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DOWNNS: Good evening. I'm Hugh Downs, and this is Nightline....Also, the case of Nazi war criminal Klaus Barbie. U.S. Army officers helped him avoid prosecution, but why? We'll talk with the man who headed a Justice Department investigation, with an intelligence officer who dealt with Barbie and the man who tracked him down in South America and

DOWNNS: Thank you very much, Dr. Frank. We're going to turn next to the case of Klaus Barbie, the former Gestapo officer now on trial now in France for crimes against humanity during World War II. The United States today apologized to French authorities for concealing Barbie's whereabouts for decades. We'll talk with a U.S. official about the case. And later tonight, we'll look at a controversial plan to capture 100 killer whales in the Pacific for research and display.

DOWNNS: When Nazi war criminal Klaus Barbie was found in Bolivia and extradited to France last January, some very unpleasant stories began to surface. According to some reports, U.S. Army officers had recruited Barbie for intelligence work after World War II and had shielded him from prosecution for war crimes. The Justice Department began an investigation in March, and today the results of that investigation were released along with word that the United States has sent an apology to the government of France. Here is correspondent John Martin with a report on Klaus Barbie and his relationship with the United States.

MARTIN: Klaus Barbie, a bright young man in Hitler's Germany before the war. Klaus Barbie, a police intelligence officer for the Gestapo during the war, winner of the Iron Cross and other medals, arrested as a neo-Nazi in 1946. Klaus Barbie, a family man traveling to Bolivia in 1951, under the name 'Altmann.' Klaus Barbie, for three decades as Altmann, living the life of lumber merchant, quinine exporter and shipping executive in a South American country hungry for skilled immigrants. Klaus Barbie, accused Nazi war criminal, under arrest seven months ago and on his way to France, where he is expected to stand trial sometime next spring. ALLAN RYAN, JR. (Special U.S. Prosecutor): Barbie was recruited by counter-intelligence agents of the United States Army in April, 1947, in Munich, Germany. He was employed and paid by the Army continuously until February, 1981.

MARTIN: Today, after six months of investigation, the American Justice Department released a report that describes still another Klaus Barbie, American spy recruiter in Germany in the early Cold War between 1947 and 1951, a cunning informant who boasted of penetrating French intelligence and Soviet operations in West Germany and a man for whom at least seven or more U.S. Army officers lied to the State Department to protect him from extradition to France for trial on alleged war crimes. The report, compiled by a team of special investigators inside the Justice Department says the Army officers obstructed justice to protect U.S. spy operations, shielding Barbie from the French and then spiriting him away to Bolivia through a top secret operation called *Rap Lines. The report concludes that at first Army counter-intelligence innocently recruited Barbie in 1947, unaware of his alleged role in Lyon, France, in the deaths of more than 4,000 French Jews and Resistance fighters. The report also says investigators found no evidence Barbie ever again worked for American intelligence in the 32 years he spent in South America. When special prosecutor Allan Ryan visited Bolivia in April, he found Interior Ministry records missing but was told by officials of two regimes that in 1975 Barbie had passed information to the CIA through intermediaries in the ministry. GUSTAVO SANCHEZ (Bolivian Interior Ministry) (Voice of Translator): That he visited the U.S. Embassy, that he had contact with people at the embassy, that he had relationships with people at the embassy, that is true. It was obvious that the contacts at the embassy were to transmit information.

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MARTIN: The report says, however, that Ryan found no evidence American intelligence, the CIA, ever paid for the information or ever replied or acknowledged it to Barbie.
 RYAN: There was no relationship between Barbie and the CIA or any other government agency during those years.

MARTIN: The report also finds no evidence that Barbie sold weapons to or for American agencies, trafficked in drugs with American government approval or knowledge, escaped from Europe with Vatican assistance, a possibility raised by the discovery of these documents by ABC News. They show Barbie's sponsor for a Bolivian visa was a Croatian priest named Dragonovic.
 RYAN: We pursued this investigation as far as, as it went. And I am satisfied that it went as far as Father Dragonovic and no higher.

MARTIN: The report also says Barbie traveled to the United States, the New Orleans and San Francisco but only on routine business for a shipping company. That was two and three years before Klaus Altmann was unmasked as Klaus Barbie in 1972 by Beatta Klarsfeld. But documents obtained by ABC News in a suit against the government show the Army and the CIA knew where Barbie was. In this 1966 report, the Army told its field support group, 'Klaus Altmann is undoubtedly Klaus Barbie.' Someone wanted to use Barbie for an intelligence operation, but after consulting with the CIA, the Army decided that, quote, 'The risk of U.S. Army association for intelligence purposes does not seem to be warranted.' There is speculation the Army wanted to use Barbie to find Che Guevara in the hills of Bolivia. The report cites no evidence of this, but neither does it say why the CIA never told U.S. Immigration who Klaus Altmann was, even though it knew he was Klaus Barbie seven years before the people who were looking for him found out. I'm John Martin for Nightline in Washington.

DOWNES: Now when we return, we'll talk with the Justice Department investigator who wrote today's report on Klaus Barbie. We'll also talk tonight with a former Army intelligence officer who worked with Barbie after the war and with the French lawyer who tracked Barbie from Europe to South America. And later, a look at the controversy over a plan to trap killer whales for research and display.

DOWNES: Allan Ryan, who directed the Justice Department investigation into the Klaus Barbie matter, and who wrote the report issued by the department today, is with us now live in our Washington bureau. Mr. Ryan, my question is how could American Army officers, having seen, this was right after the war, having seen the kind of atrocities the Nazis were capable of, how could they have so easily recruited and worked with a person like Klaus Barbie?
 RYAN: Well, the information that was available about Klaus Barbie, that is the information in his SS records file, indicated that he had been a counter-intelligence officer throughout his career, and in fact, he had been. He was associated with the Gestapo, he was chief of the Gestapo detachment in Lyon, he was also in charge of the anti-Resistance forces there. And I think the information available to the Army created the impression of somebody who was trained as a foreign intelligence and counter-Resistance expert, and I think Barbie did nothing to, to counteract that impression.

DOWNES: Is there any indication that people in the State Department knew what Barbie really was?
 RYAN: No. No. The State Department had no knowledge of Klaus Barbie or who he was, or what his background was until they began receiving inquiries from the French government in early 1950.

DOWNES: Why the apology to the French government now?
 RYAN: Because when the State Department started receiving inquiries from the French, and when it went to the Army and said do you know anything about a Klaus Barbie or who he might be, the Army said

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we used to have him as an informant but we don't any longer. This was in the spring of 1950, when in fact Barbie was working for the Army continuously throughout that period of time. Army officials simply lied to the State Department. The State Department then told the French we don't know where Barbie is, we'll put him on the look-out list, but we, we don't know where he is. And had the Army told the truth to the State Department, the State Department could have extradited Barbie, or at least ruled on his extradition to France. So, I think what that shows is that justice has been delayed for some 33 years. Because it is only now that Barbie is going on trial in Lyon.

DOWNNS: One of the officers is reported to have said he was only following orders, which has a kind of a grim echo to it. Does that mean that the United States government ultimately is responsible? RYAN: Well, I think the United States government is ultimately responsible for delaying justice in this case, because the Army officers who, who lied to the State Department were acting in the course of their official duties; they were, they were not off on a personal lark; they were, they were doing this out of what they perceived to be the interest of the Army and the interest of the government. So, I think whatever their personal culpability may be, the United States cannot disclaim responsibility and say that this was simply the renegade acts of, of a few officers.

DOWNNS: What was the perceived need, then? How much did they feel they needed to rely on Nazis for information? RYAN: Well, I think the Barbie case in many ways was, was not typical. I think that based on all of the documents that we saw and all of the people that we talked to there were very likely no other Nazi officials, former SS officials, who received as much prominence and who relied upon as much as Klaus Barbie was. But you, there was a situation in Germany after the war where the, the adversary had changed. It was no long Germany, it was now the Soviet Union and Eastern bloc. And I think all of the nations that occupied Germany, France, Great Britain, the Soviet Union, as well as the United States made whatever use they could of the resources of Germany within whatever limits they set for themselves to advance their own, their own interests.

DOWNNS: ABC News reported while you were there in Bolivia, that you were told that Barbie in 1975 had passed information to the interior ministry of that country and, which was later passed on to the CIA. Doesn't that represent that kind of link that your report says never took place after 1951? RYAN: No.

DOWNNS: No. RYAN: Those, those reports are accurate and, we, we, I, I dealt with them, in, in my report that was issued today. Barbie passed information to a Bolivian official who in turn passed it on to U.S. government officials. But as I think John said in his opening story, that, that information was never acknowledged, it was never, nothing was ever sent back to Barbie. In fact, there is some question as to whether the American officials knew it came from Barbie. But even if you assume that they did know that, there were never any directions that went back to him, never any working relationship.

DOWNNS: You wouldn't consider that a kind of a laundering of information, then? RYAN: No, I don't think it was intended to be a laundering of information. I don't think the American government treated it that way.

DOWNNS: Uh hum. Is this it, then? I mean does, does your report wrap it up? Is that the end of the Barbie incident in your mind? RYAN: Well, I think the report says everything that really can be said about the relationship between Klaus Barbie and the

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United States government. I don't think there's any more information out there at this point. It may be a, a matter of debate. It, it may be something that stays with us. We'll just have to wait and see. I think my job, essentially, is, is over. We did the investigation; we issued the report; it's now on the public record, and, and from here on out I think the Justice Department bows out and we let the, the public say what it will.

DOWNS: Barbie seems to be a point on which this focuses, but is anyone else being investigated? RYAN: Well, the Office of Special Investigations in the Justice Department, which was created four-years-ago to investigate and prosecute Nazi war criminals in the United States has been very active and, and continues to be very active. I was director of that office for three-and-a-half years before taking on Barbie and, and the office is now prosecuting over two dozen cases in American courts of Nazi war criminals who came to the United States illegally.

DOWNS: We've heard reports of as high as 20 such cases, and maybe not as grim as the Butcher of Lyon, but that exist in the United States. Will there be official attempts to ferret these out and bring them to justice? RYAN: Well, as, as I say, that's what, that's what the office of special investigations has been doing, really, for the last three-and-a-half-years to, to bring these into court on the grounds that they entered the United States illegally; that they were not entitled to American citizenship; and that that citizenship should be taken away; and that they should be deported.

DOWNS: Is there any evidence that there might be a change in, in underlying philosophy of the use of informants? It seems to me that many cases point up to fact (sic) that all of techniques in dealing with informants seem to be shot through with that idea that you can somehow fight scum with scum. RYAN: Well, I think there's been, within the last 10 years particularly, long after the Barbie incident really was finished--I, I think in the last 10 years in this country there's been a, a, a very dramatic and a very healthy change in our attitudes toward intelligence operations and, and the, the way intelligence agencies operate. I think they are more accountable; I think there is much more oversight on the part of Congress and, and the executive; I think the attitude that you can do anything in the name of intelligence gathering no longer prevails in the United States; and I, I think that's generally to the good. And I think that if someone in 1949 or 1950 had said have we ever considered the possibility that we're obstructing justice here, this may not have happened. And, and, I, I would hope that those who are now responsible for intelligence operations in the United States if they were to be faced with a similar situation, might think of that. And I think if that happens, these changes have been to the good.

DOWNS: Thank you very much, Mr. Ryan. When we return we'll be joined in our discussion by a former Army intelligence agent who worked with Klaus Barbie in Europe after World War II. Also tonight, the fight over a plan to trap orcas, or killer whales off the West Coast.

DOWNS: Joining us live now from Portland, Maine is Eugene Kolb, a retired Army counter-intelligence officer who was chief of operations in the Augsburg, Germany, region in 1949 and '50; and was Barbie's supervisor and dealt directly with him. And via satellite from our London bureau Serge Klarsfeld, a French attorney, who with his wife, helped hunt down Barbie in Bolivia. Gentlemen, welcome. And I'd like to start by asking Mr. Kolb--you told ABC News last week, Mr. Kolb, that, that Barbie was very good at recruiting and that he was very useful to, to us. Do you at this point have

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any regrets at having used such a person? KOLB: Oh yes. I had at the time and I have now, as I told you John Martin, certainly at the very least, shall we say, strong reservations. But again, I'd like to point out that this is hindsight now from the perspective of 1983. That conditions in 1948, '49, '50 were quite different, and that furthermore, and I emphasize this very much, none of the allegations that are currently being made were voiced to us at that time. The only thing that we held against Barbie was that he was a Gestapo official, and we don't, didn't at that time like to play around with Gestapo officials. But he proved his utility to a great extent.

DOWNNS: What was the perceived necessity then? We followed the news back then, and why, why was it felt necessary to deal with those people? KOLB: Because around, particularly 1948 or thereabouts, we were suddenly loaded with brand new targets and brand new operations in the context of the cold war. We still had the old projects; the (inaudible) program; to some extent the location and apprehension of war criminals--but now we had brand new targets. And when you have brand new targets, such as, for example, go penetrate the Communist Party, or up in Berlin go penetrate the Iron Curtain, and penetrate the Iron Curtain and penetrate the Communist Party there--you're starting from scratch. And starting from scratch is a difficult operation at any point. On top of that, again, in the late 1940s, we had a horrible personnel problem in the entire intelligence community. Basically, the only one that was left operating was the counter-intelligence corps, and we were full, filled with a lot of brand new people. Some of them couldn't even speak German, and the problem was, how can you use these people to recruit sources within the Communist Party. And for the most part, it was simply impossible. You had to look around for Germans or other non-American personnel who had the talents, the skill, the ability to do this. Barbie was one of these.

DOWNNS: At that time, who authorized you to penetrate French intelligence? France was an ally. KOLB: That, to my knowledge, is not the case. It may have been before, it may have been before my time, but everything I know about it, about the case suggests it was not the case at all.

DOWNNS: You mean... KOLB: Our, our operations were in the Augsburg area, but concentrated on the Bavarian Communist Party and similar activities in Bavaria or West Germany. Certainly not in France or the French occupation zone, nor even to my knowledge did Barbie have any information about the Soviet zone or the Soviet Union.

DOWNNS: You said in, in a letter to the New York Times quite recently, you said it was known that Soviet and Communist agents had thoroughly penetrated French intelligence agencies. KOLB: Right. That did not come to us from Barbie.

DOWNNS: I see. So, this was not, not bearing on the Barbie case? KOLB: No. Well, only, in, indirect, in a sense that was one of the major reasons why we were reluctant to (inaudible) him over. But certainly that information did not come from Barbie. He had no way of getting that kind of information.

DOWNNS: Would you do this again? Do you feel that the spy operation was that important? KOLB: Oh, Mr. Downs, that's, that's very difficult to answer. You know I, I, I'd like to say one thing. The impression seems to have been, I don't think justice meant this, or certainly Allan Ryan didn't mean it, that up to, prior to 10 years ago we in the intelligence business were a completely amoral people who felt that anything goes, or as you put it, fighting scum with scum is the proper way to do things--not at all. There were some cowboys of that type in the outfit then, and I'm quite sure they're still around today. But most of us at that time, you know, we are

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after all products of the so-called Judeo-Christian ethic. We do have morals, and we certainly considered these factors when employing Barbie, and those of us, those in the outfit after my time who got him out of Germany, I'm sure felt that way also. But there are certain decisions you have to make when you're faced with assignments we were given.

DOWNS: Why were you reluctant to turn him over, though? KOLB: Why was I elected?

DOWNS: Yeah. No. Why was the machinery reluctant to turn Barbie over as a, as a war criminal? KOLB: Because number one...

DOWNS: Was a deal made with him? KOLB: Again, for the primary, the two primary reasons. Number one, the charges were not that he was a war criminal. To our knowledge in Augsburg and to the people I dealt with at headquarters, the problem was that the French wanted him primarily to identify and possibly serve as a witness against Frenchmen of the political center and right who allegedly had collaborated and turned traitor. And this is what they wanted him for, to our understanding. It was on this basis that the French at one point were, this was again before my time, but given the opportunity to interrogate him and got whatever information and got whatever information they wanted from him, supposedly.

DOWNS: Let me turn not to Ser, Serge Klarsfeld, if I may. Both Allan Ryan earlier, and now Eugene Kolb has said, Mr. Klarsfeld that the intelligence officers of the U.S. Army were not aware that Barbie was, not aware at that time, that he was a war criminal when he was recruited as a spy. Do you agree with that? KLARSFELD (Nazi Hunter): Not exactly, because I must say that Klaus Barbie was number 239 on the first list drawn up by the commission on war crimes of the United Nations. And that list was drawn up in in 1944. And secondly, during the Nuremberg trial, there was a famous telex which was signed by Klaus Barbie as head as the Gestapo of Lyon, and in that telex, Barbie said that he liquidated the same day, April 6, 1944, Jewish home children, with 41 children from three to 13 that he sent to the (inaudible) in order to be deported to Auschwitz. So, this telex was (inaudible) during the Nuremberg trial as evidence of the French accusation against Nazi war criminals in France, and as a number (inuadible) says 1,235. So, I, I think that either they didn't want to check, or as they checked and they found that the information they could get from him was more valuable than the souvenir of the 41 children.

DOWNS: Well, isn't it possible, though, that the intelligence officers did not know at that time of, of those documents in the trial? KLARSFELD: Well, these are official documents, official even for the United States who were part of the United Nations and as a war crime commission, and also organizers of the military international military tribunals. So, if intelligence don't check such information so, I ask myself how they can be efficacious when they try to get information about the Soviets.

DONWS: Are you satisfied with today's report, with the conclusion of it? KLARSFELD: Yes, I am very satisfied. I will even say proud by, of the United States, a country which is able and I think that's one of the rare countries able to, to lead such an investigation with such results and with expression of regrets to the French government for the attitude of some officers of the American intelligence 30-years-ago. I believe that's something exceptional and that shows that we are not in a totalitarian world. I don't believe even that in the Western world another country would have done such an investigation with such results.

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DOWNS: Do you think that Barbie was connected with or worked with the CIA at all while he was in Bolivia? KLARSFELD: You know, I disclosed the links between Barbie and the CIC just after the capture because during 10 years with the green light of the French presidency I could gather the evidences of the steps of the French government to obtain Barbie from the Americans. And I immediately told that knowing well the situation in Bolivia, I don't believe that Barbie worked with the CIA. Because his situation in Bolivia and the attitude toward the efforts made by us and by the French government to obtain his extradition would have been very different if he had worked for the CIA.

DOWNS: Let me go back, for a moment, to Allan Ryan, and, and ask with your report in now, does this in your mind absolve the, the United States government, along with its apology to France, and so forth? Do you think that, that really closes the matter? RYAN: Well, Hugh, I, I want to say one thing first that in fairness to Kolb--he was not involved in any of the activities in which I have concluded were an obstruction of justice. He was operating in Augsburg. The representations to the State Department were being made from headquarters in Stuttgart, and, and he was not involved in that. So, I just want the record to be clear on that. And I think that a lot of what he says is true. These were not amoral evil people. They were good patriotic Americans. I think it was a case of insensitivity more than malevolence. I think as far as whether this closes the record in the United States government--I, I believe it probably does. I, I'm not aware of anything further we can do. I think the note to the French expressing the regret of the United States government, although it, it's little enough, I think it's probably the most that can be done under the circumstances. Certainly if there's anything else I'm, I'm not aware of it.

DOWNS: It does make one wonder what climate changes might be in the offing in the, in the future--what things are we doing now that we can consider moral that might be under a cloud years down the line. I want to thank all of you gentlemen from being with us. Allan Ryan, Serge Klarsfeld, and Eugene Kolb.