

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. letter	[POTUS Form Letter on Human Rights in Guatemala] (1 page)	04/28/1995	P5 704S

COLLECTION:

Clinton Presidential Records
Correspondence
Trudy Roddick
OA/Box Number: 19962

FOLDER TITLE:

[P-2011 Concern Re Human Rights in Guatemala, Revisions: May 3, 1995, June 5, 1996, September 10, 1996]

2006-1025-F

rs1032

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
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- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

THE WHITE HOUSE
WASHINGTON

7045

April 28, 1995

Mr. John M. Doe
Title
Organization
Business Adr1
Business Adr2
Business City, BState BZip-BZip9

Don't we know he was killed?

Dear John:

Thank you for expressing your concerns about ~~allegations~~ regarding the 1990 death of Michael Devine and the 1992 disappearance of Efraim Bamaca Valesquez in Guatemala.

I share these concerns and am committed to determining the facts surrounding these cases. For this reason, I have asked the Intelligence Oversight Board to conduct a government-wide review of these and other human rights cases involving American citizens in Guatemala or their families. The IOB is a standing committee of the President's Foreign Intelligence Advisory Board whose members come from outside government and are appointed on the basis of their achievements, experience, and independence.

I have also asked the Board to consult with the Central Intelligence Agency and Justice Department Inspectors General, as well as with the State Department, the National Security Agency, and other components of the Department of Defense that are reviewing these matters. I have charged the IOB with examining all intelligence-related aspects of these cases and making recommendations based on its findings. Once the IOB's work is completed, I will take any and all appropriate action and provide the American public with as much information about the review as possible.

The promotion of democracy and human rights is a cornerstone of my Administration's foreign policy. As we seek to assist citizens of all countries in their efforts to exercise the freedoms that Americans hold so dear, I appreciate your interest and support.

Sincerely,

Bill Clinton

(4/28/95)

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NSC cleared
SEE Q.

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Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	Bill Leary et al. to Anthony Lake re: Releasing Guatemala Human Rights Documents (4 pages)	05/01/1996	P5 7046
002a. memo	Re: Bamaca and Devine cases (3 pages)	03/23/1995	P1/b(1)
002b. paper	Guatemala: The Bamaca Case (4 pages)	11/14/1994	P1/b(1)
002c. memo	Re: Guatemala - Bamaca and Devine Cases (4 pages)	03/27/1995	P1/b(1)
003. form	WAVES Appointment Request form for David Rothkopf from Brenda J. Kinser-Kidane [partial] (1 page)	06/28/1996	P6/b(6)
004. letter	Sister Dianna Ortiz to President Bill Clinton (2 pages)	02/07/1996	P6/b(6)
005. list	Chronology of Ortiz Case (4 pages)	04/10/1995	P1/b(1)
006. cable	Re: Sister Diana Ortiz in Guatemala (2 pages)	04/01/1993	P1/b(1)
007. cable	Re: Guatemala Human Rights 1994 (15 pages)	07/20/1994	P1/b(1)
008. cable	Re: Sister Diana Ortiz case (2 pages)	02/17/1994	P1/b(1)
009. cable	Re: Human rights (5 pages)	07/25/1994	P1/b(1)
010. cable	Re: Sister Diana Ortiz meeting (4 pages)	11/08/1994	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Inter-American Affairs
OA/Box Number: 976

FOLDER TITLE:

Guatemala - Human Rights Cases, 1996 [3]

2006-1025-F

ke346

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
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Freedom of Information Act - [5 U.S.C. 552(b)]

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May 1, 1996

7046

ACTION

MEMORANDUM FOR ANTHONY LAKE

THROUGH: NANCY SODERBERG ✓
FROM: BILL LEARY/LESLIE BASSETT/JAMIE BAKER ✓
SUBJECT: Releasing Guatemala Human Rights Documents

The IOB expects to complete its report to the President on Guatemala by the end of June. In all recent communications on this subject, we have indicated that once the IOB's review is completed, the President intends to release all appropriate information to the public. This memorandum seeks your approval of actions that would be needed to make it possible to review and release information in pertinent Government documents at the time the release of the IOB's report to the President.

What Documents To Review for Release

The State Department will make the first substantial release of documents on human rights cases in Guatemala this week, when it releases nearly 6,000 documents, pursuant to an April 11, 1995 inquiry from the SSCI. 1,100 of these documents contain some redactions to protect national security, deliberative process, personal privacy, and ongoing law enforcement investigations. Another 500 were withheld in full for the same reasons. Other agencies can be expected to use the same justifications for withholding documents.

In addition to these 1,600 documents, the CIA, DoD, and DOJ conducted a similar search for documents in connection with the IOB study. That search identified an estimated 1,000 intelligence and other classified documents that mention one of the specific cases under IOB review. The IOB staff subsequently determined that about 150 of these estimated 1,000 shed light on these cases. At the IOB's request, these documents are already being reviewed for release.

The estimated 1,000 documents gathered in support of the IOB review were culled from a much larger quantity of documents collected by the agencies in response to the IOB's request and subsequently reviewed by the IOB or agency staff for relevance. Since these documents have already been identified, their review

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would not require still another time-consuming document search by agencies. Review of the already assembled State documents and documents assembled for the IOB review could begin as soon as agency reviewers are selected.

We recommend that the originating agencies conduct a special discretionary review project with a view toward releasing as much as possible in the estimated 1,000 documents collected for the IOB that mention one of the specific cases since 1984, as well as the 1,600 State documents not fully released this week. This would ensure that special attention is given to pertinent documents that normally would not be released for one reason or another. Anything less would invite the usual skepticism about whether we are holding back the most revealing documents. Any review that is substantially broader in scope (all Guatemalan human rights cases since 1954, e.g.) would greatly increase agency resistance, delay releases considerably, and divert resources to a review of many marginal documents.

The only sensitive documents not included in the scope of the project proposed here are those related to cases prior to 1984 and unique documents created or collected in conjunction with ongoing investigations of the DeVine and Ortiz cases by the U.S. Attorney's Office. The pre-1984 documents of greatest public interest are those related to the 1954 Guatemala coup; the CIA's review and release of those documents should be completed in the near future. The DOJ investigatory records almost certainly cannot be released. But, to the extent possible, we can include any potentially releaseable records in the review suggested here.

Standards for Release

Generally speaking, only the following types of information should be protected in conducting this discretionary review: confidential sources and methods, information that would seriously and demonstrably impair relations between the United States and a foreign government, information that would constitute a clearly unwarranted invasion of personal privacy, law enforcement information, and information the release of which would cause serious and identifiable harm to the deliberative process.

As an example, attached at Tab I are three documents that State will withhold in full later this week. Using the approach suggested here, these documents could be released with only a few names redacted. The key is adherence to the specific standards outlined here rather than the more generic and intuitive guidelines normally used in reviewing sensitive documents for release.

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How and When

Ideally, the special review of Guatemala documents should be completed to coincide with the release of the IOB's Report to the President. The most realistic way to meet that target is to request each appropriate agency to assign one or more individuals to participate in a joint review chaired by the NSC. The individuals assigned to this review team must have the authority to make most release decisions without further consultation with their agencies. We have found in past circumstances that working as a team produces better results as well as greater efficiency.

Two Caveats

First, a review project such as this is time intensive. We would anticipate that one NSC staff person, and several agency staff, would need to devote at least one full, uninterrupted week to this endeavor. Despite the burden, representatives of CIA, DOJ, and DoD (heads of the FOIA offices) consulted about this proposed project have indicated that the review is feasible and worthwhile. State has not responded. The agency representatives consulted are apprehensive primarily about a broader definition of documents subject to review, which could require another time-consuming document search.

Second, there remain legitimate national security and executive branch equities that should continue to be protected, and such redactions undoubtedly will produce criticism. But, even if all documents were released without redactions, some critics of U.S. policy would still not be satisfied since many questions will remain unanswered by these documents or any others in Government possession.

Concurrence by: Frank Fountain (IOB) *WHL, for*

RECOMMENDATIONS

That you approve a special interagency project to review for release the 1,600 documents withheld by State in full or in part plus all documents collected by agencies for the IOB that mention one of the specific human rights cases in Guatemala since 1984 involving American citizens. Documents would be reviewed under the discretionary standards outlined in this memorandum (Leary, Bassett and Baker recommend).

Approve *✓* Disapprove

Alternatively, that you approve a special interagency process to review for release all classified and otherwise sensitive

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documents held by CIA, DoD, State, and DOJ that are related to Guatemala human rights abuses since 1954. (This option would require a Presidential directive to the agencies.)

Approve _____ Disapprove _____

That you authorize Andy Sens to sign the memorandum at Tab I to appropriate agency seeking agency representatives for a special review project to be chaired by NSC.

Approve ☒ _____ Disapprove _____

Attachment

Tab I Memorandum to Agency Counterparts

Tab II Withheld State Documents

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Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. cable	Re: Devine and Bamaca cases (3 pages)	05/12/1995	P1/b(1)
002a. memo	Anthony Lake to Anthony S. Harrington re: Intelligence Oversight Board Terms of Reference: Guatemala (3 pages)	04/05/1995	P1/b(1)
002b. memo	Anthony Lake to Anthony S. Harrington re: Intelligence Oversight Board Terms of Reference: Guatemala (3 pages)	04/05/1995	P1/b(1)
003. report	re: Status of Harbury FOIA Requests-5/12/95 [partial] [CIA Act and National Security Act] (2 pages)	05/12/1995	P3/b(3), P5
004. memo	Earle Blakeman to Anthony Lake re: Managing Guatemala Issues (2 pages)	05/11/1995	P5
005. paper	re: Harbury FOIA Requests: Point Paper [annotated] (4 pages)	05/10/1995	P5 7047

COLLECTION:

Clinton Presidential Records
National Security Council
Legal Advisor - Baker
OA/Box Number: 1954

FOLDER TITLE:

Guatemala Investigation (File #1) [3]

2006-1025-F

ke360

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
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- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

→ matter of life & death
→

whether gets

now have really

not have 7047
just

Harbury FOIA Requests: Point Paper

not only get next
given withheld rules

no money about
expedition. should get me.

Issue One: How should the White House respond to Harbury's request for expeditious treatment of her FOIA requests?

Spell out.

Credits
withheld

I. Do Nothing -- Agencies continue to Process Harbury FOIA Request in a manner consistent with agency guidelines

10 points
Suzanne

Pros:

- Treats similarly situated FOIA requesters in equitable manner by assigning priority to Harbury in the same manner as requests from Devine, Wolf or Ortiz would be treated.
- Avoids any possibility that Harbury, or others, can allege the White House has directed agencies to "cover" up her case by withholding information.

Cons:

- Subjects White House to continued criticism for not responding to Harbury's appeal for expeditious treatment. (Although we understand that all agencies are in fact already treating the request on an expeditious basis.)
- May result in inconsistent agency disclosure standards subjecting the Government to additional criticism.

II. Third Agency Coordination of Harbury FOIA Request.

(White House would attend coordination meetings, but not direct that specific disclosures be made or suggest a presumption for or against disclosure. The White House would review third agency documents consistent with current practice of reviewing documents with executive privilege implications.)

Pros:

- Would provide consistency to manner in which individual agencies are responding.
- utilizes collective expertise in determining whether particular documents continue to warrant national security protection.
- Consistent with President's general policy of full disclosure of all appropriate information on Guatemala.

-- Reminds to Agreed

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page 1]

Eng song has been going pretty

split

[Lesson issue]

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- Allows administration perspective on what is being released/or not released and thus puts Administration in better position to respond to press allegations.
- Justice representation on Task Force would insure law enforcement equities are addressed before documents are released.
- A task force arrangement could also be used as a vehicle to respond to Congressional requests for documents.

Cons:

- Opens Administration up to criticism that White House is coordinating a cover up of Guatemala issues by acquiescing in individual agency decisions not to disclose information properly exempt under FOIA, e.g., privacy information and national security information.
- Creates crisis atmosphere.
- Requires commitment of extensive agency resources.
- *establishes a precedent for White House FOIA requests*

III. White House Directed Coordination of Harbury Request.

Agencies would be directed to treat Harbury request as a priority and to release as much information as national security equities and applicable law permit, i.e., where there is doubt as to whether to disclose, disclosure would be made.

Pros:

- Addresses any allegations that the Administration has anything to hide.
- Consistent with the President's general policy of as much disclosure as possible, albeit before the IOB puts the issues in perspective.

Cons:

- Results in increased opportunity for press speculation before the results of the IOB's review and IG reviews are in hand and understood.
- Runs additional risk of presenting wrong or incomplete picture because the Government is not yet in a position to fully understand what information can appropriately be declassified and will not be in a position to make that judgment until after all reviews are completed and the President has an opportunity to assess the results.
- could result in duplication of effort if agencies are expected to revisit FOIA request after the IOB reports and White House revisits disclosure policy.

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Issue Two: Should the policy adopted for Harbury apply to other Guatemala FOIA requests? From U.S. citizens? Victims? National Security Archives?

Pros:

- expeditious treatment of Harbury request alone continues to keep spotlight on Bamaca case, which to some is less compelling or no more compelling than Devine, Ortiz and other cases involving the murder or abuse of American citizens.
- Consistent with the President's general policy of as much disclosure as possible, albeit before the IOB puts the issues in perspective.
- Not doing so increases litigation risk on other Guatemala cases.

Cons:

- Could result in resources being taken away from efforts to provide Igs and IOB all relevant material.
- Agencies do not have the resources to treat all requests as priorities.
- Encourages circumvention of the FOIA policy guidelines on when expeditious treatment is warranted, i.e., FOIA requesters will be encouraged to appeal to the White House if they do not like the process outcome on a particular case.

Recommendation:

That the White House direct the State Department to coordinate the Government's handling of Guatemala FOIA requests by convening an ad hoc interagency task force, which could also address the Specter/Kerry request for documents. Agencies would continue to respond to FOIA requests on an individual basis.

That all agencies be directed to treat FOIA requests from the victims or relatives of victims of human rights abuses in Guatemala as a priority, but that other requests be treated in accordance with agency guidelines.

That the Task Force be reminded to refer all relevant information identified in the course of responding to FOIA request to the IOB, Igs and DOJ.

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That at this time, the White House defer to agencies on what information is appropriate to disclose, but that after the IOB and all IGs/DOJ complete their reports the White House will reconsider whether additional information should be disclosed based on the President's review of the IOB's findings.

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page 4]

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Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	To David Buckley re: Guatemala Review [partial] [National Security Act] (1 page)	04/16/1995	P3/b(3)
002. memo	From Kenneth Brill re: [IOB Terms of Reference] (2 pages)	04/07/1995	P5
003. memo	James Baker to Anthony Lake re: Guatemala Inquiry: Status Report (2 pages)	04/07/1995	P5 7048
004. memo	[Duplicate of 003] (2 pages)	04/07/1995	P5 Dup
005. memo	Rick Nuccio to Anne Patterson re: Guatemala (4 pages)	04/06/1995	P1/b(1), P5
006a. paper	Case of Efrain Bamaca Velasquez (25 pages)	03/30/1995	P1/b(1)
006b. paper	Case of Michael Vernon Devine (25 pages)	03/27/1995	P1/b(1)
007. paper	Guatemala Investigation (3 pages)	n.d.	P1/b(1)
008. paper	Re: CIA activities in Guatemala (4 pages)	ca. 1995	P1/b(1)
009. paper	Re: Guatemala relations (2 pages)	n.d.	P1/b(1)
010. fax	Fax cover sheet to Bruce Pease re: Guatemala Investigation (1 page)	03/30/1996	P1/b(1)
011. memo	To Anthony Lake re: Summary of Investigation in Allegations Relating to CIA Activities in Guatemala (3 pages)	03/30/1995	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Legal Advisor - Baker
OA/Box Number: 1954

FOLDER TITLE:

Guatemala Investigation (File #1) [5]

2006-1025-F

ke362

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

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April 7, 1995

7048

ACTION

MEMORANDUM FOR ANTHONY LAKE

THROUGH: ALAN KRECZKO^{AK}/GEORGE TINET^{GT}FROM: JAMES BAKER^{JB}

SUBJECT: Guatemala Inquiry: Status Report

IOB/DOJ Coordination: Nancy and Tony Harrington met this morning with Jamie Gorelick to discuss coordination of the IOB's review and potential law enforcement equities. Jamie and Tony agreed that the IOB can and should proceed with its review, but should not contact any persons who are potential factual witnesses until after Justice has reviewed the relevant IG reports and determined whether further law enforcement inquiry is warranted. We anticipate that Fred Hitz will finish his report at the end of this month. In practical terms, this means that IOB will rely on document review and the IGs during the next few weeks as it begins its review. If the IOB finds this arrangement ineffective, Jamie and Tony are prepared to work through any problems. Justice will also consider providing the IOB an experienced staff member.

Terms of Reference: We now have comments back from the inspectors general at CIA, DOD, and State as well as from Jamie Gorelick and Ken Brill. All were appreciative of the opportunity to comment and think we have the scope just about right. We have added a few substantive suggestions: (1) any U.S. military intelligence relationships with the GOG are now explicitly within the scope of the review; (2) the inclusive date for review of earlier cases and our intelligence relationship with the GOG is now 1984, rather than the past 15 years. (We understand this date is consistent with the document searches that have been conducted.); and (3) the IOB is requested to address "lessons learned" and to make recommendations regarding changes to intelligence directives and procedures, if any, that are warranted.

You also need to consider the manner in which the Terms of Reference are publicly released. We believe this should be done as soon as possible by making it generally available.

(Alternatively, we could provide it selectively to the Post and Times, but this would look like IOB work is already leaking.) We recommend that this be done as soon as possible in order to make the Sunday papers. We also recommend that we provide inspectors general a copy of the final Terms before they read about them in the paper. Tony Harrington would do so by providing the IGs the TOR this evening. While it is unprecedented for the IOB's TOR to be publicly released, we believe this case is distinguishable from others in that we have already committed to release as much of the IOB report as possible.

Hill Briefings: George has tried to arrange meetings for Tony Harrington with the SSCI and HPSCI leadership today. With the recess rush, however, Members have not made time available. As a result, Tony and George will brief the SSCI and HPSCI staff directors on the Terms of Reference this evening.

RECOMMENDATION

1. That you sign the Terms of Reference at Tab I.

Approve _____ Disapprove _____

2. That the Terms of Reference be released publicly.

Approve _____ Disapprove _____

3. That the Terms of Reference be provided selectively to the Post and Times.

Approve _____ Disapprove _____

Attachment

TabI IOB Terms of Reference

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
004i. paper	Re: Release of the "Guatemala Collection" (2 pages)	n.d.	P1/b(1), P5
005a. email	James Baker to Rand Beers et al. re: Pkg 5826 (1 page)	11/01/1996	P5 7049
005b. email	Geoffrey Pyatt to James Baker et al. re: Pkg 5826 (1 page)	11/01/1996	P5

COLLECTION:

Clinton Presidential Records
National Security Council
Legal Advisor - Baker
OA/Box Number: 1517

FOLDER TITLE:

Guatemala Investigation (Folder #2) [1]

2006-1025-F

ke365

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

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F-12

7049

Baker, James E.

From: Baker, James E.
To: Beers, Rand R; Dobbins, James F.; Kessinger, Jodi; Pyatt, Geoffrey R.
Cc: /R, Record at A1; Leary, William H.; VanTassel, David S.; Kreczko, Alan J.;
@EXECSEC - Executive Secretary
Subject: RE: Pkg 5826 [UNCLASSIFIED]
Date: Friday, November 01, 1996 10:22AM

First sentence of second paragraph is problematic and should be changed or deleted. The President should not describe the American public's and Mrs. Devine's access to USG information as "a right." (Access to USG information is not a "right"; but rather is governed by various statutes and constitutional principles, including those relating to the protection of sources and methods, the Privacy Act and so on.) This language will haunt in a subsequent dispute or FOIA lawsuit. Although Bill Leary could better describe the standard of review, the USG has, in fact, not been able to make all of the material gathered on this case available to Mrs. Devine or the public because of national security concerns. Thus, the IOB's original terms of references stated that it was the President's intent to make "all appropriate information" available to the public.

Therefore, I would recommend deleting this sentence in its entirety or substitute with words that track Terms of Reference, e.g., "I instructed the IOB to undertake its Guatemala review because I felt it important that all appropriate information regarding your husband's case, and others, be made available to the public and to you."

Thank you.

From: Kessinger, Jodi
To: Baker, James E.; Beers, Rand R; Dobbins, James F.
CC: /R, Record at A1; Pyatt, Geoffrey R.; @EXECSEC - Executive Secretary
Subject: Pkg 5826 [UNCLASSIFIED]
Date: Thursday, October 31, 1996 07:59 PM

<<Attached File: 5826LET.DOC>>

Nancy has made changes to the attached letter and would like you to make sure they are okay. She also asked, "WHY DID IT TAKE SINCE JULY TO RESPOND?"

Please reply to @execsec.

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
--------------------------	---------------	------	-------------

008. email

James Baker to Wiliam Leary et al. re: Desperately Seeking (1 page)

07/17/1995

P5

7050

COLLECTION:

Clinton Presidential Records
National Security Council
Legal Advisor - Baker
OA/Box Number: 1517

FOLDER TITLE:

Guatemala Investigation (Folder #2) [3]

2006-1025-F

ke367

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

File
Guat.

7050

Baker, James E.

From: Baker, James E.
To: Leary, William H.; Pease, Bruce E.; Bassett, Leslie A.
Cc: /R, Record at A1
Subject: RE: desperately seeking . . . [UNCLASSIFIED]
Date: Monday, July 17, 1995 11:44AM

I clear as follows. (1) in memo to TL. 2d para. you state that at least one of the cases has been the subject of litigation. Are you referring to the Ortiz suit against General BLANK or a FOIA law suit? If the former then I think this sentence is misleading. If the latter, did we win, lost, still being litigated and depending on answer are we following any court orders in the case. Bottom line: I would delete, but Bill and I should know the answer.

(2) BRUCE: I have no issue with sentence at top of page two of letter, but would want to make sure that Bruce focused on the notion that protection of human rights is at the forefront of our intelligence relationships. That is a pretty strong statement which may be hard to live up to in a world where we necessarily must use a mixed bag of resources. I am comfortable if Bruce is.

(3) I will coordinate today with IOB and affirmatively advise you that I have done so.

Thanks. Difficult letter to put together.

From: Bassett, Leslie A.
To: Leary, William H.; Pease, Bruce E.
CC: /R, Record at A1; Baker, James E.
Subject: desperately seeking . . . [UNCLASSIFIED]
Date: Saturday, July 15, 1995 02:21 PM

<<Attached File: AIDOCB.DOC>>
<<Attached File: AIDOCA.DOC>>

your clearance on the attached -- slightly revised to reflect honduras talking points, and with rhetoric slightly toned down. Y'all received hard copy version about a week ago, I really need to move this one, more coming alas. Thanks!!!!

COPY

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. report	re: Status of Guatemala FOIA Requests-5/19/95 [partial] [CIA Act and National Security Act] (2 pages)	05/19/1995	P3/b(3), P5
002. email	William Leary to James Baker and Earle Blakeman re: Guatemala Meeting (2 pages)	05/18/1995	P5 7051

COLLECTION:

Clinton Presidential Records
Legal Advisor
James Baker
OA/Box Number: 1517

FOLDER TITLE:

Guatemala Investigation (Folder #2) [10]

2006-1025-F

rs1033

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
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PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

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- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
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- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

7051

Baker, James E.

From: Leary, William H.
To: Baker, James E.; Blakeman, Earle C.
Cc: /R, Record at A1
Subject: Guatemala Meeting [UNCLASSIFIED]
Date: Thursday, May 18, 1995 10:07AM

Chat & Jamie,

I wonder if it would be useful to meet briefly prior to tomorrow's inaugural meeting to talk through issues that are likely to come up. I can think of at least four FOIA-related issues:

1. How hard do we push expedited processing? I know that Dan Metcalfe, DOJ's FOIA guru wants to make a pitch for all agencies adopting the DOJ standard for expedited access -- a standard that would cover all Harbury requests, not just the January ones, as well as other requests. Do we want weigh in on DOJ's side? If CIA is far behind everyone else in processing, what do we say, if anything?
2. How do we handle closely related FOIA requests. This week, e.g., we and all the other usual suspects received a FOIA request on behalf on Michael DeVine's widow. Do we give her expedited handling?
3. State apparently has still released very little because of an internal dispute about whether to redact names of State drafters of documents. Do we weigh in? I can't imagine how redacting such information could be sustained under FOIA.
4. Do we want to delegate continuing FOIA coordination to Dan Metcalfe? I suspect he would be happy to have the assignment.

1. 2 have to read

2. note some doubts DOJ/EOB

3. one to kill

Sally / relatives

not like to lose

DOJ: 2 reports being DEA and FBI to read

Both reports have good expedited access.

DOJ Feb. 1994 policy:

added notes => Deane, ^{mes} DBC, NS and others.

not released as info that name of jet.

Tell that added para. need to read of his

for a minute long. could be worth if a lot of doubts.

Records on subject matter.

Balance vice initial

COPY

OSD / Joint Staff: Being handled expedited basis.
was in great. Being, etc., NSA. 3 NSA's
Denise.

Senior board. (Correlate activity for areas)

Both sets of denials.

1 denial.

22 request not expedited.
(life / safety / due process)

Short of: Declassified room.

all request → comes to of DOD/GC.

One certified FOIA request. DEA / NSA / DSAA / ^{Ch} DSSA

25 requests DEA. Did not expedite. About 30 denials *

10 referrals. DADO. (Send request to side with
sent to COB)

CEA: Jan. Did expedite essential response. W/ no.

Since that the staffs. DDCI, Voted search.

United States of data base. 500-600 denials.
my virtual denials.

Denise. Probably also expedite. Registers occur

> in credit of Mountain Greening. - ?

Well over 100 cases on habeas cases.

over 20 NSA cases. 5 citations.

- 1) was in For. reland
- 2) need US info
- 3) visit / b to
- 4) from another organization
- 5) from exerts

only 2 cases
of relative
visits.

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Withdrawal/Redaction Sheet

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	Anthony Lake and Patrick Griffin to POTUS re: Letter from Senators Spector and Kerry (1 page)	05/1995	P5 7052
002. memo	Earle Blakeman to Anthony Lake re: Response to Specter/Kerrey on Guatemala (1 page)	05/17/1995	P5 7053
003. report	re: Status of Harbury FOIA Requests-5/12/95 [partial] [CIA Act and National Security Act] (2 pages)	05/12/1995	P3/b(3), P5
004. report	Re: Guatemala (1 page)	05/11/1995	P1/b(1)
005a. fax	Fax coversheet for material sent to Jamie Baker (1 page)	05/05/1995	P1/b(1)
005b. memo	William O. Studeman to Anthony Lake re: Disclosure (3 pages)	ca. 05/1995	P1/b(1), P5
005c. talking points	Draft Language for State Department's Use with Jennifer Harbury (1 page)	n.d.	P1/b(1)
005d. email	William H. Leary to James E. Baker re: Harbury FOIA (1 page)	04/25/1995	P1/b(1)
005e. minutes	Guatemala Small Group Meeting (1 page)	ca. 05/03/1995	P1/b(1)
005f. memo	Bruce Pease to Anthony Lake re: Getting Ahead of the Press (2 pages)	05/04/1995	P1/b(1), P5
005g. memo	Bruce Pease to Anthony Lake re: Getting Ahead of the Press (3 pages)	05/05/1995	P1/b(1), P5
006. letter	Jennifer Harbury to President Clinton re: Efrain Bamaca Velasquez [partial] (1 page)	05/02/1995	P6/b(6)

COLLECTION:

Clinton Presidential Records
National Security Council
Legal Advisor - Baker
OA/Box Number: 1517

FOLDER TITLE:

Guatemala Investigation (Folder #2) [11]

2006-1025-F

ke373

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
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C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
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- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

THE WHITE HOUSE
WASHINGTON

7052

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: ANTHONY LAKE
PATRICK GRIFFIN

SUBJECT: Letter from Senators Specter and Kerrey
Regarding Human Rights Violations in Guatemala

Purpose

To respond to a letter from Senators Specter and Kerrey requesting that you establish an interagency focal point to coordinate and analyze information on Guatemalan human rights abuses and to assist aggrieved citizens with their inquiries.

Background

Our response notes that we have established an ad-hoc interagency group chaired by NSC staff to coordinate policy regarding Freedom of Information requests and inquiries from victims and their families.

In my view, establishing a focal point to analyze information on all material about Guatemalan human rights abuses is not feasible given the decentralized nature of government information systems; neither is it a wise use of resources given that it would duplicate some of the Intelligence Oversight Board's work.

RECOMMENDATION

That you sign the proposed letters to Senators Specter and Kerrey at Tab A.

Attachments

Tab A Proposed Responses to Senators Specter and Kerrey
Tab B Incoming Correspondence

cc: Vice President
Chief of Staff

COPY

May 17, 1995

7053

ACTION

MEMORANDUM FOR ANTHONY LAKE

THROUGH: RICHARD E. FEINBERG
FROM: EARLE C. BLAKEMAN
SUBJECT: Response to Specter/Kerrey on Guatemala

Attached is a draft response to a letter from Senators Specter and Kerrey requesting that the President establish an interagency focal point to coordinate and analyze information on Guatemalan human rights abuses and to assist aggrieved citizens with their inquiries.

Our response notes that we have established an ad-hoc interagency group chaired by NSC staff to coordinate policy regarding Freedom of Information requests and inquiries from victims and their families.

In our view, establishing a focal point to analyze information on all material about Guatemalan human rights abuses is not feasible given the decentralized nature of government information systems; neither is it a wise use of resources given that it would duplicate some of the Intelligence Oversight Board's work.

We have coordinated this response with IOB staff.

Concurrence by: James Baker, Bruce Pease, Mike Andricos,
James Fetig and William Leary

RECOMMENDATION

That you sign the memorandum to the President at Tab I.

Attachments

Tab I Memorandum to the President
Tab A Proposed Responses to Senators Specter and Kerrey
Tab B Incoming Correspondence

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Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. email	Leslie A. Bassett to Nancy E. Soderberg re: Guatemala Update (1 page)	07/05/1996	P1/b(1)
001b. email	Leslie A. Bassett to Nancy E. Soderberg re: Document Release and IOB Report (1 page)	06/18/1996	P1/b(1), P5
002a. cable	Re: Sister Diana Ortiz (3 pages)	04/10/1992	P6/b(6)
002b. cable	Re: Station Investigation of Human Rights Violations in Guatemala (8 pages)	10/15/1991	P1/b(1)
003. paper	Re: Potential Public Relations Problems connected with the release of the "Guatemala Collection" (2 pages)	n.d.	P1/b(1)
004. memo	Bill Leary et al. to Nancy Soderberg re: Review and Release of Guatemala Documents (3 pages)	05/13/1996	P5 7054
005. memo	Leslie Bassett et al. to Nancy Soderberg re: Expanding Review and Release of Guatemala Documents (2 pages)	05/03/1996	P5 7055

COLLECTION:

Clinton Presidential Records
National Security Council
Staff Director - Soderberg
OA/Box Number: 1404

FOLDER TITLE:

Guatemala - Document Declassification, 1996

2006-1025-F

ke378

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
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- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

May 13, 1996

7054

MEMORANDUM FOR NANCY SODERBERG

THROUGH: ANDREW SENS

FROM: BILL LEARY/LESLIE BASSETT/JAMIE BAKER

SUBJECT: Review and Release of Guatemala Documents

The May 3, 1996, Sens memorandum to his counterparts at State, DoD, CIA, and DOJ asked for their cooperation in a discretionary interagency review of "all documents collected for the IOB study by CIA, DoD, and DOJ that mention one of the specific cases examined by the IOB, plus all documents withheld in full or in part from the recent State Department release." Andy's memo indicated that we wanted to have the review and release completed by the end of June.

The agency representatives will meet with you and us in the Situation Room on May 15 at 1:30. Attached to this memo are talking points for that meeting. You also asked for recommendations about the scope of this special interagency review and how to deal with pertinent pre-1984 documents related to human rights in Guatemala.

Scope of Interagency Review and Release

The tasking outlined in Andy's May 3 memo requires the review and preparation for release of about 2500 very sensitive documents within a very short time period. CIA and DoD have indicated that it would take several weeks to identify and retrieve possibly responsive documents about cases prior to 1984 (State could accomplish retrieval more quickly). This would make it virtually impossible to have these additional documents ready for release in conjunction with the 2500 post-1984 documents.

We strongly recommend that the review and release effort between now and the end of June should be confined to the post-1984 cases identified in the Sens memo of May 3. Expanding the scope of this near-term effort would jeopardize the tight schedule for reviewing and releasing as much as possible from the most significant cases. Trying to do too much before the end of June could put at risk the President's commitment to release all appropriate information in the underlying documents at the time of the release of the IOB's report.

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Handling Pre-1984 Materials

Relevant pre-1984 materials can and should be addressed in a separate tasking to agencies. State is preparing a listing of human rights cases involving American citizens prior to 1984. After vetting with agencies to determine which cases meet a common threshold, this list should serve as the basis for tasking a supplemental discretionary review project.

Based upon preliminary discussions with agency representatives, it would not be unreasonable to expect each agency to review and release responsive documents by the end of August. As soon as we have settled upon the specific cases to include within the scope, we will prepare a tasking memo for the appropriate agencies.

Documents related to the 1954 Guatemala coup have become a particular focus of requests from Coalition Missing and others. The CIA's special project to review these materials for release is nearing completion. Release of documents is expected to begin by early fall and be completed by the end of the year. This schedule coincides with State's concern about releasing certain documents about the coup prior to projected completion of the Guatemalan peace process at the end of September.

In summary, these discretionary projects will result in the release by the end of this year of virtually all information related to human rights abuses against American citizens in Guatemala that can be released. To the extent that their FOIA regulations permit, agencies should be encouraged to make these released documents available to FOIA requesters. Making such releases on a discretionary basis would avoid potential legal pitfalls of abandoning their FOIA queues.

Mechanics of Releasing Post-1984 Documents

Once the review team has made release decisions about the 2500 documents, we recommend that each originating agency should handle the processing and release of its documents, in a coordinated manner. The goal would be to have each agency release documents simultaneously within a few days of release of the IOB report. (If the White House handled the release, we could get inundated with the inevitable appeals regarding information still withheld and complaints that we are trying to subvert the FOIA process because FOIA does not apply to the White House.)

In your meeting with the agency reviewers, you should emphasize the importance of releasing as much information as possible, while protecting what must be protected, and meeting the target date of June 30. We anticipate that the most likely questions

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will concern the standards for withholding outlined in the Sens memo. These standards are higher (i.e., will protect less information) than those normally applied in FOIA reviews. We also will need help from State, CIA., and DoD in assembling the documents for review.

Attachment:

Tab I Talking Points for May 15 Meeting

COPY

7055

May, 3, 1996

MEMORANDUM FOR NANCY SODERBERG

FROM: LESLIE BASSETT/BILL LEARY/JAMIE BAKER

SUBJECT: Expanding Review and Release of Guatemala Documents

Bill Leary has been looking into the universe of other AmCit human rights cases which pre-date 1984. We know of existing CIA FOIA requests, all from the National Security Archive, on the following cases:

Frank Holdenreid -- killed in April of 83
Dr. Richard Newmann, Sister Jean Reimer, Sister Helen Lavalley -- kidnapped in 1980/81
Father Stanley Rother -- killed in 1981
John Troyer, killed in 1982
Father William Woods, Ann Kerndt, Selwyn Puig, John Gauker, Mike Okada -- killed in 1976 plane crash
James Miller -- 82 -- killed
Jack Shelton, disappeared in 1981
Gary Miller -- kidnapped with John Troyer (see above) 1982

There are five cases covered by the IOB's review which were not covered by name in the State Department release -- these cases are: Daniel "Skye" Callahan; Janey Skinner, Jennifer Roitman, June Weinstock, Mellissa Larsen.

Coalition Missing and SSCI provided IOB with the following additional names:

Clifford Bevins 8 December 1980 kidnapped and killed
Stoltzfuz, Elam 31 Aug 1990 claimed residence was attacked by guerrillas
Nicholas Stoscheck aka Kai Yutah Clouds -- kidnapped, killed 1980
Donald McKenna -- killed in guatemalal City military action 1981
Juan Rodrigo Cobar kidnapped in 1981, subsequently became a US citizen
Jim Boldenow -- abducted, interrogated, threatened, then Rios Montt ordered his release in 1982
Michael Glenn Ernest, detained by Guat authorities 1983
John Sandford Meyers -- shot to death, probably common crime but appears on some hr lists
Ruth Graviola Brooks -- abducted and tortured, date unknown, nationality unknown

COPY

Per Bill's conversation with CIA, they have not even begun collecting documents for the cases on which they have FOIA requests. State and CIA will check data bases and try to get an estimate of how many documents would have to be reviewed. DoD estimates that if we were to proceed on just the existing FOIA request cases it would take 1-2 months just to collect and cull documents. This would make it virtually impossible to have these documents ready for release in conjunction with the IOB's review.

Since the FOIA requests were not submitted by families, but rather by National Security Archive, it is not clear what humanitarian need we would be addressing by undertaking a discretionary review of these cases. Moreover, if we restrict the review to just the FOIA named cases, we risk overlooking the other Coalition Missing and SSCI cases, plus additional cases about which we are currently unaware, but which might be brought forward once an additional discretionary review was announced. In short, any suggestion of a special project to review pre-1984 cases will be difficult to satisfactorily define and delimit.

If you would like to proceed on extra-IOB cases, we strongly suggest that such an effort be planned as a separate project so as not to interfere with the tight schedule for reviewing and releasing as much as possible from the post-1984 cases by the end of June -- unless agencies can quickly determine that they have very little on the pre-1984 cases. Quite frankly, we are concerned that we not try to do too much before the end of June and thereby put at risk the President's commitment to release all appropriate information at the time of the release of the IOB's report.

For press guidance, if you decide to expand the scope of review, we would suggest the following wording:

Agencies will also collect and review documents relating to the disappearance, torture, kidnapping or murder of the following American citizens: [a specific list -- choosing either the FOIA cases, or the FOIA cases plus the additional names submitted to the IOB as listed above]

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Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Paulette Garthoff to Cathy J. Hammond and Lisa W. Hammonds re: Guatemala Chronologies (22 pages)	04/28/1995	P1/b(1)
002. email	James Baker to Earle Blakeman and Bruce Pease re: Subject: Spector/Kerry Letter (2 pages)	05/02/1995	P5 7056
003. email	Earle Blakeman to Richard Feinberg re: FW: Handling Harbury FOIA (5 pages) - pages 2-5 Dups	05/10/1995	P5 7057
004. email	Earle C. Blakeman to Richard E. Feinberg and Victor M. Rocha re: Briefing Leslie (3 pages)	05/23/1995	P1/b(1)
005. email	James Baker to Leslie Bassett re: Guatemala Package 3548-Clearance (2 pages)	06/12/1995	P5 7058
006. email	Leslie A. Bassett to Richard E. Feinberg re: Tps (4 pages)	06/15/1995	P1/b(1), P5
007. email	Leslie A. Bassett to James E. Baker and Bruce E. Pease re: Coalition "Missing" Package (4 pages)	06/16/1995	P1/b(1), P5
008. email	James Baker to Alan Kreczko re: FW: Honduras Talking Points (2 pages)	06/17/1995	P5 7059
009. email	William H. Leary to James E. Baker, Leslie A. Bassett, and Richard E. Feinberg re: Guatemala IWG (2 pages)	06/19/1995	P1/b(1)
010. email	William H. Leary to [List] re: Guatemala IWG (2 pages)	06/20/1995	P1/b(1)
011. email	James Baker to Leslie Bassett and Bruce Pease re: Clearance Please (1 page)	06/27/1995	P5 7060

COLLECTION:

Clinton Presidential Records
 NSC Emails
 MSMail-Record (Sept 94-Sept 97) ([Intelligence Oversight Board and Guatemala])
 OA/Box Number: 590000

FOLDER TITLE:

[04/28/1995 - 07/18/1995]

2006-1025-F

ke383

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
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RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

M S M a i l

7056

DATE-TIME 02 May 95 19:40
FROM Baker, James E.
CLASSIFICATION UNCLASSIFIED
SUBJECT Subject: Specter/Kerry letter [UNCLASSIFIED]
TO Blakeman, Earle C.
Pease, Bruce E.
CARBON_COPY Baker, James E.
Kreczko, Alan J.
TEXT_BODY

PRIVILEGED/DRAFT RESPONSE TO SENATORS SPECTER AND
KERREY

Chat:

We may want to duck the issue altogether and send back a generic statement about the IOB's review. Both approaches have risks. Personally, I don't think the State Dept. should duck on this. The USG has a responsibility to hear U.S. citizens out and who better to do so involving events overseas than the Department.

Let me know if you need a copy of the incoming it is fairly specific and urges the President "to direct that a focal point be established for interagency coordination and analysis of any information these agencies may find, so that aggrieved citizens need not approach each separate agency to search for information n these and similar human rights abuses." Also, Dave Wesley is checking with Justice to see if they have particular views on how this response is handled.

Alternatively: this letter is really about human rights abuses in Guatemala and not the IOB DeVine and Bamaca. You could refer the letter and the issue to an ARA lead IWG to draft an appropriate response.

DRAFT TEXT:

Dear

Thank you for your letter of April 11, 1995, regarding human rights abuses in Guatemala.

As you know, on March 30, I directed that the Intelligence Oversight Board

COPY

conduct a government-wide review of any and all aspects of the allegations surrounding the 1990 death of Michael DeVine and the 1992 disappearance of Efrain Bamaca Valesquez, as well as any related matters. I also directed that the review include any available information on the deaths of or human rights abuses of other Americans, including the torture of Sister Ortiz and the death of Griffith Davis and Nicholas Blake. While the IOB has been asked to review particular questions, it is my intent that the Board's Terms of Reference not limit the Board, either by restricting inquiry where it is appropriate or directing duplication where it is unnecessary.

On my behalf, the IOB is coordinating its review with the Department of Justice and agency inspectors general to make sure that all relevant questions and facts are being addressed and that they are being addressed in a manner consistent with law enforcement requirements and the IOB's review. Once the IOB has had a chance to review the facts, and report to me, it is my intention to make as much information available about these cases as is appropriate both to the families involved and the public.

As a separate matter, it is my intent that the United States Government assist the Historical Clarification Commission, once it is established, however we reasonably can. As part of that process I would encourage any citizen with information that may be relevant to the investigation of human rights abuses in Guatemala to provide that information to the State Department. Where information bears on the IOB's inquiry or warrants law enforcement investigation, appropriate referrals will be made.

Closing sentence.

COPY

MS Mail

4-5
Duplicates
of previous
Docs

7057

DATE-TIME 10 May 95 12:48
FROM Blakeman, Earle C.
CLASSIFICATION UNCLASSIFIED
SUBJECT FW: Handling Harbury FOIA [UNCLASSIFIED]
TO Feinberg, Richard E.
CARBON_COPY NO CC's on THIS MESSAGE
TEXT_BODY FYI

From: Baker, James E.
To: Blakeman, Earle C.; Leary, William H.
CC: /R, Record at A1; Kreczko, Alan J.
Subject: Handling Harbury FOIA [UNCLASSIFIED]
Date: Wednesday, May 10, 1995 12:01 PM

[[GFOIA.DOC : 3082 in GFOIA.DOC]]

DELIBERATIVE AND PRIVILEGED

As you know, Jennifer Harbury has written the President (May 2) requesting that he direct the release of all information responsive to her January 1995 FOIA request to relevant agencies. Harbury's lawyers have also written the White House Counsel this week and requested an immediate meeting on the handling of the Harbury FOIA request. Ab Mikva is inclined to meet with Harbury's lawyers, and has requested that if NSC has views on how the FOIA request should be handled we express those views today. Attached is a point paper on how to handle FOIA requests, a recommendation follows the two issues presented. Could you please take a look before the 2:30 meeting.

Bill: I need to do some more work to determine if it is in fact appropriate/legal for White House to direct agencies as a policy matter to treat a request as a priority. This is only somewhat analagous to the Clinton passport issue, because here the policy incentive is to address public interest in a current issue. My take: legal yes if otherwise consistent with applicable law and appropriate where policy for doing so is predicated on public interest in knowing more and defusing "crisis." What is your view?

ATTACHMENT
FILE DATE

10 May 95 11:54

COPY

MS Mail

7058

DATE-TIME 12 June 95 16:56
FROM Baker, James E.
CLASSIFICATION UNCLASSIFIED
SUBJECT Subject: RE: Guatemala package 3548 -- clearance [UNCLASSIFIED]
TO Bassett, Leslie A.
CARBON_COPY Feinberg, Richard E.
Leary, William H.
TEXT_BODY

I have not yet shown to IOB staff, however, I think there are two basic difficulties with paras 1 and 3 of the draft response.

(1) the memo and letter refer to their special interest in finding out the facts of US involvement in Guatemala and informing Americans about our activities in Guatemala. Using this template in this instance would create the impression that there is a U.S. link to the cases cited in the letter. This letter is all about human rights cases in Guatemala not necessarily U.S. involvement in Guatemala. This is easily fixed by referring to events in Guatemala or human rights cases in Guatemala. See e.g., the letter to John Kerry of May 5.

(2) I no longer think we can say that a more ample review of government files will await the IOB's review as we have under active consideration a proposal to review and release documents in advance the IOB's report. I think we either need a holding letter or we need to push for resolution of this issue so that we can send a more responsive letter.

These are difficult to draft. Please let me know if you would like talk this one through. I will show to IOB staff as soon as they are available.
Thanks.

From: Bassett, Leslie A.
To: Baker, James E.
CC: /R, Record at A1
Subject: Guatemala package 3548 -- clearance [UNCLASSIFIED]
Date: Monday, June 12, 1995 03:19 PM

<<Attached File: LARSON.DOC>>

If all goes well I am attaching a copy of the letter to the Meredith Larson of Coalition "Missing" re Amcit cases -- you should have received hard copy of entire package with proposed reply last week -- would appreciate your clearance as soon as possible -- Richard and Bill Leary have both cleared

COPY

Many more of these backed up -- the fun never stops. Thanks.

ll

COPY

MS Mail

7059

DATE-TIME 17 June 95 10:19
FROM Baker, James E.
CLASSIFICATION UNCLASSIFIED
SUBJECT Subject: FW: Honduras talking points [UNCLASSIFIED]
TO Kreczko, Alan J.
CARBON_COPY NO CC's on THIS MESSAGE
TEXT_BODY

FYI.

From: Baker, James E.
To: Beers, Rand R.; Leary, William H.; Pease, Bruce E.; Bassett, Leslie A.
CC: /R, Record at A1
Subject: RE: Honduras talking points [UNCLASSIFIED]
Date: Saturday, June 17, 1995 09:49 AM

Leslie:

The IOB should be given an opportunity to review these points before they go final. If you can give me a revised version on Monday am I will pass along. From a lawyer's perspective, shorter is better. Specific comments follow.

1. 5th bullet. I would delete the last sentence of this bullet in favor of "The IOB's review should be instructive with respect to U.S. intelligence activities generally." I would want to see the IG and IOB conclusions before we suggest there is a pattern of human rights abuse by U.S. assets. Put differently, I think the context needs to be presented at the same time there is a discussion about patterns: What is an asset? Do they act at all times at U.S. request? Were they doing so in the situations at issue? To just say there is a pattern does not really present a full picture.

2. 6th Bullet. Government agencies can CONSIDER for expedited treatment requests from anybody. This particular bullet creates the expectation that agencies WILL expedite all requests involving human rights cases involving U.S. citizens regardless of who they come from. It is not accurate to say agencies are PREPARED to expedite any request "regarding the fate of American citizens" when we know there agencies do not permit them to do so. I would drop this bullet. Alternatively, you could say that "agencies will consider any request for expedited treatment." But this still implies they will receive expedited treatment whether or not they meet the

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regulatory standards. I would delete this bullet.

3. 7th bullet. I think this works if it is intended to apply to direct contacts with relatives and families etc. because the "as possible" should cover U.S. national security concerns, privacy act, etc. However, I doubt Harbury would say we have been as forthcoming "as possible" in her context. A statement like this may just lead to squabbling later over what we meant by "as forthcoming as possible." Is this intended to be direction to agencies on FOIA? I would delete this bullet. You might go instead with something like "the Administration will continue to ensure that all [credible] allegations involving possible U.S. misconduct in Guatemala, Honduras or anywhere else, have been addressed or are addressed and where appropriate referred to the relevant Inspectors General and the Department of Justice."

4. 9th bullet. Accept for the point above that the IOB's review may be instructive regarding intelligence activities in Central America generally, I do not think we can bleed the two together. The IOB's work really doesn't have much of a link to whether to declassify Honduras documents. I would delete this bullet.

5. could I take another look after Bruce and Bill comment.

Thank you.

From: Bassett, Leslie A.

To: Baker, James E.; Beers, Rand R; Leary, William H.; Pease, Bruce E.

CC: /R, Record at A1

Subject: Honduras talking points [UNCLASSIFIED]

Date: Friday, June 16, 1995 06:11 PM

<<Attached File: HONDTP.DOC>>

Attached are talking points drafted at Nancy Soderberg's request for urgent clearance. Memo status is still unknown, but this would establish general line for Monday press guidance. Thanks for your help.

COPY

M S M a i l

7060

DATE-TIME 27 June 95 10:02
FROM Baker, James E.
CLASSIFICATION UNCLASSIFIED
SUBJECT Subject: RE: clearance please [UNCLASSIFIED]
TO Bassett, Leslie A.
Pease, Bruce E.
CARBON_COPY Leary, William H.
TEXT_BODY

I think this is a good "non-response", however, there is also a group letter in from Amnesty International and other human rights groups recommending in a more positive way that the President add a human rights representative to the IOB for the purpose of this review. I think we need to address that letter before we allow our overall position to be determined by a response to a constituent. More directly, are we prepared to send the same response to Amnesty International. If not, we should hold off on the Crouch letter until we know what we are going to say to Amnesty. Thanks.

From: Bassett, Leslie A.
To: Baker, James E.; Pease, Bruce E.
CC: /R, Record at A1
Subject: clearance please [UNCLASSIFIED]
Date: Tuesday, June 27, 1995 09:11 AM

<<Attached File: DANVERS.DOC>>

previously gave you hard copy of the attached -- would greatly appreciate your clearance as soon as possible; still a mountain of Guatemala packages to come, alas.

COPY

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Bruce E. Pease to [List] re: IOB Package for POTUS (7 pages)	07/21/1995	P1/b(1)
002. email	James E. Baker to Alan J. Kreczko re: IOB Package for POTUS (7 pages)	07/21/1995	P1/b(1)
003. email	William Leary to James Baker re: Guatemala IWG (2 pages)	07/24/1995	P5
004. email	James Baker to Leslie Bassett re: Comments on O'Dea Letter (3 pages)	08/30/1995	P5 7061
005. email	Bruce E. Pease to [List] re: Status of Guatemala Review (2 pages)	09/06/1995	P1/b(1)
006. email	William C. Danvers to George M. Andricos and Christina L. Burrell re: Status of Guatemala Review (2 pages)	09/06/1995	P1/b(1)
007. email	Kenneth Baldwin to Bruce E. Pease re: Status of Guatemala Review (2 pages)	09/06/1995	P1/b(1)
008. email	Leslie Bassett to Richard Feinberg re: Carol DeVine Appointment Request (2 pages)	09/07/1995	P5
009. email	Wendy Gray to Leslie A. Bassett re: DeVine Appointment Request and Guatemala Update (2 pages)	09/11/1995	P1/b(1)
010. email	Leslie A. Bassett to Wendy Gray re: DeVine Appointment Request and Guatemala Update (3 pages)	09/12/1995	P1/b(1)
011. email	Bruce E. Pease to [List] re: Draft Press Guidance (2 pages)	09/22/1995	P1/b(1)

COLLECTION:

Clinton Presidential Records
 NSC Emails
 MSMail-Record (Sept 94-Sept 97) ([Intelligence Oversight Board and Guatemala])
 OA/Box Number: 590000

FOLDER TITLE:

[07/18/1995 - 09/28/1995]

2006-1025-F

ke384

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
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- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

File 1

M S M a i l

DATE-TIME 30 August 95 14:06
FROM Baker, James E.
CLASSIFICATION UNCLASSIFIED
SUBJECT Comments on O'Dea Letter [UNCLASSIFIED]
TO Bassett, Leslie A.
CARBON_COPY NO CC's on THIS MESSAGE
TEXT_BODY

Leslie:

I couldn't resist. I have made a number of changes to the letter, in particular the 2d and 4th paragraphs. I would be happy to explain any specific edits. The main substantive points are follow: 1. the IOB is conducting a review rather than an investigation. I think USG agencies take human rights seriously; the one sentence was too negative coming from the National Security Adviser. The referral to the IOB represents commitment to intelligence oversight as well as human rights. 2. I believe the IOB should meet with anybody who thinks they have something to tell the Board. This goes to the credibility of their review and any misperception that this is a white wash. For example, IOB staff have met with Harbury. They are their own best advertisement as to the integrity and thoroughness of the process. 3. Finally, while it is true the Board operates in confidence (i.e., in a privileged relationship vis a vis the President and his immediate advisers.) This is a matter that is complex to explain and the first two sentences of the last para. are therefore probably more provocative than explanatory.

Cover memo looks fine with two changes. I gather from Frank that the first letter in was to the President rather than Tony. (1st sentence.) And I would delete last sentence of 2d para. The IOB should welcome public input, but is not in a position to carry on a dialogue because they report to President etc.

Please see if you are no comfortable with these changes. Frank Fountain concurs, but pending your approval would like to show to Tony Harrington before we mover forward.

[[ODEA.DOC : 3649 in ODEA.DOC]]

ATTACHMENT
FILE DATE

30 August 95 13:3

ATTACHMENT
FILE NAME

ODEA.DOC

COPY

Dear Mr. O'Dea:

Thank you for your letter discussing the concerns you and your colleagues share regarding the Intelligence Oversight Board's ongoing review of certain aspects of U.S. government activities in Guatemala and of human rights cases involving American citizens in Guatemala.

The President's decision to request the IOB to conduct this review was an unprecedented measure which demonstrates this Administration's commitment to human rights and intelligence oversight. The systematic, government-wide review which the IOB is coordinating will ultimately help ensure that this commitment to human rights is manifest in all aspects of our relations with other nations. I know you appreciate the importance of this effort.

We believe the current scope of the IOB's mandate is appropriate. Human rights cases involving Guatemalans will be investigated by the Historical Clarification Commission agreed to by the Government of Guatemala and the guerrilla movement; we will of course support the Commission's work once it is constituted. Broadening the scope of the IOB's review could delay findings for several months or more, but would not add substantially to the quality of the results. Appointing additional personnel to the IOB at this late stage would also delay its task. I would, however, encourage you to visit with the Board to express your concerns directly to them as well as to share any information you may have relevant to their review.

As I noted before, I am confident the IOB's work as presently structured will prove instructive to U.S. activities in Guatemala and elsewhere. Further, while much of the IOB's review involves sensitive national security subjects, the President plans to provide to the American public as much information about the review as possible once it is completed, and I look forward to hearing your reactions at that time.

Sincerely,

Anthony Lake
Assistant to the President
for National Security Affairs

Mr. James O'Dea
Washington Director

COPY

Amnesty International
304 Pennsylvania Ave. SE
Washington, D.C. 20003

COPY

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Leslie A. Bassett to [List] re: IOB Changes View on Document (2 pages)	04/02/1996	P1/b(1)
002. email	William Leary to Leslie Bassett re: Guatemala Documents (6 pages) <i>pages 3-6. Dups</i>	04/30/1996	P5 <i>7062</i>
003. email	William Leary to James Baker re: Guatemala Documents (4 pages)	04/30/1996	P5

COLLECTION:

Clinton Presidential Records
 NSC Emails
 MSMail-Record (Sept 94-Sept 97) ([Intelligence Oversight Board and Guatemala])
 OA/Box Number: 590000

FOLDER TITLE:

[03/31/1996 - 05/04/1996]

2006-1025-F
 ke387

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
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- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

M S M a i l

7062

DATE-TIME 30 April 96 12:58
FROM Leary, William H.
CLASSIFICATION UNCLASSIFIED
SUBJECT RE: Guatemala Documents [UNCLASSIFIED]
TO Bassett, Leslie A.
CARBON_COPY NO CC's on THIS MESSAGE
TEXT_BODY

Leslie,

Thanks, but no you cannot escape joint responsibility for this effort.

Attached is the latest version reflecting comments by Jamie and IOB, which also address your comments indirectly.

1. I agree regarding the question of who directs or asks what. The way it is now drafted, Tony will request agency assistance. If Nancy wants something more, she will tell us I'm sure. When she does, I agree the requesting or directing memo should be included in the package to Tony.

2. On the issue of standards, I think there are two substantive differences: a much narrower definition of what can be withheld on national security grounds and a much narrower definition of what can be protected as deliberative. I have added references to examples to try to elaborate on the difference. As a practical matter, it will require strong, emphatic direction from NSC to get a different result. Which is why Jamie and I believe that the ideal NSC rep would be --- YOU GUESSED IT. CONGRATULATIONS!!!

[[LAKEGUAT.DOC : 3106 in LAKEGUAT.DOC]]

From: Bassett, Leslie A.
To: Baker, James E.; Leary, William H.
CC: /R, Record at A1
Subject: RE: Guatemala Documents [UNCLASSIFIED]
Date: Tuesday, April 30, 1996 09:23 AM

Bill: First of all I think you should get top billing on this -- I am happy to merely concur with your excellent work.

I have a couple of ignorant questions but will defer to you and Jamie on the issues. I expect the IOB will change the para one description of its review

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to reflect the tor language.

My first question is whether Lake can approve this, or do we need an executive order or some kind of presidential decision? And if so should that be attached for him to send forward if he approves (and the order would define the review criteria for declassification, which leads to my second question . . .). If Lake can order this, can we attach the interagency memo so he can approve it as part of decision three and get it out there without doing a whole separate memo -- I am concerned about time constraints here.

on standards for release -- the standards look exactly the same as the criteria State used for its review. I think in order to address Nancy's concerns we need to signal how this review will be more forward-leaning than the usual FOIA standards (or if the unique facet is deliberative process restricted only to executive privilege, highlight that for Nancy -- that's all I can find that seems different than the State release). Maybe third line from the bottom of that para after "executive privilege." you could add new sentence: "We would work with agencies to develop specific standards for review that strictly limit application of these protections in order to release as much information as feasible."

on the how and when -- I would guess we have 6 weeks from May 1, although Frank will be able to give you a better sense. I would shoot for having the folks at the table to have authority to make all (vice most) release decisions -- but we could work with them to build in a consultative process in the event they aren't sure -- but if pressed they should be able to make the final call.

thanks for doing this, please let me know if I can help with something . I clear.

From: Leary, William H.
To: Baker, James E.; Bassett, Leslie A.
CC: /R, Record at A1
Subject: Guatemala Documents [UNCLASSIFIED]
Date: Monday, April 29, 1996 08:07 PM

<<Attached File: LAKEGUAT.DOC>>

Leslie/Jamie,

Here's a first draft. Whack away -- quickly, please.

ATTACHMENT
FILE DATE

30 April 96 11:7

ATTACHMENT

COPY

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Leslie A. Bassett to William H. Leary re: Update for NES re Guatemala Document Review (2 pages)	06/04/1996	P1/b(1)
002. email	Leslie A. Bassett to Andrew D. Sens re: Points for Call (2 pages)	06/04/1996	P1/b(1)
003. email	Leslie A. Bassett to James E. Baker re: Talking Points for Soderberg Call (2 pages)	06/11/1996	P1/b(1), P5
004. email	Leslie A. Bassett to William H. Leary, Judith A. Miscik, and John E. Sparks re: rewrite of pre info memo (4 pages)	06/25/1996	P1/b(1)
005. email	Cathy L. Millison to Leslie A. Bassett re: IOB (4 pages)	06/25/1996	P1/b(1)
006. email	Kelly J. Letts to [List] re: IOB Report (1 page)	06/25/1996	P1/b(1), P5
007. email	M. Jeanne Wetzel to Kelly J. Letts, Robert Malley, Richard F. Ragan, and Eric P. Schwartz re: IOB Report (2 pages)	06/26/1996	P1/b(1), P5
008. email	James Baker to Leslie Baseett et al. re: IOB Qs and As (10 pages)	06/26/1996	P5 7063
009. email	James Baker to Leslie Baseett et al. re: IOB Pres. Draft (3 pages)	06/26/1996	P5

COLLECTION:

Clinton Presidential Records
 NSC Emails
 MSMail-Record (Sept 94-Sept 97) ([Intelligence Oversight Board and Guatemala])
 OA/Box Number: 590000

FOLDER TITLE:

[05/13/1996 - 06/26/1996]

2006-1025-F

ke388

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
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C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
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- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
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- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

MS Mail

7063

DATE-TIME 26 June 96 19:31
FROM Baker, James E.
CLASSIFICATION UNCLASSIFIED
SUBJECT IOB Qs and As [UNCLASSIFIED]

TO Bassett, Leslie A.
Beers, Rand R.
Miscik, Judith A.

CARBON_COPY Baker, James E.
Hunerwadel, Joan S.
Kreczko, Alan J.
Sparks, John E.

TEXT_BODY

DRAFT

Leslie:

Here are some comments/edits. Intell. programs: Note that I have added a couple of questions that you should probably address. Thanks.
[[IOBQS628.DOC : 4903 in IOBQS628.DOC]]

DRAFT

ATTACHMENT
FILE DATE

26 June 96 19:27

ATTACHMENT
FILE NAME

IOBQS628.DOC

Q: Why did the IOB review take so long?

The President instructed the IOB to undertake its review in March, 1995, with the timing of the review dictated by the IOB's ability to adequately address the questions presented and law enforcement considerations. . In conjunction with that review the Inspectors General of Justice, State, Defense and the CIA conducted internal investigations, a process which took several months. In addition, the Department of Justice reopened investigations into two cases, only one of which has been

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completed.

The IOB has also conducted its own interviews and extensive document reviews. The breadth of the task required a thorough and comprehensive approach. When all these factors are considered the review did not take a disproportionate amount of time to complete.

Q: What will the USG do to ensure the killers of Bamaca are brought to justice?

The Intelligence Oversight Board was unable to determine who may have killed captured guerrilla leader Efraim Bamaca or ordered his death. The report indicates the IOB believes, but lacks definite proof, that Bamaca's interrogation included torture and that Bamaca was killed within a year of being captured. Accounts of his capture, torture and death are contradictory and of varying credibility. The United States has provided all public information including the IOB's public release report to the government of Guatemala, and will urge it to pursue judicial investigations in all appropriate cases.

Q: What about the four assets who participated in Bamaca's torture? What will the US do to them? Will the US share their names with the Government of Guatemala?

Reports linking four then-active U.S. intelligence assets or liaison contacts are contradictory and of varying reliability. Publicly released information has been shared with the Government of Guatemala, but we will not comment on intelligence relationships.

None of the assets alleged to have committed serious human rights abuses now have asset relationships with the CIA.

Q: If four assets were involved in Bamaca's torture, how can the US claim not to have been aware of it at the time?

Although the Board believes that assets or liaison contacts were likely involved or knowledgeable, it found no indication that CIA was aware of these links at the time. While a March, 1992 intelligence

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report described the capture of "Everardo," it wasn't until at least February, 1993 that information in USG channels linked Everardo to Bamaca, and it wasn't until March, 1993 that Jennifer Harbury alerted the US Embassy in Guatemala to her relationship with Bamaca. Because of information retrieval problems, however, [Did someone actually search?] the March 1992 report regarding "Everardo" was not discovered in CIA files until November, 1994, when it was immediately briefed to Harbury.

Q: What does it say about the quality of our assets and intelligence capability when four assets are directly implicated in Bamaca's death and we don't know a thing about it?

Q: Does the Administration support the recruitment and retention of CIA assets with records of criminal activity or human rights abuse?

The Board recognized that the conduct of clandestine intelligence collection at times requires dealings with unsavory groups or individuals. The value of what we hope to gain in terms of our national interests must be carefully balanced against the cost of such relationships.. The IOB believes that policies adopted by the CIA in 1996 for dealing with allegations of serious human rights violations or crimes of violence by assets and liaison services strikes an appropriate balance: it generally bars such relationships but permits senior CIA officials to authorize them in special cases when national interests so warrant.

Q: What about the IOB's determination that the CIA violated its statutory obligations to keep the Congress "fully and currently" informed?

The IOB found that CIA was derelict in providing information to Congressional oversight committees, but indicated the primary causes for this failure were the absence of a systematic notification

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process and inadequate emphasis from CIA's leadership. For this the Board faulted CIA leadership back to the 1980 enactment of the oversight statute. The CIA, DIA and NSA recently instituted processes designed to implement and document congressional notification more systematically.

As required by executive order, the Board notified the Department of Justice of its belief that in the past the CIA violated its oversight obligations. The Board noted, though, that this violation was not criminal, that the CIA has taken remedial action, and that there appears to be no threat of a continuing violation.

Q: Did the IOB recommend Justice take any action on this violation?

No, the IOB merely notified DOJ of its finding.

Q: Doesn't the same obligation to keep the Intelligence Committees "fully and currently informed" extend to the President?

A 1991 amendment to the National Security Act also provides that the President shall "ensure" that the committees are "kept fully and currently informed of the intelligence activities of the United States. . . ." In practice, Presidents have relied on the DCI to carry out this responsibility. The President's statutory responsibilities to ensure that "covert actions" are reported to the Congress are carried out in a similar manner, although decisions to limit or delay notification may be taken only by the President.

Q: Was the Guatemala CIA station acting on its own?

The IOB does not believe the station in Guatemala was a "rogue" station acting in contempt of US law or interests; nor were CIA officials involved in torture or murder [does IOB conclude this without the Ortiz qualification? IOB's findings on page 8 seem more narrowly constructed. Not to suggest CIA was involved, but we should not walk beyond IOB report]. Instead, the Board found officials seeking to gather intelligence and carry out programs in support of

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established US policy objectives. The customary secrecy surrounding many of the CIA's relationships and activities, however, allowed these officers to pursue their mission with insufficient regard to broader policy considerations concerning human rights.

Q: So CIA leadership condoned payments to human rights abusers who were also station assets?

There were credible allegations that then-active CIA assets were involved in human rights abuses, generally prior to the establishment of their relationship with the CIA. In 1994 the Guatemala station reviewed all current assets for human rights violations, and identified a few asset relationships for termination. In 1996 the CIA instituted a policy which generally bars such relationships but permits senior CIA officials to authorize them in special cases when national interests so warrant.

Q: Why is the Administration going out of its way to exonerate Alpirez?

A careful review of the documents and available materials contributed to the Board's conclusion that, despite the widely publicized allegation that US citizen Michael DeVine was killed in the presence of Guatemalan Col. Alpirez, the clear preponderance of evidence indicated the allegation was not true. Similarly, the allegation that Alpirez killed Bamaca was contradicted by numerous intelligence reports and accounts.

The IOB concluded, however, that Col. Alpirez was involved in the broad cover-up of Guatemalan army involvement in the DeVine murder, and that he participated in at least part of Bamaca's interrogation.

Q: Was Alpirez a CIA asset or wasn't he?

No comment.

Q: Who killed Bamaca?

The IOB was unable to determine who killed Bamaca or ordered his

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death. There was no indication that CIA officials were involved in or were contemporaneously aware of his torture and death.

Q: Who killed Michael DeVine?

During the IOB's review the Department of Justice undertook an extension investigation of the DeVine case in order to determine whether US jurisdiction existed. DOJ determined that the murder most likely occurred as Guatemalan enlisted men interrogated DeVine over a missing rifle. Those men have since been tried and incarcerated for the murder in Guatemala. While there was insufficient evidence that the killing had been ordered, Justice concluded that the Guatemalan military did launch a massive cover-up of its role in the murder. DOJ determined that there was no US jurisdiction under the anti-terrorism statute or any other US law.

Q: Why didn't the IOB investigate the Ortiz case? Why did it ask the Department of Justice to do the investigation?

The IOB's mandate for this review required it to review intelligence bearing on cases including the Ortiz case, which it did. That review did not, however, clarify many aspects of the events Sister Ortiz reported. Because Sister Ortiz had alleged that an American was involved in her case, the Department of Justice renewed the investigation opened at the time of the 1989 incident. That investigation is ongoing.

Q: Why isn't that investigation complete?

Refer to Justice.

Q: When will it be completed?

Refer to Justice.

Q: Why did the IOB release its report without waiting for the Department of Justice investigation on the Ortiz case?

The IOB had completed the rest of its review and felt it

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important
to respond to the President in as timely a fashion as possible.
The
IOB will issue a supplemental report if necessary once the
Justice
investigation into the Ortiz case is completed.

Q: Did the IOB determine who Alejandro was?

The identity of Alejandro is one
of the aspects of the Ortiz case being investigated by the
Justice
Department.

Q: Does the IOB believe that Alejandro was affiliated with the
US
embassy?

Because the Ortiz case remains under investigation by the Justice
Department the IOB has refrained from drawing any conclusions.

Q: Based on available intelligence, what does the IOB think
happened to Sister Ortiz? Does the IOB believe her account?

We have no reason not to believe her. Her case remains under
review
by the Justice Department.

Q: Do the IOB's comments on holding executive branch officials
accountable for the proper handling of classified material
reflect
lack of confidence in the Clinton Administration's willingness to
enforce accountability standards?

No. The IOB simply wishes to stress that even as intelligence
agencies have responsibilities to notify policymakers regarding
intelligence activities including asset and liaison
relationships,
policymakers must take seriously their responsibility to protect
that information from unauthorized disclosure. A lack
of accountability for the compromise or mishandling of classified
information puts sources of intelligence at risk, and ultimately
jeopardizes the ability of the United States to collect
intelligence
in furtherance of its national interests around the world.

Q: Does the IOB think Congress is lax in protecting classified
information?

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No. The IOB simply wishes to stress that even as intelligence agencies have responsibilities to notify congressional oversight committees regarding intelligence activities including asset and liaison relationships, committee members must take seriously their responsibility to protect the integrity of that information. A lack of accountability for the compromise or mishandling of classified information puts sources of intelligence at risk, and ultimately jeopardizes the ability of the United States to collect intelligence in furtherance of its national interests around the world.

Q: Does the IOB believe that State and CIA withheld information from Carole DeVine and Jennifer Harbury?

The IOB found that as intelligence information on human rights cases was reported to US government officials, very little of it was shared with the victims or their surviving family members. The IOB believes that in such cases the US should provide its citizens more information whenever possible, and recognizes that the FOIA process is not timely. The IOB recommended that the State Department demonstrate more initiative in seeking authorization from intelligence agencies to share information by means of briefings to family members and victims.

Q: Will the Administration act to implement this recommendation?

The Administration has or plans to implement all the IOB recommendations. [Really? Be careful. Does State have the funding necessary to upgrade INR's information system? Are CIA and State prepared to amend the 1977 agreement. Are we prepared to make them.]

Q: What about tensions between the Ambassador and the COS in Guatemala? How does the IOB evaluate this?

The IOB found that the COS chose not to inform the ambassador or other policy makers of relationships with assets alleged to have been involved in significant human rights abuses. While a 1977 State-CIA agreement sets forth guidelines for information-sharing between stations and embassies, the IOB strongly believes this

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agreement should be amended to state explicitly that ambassadors will be informed of intelligence activities, including asset and liaison relationships, that have significant policy implications. Ambassadors and policymakers are equally responsible for making sure they are kept informed of these issues, and should receive adequate and recurring training on intelligence activities and the importance of safeguarding intelligence sources and methods. [What about Chiefs of Mission statute. Why didn't IOB address? Regardless of what the 1977 agreement says. Statute states: "any executive branch agency having employees in a foreign country shall keep the chief of mission to that country fully and currently informed with respect to all activities and operations of its employees in that country." Arguably this statute parallels duty to keep intelligence committees fully and currently informed -- certainly President's direct representative should receive no less.

IOB should draft response to following question:

Q: What about the Chief of Mission Statute? Did CIA comply with its obligations under that statute?

Q: Will the Administration endorse this IOB recommendation.

Yes, the Administration will ensure that State and CIA renegotiate the agreement in a manner consistent with applicable law and in a manner that ensures that the Ambassador is aware of all necessary information and that protects sources and methods. [This will be very lively renegotiation and I think Administration needs to seriously consider what signal it is sending. I recommend you focus Intell. on this question.]

Q: What about Bosnia? Isn't this the same sort of problem that occurred in Zagreb between the COS and Ambassador?

The IOB's report is addressed to Guatemala.

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Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Stephen D. Melton to Rand R. Beers re: IOB recommendations (4 pages)	07/22/1996	P1/b(1)
002. email	Stephen D. Melton to James E. Baker, William H. Leary, and Eric P. Schwartz re: IOB implementation update (4 pages)	07/22/1996	P1/b(1)
003. email	Theodore J. Piccone to [List] re: School of the Americas (5 pages)	09/23/1996	P1/b(1), P5
004. email	Robert Malley to Theodore J. Piccone re: School of the Americas (4 pages)	09/24/1996	P1/b(1), P5
005. email	M. Jeanne Wetzel to James F. Dobbins and Theodore J. Piccone re: School of the Americas (4 pages)	09/24/1996	P1/b(1), P5
006. email	Geoffrey R. Pyatt to James E. Baker, Rand R. Beers, and Richard Schifter re: Reply to Carol Devine (6 pages)	10/23/1996	P1/b(1)
007. email	Robert Malley to Kelly Letts re: Letter on School of Americas (6 pages)	10/31/1996	P5 7064

COLLECTION:

Clinton Presidential Records
 NSC Emails
 MSMail-Record (Sept 94-Sept 97) ([Intelligence Oversight Board and Guatemala])
 OA/Box Number: 590000

FOLDER TITLE:

[07/11/1996 - 10/31/1996]

2006-1025-F

ke391

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

M S M a i l

7064

DATE-TIME 31 October 96 18:34
FROM Malley, Robert
CLASSIFICATION UNCLASSIFIED
SUBJECT Letter on School of Americas [UNCLASSIFIED]
TO Letts, Kelly J.
CARBON_COPY Kreczko, Alan J.
Piccone, Theodore J.

TEXT_BODY

Kelly,

Can you prepare this package?

Ted,

I've made a few changes to your letter and memo -- please take a look and let me know what you think

Alan,

I've added a section on the commutation -- please review ...

[[6896A.DOC : 4635 in 6896A.DOC]][[6896B.DOC : 4636 in 6896B.DOC]][[

6896C.DOC : 4637 in 6896C.DOC.]]

ATTACHMENT
FILE DATE

31 October 96 18:23

ATTACHMENT
FILE NAME6896A.DOC
6896

October 31, 1996

ACTION

MEMORANDUM FOR ANTHONY LAKE

THROUGH: JIM DOBBINS/ERIC SCHWARTZ

COPY

FROM: TED PICCONE/ROB MALLEY

SUBJECT: Letters to Congress Regarding Improper Military Intelligence Training Materials

Representative Kennedy and 42 other Members of Congress wrote to urge the President to close down the School of the Americas in light of the recent release of offensive training materials. They also urge the President to commute the remaining prison time of three men convicted on trespassing charges for staging a protest at the School.

The proposed response commits us to consider additional steps to disclose past military intelligence training activities, to prevent similar mistakes, and to uphold our commitment to promote human rights.

NSC/InterAmerican and NSC/Democracy also are exploring steps the Administration might take to strengthen the human rights component of our overall military intelligence training offered to foreigners.

Concurrence by: Alan Kreczko; Bill Danvers; Joe Sestak

RECOMMENDATION

That you sign the attached memorandum to the President.

Attachment

Tab I Memorandum to the President

Tab A Outgoing Correspondence to Rep. Kennedy et al.

Tab B Incoming Correspondence from Rep. Kennedy et al.

ATTACHMENT
FILE DATE

31 October 96 18:14

ATTACHMENT
FILE NAME

6896B.DOC
6896

cc: Vice President
Chief of Staff

COPY

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: ANTHONY LAKE
JOHN HILLEY

SUBJECT: Letters to Congress Regarding Improper Military
Intelligence Training Materials

Purpose

To respond to a request from Representative Kennedy and 42 other Members of Congress regarding improper training materials used at the Army School of the Americas.

Background

On September 20, 1996, the Defense Department released copies of Spanish-language training materials that contained passages condoning practices (including the "elimination" of members of guerrilla forces) in clear violation of U.S. law and policy. The materials, used from 1982 to 1991 by instructors at the Army's School of the Americas and by mobile training teams of the Southern Command, were pulled from circulation in 1992 after an internal investigation by the Defense Department. At that time, the congressional intelligence committees were briefed on the results of the investigation and the corrective actions taken.

In light of the disclosure of these materials, Secretary Perry has directed the Defense Department Inspector General to review the 1992 investigation and determine if corrective actions were properly implemented at that time.

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Last June, before the IOB report was completed, you wrote to Rep. Kennedy and 35 others, endorsed the positive changes at the School and expressed support for his idea to extend defense education to civilians from Latin America, an initiative the Defense Department is now carrying out.

The public release of these materials, which comes on the heels of the Intelligence Oversight Board's reference to them in the Guatemala report, has generated widespread public attention and revived calls by Rep. Kennedy and 42 other Members of Congress to close the School. Their letter also urges you to commute the remaining prison time of three men convicted of trespassing charges for staging a protest at the School of the Americas. The Department of Justice recommends against such a step because the detainees have not requested a commutation, they do not appear to show any remorse, and DOJ anticipates that if their sentences were commuted, they would in all likelihood continue their efforts to close the school.

The proposed response commits us to consider additional steps to disclose past military intelligence training activities, to prevent similar mistakes, and to uphold our commitment to promote human rights.

RECOMMENDATION

That you sign the letters at Tab A.

Approve _____

Disapprove _____

Attachment

Tab A Outgoing Correspondence to Rep. Kennedy et al.

Tab B Incoming Correspondence from Rep. Kennedy et al.

FILE DATE 31 October 96 18:31
ATTACHMENT 6896C.DOC
FILE NAME

Dear Representative Kennedy:

I appreciate hearing your views regarding the training manuals used by the Army's School of the Americas and the Southern Command. My Administration firmly repudiates the offending materials and is determined to take steps to prevent such an incident from occurring again.

My Administration is committed to the broadest possible disclosure of government documents. In 1995 I directed the Intelligence Oversight Board (IOB) to conduct a government-wide review of intelligence activities in Guatemala. It was the IOB report, the first of its kind to be released publicly, that disclosed to the public the existence of improper instructional materials used to train Latin American military personnel from 1982-91.

Over the last several years, my Administration has initiated and overseen a number of important changes at the Army's School of the Americas, including human rights instruction not found at any other military school. We have an abiding interest in fostering professionalism in Latin America and the School plays a useful role in that effort.

In light of the release of these materials, my Administration is reexamining the record on this issue. Secretary Perry has directed the Defense Department's Inspector General to conduct an evaluation

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of the 1991-92 investigation, including its conclusions on individual responsibility for use of the improper training materials. This inquiry will also look at the implementation of the corrective actions ordered in 1992 and present policies and procedures for approval of training given to foreign military personnel.

Based on the results of the Inspector General's review, my Administration will consider steps that could be taken to provide additional information to Congress and the public on past and current military intelligence training while continuing to safeguard information critical to our national security. We will also evaluate recommendations to avoid the errors of the past and to uphold our commitment to promote human rights.

Your letter also addresses the case of three men currently serving sentences as a result of protest activities directed at the School of the Americas. Your request for a commutation raises difficult issues that I will be considering carefully.

Sincerely,

The Honorable Joseph P. Kennedy II
House of Representatives
Washington, D.C. 20515-4801

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