mr. HORN. I would also ask that we ask the Department of State the knowledge on another case, and that leads me back to Mr. Salinas.

Do you keep any records in Amnesty International with people who have been assassinated when they are advocating democracy?

Mr. SALINAS. Unfortunately, the list of heroes who have given up their lives for the sake of democracy and for the sake of human rights is long. Throughout the world human rights defenders are under increasing attack. It's ironic that this, the 50th year of the anniversary of the Universal Declaration of Human Rights, we still have to defend the right to defend others. Human rights defenders are being killed throughout the world, and it's something that efforts such as this can help prevent by putting the criminals who are behind this in jail.

Mr. HORN. I'm going to ask for the files on Prof. Francisco Pecorini, who was objecting to the left's seizure of power in El Sal-

vador and was advocating democracy. He was killed 3 days before the national election in El Salvador. So I'm just curious what we know about that.

Mr. SALINAS. Sir, one thing that you had mentioned earlier about priority setting, and I think this bill recognizes a fundamental fact, and that is that democracies are still trying to build and activists are still trying to build a true respect for human rights in their countries; and what this bill sets out is one of the clearest priorities for declassification, and that is a priority for human rights protection. As you know, history is not static, it is moving. Truth commissions come and go. We need to be able to make sure that when there is hopefully, God willing, a truth commission in Colombia, that there is a mechanism in place so that the information can be provided in an expedited fashion.

Mr. HORN. I think that is well said, and I thank each of you for coming. Your testimony has been most helpful, and, if you have any other suggestions, we will keep the record open. Glad to add anything. Both the minority staff and the majority staff might well want to have other questions for the record on any of the panels, and you are all under oath in answering those questions, and we appreciate any advice you can give us. So thank you for coming.

We will now move to panel three: Mr. Lee Strickland, Chief, Information Review Group, Central Intelligence Agency; Steven Garfinkel, Director, Information Security Oversight Office, National Archives.

I might—as they come forward—praise two members of the executive branch for being here today, and I am sorry about the other agencies that were asked that decided they didn't want to testify. They didn't want to have a dialog, and we will get back to that.

If you have any people that have come with you that might be answering any questions, we can swear them in now in one mass baptism here. So, if you would, raise your right hands.

[Witnesses sworn.]

Mr. HORN. The clerk will note that both of the witnesses affirmed the oath, and we will begin with Mr. Strickland, the Chief, Information Review Group, Central Intelligence Agency. We appreciate your coming and sharing your thoughts with us.

STATEMENTS OF LEE STRICKLAND, CHIEF, INFORMATION REVIEW GROUP, CENTRAL INTELLIGENCE AGENCY; AND STEVEN GARFINKEL, DIRECTOR, INFORMATION SECURITY OVERSIGHT OFFICE, NATIONAL ARCHIVES

Mr. STRICKLAND. Thank you, Mr. Chairman and members. I'm very pleased to have the opportunity to speak this morning as the representative of the CIA. I would like to preface my written remarks with our agreement with much of what we have heard this morning with the need for an informed citizenry, that human rights abuses should never be tolerated, much less covered up, and that secrecy should never exist for the sake of secrecy. We believe, however, that we must be very careful that any statutory enactments do not erode access to critical intelligence information which the President and Congress need, and that is our concern with this bill.

I would like to talk this morning about three particular aspects. I would like to look at our release accomplishments under existing law; I would like to look at some cost implications that we feel this bill would have; and I would like to look at the very real impact which this bill will have on the continued ability to obtain intelligence information that we need. I'd like to speak briefly to these three points, and then if time permits, discuss some statistics in metrics which I think will further explain our position.

First, let me speak briefly about our record of accomplishments. It is my fear that the impetus for this legislation comes from perception that the CIA has released little if any information in regard to human rights. This is an issue and a performance which we have discussed on a regular basis with our oversight committees, and I believe that the Agency has gone to rather extraordinary lengths and resources to make information available. Unfortunately, as we heard from Dr. Valladares and others, it often is not the information that they need, but it is the information that we have available, and we have gone to very great lengths to make it available.

Let me give you several examples. In response to the request from members of the Carney family, we have undertaken search efforts that I can only describe as leaving no stone unturned to find every bit of information that we have had. We even prepared a detailed assessments paper for the family which attempted to interpret the information we have. And indeed we have a continuing dialog with the family members that we are trying to assist them to this very day in their efforts to learn where their family member may be buried, where the body may be.

Second example, the DCI has personally met with Dr. Valladares and assured him that we would undertake every effort that we could to assist him, and that work continues today. Dr. Valladares is correct that we have not completed all of our work, but we have a record of accomplishment, and we are committed to finishing that up with records on Battalion 316 and the more recent 1997 inspector general's report, and I can assure the committee that those documents will be forthcoming in the next matter of weeks.

And third, I would like to highlight that my office has added fairly significant resources in the past months to address the many FOIA requests from average citizens and others. As we'll discuss later if time permits, we have over 400 requests from members of the public regarding Guatemala and Honduras. We have about an equal number regarding other human rights matters in the Americas. All of these are underway, and the majority of them indeed have been completed.

Second, let me talk very briefly about the cost implications of the bill. Our concern is that these special purpose statutes, no matter how important they appear and how important they are indeed, tend to monopolize resources, build delays, and create inefficiencies and cost excesses.

Let me give you several examples. Today there are over 20 different venues under which information review and release take place. Unfortunately, there is exactly one pool of resources to meet all of those needs. Just one program which we have heard mentioned here today, the JFK program, has grown from a modest spe-

cialized activity 6 years ago to an industry today which employs the equivalent of 35 full-time personnel. The other inefficiency built into the system with multiple statutes or multiple requirements is that decisions in one program rarely have binding effect in another. So the Government is faced with rearguing each decision in different forms. That obviously creates great cost inefficiencies, program costs, management costs, and legal costs.

Let me last speak to the issue of source protection. What I want to emphasize today, that we are not here to raise what people sometimes term the mantra of intelligence sources and methods. "We can't have this bill because it will affect sources and methods." That is not our argument today. I think it's a much more careful argument that I want to share with you.

It was my thought that this bill actually presents a paradox. While the laudable objective, and I really agree that it is a laudable objective—to publicly disclose information on human rights will take place under standards that we believe will actually ensure that foreign nationals are not likely, not likely to continue to cooperate with American intelligence. The result will be that the United States, because of this statute, we fear will actually lose access to much of the information we need.

I think a fair question is why is this so? Why am I certain this is the case? The simple reason, we believe, is that the provisions of this bill, the exemption provisions, do not provide the confidentiality that sources or prospective sources demand. I am convinced that sources, individuals, knowing that ultimately and depending upon future circumstances that they and their families or their friends will be exposed, they will not cooperate with that potential in mind.

Let me give you—let me share with you a few points that came from my review of documents that were responsive to Dr. Valladares and others. We have documents where a human source is reporting on human rights. In the same document he is reporting on narcotics information and other critical information, and in the same document he then goes on to state how greatly concerned he is for his life, and that if any of the information in this document leaks out he will be dead. The source was so adamant about the danger that he insisted that it be reported back through intelligence channels, that one document having human rights information, having counter-narcotics information has right in the text the source's great fear for his life. So this is not a hypothetical discussion that we are talking of risk here. There are any number of documents that I have seen in these cases where sources are literally fearful for their life. And that repeats in all the programs.

I can share with you several other vignettes on the JFK statute where we are discussing with the board the protection of the actual name of sources who are alive today and living in foreign countries, not the information they provided, but the actual identity. And we are quite frankly concerned of their life, livelihood, and safety.

The problem of course in all of this is how do you prove that their life is truly in danger? And that is one of our problems with this bill, is the standard of proof that is required, it could be impossible to meet. Quite frankly and honestly, I cannot prove that a source, if his name or her name is disclosed, will be killed or their

family will be in danger. The likelihood is they are, the real likelihood, but we can't prove it.

In sum, we are concerned that this bill will imperil our sources and the mission of the CIA to the detriment of the Congress and the President.

To save the committee's time, I won't go into a long detail of some of the efforts we have undertaken, but I would like to point out just a few markers to give you an idea of the efforts that we have taken.

In 1993, in response to congressional interest and the request of the U.N. Truth Commission, the CIA undertook an exhaustive search on 32 specific human rights cases, 6,000 personnel hours, 1,800 documents identified, and over 50 percent of those were subsequently declassified. We've also undertaken efforts for the President's Intelligence Oversight Board with respect to congressional and NSC demands on Guatemala.

With respect to Honduras, we have completed three of the special searches required by Dr. Valladares. The Father Carney request, for example, took 1,100 hours. We then undertook five highly visible human rights cases which we call Honduras II, similar exhaustive searches over 500 hours with respect to Honduras III; that was General Valdez—Alvarez, I'm sorry, excuse me. We invested several hundred additional hours.

With respect to General Alvarez, I would like to add one point that I think would be very important. Dr. Valladares commented upon the relative paucity of documents on General Alvarez, and that is correct. I believe there were 20 or 21 documents. However, the request of course was limited to General Alvarez vis-a-vis human rights issues. I think a fair reading of those documents would show that the CIA was very forthcoming because not only, as Dr. Valladares said, they point out that certain leftist groups were planning to assassinate government and military leaders in Honduras, but the released information also showed the totality of what we knew about General Alvarez, which was that he had repudiated the rule of law in Honduras and was planning similar extra-legal activities against the leftists. No, we did not have definitive information about what his plans were, but we did share with Dr. Valladares and with members of the public the human rights information that we had, indicating that for whatever value it was that he was intent upon using extra-legal means.

I think what this shows and demonstrates is that we have a commitment to releasing that information that we do have. It's unfortunate in many cases that we don't have the definitive information. As my statement highlights, and I won't repeat it here, at that point in time, in the 1980's, human rights was not a central focus of CIA's mandate, and therefore our reporting tended to be fragmentary, and in the context of other intelligence priorities, typically leftist insurrection, et cetera. Therefore, when we look at a case such as Father Carney, we get peripheral reports by individuals reporting typically hearsay information that they had on Father Carney.

For instance, we explained to the family that our intelligence showed three likely scenarios on Father Carney; first, that he died of starvation in the jungle with the Reyes-Matos forces; second,

that he had been killed and his body dismembered; and third, that the military had otherwise killed him. And this information was shared with the family with the additional data that we, the CIA as an intelligence judgment, did not know which of those three scenarios were likely. But we had shared those scenarios with the family. I've continued my dialog with the family. The members of the family have indicated an interest, quite understandably, on any information we may have on the remains of the body, which has never—to my understanding has never been recovered.

Right now as we speak, we are attempting to take the very, very limited information we have, and with some of our photographers we are trying to see if we can correlate some source information with actually a location on a map. I can't promise that this will be successful or not. In fact, I'm not terribly sanguine that it will be, but we are trying to use every bit of intelligence information we have to assist them to the degree we can.

I think that—with that I would just like to emphasize—you know, I believe our major points which are that I believe that the DCI has shown his commitment to ensuring that human rights information is made available from what we have today. In this regard I would like to point out for the committee what I think is a revolution in the way that intelligence information on human rights is reported.

Before coming here to testify this morning I went through some of our recent systems and ran the term "human rights." I was quite amazed, I had understood this to be the case, but I was quite amazed to see the difference—in fact, this is not just CIA but rather the community at large—the way human rights reporting is being done today. With what is commonly called "tear lines," and human rights information today in cables is written so that the substance can be separated from the classified information, such as the source description, and then the substance disseminated to appropriate human rights organizations, and typically will say, "The Department of State is authorized to disseminate the following information to human rights organizations," and then there is the substance unclassified that can be shared.

I submit that this type of a process is much more efficient in making sure that human rights information is made available rather than a statutory provision which focuses on dissemination after the fact. A statutory program is never, I do not believe, going to be sufficiently time-sensitive to get the information that we need to the public.

Thank you.

[The prepared statement of Mr. Strickland follows:]

STATEMENT OF LEE S. STRICKLAND

Chief, Information Review Group
Central Intelligence Agency

Before the

SUBCOMMITTEE ON GOVERNMENT MANAGEMENT, INFORMATION & TECHNOLOGY

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

U.S. HOUSE OF REPRESENTATIVES

11 MAY 1998

Mr. Chairman, Members, Guests and Staff:

I want to thank you for the opportunity to testify today about the proposed Human Rights Information Act, H.R. 2635.

I am here to speak about the effects such legislation would have on the current information review and release programs at CIA. In particular, it is our considered judgment that this legislation would be counterproductive given (1) our release accomplishments under current law, (2) the significant cost implications, and (3) the very real impact it would have on the ability of the United States to continue to obtain intelligence on human rights and other issues for the President and the Congress.

I would like to speak very briefly to each of these points and then return with some specific information and statistics to explain our position.

If time then permits, I would also offer some concerns regarding the practical impact of specific provisions of H.R. 2635.

First, let me address briefly our current record of accomplishments under existing release law and processes:

Similar proposed legislation has been under consideration for some time and I believe that the impetus comes from a perception that the CIA and other federal agencies have released little substantive information in response to the many FOIA and official inquiries related to Guatemala and Honduras human rights issues. Indeed, this is an issue which we have discussed with the staffs of our oversight committees on a regular basis and I believe that I can demonstrate that very much the opposite is true. In point of fact, the CIA has gone to extraordinary lengths to make information available to family members of human rights victims, the public, law enforcement entities, members of Congress, and, as appropriate, foreign governments conducting their own investigations of such abuses. Let me mention a few:

- the CIA left no stone unturned in its efforts to advise the family and associates of Father Carney of information pertinent to his likely death in Honduras, including not only released documents but a detailed assessments paper prepared especially for the family;

- the DCI has met personally with Dr. Valladares, the Honduran Human Rights Commissioner, and has directed that we assist him in every way possible with his pending information requests; and,

- my office has brought on new personnel resources and tools to address the many special searches and FOIA requests on human rights -- hundreds of requests have been completed and many hundreds of documents have been released.

Second, let me speak briefly to the cost implications of H.R. 2635.

This "special purpose" disclosure bill must be placed into perspective with all other CIA information release programs. In short, our experience is that mandated information release programs of this type tend to monopolize resources, introduce delays into the release of information on other important topics, and create inefficiencies and cost excesses in what would otherwise be the orderly and cost-effective release of information.

Again, while I will speak on this matter in more detail in a moment, let me offer just a few facts to demonstrate the already balkanized nature of information review and release (IRR) and the attendant costs:

- currently, there are over 20 different venues under which information review and release takes place;

- just one small, never funded disclosure program -- the JFK Assassination Records Act -- has grown from a modest, specialized activity six years ago to an industry today employing the equivalent of more than 35 full-time personnel at CIA alone; and,

- an approved withholding decision in one program rarely has binding effect in other venues: often, the Agency is forced to re-argue matters with all the attendant program, management, and legal costs.

And third, let me also speak briefly to source protection.

We are not here to raise what some would characterize as the *"tired old mantra of intelligence sources and methods."*

Rather, there is one over-arching issue presented by this bill which is indeed a paradox. The laudable objective of the proposed legislation -- public disclosure of human rights abuse information -- would take place under standards that would virtually ensure that foreign nationals will not continue to cooperate with American intelligence on human rights and other issues, and that we, as a government, will lose access to the very information we need to formulate foreign policy and ensure the rule of law in other countries.

Some may question why this is so. The exemption provisions of this bill do not provide the confidentiality that sources or prospective sources demand and require. I am absolutely certain that few foreign nationals will provide the kind of information that the US Government needs -- knowing that *ultimately* or *depending upon future circumstances* they, their families, and their friends would be exposed as having cooperated with American intelligence.

Indeed, exactly such concerns are set out in detail in many documents that I personally review -- current sources reporting on human rights matters or past sources asking that their identities continue to be protected. What is common to both is that we have individuals explaining in detail how their identities must be protected or they face *certain death* or their families face *public ostracism as well as penalties and abuse from their own governments*.

In sum, the implications of H.R. 2635 are such that sources will be imperiled and the mission of CIA -- to support the Congress and the President -- will be disadvantaged.

With this introduction, I would like to return to our first major point and discuss in some detail our accomplishments under and the effectiveness of current law and processes.

Our responsiveness to public and Congressional interest in human rights cases significantly pre-dates this bill, continues today, and has even been enhanced. I would like to summarize some of these accomplishments:

- **In 1993, in response to Congressional interest and the work of the UN's Truth Commission for El Salvador, we undertook an exhaustive search for records relating to 32 specific human rights cases:**
    - over 6,000 personnel hours were invested to search millions of records and conduct required reviews;
    - over 1,800 documents were identified as responsive and over 50% of these were subsequently declassified and released to the public.
- **In 1996, in response to the President's Intelligence Oversight Board, we undertook searches for specific human rights matters in Guatemala and Honduras:**
    - over 900 personnel hours were invested to search tens of thousands of records, often manually, and conduct required reviews;
    - 73 documents were identified and 63 were released in redacted form.
- **In 1996 and 1997, in response to Congressional interest and NSC tasking, multiple special search efforts on Guatemala were undertaken:**

- *For Guatemala I*, covering named human rights cases from 1984 to date, over 1400 personnel hours were invested to search tens of thousands of records, often manually, and review resulting documents; we identified 196 relevant documents and released 155 in redacted form;

- *For Guatemala II*, covering named human rights cases prior to 1984, over 500 personnel hours were invested in search and review efforts; we identified 26 relevant documents and released 22 in redacted form; and,

- *For Guatemala III*, addressing the 1954 CIA-backed coup (although not related to human rights issues *per se*), over 11,000 personnel hours were invested to search almost a quarter million pages of records, often manually; we identified and released a total of 1400 pages and 300 tapes of historically important material.

- **In 1997 and 1998, in response to the Guatemalan Historical Clarification Commission (GHCC) and as directed by the NSC, we undertook a 100+ topic search that is nearing completion today:**

  - over 500 personnel hours have been expended in our searches of tens of thousands of records and declassification review of responsive documents.

- **Beginning in 1995 and continuing today, in response to Dr. Leo Valladares, the Honduran Human Rights Commissioner, as well as Congressional, NSC, public, and family interest, we undertook extensive searches regarding human rights matters in Honduras:**

  - With respect to Father Carney *(Honduras I)*, some 1,100 personnel hours were invested to search tens of thousands of

records, often manually; we identified 45 documents and released 36 in full or part;

- With respect to 5 highly visible Honduran human rights cases *(Honduras II)*, we did similar exhaustive searches at a cost of more than 500 personnel hours; we identified 126 documents and released 94 in redacted form -- including our 1996 Honduran Working Group (HRG) Report and 1988 IG Report;

- With respect to General Alvarez vis-à-vis human rights *(Honduras III)*, we similarly searched, invested some 200 personnel hours, and ultimately identified and released 21 documents; and,

- With respect to Battalion 316 *(Honduras IV)* -- including the more recent IG report on Honduran matters -- work continues.

- **We have been no less diligent with respect to public FOIA requests, referrals, and litigation -- again involving detailed and often manual searches of tens of thousands of records:**

  - For those ***FOIA requests relating directly to Guatemala and Honduras***, we have received at least 359 requests and have closed 201 of those to date with over 80% receiving a positive response;

  - For those ***FOIA requests relating more generally to human rights matters in the Americas***, we have received even a higher number of requests -- at least 399 -- and have closed 310 to date;

  - For a number of high visibility, human rights-related FOIA litigations, we expended over 5,500 personnel hours:

    - For the ***DeVine*** litigation, nearly 100 documents were identified and released in full or redacted form;

- For the *Marbury* litigation, over 240 documents were identified and released in full or redacted form;

- For the *Ortiz* litigation, 35 documents were identified and released in full or redacted form -- and the case subsequently dismissed; and,

My purpose in this discussion is to demonstrate the DCI's commitment to releasing human rights information today under existing law. While our work is difficult and very time consuming -- given the inherent sensitivity of our information and the need to review it thoroughly -- we are meeting, and I believe far exceeding, the requirements of law. And, I would add, we are doing this while at the same time meeting the new demands of the Electronic Freedom of Information Act Amendments of 1996, which, as you are aware, require electronic release to individual requesters, general Internet access to frequently requested information, and reduction of backlog.

Now, I would like to return to our second major point and discuss in some detail our judgment that the proposed legislation would impose not insignificant costs and adversely impact our other release programs and the rights of requesters under those programs.

In my position, I have management responsibility and oversight for all of the CIA's information release programs and activities. While many tend to think of this as *"just FOIA"* with an occasional *"special tasking,"* the picture is far different.

The universe of information review and release (IRR) is complex and balkanized -- competing programs, contradictory rules, divergent drivers, and growing costs.

Let me briefly itemize this universe of activity:

- **Statutory public access**
  - FOIA
  - Electronic FOIA
  - Privacy Act
    - Access
    - Amendment
    - Other mandates
- **Other statutory access**
  - Victim Notification Act
  - JFK Assassination Records Act
  - FRUS Act
- **EO 12958**
  - Automatic
  - Mandatory
  - Historian Access
  - Former Presidential-appointee Access
  - Challenge by Authorized Holder
  - Systematic
  - ISCAP
- **Litigation**

- Civil (FOIA)
- Civil (non-FOIA)
- Criminal
- Non-party

- **Special Searches**

  - Legislative
  - Executive
  - Judicial
  - Diplomatic

- **Other (voluntary or specially-funded activities)**

  - STARGATE
  - DCI-directed historical declassification projects
  - Family and/or humanitarian interest

My point in addressing all of these information release activities is to show that today, we at CIA address a large variety of ongoing statutory, administrative, and management imposed requirements to release information. And it is not an easy task to juggle and prioritize all of these needs. Each of these statutory, administrative and management requirements has merit and I can assure you that each has its own proponents -- ranging from investigations into BCCI and BNL, to demands from veterans suffering from Gulf War Syndrome, to inquiries by individuals seeking information on family members or war-time service, to requesters challenging decisions in litigation or before administrative panels -- many of which are enormously time-consuming. It is my job to address all of these increasing needs with a relatively small staff.

Our concern with H.R. 2635 -- a broad gauged effort to examine all Agency records on a particular narrow topic -- is that it would not just add significant costs and require significant personnel resources, but would also not yield significantly more useful information to the public on Guatemala and Honduran Human rights abuses. This is so for two reasons:

- First, our work to date on human rights-related special searches has focused on documents of particular relevance; by eliminating duplicative, redundant, or non-substantive documents we have reduced requests from tens of thousands of documents to a few hundred to the benefit of everyone -- the government can shepherd resources more prudently and the requesters can receive critical information more promptly; and,

- Second, it is our experience that special purpose statutes are enormously costly to administer because the federal agencies must establish separate staffs working under special rules with all the attendant costs of determining the scope and meaning of the new statute.

To put this second point into perspective, the JFK Assassination Records Review Board effort at CIA -- comparable to what is being proposed in H.R. 2635 -- is now in its sixth year of activity and has engaged the equivalent of over 35 full-time personnel -- a not insignificant level for a single information release program. Nor does this include the very substantial time of senior management and legal staff as we address with the Board literally dozens of on-going issues at any one time -- including, for example, the necessity to protect the name of a former covert agent now living in a foreign country and easily subject to retaliation. These are issues where there is not simple deference to the DCI's position -- we are required to invest literally hundreds of hours in detailed research and fact-

finding. If we were to calculate the government-wide cost and time, given the initial as well as review panel efforts, the true costs of the JFK statute would be far higher. I fear that the costs of implementing H.R. 2635 would be similarly high.

While there is no question that the JFK Act is an extraordinary statute to deal with an extraordinary event that had traumatic effect on the American populace, there are costs and benefits to balance. Every time such special purpose information disclosure statutes are passed, they rely on and dilute a very limited pool of trained resources. Currently, approximately 50% of our information review resources are devoted to special searches and special-purpose disclosure statutes. Further dilution of our limited assets by special disclosure statutes would substantially disadvantage the American public of their rights under the FOIA, Privacy Act, and Executive Order 12958 or cause the Agency to stop certain intelligence activities in order to divert personnel from the Agency's primary mission to the task of reviewing and declassifying documents.

Lastly, in this area, I would note what I perceive as an incorrect assumption implicit in this legislation -- that CIA has definitive information that would resolve these horrible events. Over the time period which would seem to be of most interest to sponsors of H.R. 2635, the late 1970s and 1980s, CIA's primary intelligence reporting interest in the region was not focused, *per se*, on human rights. Rather, such reporting was devoted largely to political developments; what information and documentation that CIA has concerning human rights abuses is often within the context of reporting on political dissent or rebellion and placing these incidents within this political context. As a result, our knowledge of these matters as reflected in our reporting at the time can be characterized as

incomplete, fragmentary, often contradictory, and definitely not finished intelligence.

Let me turn to our final topic -- brief comments on specific provisions of H.R. 2635 -- which not only present additional cost concerns but, more significantly, would have a chilling and debilitating effect on the operational environment overseas.

First, we are concerned that H.R. 2635 establishes dangerous statutory declassification and release standards which will seriously compromise our ability to recruit intelligence sources and conduct needed intelligence activities.

- Section 5(a) of the bill only authorizes agencies to "postpone" the release of classified information if certain criteria is met. It is unclear how long this "postponement" would remain in effect before it could be challenged again: a week, a month, a year, several years?

- Section 5 also creates very narrow and incomplete exemptions from declassification -- requiring inordinately high showings of evidence, incorporating convoluted public interest balancing tests, but ignoring totally the fact that families and relatives of sources remain perpetual targets for retaliation:

    - current sources are protected only to the extent that there is "clear and convincing evidence" that the threat to intelligence operations outweighs the public interest,

    - former sources are protected only if they face the risk of harm,

    - and dead sources are unprotected.

- Not only would this scheme of exemptions be difficult to apply, it would act as a serious disincentive for anyone to become or continue

to act as a CIA source. Current and potential sources would have to take into account the fact that their reward for serving American intelligence would be the legal requirement to reveal their identity if they reported on human rights violations; and the chilling effect would not be limited to this narrow arena, for what source would not correctly fear that the law would change again and again, placing themselves and their families blindly and perpetually in jeopardy?

Second, we believe that H.R. 2635 is inconsistent with Executive Order 12958, the National Security Act, and the FOIA given its less comprehensive declassification criteria and exemption scheme. Since 1974, the FOIA has been the bedrock of the U.S. Government's information release activities and it should not be lightly undermined -- especially given the clear evidence of its success in this arena.

- This new law, layered over the FOIA, would create confusion when applied simultaneously with the FOIA regarding the same national security information;

- This confusion would only increase if a requester chose to pursue multiple, simultaneous requests under H.R. 2635 and the FOIA;

- Moreover, this bill would authorize vastly broader judicial review to include review under the Administrative Procedure Act (APA) of each individual information release decision as well as under the traditional provisions of the FOIA -- a result not consistent with concepts of good and efficient government, since the APA was never intended to be an information disclosure law and since litigation costs for the government could literally explode.

Third, we also believe that the time and scope provisions of H.R. 2635 would significantly impair current CIA information review and release activities, and set an unfortunate precedent regarding future legislation of this type.

- Today, we rather successfully balance a variety of individual and organizational FOIA requesters as well as demands from senior U.S.

Government officials or concerned foreign governments. H.R. 2635 would divert a significant portion of the limited number of CIA personnel knowledgeable in both the agency's operational activities and its review and release process toward exhaustive review of voluminous materials. Moreover, these materials would have only marginal relevance.

- The conflicted situation would, of course, become even worse if section 6 of the bill were ever triggered. That section requires the agency to conduct the same kind of review and release activity for the human rights records of any Latin American or Caribbean country if requested to do so by the United Nations, the Organization of American States, or the principal justice or human rights official of any such country.

And, fourth, H.R. 2635 would create an augmented Interagency Security Classification Appeals Panel (ISCAP) with authority to substitute their judgment for the DCI's with respect to every declassification and release decision:

- Specifically, section 7(b) of the bill authorizes the ISCAP to determine de novo whether there is "clear and convincing evidence" that a declassification exemption applies and whether the public interest nevertheless requires disclosure -- notwithstanding any prior determination by the DCI on such factors.

- In addition, section 10 of the bill would augment the ISCAP's membership by adding two additional non-U.S. Government personnel -- a factor which would raise significant questions of authority and expertise.

In conclusion, let me summarize why, in our judgment, H.R. 2635 is simply not warranted:

- First, it is not needed given the human rights information released to date and the DCI's priority and commitment to further releases;

- Second, it would artificially constrain our ability to concentrate on the most relevant information as we do today and thus reduce our ability to make the information release efforts work to everyone's benefit;

- Third, it would create new bureaucracies and further drive up the costs of information release at CIA;

- Fourth, it would require us to divert resources from other important and statutorily-required release programs (e.g., E-FOIA); moreover, this effort would add little to the public's insight into human rights abuses in Guatemala and Honduras;

- And fifth, and in my judgment the most significant, the review and release standards, if enacted, would seriously damage intelligence collection activities in those countries subject to its terms.

I would like to thank the members of the Subcommittee, other members of the House, and staff for this opportunity to present our views. I would be pleased to respond to any questions.

Biographical Summary:

Lee S. Strickland
Office of Information Management
Directorate of Administration
U.S. Central Intelligence Agency

SIS-3

Lee S. Strickland has served with the Central Intelligence Agency (CIA) for over 20 years and has been a member of the Senior Intelligence Service since 1986. During this time, he has held a number of senior legal, information technology, and information management positions. He has served as an Assistant General Counsel, Senior Litigation Counsel, and on rotations to the Department of Justice, as a Special Assistant U.S. Attorney for the District of Columbia, and to the Department of Defense, as interagency coordinator for multi-defendant FOIA litigations. More recently he has served as Chief of Management for CIA's Office of Information Technology (OIT), and Deputy Chief of Development for OIT. He currently serves as the Chief of the CIA's Information Review Group (OIM) which is responsible for the management of all information review and release programs including FOIA, Privacy Act, Executive Order 12958 (mandatory, systematic and automatic), historical review, JFK Assassination Act, and Foreign Relations of the United States (FRUS). He also serves as a member of the CIA Publications Review Board.

As counsel for the CIA, he has been responsible for some of the landmark cases in information disclosure law including the revitalization of the Civil War-era *Totten* decision by the U.S. Supreme Court as well as the series of cases developing the definition and scope of the statutory term *"intelligence sources and methods"* and the functional definition of *"official executive disclosure."* As a technology manager, he has championed the movement from mainframe to LAN applications with innovations such as the use of Lotus Notes and secure international communications (*e.g.*, STU-III) to move administrative traffic from a costly and labor-intensive cable system which had evolved from World War II-era communications concepts.

Mr. Strickland is a graduate of the University of Central Florida (Bachelor of Science in Mathematics, *magna cum laude*), the University of Virginia (Masters of Computer Science), and the University of Florida (Juris Doctor *with honors*). He is a member of the District of Columbia Bar and Virginia State Bar.

Mr. HORN. Well, we thank you for coming and sharing that with us. After hearing from Mr. Garfinkel we will go to questions.

Mr. Garfinkel, we are delighted to have you here. So you are the director of the Information Security Oversight Office, and I suspect that's a fairly unknown agency within the executive branch except by reporters, human rights activists, and an occasional Member of Congress. So tell us a little bit about the history of the Office, and you have quite a rich background as a lawyer, counsel, in the records administration, GSA, the Archives, and so forth. Thank you for coming.

Mr. GARFINKEL. Thank you, Mr. Chairman.

The Information Security Oversight Office has existed since 1978. Like our security classification system, it exists by Executive order. We are a very small office responsible to the President for monitoring the system under which information is classified, safeguarded, and ultimately declassified.

Given the focus of the legislation before the subcommittee today, I'm very pleased to appear before you to report on our progress in implementing this recently revised system for classified information.

The most extraordinary provision of this new system is its requirement regarding the automatic declassification of information. Specifically, Section 3.4 of Executive Order 12958 provides that classified information within records of permanent historical value will be automatically declassified 25 years after its creation, unless the pertinent agency head can successfully demonstrate how particular information falls within one of the order's narrow, enumerated exceptions. This provision is to take full effect on April 17, 2000, 5 years from the date on which the President issued this Executive order.

Already this new classification and declassification system has achieved some rather remarkable results. In the last 2 years the agencies of the executive branch have declassified more than 400 million pages of permanently valuable Government records. Of the more than 650 million pages that the executive branch has declassified since 1980, more than 70 percent of that total took place in just the past 3 years.

Agencies that never previously contemplated large-scale declassification like the CIA and the National Reconnaissance Office now have in place productive declassification units.

The Interagency Security Classification Appeals Panel, a new six-member panel representing the Secretaries of State and Defense, the Attorney General, the Director of Central Intelligence, the Archivist of the United States, and the Assistant to the President for National Security Affairs, has declassified in their entirety more than 70 percent of the documents that have come before it on appeal from agency decisions to keep those same documents classified.

Mr. Chairman and members of the subcommittee, I can state with total confidence that the U.S. Government stands far in the forefront among nations in the manner, timing, and extent to which it makes available to its citizens and to the general public its records of governance, including its formerly classified records.

These known indicators of progress do not mean we have all the answers about our security classification system or that there aren't tremendous hurdles to clear. To be sure, the standards and goals established within the new Executive order are unparalleled. We are not yet certain that every agency or perhaps any agency can achieve them; however, only if the targets are difficult can reaching them be noteworthy.

I recognize that the focus of today's hearing is the specific legislation before the subcommittee and not the declassification system in general. While I am not appearing as the administration's witness on its position regarding the legislation, there is one issue concerning it that I would like to address briefly, because it may not otherwise be discussed. That issue is the impact that legislation such as H.R. 2635 would have on the Freedom of Information and declassification processes within the executive branch if it becomes law.

I address this without getting into the merits or demerits of this particular bill. Specifically, each time a new law gives priority processing for public access, records pertaining to one subject area, public access to Government information in all other subject areas suffers. That is because the agencies of the executive branch have very limited human resources for processing records for public access.

The same people who will be reviewing the records of an enacted H.R. 2635 for declassification would otherwise be reviewing the oldest Freedom of Information or mandatory review for declassification requests before their agencies. These requests, which may have been pending for several years, will necessarily be delayed for additional months or even longer.

To those frustrated requesters, be they journalists, historians, students, or simply constituents, the public interest in access to the information that they are seeking will seem just as important as the public interest and access to the information at issue in this legislation.

Once again, I appreciate the opportunity to appear before you today, and I'll be happy to try to answer any questions you might have.

[The prepared statement of Mr. Garfinkel follows:]

STATEMENT OF STEVEN GARFINKEL
DIRECTOR, INFORMATION SECURITY OVERSIGHT OFFICE*
NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

before the

SUBCOMMITTEE ON GOVERNMENT MANAGEMENT, INFORMATION AND TECHNOLOGY
COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT
UNITED STATES HOUSE OF REPRESENTATIVES

May 11, 1998

Mr. Chairman and Members of the Subcommittee:

H.R. 2635, the "Human Rights Information Act," pertains in large measure to the proposed declassification of certain classified government information. Given that focus, I am very pleased to appear before you today to report on the executive branch's progress in implementing the recently established system for classifying, safeguarding, and declassifying its national security information.

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*The Information Security Oversight Office, or ISOO, is responsible for overseeing Government-wide implementation of the security programs under Executive Order 12958, "Classified National Security Information," and Executive Order 12829, "National Industrial Security Program." ISOO is also responsible for reporting annually to the President on the status of those programs. Created in 1978, ISOO became a component of the National Archives and Records Administration in November 1995. In addition to reporting to the Archivist of the United States, the Director of ISOO receives policy guidance from the National Security Council.

Among its functions, ISOO: (1) develops implementing directives and instructions; (2) maintains liaison with all agencies that create or handle classified information; (3) inspects agency programs and reviews their classified records; (4) receives and responds to public complaints, appeals and suggestions; (5) collects and reports to the President and Congress relevant statistical data about the security classification program, including data about its costs; (6) serves as a spokesperson for information about the security classification program; (7) provides program and administrative support for the Interagency Security Classification Appeals Panel and the Information Security Policy Advisory Council; and (8) recommends policy changes to the President through the National Security Council.

On April 17, 1995, the President issued Executive Order 12958, entitled "Classified National Security Information." This Order took effect on October 14, 1995, only two and one-half years ago. While still in its early stages of implementation, the Order clearly attempts to strike an appropriate balance.

On the one hand, it seeks to reduce the permitted level of secrecy within our Government, and to make available to the American people hundreds of millions of pages of historically valuable documents that no longer require protection in the interest of national security. On the other hand, the Order enables us to safeguard the information that we must in order to protect our nation and our citizens.

Most extraordinary among the provisions of this Order is its requirement regarding the automatic declassification of information. Specifically, section 3.4 of the Order provides that classified information within records of permanent historical value will be automatically declassified 25 years after its creation, unless the pertinent agency head can successfully demonstrate how particular information falls within one of the Order's narrow, enumerated exceptions. This provision is to take effect on April 17, 2000, five years from the date the President issued the Order. That five year window provides agencies, at least in part, an opportunity to review affected records to determine what information could and should continue to be classified beyond 25 years. As we speak, that window is already more than 60% closed.

Already, this new classification and declassification system has achieved some rather remarkable results:

- In the last two years, the agencies of the executive branch have declassified more than 400 million pages of permanently valuable government records.

- Of the more than 650 million pages that the executive branch has declassified since 1980, more than 70% of that total took place in the past three years.

- Agencies that never previously contemplated large-scale declassification, like the Central Intelligence Agency and the National Reconnaissance Office, now have in place productive declassification units.

- The Interagency Security Classification Appeals Panel, a new six member panel representing the Secretaries of State and Defense, the Attorney General, the Director of Central Intelligence, the Archivist of the United States and the Assistant to the President for National Security Affairs, has declassified in their entirety more than 70% of the documents that have come before it on appeal from agency decisions to keep those same documents classified.

- Original classification decisions, the actions most akin to new secrets, have decreased to historic lows.

- Anecdotally, those of us who are exposed to a wide variety of classified information are noting more and more situations in which information that would have been routinely classified in the past is now routinely unclassified, without any increased threat to our national security.

Mr. Chairman and Members of the Subcommittee, I can state with total confidence that the United States Government stands far in the forefront among nations in the manner, timing and extent to which it makes available to its citizens and the general public its records of governance, including its formerly classified records. In conversation after conversation that I have had over the years with foreign government officials, and with foreign students, researchers, and journalists, one visitor after another has expressed great admiration for the degree of openness offered by our freedom of information laws, and our security classification system, with its limitations on classification and its emphasis on declassifying information as soon as it is prudent to do so.

These indicators of progress do not mean that we have all the answers about our security classification system or that there aren't tremendous hurdles to clear. For example, the implementation of the new system has been uneven among the major classifying agencies, and a few are only now just getting started; the costs of

implementing the system at some agencies are higher than we anticipated; and resource limitations are having a clear impact on agency compliance and oversight. To be sure, the standards and goals established within the new Executive Order are unparalleled. We are not yet certain that every agency, or perhaps any agency, can achieve them. However, only if the targets are difficult can reaching them be noteworthy.

I recognize that the focus of today's hearing is the specific legislation before the Subcommittee, and not the declassification system in general. While I am not appearing as the Administration's witness on its position regarding the legislation, there is one issue concerning it that I would like to address briefly because it may otherwise not be discussed. That issue is the impact that legislation such as H.R. 2635 would have on the Freedom of Information and declassification processes within the executive branch if it becomes law. I address this without getting into the merits or demerits of this particular bill.

Specifically, each time a new law gives priority to processing for public access records pertaining to one subject area, public access to government information in all other subject areas suffers. That is because the agencies of the executive branch have very limited human resources for processing records for public access. The same people who will be reviewing the records of an enacted H.R. 2635 for declassification would otherwise be reviewing the oldest Freedom of Information or mandatory review for declassification requests before their agencies. These requests, which may have

been pending for several years, will necessarily be delayed for additional months or even longer. To those frustrated requesters, be they journalists, historians, students, or simply constituents, the public interest in access to the information that they are seeking will seem just as important as the public interest in access to the information at issue in this legislation.

Mr. Chairman and Members of the Subcommittee, in accordance with House Report 105-240, which accompanied the Treasury, Postal Service, and General Government Appropriations Act for 1998, the Information Security Oversight Office has submitted two recent reports to the House Appropriations Committee. The first concerned the executive branch's progress in the declassification and classification arenas; the second concerned the estimated costs of administering the security classification system within both government and industry. For the record, I am attaching a copy of both of these reports to this statement.

Once again, I appreciate the opportunity to appear before the Subcommittee today. I will be happy to try to answer any questions you may have.

ATTACHMENT A:

ISOO REPORT TO CONGRESS ON DECLASSIFICATION AND CLASSIFICATION ACTIVITY JANUARY 29, 1998

AS REQUIRED BY HOUSE REPORT 105-240

Information Security Oversight Office
National Archives and Records Administration
700 Pennsylvania Avenue, NW *Washington, DC 20408*

COPY

BY MESSENGER

January 29, 1998

The Honorable Jim Kolbe
Chairman, Subcommittee on Treasury,
Postal Service and General Government
Committee on Appropriations
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

On behalf of the Archivist of the United States and the Director of the Office of Management and Budget, I am pleased to enclose a brief report that provides "an update of agency compliance with the declassification requirements of Section 3.4 of E. O. 12958, 'Classified National Security Information,'" and a brief report on "agency compliance with sections 1.2, 1.3, 1.6, 1.8, and 1.9 of Executive Order 12958." These reports are directed by House Report 105-240, which accompanied the Treasury, Postal Service, and General Government Appropriations Act for 1998.

The enclosed data and information disclose unprecedented effort and achievement on the part of executive branch agencies to meet the declassification requirements of E. O. 12958 during Fiscal Years 1996 and 1997. At the same time, we remain mindful that an even greater effort will be necessary as agencies seek to review the remaining records that will otherwise be subject to automatic declassification under the terms of the Order. We are also aware that the level of achievement among the agencies remains uneven, with several agencies slow to get started in their declassification efforts. The report on classification activity reveals general compliance throughout the executive branch with the cited provisions of E.O. 12958.

The Information Security Oversight Office (ISOO) will have more information available and analyzed when it issues its Report to the President for Fiscal Year 1997. Copies of the Report to the President will be provided to the Subcommittee and other interested Committees of Congress as soon as it has been cleared by the White House. We hope to have that Report to the President by the end of May. In the meantime, I am available at your request to meet with the membership or staff of the Subcommittee to provide as much information and data as we have available. Also, we will provide the Subcommittee with a report on security classification costs by May 1, 1998, as directed in House Report 105-240.

COPY

Inasmuch as the data contained in the enclosure are preliminary, and have not as yet been included in any public report or disclosure, we respectfully request that the Subcommittee limit access to these reports to its needs or the needs of the Committee on Appropriations until ISOO issues its Report to the President for Fiscal Year 1997.

Sincerely,

(signed) Steven Garfinkel
Steven Garfinkel
Director

Enclosure

cc: The Honorable John W. Carlin
Archivist of the United States

The Honorable Frank Raines
Director, Office of Management and Budget

REPORT OF DECLASSIFICATION ACTIVITY IN RESPONSE TO HOUSE REPORT 105-240

PAGES DECLASSIFIED

Preliminary data gathered by the Information Security Oversight Office (ISOO) as of the date of this report reveal that in Fiscal Year 1997, the agencies of the executive branch continued to declassify historically valuable documents in numbers unprecedented before the issuance of Executive Order 12958, "Classified National Security Information." E.O. 12958 went into effect early in Fiscal Year 1996. In FY 1997, executive branch agencies declassified approximately 205 million pages of historically valuable records. This represents more than a four percent increase from the 196 million pages that the agencies declassified in Fiscal Year 1996.

In other words, during the first two years that E.O. 12958 has been in effect, executive branch agencies have declassified more than 400 million pages of historically valuable documents. Added to the approximately 69 million pages declassified in FY 1995[1], in just the past three years, the executive branch has declassified more than 70% of the pages of historically valuable documents declassified since 1980.

Of the 401 million pages declassified in FY 1996 and FY 1997, the National Archives and Records Administration (NARA) accounts for fully 57% (227 million) of the total from the holdings within the National Archives of the United States. Of course, these records originated in agencies other than NARA, predominantly from the components of the Department of Defense (DOD) and from the Department of State (State). Other agencies that have declassified large numbers of historically valuable records over the past two years include DOD, 126 million pages; State, 25 million; United States Information Agency, 8.5 million; the Department of Energy, 3.8 million; the Department of Commerce, 2.6 million; the Agency for International Development, 1.6 million; the National Aeronautics and Space Administration, 1.0 million; the Department of the Treasury, 0.6 million; and the National Security Council, 0.16 million.

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[1] In FY 1995, the agencies of the executive branch declassified 24 million pages, and the President, through an Executive order, declassified an additional 43-45 million pages of documents within the National Archives of the United States.

INTERIM TARGETS

To meet the President's declassification targets detailed in Executive Order 12958, executive branch agencies were to declassify during FY 1996 at least 15% of their total records subject to the Order's automatic declassification provisions, "and similar commitments for subsequent years until the effective date for automatic declassification," i.e., April 17, 2000. Existing records subject to automatic declassification have been appraised as historically valuable and will be at least 25 years old in April 2000.

The data provided to date continue to indicate uneven accomplishment among the agencies of the requirement to declassify significant portions of the subject records each year. Some of the larger classifying agencies are only now beginning to declassify records in significant numbers. However, the National Archives and Records Administration has done an extraordinary job in declassifying various agencies' records within the National Archives of the United States. As a result, from the data currently available, ISOO believes that the 401 million pages declassified by the executive branch in FY 1996 and 1997 combined exceed 30% of the total universe of classified pages subject to automatic declassification by April 2000.

FILE SERIES EXEMPTIONS FROM AUTOMATIC DECLASSIFICATION

E.O. 12958 authorized the heads of agencies that originate classified information to designate particular file series of classified information to be exempt from the Order's 25-year-old automatic declassification provision. These series were to be limited to records replete with information that "almost invariably" fell within one of the categorical exemptions to automatic declassification. These exempt file series are subject to presidential approval. Agency heads direct them to the President through the Assistant to the President for National Security Affairs (National Security Adviser).

In June 1997, the National Security Adviser requested that ISOO review the agencies' proposed exempt file series, and advise him of ISOO's recommendations regarding their acceptance by the President. Assisted by staff members from the National Archives and Records Administration and the National Security Council, the ISOO team has nearly completed its review and is preparing to send its recommendations to the National Security Adviser as this report is being prepared.

As a result of the ISOO review, six agencies withdrew entirely their requests for file series exemptions. The remaining 10 agencies that requested such exemptions have significantly narrowed the scope of their requests. Perhaps most important, for each one of the remaining file series proposed for exemption, the agencies have established fixed dates to review them for declassification.

INTERAGENCY SECURITY CLASSIFICATION APPEALS PANEL (ISCAP)

The President created the ISCAP under E.O. 12958 to perform critical functions in implementing several of the Order's provisions. These include: (a) deciding on appeals by parties whose requests for declassification of information under the mandatory review provisions of the Order have been denied; (b) approving, denying or amending agency exemptions from automatic declassification; and (c) deciding appeals brought by individuals who have filed classification challenges. The work of the ISCAP is crucial to the implementation of E.O. 12958, because its decisions will ultimately establish the cutting edge between what information is declassified and what information remains classified.

The ISCAP, made up of senior level representatives appointed by the Secretaries of State and Defense, the Attorney General, the Director of Central Intelligence, the Archivist of the United States and the Assistant to the President for National Security Affairs, began meeting in May 1996. The President appointed Roslyn A. Mazer, Associate Deputy Attorney General, to serve as the ISCAP's chair. The Director of ISOO serves as its Executive Secretary, and ISOO provides its staff support.

As of the date of this report, the ISCAP has decided appeals seeking the declassification of 61 documents that remained fully or partially classified upon the completion of agency processing. Of these, the ISCAP voted to declassify 49 (80%) of them in full, to declassify significant portions of eight others (13%), and to affirm the agency's action fully for only four documents (7%).

To keep interested persons aware of its activities and decisions, the ISCAP membership voted to issue periodic communiqués. It issued its first communiqué in June 1997, and is preparing to issue its second shortly. In addition, ISOO provides copies of the ISCAP's decision database upon request. Because the ISCAP's product is presidential records rather than Federal records, the White House Counsel's Office concurred in the ISCAP's decision to make these items publicly available.

OTHER POSITIVE TRENDS

- An unprecedented effort to declassify older historically valuable information is in place.
- Agencies that have had only minimal declassification programs in the past are now engaged in significant declassification efforts.

- Communication and coordination between agencies' security and records management staffs have improved tremendously from what was generally a very poor situation.

- A declassification infrastructure has been established in every agency that originates classified information.

- Communication among the agencies has increased significantly as they attempt to coordinate their declassification efforts.

LINGERING PROBLEMS OR PITFALLS

- In practice, automatic declassification at 25 years (rather than at a later date) means that more information requires review, more information is proposed for exemption, less bulk declassification occurs, and the cost of compliance increases.

- Start-up and compliance among the major classifying agencies has been uneven. Several agencies were very slow in getting started, and they find themselves in a difficult catch-up situation. In addition, many agencies spent a year or more attempting to gain sufficient knowledge about the scope of their classified holdings.

- The rate of declassification at several agencies is lagging because of an apparent unwillingness to alter an extremely cautious approach to declassification. Several agencies will not declassify any information that has not undergone a line by line review by several reviewers, notwithstanding the age of the documents or their subject matter. This method of review is obviously the most time consuming and costly. As a result, a few agencies that to date have spent the most on their declassification programs have yet to declassify significant numbers of records, although substantial increases are anticipated.

- Resource limitations are having a clear impact on agency compliance and oversight.

- Agencies, on the whole, have been slow in providing NARA with the timely and complete declassification guidance that would permit NARA to declassify more information. Resource and records management limitations increase this tardiness.

- In many cases, documents contain the classified information of several agencies (agencies with equities in the document). Dealing with multiple equities greatly complicates and delays the declassification review process.

- In some instances, declassification activity has been so prolific that it exceeds the ability of agency systems and resources to process the records for public access, or even the ability to advise other agencies and the public about what information has been declassified.

REPORT OF CLASSIFICATION ACTIVITY IN RESPONSE TO HOUSE REPORT 105-240[2]

BACKGROUND

Executive Order 12958, "Classified National Security Information," issued by the President on April 17, 1995, and effective on October 14, 1995, increases the personal accountability of original classifiers to make reasonable and justifiable classification decisions. The House Report specifically references several sections of the Order that are intended to limit classification activity to the minimum truly necessary to protect the national security: Section 1.2, *Classification Standards*; Section 1.3, *Classification Levels*; Section 1.6, *Duration of Classification*; Section 1.8, *Classification Prohibitions and Limitations*; and Section 1.9, *Classification Challenges*.

Sections 1.2, 1.3 and 1.6 address classified information at its creation. Section 1.2 sets out the standards that must be met before information may be classified in the first instance, and directs that doubtful situations be resolved in favor of no classification. Section 1.3 establishes the standards for the three permissible levels of security classification, Top Secret, Secret and Confidential. Section 1.6 establishes the time frames that limit the duration of classification. Classifiers must first seek a specific date or event for declassification. When such specific dates or events elude the classifier, he or she is now required to set a 10-year time frame. Only if an applicable exemption category pertains may the classifier extend the duration of classification beyond 10 years, but not longer than 25 years.

Sections 1.8 and 1.9 serve as control mechanisms to help ensure that classifiers act prudently. Section 1.8 expresses when classification is forbidden, e.g., to conceal violations of law or to prevent embarrassment to an individual. Section 1.9 mandates a retribution-free process through which holders of information may challenge and appeal questionable classification actions.

Taken together, these five sections of E.O. 12958 provide a strong foundation for sound classification decision making. Current evidence available to ISOO suggests that they are working as intended.

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[2]House Report 105-240 asks the Office of Management and Budget (OMB) to report on this aspect of E.O. 12958's implementation. ISOO is reporting on this activity on behalf of OMB. When the President issued E.O. 12958, ISOO was a component of and funded through OMB. Subsequently, the Congress moved ISOO's funding to NARA, and ISOO became a component of NARA. The Archivist of the United States assumed those functions and responsibilities under E.O 12958 assigned to the Director of OMB. ISOO anticipates that E.O. 12958 will be amended to reflect these changes.

ISOO OVERSIGHT

Under E.O. 12958 and Executive Order 12829, "National Industrial Security Program," the Information Security Oversight Office (ISOO) oversees the implementation of the security classification system within the executive branch and industry, respectively. "Industry" refers to those contractors, licensees, grantees and certificate holders that do work for the Federal Government which requires access to classified information.

Historically and practically because of its very small size, ISOO operates as a policy oversight entity. That is, ISOO's oversight concentrates on program reviews designed to reveal whether the subject agency is implementing the security classification system as intended by the President. To this end, ISOO works closely with each agency's officials responsible for implementing its security classification system. These officials exercise internal agency oversight as part of their responsibility.

Over the years, ISOO has developed means to leverage the effectiveness of its oversight despite its small size. With respect to such classification activities that House Report 105-240 specifically addresses, ISOO has relied primarily on classified document reviews. In these reviews, ISOO analysts examine a random sampling of an agency's recently classified product. ISOO knows that a review of even a small portion of an agency's product reveals a great deal about the overall effectiveness of an agency's internal monitorship and security education program, and also pinpoints specific problem areas in classification and marking.

Since the issuance of E.O. 12958, ISOO has not conducted extensive document reviews of agencies' classified product. A primary factor has been the Order's radical changes in the declassification program, which have dominated not only ISOO's time and resources, but also those of the agencies. Also, ISOO has focused more of its oversight to agency implementation of the National Industrial Security Program (NISP), which was designed to reduce significantly the costs of the security classification system within industry. The NISP is at a critical stage of its development, and ISOO believes its active involvement at this time is extremely important to the program's ultimate success or failure.

Until ISOO is able to resume fully its document review program, it must rely on other aspects of its oversight program to monitor classification activity within the agencies. These include its collection and analysis of statistical data; its receipt and review of complaints and suggestions about the security classification program; and its role as the Executive Secretary and staff for the Interagency Security Classification Appeals Panel (ISCAP).

STATISTICAL DATA

Beginning in the late 1980s, classification activity within the executive branch began a downward trend that has generally continued until the present. Based upon the most recent classification statistics for FY 1996, agencies have made progress in keeping original classification activity to a minimum, reporting the lowest number of original classification actions since ISOO began reporting this information. Original classification precedes all other aspects of the security classification system. Consequently, this statistic is an important indicator of classification activity, in terms of quantity and quality.

The FY 1996 data also showed a significant change in the assignment of declassification dates, commonly called the duration of classification. Classifiers chose 10 years or less as the declassification date for over 50 percent of their decisions. This statistic is a very positive indicator of progress in implementing the Section 1.6 of E.O. 12958. Before E.O. 12958, classifiers limited the duration of classification for less than 5% of their classification decisions.

ISOO is now receiving and analyzing statistical data on agencies' security classification programs for FY 1997. Preliminary review of the data received so far appears to support the benchmarks established in FY 1996, the first year of E.O. 12958's implementation. A full analysis and reporting of these data will appear in ISOO's Report to the President for FY 1997, which ISOO is planning to issue in May 1998. ISOO will provide copies of this Report to the interested Committees of the Congress, including the Appropriations Committees, immediately upon its availability.

COMPLAINTS AND SUGGESTIONS

Section 5.3 of E.O. 12958 directs ISOO to respond to "complaints and suggestions from persons within or outside the government with respect to the administration of the program." Responding to complaints and suggestions about the security classification program is a regular item on ISOO's work agenda.

For example, ISOO recently responded to a complaint concerning an agency's alleged use of the outdated duration of classification marking "OADR" (Originating Agency's Determination Required) on newly generated classified material. To resolve this complaint, ISOO contacted.the responsible officials of this agency. It appears that this problem arose from the failure of the agency to revise its internal classification regulation to comply with E.O. 12958 upon its effective date. The problem of unpublished revised internal agency regulations is widespread because of the added demands of the declassification program.

However, most agencies have issued interim instructions that have prevented similar violations of E.O. 12958. ISOO directed the "offending" agency to take whatever steps were necessary to prevent its classifiers from using outdated duration of classification instructions, and it is acting responsibly to resolve this problem quickly. ISOO may follow up this complaint with a program review.

Perhaps surprisingly, complaints alleging such systemic violation of E.O. 12958's classification provisions have been relatively few. However, ISOO is anxious to resume its document review program when time and resources permit.

CLASSIFICATION CHALLENGES APPEALED TO THE ISCAP

Another control bearing on the implementation of the Order's classification provisions is the work of the Interagency Security Classification Appeals Panel (ISCAP). Among its other functions, the ISCAP decides on appeals by persons who have filed classification challenges under Section 1.9 of E.O. 12958. The ISCAP has been meeting since May 1996, and has not yet received an appeal from a classification challenge. This suggests either that agencies are resolving classification challenges informally or successfully through their challenge programs, or that individuals are not challenging classification actions. If, as ISOO suspects, the latter is true, classifiers are either doing an exceptional job or holders are still reluctant to challenge the actions of classifiers, who routinely occupy high level positions. When time and resources permit, ISOO will conduct a review of agency challenge programs to evaluate their effectiveness.

CONCLUSION

As agencies "round the corner" in meeting the declassification requirements of E.O. 12958, ISOO expects that both the agencies and ISOO will be able to place more emphasis on the classification aspects of the new Order. In the interim, however, ISOO is aware of no indicators to suggest any significant abuse of the program. To the contrary, the security classification system appears to be well under control. Nevertheless, ISOO's comfort level with this assumption will increase when it is able to resume a full schedule of agency program reviews, including a sampling of each agency's classified product.

ATTACHMENT B:

ISOO REPORT TO CONGRESS ON ESTIMATED COSTS OF THE SECURITY CLASSIFICATION SYSTEM APRIL 29, 1998

AS REQUIRED BY HOUSE REPORT 105-240

Information Security Oversight Office
National Archives and Records Administration
700 Pennsylvania Avenue, NW Washington, DC 20408

COPY

BY MESSENGER

April 29, 1998

The Honorable Jim Kolbe
Chairman, Subcommittee on Treasury,
Postal Service and General Government
Committee on Appropriations
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

On behalf of the Archivist of the United States, I am pleased to provide the total security classification cost estimates for executive branch agencies during Fiscal Year (FY) 1997; the projected security classification cost estimates for executive branch agencies for FY 1998; and the total security classification cost estimate for industry during 1997.* House Report 105-240, which accompanied the Treasury, Postal Service, and General Government Appropriations Act for 1998, asked for these estimates.

The security classification cost estimates for executive branch agencies total $3,380,631,170 for FY 1997. This represents a 28 percent increase from the estimates provided you last year for FY 1996. These same agencies project such costs at $3,530,798,565 for FY 1998. The estimate for industry (contractor costs) for 1997 totals $692,823,000. This represents a 73 percent reduction from the estimate provided you last year for 1996. Combining the estimates for Government and industry, the total cost estimate for 1997 is $4.1 billion. This represents a 21 percent reduction from the total cost estimate for 1996 of $5.2 billion.

Within the limits of the brief time that we have had these data, we have attempted to identify any significant reasons for the increase in Government cost estimates and the very large decrease in contractor cost estimates. The former

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*The 1997 cost estimate for industry pertains to the twelve month accounting period of the most recently completed fiscal year of each company that was part of the industry sample. For most of these companies, their fiscal year ended on December 31, 1997. A projected estimate for 1998 is not available, but will be provided to the Information Security Oversight Office next year.

appears to result from the agencies' ability to estimate these costs more accurately rather than from any new programs. A very significant proportion of the increase is reflected in the costs of information systems security.

With respect to the decrease in contractor costs, we have identified two likely reasons. First, the current estimate was based on sampling from a much larger pool of companies than it has been in the past, which suggests greater accuracy. Second, there has been significant consolidation within defense industry, especially among the largest contractors that have accounted for the preponderance of the cost estimates. The reduction in their numbers has had a very significant impact on the total estimate. We believe that the reported reductions represent both savings that result from consolidation, as well as sampling reductions that result from multiplying the sample data by a smaller number of contractors.

Because of expressed interest in the declassification programs established under Executive Order 12958, "Classified National Security Information," we also requested agencies to identify that portion of their cost estimates in the category of classification management that was attributable to their declassification programs. For FY 1997, the agencies reported declassification cost estimates of $150,244,561, or slightly less than five percent of their total cost estimates. For FY 1998, the agencies project declassification cost estimates of $203,204,170, or slightly less than six percent of their projected total cost estimates.

At Tab A, please find enclosed a table listing by agency their cost estimates for FY 1997, and their projected cost estimates for FY 1998. The total for each agency includes costs associated with six categories: (1) personnel security; (2) information security, which includes both classification management and information systems security; (3) professional education, training and awareness; (4) physical security; (5) security management, oversight and planning; and (6) unique items. Neither the enclosed table nor the totals provided in this letter include the cost estimates of the Central Intelligence Agency, which are classified. We understand that these estimates will be made available to the Intelligence Committees of the House and Senate.

At Tab B, we enclose a copy of the Information Security Oversight Office letter dated January 20, 1998, directing departments and agencies to provide cost estimates associated with classifying and safeguarding classified information based upon instructions included with the letter. As was the case in last year's collection, the instructions tell agencies to report any cost for which 51% or more of a resource is used for classification related activities. Some agencies with very small security

classification programs again reported costs even though this threshold was not met. Additionally, several of the agencies provided explanatory information concerning their cost estimates in their individual reports. At your request, we will be happy to provide you with the individual report for any or every agency listed on the table.

Sincerely,

(signed) Steven Garfinkel

Steven Garfinkel
Director

Enclosures

cc: The Honorable John W. Carlin
Archivist of the United States

AGENCIES REPORTING
SECURITY CLASSIFICATION COST ESTIMATES

AGENCY/DEPARTMENT	SECURITY CLASSIFICATION COSTS FOR FY 1997	SECURITY CLASSIFICATION PROJECTED COSTS FOR FY 1998
TOTAL	$3,380,631,170	$3,530,798,565

Reporting Agencies

Department of Agriculture
Department of Commerce
Department of Defense
Department of Energy
Department of Health and Human Services
Department of Justice
Department of Labor
Department of State
Department of Interior
Department of Treasury
Department of Transportation
Department of Veterans Affairs
Environmental Protection Agency
Executive Office of the President, Office of Administration
Export-Import Bank of the United States
Federal Emergency Management Agency
Federal Reserve Board
General Services Administration
Marine Mammal Commission
National Aeronautics and Space Administration
National Archives and Records Administration
National Science Foundation
Nuclear Regulatory Commission
Office of National Drug Control Policy
Overseas Private Investment Corporation
U.S. Agency for International Development
U.S. Arms Control and Disarmament Agency
U.S. Information Agency
U.S. Peace Corps
U.S Trade Representative

Prepared by the Information Security Oversight Office

Agencies Reporting
Security Classification Cost Estimates

AGENCY/DEPARTMENT	SECURITY CLASSIFICATION COST ESTIMATES FOR FY 1997	SECURITY CLASSIFICATION PROJECTED COST ESTIMATES FOR FY 1998
Department of Agriculture	$1,379,000	$1,681,000
Department of Commerce	$9,980,185	$9,269,047
Department of Defense	$3,145,475,000	$3,284,432,000
Department of Energy	$104,830,000	$113,007,000
Department of Health and Human Services	$335,800	$209,700
Department of Justice	$33,170,000	$32,268,000
Department of State	$36,848,000	$38,456,000
Department of Interior	$2,477,000	$3,069,000
Department of Treasury	$12,618,000	$13,348,000
Department of Transportation	$2,329,000	$2,560,000
Department of Veterans Affairs	$6,500	$10,500
Environmental Protection Agency	$411,000	$475,000
Executive Office of the President, Office of Administration	$305,000	$338,000

Agencies Reporting
Security Classification Cost Estimates

AGENCY/DEPARTMENT	SECURITY CLASSIFICATION COST ESTIMATES FOR FY 1997	SECURITY CLASSIFICATION PROJECTED COST ESTIMATES FOR FY 1998
Export-Import Bank of the United States	$92,000	$165,000
Federal Emergency Management Agency	$225,858	$243,687
Federal Reserve Board	$327,000	$337,000
General Services Administration	$531,000	$640,000
Marine Mammal Commission	$1,000	$1,000
National Aeronautics and Space Administration	$9,000,000	$9,680,000
National Archives and Records Administration	$6,736,000	$6,520,000
National Science Foundation	$78,500	$86,500
Nuclear Regulatory Commission	$2,895,000	$3,095,000
Office of National Drug Control Policy	$1,800,000	$2,046,000
Overseas Private Investment Corporation	$148,000	$170,000
U.S. Agency for International Development	$3,549,776	$3,453,981
U.S. Arms Control and Disarmament Agency	$1,576,000	$1,693,000

Agencies Reporting
Security Classification Cost Estimates

AGENCY/DEPARTMENT	SECURITY CLASSIFICATION COST ESTIMATES FOR FY 1997	SECURITY CLASSIFICATION PROJECTED COST ESTIMATES FOR FY 1998
U.S. Information Agency	$2,264,800	$2,769,150
U.S. Peace Corps	$136,250	$136,250
U.S Trade Representative	$570,000	$419,000
TOTAL	$3,380,631,170	$3,530,798,565

Biographical Sketch

Steven Garfinkel
Director, Information Security Oversight Office

Professional

In 1995, President Clinton reappointed Steven Garfinkel to serve as Director of the Information Security Oversight Office, a position he has held since May 1980. In this position, he is responsible to the President for overseeing the Government-wide security classification system and the National Industrial Security Program. He also reports annually to the President on the status of these programs. The Information Security Oversight Office is now an administrative component of the National Archives and Records Administration, while receiving policy guidance from the National Security Council.

Mr. Garfinkel previously served for almost ten years in the Office of General Counsel of the General Services Administration. His positions in that office included Chief Counsel for the National Archives and Records Service, Chief Counsel for Information and Privacy, and Chief Counsel for Civil Rights.

Mr. Garfinkel is a member of the District of Columbia Bar. He has received a number of awards during his Federal service, including 17 commendations or citations from Presidents Clinton, Bush, Reagan, Carter and Ford. These include the Presidential Rank Award of Meritorious Federal Executive. He has also received commendations from a number of Federal departments and agencies, and from non-Government professional and service organizations. In 1989, the American Defense Preparedness Association presented Mr. Garfinkel with its first "Security Man of the Year Award," and in 1990, the National Classification Management Society made him an "Honorary Member."

Educational

Mr. Garfinkel attended both George Washington University and its Law School as a Trustee Scholar. He received his J.D. (With Honors, Law Review) in 1970, three years after receiving his B.A. (With Distinction, PBK).

Personal

Mr. Garfinkel was born on June 18, 1945, in Washington, DC, and attended the public schools of that city. He currently resides in Silver Spring, Maryland, with his wife Tillie, who is a principal in the Montgomery County Maryland Public Schools. They have two adult children, Kenneth and Laura.

Mr. HORN. Well, thank you very much, Mr. Garfinkel.

Let me just start with some general questioning, because this has a lot of interest not only legislative, but to the average citizen. And perhaps, Mr. Garfinkel, you can help me with this. In terms of the records that are eventually turned over to the National Archives by many agencies, do those include top secret records from, for example, the Department of Defense and the Central Intelligence Agency? How is that handled?

Mr. GARFINKEL. Yes, sir, Mr. Chairman. Many of the permanently valuable records within the National Archives remain classified at all classification levels, including top secret.

Mr. HORN. What are those classification levels? Let's get that on the record.

Mr. GARFINKEL. There are three classification levels: Top secret, which is the highest level, and also represents the smallest quantity by far of classified information. Secret is the middle level. And confidential is the lowest of the three classification levels.

Mr. HORN. Now, as I recall, there are other things like "Restricted," "No Foreign Nationals May See," et cetera, even if they were cleared for confidential, secret or top secret. Is that still in use?

Mr. GARFINKEL. Ordinarily those are markings to limit the particular universe of individuals who may have access to the information, but the three levels of classification describe essentially the sensitivity of the information.

Mr. HORN. Now, if you are involved with nuclear energy, atomic energy, or hydrogen bombs, what is the clearance on that?

Mr. GARFINKEL. Well, first of all, I should point out that classification of atomic weapons and special nuclear material is not covered by our Executive order on national security information. That is the exception. That information is classified under the Atomic Energy Act of 1954.

Mr. HORN. And what are those particular classifications?

Mr. GARFINKEL. There are two; one is called "Restricted Data." Restricted data deals with information that pertains to the development of atomic weapons or critical nuclear material. The other is called formerly restricted data, which deals more particularly with the military use of atomic weapons.

Mr. HORN. You are saying the first category is restricted data?

Mr. GARFINKEL. Restricted data. The other one is called formerly, f-o-r-m-e-r-l-y, restricted data. It's a misleading term, because it suggests it's no longer classified. But it still is classified information under the Atomic Energy Act.

Mr. HORN. Now, who would decide when that information is declassified?

Mr. GARFINKEL. Those decisions are exclusively those of the Secretary of Energy with respect to restricted data. With respect to formerly restricted data, the Secretaries of Energy and Defense act in concert.

Mr. HORN. Are there any other classifications in the Department of Defense, let's say, or the Department of Energy—which produces weapons for the Department of Defense or produces the supply of nuclear and hydrogen fuel—any classifications besides the ones you have listed and, if so, what are they?

Mr. GARFINKEL. No, sir.

Mr. HORN. No other type of classifications.

Mr. GARFINKEL. No, there are programs called special access programs, but those are subsets of the existing classification programs.

Mr. HORN. In other words, they would be subsets under top secret, secret, or confidential?

Mr. GARFINKEL. That is correct.

Mr. HORN. And in the case of atomic energy, the Nuclear Regulatory Commission, the Department of Energy?

Mr. GARFINKEL. Right, the Nuclear Regulatory Commission also has the authority to classify under the Atomic Energy Act.

Mr. HORN. And do they generally use the categories that you have given or do they have a new set of categories?

Mr. GARFINKEL. Yes, they use the same.

Mr. HORN. Which is restricted data and formerly restricted data.

Mr. GARFINKEL. That is correct.

Mr. HORN. And they would have the final say, or would the Secretary of Energy have the final say, as to what is unrestricted?

Mr. GARFINKEL. With respect to information specifically classified by the NRC, it would be the NRC who would have that responsibility of classification.

Mr. HORN. How about CIA, do you have any other classifications beyond the ones you have heard here?

Mr. STRICKLAND. No, sir. Mr. Garfinkel summed it up very adequately, the three major levels and the special access programs.

Mr. HORN. Now, while this hearing was going on, I had a call from an individual who wondered: What about unidentified flying objects? What set of restrictions is on that, and what are the labels that would be applied to those files?

Mr. GARFINKEL. Well, if there are documents, and perhaps there are, dealing with that subject that remain classified, again they would fall within the Executive order system, I would presume. I can't understand how they would fall within the Atomic Energy Act. So if there is such classification remaining, it would pertain to the top secret, secret, or confidential information under Executive Order 12958.

Mr. HORN. And you said if such a category remained. Are you aware of a category that doesn't remain, but was used?

Mr. GARFINKEL. No.

Mr. HORN. OK. How about CIA?

Mr. GARFINKEL. Mr. Chairman——

Mr. STRICKLAND. Mr. Chairman, the request on UFO's were formally litigated under FOI and remain today one of the most popular, most numerous requests that we receive. There are very small withholdings on the body of documents that the CIA had exclusively to protect the identity of a source or foreign liaison, a foreign government who provided information.

We recently released a historical story on UFO's in the journal that we publish internally, "Studies in Intelligence." I think it had one minor snippet of classified information, because it was information, if I recall correctly, that had been provided by a foreign government.

Mr. HORN. And that was then classified by us as top secret?

Mr. STRICKLAND. No, it would have been classified as confidential or secret.

Mr. HORN. OK. Well, what I'm trying to get on the record is whether there are any other categories of which the two of you are knowledgeable that we have not discussed here?

Mr. GARFINKEL. Not with what I'm knowledgeable.

Mr. HORN. All right. We will ask some other people also. We will get into a series on that. But now I am curious just what your knowledge is as to what, say, some of our allies do when it comes to human rights?

For example, we had East Germany and we had West Germany, and then, to everybody's surprise they combined, years ahead of what everybody expected.

Now, what has happened on the East German side in terms of members of the communism—members who were helping the in-power Communist party—now that it's a united Germany. Do we know how they treat the sort of human rights violations that went on under the Communists and East Germany?

I just wondered, and don't limit yourself to Germany, but other similar situations. You have the same in Russia now where the files of the KGB, I believe, are open in some respects. What do they do to handle the type of questions that came up as to what we should do?

Is there anything done by our allies in NATO in this regard, or it would be, say, occupied France and the Pétain government and then DeGaulle comes in if they have the files. How did they handle human rights questions? I just wonder if either one of you has a thought on that.

Mr. STRICKLAND. Mr. Chairman, I don't know any more than what I have read in the media. I understand that the German government has opened some of the files that were formerly maintained by East German intelligence on its own citizens, and that you can examine those files. Many of the European countries do have some type of Freedom of Information Act, however, my limited knowledge is that most, if not all of those, also have national security exemptions much like our own FOIA.

Mr. HORN. Mr. Garfinkel.

Mr. GARFINKEL. Mr. Chairman, I could only reply in the general with respect to access laws internationally rather than in the specific to the issue of human rights records, because I don't have the answer to that particular question. I noted in my testimony that we are at the forefront in our freedom of information laws and in our declassification program. It's been my privilege since I've served in my current position to meet with foreign statesmen, students, and journalists.

And I can say, without any hesitancy that I am misspeaking, that we are far in the forefront in freedom of information and access to records of governance within the United States.

Mr. HORN. My last question, then I will yield to the gentleman from Ohio. Mr. Garfinkel, as Executive Secretary for the Interagency Security Classification Appeals Panel, what are your thoughts on adding two new nongovernmental members to the Appeals Panel as would be required in the Lantos legislation, H.R. 2635? Do you have any comments on that one way or the other?

Mr. GARFINKEL. I'm not prepared to address the administration's position on whether or not that would be a worthy idea. I suspect that representatives of the Department of Justice, for example, may have some concerns, separation of powers concerns or other legal concerns with that, but I'm not prepared to address it.

I can tell you that as executive secretary of that panel, we have been very successful in declassifying a very large percentage of information that has come before us on appeal with the Government representatives who are currently on that panel.

Mr. HORN. Let me ask you, Mr. Strickland, on that question, does CIA's Presidential oversight group that has existed, I think since probably President Truman, do they handle any of these matters, or is there a separate group within CIA that either has—do they have any outsiders that sit on that separate group?

Mr. STRICKLAND. Mr. Chairman, any classification decisions at CIA that a requester wishes to appeal would go to the ISCAP, the Interagency Security Classification Appeals Panel.

Mr. HORN. That is one of the distinguished citizens that various Presidents appoint to that role. Is that correct?

Mr. STRICKLAND. No.

Mr. GARFINKEL. No, that's the Interagency Panel for which I'm the executive secretary.

Mr. HORN. I see. So you deal strictly with Mr. Garfinkel on those matters?

Mr. STRICKLAND. That is correct.

Mr. HORN. But you would have a recommendation coming from the appropriate sections within CIA, I assume, as to whether that file should be released or not?

Mr. STRICKLAND. Yes, sir. We have a process which is evolving, a requester, a citizen who makes a request on the Executive order, he or she makes the request, has an administrative appeal inside the Agency, and then under the Executive order may take an appeal to this Interagency Panel that Mr. Garfinkel described, of which he is the executive secretary. And we then have a very senior level review; indeed, our executive director or deputy executive director generally considers the information at issue, and then the panel considers the—argues pros and cons and arrives at a decision.

Mr. HORN. Thank you. I ran a little over. I'll give my distinguished colleague from Ohio, Mr. Kucinich, 12 minutes of questioning.

Mr. KUCINICH. Thank you very much, Mr. Chairman. I want to thank the gentlemen for appearing before this committee.

And I understand, Mr. Strickland, with respect to the CIA, you have a very difficult job. And I think all Americans can appreciate the difficulty the CIA has in being able to gather information relative to U.S. interests abroad and to be able to protect sources and to be able to serve this country. You know, it should be said that your work is appreciated.

Now, of course, you understand our responsibility here, which is find out if other concerns merit attention, such as human rights, I happen to believe they do. I also understand that in your role as CIA representative, that there have been many different versions of the CIA over the history of its existence, and that we are not

asking you to have to vouch for previous directors, previous practices of the CIA, simply to try to help us as we try to make government more responsive. And again, so we establish the context of this meeting here.

Now in that light, does the State Department ever intercede with you and ask you not to release information?

Mr. STRICKLAND. No, sir. The process——

Mr. KUCINICH. Did they ever intercede with anybody at the CIA and ask them not to receive any information? Are there any conferences between State and the CIA on the release of information?

Mr. STRICKLAND. No, they have never interceded to my knowledge and asked that we not release information.

Let me just very briefly explain the process by which these special searches, we term them "special searches," are conducted. Typically the NSC will convene a working level meeting where there will be representatives of the Department of Defense, State, CIA, and NSA, where we will receive the tasking, decide as a committee, if you will, what would be the most expeditious way to proceed, and then each agency goes back to its respective home and proceeds to conduct the necessary searches and reviews.

We necessarily, of course, coordinate, I might have a cable which has Embassy reporting on it, so I would not be free to release that without coordinating it with State. Conversely, the Department of State might have a cable having CIA information. They would coordinate that paragraph. But I certainly am never aware of any case where they have asked, or vice versa, any type of withholding decision that way.

Mr. KUCINICH. Did you have any conversation with people at State or the Department of Defense about whether they were going to be here today or not?

Mr. STRICKLAND. No, sir, I did not.

Mr. KUCINICH. You weren't aware they weren't going to appear?

Mr. STRICKLAND. No, sir, I was—to be honest, I was just focusing on my work here, preparing for the committee, and that was certainly my focus.

Mr. KUCINICH. Thank you. I would like to get into this issue of the release of documents on General Alvarez, to the release to the Honduran human rights commissioner in response to his request for information. I have here the redacted version of the documents which were requested.

I heard your testimony saying that you felt that this was responsive to the request. And I am—as I go over these documents, a few things occur to me. First of all, they seem to have a great deal to do with attempts on the life of General Alvarez, but there seems to be very little about his actions on human rights violations.

Let it be said that I think all of us would agree that the attempt on anyone's life is abhorrent, and we must make sure that we never support anyone getting hurt anywhere. But as I am looking at this redacted version, I am looking at the request that was made, of which I have a copy of here, the request was for records which mention Alvarez in reference to the use of "kidnapping, disappearance, and torture against, subversive groups and individuals," and in reference to violations of human rights, "extra-legal

operations, activities of death squads, and the maintenance of clandestine jails."

Now, I look at the request, I look at your redacted version. And again I don't see that much which is responsive to the specifics of that particular request about the scope of his activities. Now, what that leads me to believe, as I have heard you testify, and I believe you are telling the truth, I just want you to know that I believe you are telling me the truth.

As you know it, however, it occurs to me from your testimony that it's quite possible that General Alvarez was not under CIA surveillance, because if he was under CIA surveillance, I think you would have a volume of information here which would be very useful. I believe you would produce that for this committee, although heavily redacted it might be.

Mr. STRICKLAND. Or even deny if necessary.

Mr. KUCINICH. Or even deny if necessary. But what occurs to me from hearing your testimony is that at that time, we are not talking about present day, that has to be known, but at that time the CIA was gathering information to protect General Alvarez from whoever his assailants may be, but similarly, because there are no records that have been made available, it's quite possible that the CIA wasn't actually watching General Alvarez.

Mr. STRICKLAND. I would think that is a fair assumption.

Mr. KUCINICH. And so it may be that such records are not available because they may in fact not exist.

Mr. STRICKLAND. Not exist. Correct, sir. As I mentioned, I believe the most notable information that we released that I can recall was several instances where the cable reports that General Alvarez had decided that the Honduran legal system was totally inefficient and had decided to use extra-legal or extra-judicial means against the country or the military opponents. And that is the—that is quite honestly the totality of the relevant information.

Mr. KUCINICH. Now, let me tell you, however, the implications of your testimony. And again I am not speaking of you personally, I am speaking of the CIA as was operative during the activities of General Alvarez. It occurs to me that the implications of your testimony are as follows: Since the CIA is without a doubt the most effective intelligence-gathering organization that the world has ever known, since the CIA has some of the best-trained people located as operatives all over the world, since the CIA spares no expense to the extent of their budget in finding out what is going on, since all of those things are true and would unlikely not be disputed by certainly anyone representing the CIA, then what follows is, you looked the other way when General Alvarez was going around killing people.

I am not asking you to respond to that. I am going to spare you the chance to respond to that. I am simply telling you what the implications are here. That the CIA is actually implicated in General Alvarez's conduct, because there is no information that can be produced to the contrary, especially when you can produce reams of information about the people who were going after General Alvarez. So the incompleteness of this raises the gravest questions about what exactly the CIA was doing, and it seems to me implicates the CIA and General Alvarez's conduct.

Now, I just—you know, it's not hard to put two and two together, we are not talking about the "X Files" here, we are talking about the "Y" files. Why the CIA would not have any information on the activities of General Alvarez when tens of thousands of people were murdered is beyond me. It just seems to me to be so implausible as to create the only plausible conclusion—that the CIA knew about it.

Now, again, I am not asking you to respond. I will not press you on that. You were not making those decisions at that time. I will, however, refer to a letter signed by President Clinton to Morton Halperin, the chair of the advisory board of the Center for National Security Studies, I think Mr. Garfinkel is probably familiar with this letter, where the President writes, on December 12, 1997, "My administration strongly supports the work of the Guatemalan Historical Clarification Committee and is committed to helping the commission fulfill its mission."

It goes on to say, "We will be as responsive as possible, consistent with the current declassification guidelines, to assist the commission in carrying out its important duties." He goes on to say, "We are committed to sharing with Honduran authorities all appropriate information about past human rights cases."

And it goes on to say that the CIA will release human rights material, human rights-related material on General Alvarez in the next few weeks and on Battalion 316 by year's end, the latter will include the inspector general's report. It goes on to say, "As a result, the Defense Department expects to have a second group of documents ready for release by year's end."

We have established what you have released with respect to General Alvarez. We have established there is a strong feeling that it's incomplete, but I will allow that the documents may not exist. I will ask you, though, what about Battalion 316? Do you know anything about Battalion 316?

Mr. STRICKLAND. We are completing that—that's the fourth segment of Dr. Alvarez's request on Battalion 316 and the 1997 inspector general's report. As I recall, it is a limited number of documents. Once again, the focus was Battalion 316 and human rights violations. I don't recall at the moment the exact number of documents, but it is not a large number.

Mr. KUCINICH. But you will pursue that?

Mr. STRICKLAND. Yes, sir. We have—that release I would expect in a matter of weeks. It is almost completed.

Mr. KUCINICH. And you take this request very seriously, I take it?

Mr. STRICKLAND. Yes, indeed.

Mr. KUCINICH. And you are following the President's directive?

Mr. STRICKLAND. Yes, sir.

Mr. KUCINICH. I would like to ask Mr. Garfinkel. Staff has prepared a chart here on the classification activity by agency, which shows that the averages for all classification activity, original and derivative, from 1990 to 1995 as reported by the Information Security Oversight Office and the DOE as compiled by the Commission on Protecting and Reducing Government Secrecy. And what it shows here is the Department of Defense leading all agencies in classification.

Also it's looking at the—by far. Also it shows, as I went into the budget information on the agency's reporting security classification, cost estimates for fiscal year 1997. The Department of Defense has $3.1 billion budgeted for that security classification, which seems to exceed by more than 10 times all the other security classification requirements of the Departments put together, all the other Departments put together.

The question is, Mr. Garfinkel, is this issue of classification out of control? Are we overclassifying and then increasing the problem of trying to declassify?

Mr. GARFINKEL. I think we overclassify a lot less today than we have in the past. And even in the past, I think that our experience in reviewing large numbers of classified information revealed to us that overclassification, even at its worst, was probably a matter of 10 percent of the information or less.

There was a reference in earlier testimony to the culture of secrecy. It's become common to suggest that the reason for overclassification is the intent of individuals to cover up, to prevent embarrassment.

As the director of an office that used to review and still reviews thousands of classified decisions each year, we saw very little of that. What we did see was overclassification by what we would call rote, that is, we classify now because we classified the same information before. And this is a very difficult process to overcome—this is a culture of secrecy.

Mr. KUCINICH. Actually, Mr. Garfinkel, that is actually the precise point. It's overclassification by rote.

I would just like to conclude with this, Mr. Chairman, and thank you for the time. In Mr. Strickland's testimony, you mentioned about concern that the legislation which is before us would ensure, this is a quote, "that foreign nationals will not continue to cooperate with American intelligence on human rights and other issues."

I would hope as the CIA tries to be responsive in this new world, post-cold war world, that you will keep in mind the human rights concerns of those who are not CIA operatives, but simply citizens in far-flung lands where we have operatives who might be suffering human rights abuses because they stand up for workers' rights, because they stand up for free speech, because they stand up for democracy. If the CIA can do that and make a transition to include broad-based concerns on human rights, then the CIA will indeed be embarking on a new era which allows you to be protectors of human rights and not simply observers who cannot become involved in any way as human rights abuses take place.

I know you have good information. We just want to make sure that it is applied in a level way which gives all parties to human rights abuses an opportunity for oversight and it gives all victims of human rights abuse an opportunity for justice. And I thank you for your appearance, Mr. Garfinkel's appearance.

Thank you, Mr. Chairman.

Mr. HORN. We thank you. I have just a few closing questions. Earlier I raised the question about how the Germans handle this and one of our bright staff members here, the executive director of the Congressional Bipartisan Caucus on Human Rights, tells me the Germans have set up what's called the Gouch office, because

it's headed by Bishop Gouch. Any individual in East Germany can come in and see what was in their file while the secret police of the East German Communist regime was collecting things their neighbors said about them and all the rest of it.

Mr. STRICKLAND. That was the organization in our office that I was referring to, Mr. Chairman.

Mr. HORN. Yes. So that is one way to certainly handle this.

And I have a couple of just closing questions. I am curious on CIA, whether the internal classifications that were put on the record here changed as a result of the end of the cold war in any way—or are the classification systems still valid given the other types of work you do? I just wonder by title, I am thinking. Is there a category of information that is put in the top secret, secret, confidential, if you use the atomic energy one, the restricted, the formerly restricted and so forth?

Mr. STRICKLAND. Mr. Chairman, I don't believe it has changed significantly. For example, human source information is almost exclusively classified at the secret level. It may be very tightly compartmented depending on the category that it is from. But it is invariably at the secret level, for example.

Mr. HORN. OK. So there haven't been any changes, or have there been any?

Mr. STRICKLAND. Certainly the number of original—and Mr. Garfinkel can probably also have some information on this—the number of original decisions have dropped rather dramatically. We rely very heavily on a classification guide, which was promulgated by the DCI, and the purpose of that guide is to ensure consistency among all of our employees, and the minimum level of classification that's appropriate for the individual for the information at issue.

What you want to avoid is having each one of hundreds or thousands of employees making their own individual ad hoc decision. So that's why a classification guide is very important. And I think that the vast, vast majority of our decisions are now derivative based on that guide. The number of original decisions are very low.

Mr. HORN. In terms of particular sources, now after those sources die, is any of that information likely to be released? I ask because we have had that policy, as I recall, in the Spanish-American War and the First World War. I remember getting a file on the Zimmerman telegram, for example, as to who had it and who didn't have it, and so forth, and that was the 1950's. And that was a significant factor in part of the First World War.

Mr. STRICKLAND. Two points I think would be relevant there, sir. First, we only withhold that information provided by a source which would tend to identify the source. So first cut is, to the extent we can, we release information provided by the source.

The second part of your question, what about the age or whether the source is alive or whether the source is still in the country. We don't see a major difference based on their age or their immediate vulnerability, because of issues such as family, friends, associates. Foreign intelligence services, it's our judgment, are not moved by the fact that the individual may have moved to a third country or may even be dead, just as this country is concerned whenever we find evidence of espionage or treason. So it is certainly a matter,

even if the source has moved away, even if the source is deceased, there may be danger.

Now, quite clearly, at some point in time, that danger becomes so remote that it's not necessary to protect the person any more. But for the average document that we are dealing with, the source protection is a very real issue. I mentioned an example in the JFK arena where we have a source that's now living in a third country. Well, we are concerned, because not only is that source vulnerable, but, perhaps, and I would think certainly, the family and friends that remain behind are vulnerable.

Now, at what day or events does that end? I don't know at the moment. But it is certainly a continuing concern for us.

Mr. HORN. Do we have any treaties or agreements, to the knowledge of either of you, that our Government has engaged with foreign governments that would prevent the release of information referred to in Mr. Lantos' bill, H.R. 2635?

Mr. STRICKLAND. The only—the possible relevant point there would be that if any foreign government had provided us information, there is an agreement or a treaty obligation between our government and that other government regarding the secrecy or protection of their information.

Mr. HORN. Would we have to go back to that government if we wanted to see a change in a particular document that had been given under those circumstances?

Mr. STRICKLAND. Very possibly.

Mr. HORN. OK. Do we know of any government to which that applies now?

Mr. STRICKLAND. Not—I'm not certain of any particular case at the moment. Again, just, I would rely on our examples with the JFK. It is not unusual for us to go back to foreign governments with respect to information we have on the JFK and get their feeling for the releasability of the information. So I would assume that that same model and same frequency of activity would happen here.

Mr. HORN. Mr. Garfinkel, are you familiar with any agreements that we have between, say, the Archives or the executive branch and foreign governments that would preclude release of various documents because there might be foreign sources?

Mr. GARFINKEL. I'm not familiar with any specific agreements, but that's not to say that they don't exist. There are a large number of agreements between our government and other governments that, like Mr. Strickland said, preclude our release of their information without their consent. But at the same time, we have released foreign government information that is not covered by such agreements when we felt that the other standards of the Executive order were met for declassification.

Mr. HORN. Thank you for that answer. As one of the witnesses noted earlier, government secrecy comes at a price, and that price includes a heavy drain on the budgets and the staff of the Federal executive branch. That price also includes depriving the press, other citizens and even foreign countries of information they may seek or may need.

No one argues that we should simply refuse to pay the price. Some government documents must be kept secret based on the

source and other things like that, and the real question is by what criteria? And are these criteria established, are they being faithfully carried out? That is certainly the relevant committees, be it the Intelligence Committee or this committee, which can go anywhere based on its jurisdiction over economy or efficiency in the field of government.

The challenge we face is to minimize the cost, and I think we need to reevaluate our classification and declassification policies just in general with the end of the cold war era and see if we can strike a better balance. Hopefully today's hearing will be a step toward that goal.

We will be considering the Lantos bill in a markup in the next couple of weeks. And we would welcome any further comments either of you might have as you look line by line in that bill, and any further comments the executive branch and the President and the administration might have.

And with that, I thank you both for being brave souls that did show up when a lot of your colleagues are either eating a decent lunch at a gourmet restaurant or they are just escaping us. And we will be getting the Department of State and the OMB to coordinate as they would within the executive branch to see where they stand on these things and what they are doing. But that is another story.

I want to thank the people that arranged this hearing.

Mr. KUCINICH. Would the chair yield? I just—before you——

Mr. HORN. Put everything you have got into the record.

Mr. KUCINICH. Thank you. I have from the Religious Task Force on Central America and Mexico, a statement relative to this, two statements actually, and also one from the office of the Archbishop of Guatemala, and some articles on another statement from the Washington Office on Latin America, and a news article unredacted from the New York Times Op-Ed of April 8, 1998, and another one from the New York Times, April 9, 1998.

Thank you, Mr. Chairman.

Mr. HORN. They will be put without objection in the record where you had your last questioning, because they're relevant to that questioning.

Let me thank the staff that has been involved in this on both sides. J. Russell George, our staff director and chief counsel; John Hynes to my left and your right, professional staff member responsible for this hearing, along with Randy Kaplan, who is behind him, counsel. Our clerk, Matthew Ebert, and staff assistant Mason Alinger.

And for the minority, we have Faith Weiss, the minority counsel. We have Hans Hogrefe, the legislative assistant to Representative Lantos and executive director of the Congressional Human Rights Caucus; Earley Green, staff assistant; Jean Gosa, minority clerk. And then our court reporters, Cindy Sebo and Judith Mazur. And Lisa Chamberlain. We would love to have a list from the Democratic side so we don't have to strain our imagination all the time.

Mr. KUCINICH. Thank you.

Mr. HORN. And with that, this meeting is adjourned.

[Whereupon, at 1:45 p.m., the subcommittee was adjourned.]

[Additional information submitted for the hearing record follows:]

Information Security Oversight Office
National Archives and Records Administration
700 Pennsylvania Avenue, NW Washington, DC 20408

BY MESSENGER

June 29, 1998

The Honorable Dennis J. Kucinich
Ranking Minority Member
Subcommittee on Government Management,
Information and Technology
Committee on Government Reform and Oversight
United States House of Representatives
Washington, DC 20515

Dear Congressman Kucinich:

We are pleased to enclose answers to four of the five questions raised in your letter to me of June 17, 1998, as a follow-up to my testimony on H.R. 2635, the "Human Rights Information Act," before the Subcommittee on Government Management, Information and Technology on May 11, 1998. We have not attempted to answer numbered question 4 because the issues it raises are outside the authority and areas of expertise of the Information Security Oversight Office.

Our answers include several enclosures, plus a commitment to provide you additional materials as soon as they are available. Please contact us if you have any other questions or concerns.

Sincerely,

Steven Garfinkel
Director

Enclosures

cc: The Honorable Stephen Horn
Chairman, Subcommittee on Government
Management, Information & Technology

The Honorable John W. Carlin
Archivist of the United States

QUESTIONS SUBMITTED TO ISOO BY CONGRESSMAN KUCINICH

Question 1. Have Executive Branch agencies complied with E.O. 12958? Please provide a detailed agency-by-agency response.

Answer: On the whole, agencies are largely in compliance with the requirements of E.O. 12958. Because there are over 65 agencies and major components that either create or handle classified information, the degree of individual agency involvement with classified information varies widely. The degree of compliance with E.O. 12958's requirements also varies, largely in terms of readiness for the Order's automatic declassification provision, which takes full effect on April 17, 2000.

With respect to classification, or the front end of the process, ISOO relies on three programs in particular to fulfill its oversight requirements. The first of these is in the issuance of directives that apply to all executive branch agencies. We enclose a copy of those directives issued by ISOO in implementation of E.O 12958.

The second means of monitoring classification is the gathering, analysis and reporting of agency data, which appear in ISOO's annual reports to the President. A copy of ISOO's Report to the President for 1996, which is the most recently published, is also enclosed, and provides detailed data for classification and declassification among the more significant agencies in terms of their involvement in the classification system. ISOO's Report to the President for 1997 is anticipated for publication within the next month. ISOO is embargoed from releasing that report until it has been seen by the President. At that time we will make it available to you to supplement the response to this question. In the interim, we call your attention to the report that ISOO issued to the Honorable Jim Kolbe, Chairman of the Subcommittee on Treasury, Postal Service, and General Government of the House Committee on Appropriations, which was attached to the Director of ISOO's statement before the Subcommittee on Government Management, Information, and Technology. Additional copies are available upon request.

The other avenue through which ISOO has primarily fulfilled its oversight of the classification process has been on-site reviews of agency programs. The most important component of these has traditionally been ISOO's review of a sampling of those agencies' most recent classified product, selected at random. Through these document reviews, ISOO has been able to determine rather quickly and precisely where an agency may be experiencing problems in its internal oversight or classification training programs.

Unfortunately, because of a lack of personnel resources and the press of other priorities associated with E.O. 12958's radical changes in the policies and practices of declassification, ISOO has been unable to conduct any broad-scale document reviews for the past several years. ISOO has always been a very small entity. In the past few

years, however, as its responsibilities were increasing, its size was decreasing by one-third, so that now ISOO has only 10 professional and clerical employees. Nevertheless, because of concerns that some agencies may not be fully complying with the classification changes reflected in E.O. 12958, specifically as they relate to the duration of classification, ISOO is planning to devote part of its resources in Fiscal Year 1999 to a resumption of document reviews. When those initial reviews are complete, ISOO will have a much clearer picture of individual agency compliance with the classification requirements of E.O. 12958.

With respect to the issue of declassification, or the back end of the classification system, we refer you to the reports referenced above, particularly the report submitted to Chairman Kolbe. This issue will also receive more recent amplification in ISOO's Report to the President for 1997, which we will provide as soon as it has been published and the White House authorizes its release. A very significant aspect of ISOO's role regarding the declassification program, and certainly a major demand on its time and resources, has been its service as the Executive Secretary and staff of the Interagency Security Classification Appeals Panel, or ISCAP. The ISCAP is expected to release in the next couple of weeks a synopsis of its activities over the past year, which we believe are quite significant and impressive. We will provide you a copy as soon as it is available.

Question 2. To what extent have agencies applied for exemptions from the requirements of E.O. 12958? Please provide a detailed breakdown.

Answer: No agency has applied for any general exemption from E.O 12958's classification, safeguarding or declassification standards, nor would any be granted. Several agencies, including the Department of Energy, the Central Intelligence Agency, and the National Reconnaissance Office, have applied for and received very limited waivers, firmly restricted in scope, to the portion marking requirements of section 1.7(c) of the Order.

The most significant area of what might be termed an exemption from the Order's requirements pertains to "file series exemptions" from automatic declassification, as provided in section 3.4(c) of the Order. This provision allows agency heads to notify the President of specific records file series in which "the information within those file series almost invariably falls within one or more of the exemption categories . . . from automatic declassification." If approved, the information in these records will be exempt from automatic declassification in April 2000, without the item-by-item justification required for other classified information within permanently valuable records.

At the request of the Assistant to the President for National Security Affairs, ISOO is completing an evaluation of the files series exemptions submitted by agency heads to the President. As a result of the ISOO review, six agencies have withdrawn entirely their requests for file series exemptions. The remaining 10 agencies that requested such exemptions have significantly narrowed the scope of their requests. Perhaps most important, for each one of the remaining file series proposed for exemption, the agencies have established fixed dates to review them for declassification. Those agencies affected are as follows:

Agencies that Continue to Seek File Series Exemptions	Agencies that Have Withdrawn Requests for File Series Exemptions
• Department of the Army • Central Intelligence Agency • Defense Intelligence Agency • Office of the Joint Chiefs of Staff • National Reconnaissance Office • National Security Agency • National Security Council • Office of the Secretary of Defense • President's Foreign Intelligence Advisory Board • Department of State	• Arms Control and Disarmament Agency • Agency for International Development • Federal Emergency Management Agency • Department of the Navy • Nuclear Regulatory Commission • Department of the Treasury

Question 3. What does ISOO do in terms of oversight over other agencies and their classification and declassification systems?

Answer: ISOO is responsible to the President for overseeing the government-wide program under which national security information is classified, safeguarded, and declassified. ISOO's authority, mission, functions and goals are as follows:

AUTHORITY
Executive Order 12958 "Classified National Security Information," and Executive Order 12829, "National Industrial Security Program." ISOO is a component of the National Archives and Records Administration, and receives policy and program guidance from the National Security Council (NSC).

MISSION
ISOO oversees the security classification programs in both Government and industry and reports to the President annually on their status.

FUNCTIONS
- Develops implementing directives and instructions.
- Maintains liaison with agency counterparts and conducts on-site inspections and special document reviews to monitor agency compliance.
- Develops and disseminates security education materials for Government and industry; monitors security education and training programs.
- Receives and takes action on complaints, appeals, and suggestions.
- Collects and analyzes relevant statistical data and reports them annually, along with other information, to the President.
- Serves as spokesperson to Congress, the media, special interest groups, professional organizations, and the public.
- Conducts special studies on identified or potential problem areas and develops remedial approaches for program improvement.
- Recommends policy changes to the President through the NSC.
- Provides program and administrative support for the Interagency Security Classification Appeals Panel (ISCAP).
- Provides program and administrative support for the newly-created Information Security Policy Advisory Council (ISPAC).

GOALS
- To hold classification activity to the minimum necessary to protect the national security.
- To ensure the safeguarding of classified national security information in both Government and industry in a cost-effective and efficient manner.
- To promote declassification and public access to information as soon as national security considerations permit.

Question 4. It appears that the DOD has produced little of the information requested by the Central American Truth Commissions. Who has the authority to force DOD to conduct a more thorough search? Who reviews their decisions on release to assure that they are not keeping information secret when it should be released? How effective has the State Department been in coordinating the U.S. government's response to human rights information requests?

Answer: The answers to these questions are outside both ISOO's authority and areas of expertise.

Question 5. Currently, the Defense Department spends about $3.15 billion on security classification. The DOD projects its costs will increase by about $140 million next year alone. What has the rate of cost escalation been at DOD for security classification annually for the period from 1986 to the present? Do you anticipate DOD's costs to continue to escalate, and if so at what rate?

Answer: The executive branch has been collecting and reporting cost estimates for the security classification system only since Fiscal Year 1995. Therefore, data are unavailable for the years 1986-94. The estimates and projections for the Department of Defense for fiscal years 1995-99 are as follows:

FY 1995: $2.47 billion

FY 1996: $2.42 billion

FY 1997: $3.15 billion

FY 1998: $3.28 billion (current fiscal year, projected)

FY 1999: $3.41 (next fiscal year, projected)

Because we have been collecting these data for a short period of time, and the data themselves are estimates, ISOO is not certain what the longer term trends might be. However, the factors that appear to be critical to the increases incurred and projected by DOD in recent years are largely unrelated to any increases or decreases in the amount of classified information processed by DOD. Specifically, from 1994 until the present, the exercise of estimating costs associated with the security classification system has improved in its reliability. This explains the rather large discrepancy between the estimate reported for FY 1996 and that reported for FY 1997.

Other incurred and projected increases result from DOD initiatives in the Information Technology area. To be sure, information systems security already accounts for more than one-half of the DOD cost estimates attributed to the security classification system, and are projected to be an ever increasing fraction in future years. These initiatives, whether they be couched in terms such as "Information Warfare," "Information Superiority," or "Information Assurance," apply to information systems within the Department of Defense that process both classified information and other sensitive systems. DOD has advised us that it is impossible for them to separate the costs of maintaining these systems based on classified vs. unclassified. Therefore, DOD has suggested that as much as one-half or even more of its costs in the

information systems security category actually is expended on protected sensitive but unclassified information.

Contributing to the costs incurred and to be incurred in this area are recent concerns and initiatives in the areas of critical infrastructure, including automatic data processing and handling systems. Therefore, if ISOO were to speculate, it anticipates that costs associated with information systems security will continue to rise, even as we anticipate that other costs associated with the security classification system will gradually decline.

Fund for UFO Research Inc. Washington D.C.

PO Box 277 Mount Rainier, Maryland 20712

May 21, 1998

Randy Kaplan
Subcommittee on Government Management, Information, & Technology
B-373 Rayburn House Office Building
Washington, DC 20515

Dear Mr. Kaplan:

Enclosed is Don Berliner's statement on behalf of the Fund for UFO Research, in connection with the Subcommittee hearings on the Human Rights Information Act. Thank you for this opportunity to submit a statement.

Mr. Berliner will be away for several days on family business. If any questions arise, you can contact me.

It was a pleasure to meet you. We are ready, willing, and able to be of service to you in the future should the occasion arise that you have need of our specialized knowledge and experience.

Sincerely,

Richard Hall

Richard Hall,
Executive Committee Member

cc: Berliner & Swiatek

STATEMENT OF THE FUND FOR UFO RESEARCH

My name is Don Berliner. I am an aviation and aerospace writer by profession, and currently chairman of the Fund for UFO Research (FUFOR). FUFOR was organized in 1979 by a small group of Washington-area professional men, including scientists, engineers, and writers, in order to support serious research into the nature of unidentified flying objects (UFOs) reported by credible witnesses. We are a nonprofit, tax exempt organization incorporated in the District of Columbia.

UFOs have been sighted regularly, at least since 1947, both in the United States and on every continent of the world, by airline pilots, law enforcement officers, military officers and base security personnel, and others whose testimony normally would be taken very seriously. But UFOs are controversial, and often considered to be solely in the domain of the tabloid newspapers, whose sensational stories tend to obscure the serious reports.

Both the past chairman of the Fund, Richard Hall, and I have been actively investigating UFOs for about 45-50 years. Until 1969, the U.S. Air Force was the Government agency responsible for investigating and reporting to the public on UFOs. Information was often closely held, and the Air Force tended to be nonresponsive to citizen inquiries about specific cases.

When many of the Air Force explanations for UFO cases, in the 1950s and 1960s, were shown to be counter-to-fact by such groups as the National Investigations Committee on Aerial Phenomena (NICAP), the House Armed Services Committee held some hearings and an independent study was established at the University of Colorado in 1966. (See Attachment A) This study, in turn, became highly controversial. It issued a negative report in 1969, and the Air Force formally terminated its investigation.

Before the Freedom of Information Act (FOIA) was passed in 1966, nothing short of the threat of Congressional hearings could persuade the Air Force (and some other agencies which had files on the subject, especially the FBI and CIA) to release specific information. Initially the FOIA had a positive effect, and some long-concealed files finally were pried loose from various archives.

But after a period of "testing the waters," the intelligence agencies fell back on three basic ways of discouraging public efforts to obtain formerly classified or even unclassified information: (1) exorbitant fees for "document searches" and copying costs; (2) very long delays in responding to

correspondence; and (3) confusing citations of "exemptions" or "exclusions" authorized by the FOIA that the average citizen has no way of evaluating as to their legitimacy. A fourth way of keeping information secret has been to consistently deny having any knowledge of (and therefore any files on) potentially highly significant cases. Some examples are indicated below.

Many of our colleagues have tried, usually without much success, to obtain concealed information that is known to exist. The entire process is discouraging because it is painfully slow, time-consuming, and expensive. One tends to give up, unless he has strong financial backing and a lot of free time.

One of the most experienced practitioners of trying to obtain access to Government documents about UFOs by means of the FOIA is Barry Greenwood, Stoneham, Massachusetts, past Director of Citizens Against UFO Secrecy. Greenwood makes a statement on this issue in a forthcoming book (The UFO Evidence: Volume II, Barnes & Noble, 1998, in press):

> [The nine exemptions] cover:
> B1--National security matters defined by Presidential Executive Orders
> B2--Internal personnel rules and practices of an agency
> B3--Matters specifically exempted by statute
> B4--Trade secrets and commercial or financial information
> B5--Interagency or intra-agency documents not available by law to a party in other than legal actions
> B6--Invasion of personal privacy
> B7--Investigative records compiled for law enforcement purposes
> B8--Records relating to regulation or supervision of financial institutions
> B9--Geological and geophysical information
>
> A number of amendments were added in 1974, making it more expeditious for citizens to receive timely responses, a problem prior to this time. Also inquirers only had to provide a reasonable description of data sought, not exact titles and dates. With this, researchers saw the possibilities of extracting, by force of law, documents relating to UFOs, long known to exist but generally inaccessible. A simple letter stating the nature of the request for documents, citation that the request was under the Freedom of Information Act, and a willingness to pay reasonable fees in large record retrieval efforts was enough to open the door to waves of new information about UFOs. Early requests were sent to agencies like the Air Force, FBI, Central Intelligence Agency (CIA), and others known to have been directly involved in UFO investigations. In some cases documents were obtained quickly, in others some agencies—notably the CIA and National Security Agency (NSA)—became obstinate about releasing their records, claiming that the information was being withheld for, among other reasons, national security. The irony of this claim was that these same agencies had prior to that time agreed that the UFO phenomenon was not a threat to national security.
>
> Lawsuits were filed against the CIA and NSA during the late 1970s and early 1980s with mixed success. In both cases materials continued to be withheld after all legal options had been exhausted. The withholding of documents virtually guaranteed that the UFO phenomenon would remain a serious mystery for many years to come in the eyes of the news media and the public. If there was nothing to UFOs, why the secrecy?...

> The flow of documents has slowed considerably in recent years, however, with cuts in FOIA staff at Federal agencies and a general watering down of response times by the agencies to inquirers. This has created frustratingly long delays in acquiring desired information, sometimes years long delays. Yet, for the time that the Freedom of Information Act worked efficiently it was an invaluable tool in acquiring long unseen records detailing the history of Government UFO investigations, records which otherwise may have been lost forever.

Mr. Hall, past chairman of FUFOR and a member of the Executive Committee, spent years trying to obtain a file about him that is held by the Central Intelligence Agency (CIA). His experience clearly illustrates the frustrating nature of the process, and the bureaucratic nonresponsiveness. The basic facts are that a representative of the CIA Domestic Contact Division interviewed Mr. Hall at the NICAP office in 1965, after which a CIA officer requested that a security clearance be conducted on Mr. Hall.

Since Mr. Hall was a private citizen employed by a privately supported civilian organization, this makes no sense. In later years, the CIA refused to release the "paper trail" of the security clearance to Mr. Hall, citing various FOIA "exclusions." More likely the questionable legality of interviewing him and conducting a "security clearance" without his knowledge or consent, and maintaining a secret file on him, is the real reason for CIA nonresponsiveness to a legitimate request for Government information. (See Attachment B and related documents)

Mr. Hall has made the following statement about this incident:

> It is a chilling experience to learn that your own Government maintains a secret file about you that you are not allowed to see. Evidently I was under some kind of investigation or personal scrutiny because of my high-profile UFO interest. Although the CIA claims that the file contains only biographical information, what is that information and how accurate is it? And do I have to take it on trust that there are no evaluative, or interpretive, or critical comments in the file? Sorry, but this is one instance in which I do not trust my Government. At one point in my career I applied for a Government job. How do I know whether or not this CIA file had something to do with my failure to get that job? The more important question is, why did they undertake the "security clearance" in the first place?

With respect to the broader question of how we know or suspect that Government agency files contain significant information about UFOs that is being withheld from the public, we have 45 years of direct experience that indicates this to be the case:

• One of our colleagues tape-recorded an interview with a past chief of the Air Force Project Blue Book UFO investigation, stating that during the 1960s, Air Force gun camera film of UFOs were routinely referred to the CIA National Photographic Interepretation Center (NPIC) for analysis. None of the analyses has ever been made public.

• We have partially documented knowledge of 9 or 10 movie films of UFOs either taken by or submitted to Government agencies, which have never been explained or released to the public. (See Attachment C)

• We have the names and identifications (and sometimes the addresses and phone numbers) of airline pilots, military pilots and crewmembers, military security police, and other highly credible witnesses whose collective testimony tells a very consistent picture of totally unexplained, high-performance, geometrically shaped UFOs over the past 50 years.

If at some future date the Congress should decide to hold hearings about the scientific nature of UFOs, we are prepared to provide all the necessary information to ensure a meaningful inquiry. Meanwhile, the issue is citizen access to Government records. The two issues should be separated. Clearly, the true nature and meaning of UFO sightings is highly controversial. Citizen access to Government documents and records, however, should not be controversial—regardless of how "politically incorrect" or seemingly sensational the particular subject matter may be.

Fund for UFO Research

Attachment A

Congressional Hearings on UFOs

On April 5, 1966, the House Armed Services Committee (89th Congress, 2d Session) held hearings on UFOs in response to widely publicized UFO sightings and strong public and editorial criticism of the Air Force Project Blue Book UFO program. Chairman L. Mendel Rivers (D-S.C.) presided. Witnesses included Harold Brown, Secretary of the Air Force; Dr. J. Allen Hynek, Scientific Consultant to the Air Force; and Maj. Hector Quintanilla, Chief of Project Blue Book. The Secretary of the Air Force then announced the formation of an outside review of Project Blue Book that resulted in a grant to the University of Colorado for an independent study.

On July 29, 1968, the House Science and Astronautics Committee (90th Congress, 2d Session) held a hearing in the form of a scientific symposium to review the evidence for UFOs. The hearing was chaired by J. Edward Roush (D-Ind.) Six scientists testified, and six others submitted statements. The witnesses included Dr. J. Allen Hynek, astronomer, Northwestern University, and Dr. Carl Sagan, astronomer, Cornell University. Five of the witnesses were of the opinion that UFOs constituted a valid scientific anomaly that should be further investigated.

In 1976, Congressional Research Service aerospace specialist Marcia Smith prepared a comprehensive report entitled "The UFO Enigma," including sections on UFO sightings, witness credibility, and history of Air Force investigations. The report was updated in 1983 by George D. Havas.

Fund for UFO Research

Attachment B

Freedom of Information Act Request by Richard Hall

In 1965, while he was an employee of the privately supported, nongovernmental National Investigations Committee on Aerial Phenomena (NICAP), Richard Hall was interviewed at his office by A.S. Coleman, Domestic Contact Division, Central Intelligence Agency, about UFO sightings and NICAP's modus operandi. Hall first assisted others in filing an FOIA request to obtain CIA documents about the interview. Then during the 1980s Hall learned from some colleagues that the CIA had released a document indicating that a security clearance had been requested on him by a CIA officer without his knowledge or consent. He then filed his own FOIA request seeking the security clearance "paper trail." Over 30 years later he still has been denied access to the file maintained on him by the CIA.

CHRONOLOGY OF EVENTS:

January 19, 1965. CIA representative interviewed Hall at his office, 1536 Connecticut Avenue, N.W., Washington, DC.

August 8, 1973. Hall supplied notarized "Statement of Nonconfidentiality" to Larry Bryant authorizing his access to CIA interview reports of the meeting.

September 19, 1973. CIA letter to Larry Bryant confirmed interview with Hall, denied that any "separate interview report" was prepared on the meeting. (See Document 1)

June 5, 1985. Hall filed FOIA/Privacy Act request for all CIA files referring to him by name, with special emphasis on the security clearance "paper trail."

April 3, 1986: Ten months later the CIA informed Hall that "there are no documents available to you..." despite his knowledge that others had obtained documents referring to him by name. Hall was notified of his right to appeal.

April 8, 1986. Hall filed an appeal, noting that he had "a serious problem with the integrity of the search process" and enclosing a photocopy of one of the documents obtained by others.

April 16, 1986. The CIA notified Hall that his appeal had been accepted.

August 19, 1986. CIA reviewed for release the Domestic Contact Division memorandum of the 1965 meeting, the existence of which

it had previously denied. It was approved for release in November 1987. (See Document 2)

December 20, 1987. Twenty months after filing the appeal, Hall was notified by the CIA that "...responsive documents were located..." and enclosed a copy of the 1965 memorandum. All of the documents were previously known to Hall and his colleagues, mainly consisting of routine FOIA correspondence. Specifically denied was the "paper trail" relating to the mysterious "security clearance" which had been the focus of the request. Hall was advised of his "right to seek judicial review."

January 10, 1988. Lacking the financial resources to take the CIA to court, Hall sought help from the American Civil Liberties Union Foundation, citing the obvious civil liberties issues involved. After an exchange of phone calls and letters with ACLU throughout 1988 requesting legal assistance, no action was taken.

1990s. Hall's additional attempts to have justice done short of court action via letter writing, including a personal letter to a new CIA Director, have resulted only in reminders from the CIA Information and Privacy Coordinator that a lawsuit is his only recourse.

CENTRAL INTELLIGENCE AGENCY [redacted]
WASHINGTON, D.C. 20505

(b)(3), (j)(1)

19 SEP 1973

Mr. Larry Bryant
2516 South 5th Street
Arlington, Virginia 22204

Dear Mr. Bryant:

This is in reply to your letter of 28 August 1973, requesting a copy of the Central Intelligence Agency's interview report of our contact with Mr. Richard H. Hall of the National Investigations Committee on Aerial Phenomena (NICAP).

Mr. Hall was met by Agency representatives on 19 January 1965, but a separate interview report was not prepared on this meeting. However, since Mr. Hall has no objection to our advising you of the substance of our meeting with him, I am happy to provide the following information which has been gathered from a review of Agency records:

> In January 1965, the Agency made an inquiry into the research being conducted on UFO sightings and contacted Mr. Hall, then Acting Director of the National Investigations Committee on Aerial Phenomena. Mr. Hall explained how his organization operated and loaned the Agency several of its publications which were reviewed and returned. No excerpts were made from the publications, nor did the Agency come to any conclusions on the substance therein. There was no further contact with Mr. Hall or any other representative of his organization, and the Agency had no further interest in the subject of UFOs.

I trust this reply satisfies your request. You may also wish to talk further with Mr. Hall directly.

Sincerely,

John M. Maury
Legislative Counsel

cc:
Senator Harry F. Byrd, Jr.
Orig - Addressee
[redacted] [redacted]

(b)(3), (j)(1)

APPROVED FOR RELEASE
Date 11 NOV 1987

UNITED STATES GOVERNMENT

Memorandum

[redacted]-72-65

TO : Chief, Contact Division [redacted] DATE: 25 January 1965
Attn: [redacted]

FROM : Chief, [redacted]

SUBJECT: National Investigation Committee on Aerial Phenomena (NICAP)
Case [redacted]

1. This confirms [redacted] conversation 19 January 1965, at which time various samples and reports on UFO sightings procured from NICAP were given to [redacted] for transmittal to OSI. The information was desired by OSI to assist them in the preparation of a paper for [redacted] on UFO's.

2. In accordance with [redacted] request, we met on 19 January 1965 with Mr. Richard Harris Hall, Acting Director of NICAP. Though Major William Keboe, founder of NICAP, is still listed as Director of the organization, we gather that he is present on the premises at 1536 Connecticut Avenue, N. W., only infrequently.

3. The material which was given to us on loan by Mr. Hall is representative of the type of information available at NICAP. Their past and present correspondence from all over the US relative to UFO sightings is voluminous. They have slack periods, as was the case in December 1964, thus there were no "Investigators" reports immediately available for the month of December. NICAP has active Committees, scattered throughout the US. Investigators active with these committees call upon the sources of reported UFO sightings to obtain first hand, eye witness accounts of the sightings. A printed form, prepared by the Air Force for NICAP's use, is utilized during the interview, and submitted to NICAP headquarters along with the source's eye witness account as told to the investigator. It was our understanding that copies of these reports go directly to various Air Force bases. There apparently is a strong feeling on the part of NICAP officials, i.e., Keboe and Hall, that the Air Force tends to downgrade the importance of UFO sightings because they(the Air Force) does not care to have too much made of the sightings by the US press. We were told by Mr. Hall that there have been instances where the Air Force has attempted to intimidate witnesses and get them to sign false statements relative to UFO sightings.

APPROVED FOR RELEASE
Date 6 NOV 1987

REVIEWED FOR RELEASE
Date 19 AUG 86

2

WS-72-65
25 January 1965
Case [redacted]

4. The most recent UFO sighting of considerable interest to NICAP was the series of pick-ups of UFO's on the radar screen of the Patuxent Naval Air Station between 1500 and 1530 on 19 December 1964. This incident was reported in the press as a single sighting, a UFO approaching Patuxent at speeds up to 3200 miles per hour. The Air Force a day or so later stated in the press that the blip was caused by faulty radar equipment. Actually, according to Hall, who talked with an unidentified person close to the situation, there were three separate sightings:

(a) Two UFO's about 10 miles apart, southeast of Patuxent, approaching at a high rate of speed, disappeared from the screen;

(b) A single UFO picked up 39 miles southeast of Patuxent, altitude estimated somewhere between three thousand and 25 thousand feet, approaching base at estimated speed of six thousand miles per hour. UFO lost from screen about 10 miles out;

(c) A single UFO eight miles northeast of Patuxent, approaching at high rate of speed, made 160° turn, and dropped off the screen.

The Federal Aviation Agency (FAA) station at Salisbury, Maryland, was contacted to determine if any reported UFO's; a radio operator had received a message from a US Coast Guard ship reporting "visual objects sighted" in same locale at approximately the same time of day. Hall did give us the name of one of the radar operators at Patuxent--a Chief Pinkerton.

5. There was another UFO sighting reported in the area by the Washington Post within the last week or 10 days. Several men watching from the windows of the old Munitions Building on Constitution Avenue watched several UFO's on the horizon traveling at high rates of speed. They have promised to fill out NICAP's sighting questionnaire, which Hall says we are welcome to see when available.

6. [redacted] informed us that she is requesting a security clearance on Mr. Hall predicated upon biographic information provided by [redacted]

[redacted]

[redacted]

[redacted]

APPROVED FOR RELEASE
Date 1 NOV 1987

Fund for UFO Research

Attachment C

Movie Films and Other Suppressed UFO Information

(Note: Documentation will be provided to any Congressional or other official investigators.)

1. Approximately eight separate cine-theodolite tracking camera films of UFOs were taken at White Sands Proving Ground and Holloman AFB, New Mexico in 1950. The head of one of the film crews was Cmdr. Robert M. McLaughlin, USN, who was admonished for talking about the film publicly. An official Rand Corporation report by E.T. Doty, "Report of Aerial Phenomena, Holloman AFB, 21 February 1950 through 31 April 1951," Report EHO-41, 25 July 1951 (FOUO), has never been made public.

2. A cine-theodolite film of a disc with square windows was taken at Edwards AFB, California, on May 3, 1957. The film was confiscated and never publicly released. Witnesses include Range Director Frank E. Baker, and cameramen James D. Bittick and John R. Gettys, Jr. (See July 29, 1968, House Science and Astronautics Committee hearing transcript, p. 75)

3. In a case described by then Project Blue Book chief Edward J. Ruppelt as the "best unknown," a jet interceptor at Ellsworth AFB chased a UFO visible on radar and captured images of it on gun camera film on August 12, 1953. Radar-scope photographs were taken. No analysis has ever been released.

4. During NATO "Operation Mainbrace" fleet maneuvers in the North Atlantic, September 20, 1952, a silvery spherical object was observed by hundreds of U.S. Navy personnel and Allied forces as it passed over the fleet at high speed. No photographs or analysis were ever released.

5. An Atlas missile launched from Vandenberg AFB, California, September 15, 1964, was chased and circled by a disc-shaped UFO which was captured on tracking camera film. Among those who viewed the film before it was confiscated were Lt. Robert Jacobs, head of the film crew, and his commanding officer, Maj. Florenz J. Mansmann.

6. Lt. Col. Robert Friend, while chief of project Blue Book in the 1960s, routinely referred Air Force gun camera film of UFOs to the CIA's National Photographic Interpretation Center for analysis. Neither the films nor any analyses have ever been released to the public.

7. Among the numerous witnesses on May 1, 1952, to an encounter between an Air Force bomber and two disc-shaped UFOs at Davis-

Monthan AFB, Arizona, was Maj. Rudy Pestalozzi, the base UFO officer. The two discs flew close alongside a B-36, frightening the crew members who crowded to the waist blister to observe the objects.

8. Col. Charles I. Halt, Deputy Base Commander at Bentwaters AFB, England, was among the hundreds of witnesses to UFO activity near the base in late December 1980. He observed UFOs emitting laser-like light beams to the ground near him. A security policeman under his command observed a metallic-appearing UFO at close range, on the ground in the woods near the base. Col. Halt led the team that documented physical evidence of the landed UFO.

9. Maj. Roland B. Evans, USAF, then employed as a Defense Intelligence Agency (DIA) intelligence analyst, concluded that a brightly illuminated UFO chased by two F-4 pilots above Iran on September 19, 1976, was "awesome" in its performance and a genuine UFO. (See DIA Defense Information Report Evaluation, IR No. 6846013976, 22 September 1976.) The analysis report was leaked to the public, but no further details or evaluations were ever released.

The National Security Archive

The George Washington University
Gelman Library, Suite 701
2130 H Street, N.W.
Washington, D.C. 20037

Phone: 202/994-7000
Fax: 202/994-7005
nsarchiv@gwu.edu
http://www.seas.gwu.edu/nsarchive

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May 21, 1998

The Honorable Stephen Horn, Chairman
Subcommittee on Government Management,
Information and Technology
2157 Rayburn House Office Building
Washington, DC 20515-6143

Dear Representative Horn,

I want to thank you again for giving me the chance to testify on H.R. 2635, the "Human Rights Information Act," before your subcommittee last week. It was an honor to be able to discuss the bill -- as well as broader issues of secrecy and declassification -- with you and other members of the committee.

During the hearing, you asked about declassified documents concerning a human rights case that took place in El Salvador in 1989: the assassination of Dr. Francisco Peccorini by FMLN guerrillas. In 1996, the Archive published a set of declassified U.S. records on the war in El Salvador, and I thought you might be interested in seeing copies of whatever material we have of substance on the Peccorini case. Enclosed are those documents, as well as an excerpt from the findings of the UN Truth Commission on the case.

I would also like to take this opportunity to address a question you raised during the hearing which I did not fully answer at the time. The question concerned objections that historians and archivists sometimes make to special or targeted declassifications such as that required by the Human Rights Information Act. The heart of the objection is that such *ad hoc* disclosures result in the removal of historical documents from the context of the larger "record group" from which they originated, leading to the creation of an incomplete documentary record of whatever historical subject is at stake.

The criticism is a valid one, but misleading. It is certainly true that, in an ideal world, the public would have access to an integral account of government policies and actions through the declassification of complete record groups within years of their creation. Unfortunately, the system of secrecy and declassification in place today simply does not work that way. First and foremost, there is a public consensus that disclosure of certain very sensitive information -- such as weapons specifications, war plans or details about global nuclear arms development -- could damage U.S. national security. That information is thus protected from routine declassification schedules. Hard on the heels

An independent non-governmental research institute and library located at the George Washington University, the Archive collects and publishes declassified documents obtained through the Freedom of Information Act. Publication royalties and tax-deductible contributions through The Fund for Peace underwrite the Archive's budget.

of whatever legitimate reasons there are for continued secrecy, of course, come the countless ways in which our declassification system is simply broken, resulting in excessive secrecy, over-classification, and contempt for public demands for openness. In its wisdom, Congress acknowledged the problem directly in 1966, when it created a legislative tool precisely for "targeted declassification" -- the Freedom of Information Act.

The fact is that the disclosure of complete U.S. record groups for public use is still only a dim possibility. As you pointed out during the hearing, even very old documents continue to be withheld by the government. There is also the problem of routine destruction: currently just a tiny percentage of the total documentary record of the United States survives destruction by agencies. Guatemala offers a case in point. It was a 1982 Freedom of Information Act request, filed by two authors, that forced the Central Intelligence Agency to identify, segregate and preserve its secret files on its role in the 1954 coup against Guatemalan President Jacobo Arbenz. More than ten years later, the Agency released some of those files to the public, creating an extraordinary documentary record of one of the CIA's most elaborate covert operations -- a collection that will be mined by historians for decades to come. Compare that to the case of Iran. According to press accounts last year, the CIA "inadvertently" destroyed most of its basic records on its role in overthrowing Iranian leader Mohammad Mossadegh and installing the Shah in 1953. That little piece of history is gone forever.

Finally, the information resulting from these targeted declassifications can enrich *current* policy debate immeasurably. As the U.S. Congress and Executive Branch shape contemporary U.S. foreign policy in Latin America -- for example -- think how much more profound our understanding of that region would be with a *full* documentary record of the human rights crisis that shook it for so long. Then combine that with the fact that, within Latin America, the struggle to end the violence and create a new and truly civil society is happening *right now*, and cannot wait for the release of the complete "record group" containing the information so urgently needed.

I hope I have explained my position on this issue more clearly.

Thank you again for your attention to this critical matter.

Yours,

Kate Doyle
Foreign Policy Analyst

Department of State

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ACTION SCT-02

INFO LOG-00 ADS-00 AID-00 INR-05 SS-00 CIAE-00 EB-00
DODE-00 ID-05 NSCE-00 ARA-00 NSAE-00 CDME-00 SSO-00
L-02 AMAD-01 CTME-00 NRCE-00 TRSE-00 PM-05 PA-02
FAAE-00 CCO-00 INRE-00 CA-02 CG-00 USSS-00 USIE-00
JUSE-00 OC-02 DOEE-00 M-01 FAIM-01 DS-01 ZOVD-00
P-02 T-01 /032 W
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FM AMEMBASSY SAN SALVADOR
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DIRFBI WASHDC IMMEDIATE
INFO AMEMBASSY GUATEMALA
AMEMBASSY TEGUCIGALPA
AMEMBASSY MANAGUA
AMEMBASSY SAN JOSE
USIA WASHDC 3175
USMISSION GENEVA
USCINCSO QUARRY HTS PM

Department of State 18/FPC/CDR El Salvador SP Date 7/1/93
Declassified under EO 12356 (✓) in full, ( ) in part;
portions withheld: classified ( ); deliberative ( );
law enforcement ( ); privacy ( ); statutory ( );
not relevant to El Salvador ( ).

C O N F I D E N T I A L SAN SALVADOR 03518

PANAMA FOR LEGATT
USCINCSO ALSO FOR POLAD YOULE

TERREP

E.O. 12356: DECL:OADR
TAGS: PGOV, PTER, ASEC, CASC, ES
SUBJECT: AMCIT MEMBER OF UES RESCUE COMMITTEE
ASSASSINATED

REF: (A) 88 SS 15998, (B) 88 SS 17066, (C) SS 3440

1. SUMMARY: ON MARCH 15 AN ARMED MAN ASSASSINATED
FRANCISCO PECCORINI, AN AMCIT AND ONE OF THE LEADERS
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OF THE COMMITTEE TO RESCUE THE NATIONAL UNIVERSITY.

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ALTHOUGH NO ONE HAS CLAIMED RESPONSIBILITY, IT FOLLOWS A PATTERN OF THREATS AND TERRORIST ATTEMPTS AGAINST THE GROUP, PRINCIPALLY ITS HEAD, RAFAEL ANTONIO MENDEZ, OVER THE PAST SIX MONTHS. PECCORINI WAS A FORMER JESUIT, A RETIRED U.S. UNIVERSITY PROFESSOR, AND A CONSERVATIVE POLITICAL COMMENTATOR. HE RETURNED TO EL SALVADOR IN 1987 AND SPOKE OUT AGAINST THE FMLN AND ITS USE OF THE NATIONAL UNIVERSITY (UES). END SUMMARY.

2. ON MARCH 15 AN ARMED MAN SHOT AND KILLED FRANCISCO PELCORINI, AMCIT AND A LEADER OF THE COMMITTEE FOR THE RESCUE OF THE NATIONAL UNIVERSITY, IN SAN SALVADOR NEAR THE USAID OFFICE BUILDING (REF C). NO ONE HAS YET CLAIMED RESPONSIBILITY.

3. SIMILAR ATTEMPTS HAVE BEEN MADE AGAINST MEMBERS OF THE COMMITTEE WITHIN THE PAST SIX MONTHS. ON NOVEMBER 25 THREE GRENADES WERE THROWN AT THE SON AND DAUGHTER-IN-LAW OF RAFAEL ANTONIO MENDEZ, HEAD OF THE GROUP. HIS SON'S WIFE WAS INJURED BY THE EXPLODING GRENADES. MENDEZ PUBLICLY BLAMED THE UNIVERSITY UNITY (UU), A GROUP WHICH RUNS SOME OF THE NATIONAL UNIVERSITY'S (UES) POLITICAL ACTIVITIES, FOR THE INCIDENT. HE ALSO COMMENTED THAT HE HAD RECEIVED PREVIOUS THREATS. THE UES CONDEMNED THE ATTACK, AND ACCUSED ITS "ENEMIES" OF ATTACKING MENDEZ'S FAMILY IN AN ATTEMPT TO PUT THE BLAME ON THE UES.

4. A JANUARY 5 PAID AD FROM THE UES BLAMED PECCORINI AND MENDEZ FOR HELPING BRING ABOUT "A CHAIN OF AGGRESSION," INCLUDING THE DECEMBER 22 BOMBING OF THE
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UES BIOLOGY DEPARTMENT (REF B). ON MARCH 10, ARMED MEN SHOT AT MENDEZ'S VEHICLE AND LIGHTLY WOUNDED MENDEZ AS WELL AS HIS BODYGUARD AND GLADIS LARROMANA, A RECENTLY-FIRED UES SECRETARY. THEY WERE RETURNING FROM THE COURTS WHEN THE ATTACK OCCURRED -- LARROMANA HAD LODGED A COMPLAINT AGAINST THE UES' DISMISSAL WHICH WAS ALLEGEDLY BASED ON HER MEMBERSHIP IN THE PRO-RESCUE COMMITTEE AND HER FORMING A UES SECRETARIES' ASSOCIATION NOT AUTHORIZED BY THE UU. A UES SPOKESMAN LATER CONDEMNED THIS ATTACK ALSO.

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5. COMMENT: THE FACTS SUGGEST THAT FMLN URBAN COMMANDOS, WHO ARE OFTEN UES STUDENTS OPERATING OUT OF THE CAMPUS, PROBABLY ASSASSINATED PECCORINI. THE KILLING IS PROBABLY AN INDICATION THAT THE UES RESCUE COMMITTEE'S EFFORTS ARE PERCEIVED BY THE FMLN AS A THREAT TO ITS CONTROL OF THE UES. INDEED, THE RESCUE GROUP PUBLICIZED THE DRASTIC DROP THIS YEAR IN THE NUMBER OF NEW UES APPLICANTS.

WALKER

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BLOODBATH. IT WAS IMPORTANT FOR ARENA TO AVOID REPRESSION. THE MILITARY REMAINED A LONG TERM OBSTACLE TO DEMOCRATIC DEVELOPMENT. THE FMLN HAS MODERATED AND ITS PEACE OFFERS SHOULD BE RESPONDED TO. ELLACURIA PERCEIVED A POSITIVE CHANGE IN U.S. POLICY, POINTING TO THE VP QUAYLE VISIT AND THE RESPONSE TO THE FMLN PROPOSAL. GOMEZ CALLED UPON THE FMLN TO SHOW GOOD FAITH BY LETTING HIM AND OTHERS LIKE HIM WORK IN PEACE. ELLACURIA DOUBTED RECENT CLAIMS THAT THE FMLN WAS ACQUIRING ARMS THROUGH NICARAGUA. OVERALL, WE FOUND ELLACURIA UPBEAT, PARTICULARLY ABOUT THE PROSPECTS OF AN ARENA GOVERNMENT. END SUMMARY.

3. ELLACURIA OPENED THE CONVERSATION BY SAYING HE HAD JUST HEARD OVER THE RADIO THAT HE, ELLACURIA, HAD BEEN KILLED, PRESUMABLY AS A RESPONSE TO THE RECENT KILLING OF DR. FRANCISCO PECCORINI BY THE FMLN. ON THAT NOTE, ELLACURIA SAID HE WAS WORRIED ABOUT THE SHORT-TERM PROSPECTS FOR THE COUNTRY, BUT HOPEFUL FOR THE LONGER TERM. A NEW PHASE IN SALVADORAN HISTORY WAS ABOUT TO BEGIN, ESPECIALLY IF CRISTIANI WON THE ELECTIONS.

4. ASKED FOR DETAILS, ELLACURIA EXPLAINED THAT CHAVEZ MENA WAS A MORE ATTRACTIVE CANDIDATE FOR THE UCA. IN THE LONG RUN, HOWEVER, ARENA WAS GOING TO GAIN POWER. WHEN THAT HAPPENED, IT WOULD CONTINUE TO MODERATE ITSELF EVEN BEYOND WHAT IT HAD DONE ALREADY. IN FACT, AN ARENA DEFEAT WOULD BE MORE DANGEROUS THAN AN ARENA VICTORY, SINCE A DEFEATED ARENA WOULD HAVE ITS MODERATE WING DISCREDITED, AND
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WOULD BE QUICK TO BLAME DEFEAT ON THE U.S. AND GOES FRAUD.

5. ELLACURIA, WHO HAD RECENTLY TALKED WITH FMLN COMANDANTE (ERP) JOAQUIN VILLALOBOS, SAID THE FMLN HAD REASONS OF ITS OWN FOR PREFERRING AN ARENA VICTORY:

-- IT WOULD DISPROVE THAT THE U.S. THEORY THAT THERE EXISTS A POLITICAL CENTER IN EL SALVADOR (THE PDC)

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CAUGHT BETWEEN TWO VIOLENT EXTREMES;

-- IT WOULD ALLOW THE FMLN TO CAPTURE THE "CENTER GROUND," ROBBING THE PDC OF ITS BASES;

-- ARENA WOULD BE EASIER TO NEGOTIATE WITH THAN THE PDC.

6. ACCORDING TO ELLACURIA, ARENA'S MOVES TO THE CENTER WERE NOT SUPERFICIAL. THEY WERE, HOWEVER, MATCHED BY THE FMLN, WHICH HAD ALSO MOVED TOWARDS THE CENTER. FOR THE FIRST TIME, VILLALOBOS WAS SAYING HE WAS WILLING TO NEGOTIATE. THE AMBASSADOR NOTED THERE WERE HARDLINERS IN BOTH THE FMLN AND ARENA. ELLACURIA AGREED, BUT INSISTED THEY DID NOT PREDOMINATE IN EITHER GROUP. ELLACURIA OPINED THAT ARENA WOULD HAVE TO UNDERSTAND THAT IT NEEDED TO GOVERN WITHOUT REPRESSION IF CAPITALISTS WERE TO BENEFIT. ELLACURIA WAS HOPEFUL. D'AUBUISSON, FOR EXAMPLE, HAD GOOD POLITICAL VISION (EXCEPT WHEN HE DRANK); OCHOA, LESS SO.

7. THE CONVERSATION TURNED TO THE MILITARY.

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ACTION ARA-00

INFO LOG-00 ADS-00 INR-07 EUR-00 SS-00 CIAE-00 DODE-00
H-01 NSCE-00 NSAE-00 HA-09 L-03 TRSE-00 PM-10
PA-01 OMB-01 SVC-00 INRE-00 ACDA-12 USIE-00 SP-02
SNP-01 C-01 SSE-01 PRS-01 SCT-02 P-02 T-01
/055 W
----------232172 0522172 /66
R 051521Z APR 89
FM AMEMBASSY SAN SALVADOR
TO SECSTATE WASHDC 8261
AMEMBASSY SAN JOSE
AMEMBASSY TEGUCIGALPA
AMEMBASSY MANAGUA
AMEMBASSY GUATEMALA
AMEMBASSY MOSCOW
USCINCSO QUARRY HEIGHTS PM

C O N F I D E N T I A L SECTION 02 OF 03 SAN SALVADOR 04293

USCINCSO ALSO FOR POLAD YOULE

E.O. 12356: DECL:OADR
TAGS: PGOV, PTER, PINS, PHUM, ES
SUBJECT: AMBASSADOR'S MEETING WITH UCA RECTOR

ELLACURIA NOTED THE BASIC GUARANTEES SOUGHT BY THE FMLN IN THEIR LATEST PROPOSAL (REDUCED MILITARY, PROSECUTION OF HUMAN RIGHTS VIOLATORS, CIVILIAN POLICE). ELLACURIA SAID THE PROBLEM WAS STRUCTURAL. THE MILITARY CHOSE ITS OWN PEOPLE, PROMOTED THEM THROUGH THE TANDA SYSTEM, AND REMAINED VERY CLOSED. THE AMBASSADOR SAID FEW ARMIES WERE DEMOCRATIC BY NATURE. THE ESAF WAS MORE OPEN THAN IT USED TO BE: THE IMPORTANT THING WAS THAT EVERY YEAR INCREASED THE LEVEL OF CIVILIAN CONSTRAINTS ON THE MILITARY. ELLACURIA REITERATED THAT A DEMOCRATIC MILITARY WAS
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(SS) FMLN DEFECTOR MIGUEL CASTELLANOS AND DR. PECCORINI. ELLACURIA RESPONDED

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WITH A CONVOLUTED EXPLANATION OF HOW THE FMLN GENERAL COMMAND HAD TOLD HIM IT WAS ALMOST SURE THAT NONE OF ITS GROUPS HAD KILLED CASTELLANOS. AS TO PECCORINI, HIS PARTICIPATION IN THE PRO-RESCUE COMMITTEE FOR THE NATIONAL UNIVERSITY WAS UNDERMINING THE FMLN'S INFLUENCE IN THAT UNIVERSITY. ONLY 8,000 PERSONS HAD ENTERED THE UNIVERSITY THIS YEAR, A SUBSTANTIAL DROP -- A SITUATION DUE IN PART TO THE PRO-RESCUE COMMITTEE'S PUBLIC STATEMENTS. ELLACURIA, WHO SAID HE CONSIDERED PECCORINI BOTH A FRIEND AND AN INTELLECTUAL ADVERSARY, CONDEMNED PECCORINI'S ASSASSINATION. HE NOTED THAT IN THEIR RECENT SIX-HOUR CONVERSATION, VILLALOBOS HAD SAID THE FMLN WOULD ABSTAIN FROM KILLING CIVILIANS AND VOTERS DURING THE MARCH 19 ELECTIONS AND WOULD NOT INTERFERE WITH THE ELECTORAL PROCESS. VILLALOBOS REMAINED "DOGMATIC" ABOUT THE MAYORS: THE FMLN BELIEVED THE MAYORS CARRIED OUT COUNTERINSURGENCY FUNCTIONS AND, THEREFORE, WERE LEGITIMATE TARGETS. THE AMBASSADOR ASKED IF HE COULD EXPECT MORE VIOLENCE IF THERE WERE A SECOND ROUND OF ELECTIONS. ELLACURIA SAID NO, THE SECOND ROUND WOULD BE A TIME FOR NEGOTIATIONS (COMMENT: PROBABLY A REFERENCE TO A HYPOTHETICAL PDC-CONVERGENCIA DEAL).

9. WHAT WAS BEHIND THE FMLN'S PROPOSALS, THE AMBASSADOR ASKED. ELLACURIA SAID THERE HAD BEEN A SLOW CHANGE IN THE FMLN. IT SAW THE SANDINISTAS' FAILURE TO GOVERN WELL IN NICARAGUA AS WELL AS THE NEW ENVIRONMENT CREATED BY GLASTNOST IN THE USSR. THE FMLN BELIEVED IT COULD WIN THE ELECTIONS WERE ITS CONFIDENTIAL.
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CONDITIONS TO BE ADOPTED (ELLACURIA DISAGREED). VILLALOBOS HAD TOLD HIM THEY HAD SOME 100,000 ACTIVISTS IN URBAN AREAS. (ELLACURIA DOUBTED THIS; HE WAS WILLING TO GIVE THE FMLN 40 TO 50,000 SUPPORTERS IN MORAZAN AND CHALATENANGO DEPARTMENTS, HOWEVER, AND A CONSIDERABLE NUMBER IN SAN SALVADOR.) IN ANY CASE, ELLACURIA AFFIRMED THAT LATIN AMERICA'S MOST IMPORTANT "MOVIMIENTO DE MASAS" WAS IN EL SALVADOR.

10. THE AMBASSADOR ASKED ABOUT THE CD. ELLACURIA

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AS SURPRISINGLY SCORNFUL OF THE CD, LABELLING THEM PETIT BOURGEOIS INTELLECTUALS WITH LITTLE CONTACT WITH THE MASSES.

11. TURNING TO THE U.S., ELLACURIA STRESSED HE HAD SEEN A POSITIVE CHANGE IN U.S. POLICY. HE POINTED SPECIFICALLY TO VICE PRESIDENT QUAYLE'S MESSAGE ON HUMAN RIGHTS AND THE U.S.' RESPONSE TO THE FMLN'S INITIAL PEACE PROPOSAL.

12. LEONEL GOMEZ THEN RAISED THE CONTRADICTIONS IN THE FMLN'S BEHAVIOR. IT CLAIMED TO REPRESENT THE PEOPLE, BUT DID NOT HESITATE TO PUNISH THOSE WHO HELPED THE PEOPLE. AN EXAMPLE WAS A HEALTH CLINIC HE HAD ARRANGED TO SUPPORT IN CANDELARIA DE LA FRONTERA (SANTA ANA DEPT.). AN FMLN MEMBER FROM GOMEZ' OWN FAMILY HAD WARNED HIM RECENTLY THAT IF HE CONTINUED SUCH EFFORTS, HE WOULD BE KILLED. TWO DAYS LATER, GOMEZ MET WITH MEMBERS OF THE FMLN'S URBAN COMANDOS. THEY ACKNOWLEDGED THE DELICATE SITUATION HE WAS IN.

NOTE BY OC/T: (SK)OMISSION, PARA. 8 - CORRECTION TO FOLLOW.

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C O N F I D E N T I A L SECTION 03 OF 03 SAN SALVADOR 04293

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E.O. 12356: DECL:OADR
TAGS: PGOV, PTER, PINS, PHUM, ES
SUBJECT: AMBASSADOR'S MEETING WITH UCA RECTOR

IF THE FMLN WANTED TO IMPROVE ITS IMAGE, IT HAD TO DEMONSTRATE IT HAD CHANGED.

13. ELLACURIA RESPONDED THAT THE FMLN HAD EVOL[illegible]. IT HAD BEEN CAPABLE OF SUCH ACTS AS THE MURDER [illegible] ROGUE DALTON ("FOR WHICH ALL WERE RESPONSIBLE"). THERE WERE THE DEATHS OF CARPIO AND ANA MARIA. THE FMLN HAD FEWER INTERNAL DISPUTES NOW; WHEN IT OFFERED TO DO SOMETHING, SUCH AS THE RECENT SUSPENSION OF ATTACKS AGAINST U.S. OFFICIALS, IT COMPLIED. GOMEZ, HOWEVER, WAS PERCEIVED BY THE FMLN TO BE HELPING THE CHAVEZ MENA CAMPAIGN.

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14. GOMEZ PROTESTED. THERE WAS NO MAN WHO HAD

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UNCOVERED MORE CRIMES THAN HE WHEN HE WORKED IN ISTA
I THE EARLY 1980S. HE HAD SEEN FORCED TO FLEE FOR
HIS LIFE, THREATENED BY THE DEATH SQUADS, AND NOW
LIVED IN POVERTY IN THE U.S. THE STATE DEPARTMENT
USED TO CALL HIM A LEFTIST. HE HAD SHOWN HIS GOOD
FAITH. THERE WERE MANY PEOPLE IN HIS POSITION. NOR
WAS HE HELPING CHAVEZ MENA -- RATHER, FIDEL WAS UPSET
THAT HE HAD NOT HELPED THE PDC CAMPAIGN. THE FMLN,
GOMEZ INSISTED, HAD TO SHOW ITS GOOD FAITH BY
PERMITTING HIM TO RETURN AND WORK IN EL SALVADOR.
GOMEZ SAID THAT IF CRISTIANI WON, THERE WOULD BE
SURPRISES, EVEN FROM D'AUBUISSON. BUT IF THE FMLN
GAVE ARENA EVEN THE SMALLEST EXCUSE, THERE WOULD BE A
BLOODBATH.

15. ELLACURIA RESPONDED THAT THERE WERE MANY THINGS
THE FMLN DID NOT SEE. IT WAS INCUMBENT ON ALL TO TRY
TO PERSUADE THE FMLN NOT TO ACCENTUATE VIOLENCE. THE
FIRST STEP WAS TO ACCEPT ITS OFFER TO NEGOTIATE.

16. THE CONVERSATION TURNED TO EAST BLOC SUPPORT FOR
THE FMLN. THE AMBASSADOR REFERRED TO HIS PRESS
CONFERENCE THE PREVIOUS DAY IN WHICH HE HAD NOTED THE
CAPTURE FROM THE FMLN BY THE ESAF OF SOVIET BLOC
ORIGIN AK-47S AND CUBAN AMMUNITION. ELLACURIA SAID
HE HAD NEVER ASKED THE FMLN WHERE IT GOT ITS
WEAPONS. HE BELIEVED THAT THERE HAD BEEN A LARGE
WEAPONS TRANSFER FROM NICARAGUA IN 1980, BUT THAT NOW
ITS ARMS DID NOT COME DIRECTLY FROM NICARAGUA.
NICARAGUA REMAINED A PLACE WHERE FMLN LEADERS COULD
RELAX, REFLECT, AND GO TO CUBA.
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17. COMMENT: ELLACURIA OFFERED LITTLE NEW ABOUT THE
FMLN. HE WAS CAREFUL TO CONDEMN THE KILLING OF
PECCORINI. WHAT HE FOUND MOST STRIKING WAS HIS
DISPASSIONATE ANALYSIS OF ARENA, INCLUDING HIS BELIEF
THAT THE ARENEROS OF TODAY (EVEN D'AUBUISSON) HAVE
IMPROVED CONSIDERABLY IN RECENT YEARS.
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Department of State IS/FOIA/CDB El Salvador BP Date 12/95
Declassified under EO 12356 ( ) in full; ( ) in part;
portions withheld: classified ( ); deliberative ( );
law enforcement ( ); privacy ( ); statutory ( );
not responsive to FOIA request ( )

.O. 12356: DECL: OADR
TAGS: PGOV PINS ES
SUBJECT: AMB WHITE MEETING WITH FMLN

1. (CONFIDENTIAL - ENTIRE TEXT)

SUMMARY
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2. FORMER U.S. AMBASSADOR TO EL SALVADOR ROBERT WHITE DESCRIBED FOR DEPT OFFICERS ON JUL 25 MEETINGS HIS DELEGATION HAD WITH AN FMLN DELEGATION IN MEXICO. THE PURPOSE OF THE MEETINGS WAS TO DISCUSS NON-VIOLENT MEANS

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OF ACHIEVING PEACE IN EL SALVADOR. WHITE SAID THE FMLN

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REPRESENTATIVES BELIEVED THE CURRENT POLITICAL AND MILITARY SITUATION IN EL SALVADOR WAS FAVORABLE TO THE FMLN. THEY SAID THE FMLN WOULD PARTICIPATE IN AND WIN ELECTIONS IF THE MILITARY COULD BE IS BROUGHT UNDER CONTROL, AND INDICATED A DESIRE FOR NEGOTIATIONS WITH THE GOVERNMENT TO EFFECT THAT CONTROL. WHITE CLAIMED TO HAVE HARANGUED THE FMLN ABOUT T[illegible] ICTIVITY OF RECENT ASSASSINATIONS [illegible] WITH HIM. THE [illegible] REPRESENTATIVES [illegible] PRESI[illegible] DIALOGUE COMMITT[illegible] EEN [illegible] RESISTA[illegible] MOBILIZATION AND FMLN DE[illegible] FAN. [illegible] TE REPEATEDLY SOUGHT DEPT OFFICERS' VIEWS A[illegible] TIO[illegible] FOR GOES-FMLN NEGOTIATIONS. END SUMMARY.

3. FORMER U.S. AMBASSADOR TO EL SALVADOR ROBERT WHITE HEADED A DELEGATION SPONSORED BY THE INTERNATIONAL FOR DEVELOPMENT POLICY TO SPEAK TO REPRESENTATIVES FARABUNDO MARTI NATIONAL LIBERATION FRONT (FMLN) JULY 21-24 IN COCOYOC, MEXICO. REPRESENTING THE FMLN AT THE MEETINGS WERE ARMED FORCES OF NATIONAL RESISTANCE COMMANDER FERMAN CIENFUEGOS, SALVADOR SAMAYOA, AND "MERCEDES." WHITE'S GROUP INCLUDED FORMER U.S. REP MICHAEL BARNES, WESTERN HEMISPHERE SUBCOMMITTEE STAFFER VIC JOHNSON, AND FORMER SENATOR DICK CLARK. THE MEETING WAS THE FIRST OF FOUR PLANNED ENCOUNTERS WITH GUERRILLA REPRESENTATIVES. THE PURPOSE OF THE MEETINGS IS TO EXPLORE ALTERNATIVES TO VIOLENCE IN BRINGING THE TWO SIDES IN THE SALVADORAN CONFLICT TO THE NEGOTIATING TABLE.

THE WORLD ACCORDING TO CIENFUEGOS

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4. WHITE, JOHNSON AND BARNES VISITED THE DEPARTMENT ON JUL 25 TO GIVE DAS ARCOS, CEN DEPUTY DIRECTOR ROMERO, AND DESK OFFICER WHITAKER A READOUT ON THE FIRST MEETING. WHITE OPENED WITH A DESCRIPTION OF CIENFUEGOS' ANALYSIS OF THE CURRENT SITUATION IN EL SALVADOR. CIENFUEGOS STATED THAT CRISTIANI HAD NO REAL POWER, AND THAT THE ACCESSION OF ARENA AND THE EXTREMISTS PAVED THE WAY FOR THE EVENTUAL ASSUMPTION OF BY THE FMLN, WHITE SAID. WHITE EXPLAINED THAT CIENFUEGOS CALLED CRISTIANI'S ADMINISTRATION AN "ILLEGITIMATE DICTATORIAL GOVERNMENT," AND THAT THE

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GUERRILLA BELIEVED THE SALVADORAN ARMED FORCES (ESAF) WAS NERVOUS ABOUT THE PROSPECTS OF DEFENDING SUCH A TENUOUS, UNSUPPORTED REGIME. CIENFUEGOS DESCRIBED THE LARGE SIZE OF THE ESAF AS A MAJOR DISADVANTAGE BECAUSE IT GAVE THE FMLN SO MANY MORE TARGETS TO STRIKE AT. THE FMLN, ON THE OTHER HAND, IS DEMOCRATIC AND MILITARILY STRONG, WITH THE ABILITY TO CONTROL 40-50 MAJOR POPULATION CENTERS AT WILL, CIENFUEGOS SAID.

5. CIENFUEGOS, CITING THE SUPPOSED ILLEGITIMACY OF THE ARENA GOVERNMENT AND THE STRENGTH OF THE FMLN, ARGUED STRONGLY FOR A SUSPENSION OF U.S. MILITARY ASSISTANCE TO EL SALVADOR. HE SPECIFICALLY STATED THAT SUSPENSION OF ASSISTANCE WAS NOT RPT NOT A PRECONDITION FOR NEGOTIATIONS, WHITE SAID.

ASSASSINATIONS - GUILTY WITH AN EXCUSE
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6. WHITE CLAIMED THAT HIS GROUP "BEAT THE FMLN UP" FOR FOUR HOURS ABOUT THE FMLN'S LATEST TACTIC OF ASSASSINATIONS OF GOVERNMENT OFFICIALS AND CONSERVATIVE INTELLECTUALS. WHITE NOTED THAT THIS TACTIC WAS DAILY LOSING THE FMLN POLITICAL SUPPORT IN WASHINGTON, AND, HE ASSUMED, IN EL SALVADOR, AND THAT IT ALSO INCREASED THE CREDIBILITY OF THE NATIONALIST REPUBLICAN ALLIANCE (ARENA)
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GOVERNMENT. WHITE REPEATED THE ANALYSIS OF THE DEPT AND OTHERS THAT THE FMLN WAS TRYING TO PROVOKE AN EXTRAJUDICIAL REACTION THROUGH THESE KILLINGS, BUT WHITE SAID THAT CIENFUEGOS EXPLICITLY DENIED THAT THE KILLINGS WERE A TACTIC.

7. THE FMLN ADMITTED ALL RECENT ACTS OF TERRORISM, INCLUDING THE KILLING OF PECCORINI AND THE BOMBING OF VP MERINO'S HOUSE, BUT EXCEPTING THE KILLINGS OF MINISTER RODRIGUEZ PORTH AND EDGAR CHACON, WHITE SAID. THE GUERRILLAS ADMITTED THAT THE KILLINGS HAD WORKED AGAINST FMLN INTERESTS, IN PART BECAUSE SO MANY OF THE ATTACKS WERE ATTEMPTS TO USE MILITARY MEASURES TO ADDRESS POLITICAL OPPONENTS, A TACTIC WHICH THE FMLN DEPLORES, THEY CLAIMED.

8. CIENFUEGOS INDICATED THAT THE FMLN WAS DEBATING A

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CHANGE IN POLICY REGARDING ASSASSINATIONS. UNDER THE PROPOSED CHANGE, THE GUERRILLA SAID, THE HIGH COMMAND WOULD DECIDE WHO WOULD BE KILLED BY NAME, AND THAT IT WOULD ACKNOWLEDGE ALL ACTS OF VIOLENCE. PART OF THE REASON FOR THE APPARENT LACK OF CONTROL IN THE RECENT ACTS OF TERRORISM WAS A LACK OF PRECISION IN THE ORDERS PASSED TO URBAN COMMANDO CELLS, CIENFUEGOS INDICATED. THE PROPOSED NEW PROCEDURES WOULD CLEAR UP THIS PROBLEM, THE GUERRILLA ASSERTED. FINALLY ON THIS SUBJECT, THE GUERRILLAS STATED THAT THEY BELIEVED THAT AIR FORCE GENERAL JUAN BUSTILLO HAD ORDERED RODRIGUEZ PORTH KILLED.

ENGAGING THE PRIVATE SECTOR
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9. THE GUERRILLAS REPEATEDLY EMPHASIZED THEIR DEMOCRATIC
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NATURE AND THEIR REALIZATION OF THE NECESSITY TO BRING THE PRIVATE SECTOR INTO A POST-INSURGENCY GOVERNMENT, WHITE SAID. PRIVATE ENTERPRISE WOULD BE ESSENTIAL TO REACTIVATE THE ECONOMY, THEY NOTED. TO THIS END, THE FMLN HAD ENLISTED WHITE IN SETTING UP A MEETING BETWEEN THE FMLN AND AMERICAN BUSINESSMEN IN EL SALVADOR. WHITE SUPPOSED THAT THE FMLN ASSUMED THAT AMERICAN BUSINESSMEN WOULD HAVE A MORE OPEN VIEW THAN THEIR SALVADORAN COLLEAGUES, AND THAT CONVINCING THE AMERICANS WOULD HELP THE FMLN OPEN DISCUSSIONS WITH SALVADORAN BUSINESSMEN. INTERESTINGLY, WHITE SAID THAT THE FMLN TOLD HIM THAT THEY HAD ALSO ASKED FOR FORMER AMBASSADOR ERNESTO RIVAS GALLONT'S HELP IN ARRANGING AN FMLN-AMERICAN BUSINESSMEN MEETING.

ELECTIONS, THE ESAF, AND NEGOTIATIONS
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10. WHITE OUTLINED SALVADOR SAMAYOA'S STATEMENTS ON THE MILITARY AND ELECTIONS. SAMAYOA ASSERTED THAT THE FMLN WOULD BE WILLING TO ABIDE BY THE RESULTS OF ELECTIONS, AND INDEED WERE CONVINCED THAT THE FMLN WOULD WIN FREE ELECTIONS. HOWEVER, FREE ELECTIONS WOULD BE POSSIBLE ONLY IF "THE MILITARY IS UNDER CONTROL." THE WAY TO CONTROL THE MILITARY, SAMAYOA SAID, WOULD BE THROUGH NEGOTIATIONS! HE STATED, APPARENTLY FOR ILLUSTRATIVE PURPOSES, THAT A "CLEANSING" ("LIMPIEZA") OF PERHAPS 50 OFFICERS MIGHT BE

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SUFFICIENT TO EXERT CONTROL OVER THE ESAF. THIS WOULD NOT ELIMINATE ALL EGREGIOUS HUMAN RIGHTS ABUSERS, BUT WOULD SEND A MESSAGE TO THE OTHERS, SAMAYOA SAID.

11. SAMAYOA STATED THAT MOST OF THE OFFICERS BELOW THE RANK OF LIEUTENANT COLONEL WERE PROFESSIONAL, UNDERSTOOD THE IMPORTANCE OF HUMAN RIGHTS OBSERVANCE, AND KNEW WHAT WOULD BE NECESSARY TO FASHION AN ESAF WHICH WOULD BE RESPECTABLE INTERNATIONALLY. FINALLY, SAMAYOA STATED THAT CONTROL OF THE MILITARY WOULD BE THE ONLY SUBJECT WHICH
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WOULD HAVE TO BE DISCUSSED IN NEGOTIATIONS.

DIALOGUE AND DEMOBILIZATION DECRIED
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12. SAMAYOA CALLED PRESIDENT CRISTIANI'S DIALOGUE COMMISSION "WORTHLESS," WHITE SAID. SAMAYOA CITED THE "FREEZING OUT" OF THE CHURCH, THE POLITICAL NATURE OF THE APPOINTMENTS, THE POWERLESSNESS OF THE COMMISSION, AND THE FUTILITY OF DISCUSSING DIALOGUE WHEN NEGOTIATIONS WERE NECESSARY AS THE RATIONALE FOR HIS JUDGMENT. CIENFUEGOS NOTED APPROVINGLY THE RECENT MOVES BY THE CHRISTIAN DEMOCRATS (PDC) AND OTHER POLITICAL PARTIES TO FORM AN ALTERNATIVE BODY TO TALK WITH THE FMLN. INDEED, CIENFUEGOS SAID, THE FMLN HAD BECOME INCREASINGLY CLOSE TO ELEMENTS IN THE PDC. DEPTOFFS SUGGESTED THAT WITH THE APPARENT FAILURE OF THE NATIONAL DIALOGUE COMMISSION TO TAKE HOLD, CRISTIANI MIGHT CONSIDER CREATING A COMMISSION OF NOTABLES WITH POWER TO MAKE DECISIONS TO TALK TO THE GUERRILLAS.

13. THE FMLN ACCEPTED ESQUIPULAS, SAMAYOA SAID, BUT REJECTED THE U.S. ANALYSIS OF SYMMETRY BETWEEN THE FMLN AND THE NICARAGUAN RESISTANCE (RN). THE FMLN WAS A POPULAR FORCE WHEREAS THE RN WOULD COLLAPSE WITHOUT FOREIGN SUPPORT, CIENFUEGOS STATED. THE FMLN FLATLY DENIED RECEIVING WEAPONRY AND SUPPORT THROUGH NICARAGUA, WHITE SAID, NOTING THAT NO ONE HAD EVER BEEN ABLE TO SHOW INCONTROVERTIBLE EVIDENCE OF THE CONNECTION. FOR HIS PART, BARNES STATED (TO US) THAT HE WOULD BE "SHOCKED" IF THE SANDINISTAS WERE NOT SUPPORTING THE FMLN.

WHITE SUMS UP

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14. IN WHITE'S ANALYSIS, THE FMLN IS A LEGITIMATE MOVEMENT OF NATIONAL LIBERATION WHICH THE UNITED STATES GOVERNMENT SHOULD ENGAGE IN AN EFFORT TO END THE VIOLENCE. WHILE HE VIEWS THE FMLN'S RECENT USE OF TERRORISM AND ASSASSINATIONS AS DEPLORABLE, HE CLEARLY FINDS PAST AND PRESENT "RIGHTWING/ESAF TERRORISM" FAR MORE REPREHENSIBLE. HE STATED THAT HE FOUND IT EASIER AND MORE PRODUCTIVE TO GET ALONG WITH THE LEFTISTS, AS INEXCUSABLE AS THEIR ACTIONS MIGHT BE ON OCCASION, THAN TO DEAL WITH "ULTRARIGHT THUGS LIKE D'AUBUISSON." WHITE USED TERMS LIKE "MODERATE," "EDUCATED," AND "INTELLECTUAL" TO DESCRIBE THE GUERRILLAS HE SPOKE WITH.

15. WHITE SAID HE FOUND THE MEETING PARTICULARLY USEFUL IN MOVING FORWARD THE PROCESS OF TALKING DIRECTLY TO THE FMLN. HE TOLD US THAT THE NEXT MEETING WILL BE HELD IN OCTOBER (USING FUNDING PROVIDED BY "A BUSINESS GROUP"), AND THAT CIENFUEGOS PROMISED THAT ERP COMMANDATE JOAQUIN VILLALOBOS WOULD ATTEND THE NEXT SESSION. WHITE WOULD ATTEMPT TO GET A SITTING U.S. CONGRESSMAN FOR HIS SIDE, HE SAID.

COMMENT
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16. WHITE IS CLEARLY ENTHRALLED WITH HIS NEW TASK OF TRYING TO ARRANGE CONTACTS BETWEEN THE FMLN AND THE GOES. ANY SUCH CONTACT SEEN AS BEING BROKERED BY WHITE, HOWEVER, WOULD PROBABLY BE UNACCEPTABLE TO ARENA.

17. WHITE REPEATEDLY ENCOURAGED US TO PRESSURE THE GOES TO MEET FMLN CONDITIONS (E.G., ON THE DIALOGUE COMMISSION). PRIOR TO THE MEXICO TRIP, THE FORMER AMBASSADOR HAD PROBED DEPTOFFS FOR "U.S. REQUIREMENTS ON
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DIALOGUE AND NEGOTIATIONS." WE INFORMED HIM THAT THESE,

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WERE MATTERS WHICH HAD TO BE DECIDED BY SALVADORANS.
NEVERTHELESS, BUT WE EXPECT HIM TO CONTINUE HIS EFFORTS TO
PULL US INTO HIS DISCUSSIONS WITH THE FMLN.

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DEFENSE INTELLIGENCE AGENCY

WASHINGTON, D.C. 20340

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4 September 1992

John Maisto
Deputy Assistant Secretary of State
for Inter-American Affairs
Department of State
Washington, D.C. 20520-6258

Dear Mr. Maisto,

1. (U) Enclosed are the preliminary results of DIA's file review of four cases of human rights violations by the Farabundo Marti National Liberation Front (FMLN) for the Truth Commission. This review encompasses all-source reporting available to this agency. Non-DoD sources that were used in writing the specific cases are identified in parentheses and will require clearance by originating agency prior to release.

2. (U) The following specific cases are included: FMLN assassinations of Francisco L. Peccorini and [redacted] FMLN kidnapping and assassination of mayors, and [redacted]

3. (U) In addition, DIA is currently working on the following cases:

- The 1985 kidnapping of then-President Jose Napoleon Duarte's daughter, Inez Guadalupe Duarte Duran, and friend, Ana Cecilia Villeda;

- The 1989 assassinations of Jose Roberto Garcia Alvarado, Edgar Chacon, Gabriel Payes, and Maria Isabel Casanova Porra;

[redacted]

- The 1987 assassination of non-governmental Human Rights Commission of El Salvador (CDHES) Director Herbert Anaya Sanabria;

[redacted]

- Indiscriminate use of homemade weapons.

4. (U) DIA will forward summaries of those cases in the near future and continue its file review for additional cases.

Sincerely,

WILLIAM A. NAUGHTON
Defense Intelligence Officer
for Latin America

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ASSASSINATION OF FRANCISCO L. PECCORINI

(U) FRANCISCO L. PECCORINI, 75, WAS ASSASSINATED ON MARCH 15, 1989. HE WAS SHOT WHILE HIS CAR WAS STOPPED AT A TRAFFIC LIGHT ON AVENIDA OLIMPICA, NEAR THE FLOR BLANCA STADIUM, SAN SALVADOR.

(U) PECCORINI, AN AMERICAN CITIZEN WITH DUAL CITIZENSHIP WAS A CONSERVATIVE POLITICAL COMMENTATOR AND ONE OF THE LEADERS OF THE "COMITE PRO RESCATE DE LA UNIVERSIDAD EL SALVADOR" (COMMITTEE TO RESCUE THE NATIONAL UNIVERSITY), WHICH STRONGLY CRITICIZED THE NATIONAL UNIVERSITY AUTHORITIES, WHOM IT ACCUSED OF SERVING GUERRILLA INTERESTS. PECCORINI HAD COLLABORATED IN THE PREPARATION OF SEVERAL RIGHT-WING PUBLICATIONS ALONG WITH GUERRILLA DESERTER MIGUEL CASTELLANOS, WHO WAS MURDERED IN FEBRUARY 1989.

(C) WHILE THE FMLN DID NOT PUBLICLY CLAIM RESPONSIBILITY FOR THE ACT, THE FACTS SUGGEST THAT FMLN URBAN COMMANDOS, WHO OPERATED OUT OF THE UNIVERSITY, WERE RESPONSIBLE FOR THE ASSASSINATING PECCORINI. ACCORDING TO INFORMATION PROVIDED IN NOVEMBER 1988 BY [redacted], A CAPTURED MEMBER OF THE FPL CLARA ELIZABETH RAMIREZ FRONT (CERF) URBAN COMMANDO CELL LEADER AND POLITICAL AND MILITARY COMMANDER OF THE METROPOLITAN ZONE, THE FMLN HAD A THREE-STEP FMLN PLAN TO NEUTRALIZE THE COMMITTEE. ACCORDING TO THIS PLAN, MEMBERS OF THE COMMITTEE WOULD BE LOCATED; THEY WOULD BE PUBLICLY DENOUNCED BY FMLN CONTROLLED STUDENT GROUPS; AND THEY WOULD BE EXECUTED.

(C) TWO OTHER ATTEMPTS WERE MADE AGAINST MEMBERS OF THE COMMITTEE AS OUTLINED BY THE PLAN. ON NOVEMBER 25, 1988, THREE GRENADES WERE THROWN AT THE SON AND DAUGHTER-IN-LAW OF RAFAEL ANTONIO MENDEZ, HEAD OF THE COMMITTEE. AS OUTLINED BY THE PLAN, A JANUARY 5 PAID AD FROM THE UES BLAMED PECCORINI AND MENDEZ FOR HELPING BRING ABOUT "A CHAIN OF AGGRESSION," INCLUDING THE DECEMBER 22, 1988, BOMBING OF THE UES BIOLOGY DEPARTMENT. ON MARCH 10, 1989, ARMED MEN SHOT AT MENDEZ'S VEHICLE AND LIGHTLY WOUNDED MENDEZ AS WELL AS HIS BODYGUARD AND GLADIS LARROMANA, A UES SECRETARY. (AEMBASSY 170055ZMAR 89)

(C) FORMER U.S. AMBASSADOR TO EL SALVADOR ROBERT WHITE DESCRIBED FOR STATE DEPARTMENT OFFICERS A JULY 25, 1989, MEETING WITH FERMAN CIENFUEGOS AND OTHER FMLN OFFICIALS IN MEXICO. AT THIS MEETING, CIENFUEGOS ADMITTED TO ALL RECENT ACTS OF TERRORISM, INCLUDING THE KILLING OF PECCORINI, AND THE BOMBING OF VICE PRESIDENT MERINO'S HOUSE, BUT EXCEPTING THE KILLING OF MINISTER RODRIGUEZ PORTH AND EDGAR CHACON. THE FMLN ADMITTED THAT THE KILLINGS HAD WORKED AGAINST FMLN INTERESTS, IN PART BECAUSE SO MANY OF THE ATTACKS WERE ATTEMPTS TO USE MILITARY MEASURES TO ADDRESS POLITICAL OPPONENTS, A TACTIC WHICH THE FMLN DEPLORES, THEY CLAIMED. CIENFUEGOS INDICATED THAT THE FMLN WAS DEBATING A CHANGE IN POLICY REGARDING ASSASSINATIONS. UNDER THE PROPOSED CHANGE, THE GUERRILLA SAID THE

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HIGH COMMAND WOULD DECIDE WHO WOULD BE KILLED BY NAME, AND THAT IT WOULD ACKNOWLEDGE ALL ACTS OF VIOLENCE. PART OF THE REASON FOR THE APPARENT LACK OF CONTROL IN THE RECENT ACTS OF TERRORISM WAS A LACK OF PRECISION IN THE ORDERS PASSED TO URBAN COMMANDO CELLS, CIENFUEGOS INDICATED. (AEMBASSY 021741Z AUG 89)

(C/SPECAT) ON FEBRUARY 2, 92, ERP LEADER JOAQUIN VILLALOBOS AND HIS DEPUTY ANA GUADALUPE MARTINEZ TOLD THE U.S. AMBASSADOR ABOUT MISTAKES MADE WITH REGARDS TO URBAN TACTICS, SUCH AS THE WAVE OF CIVILIAN KILLINGS LAUNCHED BY THE FMLN HIGH COMMAND IN THE LATE-80'S. WITHOUT HESITATION, THE GUERRILLA LEADER LISTED VICTIMS OF THAT CAMPAIGN INCLUDING FRANCISCO PECCORINI. VILLALOBOS CASUALLY TOOK RESPONSIBILITY FOR ALL. (052315Z FEB 92 AEMBASSY 01355)

CONFIDENTIAL SPECAT

[redacted]

[redacted] PAGE 0003
TOR: 301935Z NOV 92 [redacted]

[redacted]

AN FMLN OFFICIAL

[redacted] ADVISED THAT IN GENERAL, ALL THE FMLN FACTIONS, EXCEPT THE ERP, ARE TAKING A WAIT-AND-SEE APPROACH. HE COMMENTED THAT THE ERP HAS BECOME VERY ANXIOUS ABOUT THE TRUTH COMMISSION INVESTIGATIONS AND IS ACTIVELY SEEKING INTERVIEWS WITH MEMBERS OF THE ESAF, THE SALVADORAN GOVERNMENT (GOES), AND THE UNITED STATES GOVERNMENT, IN AN EFFORT TO FIND OUT THE TYPE OF INFORMATION EACH PLANS TO GIVE TO THE TRUTH COMMISSION ON THE FMLN AND FOR ALLEGED CRIMES. HE JOKED THAT THE ERP HAS KILLED SO MANY MAYORS THAT EVEN IT CANNOT SAY HOW MANY AND WHICH ONES. HE ADVISED THAT THE PCES IS CONCERNED ABOUT SEVERAL OF ITS ACTIVITIES, IN PARTICULAR THE DEATH OF FRANCISCO L. PICCORINI IN 1989, SINCE PCES LEADER HANDAL PROBABLY ORDERED THE ASSASSINATION.

[redacted]

This report was prepared by the U.S. Government. It provides data on alleged human rights violations by the FMLN. Previous reports provided to the Ad Hoc and Truth Commissions dealt with alleged human rights violations by the Salvadoran Government. While this document is based on the best information available to the U.S. Government, the U.S. Government cannot provide any guarantee of the accuracy of the report.

I. ASSASSINATIONS AND KIDNAPPINGS OF LOCAL OFFICIALS

The U.S. Embassy Human Rights report on El Salvador for 1989 noted that "during much of 1989 the FMLN pursued a public policy of attempting to make the country 'ungovernable' through increased urban bombings and assassinations against conservative intellectuals, newspaper columnists, civilian employees of the military, former FMLN members, mayors, and government ministers and their families." The attacks on mayors and other local officials began in the early 1980s and intensified as the civil strife worsened. In 1985 the FMLN began a systematic campaign to eliminate governmental authority in areas the guerrillas claimed to control.

April 3, 1983. Eleazar Cruz, Mayor of San Cayetano Istepeque, San Vicente Department, was killed by 15 heavily armed FMLN guerrillas from the FDR faction who attacked and briefly occupied the town. The assailants also destroyed the mayor's files. Three other municipalities--Guadalupe, Verapaz, and San Lorenzo--were also attacked on the same day; 17 persons were reportedly killed in the four towns [redacted]

July 10, 1983. FMLN guerrillas seized the town of Nueva Granada, Usulutan Department, and killed the Christian Democratic mayor, Roberto Rendon, who they charged supported the civil defense paramilitary patrols [redacted]

January, 1984. Maria Ovidia Amaya, the ARENA mayor of Yamabal, Morazan Department, was forced from her home and shot [redacted]

January, 1984. An ARENA deputy from Usulutan, Ricardo Arnoldo Pohl, was assassinated. [redacted]

January, 1985. The FMLN killed the mayor of San Jorge, San Miguel Department, during an attempted kidnapping. [redacted]

May 2, 1985. The newly appointed Christian Democratic mayor of San Jorge, Edgar Mauricio Valenzuela, was taken from his home and slain because he had disregarded guerrilla orders and accepted the position [redacted]

cooperate with the FMLN, despite having received two threatening letters. ERP member Andres Perez allegedly participated in the assassination of Diaz. [redacted]

An FMLN communique issued after the slaying stated that Diaz had been killed because he had helped the Army's counterinsurgency campaign. [redacted]

March 15, 1989. An armed man assassinated Francisco L. Peccorini, an American citizen and one of the leaders of the Committee for the Rescue of the National University. The victim was shot when his car stopped at a traffic light on Avenida Olimpica, near the Flor Blanca Stadium in San Salvador. No group claimed responsibility for the slaying. A former Jesuit, retired professor, and conservative political commentator, Peccorini had returned to El Salvador from the United States in 1987. He spoke against the FMLN and its use of the National University for subversive activities. [redacted]

Two other attacks on members of the Committee had occurred earlier. On November 25, 1988 three grenades were thrown at the son and daughter-in-law of Rafael Antonio Mendez, head of the Committee; the daughter-in-law was injured. Mendez publicly blamed University Unity, a political group at the National University, for the attack. On March 10, 1989 armed men shot at Mendez's vehicle, lightly wounding him as well as his bodyguard and Gladis Larromana, a secretary recently released from the University. [redacted]

The [redacted] commented that university students operating out of [redacted]pus as FMLN urban commandos probably assassinated Peccorini and suggested the slaying was an indication that the Rescue Committee's efforts were perceived by the FMLN as a threat to its control of the University. [redacted]

On July 25, 1989 former U.S. Ambassador to El Salvador Robert White described [redacted] meeting he had recently attended in Mexico with Fermán Cienfuegos and other FMLN officials. White stated that during the meeting the FMLN had acknowledged its responsibliity for recent acts of terrorism including the killing of Peccorini and the bombing of Vice-President Merino's house--but not the killings of Minister Rodriguez Porth and Edgar Chacon. The FMLN admitted, however, that the killings had worked against FMLN interests. Cienfuegos stated that the FMLN was debating a change in policy regarding assassinations, under which the high command would decide who would be killed by name and acknowledge responsibility for all such acts. Cienfuegos indicated that part of the reason for the change was a lack of

[redacted]

precision in the orders passed to urban commando cells.

On February 2, 1992 ERP leader Joaquin Villalobos and his deputy Ana Guadalupe Martinez discussed "mistakes" made in urban terror tactics. One was the wave of civilian killings launched by the FMLN high command in the late 1980s. Among the victims of that campaign listed by the guerrilla leader was Francisco Peccorini.

Pablo Salvador Carcamo, alias "Roberto," was charged with the murder of Edgar Chacon, as well as numerous others including Peccorini.

Pablo Salvador Carcamo or "Roberto" was identified as a former FAL political commander who was arrested by Treasury Police in San Salvador on December 30, 1989.

February 16, 1989. Napoleon Romero Garcia, alias "Miguel Castellanos," a 42-year-old former guerrilla commander who had defected from the FMLN, was machine-gunned to death as he left his office in northern San Salvador by car. For several years Castellanos had been a leader of the FPL, but in 1985 he had renounced violence and, along with other former guerrillas, formed the Center for the Study of the National Reality, with the goal of promoting democracy. Radio Venceremos announced the death of "traitor" Castellanos immediately after the attack, but never formally claimed responsibility for the slaying. The FPL's clandestine radio also announced the "execution" and characterized it as a victory of the people and a warning to traitors.

In mid-February, 1989 a leader in the FPL urban structure in San Salvador, alias "Daniel", boasted that he and several other unidentified individuals had participated in bringing Castellanos to justice.

On October 24, 1989 President Cristiani revealed in a press conference that, according to ballistic experts, the weapons used to kill Castellanos were the same as those used to assassinate Rodriguez Porth.

Pablo Salvador Carcamo, alias "Roberto," was charged with the murder of Castellanos, as well as numerous others.

Document 67

Letter dated 29 March 1993 from the Secretary-General to the President of the Security Council transmitting the report presented on 15 March 1993 by the Commission on the Truth

S/25500, 1 April 1993

I have the honour to transmit herewith the report presented on 15 March 1993 by the Commission on the Truth established under the peace agreements between the Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional (FMLN) (see annex).

As you are aware, the report contains a set of recommendations that are binding on the Parties. As part of the mandate entrusted to the United Nations to verify implementation of all agreements reached between the Government of El Salvador and FMLN, I have today addressed to the President of El Salvador and the General Coordinator of FMLN requests that each of them inform ONUSAL of the measures he intends to take to implement the recommendations of the Commission, together with the timetable for the execution of such measures.

Also today, the Acting Chief of the United Nations Observer Mission in El Salvador, General Victor Suanzes, has been instructed to address a letter to the Comisión Nacional para la Consolidación de la Paz (COPAZ), which, under the peace agreements, is mandated to supervise the implementation of political agreements reached between the Parties. In that letter, General Suanzes will inform COPAZ of the request for information which I have addressed to the Government of El Salvador and FMLN and will ask the Commission to inform ONUSAL of the steps it intends to take to discharge the responsibilities entrusted to it under the peace agreements.

I should be grateful if you would bring this information to the attention of the members of the Security Council.

(*Signed*) Boutros BOUTROS-GHALI

Annex

FROM MADNESS TO HOPE

The 12-year war in El Salvador

REPORT OF THE COMMISSION ON THE TRUTH FOR EL SALVADOR

THE COMMISSION ON THE TRUTH FOR EL SALVADOR

Belisario Betancur, *Chairman*
Reinaldo Figueredo Planchart
Thomas Buergenthal

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*The annexes are available for consultation in the language of submission (Spanish) in the Dag Hammarskjöld Library.

"... all these things happened among us ..."

—*Mayan poem*

I. Introduction

Between 1980 and 1991, the Republic of El Salvador in Central America was engulfed in a war which plunged Salvadorian society into violence, left it with thousands and thousands of people dead and exposed it to appalling crimes, until the day—16 January 1992—when the parties, reconciled, signed the Peace Agreement in the Castle of Chapultepec, Mexico, and brought back the light and the chance to re-emerge from madness to hope.

A. *Institutions and names*

Violence was a fire which swept over the fields of El Salvador; it burst into villages, cut off roads and destroyed highways and bridges, energy sources and transmission lines; it reached the cities and entered families, sacred areas and educational centres; it struck at justice and filled the public administration with victims; and it singled out as an enemy anyone who was not on the list of friends. Violence turned everything to death and destruction, for such is the senselessness of that breach of the calm plenitude which accompanies the rule of law, the essential nature of violence being suddenly or gradually to alter the certainty which the law nurtures in human beings when this change does not take place through the normal mechanisms of the rule of law. The victims were Salvadorians and foreigners of all backgrounds and all social and economic classes, for in its blind cruelty violence leaves everyone equally defenceless.

When there came pause for thought, Salvadorians put their hands to their hearts and felt them pound with

sought information from FMLN, which it obtained.

The position of FMLN is that the death of Miguel Castellanos was a legitimate execution, since he was a traitor who was contributing in a direct and effective manner to repression against FMLN.

Findings

Notwithstanding the arguments put forward by FMLN, international humanitarian law does not permit the execution of civilians without a proper trial.

(d) *Peccorini Lettona*

Francisco Peccorini Lettona, aged 73, a doctor of philosophy and university lecturer, was a contributor to *El Diario de Hoy*, a morning newspaper in El Salvador, in which he had written a number of articles opposing the activities of FMLN.

Mr. Peccorini took an active and public part in a group dedicated to what it termed "winning back" the University of El Salvador, which, in its view, had been infiltrated by guerrillas.

On 15 March 1989 in San Salvador, while driving his car, Mr. Peccorini was the target of an attack in which he was shot. He was taken to the military hospital, where he died.

At the Cocoyoc meeting held in Mexico from 21 to 24 July 1989 between prominent persons from the United States of America and representatives of FMLN, FMLN acknowledged responsibility for Mr. Peccorini's death.

(e) *García Alvarado*

On 19 April 1989, Mr. José Roberto García Alvarado, Attorney-General of the Republic, was killed when a bomb planted in the car he was driving exploded. The incident occurred in the San Miguelito area of San Salvador and the two passengers in the car were injured.

At the Cocoyoc meeting in Mexico in July 1989, FMLN took responsibility for Mr. García Alvarado's death, which it attributed to the Fuerzas Armadas de Liberación (FAL), one of its member organizations.

(f) *Guerrero*

Summary of the case

On 28 November 1989, Mr. Francisco José Guerrero, former President of the Supreme Court of El Salvador, was assassinated in his car at the intersection of Boulevard de los Héroes and Alameda Juan Pablo II in San Salvador. One of the attackers was killed, another escaped and the third, César Ernesto Erazo Cruz, was wounded.

In the hospital, Erazo Cruz said he had killed Guerrero on orders from FMLN. He later changed his story and finally denied participating at all. When he came to trial, the jury acquitted him.

At the time of his death, Mr. Guerrero was investigating the assassination of the Jesuit priests and apparently had found evidence. One of the possible motives for his murder may have been precisely to conceal that evidence.

Mr. Guerrero died as a result of deliberate action aimed at killing him. Although César Ernesto Erazo Cruz was acquitted at the trial, there is every evidence that he participated in the assassination. The Commission tried unsuccessfully to obtain significant information both within and outside El Salvador to confirm or disprove its investigating hypotheses. Although there is sufficient evidence that Erazo Cruz was at the time an active FMLN member, a fact which suggests that a more thorough investigation of FMLN responsibility for the assassination is called for, the available evidence did not allow the Commission, on completion of its work, to reach full agreement on this case.

Description of the facts 530/

Mr. Francisco José Guerrero, a prominent conservative politician, was active in public life for more than three decades. 531/ He was President of the Supreme Court, worked as an adviser to President Cristiani to promote the dialogue with FMLN and was also a member of the Ministry of Foreign Affairs advisory council. 532/

Mr. Guerrero was investigating the assassination of the Jesuit priests, which took place 12 days before he was killed. He had contacted the Jesuits immediately after the crime occurred and offered to cooperate in solving it.

The death of Mr. Guerrero

On the morning of 28 November 1989, Mr. Guerrero left his house in the Escalón district with his daughter-in-law to drive her to the San Salvador judicial centre, where she worked. Mr. Guerrero was driving, his daughter-in-law was sitting in the front passenger seat, and his bodyguard, Victor Manuel Rivera Monterrosa, was sitting in the back seat. Mr. Guerrero was usually accompanied by two bodyguards, but that morning one of them did not show up.

They reached the intersection of Boulevard de los Heroes and Alameda Juan Pablo II without incident, and there they stopped at a traffic light near the "Biggest" restaurant. A man—later identified as Angel Aníbal Alvarez Martínez—ran up along the pavement and stationed himself behind Mr. Guerrero's car. Another unidentified man stationed himself to the left of the car and a third, later identified as César Ernesto Erazo Cruz, stood on the right side. Without addressing a word to the occupants of the car, they opened fire with their weapons. 533/ Mr. Guerrero's bodyguard noticed the men

103d Congress
1st Session

COMMITTEE PRINT

COMPARISON OF U.S. ADMINISTRATION TESTIMONY AND REPORTS WITH 1993 U.N. TRUTH COMMISSION REPORT ON EL SALVADOR

REPORT

PREPARED FOR THE

COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES

BY THE

CONGRESSIONAL RESEARCH SERVICE
LIBRARY OF CONGRESS

JULY 1993

Printed for the use of the Committee on Foreign Affairs

This report has not been officially adopted by the Committee on Foreign Affairs and, therefore, may not necessarily reflect the views of its members

U.S. GOVERNMENT PRINTING OFFICE

69-487 CC WASHINGTON : 1993

For sale by the U.S. Government Printing Office

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LETTER OF TRANSMITTAL

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON WESTERN HEMISPHERE AFFAIRS,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC, March 5, 1993.

Hon. LEE HAMILTON,
Chairman, Committee on Foreign Affairs, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am transmitting herewith a report that I requested by the Congressional Research Service comparing executive branch testimony before Congress with the March 15, 1993, Truth Commission Report on El Salvador.

The CRS report shows a disturbing pattern of administration deception with respect to the human rights violations investigated by the Truth Commission. In several cases, administration testimony before Congress tended to:

- attribute more political violence to the guerrillas than the facts warranted;
- attribute right-wing violence to unspecified right-wing elements independent of the government, while absolving the government of responsibility;
- attribute to combat operations deaths that were known to be due to massacres; and
- dismiss contrary information as guerrilla-inspired.

The ability of this Republic to forge and sustain a bipartisan foreign policy that protects and promotes U.S. interests in the world rests crucially on trust between the executive and legislative branches of the government. When the executive branch abuses that trust, whether for partisan political purposes or because of a failure to recognize the rightful role of Congress in foreign policy-making, it is ultimately the national interest that suffers.

It is my hope that this report will help complete the record of this unfortunate period and will help us move forward to a new relationship between Congress and the executive that will enable us to meet the challenges ahead.

Sincerely,

ROBERT G. TORRICELLI,
Chairman.

SUMMARY

This memorandum compares Administration testimony and reports to Congress on El Salvador in the 1980–1992 period with the report of the U.N.-appointed Truth Commission which was issued on March 15, 1993.

With regard to general findings by the Truth Commission, Administration testimony and reports generally agreed that the level of human rights violations in El Salvador declined over the 12 year period, and that the judicial system was ineffective. On the other hand, the two sources disagreed to a considerable extent on the agents responsible for the violence. The Truth Commission found that 85% of the violence was attributed to government armed forces, the related security forces, or right wing death squads. Administration testimony, however, while generally recognizing the existence of such violence, often characterized the guerrillas as the major sources of politically motivated killings. In another area, while the Truth Commission noted that the United States tolerated the funding of death squads by Salvadoran exiles living in Miami, Administration testimony disagreed or was lacking.

With regard to Truth Commission findings on 9 specific cases attributed to the FMLN guerrillas, executive branch statements were strongly in agreement, and in one case no testimony was found.

With regard to Truth Commission findings on specific cases attributed to groups associated with the Salvadoran government, Administration testimony agreed in some cases, disagreed in others, and in nine cases no relevant testimony was discovered.

There was general agreement between the two sources on seven cases, including the killing of the Democratic Revolutionary Front (FDR) leaders and the Salvadoran and U.S. land reform specialists in 1980 and 1981, the massacres in Las Hojas and San Sebastian in 1983 and 1988, and the killings of the six Jesuit priests in 1989. In these cases, the Administration suggested that the killers were state-associated agents and pressed for effective prosecution.

There was general disagreement on six cases, including the killings of Archbishop Romero and the American churchwomen in 1980, the massacres at the Sumpul River and El Mozote in 1980 and 1981, the bombing of FENASTRAS and COMADRES in 1989, and the killing of Oqueli and Flores in 1990. The Administration denied that massacres occurred, and it took a skeptical posture on the FENASTRAS/COMADRES cases and blamed the groups for failing to cooperate in the government's investigation. In the cases

involving religious persons, the Administration denied that it had information on those responsible, it expressed doubt that Salvadoran government agents were responsible, and in the churchwomen's case it suggested that they may have run a military road block. In the Oquelí and Flores case, the Administration found no evidence of Salvadoran involvement in the incident.

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the crime was committed by FMLN, or by a security force or death squad associated with the state. It found the conviction in 1991 of a young member of an FMLN group, who confessed to involvement and then withdrew his confession, to be faulty.

(B) Administration Testimony or Reports:

(1) State Department, "Country Reports on Human Rights Practices for 1987," SFRC and HFAC, Joint Committee Print, February 1988, pp. 475–76:

> "On October 26, the president of the nongovernmental Human Rights Commission of El Salvador (CDHES), Herbert Ernesto Anaya Sanabria, was murdered outside his home. Anaya had been arrested in May 1986 and charged with membership in the Peoples' Revolutionary Army (ERP), one of the five guerrilla factions of the FMLN. He was among 57 prisoners released in February 1987 in exchange for the former director of civil aviation, kidnaped 15 months earlier by the FMLN. The Government promised a full and thorough investigation of the Anaya killing and assigned it to the Special Investigations Unit, a U.S.-trained criminal investigations unit under direct civilian control. A $10,000 reward was offered by the Government for information leading to the arrest of the assailants. On January 4, 1988 Jorge Alberto Miranda Arevalo, a member of the ERP, confessed to First Criminal Court Judge Edgar Morales Joya that he had participated in the assassination of Anaya Sanabria along with two guerrilla comrades, on the orders of ERP leaders who, he said, suspected Anaya had become an informant."

5. Case E2c. Romero Garcia, "Miguel Castellanos"—February 16, 1989 (San Salvador)

(A) Truth Commission Report: FMLN assassinated Napoleon Romero Garcia (nome de guerre "Miguel Castellanos"), a former FMLN military leader who had been speaking out against the FMLN since shortly after being captured in 1985.

(B) Administration Testimony or Reports:

(1) State Department, "Country Reports on Human Rights Practices for 1989," SFRC and HFAC, Joint Committee Print, February 1990, p. 573:

> "Miguel Castellanos, a former guerrilla who renounced violence in 1985, was assassinated by the FMLN in February."

6. Case E2d. Peccorini Lettona—March 15, 1989 (San Salvador)

(A) Truth Commission Report: Dr. Francisco Peccorini Lettona, a 73 year old conservative intellectual who was a dual citizen of El Salvador and the United States, was assassinated by the FMLN.

(B) Administration Testimony or Reports:

(1) State Department, "Country Reports on Human Rights Practices for 1989," SFRC and HFAC, Joint Committee Print, February 1990, pp. 573:

> "On March 15 Francisco Peccorini, a 75-year-old American citizen and former Jesuit priest, was murdered by the FMLN because of his criticism of guerrilla infiltration of the National University."

7. Case E2e. Garcia Alvarado—April 19, 1989 (San Salvador)

(A) Truth Commission Report: Dr. Jose Roberto Garcia Alvarado, Attorney General of El Salvador, was killed by FMLN in car bomb explosion.

(B) Administration Testimony or Reports:

(1) State Department, "Country Reports on Human Rights Practices for 1989," SFRC and HFAC, Joint Committee Print, February 1990, pp. 573:

> "Killings by the FMLN, especially of prominent figures, escalated during the last 9 months of the year. The April 9 assassination of Attorney General Robert Garcia Alvara[d]o dealt a severe blow to the legal system, as the Attorney General is the chief prosecutor of human rights cases in the country."

8. Case E2f. Guerrero—November 28, 1989 (San Salvador)

(A) Truth Commission Report: Dr. Francisco Jose Guerrero, conservative politician and ex-President of the Supreme Court, was killed by the FMLN. An attacker was captured, but was absolved by the court.

(B) Administration Testimony or Reports:

(1) State Department, "Country Reports on Human Rights Practices for 1989," SFRC and HFAC, Joint Committee Print, February 1990, pp. 573:

> "The FMLN took credit for or is believed to be responsible for the . . . , and the November 28 assassination of Francisco "Chachi" Guerrero, the immediate past president of the Supreme Court of Justice and a former foreign minister."

9. Case E2g. North American Servicemen Survivors of Helicopter Crash—January 2, 1991 (San Miguel)

(A) Truth Commission Report: FMLN captured and killed two wounded U.S. servicemen who had survived after their helicopter was shot down and crashed.

(B) Administration Testimony or Reports:

(1) State Department, "Country Reports on Human Rights Practices for 1991," SFRC and HFAC, Joint Committee Print, February 1992, pp. 595:

> The FMLN committed several political and other extrajudicial killings in 1991. On January 2, FMLN combatants shot down a U.S. military helicopter. Chief Warrant Officer Daniel Scott was killed in the crash, but Lieutenant Colonel David Pickett and Airman Ernest Dawson survived the crash and, according to eyewitness testimony, were brutally beaten and then murdered. The FMLN has refused to cooperate with either government or U.S. investigations.

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May 27, 1998

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To: House Sub Committee on Government Management, Information and Technology

Statement in Support of HR2635, Human Rights Information Act

From: Media Alliance Latin America/Caribbean Basin Committee

Our committee has been working to promote fuller and more consistent coverage of Central America by San Francisco Bay Area news outlets since 1982 both because important issues of U.S. foreign policy were involved and because the Bay Area has a large population from that region concerned about events in their countries of origin. In doing this work over a period of more than 15 years, we have become well-versed in the region's history and politics.

As mass grave sites are uncovered in Guatemala and El Salvador, the sense of anger and despair in those countries grows. We believe the best path to reconciliation of the formerly warring parties is a full and honest revelation of the record of human rights abuses and disappearances. The U.S. Government and its agencies hold much of that information and must take responsibility by releasing it.

That the U.S. was deeply involved in those conflicts is well documented. We have both a moral and political obligation to engage as fully in the healing process. Our government felt we had to be a major player in the region at war, now we need to be a major player in the promotion of peace.

HR 2635 would be a very positive step toward social regeneration and the development of democratic institutions in the countries of Central America as they emerge from decades of strife. Therefore, we urge your sub-committee to support this resolution's passage by the full House.

Rich Yurman

Rich Yurman, Chair
for
Media Alliance Latin America/Caribbean Basin Committee