

REPORT OF SPEAKER FOLEY'S SPECIAL TASK FORCE ON EL SALVADOR

Overview

On December 6, 1989, shortly after the November 16 murders of six Jesuit priests, their housekeeper and her young daughter, Speaker Tom Foley appointed a 19 member Democratic task force, chaired by Congressman Joe Moakley (D-Mass.), to monitor the Salvadoran Government's investigation into that crime and to look into other relevant matters concerning the situation in El Salvador.

In addition to Congressman Moakley, members of the task force include: Congressman David Bonior (D-MI), Congressman George Crockett (D-MI), Congressman Dan Glickman (D-KS), Congressman Lee Hamilton (D-IN), Congressman Steny Hoyer (D-MD), Congresswoman Barbara Kennelly (D-CT), Congressman Martin Lancaster (D-NC), Congressman Mel Levine (D-CA), Congressman Frank McCloskey (D-IN), Congressman Dave McCurdy (D-OK), Congressman Jim McDermott (D-WA), Congressman Matt McHugh (D-NY), Congressman George Miller (D-CA), Congressman John Murtha (D-PA), Congressman Dave Obey (D-WI), Congressman Larry Smith (D-FL), Congressman John Spratt (D-SC) and Congressman Gerry Studds (D-MA).

Between December 6 - (current), the task force held a series of working meetings with various officials of the Bush Administration, the U.S. Embassy, members of the Jesuit community, human rights organizations, Salvadoran Government officials, and other knowledgeable sources regarding the Jesuit case and the general situation in El Salvador.

On January 8-10, chairman Moakley sent a delegation of five staff to El Salvador 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.

On February 11-14, Chairman Moakley led a 15 Member Congressional delegation to El Salvador which included 10 Members of the task force: Congressman David Bonior, Congressman Dan Glickman, Congressman Steny Hoyer, Congresswoman Barbara Kennelly, Congressman Frank McCloskey, Congressman Jim McDermott, Congressman Matt McHugh, Congressman George Miller and Congressman Gerry Studds. Members of the task force were joined by 5 Republican Members, appointed by Minority Leader Robert Michel. The Republican Members were lead by Congressman Bud Shuster (R-PA) and included: Congressman Robert Dornan (R-CA), Congressman David Dreier (R-CA), Congressman Bill McCollum (R-FL) and Congressman Bob McEwen (R-OH). The bi-partisan delegation issued a joint statement at a press conference held at the Camino Real Hotel in San Salvador on February 14, 1990, which is attached to this report.

SUMMARY

Based on an exhaustive 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 of the six Jesuits, their housekeeper and her young daughter. 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 12 days, relevant information concerning the murders before passing it on to his superiors. The incident (explained in detail in this report) raises a number of questions concerning the when the chief investigator in the case actually knew about the involvement of the Salvadoran military; when others in the army's high command knew about the involvement of the military; and the United States Embassy's overall handling of this case.

In addition, the staff 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.

The Murders

Lucia Cerna

Actual Investigation

Although the office of the Attorney General has, in theory, an investigative role, the only serious investigation in the Jesuits case has been carried out by the Special Investigative Unit (SIU). The SIU is an AID-trained and funded unit, composed of selected military officers, located within the Ministry of Justice and directly answerable, in this case, to President Cristiani.

Members received a thorough briefing from the head of the SIU, Lt. Col. Manuel Antonio Rivas Mejia. Rivas recited the chronology of SIU actions taken in the case beginning with the gathering of physical evidence on the day of the crime.

During the first stages of the investigation, the SIU sought information about, and took depositions from, a number of units of the armed forces that were known to have been in the vicinity of the University on the night of the crime. In late December, however, the investigation narrowed to a unit of the U.S. - trained Atlacatl

Battalion. The reasons for this are unclear. According to Lt. Col. Rivas, the SIU focused on the Atlacatl after a meeting by the SIU with Jesuit leaders caused the Jesuits to lend their full cooperation to the inquiry. Jesuit leaders had called attention to the Atlacatl from the beginning because soldiers from that unit had searched the University on November 13th, two nights before the killings took place. It is also possible, however, that Lt. Col. Rivas focused on the Atlacatl following the conversation with Col. Benavides (described below) in which Benavides, who had operational command of the Atlacatl unit on November 16th, admitted responsibility for the crime. Lt. Col. Rivas, however, categorically denies that any such conversation took place.

As of the current date, the evidence gathered to implicate the Atlacatl unit is as follows:

- 1) the unit was stationed at the Salvadoran military academy on the night of the killings, only a short distance from the University;
- 2) the unit had searched the university, including the Pastoral Center, where the priests lived, two nights earlier;
- 3) ballistic tests indicated that weapons belonging to members of the unit had been fired at the scene of the crime (although there was no match, at the time, between the bullets that actually killed the priests and weapons belonging to the Atlacatl); and
- 4) the handwriting on a sign left at the University for the purpose of implicating the FMLN in the killings was found to match the handwriting of a member of the unit.

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 staff 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 would 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 but 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.

Initially, some U.S. Embassy officials seemed surprised that Benavides might be capable of carrying out this operation. One embassy official said, "Of all the Colonels -- he's the last guy who would incite violence." Another embassy official who is an expert on the Salvadoran military, described Benavides as "lackluster" and a "non-player." His nickname is "the poet."

Even in the religious community, there was some surprise. 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, Msgr. Rosa Chavez, gave the impression that Benavides might be capable of this by saying, "Benavides was the head of military intelligence...and these 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 whom, when?
- * If Benavides gave the order, what was it and what prompted it?
- * With whom would Benavides ordinarily communicate on the general Staff (this question was never clearly answered)
- * What investigatory efforts have been made or are being planned with respect to the chain of command questions? (the SIU appears to have done little in this regard to date)
- * Given the circumstances of the crime, it appears that more than eight people had to know. Have those at military check-points 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 former head of the SIU, 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 2 -- approximately 10 days after the major learned of the information.

On January 2, (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 the one Ambassador Walker relayed. He said that Buckland was informed of the story by Aviles, who was informed by Colonel Lopez y Lopez (another former head of 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 are we to do?" (Richard Chidester, legal officer at the US Embassy, stated that when he asked Rivas directly about this scenario, Rivas denied any knowledge).

Also on January 2, 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 imprecise: Walker says Benavides "felt he was somehow responsible" --- Menjivar said that Benavides said, "I am responsible..."

Walker and DCM, Jeff Dietrich, both expressed displeasure 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 Cristiani or 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 Judicial System and the Case

The Church

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

Rosa Chavez stated that a successful resolution of 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 ARENA - proposed reforms in the Salvadoran penal code are approved

such actions would be illegal. Rosa 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 afternoon of November 16th, approximately 12 hours after the Jesuits were murdered. Rosa 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.'" Rosa 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 Rosa 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 "misled" 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.

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."

Conclusions and Recommendations

(1) The technical aspect of the investigation appears to have gone well and to have resulted in a significant breakthrough in the case. The public announcement of military responsibility for the murders, and the eight arrests, are very positive developments.

(2) However, since no senior military officer has ever been successfully prosecuted for human rights violations in El Salvador, it is necessary to remain vigilant until the judicial process is completed.

(3) The staff delegation continues to question whether all those involved -- including especially higher-ups who knew or consented or gave orders -- have been identified. Remarks attributed to President Cristiani, that he thinks everyone responsible has been identified, seem premature. It is important for the task force to keep the pressure on until every possible avenue involving Col. Benavides's superiors has been pursued.

(4) One of the contributing factors in this murder appears to be the attitude of the military and its view that certain religious groups and officials are communists and accomplices of the FMLN, as reflected in the incident cited above in the section on the church. Until this attitude is rooted out of the military, religious figures will remain at risk.

(5) The role of the Embassy raises many questions. First, at the very time the Ambassador, in a meeting with the task force Chairman in Washington, stated that there was no hard evidence to confirm the conclusion that the military was responsible, it was known to one of his Embassy officers that the military had been implicated.

Second, the use that Embassy personnel made of that information, once it was finally reported, was so clumsy as to call into question, at best, the judgement and competence of those involved.

Third, the staff delegation would highlight the seemingly dismal state of the Embassy's relations with the Jesuits, the Archdiocese,

and other religious institutions and groups. The staff believes that it is essential for the Embassy to repair these relations.

(6) The task force visit to El Salvador should be timed so as to achieve maximum leverage over the next stage of the process.