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November 16, 2006

Agency Release Panel
c/o Scott Koch
Information and Privacy Coordinator
Central Intelligence Agency
Washington, DC 20505

(b)(6)

Re: FOIA Appeals

IN ALL CORRESPONDENCE PLEASE REFER TO FILE NOS:

20061744CIA248 (F-2006-01694), 20061788CIA262 (F-2006-01693), 20061781CIA258 (F-2006-01696),
20061771CIA254 (F-2006-01688), 20061762CIA251 (F-2006-01700), 20061750CIA249 (F-2006-01699),
20061797CIA268 (F-2006-01708), 20061787CIA261 (F-2006-01710), 20061795CIA267 (F-2006-01705),
20061803CIA271 (F-2006-01707), 20061826CIA281 (F-2007-00018), 20061837CIA285 (F-2007-00050),
20061814CIA276 (F-2007-00001), 20061782CIA259 (F-2006-01698), 20061798CIA269 (F-2007-1706),
20061809CIA274 (F-2007-00013), 20061757CIA250 (F-2006-01711), 20061794CIA266 (F-2007-00011),
20061802CIA270 (F-2007-00012), 20061888CIA293 (F-2007-00067), 20061848CIA286 (F-2007-00065),
20061886CIA292 (F-2007-00069), 20061849CIA287 (F-2007-00068), 20061829CIA282 (F-2007-00038),
20061836CIA284 (F-2007-00056), 20061810CIA275 (F-2007-00004), 20061830CIA283 (F-2007-00041),
20061815CIA277 (F-2007-00005), 20061936CIA307 (F-2007-00108), 20061825CIA280 (F-2007-00040),
20061772CIA255 (F-2006-01662)

Dear Sir or Madam:

This letter constitutes an administrative appeal under Executive Order 12958, as amended, of the determination of the Central Intelligence Agency (CIA) to "neither confirm nor deny the existence or nonexistence of records" responsive to the FOIA requests referenced above. These requests, filed by myself and my associate, Michael Baney, were for documents pertaining to several Colombian paramilitary commanders and paramilitary front groups associated with the United Self-Defense Forces of Colombia (*Autodefensas Unidas de Colombia* or AUC). The argument that follows applies to all of the FOIA cases cited above.

The CIA justifies its decision to "neither confirm nor deny the existence or nonexistence" of responsive records in this case by noting that such information would qualify as "intelligence sources and methods information" that is protected from disclosure in accordance with the CIA Act of 1949. It is the purpose of this appeal to demonstrate: 1) that the high priority the U.S. government has placed on helping Colombia combat and demobilize the AUC and other terrorist organizations makes it perfectly reasonable to assume that CIA—like many other government agencies—would have records on these subjects; 2) that CIA has already declassified and released through FOIA much information on Colombian paramilitary groups and leaders, making the determination "to neither confirm nor deny" the existence or nonexistence of records in this case untenable. Indeed, the declassified material already available from CIA and other agencies suggests that "intelligence sources and methods information" can in many cases be easily redacted from documents *as mandated by the FOIA* to allow for the release of non-sensitive portions of the documents.

APPROVED FOR RELEASE DATE: 02-Mar-2011

What follows is a discussion of these major points:

1) **The U.S. Places a High Priority on Helping Colombia Combat and Demobilize the AUC.**

The AUC is a State Department-designated Foreign Terrorist Organization – I note that the subjects of these requests are leaders and groups associated with the AUC, the largest paramilitary organization in Colombia and a Foreign Terrorist Organization as designated by the U.S. Secretary of State. These paramilitary groups and their leaders bear particular significance to the U.S. as they are terrorists who threaten the stability of the Colombian government, a key U.S. ally in the region and one of the top recipients of U.S. security assistance in the world. (Attachment 1)

As part of its stated strategy in Colombia, the U.S. government aids the Colombian government in confronting the terrorist threat posed by the paramilitaries. In his 2004 testimony to the House Government Reform Committee, Assistant Secretary of State for Western Hemisphere Affairs Roger Noriega reported that, "On the counter-terror front, with the expanded authority provided by Congress, we have been able to assist Colombia's war against the FARC, ELN, and AUC." [NOTE: FARC and ELN are Colombian guerrilla groups.] Noriega added that, "President Uribe also is advancing his efforts to end the threat posed to Colombian stability by the second largest terror group, the United Self-Defense Forces (AUC)." (Attachment 2)

The AUC Leadership is Heavily Engaged in the Drug Trade – Several of the AUC's paramilitary leaders have been indicted by the U.S. on drug trafficking charges (Attachments 3 and 4), including Diego Fernando Murillo Bejarano, Vicente Castano Gil, Salvatore Mancuso Gomez, and Juan Carlos Sierra Ramirez, all of whom are subjects in these FOIA requests.

U.S. Intelligence Programs Target the AUC – Key to U.S. assistance in the fight against Colombian terrorist groups like the AUC is intelligence. A State Department cable from September 6, 2002, "Targeting Terrorist Leaders in Colombia," states that the U.S. Embassy in Colombia is "working with the GOC to create what we believe will be most useful in terms of achieving success against terrorism in Colombia: A dedicated intelligence unit whose primary mission will be to track down the leadership of all three terrorist groups." (Attachment 5)

The U.S. Government Supports Colombia's Efforts to Demobilize the AUC – The Colombian government is currently engaged in a process with the Colombian government intended to demobilize, and in some cases bring to justice, the paramilitary leaders and fronts of the AUC who are the subjects of our FOIA requests. The U.S. supports this effort. An exchange of cables between the U.S. Embassy in Colombia and the State Department in April-May 2005 (Attachments 6 and 7) indicates that the Embassy sought and received authorization to support "specific aspects of [Colombia's] demobilization/reintegration program for former AUC members" to include "monitoring and evaluation" and other support. A January 2006 Embassy cable (Attachment 8) reports that 22,000 AUC members had demobilized, including "nearly all the paramilitary chiefs." These paramilitary leaders and the fronts that they led—many of whom are the subjects of these FOIA requests—are also listed in the cable.

Declassified documents from U.S. Southern Command (Attachments 9 and 10) also refer to the paramilitary demobilization process and specific AUC leaders mentioned in the FOIA requests, demonstrating the interest of the U.S. government in assessing the outcome of this process.

2) Declassified CIA Documents Discuss Colombian Paramilitary Groups.

A number of declassified CIA documents pertaining to the AUC and its leadership suggest that the CIA cannot credibly deny the existence or nonexistence of records on the AUC or its leaders. A series of declassified intelligence reports from 1995-2002 demonstrate that CIA analysts were focused on the paramilitary problem in Colombia and the implications it had for the stability of the government, efforts to make peace with illegal armed groups, and the overall human rights situation.

"Colombia: Samper's Human Rights Resolve Being Tested." March 22, 1995 – This report notes (page 5) that the Colombian government "has ... failed to arrest and prosecute paramilitary leader Fidel Castano, who has been implicated in a number of rural massacres since the late 1980s." (Attachment 11)

"Colombia: Paramilitaries Gaining Strength." June 13, 1997 – This report warns of the growing strength of the AUC paramilitary groups, concluding that (page 2), "The growth of paramilitary violence is likely to complicate US interests in Colombian in the areas of human rights and counternarcotics." (Attachment 12)

"Colombia: Paramilitaries Assuming a Higher Profile." August 31, 1998 – In 1998, this CIA report warns (pages 2 and 6) that the growing strength of AUC paramilitaries is "likely to complicate the twin US goals of advancing the peace process and improving the country's poor human rights record." (Attachment 13)

"Senior Executive Intelligence Brief, Wednesday, 30 December 1998 – Colombia: FARC Claims to Have Killed Paramilitary Leader" – This report examines the implications of an attempt by FARC guerrillas to kill AUC commander Carlos Castano. With respect to U.S. interests, the report notes that, "If the FARC did kill Castano, his supporters may launch reprisals that would complicate, and perhaps delay, peace talks scheduled to begin next week between the government and the FARC." (Attachment 14)

"Senior Executive Intelligence Brief, Wednesday 8 May 2002 – Colombia: FARC-AUC Conflict Intensifying" – This report concerns recent clashes between FARC guerrillas and AUC paramilitaries, noting that the two groups are battling primarily for "control of lucrative coca-growing areas and strategic logistic corridors." The intensifying conflict "is exposing Bogota's inability to control large swaths of the countryside," according to the report. (Attachment 15)

The availability of several declassified CIA records on the AUC and its leaders suggests that the CIA should reconsider its determination to "neither confirm nor deny" the existence of records responsive to these cases. Indeed, as an officially-designated Foreign Terrorist Organization with deep ties to the narcotics trade, the question of whether or not the CIA maintains records on the AUC, its member organizations, and its leaders, should not be considered a matter of great sensitivity.

I remind you that non-sensitive material must be released unless inextricably intertwined with other sensitive material. At a minimum, I expect that document titles, dates, subject headings, and other non-sensitive material can be released without disclosing sensitive information.

Thank you for your consideration of this appeal. I look forward to a prompt response. Please feel free to contact me directly with any questions at 202/994-7029.

Sincerely,



Michael Evans
Analyst

List of Attachments:

1. U.S. State Department, Office of Counterterrorism, Fact Sheet, "Foreign Terrorist Organizations," October 11, 2005 <http://www.state.gov/s/ct/rls/fs/37191.htm>.
2. U.S. Department of State, Roger F. Noriega, "U.S. Policy and Programs in Colombia: Testimony Before the House of Representatives Committee on Government Reform," June 17, 2004.
3. U.S. District Court, Southern District of New York, "United States of America v. Diego Fernando Murillo-Bejarano, et al."
4. U.S. District Court for the District of Columbia, "United States of America v. Carlos Castano-Gil, et al."
5. U.S. Embassy Bogota cable, 2002 Bogota 8083, "Targeting Terrorist Leaders in Colombia," September 6, 2002.
6. U.S. State Department cable, 2005 State 72426, "Authorization for Limited Support for Demobilization Programs," April 19, 2005.
7. U.S. Embassy Bogota cable, 2005 Bogota 5167, "Post Welcomes Authorization to Support Demobilization Programs," May 31, 2005.
8. U.S. Embassy Bogota cable, 2006 Bogota 405, "22,000 Illegal Armed Group Members Demobilized," January 18, 2006.
9. U.S. Southern Command, "Colombia: United Self-Defense Forces of Colombia (AUC) Cacique Nutibara Bloc (BCN) Demobilization," December 2, 2003.
10. U.S. Southern Command, "Colombia: United Self-Defense Forces of Colombia (AUC) Demobilization Update," December 17, 2003.
11. CIA Intelligence Report, "Colombia: Samper's Human Rights Resolve Being Tested," March 22, 1995.
12. CIA Intelligence Report, "Colombia: Paramilitaries Gaining Strength," June 13, 1997.
13. CIA Intelligence Report, "Colombia: Paramilitaries Assuming a Higher Profile." August 31, 1998.
14. CIA Senior Executive Intelligence Report, "Colombia: FARC Claims to Have Killed Paramilitary Leader," December 30, 1998.
15. CIA Senior Executive Intelligence Report, "FARC-AUC Conflict Intensifying," May 8, 2002.



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FAX COVER SHEET

Date: November 16, 2006

To: Scott Koch

Organization: CIA Agency Release Panel

From:

Number of pages (including cover sheet) 25 (part 1 of 5)

If there is a problem with this transmission, please call us at 202-994-7000 as soon as possible.

Message:

This is part 1 of what will probably be about 5 transmissions of a FOIA appeal.

Case number 20061744CIA248 (F-2006-01694) and several others.

There will be a total of 126 total pages.

The deadline for several of these cases is today, Nov 16, 2006, hence the rush to fax in the letter and attachments.

2006 NOV 17 AM 11:33