

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
011. report	Intelligence Report re: Guatemalan Corruption (4 pages)	10/02/1995	P1/b(1)
012. memo	Leslie Bassett to Anthony Lake re: Meeting with Human Rights Activists Regarding IOB (3 pages)	10/26/1995	P5

COLLECTION:

Clinton Presidential Records
National Security Council
Inter-American Affairs
OA/Box Number: 763

FOLDER TITLE:

Guatemala, 1995 [2]

2006-1025-F

ke323

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(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]

October 26, 1995

INFORMATION

MEMORANDUM FOR ANTHONY LAKE

THROUGH: RICHARD FEINBERG ~~RF~~FROM: LESLIE BASSETT ~~L~~SUBJECT: Meeting with Human Rights Activists Regarding IOB
on October 31, 1995 at 11:00 p.m.
5:30Natl Sec Advisor
has seen
NOTED

Amnesty International Washington director James O'Dea and a group of thirteen other leaders from human rights organizations have written to both you and the President regarding concerns about the narrow focus of IOB's Guatemala review mandate and expressing the view that its findings, as well as U.S. government documents relating to Guatemala, should be declassified. O'Dea and five others will make these points to you personally during the meeting. Your objective should be to review the IOB's mandate and its findings to date as released in two interim statements; highlight corrective measures already underway at CIA and DOJ to rectify problems identified through the review process thus far; and stress the Administration's commitment to release to the public as much information as appropriate once the IOB's review is completed. The group will likely press for commitments we are unable to make until after the IOB review is completed later in the Fall and its findings evaluated.

IOB Mandate: The group is familiar with the IOB mandate, which in brief is to: 1) 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 Efraim Bamaca as well as any related matters; 2) review any intelligence that may bear on the facts surrounding the torture, disappearance or death of any U.S. citizen in Guatemala since 1984;; 3) review intelligence and policy coordination; 4) review the U.S. Government intelligence relationship with Guatemala; 5) review the intelligence asset validation process.

Your visitors have previously echoed an Amnesty International request that a human rights expert be added to the IOB for this review. In recent letters to AI members O'Dea appears to understand that this late in the process such an addition is unlikely.

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They will also ask that the IOB's mandate be extended temporally and to cover all individuals in Guatemala who have received payments from U.S. intelligence agencies as well as any and all CIA ties with and payments to human rights abusers throughout the hemisphere. They also ask that all liaison relationships with the Guatemalan military be reviewed.

Outside the context of the Bamaca and DeVine cases, the IOB review was not meant to be exhaustive but to provide enough information to make informed findings and adopt appropriate remedies where needed. In fact the mandate includes review of U.S. intelligence liaison relationships including with the Guatemalan military. The asset validation review will include discussion of human rights concerns, although Deutch has said publicly (and the IOB believes that) the CIA will have to continue to deal with assets who have problematic criminal and humanitarian records.

IOB Interim Findings and Agency Responses: To reiterate the credibility of the process and the thoroughness of the approach you may wish to review what has already been achieved through the agency IG process (under IOB supervision) and via two interim reports issued by the IOB:

- preliminary verification that there is no information indicating CIA officials were involved in either the DeVine or Bamaca cases;
- verification of the inaccuracy of media reports that NSA documents relevant to the IOB review had been destroyed;
- and corrective actions by agencies to ensure better coordination of criminal referrals; improved CIA compliance with guidelines for Ambassadorial notification by chiefs of station; reforms to ensure CIA meets its reporting requirements to the Congress and managers are held accountable for doing so; tightened CIA management control of the process of recruiting and managing assets who have serious human rights or criminal associations; CIA actions to discipline 10 current or former officers for failure to meet minimum acceptable standards.

Final IOB Report: The IOB expects to conclude its review later in the Fall -- it prefers not to set a deadline (and previous deadlines have slipped). Its final report will cover issues arising from State, DOD, and DOJ as well as final DOD and CIA IG reports not yet received. The timing may also be affected by pending Justice Department investigations arising out of the IOB

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inquiry. The IOB will present findings on all issues raised in its terms of reference. Because of the nature of the review, most of the findings will at least initially be classified; only after the findings have been evaluated can we address the issue of declassification of the report itself, or of other related documents, although at the staff level we have urged the IOB to make as much of their report unclassified as possible and recommend modalities for doing so in the event, the President does decide to release all or part of the report. While State Department has unilaterally undertaken a declassification of select Guatemala documents, it does not plan to release them until after the IOB's review is complete.

This paper has been coordinated with the IOB.

Concurrence by: *BL* Jaml Miscik, *BL* James E. Baker, *BL* William Leary

Attachments

- Tab A List of Participants
- Tab B Points to Make
- Tab C Correspondence/Replies from Human Rights Leaders
- Tab D Press Statements on IOB

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Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
012a. letter	Jeff Maguire to Hillary Rodham Clinton re: Jennifer Harbury [partial] (2 pages)	03/20/1995	P6/b(6)
012b. letter	Catherine R. Enyeart to Hillary Rodham Clinton re: Jennifer Harbury [partial] (1 page)	03/20/1995	P6/b(6)
012c. letter	Lynn Maguire to Hillary Clinton, re: Jennifer Harbury [partial] (1 page)	03/21/1995	P6/b(6)
013. cable	Re: Bamaca case (2 pages)	03/30/1995	P1/b(1)
014. memo	Earle Blakeman to Anthony Lake re: Jennifer Harbury's Letter to the First Lady (1 page)	04/03/1995	P5
015. letter	Jennifer Harbury to Hillary Rodham Clinton, re: Efrain Bamaca Velasquez [partial] (1 page)	03/21/1995	P6/b(6)

COLLECTION:

Clinton Presidential Records
National Security Council
Inter-American Affairs
OA/Box Number: 763

FOLDER TITLE:

Guatemala, 1995 [5]

2006-1025-F

ke326

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)]

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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]

NATIONAL SECURITY COUNCIL

2316

WASHINGTON, D.C. 20506

April 3, 1995

ACTION

MEMORANDUM FOR ANTHONY LAKE

THROUGH: RICHARD E. FEINBERG

FROM: EARLE C. BLAKEMAN

SUBJECT: Jennifer Harbury's Letter to the First Lady

Jennifer Harbury wrote to the First Lady on April 21 explaining her views on the Bamaca case and requesting an "informal" meeting with her. The letter was written before Representative Torricelli's assertions made the case front-page news.

We recommend the First Lady not respond to the letter, which is somewhat OBE given recent developments. The sensitivities surrounding this issue are such that any letter the First Lady wrote would be subject to manipulation and/or misinterpretation and could complicate our efforts to clear up this matter. Moreover, until we know all the facts we should reserve comment wherever possible.

RECOMMENDATION

That you approve the Sens-Pushkar memorandum at Tab I.

Approve _____ Disapprove _____

Attachments

Tab I Memorandum from Andrew Sens to Alice Pushkar

Tab A Incoming Correspondence

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. cable	Re: Bamaca and Devine cases (7 pages)	04/04/1995	P1/b(1)
002a. cable	Re: Murder of U.S. citizen (2 pages)	03/27/1995	P1/b(1)
002b. cable	Re: Devine murder (2 pages)	02/28/1995	P1/b(1)
003. note	[re: Handwritten Notes on Senate Hearing Testimony] [partial] (1 page)	04/1995	P5

COLLECTION:

Clinton Presidential Records
National Security Council
Inter-American Affairs
OA/Box Number: 763

FOLDER TITLE:

Guatemala - Harbury, 1995 [1]

2006-1025-F

ke333

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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time through the 60 Minutes broadcast. I had never heard this information.

Throughout the first 25 days of my hunger strike we were getting the same old answers from the Guatemalan army: "We never had him in the first place." You know, you -- "We found a body out there. You yourself say it's not him, so we never had him." Well, where'd this perfect description of him come from? If you never had him in the first place, where'd you get this perfect feature-by-feature description of him? Why did you send it? Here's the letter. It's signed by President Ramiro de Leon Carpio. "Oh, well, the guerrillas must have switched the body in the grave to make us look bad. That's how the subversives are, you know." Well, that's funny. Here's the autopsy report done before the body was buried. It's the same body. And it wasn't ever him. "Well, you must have gotten confused. It's five centimeters too short, 15 years too young, and there's completely different dental records, but all Indians look alike. So you got confused. It's really him out there. Maybe he ran off with another woman."

But finally, with the 60 Minutes report it was clear that the CIA had sent something to both the State Department and the United States embassy to show that none of those things were the case. He was captured alive, which, of course, I already knew. Try to figure a way out of that particular combination of evidence, right? It just -- it's against the laws of physics. They took him.

But a few days after that the American ambassador, Marilyn McAfee, did go issue a demarche to the Guatemalan president, Ramiro de Leon Carpio, confirming that they did have evidence that he was taken alive, that he was not seriously wounded, that he was a prisoner for a while, and that after that there was no further information. At that point I was also informed that Mr. Anthony Lake and Leon Fuerth were willing to meet me at the White House. Given that combination of events, I felt that I would be much better off halting my hunger strike -- it was now Day 32. I was in danger within about ten more days of either seriously damaging my internal organs or going into a coma -- (laughs) -- which I was not relishing. And I thought, you know, I can do that and be dragged off to a hospital by the Guatemalan army -- they were already threatening to force me into a hospital and put me on an IV -- or I can let the U.S. government save my husband's life. They're a lot bigger and stronger than I am.

So I came back to Washington and I did meet with Mr. Anthony Lake right away and also Mr. Leon Fuerth, Mr. John Shattuck, and Mr.

*you never agreed
to this at the time
you only reluctantly
agreed after the meet
was already scheduled
by Tony Lake. All
you ever wanted
was to see
Hank's
meet with
Hank's
all*

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Withdrawal/Redaction Sheet

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. cable	Re: Michael Devine Case (3 pages)	05/10/1995	P1/b(1)
002. cable	U.S. Court Ruling against Hector Alejandro Gramajo Morales (3 pages)	05/15/1995	P1/b(1)
003. cable	Re: Congressional Letter (2 pages)	05/19/1995	P1/b(1), P6/b(6)
004. memo	Earle Blakeman to Anthony Lake re: Managing Guatemala Issues (2 pages)	05/11/1995	P5
005. memo	[Duplicate of 004] (2 pages)	05/11/1995	P5
006a. list	Chronology of Ortiz Case (4 pages)	04/10/1995	P1/b(1)
006b. list	Chronology of Blake/Davis Cases (2 pages)	04/10/1995	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Inter-American Affairs
OA/Box Number: 763

FOLDER TITLE:

Guatemala - Human Rights Cases, 1995

2006-1025-F

ke336

RESTRICTION CODES

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

- P1 National Security Classified Information [(a)(1) of the PRA]
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May 11, 1995

ACTION

MEMORANDUM FOR ANTHONY LAKE

THROUGH: RICHARD E. FEINBERG *RF*
FROM: EARLE C. BLAKEMAN *CP*
SUBJECT: Managing Guatemala Issues

Managing the various issues related to human rights abuses in Guatemala requires greater interagency coordination. State, Justice, CIA and Defense continue to receive a large volume of Congressional inquiries, Freedom of Information requests and press questions and are finding it increasingly difficult to provide consistent responses. Without greater coordination, identical requests may be subject to quite different responses by individual agencies.

In addition, in a recent letter to the President, Senators Specter and Kerrey called for creation of an interagency focal point so that aggrieved citizens need not approach separate agencies for information on cases of interest to them.

We have identified two options for providing greater coordination and undertaking the following tasks:

- o Coordinating responses to Congressional inquiries;
- o Facilitating contacts for inquiries from victims and their families;
- o Coordinating responses to press inquiries;
- o Establishing a framework for discussing policy issues raised in the context of Freedom of Information requests related to Guatemalan human rights cases, such as whether specific information continues to require protection; and
- o Making sure each agency is aware of previously classified material that has been released to the public through FOIA.

The IWG proposed below will not coordinate responses to or address issues under independent consideration by the IOB, agency inspectors general or the Department of Justice.

COPY

Option One: NSC Coordinates

Under this option, Richard Feinberg would chair an ad hoc interagency group with representatives from State, Justice, CIA and Defense. He would call as necessary on expertise from other NSC directorates, including intelligence, legal, legislative affairs and records management. This option conforms with NSC's responsibility to provide interagency coordination and puts the NSC staff squarely in a lead role in managing Guatemalan human rights issues. A key consideration is whether it is desirable for the NSC and by implication the White House to play such a role or if that role is better left to another agency. Specifically, if NSC chairs, the White House will be more open to criticism by Harbury and others when we are unable to release certain documents they have requested; however, we may be subject to such criticism regardless of who chairs the coordinating group.

Option Two: State Coordinates

State has the staff and resources to chair an interagency coordinating committee. Moreover, it has overall responsibility within the government for the welfare and whereabouts of U.S. citizens overseas. The biggest downside is that State may lack adequate standing vis-a-vis other agencies, which will be more responsive to NSC direction. Giving State the lead would reduce NSC influence on policies and practices of great interest to the White House, although agencies will still "appeal" controversial decisions to us in any case.

Concurrence by: George Tenet, James Baker, Mike Andricos and William Leary

RECOMMENDATION

That you approve Option One (NSC chairs) and authorize Andrew Sens to transmit the interagency memo at Tab A.
(NSC staff favors)

Approve _____ Disapprove _____

Alternatively, that you approve Option Two (State chairs) and authorize Andrew Sens to transmit the interagency memo at Tab B.

Approve _____ Disapprove _____

Attachment

Tab A Memorandum Creating NSC-Chaired IWG
Tab B Memorandum Creating State-Chaired IWG

COPY

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

May 11, 1995

ACTION

MEMORANDUM FOR ANTHONY LAKE

THROUGH: RICHARD E. FEINBERG *RF*
FROM: EARLE C. BLAKEMAN *CB*
SUBJECT: Managing Guatemala Issues

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Concurrence by: George Tenet, James Baker, Mike Andricos and William Leary

CB
JR

RECOMMENDATION

That you approve Option One (NSC chairs) and authorize Andrew Sens to transmit the interagency memo at Tab A.
(NSC staff favors)

Approve R Disapprove

Alternatively, that you approve Option Two (State chairs) and authorize Andrew Sens to transmit the interagency memo at Tab B.

Approve Disapprove

Attachment

Tab A Memorandum Creating NSC-Chaired IWG
Tab B Memorandum Creating State-Chaired IWG

COPY

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. letter	President Clinton to Bernice d'Aquino Tiscione, re: death of husband, Peter Tiscione [partial] (1 page)	07/05/1995	P6/b(6)
001b. letter	Bernice d'Aquino Tiscione to President Bill Clinton re: death of husband, Peter Tiscione [partial] (1 page)	04/09/1995	P6/b(6)
001c. letter	Bernice d'Aquino Tiscione to Congressman Robert G. Torricelli re: death of husband, Peter Tiscione (4 pages)	04/07/1995	P6/b(6)
001d. form	Report of the Death of an American Citizen Abroad for Peter Tiscione [partial] (1 page)	09/01/1992	P6/b(6)
002. cable	Re: IOB visit (2 pages)	03/15/1996	P1/b(1)
003. list	DOD Documents for Declassification Review (3 pages)	ca. 03/1996	P1/b(1)
004. list	CIA Documents for Declassification Review (2 pages)	ca. 03/1996	P1/b(1)
005a. envelope	Copy of envelope from Meredith Larson to President Bill Clinton [partial] (1 page)	03/27/1995	P6/b(6)
005b. letter	Pilar and Amby Ortiz to President Clinton re: Sister Diana Ortiz (1 page)	04/01/1996	P6/b(6)
006. note	re: Note for Nancy (1 page)	04/1996	P5

COLLECTION:

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

FOLDER TITLE:

Guatemala - Intelligence Oversight Board, 1996 [3]

2006-1025-F

ke339

RESTRICTION CODES

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

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

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NOTE FOR NANCY:

IOB FEELS ADAMANTLY
THAT FORMULATION MUST
BE "AS MUCH INFORMATION
AS APPROPRIATE..." VICE "POSSIBLE."
PRESS GUIDANCE WAS NOT CORRECT,
THIS IS LANGUAGE USED IN
TERMS OF REFERENCE AND
REFLECT ACCURATELY THE
EVENTUAL OUTCOME IN IOB'S
VIEW.

OTHER CHANGES MADE
PER NOTES.

COPY

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. memo	Richard Schifter to Tony Lake and Nancy Soderberg [partial] (1 page)	05/20/1996	P5, P6/b(6)
001b. letter	Thomas Stroock to Richard Schifter (1 page)	05/17/1996	P5
001c. memo	Lewis Amselem to Anne Patterson et al. re: Dianna Ortiz Case (3 pages)	05/13/1996	P5, P6/b(6)
002a. cable	Re: Alpirez (1 page)	03/24/1995	P1/b(1)
002b. memo	Re: Bamaca and Devine cases (3 pages)	03/23/1995	P1/b(1)
002c. cable	Re: Alpirez: Not Losing Sight of the Facts (1 page)	03/24/1995	P1/b(1)
002d. memo	Re: Bamaca and Devine cases (3 pages)	03/23/1995	P1/b(1)
002e. cable	Re: Alpirez: Not Losing Sight of the Facts (1 page)	03/24/1995	P1/b(1)
002f. memo	Re: Bamaca and Devine cases (3 pages)	03/23/1995	P1/b(1)
003. cable	Re: Declassification (3 pages)	06/13/1996	P1/b(1)
004a. memo	Re: Station Investigation of Human Rights Violations in Guatemala (8 pages)	10/15/1991	P1/b(1)
004b. list	CIA Documents for Declassification Review (3 pages)	n.d.	P1/b(1)

COLLECTION:

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

FOLDER TITLE:

Guatemala - Human Rights Cases, 1996 [2]

2006-1025-F
ke345

RESTRICTION CODES

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

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

- 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.

- 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]

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20504

May 20, 1996

LB

NOTE FOR TONY LAKE AND NANCY SODERBERG

FROM: RICHARD SCHIFTER *RS*

SUBJECT: Guatemala -- The Ortiz Case

Tom Stroock has asked me to forward to you a memorandum prepared by Lew Amselem of the State Department.

I worked with Lew about ten years ago on the issue of human rights in Chile. I found him to be [REDACTED] (b)(6) a straight shooter. If he says that statements attributed to him were never made, I believe him.

Attachment
As stated

cc: Jim Dobbins

ALPHA DEVELOPMENT CORPORATION

P.O. BOX 2875
CASPER, WYOMING
82602-2875

May 17, 1996

THOMAS F. STROOCK

535 WEST YELLOWSTONE, SUITE 202
CASPER, WY 82601
PHONE: (307) 234-8925
FAX: (307) 234-8924

Ambassador Richard Schifter
Special Assistant to the President
National Security Council
Room 3304, Old Executive Office Building
Washington, D.C. 20506

Dear Dick:

Marta and I are traveling in Spain - I will return on May 29th.

In the meantime, I am arranging to have the attached letter, written by our Guatemalan Human Rights officer (1989-1992), faxed to you. Lew Amselem, the writer, was and is an outstanding Foreign Service officer. As you know from your work with our human rights reports when we were both at the State Department, he was an aggressive, truthful and hard hitting human rights officer.

His letter reflects - quite accurately - what all of us who served in the Guatemala Embassy 1989 through 1992 feel about the Diana Ortiz case.

Please do me a personal favor and see that the attached letter is considered by your colleagues, Nancy Soderberg and Anthony Lake, whose comments to the media have caused heartburn and distress to all of us who have tried so hard to solve the riddle of the Diana Ortiz puzzle. I hope to speak with you on the telephone about this when I return after May 30th.

Sincerely,

Thomas F. Stroock
rh

Thomas F. Stroock

TFS/rh
Enclosure

Dictated by telephone and not read by Ambassador Stroock.

COPY

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

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]

Status of Harbury FOIA Requests--5/12/95

State. State has treated two January requests on a priority basis, citing a "life or death" exception. They have not given priority treatment to a more recent request received since the Torricelli revelations. A letter informing her of the latter decision is being held pending further guidance. In response to her original requests they have identified ca. 1500 documents, and have begun interim releases, which will continue. Contact: John Croft, 202-647-5154.

CIA. CIA responded to her original request with a Glomar defense, i.e., we can neither confirm nor deny the existence of any responsive documents. However, they are giving priority treatment to her appeal and are now searching for responsive documents. The search does not appear to be very far advanced. Contact: Lee Strickland, (b)(3)

DoD. DoD treated her original request on an expedited basis, but not subsequent requests. They expect to respond to her original request "soon." Contact: Charlie Talbott, 703-697-1180.

DIA. DIA has completed its processing of her request, which produced three responsive documents. Their response is now being reviewed by their General Counsel. Contact: Bob Richardson, (b)(3)

NSA. NSA received its first direct request in early May. Consistent with DoD policy, they are not giving expedited treatment. They noted that her request articulated the DOJ standard of extraordinary public interest in seeking expedited treatment, but that standard has not been adopted by DoD. Contact: (b)(3)

FBI. Harbury's April 12 request (which may have been preceeded by a January request) is not being handled on a priority basis, despite the apparent applicability of the DOJ public interest standard (copy attached). Dan Metcalfe, Co-Director of DOJ's Office of Information and Privacy, reports that he will talk to Carl Stern to persuade him to invoke the DOJ standard for expedited treatment by the FBI and DEA. Metcalfe also believes that other agencies can, and should, invoke the DOJ public interest standard, provided it becomes a de facto agency standard. Contact: Dan Metcalfe, 514-FOIA.

DEA. DEA is not expediting Harbury's request, for the same reason as FBI. Contact: Dan Metcalfe, 514-FOIA.

NSC. The NSC has treated Harbury's 1/9/95 request on a priority basis. We expect responses to our referrals to other agencies shortly. In our response, which should be ready in within two weeks, we do not expect to be releasing much of real interest to Harbury. The Intelligence Office has directed us to withhold sensitive Intelligence documents in full and CIA is likely to give the same advice about similar documents referred to them. The other substantive NSC documents have largely been excluded from search and review pursuant to our current access policy protecting all internal documents to or from the President, APNSA, DAPNSA, or other White House officials. Since this policy is discretionary, it can be modified as needed.

Summary. The agencies most likely to hold significant numbers of documents responsive to Jennifer Harbury's FOIA requests -- CIA, State, DoD, and NSC -- have all given her requests prior to the Torricelli revelations some degree of priority handling. This means that she is likely to have responses within the next few weeks (possibly excepting CIA) rather than months or years from now, which would otherwise be the story. Of the remaining four agencies, FBI and DEA will probably begin priority handling soon, and DIA will answer within a few days. Thus, only NSA is currently unlikely to give priority attention to her FOIA requests. **However,** it is also likely that very few documents of primary interest to Harbury will be released in the near future, at least not until after the IOB report has been delivered to the President.

COPY

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

May 11, 1995

ACTION

MEMORANDUM FOR ANTHONY LAKE

THROUGH: RICHARD E. FEINBERG

FROM: EARLE C. BLAKEMAN

SUBJECT: Managing Guatemala Issues

Managing the various issues related to human rights abuses in Guatemala requires greater interagency coordination. State, Justice, CIA and Defense continue to receive a large volume of Congressional inquiries, Freedom of Information requests and press questions and are finding it increasingly difficult to provide consistent responses. Without greater coordination, identical requests may be subject to quite different responses by individual agencies.

In addition, in a recent letter to the President, Senators Specter and Kerrey called for creation of an interagency focal point so that aggrieved citizens need not approach separate agencies for information on cases of interest to them.

We have identified two options for providing greater coordination and undertaking the following tasks:

- ④ o Establishing ^{a framework for discussing policy issues raised in the context} ~~consistent guidelines for treatment~~ of Freedom of Information Requests related to Guatemalan human rights cases; ^{such as whether specific information continues to require protection.}
- ⑤ o Making sure each agency is aware of previously classified material that has been released to the public through FOIA;
- ① o Coordinating responses to Congressional inquiries;
- ② o ^{Sec. 1.4.1.1} ~~Designating~~ contacts for inquiries from victims and their families; and
- ③ o Coordinating responses to press inquiries.

^{The IWB would not coordinate responses to or address issues under consideration}
Option One: NSC Coordinates

Under this option, Richard Feinberg would chair a ^{ad hoc} special interagency group with representatives from State, Justice, CIA ^{to the EO, agency IGS}

COPY

and Defense. Given the Inter-American Directorate's limited staff resources, he would call as necessary on expertise from other NSC directorates, including intelligence, legal, legislative affairs and records management. This option conforms with NSC's responsibility to provide interagency coordination and puts the NSC staff squarely in a lead role in managing Guatemalan human rights issues. A key consideration is whether it is desirable for the NSC and by implication the White House to play such a role or if that role is better left to another agency. *Specifically, the White House will be criticized by Harburg and some members of Congress if when documents are not released, any effort to coordinate however we suspect will be*

Option Two: State Coordinates

State has the staff and resources to chair an interagency coordinating committee but may lack adequate standing vis-a-vis the other agencies. Giving State the lead would reduce NSC influence on policies and practices of great interest to the White House *and in any event agencies will likely "appeal" decisions to US - under*

Concurrence by: George Tenet, James Baker, Mike Andricos and William Leary *linked to the White House anyway.*

RECOMMENDATION

That you approve Option One and authorize Andrew Sens to transmit the interagency memo at Tab A. (NSC staff favors.)

Approve _____ Disapprove _____

That you approve Option Two and authorize Andrew Sens to transmit the interagency memo at Tab B.

Approve _____ Disapprove _____

Attachment

Tab A Memorandum Creating NSC-Chaired IWG

Tab B Memorandum Creating State-Chaired IWG

COPY

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	Earle Blakeman to Anthony Lake re: Managing Guatemala Issues (2 pages)	05/11/1995	P5
002. paper	re: Harbury FOIA Requests: Point Paper [annotated] (3 pages)	05/10/1995	P5
003. paper	re: Harbury FOIA Requests: Point Paper (4 pages)	05/10/1995	P5
004a. memo	Earle C. Blakeman to Anthony Lake re: Guatemala - Report Regarding Bamaca (3 pages)	05/09/1995	P1/b(1), P5
004b. cable	Re: Efrain Bamaca Velasquez (3 pages)	07/20/1995	P1/b(1)
004c. talking points	Draft Language for State Department's Use with Jennifer Harbury (1 page)	n.d.	P1/b(1)
004d. memo	William O. Studeman to Anthony Lake re: Disclosure (3 pages)	05/08/1995	P1/b(1), P5
004e. cable	Re: Bamaca (1 page)	04/28/1995	P1/b(1)
005a. cable	Re: Efrain Bamaca Velasquez (3 pages)	04/20/1995	P1/b(1)
005b. talking points	Draft Language for State Department's Use with Jennifer Harbury (1 page)	n.d.	P1/b(1)
005c. memo	William O. Studeman to Anthony Lake re: Disclosure (3 pages)	05/08/1995	P1/b(1), P5
005d. cable	Re: Bamaca (1 page)	04/28/1995	P1/b(1)

COLLECTION:

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

FOLDER TITLE:

Guatemala Investigation (File #1) [4]

2006-1025-F
ke361

RESTRICTION CODES

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

- P1 National Security Classified Information [(a)(1) of the PRA]
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Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
006a. cover sheet	Cover sheet for materials from State Department re: the Bamaca Case (1 page)	04/15/1995	P1/b(1)
006b. memo	Kenneth C. Brill to Andrew D. Sens re: Discussion Paper on Guatemala/Bamaca Case (1 page)	04/14/1995	P1/b(1)
006c. paper	Guatemala: The Bamaca Case (4 pages)	ca. 04/14/1995	P1/b(1), P5
007. memo	To David Buckley re: Guatemala Review [partial] [National Security Act] (1 page)	04/06/1995	P3/b(3)
008. memo	Anthony Lake to Anthony Harrington re: Intelligence Oversight Board Terms of Reference: Guatemala (4 pages)	04/06/1995	P5

COLLECTION:

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

FOLDER TITLE:

Guatemala Investigation (File #1) [4]

2006-1025-F

ke361

RESTRICTION CODES

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

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COORD

May 11, 1995

ACTION

MEMORANDUM FOR ANTHONY LAKE

THROUGH: RICHARD E. FEINBERG
FROM: EARLE C. BLAKEMAN
SUBJECT: Managing Guatemala Issues

Managing the various issues related to human rights abuses requires greater interagency coordination. Individual agencies continue to receive a large volume of Congressional inquiries, Freedom of Information requests and press questions and are finding it increasingly difficult to provide consistent responses absent greater interagency coordination. To cite one example, some agencies may respond positively to Congressional requests for documents while another may respond that it cannot entertain such requests until the Intelligence Oversight Board completes its work. Identical requests may be subject to quite different responses.

In a recent letter to the President, Senators Specter and Kerrey called for creation of an interagency focal point so that aggrieved citizens need not approach separate agencies for information on cases of interest to them.

We have identified two options for providing greater coordination. In both cases, their tasks would include:

- o Establishing consistent guidelines for treatment of Freedom of Information Requests related to Guatemalan human rights cases;
- o Making sure each agency is aware of previously classified material that has been released to the public through FOIA;
- o Coordinating responses to Congressional inquiries;
- o Designating contacts for inquiries from victims and their families; and
- o Coordinating responses to press inquiries.

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Option One: NSC Coordinates

Under this option, Richard Feinberg would chair a special interagency group with representatives from State, Justice, CIA and Defense. He would call as necessary on expertise from other NSC directorates, including intelligence, legal, legislative affairs and records management. This option conforms with NSC's responsibility to coordinate the activities of other government agencies. It puts NSC staff squarely in a lead role. The chief downside is that the Inter-American Affairs Directorate has limited staff.

Option Two: State Coordinates

State has the staff and resources to chair an interagency coordinating committee but may lack adequate standing vis-a-vis the other agencies. Giving State the lead also reduces NSC influence on policies and practices that are of great interest to the White House.

Concurrence by: George Tenet, James Baker, Mike Andricos and William Leary

RECOMMENDATION

That you approve Option One and authorize Andrew Sens to transmit the interagency memo at Tab A. (NSC staff favors.)

Approve _____ Disapprove _____

That you approve Option Two and authorize Andrew Sens to transmit the interagency memo at Tab B.

Approve _____ Disapprove _____

Attachment

Tab A Memorandum Endorsing Option One

Tab B Memorandum Endorsing Option Two

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30119

MEMORANDUM FOR ANTHONY S. HARRINGTON
Chairman
Intelligence Oversight Board

FROM: ANTHONY LAKE
Assistant to the President for
National Security Affairs

LEON P. SANTO

SUBJECT: Intelligence Oversight Board Terms of Reference:
Guatemala

On March 30, the President directed that the Intelligence Oversight Board (IOB) 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 in Guatemala, as well as any related matters. Because a healthy and vigorous intelligence capability is a critical element of our national power and influence, the President has directed that the IOB be unsparing in uncovering all relevant facts ~~and possible wrongdoing~~ as well as make clear where allegations regarding these events are unfounded. He has further directed that the timing and scope of the inquiry be consistent with law enforcement requirements. ✓

To facilitate the IOB's review, this memorandum sets forth some of the specific questions the IOB should consider during its review as well as some of the procedural mechanisms for conducting its review. The terms of reference below, however, are intended to guide the Board's inquiry. They are not intended to restrict the Board's inquiry if in your judgment the facts warrant that additional subjects be considered. Nor should the terms of reference be read to require a duplication of effort between your review and those ongoing by the Department of Justice and agency inspectors general, if in the Board's judgment the questions presented have been satisfactorily addressed elsewhere.

Terms of Reference:

~~DoFA~~

1. Michael DeVine and Efrain Bamaca Valesquez. As an immediate point of departure, the IOB should review the circumstances surrounding the deaths of Michael DeVine and the disappearance of Efrain Bamaca Valesquez. Among other things:

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a. The Board should determine whether any U.S. Government employees or intelligence assets were directly or indirectly involved in these incidents. The Board should review the manner in which any intelligence assets so identified were validated and their suitability reviewed. Did this validation include a search of all relevant sources of derogatory information?

b. The Board should determine what information, if any, the U.S. Government obtained regarding these incidents before they took place and after they took place. When, to whom, and in what manner was this information disseminated, including dissemination to the White House and to the Congress? Were possible links between the two cases explored, and if so, were such links adequately explained and brought to the attention of policymakers?

c. What information was provided to the families of Michael DeVine and Efraim Bamaca Valesquez? Are procedures for such dissemination adequate?

In considering these questions, the Board should determine whether any intelligence regulations, procedures, or directives were violated.

2. Other Cases. The Board is also requested to review, in light of the questions presented above and below, any intelligence that may bear on the facts surrounding the torture, disappearance, or death of any U.S. citizens in Guatemala in the past fifteen years. In particular, the Board should review the torture of Sister Dianna Ortiz in 1989, the death of Griffith Davis in 1985 and the death of Nicholas Blake in 1985.

3. Intelligence/Policy Coordination. Was information involving the DeVine, Bamaca, and any other cases identified above, disseminated in a timely and accurate manner to policymakers at the White House, State Department, Defense Department and within the Intelligence Community? Are inter-agency and intra-agency procedures for disseminating such information adequate? Were there any patterns of human rights abuse by U.S. intelligence assets, and if so, were these patterns identified within the intelligence community and explained to policymakers? Was timely and accurate referral of the DeVine case and facts made to the Department of Justice? Did the Department of Justice respond in a timely and appropriate manner to the CIA? Within the United States mission in Guatemala City was information shared with the Chief of Mission in a timely and complete manner? Was any information withheld from the Chief of Mission, other senior embassy officers, policymakers in Washington or the Congress.

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4. The U.S. Intelligence Relationship with Guatemala. U.S. intelligence support to the Government of Guatemala (GOG) has taken a number of different forms. For example, the United States Government has cooperated with the GOG in the area counternarcotics. In addition, the USG has at various times had an intelligence liaison relationship with the GOG. Was intelligence community support for the GOG consistent with Presidential directives and decisions applicable during the past fifteen years? Did our intelligence programs in Guatemala focus sufficient resources on collecting information on human rights violations by security forces?

5. Asset Validation Process. The Board should review regulations and guidelines regarding the manner in which U.S. intelligence assets related to Guatemala are validated, including the ongoing process of evaluating the costs and benefits of continuing specific relationships. How does the Board evaluate their adequacy? Does asset validation include a mechanism for evaluating all-source information?

Process:

In conducting your review, the President fully anticipates that you will rely on the expertise, assets and ongoing work of relevant agency inspectors general. In consulting with inspectors general the IOB should ensure that the full scope of the President's questions are being adequately addressed. Where appropriate, and consistent with law enforcement equities, the IOB may independently choose to validate any facts or conclusions presented by agency inspectors general and ultimately draw its own conclusions regarding the questions presented above.

The timing of your review should be dictated by the your ability to adequately address the questions presented. The President, through the Assistant to the President for National Security Affairs, should however, be kept apprised of your review on a continuing basis.

It is essential that the Board's review be conducted in a manner consistent with national security. While it is the President's intention that all appropriate information about the events surrounding the death of Michael Devine and the disappearance of Efrain Bamaca Valesquez be provided to the public, such dissemination should be done at the close of the IOB's review, by the President or his designee.

Finally, I would note that it is because of the independent integrity of the Intelligence Board's members and their record of fair and thorough review of intelligence oversight issues that the President has specifically turned to the IOB to conduct this

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04/08/95 THU 15:19 FAX 202 456 9110

NSC/LGL ADVISER

005

04/08/95 THU 15:47 FAX 202 456 9340

INTEL PPROGRAMS

005

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review. Your willingness to take on this assignment is appreciated.

cc: Abner J. Mikva
Counsel to the President

COPY

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
004. memo	[Duplicate of 003] (2 pages)	04/07/1995	P5
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)]

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

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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]

2

Page 2, Paragraph 1(c) (the small one-sentence paragraph after c)

- We would suggest adding to the end of the one sentence paragraph right after paragraph 1(c) an additional clause stating, "or whether any other violations of U.S. law are apparent." This addition would make explicit that the IOB should address not only violations of intelligence regulations, procedures or directives, but also apparent violations of U.S. law. While this is implicit throughout the document, we thought it would be helpful to the IOB to make it explicit.

Page 2, Paragraph 2

- We would suggest deleting the clause "the facts surrounding the torture, disappearance, or death of any U.S. citizens in Guatemala in the past fifteen years" and substitute the following language from my memorandum of March 30, 1995, "any information regarding human rights abuses, disappearances, murders, torture of American citizens in Guatemala from 1984 to the present." This addition will narrow the time frame to correspond to the searches already undertaken by State. Also note that the name Griffith Davis should be changed to Griffin Davis.

Page 2, Paragraph 3

- We would suggest adding at the end of paragraph 3 the following questions:

1
3
Were both U.S. Ambassadors serving in Guatemala during the relevant time frame kept appropriately informed about the intelligence community's liaison relationships in Guatemala?

X
Is Chief of Mission authority over the intelligence community's liaison relationships sufficiently explicit in writing or in practice?

4
Are there sufficient procedures and/or safeguards in place to ensure that intelligence community covert and liaison operations are consistent with White House, State Department and intelligence community policies, as well as with applicable laws and regulations?

4
What were the U.S. Army's intelligence links to the Guatemalan army, and how did those links either inform or interfere with the appropriate and timely flow of intelligence information to the Chief of Mission?

Page 3, Paragraph 4

- We would suggest adding ", decisions, Executive Orders, and other Presidential policy guidance applicable since 1984 in Guatemala" after "Presidential"

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04/07/95 12:26 8

State Dept. S/S-O → INTEL PPROGRAMS

004

3

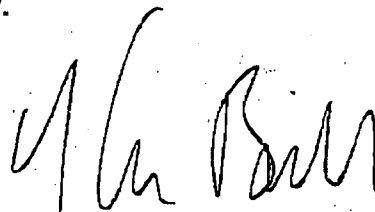
directives" the fourth line up from the bottom of paragraph 4. We would suggest deleting "and . . . applicable during the past fifteen years?" from the same sentence.

Lessons Learned and Structural Changes Suggested Section

- We would strongly suggest adding a lessons learned and structural changes suggested section to the Terms of Reference. This addition to the IOB's mandate would have broad benefit to the U.S. Government far greater than the simple elucidation of the facts of this unfortunate situation. Additionally, the IOB's review should address the sufficiency and efficacy of existing policies, regulations and practices governing intelligence community activities at our missions abroad.

Impact of IOB Review on Ongoing FOIA and Privacy Act Cases

- We would suggest some type of early coordination effort initiated by the IOB which would provide appropriate guidance to the affected Agencies with respect to the releasability under the FOIA and the Privacy Act of information which may be relevant to the IOB's inquiry.



Kenneth C. Brill
Executive Secretary

COPY

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
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)]

- 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]

Baker, James E.

From: Pyatt, Geoffrey R.
To: Baker, James E.; Beers, Rand R; Dobbins, James F.; Kessinger, Jodi
Cc: /R; Record at A1; @EXECSEC - Executive Secretary
Subject: RE: Pkg 5826 [UNCLASSIFIED]
Date: Friday, November 01, 1996 8:34AM

I'd delete the "regret the delay in responding" line, since it's not necessary and not very Presidential. Although dated July 29, the letter didn't arrive here until August 27 (note the late August postmark on the envelope). It was cc'd to several offices involved in the DeVine case, including the Assistant US Attorney who handled the DOJ investigation. DOJ asked to hold up the President's reply, and in the meantime, was in contact directly with Carol DeVine. In the course of these contacts, Justice learned that Carol DeVine was ending her relationship with the American lawyer who did much of the work on the case. Carol DeVine also told Justice that she didn't expect a reply to her letter to the President. I think she deserves a reply nonetheless; my draft is intended to express sympathy without stirring old controversies.

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
001. memo	James Baker to Nancy Soderberg re: Agenda for Interagency Meeting on Guatemala Review (5 pages)	11/13/1995	P1/b(1), P5
002. email	Bruce E. Pease to Peter E. Bass, Samuel Berger, Richard E. Feinberg, And Nancy E. Soderberg re: IOB request to brief Senate Select Committee on Intelligence (1 page)	08/31/1995	P1/b(1)
003. memo	Steve Neuwirth to Jamie Baker (1 page)	11/20/1995	P5
004. memo	Earle Blakeman to Anthony Lake re: Managing Guatemala Issues (2 pages)	05/11/1995	P5
005. email	William Leary to James Baker and Nancy Soderberg re: Harbury Suing CIA (2 pages)	07/31/1995	P5
006a. email	James E. Baker to Nancy E. Soderberg and M. Brooke Darby re: Devine Investigation (1 page)	07/10/1995	P6/b(6), b(7)(C), b(7)(F)
006b. memo	Paul J. Fishman to Alan Kreczko re: Michael Devine investigation (2 pages)	07/06/1995	P6/b(6), b(7)(C), b(7)(F)
007a. fax	Fax cover sheet for material sent to Jamie Baker [partial] [CIA Act] (1 page)	08/03/1995	P3/b(3)
007b. letter	Jennifer K. Harbury to John Wright re: FOIA request [partial] (1 page)	01/09/1995	P6/b(6)
007c. letter	John H. Wright to Jennifer K. Harbury re: FOIA request [partial] (1 page)	03/21/1995	P6/b(6)
007d. letter	Jennifer K. Harbury to John H. Wright re: FOIA request [partial] (1 page)	04/10/1995	P6/b(6)

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)]

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- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

✓

THE WHITE HOUSE
WASHINGTON

November 20, 1995

MEMORANDUM FOR JAMIE BAKER

FROM: STEVE NEUWIRTH 

Marvin passed on to me your note about the August 30 letter to the President from Carole Devine. You should know that the reason for the delay in handling the letter was that it had been inadvertently clipped in an interoffice mailing package to the back of another piece of correspondence that had been sent to me. Because the cover sheet was marked FOIA request, and because Marvin routinely handles such requests, I forwarded the letter to Marvin when I discovered that it was in my office. I understand that when Marvin determined the letter involved a national security matter, he forwarded the letter to you, in light of your previously expressed preference that you and Alan be involved in legal matters with national security implications.

It is certainly not the case, however, that either Marvin or I sought a "back channel" way to "buck the letter to NSC staff." I think your written assertion about "bureaucratic cowardice" is a misplaced -- and inappropriate -- overreaction to the situation.

Pursuant to your suggestion, I have checked with White House Records Management, which has found no correspondence to or from Mrs. Devine after August 30. I have also asked Bill Leary to check the NSC files so we can determine whether, in light of any NSC correspondence with Mrs. Devine, any further response is appropriate at this time.

COPY

NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20506

20616

May 11, 1995

ACTION

MEMORANDUM FOR ANTHONY LAKE

THROUGH: RICHARD E. FEINBERG *RF*
 FROM: EARLE C. BLAKEMAN *CB*
 SUBJECT: Managing Guatemala Issues

Managing the various issues related to human rights abuses in Guatemala requires greater interagency coordination. State, Justice, CIA and Defense continue to receive a large volume of Congressional inquiries, Freedom of Information requests and press questions and are finding it increasingly difficult to provide consistent responses. Without greater coordination, identical requests may be subject to quite different responses by individual agencies.

In addition, in a recent letter to the President, Senators Specter and Kerrey called for creation of an interagency focal point so that aggrieved citizens need not approach separate agencies for information on cases of interest to them.

We have identified two options for providing greater coordination and undertaking the following tasks:

- o Coordinating responses to Congressional inquiries;
- o Facilitating contacts for inquiries from victims and their families;
- o Coordinating responses to press inquiries;
- o Establishing a framework for discussing policy issues raised in the context of Freedom of Information requests related to Guatemalan human rights cases, such as whether specific information continues to require protection; and
- o Making sure each agency is aware of previously classified material that has been released to the public through FOIA.

The IWG proposed below will not coordinate responses to or address issues under independent consideration by the IOB, agency inspectors general or the Department of Justice.

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Option One: NSC Coordinates

Under this option, Richard Feinberg would chair an ad hoc interagency group with representatives from State, Justice, CIA and Defense. He would call as necessary on expertise from other NSC directorates, including intelligence, legal, legislative affairs and records management. This option conforms with NSC's responsibility to provide interagency coordination and puts the NSC staff squarely in a lead role in managing Guatemalan human rights issues. A key consideration is whether it is desirable for the NSC and by implication the White House to play such a role or if that role is better left to another agency. Specifically, if NSC chairs, the White House will be more open to criticism by Harbury and others when we are unable to release certain documents they have requested; however, we may be subject to such criticism regardless of who chairs the coordinating group.

Option Two: State Coordinates

State has the staff and resources to chair an interagency coordinating committee. Moreover, it has overall responsibility within the government for the welfare and whereabouts of U.S. citizens overseas. The biggest downside is that State may lack adequate standing vis-a-vis other agencies, which will be more responsive to NSC direction. Giving State the lead would reduce NSC influence on policies and practices of great interest to the White House, although agencies will still "appeal" controversial decisions to us in any case.

Concurrence by: George Tenet, James Baker, Mike Andricos and William Leary

JCB
pr

RECOMMENDATION

That you approve Option One (NSC chairs) and authorize Andrew Sens to transmit the interagency memo at Tab A. (NSC staff favors)

Approve R Disapprove

Alternatively, that you approve Option Two (State chairs) and authorize Andrew Sens to transmit the interagency memo at Tab B.

Approve Disapprove

Attachment

Tab A Memorandum Creating NSC-Chaired IWG
Tab B Memorandum Creating State-Chaired IWG

COPY

Gusakala

Baker, James E.

From: Leary, William H.
To: Baker, James E.; Soderberg, Nancy E.
Cc: /R, Record at A1; Bassett, Leslie A.; Feinberg, Richard E.; Pease, Bruce E.
Subject: RE: Harbury Suing CIA [UNCLASSIFIED]
Date: Monday, July 31, 1995 4:18PM

Nancy,

Jamie passed your note to me, to pass on what I know.

CIA has expedited Harbury's FOIA requests. However, they still have not completed their processing, except of the one document we referred to them. Therefore, according to news reports of her press conference today, she is suing because they have failed to satisfy the FOIA's technical requirements to respond within 10 days. She also made extended references to the IG Report: "I'm very disturbed by a number of the insinuations, and a number of shifts in position regarding my own husband's case that I see in the different official documents coming out surrounding this report."

Such FOIA suits are served simultaneously on the agency (CIA), the Attorney General and the U.S. Attorney's Office. The Government must respond within 30 days. In virtually all cases, the Government makes the so-called "Open America" defense -- i.e., we are moving as fast as we can through our accumulated backlog, in order, but we have not yet finished processing your request. Ironically, because the CIA moved Harbury's request to the front of the line, they will have a more difficult time explaining why they have not yet answered her. On the other hand, because of expediting they can probably promise to give an answer within a few more weeks, which probably will satisfy the District Court.

Even after the CIA sends all the redacted documents it can find to her, she will still probably object, because the CIA will not have categorically answered her basic question -- for the reasons Bruce outlined. At that point she can, and probably will, file another suit challenging CIA redactions and/or the adequacy of their search.

99% of all FOIA suits are handled by the U.S. Attorney. In exceptional cases, such suits can be handled by Main Justice, if the defendant agency requests.

From: Baker, James E.
To: Leary, William H.
CC: /R, Record at A1
Subject: FW: Harbury Suing CIA [UNCLASSIFIED]
Date: Monday, July 31, 1995 03:20 PM

Bill:

You may be able to answer this better than we. In any event, what do you think?

From: Hawkins, Ardenia R.
To: Baker, James E.; Kreczko, Alan J.; Pease, Bruce E.
CC: /R, Record at A1
Subject: RE: Harbury Suing CIA [UNCLASSIFIED]
Date: Monday, July 31, 1995 03:12 PM

message from Nancy

Do we have a view on whether CIA is handling it expeditiously? If she sues, what happens?

From: Pease, Bruce E.
To: Baker, James E.; Feinberg, Richard E.; Leary, William H.; Lake, W. Anthony; Soderberg, Nancy E.; Berger, Samuel
CC: /R, Record at A1; @EXECSEC - Executive Secretary; @INTEL - Intelligence Programs; @INTERAM - Inter-American; @NSA - Nat'l Security Advisor
Subject: Harbury Suing CIA [UNCLASSIFIED]
Date: Monday, July 31, 1995 01:18 PM

Tony, Nancy,

AP and UPI are carrying stories that Jennifer Harbury is suing CIA to release its information on the death of her husband. She is not satisfied that CIA is handling her FOIA request expeditiously. She has recruited National Security Archives, the FOIA suit experts, to champion her case. CIA's chief litigator tells me that the Agency has not yet received the suit, so we cannot be sure that it is restricted to FOIA matters, but that is all that the press hints at. Harbury is quoted in the press saying, "I need to know if my husband is alive or dead." In fact, CIA does not KNOW that for sure, but she doesn't believe that.

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
006a. email	James E. Baker to M. Brooke Darby and Wendy E. Gray re: Guatemala (2 pages)	07/05/1995	P1/b(1), P5
006b. paper	Agreed Interagency Approach to Allegations of Human Rights Abuses (2 pages)	ca. 07/03/1995	P1/b(1)
007. paper	re: Agreed Interagency Approach to Allegations of Human Rights Abuses (2 pages)	07/06/1995	P5
008. paper	re: Background Information on Harbury/Bamaca Case (5 pages)	11/1994	P5
009. memo	Alexander F. Watson to the Secretary of State re: Guatemala - Jennifer Harbury/Efrain Bamaca Case [partial] (2 pages)	11/04/1994	P6/b(6)

COLLECTION:

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

FOLDER TITLE:

Guatemala Investigation (Folder #2) [5]

2006-1025-F

ke368

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)]

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AGREED INTERAGENCY APPROACH TO ALLEGATIONS
OF HUMAN RIGHTS ABUSES IN HONDURAS/CENTRAL AMERICA

1) Focus on Current Policy -- We do not believe it is a good use of government resources to do an exhaustive review of the policies of the U.S. Government in Central America through the 1980's. However, it is important to make available to the public as much information as possible. Similarly, it is important to review current policies to ensure policies reflect the Administration's priorities and changes in policy since the end of the Cold War. We agree on the following approach to the Honduras cases and Central America in general:

A. Past Abuses -- ~~The Administration will not undertake a comprehensive review of our policies in Honduras or Central America during the 1980s. We do not believe that such a review would be an efficient allocation of resources, nor does the degree of public interest warrant it.~~

~~Any additional allegations that arise involving past U.S. conduct in Honduras or elsewhere in the world will be referred, as appropriate, to relevant agencies' inspectors general, the Department of Justice, or the IOB.~~

¶ The CIA is reviewing all CIA documents that might bear on possible allegations of human rights abuses known to CIA during the period for 1980 (check) to the present. Regarding Honduras, CIA is reviewing the allegations regarding the death of Father Carney and alleged US role in any abuses associated with Battalion 316.

~~State will not conduct such a review given the vast amount of materiel already on the public record.~~ ¶ The IOB is reviewing human rights abuses of Americans in Guatemala and expects that its findings will have value for the Central American region. We will review the findings for its implication for American policy in Central America.

See para
below to be
inserted

B) Current policy -- The Administration has vigorously and successfully implemented a post-Cold War foreign policy in Central America. Our policies and the context in which we operate are sharply distinctive from those that pertained in the early 1980s.

Insert above: The State Department will review all documents on the Father Carney case and will cooperate with requests for the information from the Honduran Attorney General's office and from the Honduran Human Rights Ombudsman. In addition, the State Department is processing a comprehensive FOIA

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We should make certain that current and future policies are fully consistent with the high priority that the Administration places on democratic governance and human rights: Director Deutch is conducting a broad review of CIA's intelligence operations including U.S. intelligence guidelines relating to human rights issues.

- 2) **FOIA Requests** -- We will respond to all FOIA requests as appropriate with a view toward expediting requests regarding the fate of American citizens and their close relatives in accordance with relevant legislation and regulations.

Regarding requests for information on American citizens, NSC will pull together a list of Americans and their close relatives and review the question of an effort to declassify as much information as possible regarding those cases. State and CIA are doing an extensive review of the Carney case in Honduras.

- 3) **Declassification policy** -- Agencies have already declassified significant quantities of documents regarding Honduras in response to FOIA requests and will continue to do so in accordance with standard procedures.

~~We do not believe that, in addition, a comprehensive declassification review of U.S. government materials related to U.S. policy in Honduras is good use of resources at this time.~~

~~State is prepared to cooperate with a Honduran government investigation into past human rights abuses through document reviews and will review any information provided for possible declassification.~~

- 4) ~~Statements of support for current personnel~~ -- In the absence of evidence of individual wrongdoing, agencies can issue statements of support for individual employees. These statements should refer to their competence and loyalty rather than to the policies in question, since no review of the policies has occurred.

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DECL: OADR

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S1a

Background Information on Harbury/Bamaca Case

American citizen Jennifer Harbury went on a hunger strike in Guatemala from October 11 to November 11 to protest the disappearance of her Guatemalan common law husband, URNG (Guatemalan National Revolutionary Unity) guerrilla Efraim Bamaca. Her fast attracted significant bipartisan Congressional, press and public interest in Harbury's situation, prompting hundreds of letters and phone calls to the State Department and NSC, as well as national media coverage, including a November 6 "60 Minutes" story and a "New York Times" editorial critical of the USG's handling of the case. In Guatemala, the GOG and press reaction to Harbury's allegations was negative, and the USG has been criticized for perceived pressure and interference.

Harbury ended her fast with a press conference announcing that she had "received news that high-level officials in the White House want to talk" to her. The request for a high-level meeting came to Vice President Gore's staff from Rep. Gejdenson (D-CT) on behalf of Harbury's attorney. However, by being able to point to high-level interest in her husband's case, Harbury achieved a face-saving way to end her hunger-strike.

Bamaca (nom de guerre: Everardo) disappeared in March 1992 following an armed confrontation with the Guatemalan army. Although the GOG maintains that they have no information on Bamaca's whereabouts, there is reason to believe that the Guatemalan military operates clandestine prisons and may have captured and possibly executed him. Harbury is an attorney who worked with Guatemalan asylum seekers in the U.S. and wrote a book based on her experiences while living for two years in Guatemala. She says that she met Bamaca, a guerrilla for seventeen years, in Guatemala in 1990 and entered into a common-law marriage with him in September 1991.

After Bamaca's disappearance, Harbury initially believed he was dead, but after learning that two other guerrillas claimed to have seen him in army custody, she initiated her campaign on his behalf. She attended an exhumation in May 1992 -- without identifying herself as Bamaca's wife -- that was stopped by Attorney General Acisclo Valladares on the grounds that the proceeding was illegal since no family members were present and there were no other means available to identify the cadaver, such as x-rays, dental records, or DNA samples. In her "60 Minutes" interview, she explained her silence on that occasion by saying that the army would discredit her ability to identify the cadaver if they knew she was Bamaca's wife. The GOG maintains that Harbury is an agent, or at the very least a pawn, of the URNG.

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They are skeptical about Harbury's claim that she was married to Bamaca and point to her inability to produce any photo's of the couple together. Harbury and her supporters have criticized the USG for supporting the ongoing peace negotiations between the URNG and GOG; the Guatemalan government believes that Harbury is serving the URNG's desire to delay a final peace accord indefinitely.

USG Actions Thus Far

The USG has assisted Harbury and has pressed the case repeatedly and urgently with the GOG since it was first brought to our attention in March 1993. We raised the case with the Government of Guatemala that same month and repeatedly since then with the President, Foreign Minister, Defense Minister, Attorney General and other officials. DOD DAS Mari-Luci Jaramillo also raised the case with the Defense Minister during an August 1994 visit to Guatemala. We have also provided an extraordinary level of assistance to Ms. Harbury: obtaining appointments with high-ranking government officials; facilitating August 1993 and November 1994 exhumations to determine if Bamaca was the person buried (he was not); and a variety of personal assistance to Harbury, including eight visits and meetings with our Ambassador in Guatemala during her hunger strike. Harbury has also been received at high levels of the USG, including DRL's John Shattuck, ARA DAS Anne Patterson, ARA Senior Adviser Richard Nuccio, and UN Human Rights Commission Ambassador Geraldine Ferraro. (Shattuck visited Guatemala November 16-18 to discuss this case, other human rights issues, and the peace process.)

After demarching President de Leon on November 11, Ambassador McAfee met with Jennifer Harbury and her attorney Jose Pertierra later that day to share the information passed on to de Leon: "Based on all the information now available to us from a variety of sources, we have concluded that Bamaca was taken captive by the Guatemalan army in 1992. He had been wounded, but his injuries were not believed to be life-threatening. We have no information that he was alive much beyond the first few weeks after his capture." Harbury sought additional information and is likely to do so during her meeting with Mr. Lake. Ambassador McAfee declined to expand or respond to questions about the information, noting that it concerned intelligence matters.

GOG Actions

On October 27 Guatemalan President de Leon announced a new investigation into the Bamaca case. The Supreme Court has held hearings on a habeas corpus petition filed on Bamaca's behalf and interviewed Harbury in early November. The Human Rights Ombudsman has been given thirty days to complete the investigation. However, subsequent conversations with GOG officials, including Ambassador McAfee's November 11 meeting with President de Leon, suggest that a satisfactory resolution

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-3-

of this case is unlikely. While Bamaca is probably dead, the chances of the army admitting responsibility and producing his body are fairly slim. The GOG has a poor record on resolving individual human rights cases, despite USG and international scrutiny. A notable exception, the Michael Devine case, involved the 1990 murder of an Amcit by the army. USG pressure, including the ongoing ban on military assistance, was tremendous, but we have less leverage in this case, which does not closely parallel Devine's.

Peace Process

Harbury has criticized the USG for "sacrificing" her husband to foster the ongoing peace process. In fact, the reverse is true: Harbury's determination to resolve this case is having perhaps unintended negative consequences on the peace process. Our response, if mishandled, has the potential to damage our credibility as a "Friend" to both parties and the peace process itself. Continuation of Guatemala's decades-old conflict would be the worst possible outcome for human rights in Guatemala. The new political spaces opening in Guatemala and the hesitant dialogue occurring between deeply mistrustful sectors such as labor and business and the army and human rights groups are just small signs that meaningful progress is coming from the talks.

Harbury's hunger strike, launched just as the peace talks resumed after four months of delay and intense efforts by the UN and the Friends to return both sides to the table and as a UN human rights verification mission is being deployed, effectively sought to supplant the peace process with her individual case as a way to advance the fundamental cause of human rights in Guatemala. While responding to her legitimate concerns for clarification of her husband's status, we should recognize that this case will not necessarily advance the protection of human rights in Guatemala. Moreover, URNG violence itself has escalated dramatically in the last four months both against the army and in kidnappings of prominent business leaders for ransom.

The Bamaca case is one of the most difficult for the army to deal with because it touches on the "dirty war" techniques practiced by both sides during the conflict and threatens to "name names" and attack the reputation of the entire armed institution. The army and the URNG recognized the explosive nature of the past for both sides in the peace talks when they negotiated an Historical Commission Accord in Oslo last June. There both sides agreed to deal with it by establishing a commission that would identify no individuals and have no judicial impact.

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Responding to Harbury's Concerns

Mr. Lake's meeting with Jennifer Harbury provides a useful opportunity to demonstrate the USG's interest in the fate of Harbury's husband and, more broadly, USG concern about human rights in Guatemala; to urge Harbury cooperate with the GOG's ongoing investigation into the case and to let her know that USG policy will focus on this track; and to articulate our view that cutting off aid and trade will have more negative than positive consequences.

While expressing sympathy with Harbury's desire to seek a full accounting of her husband's fate and voicing concern about ongoing human rights violations in Guatemala, it is important to underline the value of our participation as a "Friend" of the Guatemalan peace process to the ending of violence in Guatemala, as well as recognition of the considerable efforts that the USG has already made to resolve this case and to assist Harbury. Harbury's efforts to substitute bilateral pressure on her case for the USG's multilateral pressure on behalf of the peace process have already damaged our ability to maintain a balanced position within the peace process. The Guatemalan government regards our pressure about this case and our assistance to Harbury as evidence that we have tilted toward the guerrillas, whom they regard with some justification as bent on derailing the peace process. Human rights violations continue in Guatemala, accompanying a general increase in overall violence and renewed guerrilla military activity as the peace process has moved forward this year. Harbury's criticism of the State Department and our embassy has been widely reported in the press. Not reported, however, is the extensive help and security provided by Ambassador McAfee and embassy staff, nor the private messages conveyed on her behalf to General Enriquez by peace process coordinator Nuccio.

Harbury will demand all classified information relating to her husband's fate. As Ambassador McAfee told Harbury November 11, we have no information to indicate that he was alive much beyond the first few weeks after his capture. Constraints imposed by intelligence sources and methods obviously continue to apply in this case.

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-5-

Should Harbury seek a commitment to "negotiate" with Guatemalan officials, it will be important to deflect this question by noting that we have little hope that Bamaca remains alive and by encouraging Harbury to cooperate with the ongoing Guatemalan investigation and to support the active involvement of MINUGUA, the UN human rights verification mission we have worked for months to have deployed.

Focusing our efforts in Guatemala exclusively on the Harbury case damages our status as an honest broker in the peace process because it will be portrayed within Guatemala by civilians and military alike as confirming a US "alliance" with the URNG. That is why our aggressive response to Ms. Harbury's legitimate concerns must be channeled through the peace process and the international verification mechanisms we have worked so hard to create.

~~CONFIDENTIAL~~

COPY

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. email	James E. Baker to Nancy E. Soderberg re: Next Steps Devine Investigation (1 page)	06/02/1995	P6/b(6), b(7)(C), b(7)(F)
001b. memo	Earle Blakeman to Anthony Lake re: Managing Guatemala Issues (2 pages)	05/11/1995	P5
001c. letter	Raki Bauer to President Bill Clinton re: Jennifer Harbury [partial] (1 page)	06/09/1995	P6/b(6)
001d. email	James E. Baker to Rand R. Beers and Richard E. Feinberg re: Human Rights Draft (1 page)	06/15/1995	P1/b(1), P5
001e. letter	Thad W. Crouch to Senator J. Bennett Johnson, Jr. re: Intelligence Oversight Board [partial] (1 page)	04/17/1994	P6/b(6)
001f. fax	Re: Department of Justice actions on Devine case [partial] (1 page)	06/01/1995	P6/b(6), b(7)(C), b(7)(F)
001f. minutes	Summary of Guatemala IWG Meeting (2 pages)	06/08/1995	P1/b(1)
002. email	Richard E. Feinberg to Tony Lake re: Bamaca Report (1 page)	06/13/1995	P1/b(1)
003. email	Alan J. Kreczko to M. Brooke Darby, Wendy E. Gray, Ardenia R., James E. Baker, Bruce E. Pease, and George J. Tenet re: Guatemala (1 page)	04/19/1995	P1/b(1)
004. list	Agency Contacts [partial] [CIA Act] [National Security Act] (1 page)	05/23/1995	P3/b(3)
005. list	Agency Contacts [partial] [CIA Act] [National Security Act] (1 page)	ca. 05/23/1995	P3/b(3)

COLLECTION:

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

FOLDER TITLE:

Guatemala Investigation (Folder #2) [8]

2006-1025-F
ke371

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]
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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]

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
006. letter	Congressman Robert G. Torricelli to CIA Inspector General (2 pages)	05/04/1995	P1/b(1)
007. email	William Leary to Richard Feinberg and James Baker re: Guatemala (1 page)	06/02/1995	P5
008. email	William Leary to James Baker and Richard Feinberg re: Guatemala (1 page)	06/02/1995	P5
009. 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

COLLECTION:

Clinton Presidential Records
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NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

May 11, 1995

ACTION

MEMORANDUM FOR ANTHONY LAKE

THROUGH: RICHARD E. FEINBERG *RF*
FROM: EARLE C. BLAKEMAN *CB*
SUBJECT: Managing Guatemala Issues

Managing the various issues related to human rights abuses in Guatemala requires greater interagency coordination. State, Justice, CIA and Defense continue to receive a large volume of Congressional inquiries, Freedom of Information requests and press questions and are finding it increasingly difficult to provide consistent responses. Without greater coordination, identical requests may be subject to quite different responses by individual agencies.

In addition, in a recent letter to the President, Senators Specter and Kerrey called for creation of an interagency focal point so that aggrieved citizens need not approach separate agencies for information on cases of interest to them.

We have identified two options for providing greater coordination and undertaking the following tasks:

- o Coordinating responses to Congressional inquiries;
- o Facilitating contacts for inquiries from victims and their families;
- o Coordinating responses to press inquiries;
- o Establishing a framework for discussing policy issues raised in the context of Freedom of Information requests related to Guatemalan human rights cases, such as whether specific information continues to require protection; and
- o Making sure each agency is aware of previously classified material that has been released to the public through FOIA.

The IWG proposed below will not coordinate responses to or address issues under independent consideration by the IOB, agency inspectors general or the Department of Justice.

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Option One: NSC Coordinates

Under this option, Richard Feinberg would chair an ad hoc interagency group with representatives from State, Justice, CIA and Defense. He would call as necessary on expertise from other NSC directorates, including intelligence, legal, legislative affairs and records management. This option conforms with NSC's responsibility to provide interagency coordination and puts the NSC staff squarely in a lead role in managing Guatemalan human rights issues. A key consideration is whether it is desirable for the NSC and by implication the White House to play such a role or if that role is better left to another agency. Specifically, if NSC chairs, the White House will be more open to criticism by Harbury and others when we are unable to release certain documents they have requested; however, we may be subject to such criticism regardless of who chairs the coordinating group.

Option Two: State Coordinates

State has the staff and resources to chair an interagency coordinating committee. Moreover, it has overall responsibility within the government for the welfare and whereabouts of U.S. citizens overseas. The biggest downside is that State may lack adequate standing vis-a-vis other agencies, which will be more responsive to NSC direction. Giving State the lead would reduce NSC influence on policies and practices of great interest to the White House, although agencies will still "appeal" controversial decisions to us in any case.

Concurrence by: George Tenet, James Baker, Mike Andricos and William Leary JCB
per

RECOMMENDATION

That you approve Option One (NSC chairs) and authorize Andrew Sens to transmit the interagency memo at Tab A. (NSC staff favors)

Approve *R* Disapprove

Alternatively, that you approve Option Two (State chairs) and authorize Andrew Sens to transmit the interagency memo at Tab B.

Approve Disapprove

Attachment

Tab A Memorandum Creating NSC-Chaired IWG
Tab B Memorandum Creating State-Chaired IWG

COPY

Leary, William H.

From: Leary, William H.
To: Feinberg, Richard E.; Baker, James E.
Cc: /R, Record at A1
Subject: Guatemala [UNCLASSIFIED]
Date: Friday, June 02, 1995 8:13AM

I talked to Nancy last night at some length about the memo we sent her on expediting Guatemala FOIA requests. She takes issue with our recommendations in one important respect and wants to expand upon them in several other ways. To wit:

- ✓ 1. All agencies should give expedited handling to ALL Harbury requests, but not others unless their regulations so permit. She argues that distinguishing between Harbury requests is unsustainable in PR terms. She believes the Torricelli revelations are irrelevant. They merely made public information that these agencies had in their possession for years; they do not confirm Bamaca's death. Therefore, she argues that agencies should be able to give expedited treatment to all Harbury requests without modifying or compromising their current standards. And, of course, we should "persuade" agencies to adopt this position forthwith.
2. She wants advance notice/summaries of documents that agencies are about to release AND withhold, particularly the NSC.
2. sure 3. She wants/ expects the release, including declassification, of most documents on all cases as soon as the IOB reports. And she wants the agencies to plan for that. We should handle this like we handled El Salvador or the POW/MIA documents. Specifically, e.g., she believes that NSC should at that time, as a matter of discretion, release the deliberative Presidential documents that we have thus far fenced off from FOIA-like review.
4. She wants to know what coordination there is between the IOB and our IWG. I assured her that Jamie was providing all needed coordination.
5. State should be pushed to decide the staff names redaction issue and begin releasing documents pronto.

Given all this this, she thinks we probably should have another meeting of the IWG next week. Also, I think we should probably try to meet sometime today and discuss all this. Right?

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Baker, James E.

From: Leary, William H.
To: Baker, James E.; Feinberg, Richard E.
Cc: /R, Record at A1
Subject: Guatemala [UNCLASSIFIED]
Date: Friday, June 02, 1995 8:13AM

I talked to Nancy last night at some length about the memo we sent her on expediting Guatemala FOIA requests. She takes issue with our recommendations in one important respect and wants to expand upon them in several other ways. To wit:

1. All agencies should give expedited handling to ALL Harbury requests, but not others unless their regulations so permit. She argues that distinguishing between Harbury requests is unsustainable in PR terms. She believes the Torricelli revelations are irrelevant. They merely made public information that these agencies had in their possession for years; they do not confirm Bamaca's death. Therefore, she argues that agencies should be able to give expedited treatment to all Harbury requests without modifying or compromising their current standards. And, of course, we should "persuade" agencies to adopt this position forthwith.
2. She wants advance notice/summaries of documents that agencies are about to release AND withhold.
3. She wants/expects the release, including declassification, of most documents on all cases as soon as the IOB reports. And she wants the agencies to plan for that. We should handle this like we handled El Salvador or the POW/MIA documents. Specifically, e.g., she believes that NSC should at that time, as a matter of discretion, release the deliberative Presidential documents that we have thus far fenced off from FOIA-like review.
4. She wants to know what coordination there is between the IOB and our IWG. I assured her that Jamie was providing all needed coordination.
5. State should be pushed to decide the staff names redaction issue and begin releasing documents pronto.

Given all this this, she thinks we probably should have another meeting of the IWG next week. Also, I think we should probably try to meet sometime today and discuss all this. Right?

Status of Guatemala FOIA Requests--5/19/95

State. State has treated two January requests from Jennifer Harbury on a priority basis, citing a "life or death" exception. They have not given priority treatment to a more recent request received since the Torricelli revelations. In response to her original requests they have identified ca. 1500 documents (35 to 40,000 pages), and have begun interim releases, which will continue. They also have not given expedited handling to any of the other 80 requests they have received on the same subject, including one from Mrs. Michael DeVine. One processing issue holding up further releases is an internal debate about whether to redact the names of State drafters of documents. Dan Metcalfe from Justice advised that FOIA provides no generic basis for such redactions. They expect to make a decision on this question within a week. Contact: John Cropf, 202-647-5154.

CIA. CIA responded to Harbury's original request with a Glomar defense, i.e., we can neither confirm nor deny the existence of any responsive documents. However, they are giving priority treatment to her appeal and subsequent request and are now searching for responsive documents. They have searched one database and identified a couple hundred responsive documents. They also expect to give expedited handling to Mrs. DeVine's request on the same "humanitarian" basis. DO files are subject to search because of the DCI's testimony before Congress. They do not expect to make an initial substantive response for at least a few months. They have received over 100 other requests on the same subject. Contact: Lee Strickland, (b)(3)

DoD. DoD treated Harbury's original request on an expedited basis, invoking the "life or death" standard, but not subsequent requests from her or others. They have already responded about one document from the Southern Command and DIA has completed its processing of Harbury's request, which produced about 30 responsive documents. Their responses, including the Army, are being coordinated by their General Counsel. Contacts: Stewart Aly, 703-695-6804, and Charlie Talbott, 703-697-1180.

NSA. NSA received its first direct request in early May. Consistent with DoD policy, they are not giving expedited treatment to her or the other five similar requests they have received. They noted that her request articulated the DOJ standard of extraordinary media interest in seeking expedited treatment, but that standard has not been adopted by DoD. Contact: (b)(3)

DOJ. Harbury's requests to FBI and DEA are being handled on a priority basis, invoking the DOJ public interest standard (copy

attached). They also expect to give expedited treatment to Mrs. DeVine's request. Because of the relatively small volume of responsive documents at DOJ, Harbury's request can probably be answered in a few days. Dan Metcalfe, Co-Director of DOJ's Office of Information and Privacy, also believes that other agencies can, and should, invoke the DOJ public interest standard, provided it becomes a de facto agency standard for future requests as well. Contacts: Dan Metcalfe, 514-FOIA, and Carl Stern, 616-2777.

NSC. The NSC has treated Harbury's 1/9/95 request on a priority basis, invoking the "life or death" standard. Responses to 3rd agency referrals are expected shortly. In its response, which should be ready within two weeks, the NSC does not expect to be releasing much of real interest to Harbury, since most intelligence information and deliberative documents to or from the President, APNSA, DAPNSA, or other White House officials will be withheld pursuant to our new access policy (including invoking the equivalent of FOIA exemptions (b)(1) and (b)(3)). The NSC has received four additional requests, including one from Mrs. DeVine, which are not currently being expedited.

Summary. The agencies most likely to hold significant numbers of documents responsive to Jennifer Harbury's FOIA requests -- CIA, State, DoD, and NSC -- have all given her requests prior to the Torricelli revelations some degree of priority handling. This means that she is likely to have responses within the next few weeks (excepting CIA) rather than months or years from now, which would otherwise be the story. Of the remaining agencies, FBI, DEA and DIA will answer within a few days. Thus, only NSA is currently unlikely to give priority attention to any of her FOIA requests. **However**, it is also likely that very few documents of primary interest to Harbury will be released in the near future, at least not until after the IOB report has been delivered to the President. Also, all agencies except DOJ appear reluctant to adopt the broader DOJ standard for granted expedited handling to FOIA requests, fearing they will be overwhelmed by such requests in the future. They also argue that even the DOJ standard ("widespread and exceptional media interest") is unlikely to apply to most of these requests.

Pending Issues. All agencies were asked to report at the second meeting of the Guatemala IWG (May 25) on whether they are prepared to expand expedited handling of FOIA requests beyond the decisions already taken. State will report on whether it is prepared to take on any part of the interagency coordination called for in the Specter/Kerry letters of April 11, 1995.

COPY

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
002. memo	Earle Blakeman to Anthony Lake re: Response to Specter/Kerrey on Guatemala (1 page)	05/17/1995	P5
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 Bamaça Velasquez [partial] (1 page)	05/02/1995	P6/b(6)

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Legal Advisor - Baker
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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]
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RR. Document will be reviewed upon request.

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- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Status of Harbury FOIA Requests--5/12/95

State. State has treated two January requests on a priority basis, citing a "life or death" exception. They have not given priority treatment to a more recent request received since the Torricelli revelations. A letter informing her of the latter decision is being held pending further guidance. In response to her original requests they have identified ca. 1500 documents, and have begun interim releases, which will continue. Contact: John Croft, 202-647-5154.

CIA. CIA responded to her original request with a Glomar defense, i.e., we can neither confirm nor deny the existence of any responsive documents. However, they are giving priority treatment to her appeal and are now searching for responsive documents. The search does not appear to be very far advanced. Contact: Lee Strickland, (b)(3)

DoD. DoD treated her original request on an expedited basis, but not subsequent requests. They expect to respond to her original request "soon." Contact: Charlie Talbott, 703-697-1180.

DIA. DIA has completed its processing of her request, which produced three responsive documents. Their response is now being reviewed by their General Counsel. Contact: Bob Richardson, (b)(3)

NSA. NSA received its first direct request in early May. Consistent with DoD policy, they are not giving expedited treatment. They noted that her request articulated the DOJ standard of extraordinary public interest in seeking expedited treatment, but that standard has not been adopted by DoD. Contact: (b)(3)

FBI. Harbury's April 12 request (which may have been preceded by a January request) is not being handled on a priority basis, despite the apparent applicability of the DOJ public interest standard (copy attached). Dan Metcalfe, Co-Director of DOJ's Office of Information and Privacy, reports that he will talk to Carl Stern to persuade him to invoke the DOJ standard for expedited treatment by the FBI and DEA. Metcalfe also believes that other agencies can, and should, invoke the DOJ public interest standard, provided it becomes a de facto agency standard. Contact: Dan Metcalfe, 514-FOIA.

DEA. DEA is not expediting Harbury's request, for the same reason as FBI. Contact: Dan Metcalfe, 514-FOIA.

NSC. The NSC has treated Harbury's 1/9/95 request on a priority basis. We expect responses to our referrals to other agencies shortly. In our response, which should be ready in within two weeks, we do not expect to be releasing much of real interest to Harbury. The Intelligence Office has directed us to withhold sensitive Intelligence documents in full and CIA is likely to give the same advice about similar documents referred to them. The other substantive NSC documents have largely been excluded from search and review pursuant to our current access policy protecting all internal documents to or from the President, APNSA, DAPNSA, or other White House officials. Since this policy is discretionary, it can be modified as needed.

Summary. The agencies most likely to hold significant numbers of documents responsive to Jennifer Harbury's FOIA requests -- CIA, State, DoD, and NSC -- have all given her requests prior to the Torricelli revelations some degree of priority handling. This means that she is likely to have responses within the next few weeks (possibly excepting CIA) rather than months or years from now, which would otherwise be the story. Of the remaining four agencies, FBI and DEA will probably begin priority handling soon, and DIA will answer within a few days. Thus, only NSA is currently unlikely to give priority attention to her FOIA requests. **However**, it is also likely that very few documents of primary interest to Harbury will be released in the near future, at least not until after the IOB report has been delivered to the President.

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Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	George Tenet and Earle C. Blakeman to Anthony Lake re: Briefing Jennifer Harbury on Bamaca Case (2 pages)	02/06/1995	P1/b(1), P5
002. list	List of Participants for Interagency Meeting on IOB Report on Guatemala [partial] [CIA Act] [National Security Act] (1 page)	11/15/1995	P3/b(3)
003a. memo	Bill Leary to Nancy Soderberg re: Expediting Guatemala FOIA Requests (3 pages)	05/30/1995	P5
003b. 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
003c. memo	Bill Leary et al. to Anthony Lake re: Releasing Guatemala Human Rights Documents (4 pages)	05/01/1996	P5
004a. memo	Re: Bamaca and Devine cases (3 pages)	03/23/1995	P1/b(1)
004b. paper	Guatemala: The Bamaca Case (4 pages)	11/14/1994	P1/b(1)
004c. memo	Re: Guatemala - Bamaca and Devine Cases (4 pages)	03/27/1995	P1/b(1)
005a. memo	James Baker to Nancy Soderberg re: Agenda for Interagency Meeting on Guatemala Review (5 pages)	11/13/1995	P1/b(1), P5
005b. email	William H. Leary to James E. Baker, J. A. Miscik, Leslie A. Bassett, and Alan J. Kreczko re: IOB End Game (2 pages)	11/13/1995	P1/b(1), P5
005c. list	Participants in IOB Meeting [partial] [CIA Act] (1 page)	11/15/1995	P3/b(3)

COLLECTION:

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

FOLDER TITLE:

Key Guatemala/IOB [Intelligence Oversight Board]/ Harbury Bamaca [2]

2006-1025-F

ke375

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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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)]

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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]

NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20506

May 30, 1995

ACTION

MEMORANDUM FOR NANCY SODERBERG

FROM: BILL LEARY *unl*

SUBJECT: Expediting Guatemala FOIA Requests

① Heads up on Fast
② Content 20685

DOJ - Exped
CIA - human.

DOD -
DEA - 38 given her
A
State - not expediting
Frank

③ fold into 103 release

At the second meeting of the NSC-chaired Guatemala IWG on May 25, all agencies reported that they are currently not disposed to change their agency regulations and practice on expedited handling, as described in the May 19 Status Report (Tab I). This means that all agencies have granted expedited handling to the Jennifer Harbury requests received prior to Congressman Torricelli's late March revelations, but only Justice and the CIA, which have the broadest regulations for granting expedited handling, have gone further to grant expedited handling to other requests.

④ take it
diff
name

DOJ has invoked its "widespread media interest" standard to extend expedited handling to all Harbury requests. CIA has invoked its "humanitarian" standard to accord expedited handling to all Harbury requests and to a recent request from Mrs. Michael DeVine. No agency has decided to grant expedited handling to all FOIA requests related to Guatemala. Furthermore, the central issue for requesters most likely will be how much information is released, not how quickly.

Despite current policies on expedited handling, it appears that most agencies will soon begin responding to Harbury's initial and most substantial request. State has already released eight documents and will respond regarding hundreds of additional documents within the next two weeks. DIA expects to answer next week regarding the 30 or so documents it has identified. DOJ (FBI and DEA) will respond within a week that they have located few, if any, documents. The NSC will respond about some 50 documents as soon as referrals to other agencies have returned. We expect to complete this in the next two weeks. CIA, however, expects its initial substantive response to take a few additional months.

Tab

You have asked whether agencies should be encouraged to modify their current FOIA regulations to grant expedited handling to all FOIA requests from the victims or relatives of victims of human rights abuses in Guatemala. For the reasons set forth below, we

COPY

believe the NSC (White House) should encourage agencies to make existing FOIA procedures work as expeditiously as possible rather than encouraging agencies to modify their current regulations on expedited handling.

- The current system is working reasonably well to expedite FOIA processing of the information of greatest public interest. Most agencies will soon be providing answers about relevant documents to Jennifer Harbury. Indeed, the only agency that has adopted expedited handling for all requests from Harbury and DeVine, i.e., the CIA, is also the only agency that will not begin responding within the next few weeks.
- We can encourage agencies, through the IWG, to answer Mrs. DeVine promptly with information about relevant documents turned up in the Harbury search. This is consistent with current FOIA practices and should not be the subject of criticism or litigation from other requesters.
- We also can encourage agencies to make all documents released fully or partially in these cases available to the public in agency reading rooms or, perhaps, in a centralized reading room at the National Archives.
- Agencies believe that in order to successfully defend their long queues in future FOIA cases, they must modify their official policies in order to grant expedited access to all Harbury and DeVine and similar requests. Agencies are reluctant to modify official policies in this case because they realize that FOIA case law mandates applying the modified policy to all future requests.
- *Can we
review?* The most contentious issue associated with these requests is likely to be the nature of the responses not their timeliness. Harbury and other requesters are likely to be very unhappy since some of the interesting documents will be withheld on national security or deliberative grounds. Also, they may have been led to believe that the U.S. government harbors information that, in fact, the government does not possess. NSC (White House) encouragement to modify current FOIA policies on expedited handling may tend to make the White House responsible for the responses given (If we can make them answer more quickly, why can't we make them answer more fully?). Such encouragement also could subject the NSC (White House) to criticism for improperly interfering with the FOIA process in this instance or for not doing so in the next instance.

COPY

- After IGs and the IOB have reported to the President the Government will be in better position to determine what Guatemala information continues to warrant national security protection. We do not think we have sufficient grasp of the equities now to begin to push that envelope. We will reconsider the issue at that time.

Concurrence by: Richard Feinberg and Jamie Baker

RECOMMENDATION

in Draft

That the Guatemala IWG encourage agencies to expedite FOIA requests on Guatemala human rights cases in accordance with existing agency regulations. Agencies also should be encouraged to release to all victims or relatives of victims all relevant documents released to Jennifer Harbury and to make such documents available to the general public.

Approve 6/7 Disapprove _____

Attachment

Tab I Updated Status Report on Guatemala FOIA Cases (5/19/95)

*but that the
on small decision to
expedite Harbury request
remain in place.*

COPY

Status of Guatemala FOIA Requests--5/19/95

State. State has treated two January requests from Jennifer Harbury on a priority basis, citing a "life or death" exception. They have not given priority treatment to a more recent request received since the Torricelli revelations. In response to her original requests they have identified ca. 1500 documents (35 to 40,000 pages), and have begun interim releases, which will continue. They also have not given expedited handling to any of the other 80 requests they have received on the same subject, including one from Mrs. Michael DeVine. One processing issue holding up further releases is an internal debate about whether ~~to redact~~ the names of State drafters of documents. Dan Metcalfe from Justice advised that FOIA provides no generic basis for such redactions. They expect to make a decision on this question within a week. Contact: John Cropf, 202-647-5154. 1
wh

CIA. CIA responded to Harbury's original request with a Glomar defense, i.e., we can neither confirm nor deny the existence of any responsive documents. However, they are giving priority treatment to her appeal and subsequent request and are now searching for responsive documents. They have searched one database and identified a couple hundred responsive documents. They also expect to give expedited handling to Mrs. DeVine's request on the same "humanitarian" basis. DO files are subject to search because of the DCI's testimony before Congress. They do not expect to make an initial substantive response for at least a few months. They have received over 100 other requests on the same subject. Contact: Lee Strickland, (b)(3)

DoD. DoD treated Harbury's original request on an expedited basis, invoking the "life or death" standard, but not subsequent requests from her or others. They have already responded about one document from the Southern Command and DIA has completed its processing of Harbury's request, which produced about 30 responsive documents. Their responses, including the Army, are being coordinated by their General Counsel. Contact: Stewart Aly, 703-695-6804, and Charlie Talbott, 703-697-1180.

NSA. NSA received its first direct request in early May. Consistent with DoD policy, they are not giving expedited treatment to her or the other five similar requests they have received. They noted that her request articulated the DOJ standard of extraordinary media interest in seeking expedited treatment, but that standard has not been adopted by DoD. Contact: (b)(3)

DOJ. Harbury's requests to FBI and DEA are being handled on a priority basis, invoking the DOJ public interest standard (copy

attached). They also expect to give expedited treatment to Mrs. DeVine's request. Because of the relatively small volume of responsive documents at DOJ, Harbury's request can probably be answered in a few days. Dan Metcalfe, Co-Director of DOJ's Office of Information and Privacy, also believes that other agencies can, and should, invoke the DOJ public interest standard, provided it becomes a de facto agency standard for future requests as well. Contacts: Dan Metcalfe, 514-FOIA, and Carl Stern, 616-2777.

NSC. The NSC has treated Harbury's 1/9/95 request on a priority basis. We expect responses to our referrals to other agencies shortly. In our response, which should be ready within two weeks, we do not expect to be releasing much of real interest to Harbury. The Intelligence Office has directed us to withhold sensitive Intelligence documents in full and CIA is likely to give the same advice about similar documents referred to them. The other substantive NSC documents have largely been excluded from search and review pursuant to our current access policy protecting all internal documents to or from the President, APNSA, DAPNSA, or other White House officials. Since this policy is discretionary, it can be modified as needed. We have received four additional requests, including one from Mrs. DeVine, which are not currently being expedited. Why?

Summary. The agencies most likely to hold significant numbers of documents responsive to Jennifer Harbury's FOIA requests -- CIA, State, DoD, and NSC -- have all given her requests prior to the Torricelli revelations some degree of priority handling. This means that she is likely to have responses within the next few weeks (excepting CIA) rather than months or years from now, which would otherwise be the story. Of the remaining agencies, FBI, DEA and DIA will answer within a few days. Thus, only NSA is currently unlikely to give priority attention to any of her FOIA requests. However, it is also likely that very few documents of primary interest to Harbury will be released in the near future, at least not until after the IOB report has been delivered to the President. Also, all agencies except DOJ are reluctant to adopt the broader DOJ standard for granted expedited handling to FOIA requests, fearing they will be overwhelmed by such requests in the future. They also argue, somewhat contradictorily, that even the DOJ standard ("widespread and exceptional media interest") is unlikely to apply to most of these requests.

Pending Issues. All agencies were asked to report at the second meeting of the Guatemala IWG (May 25) on whether they are prepared to expand expedited handling of FOIA requests beyond the decisions already taken. State will report on whether it is prepared to take on any part of the interagency coordination called for in the Specter/Kerry letters of April 11, 1995.

COPY

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. memo	Richard Schifter to Tony Lake and Nancy Soderberg re: Guatemala-The Ortiz Case [partial] (1 page)	05/20/1996	P5, P6/b(6)
001b. letter	Thomas Stroock to Richard Schifter (1 page)	05/17/1996	P5
001c. memo	Lewis Amselem to Anne Patterson et al. re: Dianna Ortiz Case (3 pages)	05/13/1996	P5, P6/b(6)
002a. memo	Leslie Bassett to Nancy (1 page)	ca. 04/1996	P5
002b. cable	Re: Meeting (3 pages)	11/07/1989	P1/b(1)
002c. cable	Re: Station Investigation of Human Rights Violations in Guatemala (8 pages)	10/15/1991	P1/b(1)
002d. cable	Re: Human Rights (3 pages)	12/21/1991	P1/b(1)
002e. cable	Re: Sister Diana Ortiz (3 pages)	04/10/1992	P1/b(1)
002f. cable	Re: Sister Dianna Ortiz (2 pages)	04/25/1992	P1/b(1)
002g. cable	Re: Sister Diana Ortiz (3 pages)	02/17/1994	P1/b(1)
002h. cable	Re: Sister Diana Ortiz (2 pages)	11/08/1994	P1/b(1)
002i. cable	Re: Intelligence (3 pages)	11/10/1994	P1/b(1)

COLLECTION:

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

FOLDER TITLE:

Guatemala - Sister Ortiz Case, January 1996

2006-1025-F

ke376

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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- 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)]

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Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002j. note	Re: Ortiz (1 page)	n.d.	P1/b(1)
002k. note	Re: Ortiz (1 page)	n.d.	P1/b(1)
003a. memo	Leslie Bassett to Nancy Soderberg re: Ortiz Documents (1 page)	04/30/1996	P5
003b. cable	Re: The Sr. Diana Ortiz Case: A Chronology [partial] (3 pages)	04/18/1991	P6/b(6)
003c. cable	Re: Welfare/Whereabouts Case of Diana Ortiz [partial] (2 pages)	11/08/1989	P6/b(6)
003d. cable	Re: Update on the "Disappearance" of Amcit Nun Diana M. Ortiz [partial] (1 page)	02/01/1990	P6/b(6)
003e. cable	Re: Sister Diana Ortiz - Was Anything Gained? [partial] (1 page)	04/15/1992	P1/b(1)
004a. letter	President Bill Clinton to Sister Diana Ortiz [partial] (1 page)	03/29/1996	P6/b(6)
004b. letter	Sister Dianna Ortiz to President Bill Clinton re: events in Guatemala (2 pages)	02/07/1996	P6/b(6)

COLLECTION:

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

FOLDER TITLE:

Guatemala - Sister Ortiz Case, January 1996

2006-1025-F

ke376

RESTRICTION CODES

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UNCLASSIFIED WITH
~~SECRET~~ ATTACHMENTS

WQ
ORTIZ

Nancy:

Attached are the IOB's key documents on the Ortiz case; they are still negotiating with agencies on redaction for release.

Frank said his meeting with the Ortiz supporters went pretty well -- I passed on your concerns about managing expectations which he shares. As you will see, these documents do not shed much light on the case and repeat the skepticism reflected in the State documents.

Bill has completed the declassification memo and it should reach you shortly. Over the qualms of Jamie Baker and Frank Fountain I have suggested that the declassification, if approved, include an approach to Justice regarding the possible release of appropriate materials developed during its investigation into the Ortiz and DeVine cases, in the event there is no further action that Justice plans to take on them. If we are unable to elucidate the mystery of "Alejandro" we can at least demonstrate the efforts that were made to try and do so. There may be considerations that make this unfeasible, but I think it makes sense to at least explore the possibility.

On Honduran briefing, I spoke to Mike O'Neill again -- he said he checked and the review really is almost done this time; it makes no sense to arrange an interim briefing. He'll call you as soon as they are ready.

Leslie Baker

COPY

April 30, 1996

INFORMATION

MEMORANDUM FOR NANCY SODERBERG

FROM: LESLIE BASSETT

SUBJECT: Ortiz Documents

Attached as you requested are key documents related to the Ortiz case which State will release on Friday, May 3. The documents do verify the extraordinary measures the Embassy took to both press for Guatemalan investigation into the case and to support Sister Ortiz and her legal aides as they tried to advance the case. However, it also details the difficulties encountered in these efforts, including Embassy views that Ortiz was being manipulated for political ends, her evident physical and mental fragility which delayed or prevented interviews from taking place, and her profound suspicion of Guatemalan officials and investigators.

Among items which could cause reactions (document numbers are in upper right-hand corner of first page):

Doc. 1231: The use of quotes around the word "disappearance" in referring to the Ortiz case implies skepticism; the summary states that a doctor treated Ortiz for "facial lacerations and minor burns," which is later amplified as bruising possibly caused by a fall to the floor and more than 100 small circular lesions on her back.

Doc. E1272: Stroock's complete rejection of the allegation that any Embassy employee could have been involved; reported statement by Ortiz attorney Soreff that he found Dianna's claims re the AmCit rescuer to be not well-founded.

Doc. E1338: Characterization of Ortiz et al as rude and insulting in a meeting with Minister of Interior Morales on case.

E2180 and others: Refer to Ortiz interview with Diane Sawyer (at a time when she was unable to provide info to Guatemalan authorities); Stroock's refutation that Embassy poloff was the source of a rumor that Ortiz had been involved in a lesbian affair (as alleged in Sawyer broadcast); negotiations on allowing special investigator to interview Ortiz on behalf of Guatemalan human rights ombudsman.

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Doc. E2319: Internal memo by deputy human rights ombudsman re her effort to interview Ortiz in Kentucky -- Ortiz' conditions included no repetition of questions, not allowing questioner to look at Ortiz directly; Ortiz ability to consult with lawyers, nuns and therapist before responding; etc. After first day Ortiz could not continue with the rest of what had been planned as four days of discussions. Report is very moderated in tone.

Doc. E2489: Cable recounting Ortiz visit to Guatemala -- she identifies Embassy ARSO as involved in her kidnapping although he had not been in Guatemala at time; complete breakdowns in court and on site of alleged kidnapping.

Doc. E2500: Embassy assessment of Ortiz visit -- that Ortiz avoided probing interviews, misrepresented level of cooperation of Guatemalan officials; allowed visit to be politicized.

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
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]
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M S M a i l

DATE-TIME 24 July 95 15:49
FROM Leary, William H.
CLASSIFICATION UNCLASSIFIED
SUBJECT Subject: RE: Guatemala IWG [UNCLASSIFIED]
TO Baker, James E.
CARBON_COPY NO CC's on THIS MESSAGE
TEXT_BODY

Thanks for the comments, Jamie. You have no idea what a boost it is for morale to know that someone actually reads this crap carefully.

1. I will send you the list, in case you don't have it. You will get it to IOB, right?
2. Hopefully, we will hear no more about this.
3. Of course, they should since we referred copies to State's FOIA office for their advice. But, it is no big deal for us to send copies to John Hamilton, so. . . .

From: Baker, James E.
To: Leary, William H.
CC: /R, Record at A1; Bassett, Leslie A.
Subject: RE: Guatemala IWG [UNCLASSIFIED]
Date: Monday, July 24, 1995 01:51 PM

Thank you. Department of 2 cents from one who did not attend.

1. We should make sure that the IOB gets a copy of the human rights cases list, at least with respect to Guatemala.
2. I agree, advance notice to Congress is impracticable. Implementing the law is difficult enough without creating additional procedural requirements.
3. Wouldn't State already have copies of State documents we released as a result of third agency rule?

From: Leary, William H.
To: Andricos, George M.; Baker, James E.; Bassett, Leslie A.; Feinberg, Richard E.; Pease, Bruce E.; Soderberg, Nancy E.
CC: /R, Record at A1; Hawkins, Ardenia R.

COPY

Subject: Guatemala IWG [UNCLASSIFIED]

Date: Monday, July 24, 1995 10:00 AM

<<Attached File: IWG7-14.DOC>>

Attached are minutes of the most recent meeting of the Guatemala IWG.

COPY

M S M a i l

DATE-TIME 07 September 95 18:40
FROM Bassett, Leslie A.
CLASSIFICATION UNCLASSIFIED
SUBJECT RE: Carol DeVine appointment request [UNCLASSIFIED]
TO Feinberg, Richard E.
CARBON_COPY NO CC's on THIS MESSAGE
TEXT_BODY

Regarding Honduras I had tentatively planned to schedule for Tuesday next week per our earlier discussion, and had cleared that with Bill Leary. However, if we are also holding a Guatemala IWG the question is whether you want to combine the two, do them consecutively, or keep them entirely separate.

Ron said she was looking for a top-down discussion of Guatemala policy, with intel being one factor, but not the only one. Do you want to see if Nancy wants to see her..

From: Feinberg, Richard E.
To: Bassett, Leslie A.
CC: /R, Record at A1
Subject: RE: Carol DeVine appointment request [UNCLASSIFIED]
Date: Thursday, September 07, 1995 06:32 PM

In general I'd be happy to receive her but, a) if her concern is "intelligence," should Randy handle it?; 2) if its FOIA, Bill Leary should be included. Yes, we should convene an IWG before hand for updating.

Where are we on that Honduras meeting? I received another call from WP reporter Jeff Morley on the subject. His take is that the USG should give priority to the Honduran requests for information because they would be relevant to upcoming investigations/trials. What do we think of that argument?

From: Bassett, Leslie A.
To: @INTERAM - Inter-American
CC: /R, Record at A1
Subject: Carol DeVine appointment request [UNCLASSIFIED]
Date: Thursday, September 07, 1995 04:54 PM

Rob Weiner from Lawyer's Committee for Human Rights called to say Carol DeVine in DC for meetings with the IOB and wants to see REF next Friday -- topics would be "how intelligence policy relates to overall foreign policy in Guatemala." I pushed Weiner a bit, who said Devine knew a great deal

COPY

about the status of the several investigations, but not how they tied into our overall approach to guatemala. They were not optimistic that State would be able to give them that (I checked, thus far they have not contacted State). He also indicated after some pushing that she had queries about FOIA requests and the prospects of a broader declassification.

I think you should agree to meet with her -- she has been reasonable and constructive in her approach generally and merits a hearing. You should probably have Jamie and Rand Beers sit in on the meeting.

We should consider holding an IWG prior to her arrival so that we are fully informed on the status of her various FOIA requests. Alternatively we could invite her to meet with the IWG to go over the range of declassification issues, preceded by a meeting with you. This would be unusual, but a really helpful gesture to her since she can track all her requests and hear all the explanations in one stop instead of having to trek all over town. We could offer this and see if it interests her.

Let me know.

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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
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

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RESTRICTION CODES

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

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

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]

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]

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.

MS Mail

DATE-TIME 26 June 96 19:53
FROM Baker, James E.
CLASSIFICATION UNCLASSIFIED
SUBJECT IOB Pres. DRAFT [UNCLASSIFIED]

TO Bassett, Leslie A.
Beers, Rand R.
Cullin, Brian P.
Miscik, Judith A.

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

TEXT_BODY

Leslie:

Here are some edits/comments on draft Presidential statement. Thank you.

[[IOBPRES.DOC : 4910 in IOBPRES.DOC]]

ATTACHMENT
FILE DATE 26 June 96 19:51

ATTACHMENT
FILE NAME IOBPRES.DOC

(DRAFT) Statement by the President

The Intelligence Oversight Board (IOB) has presented its findings and recommendations in response to my March 1995 request for a government-wide review of the killing of American citizen Michael DeVine and the disappearance of guerilla leader Efrain Bamaca, as well as intelligence bearing on the disappearance, torture or death

of American citizens in Guatemala from 1984 to the present. This review represented a level of executive oversight of U.S. intelligence that was unprecedented in breadth and depth.

While it was essential that the Board's review be conducted in a manner consistent with national security, it was my intent that all appropriate information resulting from this review be provided to the public at the close of the IOB's review. As a result, [I am

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today
directing . . .] the Intelligence
Oversight Board will release to the public a declassified version
of
its report. The IOB has also provided declassified versions of
key
underlying intelligence documents to the victims or surviving
family
members of the cases covered in the review. The State Department,
the
Central Intelligence Agency and the Department of Defense will
release additional information relevant to the cases.

The IOB found that CIA and other intelligence agency officials
pursued legitimate policy objectives that in many instances
served to
advance the national interests of both the United States and
Guatemala. In many cases, information garnered by our
intelligence
services directly contributed to the development of U.S. policy
and
to the development of a democratic process in Guatemala.
[Leslie:
you can probably say it better, but I was struck in report by
fact
that we WERE getting useful information and not just colonels
telling
tales on colonels. e.g., drug interdiction and coup prevention.
Worth emphasizing because true and because usually it is just the
negative that gets picked up. There was no evidence implicating
CIA
officers in the death, abduction, or torture of U.S. citizens in
Guatemala during the period under its review, although it is
important to note that the case of Sister Dianna Ortiz remains
under
Department of Justice investigation.

However, the IOB did determine that until late 1994 the CIA gave
insufficient attention to serious allegations of human rights
abuses
made against assets and liaison contacts, and it failed to
provide
enough information on this subject to policy-makers and the
Congress
to permit proper oversight. The CIA has already taken measures
to
address these problems systematically, as have other intelligence
agencies. We will remain vigilant to ensure these obligations
are
fulfilled, [and to make sure that policymakers protect the

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integrity
of intelligence information.] I would delete last clause. I
wonder
if this is something the President should emphasize. This sounds
a
bit like Ollie North "Because Congress leaks we are justified in
not
providing them information." I appreciate the IOB's point and
concur
in it wholeheartedly, but why put President in position of taking
heat from Hill for implying that they cannot be trusted, and that
withholding of information might be justified.]

The Intelligence Oversight Board also suggests that the State
Department work with the intelligence community to share
information
with American citizen victims of human rights abuses, or their
surviving family members, when possible.

The IOB has made other recommendations to ensure concern for
human
rights and for victims of human rights abuses remains prominent
in
our intelligence relationships. I expect these recommendations
to be
implemented expeditiously. I commend the members[, Mr. Anthony
Harrington, General Lew Allen, Ms. Ann Caracristi, and Mr. Harold
Pote, as well as their] and staff of the Intelligence Oversight
Board for conducting a thorough and impartial review. [This may
be a
good place for mention in dispatches.??]

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