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ACTION WHA-01

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C O N F I D E N T I A L SECTION 01 OF 03 BOGOTA 000407

E.O. 12958: DECL: 12/14/98
TAGS: PHUM, PGOV, MASS, KJUS, PTER, CO

SUBJECT: COLOMBIAN MILITARY: OUR JUDICIARY REQUIRES NO REFORM,
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AND POLICE HAVE RESPONSIBILITY FOR COMBATTING PARAMILITARIES

CLASSIFIED BY AMBASSADOR CURTIS W. KAMMAN. REASON 1.5(D).

REFS: A) BOGOTA 257, B) 98 BOGOTA 13738, C) 98 BOGOTA 11209, D)
98 BOGOTA 12020, E) 98 BOGOTA 14181

SUMMARY

1. (C) DURING A JANUARY 13 MEETING WITH NGO REPRESENTATIVES,
COLOMBIAN ARMED FORCES CHIEF OF STAFF GENERAL HERNANDEZ AND

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UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: NORMAN M BOUTON
CLASSIFICATION: CONFIDENTIAL REASON: 1.4(B), 1.4(D)
DECLASSIFY AFTER: 14 JAN 2024
DATE/CASE ID: 19 NOV 2007 200604440

DEPUTY ARMY COMMANDER RAMIREZ REJECTED THE NOTION THAT THE MILITARY JUDICIARY NEEDS REFORM TO COUNTERACT CONTINUING IMPUNITY OF OFFICERS ACCUSED OF HUMAN RIGHTS ABUSES. THE GENERALS TOLD THEIR AUDIENCE THAT THEY DO NOT SUPPORT THE CREATION OF AN INDEPENDENT MILITARY JAG CORPS PROPOSED LAST DECEMBER 10 BY VICE PRESIDENT BELL (THE NEW GOC'S HUMAN RIGHTS POINT-MAN). RAMIREZ ALSO ASSERTED THAT THE ARMY HAS NO RESPONSIBILITY TO COMBAT OR APPREHEND PARAMILITARIES. ONLY FOUR PROMINENT HUMAN RIGHTS OPINION LEADERS ATTENDED THE MEETING. OTHER THAN THE ISSUE OF MILITARY JUDICIARY REFORM, LITTLE OF SUBSTANCE WAS DISCUSSED, AND MAJOR HUMAN RIGHTS ISSUES OF THE DAY WERE OMITTED. END SUMMARY.

ARMED FORCES/NGO'S MEETING POORLY ATTENDED, VAGUE

2. (U) THE COLOMBIAN ARMED FORCES HOSTED A MEETING WITH REPRESENTATIVES OF 12-14 LOCAL HUMAN RIGHTS NGO'S AND A REPRESENTATIVE OF THE BOGOTA UNHRC OFFICE JANUARY 13. POLOFF ALSO ATTENDED (A SPECIFIC INVITATION HAVING BEEN PROFFERED BY DEFENSE MINISTER LLOREDA THROUGH THE AMBASSADOR LAST MONTH). THE MEETING WAS CHAIRED BY GENERAL RAFAEL HERNANDEZ, ARMED FORCES
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CHIEF OF STAFF AND SECOND-IN-COMMAND OF THE COLOMBIAN ARMED FORCES (ARMED FORCES COMMANDER GENERAL FERNANDO TAPIAS TOLD AMBASSADOR JANUARY 15 HE HAD BEEN UNABLE TO PERSONALLY CHAIR THE MEETING DUE TO MINOR SURGERY). ALSO IN ATTENDANCE WERE ALL DEPUTY SERVICE COMMANDERS, THE INSPECTOR GENERAL OF THE ARMED FORCES, AND EACH INDIVIDUAL SERVICE INSPECTOR GENERAL, AS WELL AS SEVERAL REPRESENTATIVES OF THE MOD'S HUMAN RIGHTS OFFICE. THIS WAS THE FIFTH SUCH MEETING.

3. (C) AMONG THE FOUR NATIONALLY-RECOGNIZED HUMAN RIGHTS OPINION LEADERS IN ATTENDANCE [REDACTED]

1.4(D)

[REDACTED] IN SPITE OF [REDACTED] EFFORTS TO RAISE SUBSTANTIVE ISSUES, DISCUSSION WAS GENERALLY LIMITED TO READINGS AT LENGTH FROM THE UNIVERSAL DECLARATION OF HUMAN RIGHTS, ITS GENEVA PROTOCOLS, AND PLATITUDES (E.G., LENGTHY DISCUSSIONS ON THE PROPER ROLE OF ARMED FORCES IN SOCIETY, DENUNCIATIONS OF GUERRILLAS' EMPLOYMENT OF MINORS AS COMBATANTS, ETC.) [REDACTED]

1.4(D)

[REDACTED] THAT PREVIOUS MEETINGS HAD BEEN SIMILARLY FORMAL AND VIRTUALLY FREE OF SUBSTANTIVE EXCHANGES. NEITHER THE ONGOING PEACE NEGOTIATIONS NOR LAST WEEK'S EXCEPTIONALLY BLOODY PARAMILITARY OFFENSIVE (REF A) WERE DISCUSSED.

1.4(B)

4. (C) [REDACTED] ATTRIBUTED THE LACK OF TRUE DISCUSSION TO "FEAR" AMONG THE NGO

1.4(B)

REPRESENTATIVES THAT THEY WOULD BE THREATENED AND PERHAPS HARMED IF THEY AGGRESSIVELY AND PUBLICLY CHALLENGED THE MILITARY.

1.4(B)

[REDACTED]

[REDACTED] HAD RECENTLY RECEIVED TELEPHONE THREATS, WHICH THEY SUPPOSED TO HAVE COME FROM THE MILITARY. THE PRESENCE AMONG THE "NGO REPRESENTATIVES" OF TWO MILITARY OFFICERS
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(ONE ACTIVE DUTY, ONE RETIRED), WHO KILLED TIME WITH LENGTHY, PRO-MILITARY DIATRIBES, ALSO DETRACTED FROM THE MILITARY-NGO EXCHANGE. ONE OF THE TWO WAS RETIRED COLONEL ALFONSO PLAZAS VARGAS, REPRESENTING THE "OFFICE FOR HUMAN RIGHTS OF RETIRED MILITARY OFFICERS." PLAZAS COMMANDED THE NOVEMBER, 1985 ARMY RAID ON THE SUPREME COURT BUILDING AFTER IT HAD BEEN TAKEN OVER BY THE M-19. THAT RAID RESULTED IN THE DEATHS OF MORE THAN 70 PEOPLE, INCLUDING ELEVEN SUPREME COURT JUSTICES. SOLDIERS KILLED A NUMBER OF M-19 MEMBERS AND SUSPECTED COLLABORATORS HORS DE COMBAT, INCLUDING THE PALACE'S CAFETERIA STAFF.

"NO INDEPENDENT JAG CORPS NEEDED"

5. (C) POLOFF OBSERVED THAT THE DEPARTMENT'S FORTHCOMING 1998 HUMAN RIGHTS REPORT WOULD AGAIN RAISE THE TWIN SUBJECTS OF THE MILITARY JUDICIARY'S PERFORMANCE AND CONTINUING IMPUNITY FOR SECURITY FORCE OFFICERS IN HUMAN-RIGHTS CASES. IN THIS CONTEXT, POLOFF NOTED VICE PRESIDENT GUSTAVO BELL'S ANNOUNCEMENT (IN HIS CAPACITY AS GOC HUMAN-RIGHTS POINT-MAN) TO REPRESENTATIVES OF THE INTERNATIONAL COMMUNITY, CIVIL SOCIETY, AND MEDIA LAST DECEMBER 10 (INTERNATIONAL HUMAN RIGHTS DAY) OF AN OFFICIAL INITIATIVE TO CREATE AN INDEPENDENT MILITARY JAG (JUDGE ADVOCATE GENERAL) CORPS (REF B). HAD ANY STEPS BEEN TAKEN BY THE GOC AND ARMED FORCES TO CREATE SUCH AN ORGANIZATION?

6. (C) DEPUTY ARMY COMMANDER MAJOR GENERAL NESTOR RAMIREZ RESPONSE WAS THAT THE USG WAS APPLYING A "DOUBLE STANDARD." THE UNITED STATES' MILITARY JUDICIARY, SAID RAMIREZ, HAD "EXONERATED"

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C O N F I D E N T I A L SECTION 02 OF 03 BOGOTA 000407

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 AND POLICE HAVE RESPONSIBILITY FOR COMBATTING PARAMILITARIES

LIEUTENANT WILLIAM CALLEY IN 1971 FOR HIS ROLE IN THE MY LAI MASSACRE. RAMIREZ THEREFORE FOUND USG INTEREST IN MILITARY JUDICIARY REFORM TO BE HYPOCRITICAL. (NOTE: AS POST RECALLS, CALLEY WAS ACTUALLY CONVICTED OF 22 OF 102 MURDERS AND SENTENCED TO LIFE IMPRISONMENT, THOUGH THAT SENTENCE WAS LATER REDUCED THREE AND ONE-HALF YEARS INTO HIS LIFE SENTENCE TO A FURTHER THREE MONTHS' INCARCERATION. END NOTE.) RAMIREZ WENT ON TO OPINE THAT THE COLOMBIAN MILITARY JUDICIARY HAD A STRONG RECORD OF ARRIVING AT JUST DECISIONS. HE GAVE TWO SUPPOSED EXAMPLES: THE MILITARY JUSTICE SYSTEM'S DECISION TO DROP ALL CHARGES AGAINST RETIRED GENERAL YANINE DIAZ, AND ITS 12-MONTH SENTENCING OF COLONEL MARCO BAEZ GARZON. (COMMENT: STRANGE CASES TO PUT ON A PEDESTAL: SEE REF C FOR THE NOTORIOUS HUMAN RIGHTS ALLEGATIONS AGAINST GENERAL YANINE, AND REF D FOR DETAILS OF COLONEL BAEZ'S LINK WITH THE SEGOVIA MASSACRE. END COMMENT.)

GEN HERNANDEZ: REFORM NOT NEEDED

7. (C) GENERAL HERNANDEZ FOLLOWED BY ASSERTING THAT THE MILITARY JUDICIARY WAS WORKING WELL, HAVING ACHIEVED 263 CONVICTIONS

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DURING 1998, INCLUDING 20 FOR HOMICIDE. HE GAVE NEITHER THE RANKS OF THE CONVICTED INDIVIDUALS NOR THE CIRCUMSTANCES OF THEIR CRIMES. DENYING ANY NEED FOR REFORM, HE ASSERTED THAT THIS WAS A MUCH BETTER RECORD THAN THAT ACHIEVED BY COLOMBIA'S CIVILIAN JUDICIARY, WHICH "ACHIEVED NO CONVICTIONS FOR ANY HUMAN RIGHTS CRIMES DURING 1998." (COMMENT: [REDACTED])

1.4(D)

[REDACTED] THE CIVILIAN JUDICIARY CONVICTED FIVE ARMED FORCES OFFICERS DURING 1998 FOR THEIR ROLE IN THE 1988 SEGOVIA MASSACRE; THE MILITARY JUDICIARY EXONERATED THE SAME FIVE

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AND THREE OTHERS OF RELATED CHARGES, SEE REF E. END COMMENT.)

ARMY DEPUTY COMMANDER: ARMY SHOULDN'T COMBAT PARAMILITARIES

8. (C) MAJOR GENERAL RAMIREZ WENT ON TO TELL THOSE ASSEMBLED THAT THE ARMY HAD NO BUSINESS PURSUING PARAMILITARIES, AS THE LATTER WERE APOLITICAL COMMON CRIMINALS AND THEREFORE DID "NOT THREATEN CONSTITUTIONAL ORDER THROUGH SUBVERSIVE ACTIVITIES," AS DO POLITICALLY-MOTIVATED GUERRILLAS. RAMIREZ DESCRIBED A "THREAT TO CONSTITUTIONAL ORDER" AS THE CONSTITUTIONALLY-MANDATED TRIGGER FOR ARMY ACTION. RESPONSIBILITY FOR ACTION AGAINST PARAMILITARIES HE THEREFORE ASCRIBED TO THE NATIONAL POLICE.

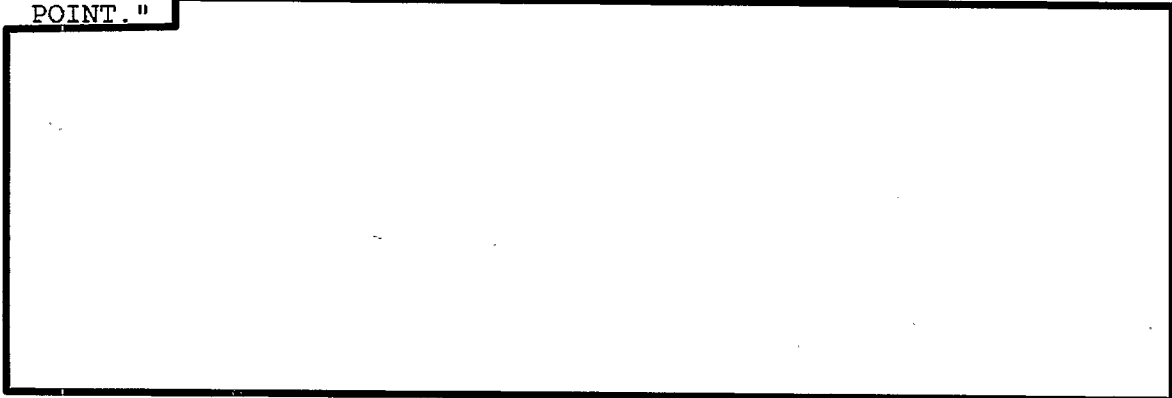
9. (C) DURING A JANUARY 14 RECEPTION AT THE AMBASSADOR'S RESIDENCE, RAMIREZ REPEATED THIS ASSERTION TO DEFENSE ATTACHE, WITH MUCH LEARNED CITATION OF COLOMBIA'S CONSTITUTION AND OTHER LAWS. HE SAID THE COLOMBIAN CONSTITUTION EFFECTIVELY DEFINED PARAMILITARIES AS COMMON CRIMINALS, AND THEREFORE ASSIGNED RESPONSIBILITY FOR THEIR APPREHENSION TO THE POLICE. THREE OTHER GENERAL OFFICERS ALSO TOLD THE DATT THAT THEY CONCURRED WITH RAMIREZ'S INTERPRETATION OF THE RELEVANT CONSTITUTIONAL PROVISIONS. HOWEVER, IN THE FACE OF WHAT THEY FELT WERE CONTRADICTORY POLICY DIRECTIVES AND CONSTITUTIONAL PROVISIONS, THE THREE ESPOUSED DIFFERING PERSONAL OPINIONS ABOUT WHETHER OR NOT THE MILITARY OUGHT TO COMBAT PARAMILITARIES, BUT CONFIRMED THEIR READINESS TO FOLLOW ORDERS.

10. (C) POLOFF NOTED PRIVATELY TO RAMIREZ THAT AS A PRACTICAL MATTER THE NATIONAL POLICE NEEDS ARMY ASSISTANCE TO CONFRONT LARGE BANDS OF PARAMILITARIES EQUIPPED WITH MILITARY WEAPONS, AND THAT PRESIDENT PASTRANA, DEFENSE MINISTER LLOREDA AND ARMED

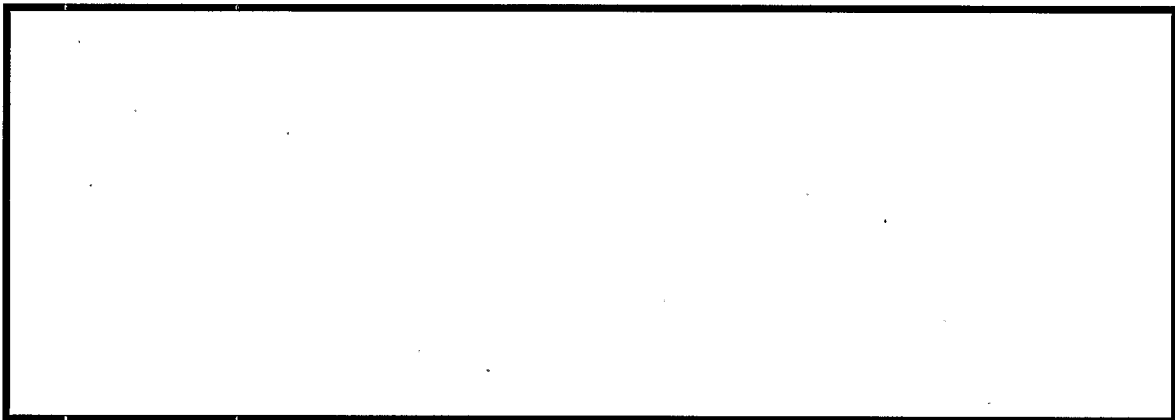
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FORCES COMMANDER GENERAL TAPIAS HAVE REPEATEDLY, PUBLICLY COMMITTED THE MILITARY TO COMBATING PARAMILITARIES. RAMIREZ

MAINTAINED THAT, REGARDLESS, THE CONSTITUTION WAS "CLEAR ON THIS POINT."



1.4(B)



1.4(D)

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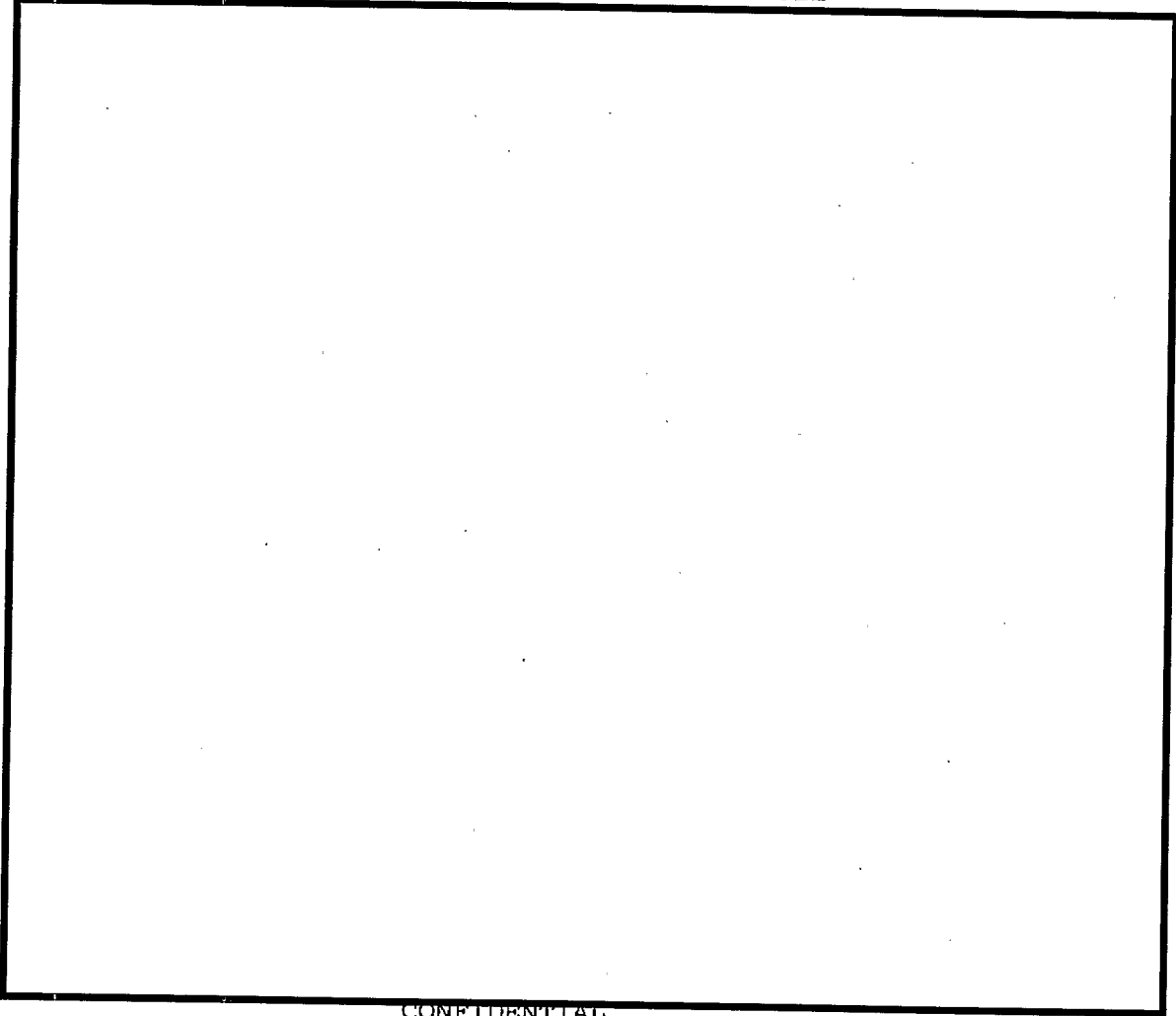
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C O N F I D E N T I A L SECTION 03 OF 03 BOGOTA 000407

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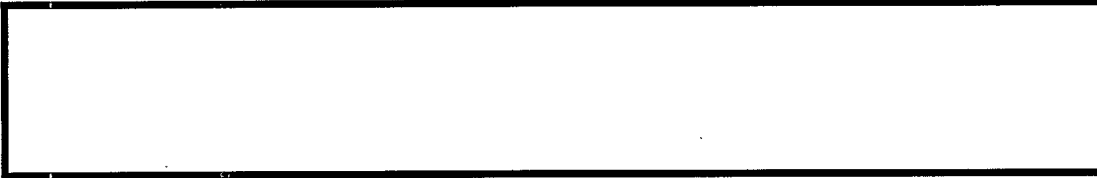
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