

DRAFT

Who then themselves mishandled the information in a way that could have complicated the task of

STAFF REPORT ON EL SALVADOR TRIP
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identifying any major-ups involved in the crime.

Overview

Chairman Moakley sent a delegation of five staff to El Salvador on January 8-10 to gather relevant information pertaining to the Salvadoran government's investigation of the November 16 murder of six Jesuit priests, their cook and her young daughter.

Based on a series of interviews with government, embassy and church representatives, it appears that substantial progress has been made in identifying those who were responsible for the murders. There are concerns, however, that the possibility of a coverup still remains. It is unclear whether the investigation will go much beyond identifying those who actually committed the killings to include, as well, those who ordered or otherwise consented to the crime.

The delegation was also informed of an incident involving a U.S. Embassy officer withholding, for a period of at least 10 days, relevant information concerning the murders before passing it on to his superiors. The incident (explained in detail in this memo) raises a number of questions concerning the Embassy's overall handling of this case.

In addition, the delegation was made aware of the deep rift that currently exists between the United States Embassy and the church -- the Jesuits, in particular. The Jesuits believe very strongly that the Embassy has been a negative force in the investigatory process.

Since the trip, much of what the delegation has learned is now public due to announcements by President Cristiani and other sources. What follows is a brief summary of the delegation's findings.

Actual Investigation

Lt. Col. Manuel Antonio - Rivas Mejia

The primary unit handling the entire investigation is the U.S.-funded Special Investigative Unit (SIU), headed by Colonel Rivas. The staff delegation received a full briefing by Col. Rivas and was informed that the SIU was responsible for "breaking the case." An analysis of all technical aspects of the investigation, including a breakdown of the evidence will be forthcoming. The U.S. Embassy has promised to send a full text of the SIU's report to the task force.

The SIU's investigation began to focus on a specific unit of the US-trained Atlacatl Battalion after a ballistics test of spent cartridges found at the scene of the crime were found to match weapons in the possession of the Atlacatl Battalion. In addition, a handwriting analysis of a sign left at the scene of the crime -- which stated: "We Have Adjudicated the Traitors to the FMLN" --has

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been traced to a member of the ^{unit} Atlacatl.

Attention was also focused on this particular unit because on November 13, three days prior to the murders, members of the unit conducted a search of the Pastoral Center at the University of Central America (UCA), where the Jesuits were living at the time. The soldiers alleged they were shot at by someone on the university grounds; they requested appropriate clearances to enter (which included an OK from President Cristiani); and entered the University. The soldiers searched the Pastoral Center and left.

The SIU interrogated and interviewed members of this unit of the Atlacatl Battalion and found contradictions in their stories. On Sunday, January 7, President Cristiani announced that 47 members of the battalion were held in 3 separate groups and Colonel Benavides, the operational commander, was confined to quarters (Cristiani did not publicly identify Benavides).

On Wednesday, January 10, President Cristiani informed members of the delegation that 4 people had been specifically identified as participating in the murders and had been formally arrested. He predicted that by the end of the week the others involved in the case -- including those who ordered the killings -- would be identified.

On Saturday, January 14, Cristiani announced in a nationwide television broadcast that an army colonel (Col. Guillermo Alfredo Benavides), two lieutenants (Lt. Yuzi Rene Mendoza and Lt. Jose Ricardo Espinoza Guerra), a sub lieutenant (Sub-Lt. Gonzalo Guevara Serrito), two sergeants, a corporal and one other soldier had been arrested in connection with the Nov. 16 killing of the six Jesuit priests and will be turned over to the courts for prosecution.

Col. Benavides has been the commander of the General Gerardo Barrios Military School and previously served as head of Salvadoran intelligence. Except for Benavides all those arrested were members of the Atlacatl Battalion. The Atlacatl Battalion was not assigned to the UCA the night of the murders. Col. Benavides was given operational command of 45 members of the Atlacatl as a reserve force, after the November 11 FMLN offensive began. This 45 member unit was stationed at the military school.

U.S. Embassy officials expressed surprise that Benavides might be capable of carrying out this operation. Col. Milton Menjivar, head of the U.S. Military Group, said, "Of all the Colonels -- he's the last guy who would incite violence." Janice Elmore, who is monitoring this investigation with Richard Chidester (legal officer) and who is an expert on the Salvadoran military, described Benavides as "lackluster" and a "non-player." His nickname is "the poet."

The new rector of the UCA, Rev. Francisco Estrada, stated that Benavides had "no history of anti-church activities." Only the Auxiliary Bishop of the Archdiocese of San Salvador, Rosa Chavez, gave the impression that Benavides might be capable of this by saying, "Benavides was the head of military intelligence...and these

~~From my computer file attributing comment to specific Embassy people. I would cite "Embassy Officials."~~

intelligence types never say much in public. But the mentality of these officials is that priests are communists."

An Honor Board has been named by President Cristiani and the High Command of the military to review the case and decide which members of the military will go before the civilian courts. President Cristiani stated that the Honor Board was comprised of officers from all ranks -- and that it would work closely with the SIU on the investigation (the delegation has requested a list of the members of the Honor Board but, to date, hasn't received it from the Embassy). From discussions with U.S. Embassy officials and President Cristiani, it is still unclear as to what its role will be in the continuing investigation. Will it simply function to arrest those who actually killed the Jesuits? Or will it also look into who participated in the crimes in a less direct way?

Other questions remain with respect to the actual decision to murder the Jesuits:

- * What orders were given the Atlacatl, by who, when?
- * If Benavides gave the order, what was it and what prompted it?
- * With whom would Benavides ordinarily communicate with on the general Staff (this question was never clearly answered)
- * What investigatory efforts have been made or are being planned with respect to the claim of command questions? (the SIU appears to have done little in this regard to date)
- * Given the circumstances of the crime, it is obvious that more than eight people had to know. Have those at military checkpoints between the Military School and the UCA been interviewed? Were there others who knew that the Atlacatl was deployed that night but failed to notify the appropriate authorities, after being asked to provide information on all units deployed near the UCA that night? Are these issues being explored by the SIU or the Honor Board?

U.S. Embassy/Col. Benavides Controversy

According to Ambassador Walker, a United States major (Major Buckland) in the U.S. Milgroup was informed by Colonel Carlos Armando Aviles, head of the military high command's psychological operations and a member of the SIU team, that Colonel Benavides was supposed to have mentioned to another member of the military that he (Benavides) felt "somehow responsible" for the murders of the Jesuits. According to Walker, the U.S. major did not mention this to anyone in the Embassy until January 5 -- approximately 10 days after the major learned of the information.

On January 5 (at least 10 days after first learning of this information) Major Buckland told his superior, Col. Hunter, of his conversation with Aviles. Hunter immediately brought the story to the attention of Colonel Milton Menjivar, commander of the U.S. military group.

Menjivar's version of Buckland's story was more detailed than

I thought Lopez y Lopez
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? — the one Ambassador Walker relayed. He said that Buckland was informed of the story by Aviles, who was informed by Colonel Lopez y Lopez (a deputy in the SIU), who was informed by Colonel Rivas (the head of the SIU), who was informed directly by Colonel Benavides. He said that Benavides, himself, supposedly communicated the story to Rivas -- and said that Benavides had said that "I am responsible... I sent the group in there...what am I to do?"

Also on January 5th, Menjivar, along with Janice Elmore of the US Embassy, decided to bring this information to the attention of Colonel Ponce, the Chief of Staff of the Army. Menjivar told the staff delegation that he "assumed Ponce already knew." Menjivar did not make any attempt to inform U.S. Ambassador William Walker, who was traveling in the United States, or Jeff Dietrich, who serves as the DCM at our embassy, of any of these developments.

Menjivar and Elmore met with Ponce and told him Buckland's story. Menjivar cited Aviles as the source of the information. Ponce said he knew nothing of Benavides's involvement and called Aviles in for questioning. Aviles denied telling Buckland anything. He was then given a polygraph test, which he failed ("badly," according to Ambassador Walker).

Major Buckland was also given a polygraph test, which he failed. However, Ambassador Walker said that an expert polygrapher at the Embassy indicated that the manner in which Buckland failed the test showed that he was "nervous" and "felt guilty...perhaps for betraying a friend's (Aviles) confidence." Buckland was sent back to the United States and was scheduled to take another polygraph test in "friendlier surroundings" on Wednesday, January 10. We have no information about the results of this test.

On Sunday, January 14, the New York Times and the Washington Post reported that there were questions as to whether Buckland may have been warned about the plot to kill the priests prior to the actual murders. The staff delegation has no information on that possibility.

Clearly, questions about what Buckland knew, when he knew it and why he hesitated, for at least 10 days, in passing the information along to his superiors still remain. The U.S. Embassy account of what Benavides actually said is contradictory: Walker says Benavides "felt he was somehow responsible" --- Menjivar said that Benavides said, "I am responsible..."

Walker and DCM, Jeff Dietrich, both expressed anger at not being informed of this entire episode early on. However, Menjivar insists that he acted properly and, in retrospect, would probably react the same way.

Another question is why did Benavides talk to Colonel Rivas? Did Rivas initiate the conversation as part of the SIU's investigation? If so, why didn't Rivas report this information to Ponce or Cristiani? Was this conversation indeed the triggering

factor in Rivas' decision to focus virtually all of his attention on the Atlacatl, as Col. Menjivar indicated to the staff delegation? Would Rivas ever have gone to Ponce directly if discussions between Aviles and Buckland had not taken place? Did Rivas encourage Lopez y Lopez and/or Aviles to pass the information concerning Benavides to the US Embassy? If so, why? If not, what was Aviles' motivation -- did he fear a coverup on the part of Rivas?

The Church

The delegation met with Father Francisco Estrada, Rector of the University of Central America and with Rosa Chavez, the Auxiliary Bishop of San Salvador. *(MSP, Gregorio)*

Rosa Chavez stated that a successful resolution to the Jesuit case would be extremely important "so that people can have confidence in the justice system... and that would help promote peace." But both men warned that the current political climate has resulted in repression and threats against the church.

Rosa Chavez reported that on the day the delegation met with him a story appeared in the Salvadoran newspaper El Diario de Hoy accusing Maria Julia Hernandez, Director of Tutela Legal, of planning a trip to the United States to propose a total cut-off of US aid. If proposed reforms in the Salvadoran penal code are approved such actions would be illegal. Chavez said that no sources were given for the story and that it was absolutely untrue. But, he emphasized that such stories were not uncommon and threatened the security of the church.

Another incident occurred on the day, November 16th, the Jesuits were murdered at approximately 2:30 in the afternoon. Chavez said "we heard a voice over a loudspeaker (a megaphone) from a military vehicle. The voice thanked the people for their help during the offensive...and then mentioned something about communists and accomplices of the FMLN that were in El Salvador...the voice then said 'Ellacuria and Martin-Baro have fallen...we will continue killing communists.'" Chavez said a few moments later the same voice was heard saying "we are the soldiers of the First Brigade."

Rosa Chavez said he communicated this incident to the secretary of President Cristiani. Some time later, the Commander of the First Brigade, Col. Elena-Fuentes, called Chavez's superior, Archbishop Rivera y Damas, to complain. Elena-Fuentes told the Archbishop that Chavez had made a false accusation and that everything that had been amplified had been recorded. The Archbishop responded, "If everything had been recorded than this statement (about Ellacuria and Martin-Baro) must be there --- because I, too, heard it."

One common theme was the church's problems with the United States Embassy. The Jesuits, in particular, have strong negative feelings about the U.S. Embassy's behavior with regard to this case

and have singled out Richard Chidester, the Embassy's legal officer and the man in charge of the investigation for the embassy.

Father Estrada stated that the Jesuits felt "tricked" and "mislead" by Chidester. Specifically, Father Estrada mentions the handling of the "witness" -- Lucia Barrera de Cerna -- as the main cause of their distrust for the embassy. Estrada said, "It was our understanding that Lucia would be taken to the United States where she would be turned over to the Jesuits. If we would have known how she would have been treated, we would have sent her to Spain -- and not the US." Chidester accompanied the witness to Miami, where she underwent extensive questioning and polygraphing.

Estrada stated that the Jesuits were unaware that the witness would be interrogated by the FBI or that she would be subjected to polygraph examinations.

Rosa Chavez stated that "we have a respectful relationship with the U.S. Embassy." But, he also singled out Richard Chidester as a problem.

Estrada welcomed Cristiani's announcement of Sunday, January 7 - in which the Salvadoran President singled out the military as the prime suspect in the murders. He said it was a sign that the investigation was progressing. He complained that there was "nothing new" in the statement -- because the Jesuits and Tutela Legal knew all along that the military was involved.

Estrada also raised some questions about head of the SIU, Colonel Rivas. He cited a New York Times editorial which referred to the Colonel as the "notorious colonel Rivas" linked to human rights abuses as a cause for alarm. Estrada confronted Rivas with the allegations, which Rivas quickly denied. Estrada said that though he believes Rivas, questions still remain due to his involvement with the mistreatment of the witness.

The SIU briefed the Jesuits -- Father Estrada and Father Tojeira (the Jesuit Provincial) -- on its investigation on December 21, 1989. Also present at the meeting were Col. Rivas, Col Lopez y Lopez and Col. Aviles, all directly involved with the SIU's investigation. Richard Chidester also appeared at the meeting without the prior knowledge of the Jesuits. The Jesuits asked him to leave the meeting -- which he did.

Estrada also indicated that the Jesuits knew of other witnesses who were too frightened to come forward or too frightened to tell all that they saw. Though, he added, there was "no key witness."

My recollection of the point is different: He did have a doubt about Rivas, but used the NYT editorial to raise the question of whether or not (the witness) would want to limit the investigation by discrediting Rivas. I'd leave the SIU out - it's not essential to the report.