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## REPORT OF OBSERVERS

### ON THE TRIAL IN EL SALVADOR

#### OF MILITARY PERSONNEL ACCUSED OF MURDERING

#### SIX JESUIT PRIESTS, A COOK AND HER DAUGHTER

January 13, 1992

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## TABLE OF CONTENTS

	<u>Page</u>
<b>SUMMARY OF CONCLUSIONS . . . . .</b>	<b>1</b>
<b>I. INTRODUCTION AND BACKGROUND . . . . .</b>	<b>2</b>
A. The Trial Observation . . . . .	2
B. The Crime and the Charges . . . . .	6
C. The Evidence of Record . . . . .	8
D. Salvadoran Criminal Procedure . . . . .	10
E. The Trial Atmosphere . . . . .	13
F. Verdicts and Sentences . . . . .	15
<b>II. CONCLUSIONS . . . . .</b>	<b>17</b>
A. Likely Involvement of Other Senior Colonels . . . . .	19
B. No Serious Investigation To Date . . . . .	23
C. No Serious Investigation Likely Unless United States Military Aid Is Suspended . . . . .	27
D. Unanswered Questions About the United States' Role in the Investigation . . . . .	29
 <b>ANNEX</b>	
1. Statement of Representative Joe Moakley, Chairman of the Speaker's Task Force on El Salvador, November 18, 1991.	

## SUMMARY OF CONCLUSIONS:

### 1. Likely Involvement of Other Senior Colonels:

Strong circumstantial evidence indicates that in addition to the one colonel charged and convicted, other senior Salvadoran military officers, including officers presently in high command posts, are legally responsible for the murders in November 1989 of six Jesuit priests, a cook and her daughter, in San Salvador, El Salvador. (Part II.A, p. 19.)

### 2. No Serious Investigation To Date:

El Salvador has conducted no serious investigation of the possible involvement of other senior military officers in the murders. On the contrary, the military appears to have engaged in a cover-up, and the investigating judge in the case was repeatedly thwarted in efforts to pursue leads. (Part II.B, p. 23.)

### 3. No Serious Investigation Likely Unless United

States Military Aid Is Suspended: No serious Salvadoran investigation of other senior military officers is likely to be conducted unless United States military aid is suspended pending such an investigation. (Part II.C, p. 27.)

### 4. Unanswered Questions About the United States' Role

in the Investigation: Despite our government's publicly expressed commitment to a thorough investigation and prosecution of this case, significant unanswered questions remain about our failure to cooperate fully with the judicial investigation of the case. Without suggesting any prejudice, a thorough congressional inquiry into the reasons is warranted. (Part II.D, p. 29.)

## I. INTRODUCTION AND BACKGROUND

### A. The Trial Observation

On September 23, 1991, the President of the Supreme Court of El Salvador invited the International Human Rights Law Institute of DePaul University College of Law to observe the trial in the "Jesuits case" in El Salvador. As with other organizations, the Institute was invited to send a single observer, and selected attorney Duane Sigelko of the Chicago law firm of Sachnoff & Weaver for this purpose. In addition, the Institute's Executive Director was invited to observe the trial on behalf of another organization. This report reflects the views of both observers.

After receiving visas from the Salvadoran Consulate in Chicago on September 25, we traveled to El Salvador on the morning of September 26, arriving at the courthouse in the capital city of San Salvador in the early afternoon of September 26, the first day of the three-day trial.

By the time we arrived, the five-person jury (plus one alternate) had already been selected in proceedings closed to the public and to international observers. (For security reasons the jury was concealed behind a partition from public view and sequestered in the courthouse throughout the trial.)

We remained in the courtroom during all subsequent public proceedings. These consisted of three phases. First was the reading aloud by the court clerks of the "minuta" (the "minutes" of the record of depositions and other significant



evidence gathered by the "investigating judge" under El Salvador's hybrid civil law system). This phase began on the morning of the 26th (we reviewed summaries of that portion of the minuta read before our arrival). It continued until past 11:00 P.M. on the 26th, and on the 27th from 9:00 A.M. until mid-day.

There was no live testimony by witnesses, and no cross examination was presented to the jury. The entire evidentiary portion of the trial consisted of the reading of the "minuta," plus the physical availability to the jury of thousands of pages of transcript of the complete record gathered by the investigating judge, from which the lawyers in closing arguments were permitted to, and did, cite freely.

The second phase of the trial was the closing arguments of the lawyers. Arguments by the "public prosecutors" (for the government) and by the "private prosecutors" (representing the Jesuit priests and the two women victims) lasted from after lunch until early evening on the 27th. Arguments by the several defense counsel, who collectively represented the nine defendants as a group, lasted until approximately 11:00 P.M. that evening and continued throughout the morning of the 28th (a Saturday). Rebuttal arguments consumed the early afternoon.

For five hours, from about 5:00 P.M. until about 10:00 P.M. on the 28th, the jury deliberated in private. The third public phase of the trial, the reading by the judge of the dozens of verdicts reached by the jury, then took somewhat less than an hour on the evening of the 28th.

Apart from observing the trial, we familiarized ourselves with the case through review of documents,\*/ and interviews for background and perspective. We had an extensive, off-the-record interview with a key representative of the United States Embassy. We also interviewed lawyers for the Jesuits and, briefly, one of the defense lawyers. In addition, we visited the vicinity of the crime, and had an opportunity to view photographs of the scene of the crime taken shortly after the bodies had been discovered.

All public phases of the trial were videotaped. For security and to accomodate the large numbers of attorneys, observers and the press, a large temporary courtroom was constructed in an interior hallway on the top floor of the Supreme Court building in San Salvador.

There were approximately two dozen international observers at the trial. We were seated prominently in a specially marked section in the center of the courtroom. Relatives and supporters of the defendants were seated in a section to our right; relatives and supporters of the victims were seated in a section to our left. The eight defendant

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\*/ We reviewed the following: extensive summaries of the case prepared by the Lawyers Committee for Human Rights in New York, which serves as United States counsel for the Jesuits; two reports and a speech on the case by Congressman Moakley; the Country Reports on El Salvador for 1989 and 1990 by the United States State Department; the Country Report on El Salvador for 1990 by Americas Watch; several reports of the Human Rights Institute of the Jesuit University of Central America; and a file of news clippings on the case (mainly from the New York Times). In addition, during and after the trial, we read numerous articles on the trial which appeared in the Salvadoran press.

military personnel (a ninth was tried in absentia) sat immediately across the rail, facing us throughout the trial.\*\*/

The documents, interviews, and other information were helpful in evaluating and placing in perspective the evidence in the case. However, except as otherwise noted below, each of our principal conclusions rests on evidence of record, read in the minuta or argued by the attorneys in open court.

Finally, it should be noted that on November 18, 1991, Congressman Joe Moakley (D.-Mass.), who chairs the Speaker's Task Force on Central America, issued a post-trial statement. (Annex 1 hereto.) Relying in part on evidence from confidential sources not presented at the trial, he stated his belief in the "possibility" that other senior Salvadoran colonels were involved in the plot to murder the Jesuit priests. While this is consistent with our view, we reached that conclusion during the trial, for the reasons given below, without knowing about the confidential evidence later cited by Congressman Moakley.

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\*\*/ Other organizations present included, for example, Amnesty International, Americas Watch, the United Nations observer group, the Spanish Ambassador and several Spanish parliamentarians, the International Commission of Jurists, the American Association of Jurists, local bar associations in San Francisco and Montreal, and the American Bar Association (represented by the Institute's Executive Director, who has reported separately to the ABA). During portions of the trial, the United States, Canadian and Swedish Ambassadors were also present.

During and after the trial we exchanged views and observations with other international observers.

**B. The Crime and the Charges**

In November 1989 an offensive against the capital city of San Salvador was launched by the Salvadoran rebel group FMLN (Frente Farabundo Martí para Liberación Nacional). For the first time in several years of civil war, the rebels held large portions of the capital for several days.

In response, the Salvadoran military divided the city into security zones. The most sensitive zone, encompassing the military's high command center, the national directorate of intelligence, the military school and other sensitive locations, was placed under the command of the head of the military school, Colonel Guillermo Alfredo Benavides Moreno.

Also located within this zone was the campus of the University of Central America (the "UCA"), a Jesuit university. Except for the very first hours of the rebel offensive, no evidence was presented at trial that the rebels ever penetrated either the zone or the UCA. This is not surprising; three rings of security forces surrounded the zone. All movement within the zone was closely monitored by military radio communications.

In the early hours of November 16, 1991, six Jesuit priests, including Father Ignacio Ellacuría Beascochea, the President of the University, were murdered in their residence at the UCA, along with a cook and her 15-year-old daughter.

The murderers attempted to make their work appear to be that of the FMLN. They used an AK-47, a weapon known to be regularly employed by the rebels, not the Army; they exploded a grenade and shot up the residence building and the parking lot,

feigning a combat incident; and they left a crude, hand-lettered sign suggesting that this was all the work of the FMLN.

For six weeks following the murders, the government of El Salvador maintained that the murders appeared to be the work of the FMLN, while statements of United States government representatives indicated that the rebels might (or might not) have been the perpetrators. However, in early January 1990 a United States military adviser, Major Eric Buckland, reported to his superiors that he had been advised by a Salvadoran colonel on December 20, 1989, that another colonel, Colonel Benavides -- head of the military school and of the special security zone -- had privately admitted to involvement in the killings.

The United States Embassy then confronted the Salvadoran high command with this information. The military thereupon created an "Honor Commission," consisting of six military officers and two civilian attorneys, who one week later gave President Cristiani a list of nine military personnel, including Colonel Benavides, to be accused of the murders.

Eight of these men were then taken into custody and questioned. The ninth, a private, had deserted from the military shortly after the murders and has not been located.

Subsequently all nine -- Colonel Benavides, three Lieutenants and five enlisted men -- were charged for the murders. Formally they were charged (in varying individual combinations) with murder, terrorism, acts preparatory to terrorism, planning and conspiracy to commit terrorism, and destruction of evidence. After lengthy proceedings before the investigating judge, Judge Ricardo Zamora of San Salvador's



Fourth Penal Court, the trial took place during September 26-28, 1991, also before Judge Zamora as the sentencing judge.

**C. The Evidence of Record**

The primary evidence consisted of confessions or other inculpatory statements made to police investigators by seven of the defendants. Colonel Benavides has from the outset denied any involvement in the murders. However, two of the accused Lieutenants told police that Colonel Benavides had ordered them to kill the Jesuit priests. They also said he ordered them to leave no witnesses, which accounts for the killing of the cook and her daughter, who happened to be found in the Jesuits' residence. Each of the enlisted men present confessed to taking part, including some who admitted actually shooting the victims.

None of the defendants was willing to repeat his confession (or, indeed, to make any statement at all) to the investigating judge. At least some defendants claimed through counsel that their confessions had been coerced. However, no corroborating evidence of coercion was presented.

In addition to the confessions, there was considerable circumstantial evidence against Colonel Benavides. This evidence was crucial because, under Salvadoran law, testimony of co-defendants is generally not admissible against a defendant.

The circumstantial evidence included, for example, the fact that Colonel Benavides was the commander of the special security zone in which the murders took place. The UCA

campus is located less than one mile from Colonel Benavides' office, and was cordoned off by military personnel who controlled access to the campus. Under security conditions at the time, it is implausible that a movement of sixty to eighty troops onto the UCA campus could have taken place without Colonel Benavides' knowledge. There was evidence that the principal murder weapon, an AK-47, came from the arsenal of the military school, access to which was controlled by Colonel Benavides. An M-60 machine gun, used to riddle the Jesuit residence with bullets, also came from the military school. One of the three Lieutenants in charge of the operation was Colonel Benavides' assistant at the military school. The other two were with a unit of the Atlacatl Battalion, which was temporarily housed at the military school, which was assigned to assist with security in Colonel Benavides' zone, and which had conducted a search of the Jesuit residence only two days earlier. Bullets used in some of the murders were linked to an M-16 assigned to that unit of the Atlacatl Battalion.

There was also some forensic and real evidence. Ballistics tests identified the AKA-47, M-16 and M-60 weapons used by the murderers. Handwriting tests indicated that the person who wrote the hand-lettered sign, attributing the incident to the FMLN, may have been one of the three Lieutenants on trial.

Finally, there was eyewitness testimony, which confirmed the movement of men in military uniforms onto the campus, and the general account and timing of events at the campus and at the Jesuits' residence, without specifically identifying any of the individual defendants.



#### D. Salvadoran Criminal Procedure

It is beyond the scope of this observation report to evaluate the Salvadoran criminal justice system as a whole. Nonetheless, to evaluate the trial outcome, certain aspects of Salvadoran criminal procedure should be noted:

1. The Salvadoran system of criminal procedure is a unique hybrid, mixing certain elements of the Anglo-American jury system with elements of the civil law system. Some of these civil law elements, such as the absence of live testimony, have long ago been modernized in most civil law systems.

2. The Salvadoran system uses a jury in homicide cases. But in this murder case, unlike in the United States, the unanimous vote of 12 jurors was not required for conviction. Under Salvadoran procedure, there were only five jurors, and a simple majority vote was sufficient for conviction.

3. The roles of judge and jury are not as clearly defined and separated in the Salvadoran system as in ours. Insofar as could be observed, the judge did not instruct the jury on the law (although the lawyers read to the jury portions of the penal code they deemed favorable). The jury was not instructed even to base its decision on the evidence, or that guilt must be found beyond a reasonable doubt. Jurors were told repeatedly by the lawyers that they were a "tribunal of conscience," required to decide the case on the basis of their "most intimate convictions." Whether those "convictions" must rest on rational deductions from

evidence of record, or reflect simply gut feelings, was not explained.

4. Prior determinations of executive and judicial officials in the case, which in the United States would be regarded as non-evidentiary and highly prejudicial, were read to the jury as part of the minuta. Through this means the jurors were made aware of the definition of the defense of "due obedience" to military orders under Salvadoran law, and of the rule that co-defendant testimony is not admissible. But with no instructions from the judge at trial, and with express authorization to vote their most intimate convictions, it is doubtful whether the jury rigorously applied either legal rule in reaching its deliberations. For example, having heard repeated testimony by the Lieutenants and their police interrogators that Colonel Benavides ordered the killings, it would be a rare juror who would disregard this inadmissible co-defendant testimony in reaching a verdict on the colonel. Similarly, the reading of prior judicial rulings that the evidence was sufficient to bring the case to trial was likely to create an inference of guilt in the jurors' minds.

5. Under a variant of the civil law system long abandoned in most civil law countries, no live testimony was presented in court. Consequently jurors had no opportunity to assess demeanor, and no cross examination was presented. They were offered a general opportunity to call witnesses, but declined to do so. (Given the atmosphere of intimidation at the courthouse, described below, this was understandable. Moreover, lawyers familiar with Salvadoran criminal procedure advised us that

jurors rarely call witnesses in any case.) The private prosecutors requested that the colonel in charge of the original investigation be called, but the judge denied this request.

6. Given the absence of live testimony, the closing arguments of the lawyers play an even greater role in Salvadoran trials than in the United States. Yet the scope of the lawyers' arguments in El Salvador was far more free-wheeling than would be permitted in the United States, and was virtually unchecked by the court. Jurors were urged to vote their consciences to convict or acquit on the basis of, among other considerations, religious beliefs, patriotism, emotional sympathy, the supposedly miraculous cure of Colonel Benavides' son, and prior appellate court interlocutory rulings that there was sufficient evidence to take the case to trial.

7. Judge Ricardo Zamora served as both investigating judge and trial judge in the case. Judge Zamora appears to be an individual of uncommon courage and integrity, who pressed the case to trial and carried it through despite opposition from powerful sectors in the Salvadoran military, and risks to his personal safety. He presided over the trial with dignity. Nonetheless the procedure by which a single judge can serve as both investigating judge, carrying out pretrial prosecutorial functions, and trial judge, impartially presiding over the trial, determining guilt or innocence on non-jury charges, and deciding upon sentences, has an obvious potential for, and appearance of, conflict of interest. This procedure is allowed in few, if any,

other civil law systems. The European Court of Human Rights has ruled it unlawful in Council of Europe member nations.

**E. The Trial Atmosphere**

Despite what appeared to be the best efforts of Judge Zamora, the trial was conducted in an atmosphere of intimidation. Jurors were hidden from public view throughout the trial and sequestered in the courthouse night and day; their names were not made public. However, the prosecutors and defense counsel knew the jurors' identities. After one defense counsel addressed a particular juror by name, he was promptly admonished by the judge.

The trial was conducted not in a regular courtroom, but in a windowless, interior hallway on the top floor of the Supreme Court building in a fenced-in government compound in San Salvador. The compound was heavily guarded by the military and judicial police. Observers and participants in the trial had to pass through one security checkpoint to get into the compound, another to enter the building, and yet another to enter the courtroom.

Nonetheless on the morning of September 28th, while defense lawyers were presenting closing arguments, a loud pro-defense demonstration was somehow permitted to take place inside the government compound, immediately outside the courthouse, using a truck mounted with loudspeakers that were louder than the audio system used by the lawyers and judge in the courtroom. The demonstrators played the Salvadoran national anthem repeatedly,

interspersed with speeches and chants of "Justice for the Defendants," and amid such placards as "no to foreign intervention." At least once they broadcast a trumpet playing taps.

The sound of the demonstration was so loud and disruptive that the judge dispatched one of his assistants outside, apparently to stop it. The assistant returned, but the demonstration continued uninterrupted, even louder than before. At this point the jury could reasonably infer that (1) the armed forces had knowingly let the demonstrators enter and remain in the compound, and (2) the civilian judge was powerless to stop the disruption.

Finally the judge suspended the trial for a few minutes. During the break, some observers reported hearing the sound of aircraft buzzing the courthouse.

After an hour or more, the demonstration ended. The trial continued.

The failure of the military or judicial police to keep the pro-defense demonstration away from the courthouse, or to quiet it, contrasted with their blocking of a prayer demonstration the previous day by students and faculty from the UCA. Security forces dispersed the demonstrators blocks away from the courthouse, striking several students with sticks.



**F. Verdicts and Sentences**

After five hours of deliberation, the jury convicted Colonel Benavides on all counts of murder, while acquitting him on all counts of terrorism. It also convicted one Lieutenant, Colonel Benavides' aide at the military school, on one count for the murder of the 15-year-old girl, while acquitting him on all other charges. All other defendants, including the confessed triggermen, were acquitted on all jury charges.

Certain non-jury charges against the officer defendants, including planning and conspiracy to commit terrorism, and destruction of evidence, remain to be decided by the judge. He must also rule on civil damage claims by the victims' survivors, and on sentences for Colonel Benavides and his aide. Under Salvadoran law, the maximum sentence for any crime is thirty years.

By mid-December, Judge Zamora had not yet ruled on any of these points, pending a defense appeal of a motion to remove him from the case on the ground that he had taught at the UCA and therefore had a relationship with the victims.

It is not the purpose of this observation report to second-guess the jury's verdict. As shown in part C above, there was sufficient evidence for a jury to convict Colonel Benavides. However, in view of the idiosyncrasies of Salvadoran criminal procedure, and the atmosphere of intimidation at the trial, as described in parts D and E above, the jury verdicts on the other defendants do not inspire confidence.

Perplexing questions arise: Why were the confessed killers acquitted? Why was one Lieutenant convicted for the killing of the daughter, but not of the mother, when both were killed at the same time on the same orders? Why were other Lieutenants, who admitted more direct involvement in the operation, found not guilty? Why were only the two military school officers convicted, while all Atlacatl battalion defendants were acquitted? The jury did not explain, and could not be asked, since the jurors' identities were not made public.

It may be that, in general, the jury acquitted the lower ranking defendants on the theory that they were ordered to conduct the killings, and might themselves have been at risk if they had refused to carry out the order. If so, this would appear to violate the limits of the "due obedience" defense under Salvadoran law, which makes the defense unavailable when orders are "manifestly illegal." But since the jury received no instructions from the judge other than to vote its most intimate convictions, it may have felt free to allow the defense anyway.

Others have suggested that the explanation is simply that the "fix was in": the jury was told to convict Colonel Benavides, in order to placate the United States and in view of an expected amnesty for him later, and generally to acquit the others, since one sacrificial colonel was deemed sufficient. United States government sources told us that prior to the trial, President Cristiani had privately suggested, without purporting to know, that the verdict might well be a conviction only of the colonel.



Given the atmosphere of jury intimidation at trial, the weakness of Salvadoran criminal procedure, and the dominant role of the military in El Salvador, this theory cannot be dismissed. Congressman Moakley, for one, appears to suspect that the verdict was predetermined.

On the other hand, we are unaware of any evidence that either proves or disproves the theory. Unless further evidence emerges, the jury verdicts must continue to be viewed as enigmatic.

## II. CONCLUSIONS

The conviction of Colonel Benavides represents the first time a high-ranking Salvadoran military officer has been convicted in a human rights case. Moreover, the conviction was obtained in a civilian court. Most or all of it was broadcast on Salvadoran television and radio. To this extent, the trial is an historic step forward.

On the other hand, the acquittals of all but one of the lower ranking defendants, including all of the confessed killers, may send an unfortunate message to the army and the public. This will be compounded if, as has been widely predicted by commentators, Colonel Benavides receives an amnesty or pardon as

a result of the peace negotiations currently underway between the government and the rebel forces.

Even more significant to justice, however, is the utter failure of any serious investigation, let alone prosecution, of other senior Salvadoran officers who may have been involved in the decision to assassinate the Jesuits. Impunity for them signifies injustice to the victims and no more than token service to the rule of law.

Such a result is all the more alarming because this case was the focus of more international attention, including express conditions on United States military aid, than any other Salvadoran case since the murders in the early 1980's of Archbishop Oscar Romero and four North American nuns and church workers. International agencies assisted in the investigation, and were available as never before to assist in protecting witnesses. If, even under the international spotlight, justice cannot be served in the Jesuits case, then what chance can there be for justice in the tens of thousands of "ordinary" death squad killings and other human rights violations in El Salvador?

In this context, observation of the trial led us to the following four principal conclusions, for the following reasons:

**A. Likely Involvement of Other Senior Colonels:**

Strong circumstantial evidence indicates that in addition to the one colonel charged and convicted, other senior Salvadoran military officers, including officers presently in high command posts, are legally responsible for the murders in November 1989 of six Jesuit priests, a cook and her daughter, in San Salvador, El Salvador.

Without purporting to be exhaustive, and even aside from the statements of Major Buckland (discussed in part D below) and the evidence more recently revealed by Congressman Moakley (Annex 1 hereto), the following are some of the circumstantial indicia that other senior Salvadoran officers were involved in the plan to murder the Jesuits:

1. Prominence of the victims. The Jesuit priests who were targeted and killed were among the most prominent civilian personalities in the country, and several of them were well-known and respected internationally. Father Ellacuría, for example, was President of the UCA. He had reportedly served as an intermediary between the civilian President of El Salvador and the rebel leaders in sensitive matters. Two days before he was murdered, he returned to El Salvador from Spain, where he had received a human rights award.

It was thus foreseeable that murdering the Jesuits would have serious international repercussions, including jeopardizing United States military aid. Such a decision was too important

for Colonel Benavides, at best a second-echelon military leader, to have made on his own.

2. The Wording of the Order. According to two Lieutenants who testified at trial, the oral order they received from Colonel Benavides, shortly before the murders, was as follows:

This is a situation where it's them or us. We are going to begin with the ringleaders. Within our sector we have the university and Ellacuría is there. You [referring to one Lieutenant] conducted the search and your people know the place. Use the same tactics as on the day of the search and eliminate him. And I want no witnesses.

(Emphasis added.)

This wording suggests that "we" -- military leaders including but not limited to Colonel Benavides -- made a collective decision to eliminate the "ringleaders," and that Colonel Benavides was tasked with eliminating the Jesuits because the UCA happened to be located within his zone.

3. Search of the UCA two days earlier. The Atlacatl battalion detachment whose members admitted participating in the murders had been brought to the capital and assigned to the military school under Colonel Benavides only two days before the murders. Testimony indicated that upon arriving in the capital, they reported to the military high command, and their very first assignment was to search the UCA, supposedly for rebels. (Not until months later did President Cristiani admit that he himself had authorized this search, albeit retroactively, so sensitive was the matter of the Jesuits.) However, according to the Jesuits present, the soldiers made no effort to search the spacious campus, and even declined an offer from Father Ellacuría to return the next day to search in the daylight. Instead, the



"search" consisted of a reconnaissance of the Jesuits' residence. Two days later, these very same troops, led by the same Lieutenant who had led the search, returned and committed the murders.

4. The Meetings. Testimony indicated that for several hours on the afternoon and evening of November 15, 1989, Colonel Benavides was present in a series of meetings at the Salvadoran high command, located adjacent to the military school, about a mile from the UCA. Immediately after emerging from those meetings, he gave the order to kill the Jesuits, who were killed in the early morning hours of November 16.

(Several colonels testified that killing the Jesuits was not discussed at the meetings. However, to testify otherwise would be to invite indictment. Moreover, this sensitive matter might have been handled in a side or separate meeting of a smaller group, outside the presence of the numerous officers at the command who had no military "need to know" of the plan.)

5. Motive. In El Salvador's highly polarized political climate, the Jesuits -- who had been consistent advocates of peace and critics of human rights violations -- had long been perceived by many in the military as "on the side" of the rebels. During the days before they were murdered, the military took control of all radio stations in El Salvador, and the military network played call-in shows in which some callers advocated death for the Jesuit traitors. (Subpoenae of the tapes of these programs were later ignored by the military.)

In "normal" times, the foreseeable international repercussions of murdering the priests protected them (although the UCA had been bombed before). However, in November 1989 the Salvadoran military faced the most serious threat of the civil war, the first ever capture by the rebels of large parts of the capital. The level of desperation among the officers in the high command may accordingly have risen. At the same time they may have thought that the unprecedented level of combat in the capital would lend credibility to the "cover" story that the FMLN had committed the murders.

6. Proximity. The murders were committed during part of a feigned combat incident at the UCA, utilizing automatic weapons, grenades and bombs, and a phosphorous flare, in the middle of the night, in the middle of the city's most sensitive security zone, about a mile from the military high command. Yet there was no evidence of any inquiry from the command as to what was happening at the UCA or why. Such a lack of curiosity would be surprising, unless the command already knew the answers.

In short, given the circumstances, only blinders -- or a determination not to see -- could explain the failure to investigate seriously the possible involvement of senior military officers in addition to Colonel Benavides. Instead of conducting such an investigation, however, the military appears to have devoted its efforts to blocking any serious investigation, as shown in the next section.

**B. No Serious Investigation to Date:**

El Salvador has conducted no serious investigation of the possible involvement of other senior military officers in the murders. On the contrary, the military appears to have engaged in a cover-up, and the investigating judge in the case was repeatedly thwarted in efforts to pursue leads.

Following the initial on-site inspection of the scene of the crime the morning after, El Salvador's official investigation of the murders has passed through four phases: (1) the initial investigation by the military-controlled Special Investigations Unit from November 1989 until early January 1990, (2) the one-week non-investigation by a military Honor Commission in early January 1990, (3) a brief police investigation in January 1990, which consisted mainly of taking statements from the defendants identified in phases 1 and 2, and (4) the judicial investigation by Judge Zamora from January 1990 until the trial in September 1991.

Both of the first two phases lack credibility; yet these were the phases that (somehow) identified the defendants whose statements were taken by the police in phase 3. The fourth phase -- Judge Zamora's investigation -- appears to have been a diligent effort, but lacked cooperation by the military.

One measure of the lack of credibility of phases one and two is that it has never been explained how the defendants were identified, or by whom. The military Honor Commission says



it got their names from the Special Investigations Unit ("SIU"); the SIU denies this.

Before the Honor Commission began its work, the record reveals no confessions taken from the defendants by the SIU, nor any SIU reports identifying them as the culprits. The SIU never even interviewed Colonel Benavides. Yet the Honor Commission -- created only after the United States Embassy presented Major Buckland's information to the Salvadoran high command -- apparently did not conduct an investigation. Rather, as one of its members testified, it interviewed military personnel only to encourage them to do their patriotic duty by coming forward with the truth. It did not take statements from any of them.

Indeed, no confessions were taken from any defendants by the SIU until after the Honor Commission had transmitted their names to the then-Defense Minister. The statements were then taken on the same day (or, in some cases, the day after) the defendants' identities were publicly announced by President Cristiani.

During the first six weeks it was responsible for the investigation, the SIU missed the trail, publicly at least. Its records of investigation reveal no admissions that the murders were committed by the military rather than the FMLN. Until confronted with Major Buckland's information, President Cristiani continued publicly to deny military responsibility.

During the latter portion of this period, Colonel Iván López y López participated in the SIU's investigation. Lawyers for the Jesuits later discovered evidence that Colonel López had been present at the high command the night of the murders. In

other words, the senior officer in the investigation was someone who was, at a minimum, a material witness to possible senior officer involvement in planning the murders. In a properly conducted investigation, Colonel López might well have been a suspect.

The case might never have been broken -- even to the limited extent it has been to date -- if not for a United States military adviser, Major Eric Buckland. In Early January 1990, he belatedly informed his superiors that on December 20, 1989, he had been told by a Salvadoran colleague, Colonel Carlos Armando Áviles, that Colonel Benavides had confessed his role in the killings to the then head of the SIU, Lieutenant Colonel Manuel Antonio Rivas. Rivas told López, the former head of the SIU, who then came back to assist with the Jesuit investigation. But the SIU never officially admitted finding significant evidence of military involvement until Major Buckley blew the whistle.

Within days after Major Buckland reported his double hearsay information, the newly appointed Honor Commission identified the nine suspects who were ultimately tried. Those suspects all gave statements on January 13 and 14, 1991, which were used against them at the trial.

The case was then turned over to the courts. There, despite what appear to be diligent efforts by Judge Zamora, little additional evidence or even cooperation was forthcoming from the military. On the contrary, the military's record included destruction of key evidence, perjury, defiance of subpoenae and refusals to testify.

For example, in December 1989, the log books of the military school -- revealing who entered and left and when, including on the night of the murders -- were burned on the orders of a Lieutenant Colonel, supposedly "routinely." Judge Zamora has since charged the Colonel and the Lieutenant who carried out the order with the crime of destruction of evidence. (It should be noted that this crime took place under the nose of the SIU which, at a minimum, failed to safeguard material evidence.)

Numerous lower ranking military personnel appeared before the judge and testified that they saw nothing, heard nothing, knew nothing on the night of the murders, despite being in the vicinity of the shootings. In the opinion of the government prosecutors, these witnesses committed perjury. Three of them were in fact indicted for perjury (their cases have not yet come to trial). However, according to the original government prosecutors, Henry Campos and Sidney Blanco, after the first three indictments, they were ordered by their superiors not to indict any more military personnel for perjury.

In January 1991 Campos and Blanco resigned in protest. Later they became the "private prosecutors" for the Jesuits, and argued their case to the jury at trial.

Meanwhile, Salvadoran colonels called to testify routinely invoked their privilege of rank under Salvadoran law not to testify. By August 15, 1990, Congressman Moakley, chair of the Speaker's Task Force on El Salvador, released a statement alleging that the Salvadoran high command was "engaged in a conspiracy to obstruct justice."

In response, President Cristiani personally waived his privilege not to testify (although he did so without giving the Jesuits' lawyers advance notice and, thus, opportunity to prepare cross examination). Several other colonels followed his example. But others -- including, for example, current Defense Minister General René Emilio Ponce -- declined, offering only written statements to the court.

In short, no thorough investigation of the murders has been conducted by the Salvadoran authorities. Judge Zamora appears to have attempted to conduct one, but without military cooperation, his efforts were frustrated.

**C. No Serious Investigation Likely Unless United States Military Aid Is Suspended:**

**No serious Salvadoran investigation of other senior military officers is likely to be conducted unless United States military aid is suspended pending such an investigation.**

As shown in parts A and B above, other senior Salvadoran officers were likely involved in the plan to murder the Jesuits, yet no serious investigation of their possible involvement has occurred. This failure to investigate occurred despite repeated statements by United States officials calling for a thorough investigation, and despite legislation passed in the fall of 1990 which contained a complex series of conditions and counter-conditions (including progress in the Jesuits case)



on United States military aid to El Salvador,\*/ half of which was in fact suspended for several months.

If such pressure has failed to date to yield a thorough investigation, it is by now plain that none will be forthcoming unless a clear, unequivocal, forceful step is taken, by suspending indefinitely all United States military aid unless and until a credible, documented investigation has been conducted.

Of course, other factors, including some outside the professional competence of lawyers, may bear on whether aid should be completely and indefinitely suspended. However, it is well within the professional competence of lawyers to advise that unless such a step is taken, there is no realistic hope of a legitimate investigation of the Jesuits case.

In other words, if United States military aid continues even after the military has managed to thwart the investigation and to contain (or worse) the prosecution in the Jesuits case, then there can be little hope for justice in this case, let alone in the countless, less visible cases of grave human rights violations in El Salvador.

This conclusion is not changed by the peace agreement tentatively reached in early January 1992. While it calls for a United Nations-appointed "Truth Commission" to investigate such crimes as these murders, and eminent persons have been named to the Commission, what leverage will the Commission have to induce reluctant military officers to reveal what they know?

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\*/ The conditions were set forth in the Foreign Operations Appropriations Act, P.L. 101-513, section 531, 104 Stat. 2009-12, approved by both houses of Congress on October 27, 1990, and signed by the President on November 5, 1990.

Indeed, if it succeeds in its goals of ending combat and reducing the size of the Salvadoran military, the tentative peace agreement may so diminish the military's need for United States aid, that even a termination of military aid might no longer suffice to bring about a full investigation. In that event, further measures should be considered.

**D. Unanswered Questions About the United States' Role in the Investigation: \*/**

Despite our government's publicly expressed commitment to a thorough investigation and prosecution of this case, significant unanswered questions remain about our failure to cooperate fully with the judicial investigation of the case. Without suggesting any prejudgment, a thorough congressional inquiry into the reasons is warranted.

The United States government can fairly claim a degree of credit for the fact that the Jesuits trial took place at all. Without statements of concern by officials of our executive and legislative branches, and without the aid conditions, it is doubtful that any trial would have taken place.

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\*/ The information on which this section is based, for the most part, came not from the trial but from the following three sources: (1) "The 'Jesuit Case' The Jury Trial (La Vista Pública)," Lawyers Committee for Human Rights, September 1991; (2) conversations with counsel for the Jesuits, and (3) off-the-record discussions with knowledgeable representatives of the United States Embassy in El Salvador.

On the other hand, our government appears not to have advised the Salvadorans of all it knows; certainly has not advised Judge Zamora and the lawyers for the Jesuits of all it knows; has not conducted even a thorough internal investigation of all that may be known to United States military advisers and other personnel in El Salvador; and when it did provide information to Judge Zamora, in key instances did so only in a delayed and incomplete manner.

There are a variety of possible explanations for the failure of our government fully to cooperate with Judge Zamora's investigation. Many of them are innocent: i.e., bureaucratic lapses, rotations of key personnel, national security classifications of certain information, and normal reticence to expose diplomatic and military personnel to interrogation by foreign lawyers for information obtained in the course of official duties. It is conceivable, as has been suggested to us by representatives of our government, that such explanations fully account for all significant instances of non-cooperation by United States officials with the Salvadoran investigation.

On the other hand, less innocent explanations are plausible. Efforts to avoid political embarrassment, to avoid fueling congressional opposition to United States aid to El Salvador, or even to conceal knowledge by United States personnel of possible criminal activity by their Salvadoran colleagues, are among the potential explanations.

On the basis of our discussions with lawyers for the Jesuits and representatives of the United States government, we do not have enough information to identify the correct



explanations. What we do know is that there have been striking instances of noncooperation; that the explanations we have received off-the-record are not entirely satisfying; and that no fully satisfactory answers are likely to emerge in the absence of a careful, thorough investigation. The appropriate, independent body for such an investigation is the Congress.

The following are illustrative of the kinds of noncooperation in which the United States has engaged:

(1) The Second and Third Buckland Statements.

As noted in part B above, the first report by United States military adviser Major Eric Buckland to his superiors in early January 1990 led to the charges ultimately prosecuted in the Jesuits trial. If Major Buckland had not come forward, it is doubtful that the Salvadorans would ever have departed from their cover story that the murders were the doing of the FMLN.

On January 11, 1990, back in the United States, Major Buckland gave a second statement which was videotaped by the FBI. In this statement Major Buckland relates that in October or November of 1989, he accompanied his colleague Colonel Áviles to the military school where Áviles met with Colonel Benavides. Áviles told Buckland that he had been sent there by Colonel Ponce (now General Ponce, the Defense Minister) to "solve a problem with Benavides." Benavides "wanted to do something about the priests and things coming out of the UCA." According to

Buckland, "Áviles told me that they wanted to handle it in the old way by killing some priests."

This statement, from the same witness whose prior statement had opened up the case in the first place, was taken before the Honor Commission completed its work. Yet it was not immediately passed along to the Salvadorans. Indeed, it was not disclosed for another ten months -- until October 1990 -- and even then, was made public not by the government but by Congressman Moakley.

One week later, on January 18, 1991, Major Buckley recanted his January 11 statement. He now said, "I do not recall any specific discussion about Col. Benavides planning to do anything or any discussion by anyone, including Col. Áviles, on any proposed or possible attack or threat to the University of Central America or any persons associated with that university."

Obviously there are problems with Major Buckland's credibility. Nonetheless, why were both statements not immediately passed along to the very same Salvadoran officials who our government was publicly urging to conduct a prompt and thorough investigation? Even if Major Buckland's statements could not be accepted at face value, they provided leads. The log book at the military academy, and the personal calendars of the participants, could have been sought. Specific questions could have been posed to Colonels Áviles, Benavides and Ponce. Why withhold this information from the investigators charged with finding out the full truth?

The Moakley task force later characterized the failure to provide the court immediately with all Buckland's statements

as an "unbelievable and inexcusable error in judgment." That much it was. But why did it occur?

(2) The Buckland Deposition.

On September 28, 1990, the United States did make Major Buckland available for questioning by Judge Zamora. However, even then the existence of Major Buckland's second and third statements was not made known to the judge. Moreover, the groundrules for questioning precluded questions about any matter after Buckland had returned to the United States, thereby effectively preventing the judge from learning about the statements. Not until October 22, after Buckland was no longer available for questioning by the judge, and after the Moakley Task Force had publicly revealed Buckland's statements, was a copy of the January 11 affidavit provided to Judge Zamora.

(3) Failure to Disclose United States Witnesses.

After Congressman Moakley accused the Salvadoran high command of obstruction of justice in August of 1990, President Cristiani volunteered to testify before Judge Zamora on September 7, 1990. He then advised the court for the first time that not only he, but two or three United States military advisers, were present at the high command on the night of the murders, about one mile from the UCA.

Why did not the United States advise Judge Zamora sooner of this fact, of the identities of the advisers present, and indeed subject them to careful interrogation?

(4) The Letters Rogatory.

In mid-1991 the private prosecutors for the Jesuits (who had been the public prosecutors until they resigned in protest) caused letters rogatory to be sent posing questions to ten United States military advisers, diplomatic and other government personnel. After some delay, the government agreed to have Justice Department lawyers read the questions aloud to the witnesses in questionnaire fashion, with no follow-up questions allowed. The request of the Jesuit lawyers to be present and to pose follow-up questions was denied. If our government truly wanted the full truth to out, why were these restrictions imposed?

(5) Treatment of an Eyewitness.

The first witness to place Salvadoran soldiers at the Jesuit residence at the time of the killings was a housekeeper, Lucía Barrera de Cerna, who saw the soldiers and heard the priests from her nearby window. On the morning after the murders, understandably unwilling to report her knowledge to Salvadoran authorities, she took refuge first in the Spanish embassy. Later she was accompanied by foreign diplomats on a flight to the United States. While in the United States, she



alleges that FBI agents subjected her to harsh interrogation lasting several days, making statements that led her to fear that she would be involuntarily returned to El Salvador. During this interrogation she recanted her previous testimony (the essentials of which have since been corroborated by other eyewitnesses).

Moreover, during the interrogation, without disclosing his identity or affiliation to her, FBI interrogators were joined by Lieutenant Colonel Manuel Antonio Rivas Mejía of the Salvadoran SIU.

In other words, interrogating a witness who alleged that the Salvadoran military had murdered her employers, and who was so afraid of the military that she had fled the country, our government chose to insert a Salvadoran Lieutenant Colonel into the interrogation, without advising the witness.

\* \* \* \*

None of these incidents would, by itself, justify as much concern as does their collective existence. Together, apart from their particulars, they raise basic questions: Did the United States government really want the full truth to come out? Did it really wish to cooperate fully with the investigation? Does it today?

The answers to these questions should not be prejudged on the basis of the partial information now known. But the questions are serious, and merit careful and objective inquiry by the appropriate committees of Congress.



Finally, we note that lawyers for the Jesuits are continuing in efforts to obtain additional documents and information from the United States government and its personnel. Justice will best be served if the government responds to these requests as fully and promptly as possible, as well as doing its utmost, even at this late date, to assist in the investigation.

Statement of Representative Joe Moakley  
Chairman of the Speaker's Task Force on El Salvador  
November 18, 1991

This is, I suspect, the final statement that I will make as Chairman of the Speaker's Special Task Force on El Salvador. The Task Force was created to monitor the investigation into the murder of six Jesuit priests, their cook and her daughter at the University of Central America (UCA) two years and two days ago. Since the Task Force was created, we have issued one main report supplemented by occasional statements on my part and interim reports from staff.

I do not intend to repeat, in this statement, what we have said before. I want, instead, to complete the record to the extent that rules of confidentiality and good faith allow me to do so.

I find this desirable because I have felt from the beginning that the people of El Salvador deserve as full an accounting as possible of what is known about the Jesuits' case and the resulting investigation. I find it necessary because our Task Force was charged by Speaker Tom Foley with sharing what we learned with the Members of the House and with the American people. I find it important because of a statement from the Government of El Salvador that the "Jesuits' trial showed that our criminal justice system works." And I find it worthwhile to respond to a book length rebuttal of our work that was issued by something called the Central America Lawyers Group. According to that group, none of whose names are listed in the publication, "the Moakley Commission indicts the entire El Salvador Armed Forces as being responsible for the murders of the priests, yet presents no evidence of any specific orders, general policy, or permissive environment fostered by the High Command demonstrating institutional guilt."

I cannot fulfill my obligation as Chairman, nor can I respond to the criticisms that have been made, without explaining more completely the basis for some of the statements I have made concerning the investigation in the Jesuits' case and the subsequent trial. I have contended, for example, that high-ranking military officers knew soon after the crimes were committed who was responsible but failed to come forward with that information. I have also stated my belief in the possibility--not the certainty, but the possibility--that the murders were ordered by senior officers other than Col. Benavides, the man who has been charged--and now convicted--of doing so. Although I have cited a number of reasons in previous statements for my beliefs, other information has not been cited because the sources of that information were not willing to be identified.

ANNEX 1

Today, for reasons of completeness, I will cite that portion of the information provided to us in confidence that I believe is most credible and that is most central to the statements I have made in previous reports. In so doing, I emphasize that this statement is based entirely on information provided directly to the Task Force by Salvadoran and other non-classified sources. In fact, aside from some cable traffic that was reviewed very early in our work and that is not relevant to anything in this statement, I have not sought--nor have I received--significant access to classified information or documents.

Before continuing, I want to mention a couple of related things for the record.

First, I believe that those in El Salvador and in the United States who have suggested that our Embassy orchestrated a cover-up of this murder case simply do not know what they are talking about. There is no question that the Embassy made some poor judgments during the difficult and often chaotic process of monitoring this investigation. But Ambassador Walker, his legal officers Richard Chidester and Stu Jones, and other key Embassy personnel devoted thousands of hours to this case and to the effort to see that justice would be done. Although the Ambassador is restrained by his position and responsibilities from detailing many of these efforts, I know that he has acted consistently and at times courageously in pursuit of the truth.

Second, I want to acknowledge the fact that, despite my criticisms, the Salvadoran judicial system is making important progress. The Jesuits' trial, the recent indictments of a number of wealthy Salvadorans in a bank fraud case, and the resolution of the Zona Rosa case involving the murder of U.S. marines--all represent important steps forward. In addition, reforms resulting from the peace negotiations should provide the judicial system with important additional resources and should lead to the development, in time, of a professional civilian investigative capability. The conviction of Col. Alfredo Benavides in the Jesuits' case does, indeed, prove that a high-ranking Salvadoran military officer can be held accountable for the murders of prominent people provided there is sufficient international attention and pressure brought to bear on the case. This is indeed a limited accomplishment, but it is an accomplishment nevertheless.

Third, I want to give credit once again to the President of the Supreme Court, Mauricio Gutierrez Castro and the judge in the Jesuits' case, Ricardo Zamora, for their courage and skill in pushing that case forward. And although I have been critical of President Alfredo Cristiani at times, I do give

him credit for encouraging the military to cooperate in the investigation and for the symbolic importance of his willingness to testify personally in the case. I believe the President was genuinely shocked by the murders of the Jesuits; that he made a sincere effort at the outset to push the investigation forward; and that he insisted--at critical moments early in 1990--that the armed forces accept responsibility for the crimes. Without his efforts, I do not believe that the most direct perpetrators of the crimes would ever have been identified.

Finally, I want to extend my thanks to those in the Salvadoran armed forces who did come forward voluntarily--albeit confidentially--with information in this case. In saying this, I do not mean those who simply passed on rumors, those whose stories are contradicted by other facts known to the Task Force, or those who offered information in return for favors of some sort. I am speaking of individuals who are experienced, respected and serious people, who were in a position to know the information they conveyed, who understood the harm done to the Salvadoran armed forces by the murders of the Jesuits, and who do not share the view that military officers in that country should be above the law. It is these respected--and I believe credible and sincere--individuals who are the source of much of the information described below.

I want it understood that these people incurred great personal risk in talking to the Task Force. Although I encouraged them to come forward and testify officially concerning their knowledge in the case, they refused to do so. All cited the risk of retribution against themselves or their families by extreme rightwing elements of the armed forces. Some said they had already been warned not to talk. Some said they would violate the confidences of others if they were to speak openly. None expressed faith in the protective capabilities of the United States. None wanted to leave El Salvador. And none expressed faith in the ability of the judicial system to convict high-ranking officers even with the evidence they could provide. As a result, I have an ongoing obligation to them and to their families not to identify them publicly and I will not violate that obligation.

Below is a summary of information about two central points that has been provided to the task force by these confidential sources, but which was not included specifically in previous reports:

#### The Earlier Meeting

1. According to these sources, the decision to murder the Jesuits was made at a small meeting of officers held at the Salvadoran Military School on the afternoon prior to the



murders (November 15, 1989). Among those present were Col. Benavides, commander of the military school; Gen. Juan Rafael Bustillo, then head of the Salvadoran Air Force (now assigned to the Salvadoran Embassy in Israel); Gen. Emilio Ponce, then Chief of Staff and now Minister of Defense; Gen. Orlando Zepeda, deputy Minister of Defense; and Col. Elena Fuentes, commander of the First Brigade. Reportedly, the initiative for the murders came from General Bustillo, while the reactions of the others ranged from support to reluctant acceptance to silence.

The direct and circumstantial evidence that was provided to the Task Force and that supports this version of events includes:

-- an allegedly eyewitness account of the meeting by an individual known to have been present at the military school that afternoon;

-- confirmation by another individual that the officers listed above were at the military school on the afternoon of November 15th;

-- the fact, now publicly reported, that the unit that carried out the murders was issued uniforms without insignias or other identifying characteristics late on the afternoon of November 15th;

-- the secret destruction, by military officers, of the logs indicating the identity of those who came and went from the military school that afternoon;

-- an allegation that the destruction of the logs was made known to Gen. Ponce in January, 1990, but that this information was not passed on by him to the then Minister of Defense. As a result, the Judge in the Jesuits' case did not learn that the logs had been destroyed until he made a specific request for them three months later;

-- a report that Col. Benavides told officers at the military school on the night of the 15th that he had "received the green light" to conduct an operation against the Jesuits. This implies that he did not make the decision himself;

-- a report that one of those present at the meeting with Col. Benavides later directly accused Gen. Ponce and the high command, in their presence, of being responsible for ordering the murders;

-- a report that Gen. Bustillo told senior Air Force officers, also on the night of November 15th, that a decision had been made to kill the Jesuit priests (citing specifically, Father Ellacuria, the best known of the priests); and



-- a report that Gen. Ponce told senior officers during a meeting on December 10, 1990 that "we would not be here if I had not made the decision that I did"; to which Gen. Bustillo responded "we have done well, but we must continue to take a hard line".

The account of the afternoon meeting at the military school described above might also explain the statement of a U.S. military officer assigned to the Embassy in San Salvador that he had been told by Salvadoran Col. Carlos Aviles, on the afternoon of November 15th, that "something was going to go down at the CCA" that night. The American officer subsequently told the FBI that he must have been wrong about hearing that statement because Col. Aviles was not in the country on November 15th. The fact is, however, that Col. Aviles returned to El Salvador on November 14th and might have known at least generally about a decision made the following afternoon to kill the Jesuits on the night of the 15th. At the time of the murders, Col. Aviles was serving as the chief of psychological operations on the staff of Gen. Ponce.

#### Coverup

2. There is a substantial amount of circumstantial evidence, described in our earlier reports, to indicate that senior military officers in El Salvador must have known, soon after the murders, which unit was involved. This evidence pertains to the number of soldiers involved in carrying out the murders; the operational chain of command on the night of the murders; the close relationship that exists among senior officers; the role of military intelligence in events immediately prior to, and subsequent to, the murders; the destruction of evidence at the military school and so on.

Just as an example, the Task Force interviewed one officer who claimed to have been told by a colleague on the day after the murders which unit had carried it out. The colleague had served in one of the units placed around the periphery of the UCA on the night the murders took place. When asked about the failure of officers with information to come forward, the officer told the Task Force that "in El Salvador, you talk until you find out the truth; but when you find out the truth, you shut up."

More specifically, the Task Force has not previously disclosed information provided to it that one of those later accused of the crimes reportedly confessed his involvement in the murders to his commanding officer in mid-December, 1989. That information was reportedly then passed on to General Ponce, but it was not turned over to those investigating the case.

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I offer this information, as I say, to provide additional substantiation to statements made in earlier reports. Those statements concern, first, my view that it is possible--not certain, but very possible--that senior officers other than Col. Benavides ordered the murders. Based on all that I have learned about the Salvadoran armed forces, I personally find this version of events more credible than the alternative, which is that Col. Benavides acted on his own, notwithstanding the chain of command, and took upon himself the awesome responsibility for these crimes.

Second, the information contributes to my conviction that a coverup of the crimes was attempted and that this coverup involved officials at the highest levels. For reasons detailed in earlier reports, the coverup did not fully succeed because of 1) international pressure; 2) disclosures made by a U.S. military officer in early January, 1990; 3) President Cristiani's insistence that the military take responsibility for the crimes; and 4) good, preliminary police work carried out by El Salvador's Special Investigations Unit.

One additional point: the Task Force received information from a reliable Salvadoran source concerning threats made against the lives of several of the Salvadoran officials involved in pushing for progress in this investigation. One of those threats was directed against President Cristiani. There are also widespread suspicions in El Salvador about the deaths of three military officers connected with the Jesuits' case.

In part because of the threat of violence; in part because of the limited control exercised by civilian authorities over the military; and in part because both the U.S. and civilian authorities in El Salvador need to use the leverage they do have over the military to keep the peace process on track; I am under no illusion that the Government of El Salvador is likely to take further steps to investigate this case, or to examine seriously the possibility that top military officers ordered the crimes. I do recommend very strongly, however, that Congress and the Administration bear this information in mind when making further decisions with respect to U.S. policy in El Salvador. In this connection, I note that the information described above--as well as other information bearing on shortcomings in the investigation--is known to the Executive branch.