

March 29, 1995

MEMORANDUM FOR THE RECORD

SUBJECT: Aspin Commission Staff Roundtable Discussion of  
CIA's Policy on Human Rights Issues

1. On 29 March 1995, 1200 to 1430, Chairman Les Aspin and Commission staffers Britt Snider, John Moseman, Linda Flohr, John Bellinger, Dick Giza and Sarah Holmes, met with the following CIA Officers: [REDACTED] LA Division legal advisor; [REDACTED] Acting Chief, LA Division; [REDACTED], CTC Assistant General Counsel; [REDACTED] Deputy Chief CTC; and [REDACTED] PCS. Mr. Aspin began by explaining that he was interested in gaining an understanding of CIA policy in two areas:

o In the contract with assets - what should we expect from paid informants? What is current policy? Are there certain things that we don't tolerate? Are these the right rules in the post Cold War?

o What is the policy toward informing US citizens of the fate of relatives? What are the constraints?

2. [REDACTED] answered the first question. He explained that guidance exists to help the COS determine how to handle assets. Certain activities are accepted, but others, like human rights violations, are not. The COS is expected to inform headquarters if there are human rights violations. Most of the time the case is terminated, but if the asset is of high interest to the US government then we ask for another opinion (e.g. NSC). Each case is judged individually.

3. In response to Mr. Aspin's question, [REDACTED] gave a brief chronology of events in Guatemala. (Attached article). [REDACTED] said that the Agency acted promptly and properly, but should have notified Congress immediately in 1991. The other error the Agency made was [REDACTED]. [REDACTED] made the point that we do not collect information to provide to private citizens; therefore we do not inform relatives of any activities. However, we do work through other agencies of the government, and in the Bamaca case information was provided through the State Dept. There was a discussion of instances in which the CIA does provide warnings [REDACTED].

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4. Mr. Moseman asked whether we were "hamstringing" officers by over regulating their activities and requiring so much notification. [REDACTED] and [REDACTED] discussed the difficult standards and dealing with more oversight. We are trying to build flexibility into the system and pay more attention to the risk/benefit analysis. Mr. Aspin questioned why human rights violations were such a major factor in evaluations. [REDACTED] explained that the internal agency policy evolved from direction from Congress and the Executive Branch. The meeting ended with, a brief discussion of other types of laws, rules and regulations that hamper intelligence collection, e.g. copyright laws.

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# Update

on Guatemala Case

*(Editor's Note: The following update is for internal use only and responds to the inaccurate media stories about the killings in Guatemala, including the murder of American citizen Michael Devine. It is likely that the media will continue to run stories about Guatemala for at least the next several days. In the meantime, this update is being provided for CIA employees.)*

Accounts of the tragic deaths of Michael Devine and Efrain Bamaca Velasquez have implied and in some cases stated that the Central Intelligence Agency lied, purposely withheld information, or was implicitly involved in these killings. Such accounts are wrong and mislead the American public.

Recognizing that independent confirmation of the facts would be needed, the Acting Director of Central Intelligence directed on January 27, 1995 that the CIA's Inspector General undertake a thorough investigation of the alleged relationship between CIA and Guatemalan officials. That effort is well underway and should be completed in several weeks. The current level of misunderstanding demands, however, that we provide an accounting of the facts that are available at this time. However, the conclusions contained in this commentary are consistent with the IG inquiry to date.

Charges that CIA withheld information or that it is "out of control" are without foundation. The Agency fulfills its mission at the direction of the President; its functions and performance are determined by law and monitored by Congress.

Questions about whether we should be operating in Latin America disregard the fact that the United States has extensive national interests in that region of the world. The

Intelligence Community's role there, as elsewhere, is to support US policymakers by providing information on a wide range of issues, including drug trafficking, political and military trends, active insurgencies, and human rights issues. Importantly, had it not been for its intelligence collection capabilities, the US government still would know virtually nothing about the circumstances surrounding the deaths of Michael Devine and Efrain Bamaca Velasquez.

In developing sources of information, our intelligence services must deal with many types of people, including some of questionable character. These often are the only people with access to important information and a willingness to share it with the US government. On occasion, intelligence assets take action that is neither directed nor condoned by us and is in direct contravention of US law. When that occurs, Agency policies require that such relationships be ended and that possible violations of US criminal law be reported to the appropriate US law enforcement authorities.

US intelligence agencies have several independent statutory responsibilities with respect to possible violations of US criminal law. One is to report the facts to the appropriate US authorities. Another is to protect sources and methods, an obligation that often limits our ability to make public all information acquired in a case. A third is to keep our oversight committees in Congress fully and currently informed.

In the cases of Michael Devine and Efrain Bamaca Velasquez, CIA fulfilled these responsibilities with the exception of its possible failure, as noted below, to inform Con-

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gress in a timely fashion of some reporting on the death of Michael Devine.

In the case of Michael Devine, who was murdered in June 1990:

- CIA received information concerning Devine's death in August 1990 and promptly disseminated it to the appropriate US authorities. This information helped lead to the arrest and conviction by the Guatemalan government of a number of those involved.
- In October 1991, the CIA received additional information about another individual possibly involved in Devine's death. This information was provided promptly to appropriate US authorities. CIA sent a letter containing further details to the Department of Justice on November 19, 1991.
- Based on a search to date of our 1991 records, it appears that CIA may not have briefed either one or both of our Congressional oversight committees on the allegations of possible violations of US criminal law. We should have done so, and we are discussing this matter with the committees.

In the case of Efrain Bamaca Velasquez, who was murdered in or about March 1992:

- CIA received intelligence reporting on the disappearance and possible death of Bamaca in the spring of 1992. From 1992 through early 1995, we received conflicting reports; some indicated that he was dead, some that he was alive. This information was disseminated immediately to the appropriate officials and agencies.
- In January 1995, CIA received credible new reporting with information regarding Bamaca's death and the circumstances of his death. This information was disseminated immediately to the National Security Council staff, the Department of State, and a

number of other government agencies.

- The National Security Council requested a complete review of the new information which had not been corroborated and which conflicted with previous information, also widely disseminated within classified consumer channels. Two days later, CIA's completed analysis was provided to both the National Security Council staff and the State Department.
- The CIA worked quickly and closely with the National Security Council staff and the State Department to clear the information for use in a demarche to the Guatemalan government in early February 1995.
- By early February 1995, CIA had briefed the staffs of both oversight committees, as well as the Chairman and ranking member of the House Permanent Select Committee on Intelligence, about this information.

It is appropriate and desirable that CIA's performance be examined. When the Inspector General's report is completed, it will be made available to the Administration and the intelligence oversight committees. Within the necessary constraints imposed on CIA by the statutory obligations to protect classified information, the results of that report will be made available to the American public.

The inability to discuss publicly all the facts involved in this case has made CIA the target of inaccurate charges that it has acted irresponsibly and withheld information from appropriate recipients. CIA is responsible for providing all information concerning possible crimes to the appropriate US executive branch authorities; in the cases of Devine and Bamaca, it has done so in a timely fashion. It is the responsibility of those authorities to investigate possible violations of US criminal law and to determine how the information should be used in representations to foreign governments. ~~(CONFIDENTIAL - INTERNAL USE ONLY)~~

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