

Jim's Pink Disk
Slayings.N16

April 19, 1990

DRAFT

MEMORANDUM

TO: Don Edwards
Chairman
Subcommittee on Civil and
Constitutional Rights

FROM: James X. Dempsey
Assistant Counsel
Subcommittee on Civil and
Constitutional Rights

RE: FBI Treatment of Witnesses to November 16, 1989 El
Salvador Slayings

Pursuant to your letter of January 2, 1990, the FBI has made available to the Subcommittee documents on its handling of two witnesses to the November 16, 1989 slaying in El Salvador of six Jesuit priests, their cook and her daughter. On April 12 and April 16, I reviewed the following documents at FBIHQ:

- (a) State Department cable dated 11/18/89;
- (b) transcripts of the tape-recorded interviews of Lucia Barrera de Cerna and her husband, Jorge Cerna Ramirez;
- (c) FBI memos between Miami and FBIHQ, and within HQ, on the witnesses;
- (d) reports on the polygraphs of Lucia and Jorge.

I also discussed the case with Martin V. Hale, Inspector in Charge of the FBI's Office of Liaison and International Affairs.

(1) Initial Request for FBI Assistance

On Saturday, November 18, 1989, U.S. Ambassador to El Salvador William Walker cabled the Secretary of State. In the cable, Ambassador Walker reported that El Salvador President Cristiani had made a formal request to Walker on November 18 for

FBI assistance in the investigation. Walker said he supported the request and believed the FBI can play an important role to ensure that the most modern technological support is provided to local investigators. Additionally, Walker wrote, lending the prestige of the FBI to this investigation will provide the credibility the investigation will require.

Walker stated that FBI support should include analysis of the clothing worn by the victims. Another area of support will be polygraph analysis. Walker requested that FBI agents expert in polygraph and fluent in Spanish be identified to work with the El Salvadoran investigators.

In his cable, Walker said, "It is critical that this investigation not follow the pattern of the cases from the early 80s. Unfounded rumors abound and will persist until a credible investigation is conducted. WF[?] and many U.S. congressmen are pushing the Government of El Salvador for total commitment to a full investigation, with all deliberating speed. We will need a commitment from the FBI that technical assistance will be made available in a timely manner."

According to a November 21 FBI teletype, Ambassador Walker was advised by telephone on Monday, November 20 that the FBI was prepared to offer all appropriate assistance. Although the Ambassador had requested immediate polygraph and forensic assistance, the FBI decided to send to El Salvador a single agent, the assistant legal attache in Mexico City, Eduardo M. Sanchez, with an anticipated arrival of November 21 or 22. Sanchez was to review developments in the investigation and determine what forensic, polygraph or other FBI assistance was appropriate. He was to facilitate transmittal of any evidence to the FBI lab.

[Mr. Hale explained to me that the FBI did not want to send polygraph and forensic experts to El Salvador immediately, as requested by Walker. The FBI was reluctant to commit resources without some assurance that the El Salvadoran authorities had the political will to pursue the investigation. In an earlier case involving a bombing of a union hall, Walker had requested FBI assistance. The FBI had sent down a forensic expert who then sat idle for 4 days before getting access to the crime scene.]

(2) FBI Obtains Custody of the Cerna Family

Sanchez was dispatched on November 22. According to a November 25 FBI airtel from Miami, Sanchez was briefed on Thursday, November 23 on the status of the investigation by Lt. Col. Manuel Rivas, head of the Salvadoran Army's Special Investigation Unit (SIU). Rivas explained that dozens, if not hundreds, of onlookers and news media had already contaminated the crime scene when the SIU arrived. Sanchez concluded that SIU was doing the best it could under the circumstances.

According to the November 25 airtel, at the conclusion of the briefing, Rivas stated that due to the political climate - antagonistic relationship between the Catholic church and the Salvadoran government -- he was facing a lack of cooperation from the Church in all aspects of the investigation, making it extremely difficult if not impossible to conduct a thorough investigation. Rivas pointed out that even as he spoke, an alleged witness to the incident, Lucia Barrera, was being taken out of the country by the Church and the Spanish Ambassador. Rivas said that Barrera had made a statement before a judge as to having seen a number of men in uniform, but Rivas' investigators had not been allowed to conduct a thorough interview.

Richard Chidester of the U.S. Embassy, who was present, advised that the Embassy had just learned that Lucia Barrera was going to be taken to Miami on a French military aircraft and Walker had requested that Chidester and Sanchez accompany her.

A November 24 note from Criminal Division Assistant Director William Baker to FBI Director Sessions states that late on the afternoon of November 23, the Spanish Embassy had been requested by the Jesuits to take Barrera into custody. The Spaniards in turn requested Walker to assist. Last minute negotiations took place in the presence of Sanchez in which a decision was made to bring Barrera to the U.S.

According to Baker's note, the witness would be turned over to INS for protective custody, to be available to the FBI for interview and polygraph on November 24-25. According to Baker's note, Walker was attempting to arrange for Rivas to travel to Miami to be present during the interviews so the testimony could be entered into a court of law in El Salvador. FBI Miami would conduct an initial interview on Friday, November 24.

When the family arrived in Miami late on Thursday, November 23, SA Rivero advised his office that INS was providing lodging and security. However, the FBI soon assumed responsibility for the witnesses safety. Mr. Hale told me that the original involvement of the FBI was for protective purposes. Concerns about the Cernas security were heightened when a U.S. TV news program ran a tape showing them leaving San Salvador. It was also determined on Thursday, November 23, that the FBI would interview the witnesses as soon as they arrived.

On Friday, November 24, Lucia was interviewed by SAs Sanchez and Rivero. The interview was apparently brief. Lucia recounted her basic story about looking out the window and seeing five men.

It appears that Rivas arrived in Miami on the 25th.

(3) Recorded Interviews -- November 27 - November 29

On Monday morning, November 27, Lucia was interviewed by Col. Rivas. Also present were Sanchez, Chidester and FBI SA

Fernando Rivero. At the beginning of the session, Rivas told Lucia he wanted her to calm down and trust him. He explained who he was and said that no one more than President Cristiani wanted to solve the murders. Lucia said that each time she recalled the killings, she got very depressed. She said she felt as if she was getting sick from being in the hotel room so much. Later she said her nerves were bad, under such isolation. Sanchez explained that they had her at the hotel for security reasons. Lucia asked to be allowed to stay in Sanchez' house, where she could help with the laundry and the ironing [to give her something to do]. Sanchez explained that he lived in Mexico City and was staying at the hotel too.

Lucia's interview on the 27th proceeded without further of note. She recounted her story of looking out the window and was not challenged by the interviewers. The interview ended at noon.

In the afternoon on the 27th, Rivas interviewed Jorge.

On Tuesday, November 28, 1989, Rivas reinterviewed Lucia. He said he wanted to clarify certain doubts and certain contradictions, to determine if it was the army or if it was the guerrillas or it was others. Rivas started out with some small points: Did Jorge remain at the Big Boy or at his mother's while Lucia went to the priests about where the family could stay; who bought the sodas they had with dinner the night of the 15th; did Jorge talk to the priests when the family arrived at the UCA (the University).

Then Rivas asked, "You said your husband spoke to you when you came back from looking out the window, but he says that he never said anything to you." Lucia responded, "Well, I half heard it, but perhaps he didn't say that to me, but I did hear him say something." Rivas asked, "But as nervous as you were, having him in front of you and not hearing him, with all your nerves how could you have heard the voice of the priest saying this is an injustice." Lucia said, "Yes, yes I did hear that...but I was lying down."

Rivas: When you heard that...

Lucia: Yes, yes.

Rivas: You weren't in from of the window...

Lucia: No, no.

Rivas: In other words, in your statement before the judge you said you were in front of the window when you heard that things were being moved, books were being thrown and that you heard the priest's voice.

Lucia: Yes, that...look, frankly, I heard that but I did

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not see it...

Rivas then asked why did she get up from the room where they were sleeping and move to the other room to look out when the room where they were sleeping had a window. Lucia expressed concern for her safety. Someone, apparently FBI SA Sanchez, assured her she was under the protection of the American government. Lucia said, "What bothers me is that they are going to get me and put me in jail, they are going to kill me." Sanchez said, "Listen, you don't have anything to worry about."

Rivas asked again what made her go into the other room to look out the window instead of staying where she was since it already had a window in front of where they were sleeping. Lucia said, "I'm going to help you by telling you the truth. I did not get up from the bed. I could hear for sure, since it woke me up and I could tell where the shooting was taking place and I did hear the father yelling and saying those things."

Q: In other words you never moved from the bed

A: No, no...to be honest with you and to help you clear things up.

Rivas tried to determine who else knew that she had not gotten up from the bed. Lucia insisted that her discussions with the priests were all general and she never said that she saw or didn't see anything. Rivas asked if it was Father Ivis that told her to say to the authorities that she had looked out the window. Lucia said no. Rivas asked, who was it? Lucia said, "Maria Julia" [Hernandez of Tutela Legal, the Church's human rights office].

Lucia said that when she met Maria Julia at the Curia and told Maria Julia that she was able to distinguish the last things the father was screaming, Maria Julia didn't let her explain things like she wanted to. Maria Julia said, "'Look, Lucia, those had to have been soldiers.' She told me, 'Look, those were soldiers...and if you heard them, you can say that you saw them.'" Then Maria Julia took Lucia to the UCA to Casa # 16.

When they arrived at the UCA, they went to the room where the family had slept. Maria Julia went over to the window, she said, "This has to be investigated, for it was positively soldiers. From here on if you want to help, if you want to clear this up, you say that you saw the soldiers. If you want to help and find out who killed the priests, you'll say that you saw five soldiers." Maria Julia looked out the window in the room where the family had slept. She went over to the window in the other room, where the view was better. Maria Julia said, "If you want justice done, you say that from here you saw the soldiers."

Q. Did she tell you it couldn't be from that window, it had to have been from another, since you couldn't see

from that one?

A. Permit me ... yes, yes.

Q. She did that, right?

A. Yes, yes, she showed me the windows I had ...

After going over this point several times, the interview ended. Jorge was also reinterviewed by Rivas on the 28th. It is not clear to me whether Jorge's interview on the 28th came before or after Lucia's November 28th reinterview. There is some indication that the interviewers went back to Jorge first on the 28th and then confronted Lucia with the discrepancies between their stories.

According to a note from Mr. Hale to the Director on November 28, Ambassador Walker had been requested to approach Cristiani to obtain his concurrence to Lucia placing a consensually monitored call to Maria Julia to elicit further details of the fabrication. There is no indication that the call was placed.

Lucia was interviewed again on the 29th, by SA Fernando Rivero. He received her new story in full, and did not challenge her.

(4) Polygraphs

Lucia was first polygraphed on November 29. Prior to the test, she said that Maria Julia told her to say that she observed the shootings. She said she did not go to the window. She was asked the following relevant questions:

Series I

A. Did you see the persons that did the shooting? No.

B. Did you see anything? No.

Series II

C. Were you counseled by Maria Julia to say you saw the shooting? Yes

The examiner concluded that Lucia's recorded responses to the first series were inconclusive and her responses to the second series indicated deception. A third series was asked:

Series III

D. During the shooting, did you see anything you have not told us about? No.

This series was deemed inconclusive.

On November 30, Lucia was polygraphed again. She was asked the following relevant questions:

Series IV

- E. Did you go to the window to look out? No.
- F. Did you see anyone shooting guns? No.

Series V

- G. Did you get up to go to the window during the shooting? No.
- H. Did you go to look out the window? No.
- I. Are you lying when you say that Maria Julia advised you to say the five soldiers shot those priests? No.

The examiner concluded that Lucia's recorded responses to Series IV and V were indicative of deception. In the post-test interview, Lucia admitted that she had lied in Series IV and V. She stated that both she and her husband got out of bed shortly after the shooting to look out. They both saw several individuals dressed in dark clothes and carrying guns run away.

Jorge was polygraphed on November 30 and December 1. Prior to the first test, Jorge stated that he had observed his wife open the curtain in the bedroom where they were sleeping. He denied looking through the window himself. The following relevant questions were asked:

Series I

- A. Did you go to the window to look out? No
- B. Did your wife tell you that she saw some individuals from the window? No.
- C. Are you hiding any information? No.

The polygraph examiner concluded that the recorded responses to the relevant questions were indicative of deception. During the post-test interview, Jorge admitted that when his wife looked out, he also looked out.

Prior to his test on December 1, Jorge stated that he and his wife had lied in their previous statements. He stated that both he and his wife had observed the incident. As soon as the shooting ended, both he and his wife went to the window to see what had happened. He saw several men in dark clothes carrying weapons run away. He had previously denied seeing anything