

State Department Memorandum of Justification on Human Rights Conditions, August 2005

MEMORANDUM OF JUSTIFICATION CONCERNING HUMAN RIGHTS CONDITIONS WITH RESPECT TO ASSISTANCE FOR COLOMBIAN ARMED FORCES

Section 563 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, Division D, Consolidated Appropriations Act, 2004 (P.L. 108-199) ("FY 2004 FOAA") establishes conditions under which assistance using funds appropriated under the FY 2004 FOAA may be made available for the Colombian Armed Forces. In particular, Section 563(a)(1) allows that up to 75 percent of funds may be obligated prior to a determination and certification by the Secretary of State pursuant to paragraph (2), which in turn provides that up to 12.5 percent of such funds may be obligated only after the Secretary of State has made a certification and report with respect to certain human rights and paramilitary related conditions. The remaining funds may be obligated after July 31, 2004, if the Secretary of State makes a certification described in Section 563(a) (3).

Section 556 of the Foreign Operations, Export Financing and Related Programs Appropriations Act, Division D, Consolidated Appropriations Act, 2005 (P.L. 108-447) ("FY 2005 FOAA") contains similar conditions for FY 2005 funds.

This memorandum provides the justification for the Secretary of State's Determination that the criteria, stated in the following pages, in Section 563(a)(3) of the FY 2004 FOAA and Section 556 (a)(2) of the FY 2005 FOAA have been met.

Determination involves criteria regarding impunity, human rights violations by military forces, collusion with paramilitaries and military cooperation with civilian judicial officials. The certification criteria, however, only partially address the Colombian human rights situation, which overall has improved appreciably over the past several years. President Uribe and his Administration have stated repeatedly, both publicly and in discussions with U.S. government officials, their commitment to further improving the human rights situation in Colombia. Before reviewing the certification criteria, some general observations about human rights in Colombia follow.

The Colombian Army today is vastly different from that of ten or even five years ago. In an address to the International Coordination and Cooperation Conference in Cartagena on February 3, President Uribe stated, "Every day there is more of a commitment by the Armed Forces to human rights. The Colombian Armed Forces are conscious, and we reiterate, both publicly and privately, that terrorism must be defeated with energetic action and battle-hardened initiative, but also with transparency. And where there are errors, we have no objection to discussing them and holding accountable those responsible. This Government has made the provision of extensive human rights awareness training for the Armed Forces a top priority."

The Colombian government has continued to improve military professionalism, eliminate corruption, and sever military-paramilitary ties. An improved appreciation for human rights is evident in the significant reduction in violations committed by members of the

Colombian Armed Forces during the past several years. Despite these improvements, investigation and prosecution of past violations remains largely slow and complicated.

Since the Leahy Amendment was first adopted in 1997, an increasing number of units are "vetted" under its terms and found eligible to receive U.S. support. This suggests improved human rights performance by the Colombian Army.

Three specific cases demonstrate important progress. Following thorough investigations, on July 13, 2005, the Prosecutor General's Office brought charges of aggravated homicide against four detained soldiers for their role in the killing of three trade union leaders in Arauca Department, in August 2004. In the Cajamarca case, the Prosecutor General ordered preventive detention for seven soldiers of the Army's 6th Brigade based on credible evidence that they were involved in the killing of five persons, including infants, in April 2004. Finally, we were pleased to see that the Mapiripán case was moved from Villavicencio to Bogotá and is awaiting final verdict from the presiding judge. On the other hand, we remain concerned the process has dragged on moved slowly.

In addition to the improving performance of the Armed Forces, since the Department's previous certification in September 2004, there have been a number of specific positive developments:

- Violent crime in Colombia is at its lowest level in 16 years. According to the Vice President's Office on Human Rights, from January to May 2005, there were 7,025 murders, a decline of 22 percent from the same period in 2004, and 297 kidnappings, a reduction of 61 percent. Colombia also reported 37 percent fewer terrorist attacks and 12 percent fewer massacres.
- According to the Colombian Ministry of Defense, from August 2004 to May 2005, the military captured 3,173 paramilitaries.
- Peace negotiations with several paramilitary groups continued, aimed at improving security by eventually demobilizing and removing from the battlefield as many as 12,000 fighters. From September 2004 to July 2005, approximately 3,500 paramilitary fighters demobilized.
- After two years of vigorous, democratic debate in the Colombian Congress, the Justice and Peace Law, an instrument aimed at achieving peace with the paramilitaries, was passed on June 22, 2005 and signed by President Uribe on July 22, 2005. While not perfect, the law establishes a mechanism that could effectively dismantle the criminal structures of demobilized illegal armed groups and provide for sustained peace. Although the law does not enjoy the support of all, it is a viable tool whose success will depend on effective, verifiable implementation by the Colombian government.

President Uribe, Vice President Santos, and other key Colombian government officials have remained in contact with human rights groups.

In November and December 2004, the Government of Colombia held over 35 hours of meetings with civil society groups concerning the list of 27 recommendations issued by the UN Office of the High Commissioner for Human Rights. The meetings were chaired by Carlos Franco, director of the Vice Presidency's Human Rights Program, and attended by representatives of the Prosecutor General's Office, Inspector General's Office, Ombudsman's Office, National Police and Ministry of Defense. In December, President Uribe also met with NGOs and representatives from the G-24.

Further to its ongoing commitment to protect high risk communities, the Government of Colombia established a regional risk report for the Sierra Nevada de Santa Marta region

and is working on reports for Arauca and Valle de Cauca Departments. President Uribe and Vice President Santos credit the early warning system, a preventive system utilized by the Colombian government to mitigate the impacts of violence, increased state presence, and support from civil society with decreases in internal displacement and violence. From January to June 2005, there were 26 risk reports, which resulted in two early warnings. The Colombian government identified ten high risk areas in the country and began augmenting state presence there in January 2005. Since 1999, 17,738 people have received assistance from the early warning system program, including more than 4,000 in 2004. In addition, the Colombian government trained 204 individuals in preventative security and re-located more than 800 threatened teachers.

Also, following thorough internal investigations, the Colombian government has accepted responsibility for violations of human rights by a past government in a key case. On February 18, the Government of Colombia issued a statement acknowledging a degree of responsibility for failing to prevent human rights violations, including the deaths of 22 civilians, at the hands of paramilitaries during the 1997 Mapiripán massacre.

Despite this positive movement, more remains to be done, particularly to end impunity and to sever military-paramilitary ties. In addition, a number of general officers have been either removed from military service, rather than face trial, or have had charges dismissed against them when such charges would appear to have merited prosecution, particularly in older cases.

While the human rights performance of many of the Army's units is improving, an exception is evidenced by continued accusations of human rights violations and collusion with paramilitaries against the Army's 17th Brigade, which operates in northern Colombia. These reportedly include some 200 allegations involving the peace community of San José de Apartadó in 2000-2001 and, most recently, of involvement in the killings near San José de Apartadó in February 2005. Although charges against the 17th Brigade in the February killings are unproven, they are only the most recent in a lengthy history. We are pleased that the Inspector General has brought charges against retired Generals Carlos Enrique Vargas Forero and Pablo Alberto Rodríguez Laverde, and Colonels Guillermo Arturo Suárez Forero and Javier Vicente Hernández Acosta, for their roles in the 2000-2001 killings in San José de Apartadó. As a result of these allegations, the United States has informed the Government of Colombia that it will not consider providing assistance to the 17th Brigade until all significant human rights allegations involving the unit have been credibly addressed.

Similarly, in January 2003, the United States suspended assistance to an Air Force unit, Combat Air Command 1 (CACOM 1) until the Colombian military provides a credible accounting of what occurred and appropriate action is taken to identify and prosecute those responsible for the events of December 13, 1998 at Santo Domingo in Arauca Department when 17 persons were killed in an aerial bombing. The Ministry of Defense, in a July 12, 2005 statement, said that it considered it imperative to establish the truth of what occurred there and that it has cooperated fully with judicial efforts. Those judicial efforts include the ongoing prosecution of an Air Force helicopter crew.

In light of such problems, we recognize the need to continue to vigorously implement the Leahy Amendment and human rights certification review. The United States takes seriously all reports of human rights abuses, and is committed to continue engaging the Government of Colombia to achieve further progress in improving the human rights performance of its Armed Forces and in severing military-paramilitary ties. The State Department and the U.S. Embassy in Bogotá also consult regularly with NGOs and civil society groups regarding Colombia's human rights performance and consider their input carefully before making a decision on certification.

Following is a more detailed discussion of the Colombian government's and Armed

Forces' compliance with each of the conditions for certification contained in Section 563(a)(3) of the FY 2004 FOAA and Section 556(a)(2) of the FY 2005 FOAA.

Section 563(a)(3) of the 2004 FOAA requires a determination that "the Colombian Armed Forces are continuing to meet the conditions contained in paragraph (2) [of Section 563(a)] and are conducting vigorous operations to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations."

The five conditions contained in Section 563(a)(2) of the FY 2004 FOAA are identical, with one exception noted below, to those in Section 556(a)(2) of the FY 2005 FOAA, and both are addressed together below. The remaining condition in Section 563(a)(3) of the FY 2004 FOAA ("are conducting vigorous operations ...") is addressed last.

Section 563(a)(2)(A) of the FY 2004 FOAA and Section 556(a)(2)(A) of the FY 2005 FOAA each require a determination that:

The Commander General of the Colombian Armed Forces is suspending from the Armed Forces those members, of whatever rank who, according to the Minister of Defense or the Procuraduría General de la Nación, have been credibly alleged to have committed gross violations of human rights, including extra-judicial killings, or to have aided or abetted paramilitary organizations.

From January to June 2005, General Ospina, commander of the Colombian Armed Forces, used his discretionary authority to remove 202 members of the Army. Those dismissed from service include 54 officers and 148 noncommissioned officers. Some of those dismissed were accused of human rights abuses or ties to illegal armed groups. While we have criticized dismissals in place of prosecutions where prosecutions are possible, use of this discretionary authority for dismissal protects the Ministry of Defense from lawsuits in cases where there may not be enough evidence to allow prosecution.

The civilian Inspector General's Office (Procuraduría) conducts disciplinary investigations and can impose administrative sanctions, including suspension or dismissal, on military personnel. The Inspector General has the authority to order the provisional suspension of personnel during the investigation of offenses involving gross misconduct. Between September 2004 and June 2005, the Inspector General's Office ordered suspensions or dismissals in the following cases:

1. **Army Colonel Rafael Alfonso Hani Jimeno** was suspended on October 8, 2004 for negligence in combating paramilitaries from the Calima Bloc operating in the Valle del Cauca when he commanded the Palace Battalion in 1999.
2. **Army Corporal Humberto Jesús Blandon Vargas** was dismissed from the Army on November 8, 2004 for failure to alert judicial authorities and tampering with the crime scene in the kidnapping and murdering of members of the Socialist Renovation Current in January 2000.
3. **Army Corporal Sandro Fernando Barerro** was dismissed from the Army on November 8, 2004 for failure to alert judicial authorities and tampering with the crime scene in the kidnapping and murdering of members of the Socialist Renovation Current in January 2000.
4. **National Police Patrolman Jhony Mauricio Muñoz Osorio** was sentenced to a five-year suspension on November 11, 2004 for his alleged role in the February 2000 murder of ex-Ombudsman Iván Villamizar Luciani.
5. **Army Lieutenant Colonel Orlando Pulido Rojas** was sentenced to a 90-day suspension on November 16, 2004 for omission while in charge of a battalion

during the 2002 Bojaya FARC massacre, which killed more than 100 civilians.

6. **Army Captain Hector Martín Pita Vásquez** was dismissed from the Army on December 23, 2004 for failing to pursue and combat paramilitaries responsible for the February 2000 massacre at El Salado, which killed 36 civilians.
7. **Army Colonel Carlos Alberto Sánchez García** was sentenced to a 50-day suspension on December 23, 2004 for failing to protect the inhabitants of El Salado during a paramilitary massacre which killed 36 civilians in February 2000.

The Prosecutor General's Office (Fiscalía) is responsible for the criminal investigation and prosecution of military personnel alleged to have committed violations of human rights or to have aided or abetted paramilitaries.

The Prosecutor General's Office issues an order for preventive detention during its investigation of a case, prior to formally charging a suspect with a crime. The Prosecutor General's Office will make a request for suspension of the suspect once a preventive detention order has been issued. When the Prosecutor General's Office orders an individual in the Armed Forces to be "preventively detained," the Armed Forces either hold that individual in custody at a military facility or turn him over to civilian authorities.

The Human Rights Unit of the Prosecutor General's Office reports that between August 2004 and June 2005 it issued 29 orders (15 of which were followed by indictments) for the preventive detention of military personnel credibly alleged to have committed gross human rights violations or to have collaborated with paramilitaries.

Of the nine military personnel identified in the September 2004 memorandum of justification as having been detained and suspended by the Armed Forces between January and August 2004, eight remain in preventive detention and suspended as of June 2005, pending further investigation, and one has had trial proceedings initiated against him.

According to the Prosecutor General's Office, the Armed Forces complied with the order for the preventive detention of each individual when notified, and suspended the military personnel involved when asked to do so. In addition, between August 2004 and June 2005, 26 military personnel were indicted and had trial proceedings initiated against them in civilian courts. These cases are listed under Section 563(a)(2)(B).

The following individuals were in preventive detention and suspended between August 2004 and July 2005:

1. **Army Captain Rubén Briam Blanco Bonilla** was detained and suspended upon an order of preventive detention issued September 9, 2004 on credible evidence of aggravated conspiracy to collaborate with paramilitaries.
2. **Army Second Sergeant Lenin Alexander Ledezma Cardona** was detained and suspended upon an order of preventive detention issued January 21, 2005 on credible evidence of aggravated conspiracy to collaborate with paramilitaries.
3. **Army Soldier Leonidas Antonio Bruno Dávila** was detained and suspended upon an order of preventive detention issued January 31, 2005 on credible evidence of conspiracy to collaborate with paramilitaries.
4. **Army Lieutenant Everardo Bolaños Galindo** was detained and suspended upon an order of preventive detention issued March 1, 2005 on credible evidence of conspiracy to collaborate with paramilitaries, terrorism, aggravated homicide, and aggravated robbery for the 1997 Aro Antioquia massacre.
5. **Army Corporal German Antonio Alzate Cardova** was detained and suspended

upon an order of preventive detention issued March 1, 2005 on credible evidence of conspiracy to collaborate with paramilitaries, terrorism, aggravated homicide, and aggravated robbery for the 1997 Aro Antioquia massacre.

6. **Army Soldier Alejandro Muñoz** was detained and suspended upon an order of preventive detention issued April 15, 2005 on credible evidence of arms trafficking in Tunja, Boyacá Department.
7. **Army Major Wilson Lizarazo Cárdenas** was detained and suspended upon an order of preventive detention issued April 15, 2005 on credible evidence of aggravated homicide.
8. **Army First Corporal Nelson de Jesús Ibarra Moreno** was detained and suspended upon an order of preventive detention issued April 15, 2005 on credible evidence of aggravated homicide.
9. **Army Soldier Jorge Armando Martínez Uribe** was detained and suspended upon an order of preventive detention issued April 15, 2005 on credible evidence of aggravated homicide.
10. **Army Soldier Aldemar Cárdenas Guillen** was detained and suspended upon an order of preventive detention issued April 15, 2005 on credible evidence of aggravated homicide.
11. **Army Soldier Hermison Cristancho Gutiérrez** was detained and suspended upon an order of preventive detention issued April 15, 2005 on credible evidence of aggravated homicide.
12. **Army Third Corporal Iván Luna Veloza** was detained and suspended upon an order of preventive detention issued April 15, 2005 on credible evidence of aggravated homicide.
13. **Army Third Corporal Lisandro Malagon Cortés** was detained and suspended upon an order of preventive detention issued April 15, 2005 on credible evidence of aggravated homicide.
14. **Army Second Sergeant Harold William Pejendino** was detained and suspended upon an order of preventive detention issued May 13, 2005 on credible evidence of aggravated multiple homicide, conspiracy to collaborate with paramilitaries, terrorism, forced disappearances, forced displacement, and kidnapping.

The following individuals remain suspended, as noted in the January and September 2004 memoranda of justification:

15. **Army Sergeant Fredy Baldomero Rodríguez Cárdenas**
16. **Army Sergeant John Fredy Cárdenas Trejos Echeverría**
17. **Army Sergeant Gustavo Moreno Martínez**
18. **Army Sergeant Martín Elías Humanéz Silva**
19. **Army Sergeant Juan Carlos Castillo Ríos**
20. **Army Major Javier Alberto Carreño Vargas**
21. **Army Lieutenant Jhon Fredy Cadavid Acevedo**
22. **Army Solder Uriel Olaya Grajales**
23. **Army Soldier José Misaél Valero Santana**

Section 563(a)(2)(B) of the FY 2004 FOIA and Section 556(a)(2)(B) of the FY 2005 FOIA each require a determination that:

The Colombian government is vigorously investigating and prosecuting those members of the Colombian Armed Forces, of whatever rank, who

have been credibly alleged to have committed violations of

have been credibly alleged to have committed gross violations of human rights, including extra-judicial killings, or to have aided or abetted paramilitary organizations, and is promptly punishing those members of the Colombian Armed Forces found to have committed such violations of human rights or to have aided or abetted paramilitary organizations.

The Human Rights Unit of the Prosecutor General's Office is the lead Colombian government agency in the investigation and prosecution of military personnel who have committed violations of human rights or have colluded with paramilitaries.

In the case of the August 2004 killings of three trade union members in Arauca, on January 12, 2005, the Inspector General's Office opened investigations against two captains of the responsible unit. In addition, on July 13, 2005, the Prosecutor General's Office brought charges of aggravated homicide against four detained soldiers of the Army's 18th Brigade. The soldiers had been arrested on September 6, 2004 and placed in preventive detention during the investigation stage of the case.

There were several significant verdicts since the previous certification. On October 22, 2004 retired Army Major César Maldonado Vidales was sentenced to 27 years in prison for the attempted killing of Congressman Wilson Borja Díaz, a former trade union leader, on December 15, 2000. Regrettably, Maldonado escaped from prison on November 3, 2004. Following his escape, the Army dismissed four officials responsible for security of the prison, one of whom has been arrested and charged, and security measures were reinforced for all detained military and police.

On February 17, 2005 a Bogotá appeals court confirmed Army Colonel Lino Sánchez' 40-year sentence for the crimes of aggravated assault and aggravated homicide for his role in the 1997 Mapiripán massacre.

However, two cases in which the Government has not taken the opportunity to send a clear message regarding impunity for human rights violations and collaboration with the paramilitaries remain troubling.

On January 7, 2005, the Prosecutor General's Office closed its criminal case against retired Rear Admiral Rodrigo Quiñónez for his alleged complicity in the January 2001 paramilitary massacre at Chengue, Sucre Department. The special Supreme Court Prosecutor closed the case due to "a lack of justifiable evidence to achieve a criminal conviction." Not guilty verdicts in several Chengue-related prosecutions advanced by the Human Rights Unit also undermined the case against Quiñónez. Human rights and civil society groups expressed frustration that the case was closed.

Prosecutors continue their case against retired Colonel Hernán Orozco, whom we consider the "whistleblower" in the 1997 Mapiripán massacre. Some Colombian officials continue to assert that Orozco played a larger role in the incident. We have repeatedly asked Colombian authorities, including Vice President Santos, to review the case against Orozco, especially in view of the message his prosecution sends regarding military cooperation with civilian judicial authorities.

In addition to the military personnel placed under preventive detention as listed in the previous Section, between August 2004 and July 2005 26 military personnel were indicted (resoluciones de acusación) and had trial proceedings initiated against them in civilian courts:

1. **Army Soldier Adan Domingo Calderón** was indicted on August 3, 2004 on charges of aggravated homicide and conspiracy to collaborate with paramilitaries during the 1998 La Cabuya Massacre. He was detained and suspended upon an order of preventive detention issued August 26, 2003, as noted in the January 16, 2003

preventive detention issued August 26, 2003, as noted in the January 16, 2003 memorandum of justification.

2. **Army Soldier Marco Tulio Calderón Cegua** was indicted on August 3, 2004 on charges of aggravated homicide and conspiracy to collaborate with paramilitaries during the 1998 La Cabuya Massacre. He was detained and suspended upon an order of preventive detention issued August 26, 2003, as noted in the January 16, 2003 memorandum of justification.
3. **Army Soldier Jairo Humberto González Cuellar** was indicted on August 3, 2004 on charges of aggravated homicide and conspiracy to collaborate with paramilitaries during the 1998 La Cabuya Massacre. He was detained and suspended upon an order of preventive detention issued August 26, 2003, as noted in the January 16, 2003 memorandum of justification.
4. **Army Soldier Jairo Apache Apache** was indicted as a result of an order issued August 6, 2004 to initiate proceedings on charges of aggravated homicide and kidnapping.
5. **Army Soldier Obed Palacio Cano** was indicted as a result of an order issued August 6, 2004 to initiate proceedings on charges of aggravated homicide and kidnapping.
6. **Army Soldier Adolfo de Jesús Castañeda García** was indicted as a result of an order issued August 6, 2004 to initiate proceedings on charges of aggravated homicide and kidnapping.
7. **Army Soldier Alfonso Zamora Córdoba** was indicted as a result of an order issued August 6, 2004 to initiate proceedings on charges of aggravated homicide and kidnapping.
8. **Marine Infantryman Manuel Arrieta Nilson** was indicted as a result of an order issued on October 8, 2004 to initiate trial proceedings on charges of aggravated homicide.
9. **Marine Infantryman Eudimio Carreño Hernández** was indicted as a result of an order issued on October 8, 2004 to initiate trial proceedings on charges of aggravated homicide.
10. **Marine Infantryman Juan Gamboa Valencia** was indicted as a result of an order issued on October 8, 2004 to initiate trial proceedings on charges of aggravated homicide.
11. **Marine Infantryman Dionisio Márquez Hoyos** was indicted as a result of an order issued on October 8, 2004 to initiate trial proceedings on charges of aggravated homicide.
12. **Marine Infantryman Roberto Pérez Ladeus** was indicted as a result of an order issued on October 8, 2004 to initiate trial proceedings on charges of aggravated homicide.
13. **Marine Infantryman Iván Salas Valdez** was indicted as a result of an order issued on October 8, 2004 to initiate trial proceedings on charges of aggravated homicide.
14. **Marine Second Lieutenant Ricardo Rivera Vallejo** was indicted as a result of an order issued on October 8, 2004 to initiate trial proceedings on charges of aggravated homicide.
15. **Army Sergeant Wilson González Echeverría** was indicted on October 15, 2004 on charges of kidnapping. He was detained and suspended upon an order of preventive detention issued March 16, 2004, as noted in the September 20, 2004 memorandum of justification.
16. **Army Lieutenant Carlos Humberto Flórez Franco** was indicted on October 22, 2004 on charges of terrorism and homicide in the August 1989 assassination of presidential candidate Luis Carlos Galán Sarmiento.

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17. **Army Second Sergeant Roiber Humberto Gutiérrez Montero** was indicted on November 23, 2004 on charges of murder and conspiracy. He was detained and suspended upon an order of preventive detention issued December 26, 2003 as noted in the January 14, 2004 memorandum of justification.
18. **Army Second Sergeant Victor Manuel Sánchez Sánchez** was indicted as a result of an order issued on March 28, 2005 to initiate trial proceedings on charges of arms and munitions trafficking to alleged paramilitaries in La Guajira Department in 2004.
19. **Army Major Jorge Enrique Jiménez Troncoso** was indicted as a result of an order issued on April 1, 2005 to initiate trial proceedings on charges of aggravated homicide and conspiracy to collaborate with paramilitaries.
20. **Army First Corporal Andrés David Castro Olaya** was indicted as a result of an order issued on April 1, 2005 to initiate trial proceedings on charges of aggravated homicide, conspiracy to collaborate with paramilitaries, and kidnapping.
21. **Army Second Corporal Luis Alejandro Barrera Fuentes** was indicted as a result of an order issued on April 7, 2005 to initiate trial proceedings on charges of conspiracy to collaborate with paramilitaries in the death a National Police Patrol in Cúcuta, Norte de Santander Department.
22. **Navy Captain Hernándo Alfonso Jama** was indicted on June 20, 2005 for failing to take action in order to prevent the AUC massacre of 18 peasants in Carmen de Bolivar in October 2000.
23. **Army Lieutenant Juan Carlos Ordóñez Cañón** was indicted as a result of an order issued on July 13, 2005 to initiate trial proceedings on charges of aggravated homicide in the deaths of three trade union members in Arauca in 2004.
24. **Army Soldier Oscar Saúl Cuta Hernández Suárez** was indicted as a result of an order issued on July 13, 2005 to initiate trial proceedings on charges of aggravated homicide in the deaths of three trade union members in Arauca in 2004.
25. **Army Soldier Jhon Alexander Hernández Suárez** was indicted as a result of an order issued on July 13, 2005 to initiate trial proceedings on charges of aggravated homicide in the deaths of three trade union members in Arauca in 2004.
26. **Army Soldier Walter Loaiza Cuma** was indicted as a result of an order issued on July 13, 2005 to initiate trial proceedings on charges of aggravated homicide in the deaths of three trade union members in Arauca in 2004.

Trial proceedings continue against the following individuals whose cases were listed in the memorandum accompanying the January and September 2004 certification:

1. **Army Soldier Raul Emilio Lizcano Ortiz**
2. **Army Soldier Carlos Alberto Pérez Pallares**
3. **Army Corporal Rodrigo Estéban Benavides Ospina**
4. **Army Corporal Arturo Alexander Pinedo Rivadeneira**
5. **Army Captain Gustavo Rengifo Moreno**
6. **Army Captain Edgar Mauricio Arbelaez Sánchez**
7. **Army Corporal Edgar Enrique Márquez Martínez**
8. **Army Second Sergeant Arquimedes Vargas Coca**
9. **Army Sergeant Garzon Edgar García**
10. **Army Lieutenant Gustavo Adolfo Gutiérrez Barragan**
11. **Army Soldier Orbien Giraldo Sanabria**
12. **Army Soldier Juan de Jesús García Walteros**
13. **Army Soldier Sergio Fernández Romero**
14. **Army General Jaime Humberto Uscátequi (retired)**

14. **Army General Jaime Humberto Uscategui (retired)**
15. **Air Force Captain César Romero Pradilla**
16. **Air Force Lieutenant Johan Jiménez Valencia**
17. **Air Force Technician Mario Hernández Acosta**
18. **Army Captain Jorge Alexander Sánchez Castro**
19. **Army Soldier Carlos Alberto Buila Bolaños**
20. **Army Second Corporal Jorge Bedoya Ayala**
21. **Army Second Corporal Wilson Caviedes Saenz**
22. **Army Solider Arnoldo Gutiérrez Barrios**
23. **Army Captain Jaime Quintero Valencia**
24. **Army Professional Soldier Fary Zúñiga Otero**
25. **Army Soldier Luis Salomon Puerto Acero**
26. **Army Soldier Juan Carlos Vásquez**
27. **Army Lieutenant Mihaly Istvan Jurko Vásquez**
28. **Army Sergeant Hugo Moreno Peña**
29. **Army Second Corporal Pedro Barrera Cipagauta**

From January 2005 to May 2005, the Inspector General's Office charged 11 members of the Armed Forces with human rights offenses in nine separate cases. The Inspector General reports that during this period, it had 170 total open investigations against members of the Armed Forces.

In addition to the disciplinary suspensions ordered by the Inspector General's Office following completion of its investigations (see preceding Section), other disciplinary sanctions were ordered against the following military personnel:

1. In November 2004, the Inspector General's Office upheld on appeal its 2003 decision to order the dismissal from the National Police of Colonel Mauricio Santoyo Velasco, under investigation for three years for his role in wiretapping some 2,000 individuals and NGOs from 1997-2000. In June 2005, Colonel Santoyo was relieved of his position as Chief of Security for President Uribe and retired from the National Police.
2. On March 14, 2005, the Prosecutor General sentenced six Army soldiers to between 16 and 40 years' prison for their roles in the 1994 killings of Elcías Muñoz and six other civilians in Ciudad Neiva. The sentences include 38 years for Lieutenant Colonel José Ancizar Hincapíe Betancurt and 40 years for Captain Enrique Bernardo Camacho.

Section 563(a)(2)(C) of the FY 2004 FOAA and Section 556(a)(2)(C) of the FY 2005 FOAA each require a determination that:

The Colombian Armed Forces have made substantial progress in cooperating with civilian prosecutors and judicial authorities in such cases (including providing requested information, such as the identity of persons suspended from the Armed Forces and the nature and cause of the suspension, and access to witnesses, relevant military documents, and other requested information).

The Minister of Defense has designated the Coordinator of the Armed Forces' Group of Human Rights and International Humanitarian Law as the liaison between civilian authorities and the Armed Forces. In addition, to ensure cooperation on the regional and

authorities and the Armed Forces. In addition, to ensure cooperation on the regional and local levels, the directors of the Human Rights offices of the Armed Forces liaise with the representatives of the Inspector General's (Procuraduría) and Prosecutor General's (Fiscalía) Offices in their respective jurisdictions.

Elba Beatriz Silva, director of the Human Rights Unit of the Prosecutor General's Office, in a letter dated June 21, 2005, certified that the Armed Forces provided full, effective and efficient cooperation in its investigations. The Armed Forces cooperated in apprehending and detaining suspects and aided the investigations by facilitating the gathering of evidence, aiding the investigation, and assisting in judicial procedures.

The Ministry of Defense and civilian judicial officials agree that military courts respect the decisions of the Supreme Council of the Judiciary concerning jurisdictional disputes between military and civilian prosecutors on whether alleged crimes are related to military service as to which has jurisdiction. From January 2004 to July 2005, the CSJ ruled on two jurisdictional disputes related to cases of human rights violations or aiding and abetting paramilitaries. Both cases were transferred to the civilian judiciary.

Several recent high-profile cases illustrate cooperation between the Armed Forces and judicial authorities, but also raise some concerns that will require further evaluation as the investigations develop.

Concerning the case against retired General Jaime Uscátegui for his role in the 1997 Mapiripán massacre, on October 6, 2004, the Supreme Court of Justice agreed with the Prosecutor General's request to transfer the case from Villavicencio to Bogotá. We favored this venue transfer, although we recognize it has delayed resolution of this important case. In May 2005, the Prosecutor General's Office completed its closing arguments and requested a 40-year sentence for General Uscátegui for omission of duty causing aggravated homicide and aggravated kidnapping. The defense is currently presenting its case.

On February 20 or 21, 2005, eight civilians, including three members of the peace community of San José de Apartadó, were killed by unknown actors near La Resbalosa. The Colombian government immediately condemned the killings and initiated a field investigation. While community representatives alleged that Colombian Army soldiers committed the killings, government officials claimed to have evidence linking the deaths to the FARC. Civilian prosecutors, investigators, a medical pathologist, photographer, a ballistics expert, and representatives from the Inspector General's Office arrived at the remote gravesites on the afternoon of February 25 and began collecting evidence. The team recovered 18 types of ballistic evidence, biological evidence, personal effects, and a machete among other items. The team was ambushed on March 2 and one policeman was killed. The team returned to the La Resbalosa in April 2005 to collect additional ballistic, topographic, and photographic evidence. During this investigation of the premises where the deaths are believed to have occurred, the Prosecutor General's Office determined that a powerful object, possibly a mortar, was detonated in the kitchen of one of the victims. In addition, the team went to the headquarters of the 17th Brigade to obtain aerial locations and operations orders for the region near the massacre site, and took two declarations. They also investigated the types of arms and munitions used by one of the battalions of the Brigade during the period of February 17-23. Despite assurances from the Colombian government, the community has continuously expressed its lack of faith in the justice system and refused to cooperate. The investigation continues.

Section 563(a)(2)(D) of the FY 2004 FOIA and Section 556(a)(2)(D) of the FY 2005 FOIA each require a determination that:

The Colombian Armed Forces have made substantial progress in

The Colombian Armed Forces have made substantial progress in severing links (including denying access to military intelligence, vehicles, and other equipment or supplies, and ceasing other forms of active or tacit cooperation) at the command, battalion, and brigade levels, with paramilitary organizations, especially in regions where these organizations have a significant presence.

The Colombian Armed Forces are taking effective action to sever links between military personnel and paramilitary units at the command, battalion and brigade levels. In addition, President Alvaro Uribe and Defense Minister Jorge Uribe have stated repeatedly, both publicly and in discussions with U.S. officials, that they will not tolerate collaboration between military personnel and paramilitary groups.

President Uribe stated in a May 14, 2005 speech in Arauca that, "This Government has a moral authority to pursue all expressions of crime. This Government has not joined forces with any terrorist group for the purpose of defeating another terrorist group...The objective is to have a Colombia without guerrillas, a Colombia without paramilitaries, a Colombia without corruption and a Colombia without illicit drugs. We must condemn and pursue all equally."

In addition, since the previous certification in September 2004, the General Command of the Military Forces issued the following permanent orders: Order of Permanent Character No. 8228 of November 19, 2004; Order of Permanent Character No. 7061 of January 28, 2005; and Circular 7312 of April 22, 2005. These documents reiterate that every member of the military is obligated to comply with the law and with international agreements signed by the Colombian government concerning issues of international human rights. Circular 7381 of May 24, 2005 particularly reiterates the importance of preventing [association with] and severing any links with illegal self-defense groups.

The Colombian military leadership has issued guidance to the Colombian military to address the problem of former service members who join the United Self-Defense Forces of Colombia (AUC) while maintaining their connections with active duty soldiers. The Colombian military is seeking to identify former career soldiers with ties to illegal armed groups and their active duty contacts, and has expressly restricted the access of such individuals to military facilities. The Armed Forces have increased base security and force protection measures to deter unauthorized contacts between active duty personnel and criminal elements such as paramilitaries.

Some AUC signatories retain strong reservations about the 2002 AUC cease-fire; others have refused to participate in talks to date. In June 2005, a report issued by the Colombian Ombudsman estimated that the AUC have committed more than 1900 cease-fire violations during 2004. In addition, some paramilitary groups have continued to recruit soldiers. It is estimated that paramilitary groups recruited more than 900 civilians between January and May 2005. The Colombian Armed Forces continue to take military action against all paramilitary units not committed to the peace process.

On several occasions, Colombian government authorities suspended or arrested local and departmental officials for suspected ties to paramilitary groups. On November 24, Colombian authorities arrested Hugo Rico González, president of the Simacota municipal council, in Bucaramanga, Santander Department as he transported arms, presumably for the AUC. At the time of his arrest, Rico was in possession of 11 rifle clips and 138 Russian-made grenades.

On December 29, at the request of the Prosecutor General's Office, the Colombian government suspended the governor of Casanare Department, Miguel Angel Pérez for allegedly receiving money from paramilitaries. Following an investigation, the Prosecutor General's Office charged Pérez with receiving 500 million pesos (more than \$217,000) from the leadership of the Peasant Self-Defense Groups of Casanare.

4227,000, from the leadership of the FARC and self-defense groups of paramilitaries.

Not only did the Colombian Armed Forces continue to sever ties with paramilitary organizations, they actively combated paramilitaries in numerous military operations. During these operations, the Armed Forces captured, arrested and killed paramilitaries, confiscated weapons, ammunition, vehicles and money.

Section 563(a)(2)(E) of the FY 2004 FOAA requires a determination that:

The Colombian Armed Forces are dismantling paramilitary leadership and financial networks by arresting commanders and financial backers, especially in regions where these networks have a significant presence.

Section 556(a)(2)(E) of the FY 2005 FOAA requires the same determination, except that "The Colombian Armed Forces are" is changed to "The Colombian government is."

The government of Colombia is attempting to dismantle fully the illegal self-defense groups through ongoing peace negotiations and the demobilization of thousands of AUC soldiers. However, the Colombian military continues to fight any paramilitary faction not represented at the peace talks and any group that is actively violating the cease-fire.

On May 27, 2005 senior AUC commander Diego Murillo Bejarano "Don Berna," or "Adolfo Paz" turned himself over to Colombian authorities after President Uribe had ordered his arrest for violating the AUC cease-fire agreement. Uribe had suspended peace talks with Murillo, and the Attorney General's Office issued a warrant for his arrest for his role in the April 10, 2005 assassination of congressman Orlando Benítez and two others. Following Murillo's surrender, President Uribe made the difficult decision to use Murillo's considerable control over several thousand paramilitary soldiers to advance the peace process. Murillo was placed under house arrest, under the surveillance of the military and police, and was permitted to maintain his status as a demobilized AUC leader in exchange for the demobilization of approximately 4,000 paramilitaries under his command. The decision had an immediate effect, and Murillo oversaw the June 15, 2005 demobilization of 465 members of the Héroes of Tolova Bloc, one of several AUC blocs he commanded.

The Government of Colombia has taken numerous significant actions against paramilitary groups' assets, including drug labs, property, and laundered money.

Some examples of other Government of Colombia actions aimed at financial backers of the paramilitary forces include:

- On October 2, 2004, the Counternarcotics Police destroyed a paramilitary cocaine processing facility in Puerto Triunfo, Antioquia Department. Police also arrested approximately 100 paramilitaries who were guarding the facility. The facility was capable of producing a ton of cocaine per month, and police confiscated 650 kg of cocaine hydrochloride, 168 kg of coca base, 2,300 kg of solid inputs and 1,400 gallons of liquid chemical precursors in the operation.
- On October 2, 2004, the Department of Administrative Security (DAS - FBI equivalent) dismantled the financial structure of the Cenaturros Bloc, one of the most powerful self-defense groups in the eastern plains region. DAS agents captured 14 people in Bogotá, Cali and Cartagena and seized two oil companies, one book distributor, and a flower firm, which were used as fronts to launder drug money for the Bloc. Those arrested were accused of laundering 7 billion pesos a

month during 2003-2004.

...member during 2000-2001.

- On October 12, 2004, Colombian authorities arrested eight paramilitary gasoline thieves who were attempting to divert the pipeline that carries oil to the southwestern port of Buenaventura.
- On October 24, Cauca police destroyed 10 paramilitary laboratories dedicated to the production of export grade cocaine in La Leyva. Reportedly it was the largest paramilitary facility to be dismantled. Seven leaders of the group were taken into custody along with a large arsenal. Police believe the cocaine produced was sold in Ecuador, and proceeds were used to purchase weapons and munitions.
- On November 4, 2004, Colombian authorities seized three AUC drug-processing facilities in the rural areas of Pradera and Palmira municipalities, Valle del Cauca Department. During the seizure, three paramilitaries of the Calima Bloc were killed. Authorities also confiscated four AK-47 rifles, three fragmentation grenades, more than 800 cartridges, and 10 clips. DAS believed that the three labs produced a ton of narcotics per week.
- During a 12-day period in December 2004, Colombian authorities captured 56 members of the Libertadores del Sur Bloc in Narino Department. The Bloc's leader, César Augusto Lastra Benítez, "Picacho," was among those arrested. Most of those detained were involved with drug trafficking, money laundering, and financing of the organization. Authorities dismantled three complexes where cocaine was produced and 22 "kitchens" where basic coca paste was produced. Other items seized included an illegal radio transmitter, funds totaling \$65,000 and \$500 million pesos respectively in US and Colombian currency, a luxury home, five motorboats and four fiberglass watercraft and weapons.
- On March 27, 2005, Counternarcotics Police staged an operation against a group of paramilitaries from the Celestino Mantilla Bloc of the Middle Magdalena Peasant Self-Defense Groups in Guaduas, Cundinamarca Department. Police seized a massive cocaine processing facility, including 1.2 tons of cocaine and 40 tons of precursors.
- On April 30, 2005, Bogotá police arrested 30 alleged members of the AUC who collected protection money in areas of southern Bogotá and surrounding towns. Their main targets were bus drivers, flower growers and their greenhouse employees. Four of the arrested were identified as leaders of the ring: Dani Alexander Vanegas, "El Mono;" Elkin Mauricio Bolanos, "Steven;" Wilson Tapiero, "El Zarco;" Wilson José Bolanos, "La Hormiga."
- On June 17, 2005, Cauca police and an Army counterinsurgency unit joined forces to seize 400 kg (with an estimated street value of \$10 million. Authorities also found a cache of chemical precursors.

Examples of paramilitary leaders arrested with the help of the Armed Forces of Colombia and handed over to the appropriate authorities include:

- On October 4, 2004, National Guard Anti-Drug Command units detained the alleged leader of the former Casanare paramilitary group, Hector German Rodríguez Buitrago, "El Boyaco." His extradition was requested by the US Government for drug transporting and trafficking.
- On October 14, 2004 Army troops arrested "Primo," alleged leader of the Walter Sánchez Front of the AUC in El Clavel.
- On October 21, 2004, the Mobile Mounted Police Squad detained Enrique Encinales Acosta, "Jhonatan" or "Poca Lucha," the presumed finance chief of the AUC's Fidel Castaño Front, in Meseta de San Rafael Corregimiento, Barrancabermeja Municipality. Encinales was preparing to pay August salaries, totaling 4,650,000

...company, ... pesos (approximately 300,000 pesos per envelope) to members of the front.

- On November 4, 2004, Colombian authorities captured and arrested Fredy Ciro Quintero, "Diego," commander of the José Luis Zuluaga Bloc in Cuatro Esquinas, Rionegro municipality.
- On November 11, 2004, police captured and arrested Robinson Sánchez Triana, "Jefferson" or "Duvan," commander for the AUC's Fidel Castaño Front in the Commune Six district of Barrancabermeja.
- On November 27, 2004, Colombian authorities captured Teodosio Pabon Contreras, "Andrés Camilo" or "El Profe," leader of the Centauros Block operating near Medellín. He was previously the political representative for the Centauros at the negotiation table in Santa Fe de Ralito.
- In early January 2005, authorities captured Juan Fernando Guerra Ochoa, "El Aguila," leader of AUC's Southeast Bloc operating in Antioquia Department.
- In January 2005, Colombian authorities arrested Jhon Wilber Rodríguez Osorio, "Chucho Mono" or "Pastor," chief of the Fidel Castaño Gil Front of the Bolivar Central Bloc in Barrancabermeja. He was the highest-ranking AUC leader ever arrested in Santander. The Prosecutor's Office had offered a 50 million peso reward for his arrest.
- In January, authorities captured Hector Julio Jiménez Reuta, head of finances for the Centauros Bloc.
- In February 2005, Colombian authorities captured Jesús Ramos Machado, "El Voluntario," head of the Alto Ariari Front of the Centauros Bloc.
- In March 2005, Colombian authorities arrested Miguel Rivera Jaramillo, "W" and "Wilson Barrera" coordinator and manager of enforcement offices of the urban group of the Centauros Bloc based in Villavicencio.
- In April 2005, Wilson Porras Ramírez, "Wilson," AUC political and financial commander was detained by authorities.
- In April 2005, Colombian authorities arrested Hernando Sánchez Loaiza, "Comandante Dragon," commander of the AUC's Las Aguilas Counterinsurgency of the Cacique Pipinta Front operating in Aranzazu and Salamina Municipalities.
- In April 2005, authorities arrested Fernando Landazabal Hernández, who manages the finances for the Fidel Castaño Gil Bloc of the Central Bolivar Bloc.
- In May 2005, police captured a regional leader and eight members of his group in the rural area of Villamaria. He has been identified as Luis Fernando Marin, alias "Franco," suspected of heading paramilitary groups in Caldas Department.
- In May 2005, DAS detectives arrested Alirio Acosta Peñaranda, "El Paisa," the finance chief of the AUC's Central Bolivar Bloc, in Giron. Acosta collected approximately 260 million pesos a month from the sale of fuel stolen from Ecopetrol.
- In May 2005, police captured Rafael Armando Forero, "El Zarco," who had previously been implicated in the murders of three Meta Department politicians. He is a presumed member of the AUC's Centauros Bloc and is charged with masterminding and financing the murders of deputy Nubia Sánchez, Governor Carlos Javier Sabogal and councilman Euser Rondon.
- In June 2005, police authorities detained Miguel Angel Pérez Ramírez, "El Cojo" or "Siete Machos," considered one of the main leaders of the AUC's Capital Bloc operating in Bogotá. Police confiscated weapons and jewelry valued at \$15,000.

On May 20 2005, President Uribe approved the extradition to the United States of the first-ever paramilitary, Jesús Antonio Giraldo-Serna, alleged to be the second in command of an AUC front in the Northern Bloc.

Section 563(a)(3) of the FY 2004 FOAA requires a determination that:

[T]he Colombian Armed Forces . . . are conducting vigorous operations to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations.

Since taking office, President Uribe has made a solid commitment to restoring government authority over areas controlled by paramilitary and guerrilla forces. By the end of 2004, Colombian National Police were stationed in all of Colombia's municipalities (roughly equivalent to U.S. counties). When President Uribe took office in August 2002, 158 of the 1098 municipalities in Colombia had no police presence.

Since the Secretary's previous certification, the Colombian government has continued to implement its Democratic Security Policy, a broad and integrated strategy to restore security, democracy, and effective state control to all parts of Colombian territory. Consequently, violent crime in Colombia is at its lowest level in 16 years. According to the Vice President's Office on Human Rights, from January to May 2005, there were 22 percent fewer murders, 61 percent fewer kidnappings, 37 percent fewer terrorist attacks and 12 percent fewer massacres from the same period in 2004.

In December 2004, the Colombian government announced a \$20 million investment in social programs in former guerrilla- and paramilitary-controlled territories recovered by the police and armed forces. The investment is organized through the Center for the Coordination of Integral Action (CCAI) in the Office of the President. The CCAI provides programs for health, education, recreation, food, security, and justice, among others in regions such as Santa Marta, Catatumbo, Bajo Atrato, Tierra Alta and Tumaco.

Further to the Colombian government's commitment to reestablishing authority in areas controlled by illegal groups, in July 2005, outgoing Minister of Defense Uribe announced the creation of a new Army Division to fill the void created by the demobilization of 2,600 paramilitaries in the region surrounding Medellín. The 7th Division will have 20,000 men and its headquarters will be in Medellín. The Division will be specifically tasked with preventing guerrillas from gaining ground in former paramilitary strongholds, such as Córdoba, Antioquia, and Chocó Departments. The creation of this division sends a strong signal that the Colombian government will not abandon the zones where paramilitaries are demobilizing to guerrillas. This is particularly important in an area where drug and weapons trafficking is predominant.



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Center for International Policy
1717 Massachusetts Avenue NW
Suite 801
Washington, DC 20036
(202) 232-3317 / fax (202) 232-3440
cip@ciponline.org