

UNCLASSIFIED

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FM AMEMBASSY BOGOTA
TO RUEHC/SECSTATE WASHDC IMMEDIATE 7751
INFO RHEHNSC/NSC WASHDC
RUEKJCS/JOINT STAFF WASHDC
RUMIAAA/USCINCSO MIAMI FL
RUEKJCS/SECDEF WASHDC
RHEHOND/DIRONDCP WASHDC
RUEADWD/CSA WASHINGTON DC//DACS-ZA//
RUEABUC/CDRUSARSO FT BUCHANAN PR
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CONFIDENTIAL SECTION 01 OF 04 BOGOTA 002874

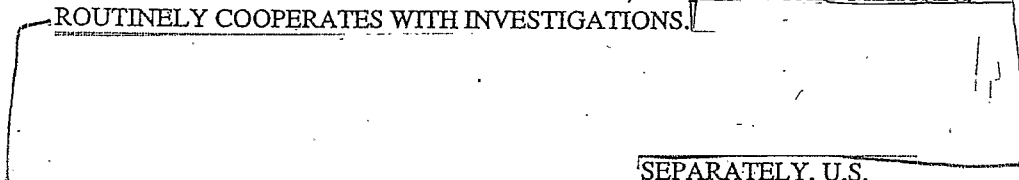
DECL: 3/31/12
TAGS: PHUM, PREF, PREL, CO
SUBJECT: GOC/COLMIL OFFICIALS DISCUSS HUMAN RIGHTS
CERTIFICATION WITH DAS STRUBLE AND DAS CARPENTER

REF: A) BOGOTA 2464 (NOTAL) B) BOGOTA 1349 C) BOGOTA 2536

CLASSIFIED BY AMBASSADOR ANNE W. PATTERSON. REASONS 1.5(B)
AND (D).

1. (C) SUMMARY: IN MARCH 22 MEETINGS WITH ARMED FORCES
COMMANDER IN CHIEF FERNANDO TAPIAS AND WITH OFFICIALS OF
THE PROSECUTOR GENERAL'S OFFICE, INSPECTOR GENERAL'S OFFICE
AND MINISTRY OF FOREIGN AFFAIRS, WHA DAS STRUBLE AND DRL
DAS CARPENTER RECEIVED ASSURANCES THAT THE GOC WOULD
PROVIDE INFORMATION IN LINE WITH THE DEPARTMENT'S DESIRE TO
SUBMIT A HUMAN RIGHTS CERTIFICATION TO CONGRESS ON APRIL 9
(REF A). BOTH THE PROSECUTOR GENERAL'S OFFICE AND THE
INSPECTOR GENERAL'S OFFICE INDICATED THAT THE COLMIL WAS
COMPLYING WITH THE LEGAL REQUIREMENT TO SUSPEND OFFICERS
WHO HAVE BEEN CHARGED OR SANCTIONED, AND THEY SAID MILITARY
ROUTINELY COOPERATES WITH INVESTIGATIONS.

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SEPARATELY, U.S.

ARMY CHIEF OF STAFF GENERAL SHINSEKI PRESSED COLMIL LEADERS
FOR GREATER COOPERATION ON THIS ISSUE DURING HIS MARCH 20-
21 VISIT TO COLOMBIA. SEE SEPTTEL END SUMMARY.

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2. (SBU) ON MARCH 22, WHA DAS STRUBLE AND DRL DAS
CARPENTER MET WITH ARMED FORCES COMMANDER FERNANDO TAPIAS
AND WITH OFFICIALS AT THE INSPECTOR GENERAL'S OFFICE
(PROCURADURIA), THE PROSECUTOR GENERAL'S OFFICE (FISCALIA)
AND THE MINISTRY OF FOREIGN AFFAIRS. STRUBLE AND CARPENTER
REVIEWED THE HUMAN RIGHTS CERTIFICATION REQUIREMENTS FOR
DISBURSEMENT OF USG ASSISTANCE AND EXPLAINED THAT
ADDITIONAL INFORMATION FROM THE GOC WOULD BE NEEDED TO
SUPPORT THE SECRETARY'S CERTIFICATION. THEY ALSO
EMPHASIZED THAT CERTIFICATION ON HUMAN RIGHTS CONDITIONS
WOULD BE AN ONGOING PROCESS AND PROPOSED THE CREATION OF
MECHANISMS TO FACILITATE CLOSER COOPERATION IN GATHERING

DEPT OF STATE APPEALS REVIEW PANEL (ARP)
RELEASE IN FULL
ADDITIONAL INFORMATION RELEASED
ORIGINAL DECISION UPHELD
Exemptions B1, 1.4(b), 1.4(c), B6
ARP Action Cert Date 11-7-05
Declassify on 3/31/12

Dept. of State, RPS/IPS, Margaret P. Grafeld, Dir
() Release () Excise () Deny () Declassify in part
Date 2/13/04 Exemption B1, B3 (IWA), B6

INFORMATION AND FORMULATING REALISTIC BENCHMARKS TO MEASURE COLMIL PROGRESS ON HUMAN RIGHTS.

3. (C) STRUBLE AND CARPENTER ALSO EMPHASIZED WITH ARMED FORCES COMMANDER GENERAL TAPIAS AND HIS STAFF AND MINISTRY OF FOREIGN AFFAIRS OFFICIALS THAT, DESPITE BROADER SUPPORT FOR U.S. ASSISTANCE TO COLOMBIA'S FIGHT AGAINST TERRORISM, FUTURE ASSISTANCE WOULD REMAIN DEPENDENT ON DEMONSTRATING TO CONGRESS THAT THE COLOMBIAN GOVERNMENT WAS INVESTING ENOUGH OF ITS OWN RESOURCES IN SECURITY, AND THAT THE COLMIL WAS CONTINUING TO IMPROVE ITS RECORD ON HUMAN RIGHTS, PARTICULARLY WITH RESPECT TO SEVERING ANY LINKS TO THE PARAMILITARIES. THE FOLLOWING PARAGRAPHS OUTLINE THE VIEWS OF GOC AND COLMIL OFFICIALS WITH RESPECT TO COMPLIANCE ON THE THREE HUMAN RIGHTS CONDITIONS ESTABLISHED BY CONGRESS (SEE REF A).

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CONDITION A: SUSPENSIONS

4. (C) ALBA BEATRIZ SILVA, COORDINATOR OF THE HUMAN RIGHTS UNIT OF THE PROSECUTOR GENERAL'S OFFICE (FISCALIA) CONFIRMED THAT, AS REQUIRED BY COLOMBIA'S CRIMINAL PROCEDURAL CODE, THE MILITARY HAS BEEN SUSPENDING FROM DUTY THOSE SERVICE MEMBERS WHO HAVE BEEN CHARGED BY HER UNIT. SILVA SAID SHE KNEW OF NO INSTANCES IN WHICH THE MILITARY HAD FAILED TO SUSPEND OFFICERS WHO WERE FORMALLY CHARGED. (NOTE: THIS IS CONSISTENT WITH WHAT OTHER HUMAN RIGHTS UNIT PROSECUTORS HAVE TOLD POLOFFS. END NOTE) ACTING VICE INSPECTOR GENERAL NUBIA HERRERA ALSO INDICATED THAT THE PROCURADURIA HAS NOT RECEIVED ANY FORMAL COMPLAINTS THAT THE MILITARY'S HAS FAILED TO SUSPEND OR DISMISS SERVICE MEMBERS WHO HAVE BEEN ARRESTED ON CRIMINAL CHARGES, ALTHOUGH SHE NOTED THAT HER OFFICE IS REVIEWING CLAIMS MADE BY NGO'S TO THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS (IACHR) THAT THE MILITARY HAS IN SOME CASES FAILED TO EXECUTE SUSPENSIONS OR DISMISSALS ORDERED BY THE INSPECTOR GENERAL.

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5. (C) DETAILED DISCUSSIONS WITH OFFICIALS OF THE INSPECTOR GENERAL'S OFFICE (PROCURADURIA) INDICATED THAT, IN CONTRAST TO THE FISCALIA, THERE IS NO SPECIFIC STEP IN A DISCIPLINARY INVESTIGATION THAT WOULD AUTOMATICALLY TRIGGER THE SUSPENSION OF MILITARY SERVICE MEMBERS WHO ARE UNDER INVESTIGATION FOR ALLEGED PARAMILITARY COLLUSION OR HUMAN RIGHTS VIOLATIONS. INSPECTOR GENERAL'S DELEGATE FOR PREVENTION PATRICIA LINARES AND ACTING DEPUTY INSPECTOR GENERAL NUBIA HERRERA EMPHASIZED THAT, UNDER COLOMBIAN LAW IT WOULD CONSTITUTE A VIOLATION OF DUE PROCESS TO SUSPEND OR DISMISS ANY OFFICIALS SIMPLY ON THE BASIS OF A COMPLAINT. THE UNIFIED DISCIPLINARY CODE AUTHORIZES PROVISIONAL SUSPENSION OF PUBLIC OFFICIALS (INCLUDING MEMBERS OF THE MILITARY) FROM THEIR DUTIES IF THEY ARE IN A POSITION TO OBSTRUCT THE INVESTIGATION OR COULD CONTINUE TO COMMIT THE SAME MISCONDUCT FOR WHICH THEY WERE BEING

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INVESTIGATED. HOWEVER, THE EXERCISE OF THIS PROVISION DEPENDS LARGELY ON THE JUDGEMENT OF INVESTIGATORS REGARDING THE SEVERITY OF THE CHARGES (AS WELL AS THE CONTEXT OF THE ALLEGED CRIME), AND IS SELDOM EXERCISED IN PRACTICE.

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7. (C) THE ONLY CASE IN WHICH THE INSPECTOR GENERAL'S OFFICE HAS ORDERED A PROVISIONAL SUSPENSION, ACCORDING TO ARDILA AND HERRERA, WAS THAT OF BRIGADIER GENERAL JAIME HUMBERTO USCATEGUI, WHO WAS EVENTUALLY CONVICTED BY THE MILITARY JUDICIARY AND THE INSPECTOR GENERAL'S OFFICE FOR FAILING TO PREVENT AN EARLIER MASSACRE IN THE MAPIRIPAN AREA IN 1997. ARDILA CHARACTERIZED THE DISCIPLINARY CHARGES AGAINST USCATEGUI AS MORE SERIOUS THAN THOSE AGAINST PADILLA DE LEON.

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HERRERA AND ARDILA DECLINED TO SPECULATE ON A RULING IN THE PUERTO ALVIRA CASE, OR ANY POSSIBLE SANCTIONS THAT PADILLA DE LEON MIGHT FACE. HOWEVER, THEY AGREED THAT BY APRIL 4, THE INSPECTOR GENERAL'S OFFICE WOULD PROVIDE TO THE EMBASSY WITH A SUMMARY OF THE PADILLA DE LEON CASE, AS WELL AS THEIR VIEWS ON WHETHER A PROVISIONAL SUSPENSION SHOULD BE ORDERED IN A CASE SUCH AS THIS.

THE CASE OF ADMIRAL QUINONES

8. (C) DURING A SUBSEQUENT MEETING AT THE MINISTRY OF DEFENSE, ARMED FORCES COMMANDER GENERAL TAPIAS CONFIRMED THAT NAVY REAR ADMIRAL RODRIGO QUINONES CARDENAS WOULD BE

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REMOVED FROM HIS POSITION AS DEPUTY DIRECTOR OF THE COLOMBIAN NATIONAL WAR COLLEGE. TAPIAS TOLD STRUBLE AND CARPENTER THAT THE MINISTRY OF DEFENSE HAS SUBMITTED TO PRESIDENT PASTRANA A DECREE TO REMOVE REAR ADMIRAL QUINONES FROM HIS CURRENT POSITION; TAPIAS EXPECTED THE PRESIDENT TO SIGN IT SHORTLY. (NOTE: POST UNDERSTANDS THAT QUINONES WILL BE ASSIGNED AS MILITARY ATTACHE TO ISRAEL, ALTHOUGH PRESIDENT PASTRANA REPORTEDLY STILL HAS NOT SIGNED THE ORDER. END NOTE) AS REPORTED IN REFTELS B AND C, QUINONES IS UNDER INVESTIGATION FOR ALLEGATIONS THAT HE FAILED TO PREVENT THE EL SALADO AND CHENGUE PARAMILITARY MASSACRES. MANY OBSERVERS HAVE CITED QUINONES AS AN EXAMPLE OF SOMEONE ACCUSED OF PARAMILITARY COLLUSION WHO HAS NOT BEEN SUSPENDED FROM DUTY. (NOTE: POST RECENTLY REQUESTED THE REVOCATION OF QUINONES' VISA BASED ON INFORMATION INDICATING THAT HE HAD RECEIVED PAYMENTS FROM NARCOTRAFFICKERS. END NOTE)

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CONDITION B: COOPERATION ON INVESTIGATIONS

9. (C) FISCALIA HUMAN RIGHTS UNIT COORDINATOR SILVA TOLD STRUBLE AND CARPENTER THAT SHE IS NOT AWARE OF ANY INSTANCES OF MILITARY OBSTRUCTION OF CRIMINAL INVESTIGATIONS. ALL THREE OFFICIALS FROM THE INSPECTOR GENERAL'S OFFICE ALSO REPORTED GOOD MILITARY COOPERATION ON DISCIPLINARY INVESTIGATIONS, INCLUDING ACCESS TO MILITARY RECORDS AND TO MILITARY WITNESSES. ACTING VICE INSPECTOR GENERAL HERRERA NOTED THAT OBSTRUCTION OF JUSTICE IS PUNISHABLE BY SEPARATION FROM THE MILITARY (WHICH PROBABLY ACCOUNTS FOR THE FACT THAT THERE HAVE BEEN NO REPORTED INSTANCES OF SUCH OBSTRUCTION).

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10. (C) STRUBLE ASKED ABOUT THE MILITARY'S COOPERATION IN THE INVESTIGATION OF THE JANUARY 2000 CHENGUE MASSACRE. HUMAN RIGHTS UNIT COORDINATOR SILVA REPLIED THAT SHE HAD NOT OBSERVED ANY ATTEMPTS TO OBSTRUCT THE INVESTIGATION DURING HER YEAR AS THE BACK-UP PROSECUTOR ON THAT CASE. THE MILITARY APPEARED TO COOPERATE FULLY IN PROVIDING INVESTIGATORS WITH ACCESS TO MILITARY RECORDS, AND PROMPTLY TURNED OVER TO CIVILIAN AUTHORITIES THE TWO MARINE SUSPECTS IN THE CASE.

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11. (C) HUMAN RIGHTS UNIT COORDINATOR SILVA ALSO REPORTED CLOSE MILITARY COOPERATION IN SUPPORT OF THE FISCALIA'S OPERATIONS AGAINST PARAMILITARY GROUPS DURING 2001. DRI DAS CARPENTER ASKED WHETHER THE MILITARY HAD INVESTED

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SUFFICIENT EFFORT IN EXECUTING ARREST WARRANTS AGAINST PARAMILITARIES IN BARRANCABERMEJA AND OTHER AREAS. SILVA REPLIED THAT THE MILITARY HAS BEEN CARRYING OUT THIS FUNCTION WHERE AND WHEN APPROPRIATE, ALMOST EXCLUSIVELY IN RURAL AREAS. SHE EXPLAINED THAT THE MILITARY IS NOT LEGALLY CHARGED WITH EXECUTING ARREST WARRANTS, ALTHOUGH IT FREQUENTLY DOES SO IN RURAL AREAS WHERE THERE IS NO POLICE PRESENCE. (NOTE: THE POLICE ARE RESPONSIBLE FOR EXECUTING WARRANTS FOR CAPTURE IN URBAN AREAS; END NOTE). SILVA FURTHER OBSERVED THAT ARREST WARRANTS ARE MUCH MORE DIFFICULT TO EXECUTE IN JUNGLE OR MOUNTAIN TERRAIN, WHERE THE MILITARY OPERATES. SHE SAID THE MILITARY, WHICH HAS A LESS DEVELOPED INTELLIGENCE NETWORK THAN THE POLICE, MUST RELY ON POLICE AND FISCALIA COOPERATION TO CARRY OUT ARREST WARRANTS.

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12. (C) SILVA EXPLAINED THAT MILITARY COOPERATION WITH CRIMINAL INVESTIGATIONS DOES NOT NORMALLY EXTEND TO THE CARRYING OUT ARREST WARRANTS; RATHER, THE MILITARY USUALLY PROVIDES SECURITY FOR CIVILIAN INVESTIGATORS AND DETAINS SUSPECTS WHEN POLICE RESOURCES ARE UNAVAILABLE. IN THIS REGARD, SILVA REPORTED GOOD SUPPORT FROM THE ARMY'S NUEVA GRANADA BATTALION AND FROM THE NAVY FOR THE FISCALIA'S OPERATION TO CAPTURE AND PROSECUTE 26 PARAMILITARIES IN BARRANCABERMEJA AND PUERTO WILCHES DURING 2001. SPECIFICALLY, THE MILITARY PROVIDED SECURITY FOR THE INVESTIGATORS AND FISCALIA OFFICIALS MAKING THE ARRESTS, AND PROVIDED DETENTION FACILITIES FOR THE SUSPECTS.

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13. (C) STRUBLE AND CARPENTER ASKED ABOUT THE CIVILIAN OVERSIGHT OF THE MILITARY JUDICIARY TO ENSURE COMPLIANCE WITH THE 1997 CONSTITUTIONAL COURT DECISION REQUIRING THAT ALL HUMAN RIGHTS CASES BE TRANSFERRED FROM THE MILITARY TO CIVILIAN JUDICIAL AUTHORITIES. ACTING VICE INSPECTOR GENERAL HERRERA EXPLAINED THAT OVERSIGHT OF THE MILITARY JUDICIARY BY THE INSPECTOR GENERAL'S OFFICE IS REQUIRED BY COLOMBIA'S CRIMINAL PROCEDURAL CODE. ALTHOUGH THE INSPECTOR GENERAL'S STAFF LACKS THE RESOURCES TO CLOSELY MONITOR EVERY CASE PROCESSED BY THE MILITARY JUDICIARY, HERRERA SAID HER OFFICE PROVIDES "REASONABLE COVERAGE" AT IN BOTH FIRST INSTANCE AND SECOND INSTANCE, AND CAN VERIFY THAT CASES ARE BEING SENT TO THE APPROPRIATE JURISDICTIONS. (NOTE: THE INSPECTOR GENERAL ALSO CONFIRMED THAT THE COLMIL ROUTINELY INFORMS THE INSPCETOR GENERAL'S OFFICE AT THE OUTSET OF ANY INVESTIGATION AGAINST MILITARY PERSONNEL, AND THE COLMIL'S JAG OFFICERS KEEP THE INSPECTOR GENERAL'S OFFICE INFORMED ON A REGULAR BASIS. END NOTE.)

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14. (SBU) IN THEIR SUBSEQUENT MEETING AT THE MOD, STRUBLE AND CARPENTER EXPRESSED APPRECIATION FOR THE INFORMATION THE COLMIL HAS PROVIDED ON THE TRANSFER OF MILITARY CASES TO CIVILIAN JURISDICTION DURING 2001. AT THE SAME TIME, THEY PROPOSED THAT THE MOD DESIGN A PROCESS FOR A FUTURE COMPLETE REVIEW OF THE 1,372 CASES THAT HAVE BEEN TRANSFERRED FROM MILITARY TO CIVILIAN JURISDICTION SINCE 1997.

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CONDITION C: SEVERING LINKS TO PARAMILITARIES

15. (C) DAS STRUBLE REITERATED THE USG'S REQUEST FOR MORE INFORMATION ON THE REASONS FOR DISMISSAL OF SERVICE MEMBERS PURSUANT TO DISCRETIONARY AUTHORITY GRANTED TO THE MILITARY COMMANDERS BY PRESIDENT PASTRANA IN SEPTEMBER 2000.

CARPENTER EMPHASIZED THAT THE NUMBER AND RANK OF SERVICE MEMBERS DISMISSED FOR HUMAN RIGHTS VIOLATIONS OR FOR AIDING AND ABETTING PARAMILITARIES IS ESSENTIAL TO SUPPORTING CERTIFICATION. TAPIAS SAID THE SPECIFIC REASON FOR SEPARATION FROM SERVICE IS NOT RECORDED IN CASES OF DISCRETIONAL DISMISSAL, ADDING THAT THE MOD WOULD FACE SERIOUS LEGAL PROBLEMS IF THE NAMES EVER WERE TO BECOME PUBLIC. TAPIAS ASSERTED THAT THE THRESHOLD FOR DISCRETIONAL DISMISSAL WAS IN FACT LOWER THAN THAT FOR CRIMINAL INVESTIGATIONS, BUT CLAIMED THAT, IN ANY CASE, MANY DISMISSED SERVICE MEMBERS ARE NOW UNDER CRIMINAL INVESTIGATION.

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17. (C) COMMENTING ON THE COLMIL'S RECORD IN COMBATING PARAMILITARIES, TAPIAS NOTED THAT THE MILITARY HAD CAPTURED 590 DURING 2001, AN INCREASE OF 253 PERCENT OVER 2000. HE ALSO OBSERVED THAT PARAMILITARY MASSACRES HAD DECREASED, BECAUSE THE PARAMILITARIES HAD ADOPTED A STRATEGY OF LOWER-PROFILE SELECTIVE ASSASSINATIONS (SIMILAR TO THE GUERRILLAS' TACTICS).

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TAPIAS COMPLAINED THAT MANY ALLEGATIONS OF COLMIL-PARAMILITARY COLLUSION WERE BASED ON FLIMSY EVIDENCE. FOR EXAMPLE, DESPITE THE FACT THAT ALL THREE ILLEGAL ARMED GROUPS WEAR VIRTUALLY THE SAME UNIFORM, SOME COMMUNITIES AND NGO'S CITE THESE MILITARY-STYLE UNIFORMS AS PROOF OF COLMIL-PARAMILITARY COMPLICITY. IN THIS CONTEXT, TAPIAS ALSO LAMENTED THAT HUMAN RIGHTS WATCH HAD NOT RESPONDED TO HIS INVITATION TO MAKE AN EXTENDED VISIT TO MILITARY FACILITIES IN COLOMBIA.

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