

NEW YORK: 30 Fifth Ave., N.Y.C., N.Y. 10011 / (212) 673-5470 / WASHINGTON, D.C.: 1900 L Street, N.W., Room 201, Wash., D.C. 20036 / (202) 775-0216

FOR IMMEDIATE RELEASE: THURSDAY, MAY 24, 1984

TRIAL OF NATIONAL GUARDSMEN: REAGAN POLICY AND DUARTE ADMINISTRATION
COME THROUGH WITH FLYING COLORS! BUT WAS IT FOR FREE?

---Tyler report details gruesome events of crime; classified because it shows Reagan's four certifications to be a mockery of law

---Defense Minister Vides Casanova may have participated in coverup, but will be rewarded with over \$80 million in U.S. military assistance

---Duarte says he "personally" investigated the case, but Tyler reveals that he conducted no such investigation and military ignored his pleas for an inquiry

---Case shows that Duarte's self-assessment--I've got the "guts," I've got the "will"-- is something of an exaggeration

The trial and convictions early this morning of the five former Salvadoran National Guardsmen accused of murdering four U.S. churchwomen in December 1980 have one crucial element in common with the authority and legitimacy of the incoming civilian administration of president-elect Jose Napoleon Duarte -- both, although pushed by the Reagan administration, ultimately depend upon the vital acquiescence of the Salvadoran military high command, which reigns supreme in the country. This point was all the more crucial in the churchwomen's case, since the standing, both domestically and internationally, of Defense Minister Eugenio Vides Casanova was at stake.

An independent classified fact-finding report on the case commissioned by the State Department strongly implicates Vides Casanova in an official coverup of the murders designed to ward off a U.S. investigation. In a first show of subservience to the Salvadoran military, president-elect Duarte has announced his reappointment of Vides Casanova as Salvadoran defense minister.

The 101-page report, submitted last Dec. 2 by the highly regarded retired U.S. federal judge Harold Tyler, Jr., to Secretary of State George Shultz, and now in the possession of COHA, savages President Reagan's four previous certifications to the Congress that progress was being made in reaching a verdict in the trials of the guardsmen -- which goes a long way to explain its hasty and controversial classification by the State

Department, as well as the president's pocket veto of legislation that would have continued the certification process last Nov. 30. The report's damning evidence of the Salvadoran military's blatant coverup of the crime, and its subsequent classification by the administration -- allegedly because it might have compromised the integrity of the then-upcoming trial -- represents a picture of a charade carried out by the administration to prevent public outrage over a controversial U.S. policy of sending millions of dollars' worth of military assistance to an institution that adamantly sought to frustrate efforts to bring the murderers of U.S. citizens to justice.

In addition, the Tyler report provides a classic example of then-President Duarte's relative impotence vis-a-vis the Salvadoran military, which repeatedly ignored his pleas for an investigation into the murders of Maryknoll Sisters Ita Ford and Maura Clarke, Ursuline nun Dorothy Kazel and layworker Jean Donovan on Dec. 2, 1980. The incident also underlines the futility of Duarte's claims to members of Congress this week that human rights conditions to additional U.S. military aid for his country are unnecessary, since he has the "guts" and the "will" to exert his influence in bringing to justice those responsible for death squad killings and other atrocities once he takes office June 1.

Throughout his previous term in office, from March 1980 to March 1982, Duarte was a functionary of the security forces, rather than their commander-in-chief, as was underlined by the fact that he was unwilling or unable to order an investigation of the murders of 600 members of his own Christian Democratic Party, many of them important leaders. Even the State Department admits that, while Duarte was in office, over 12,500 non-combatants were killed by the security forces. The true figure approaches twice that number. Under Duarte, not one of these crimes was ever investigated.

The resolution of the trial at the Zacatecoluca court in El Salvador releases \$19.4 million in U.S. military assistance for FY 84, which Congress held up last fall pending prosecution of the case. The House also voted 267-154 to appropriate an additional \$61.7 million in "emergency" military aid for El Salvador today, and the conviction of the five guardsmen undoubtedly has boosted that bill's chances of passage.

DUARTE DID NOT PARTICIPATE

Last Sunday, on NBC's Meet the Press, president-elect Duarte stated that he did not believe there was a coverup in the churchwomen's case, adding, "the investigation was made by me personally." But the Tyler report never records such an investigation by then-President Duarte, and despite heavy U.S. pressure on him at the time for a complete investigation of the crime -- one that would corroborate independent U.S. evidence and could be used to prosecute those responsible in Salvadoran courts -- the military refused to cooperate.

According to the Tyler report, two Salvadoran investigative commissions -- an in-house military unit led by Major Lizandro Zepeda Velasco, formed in December 1980, and a public commission led by Colonel Roberto Monterrosa, then-director of the Armed Forces Studies Center and later commander of the Salvadoran Navy -- after formally finding that the five Guardsmen and their commander had committed the crime, chose to stall U.S. queries and attempt to keep the identities of those responsible under wraps. "Taken together," the Tyler report states, "the Monterrosa and Zepeda investigations provide distressing evidence of the willingness of the Salvadoran military to protect their own, no matter what the cost." In addition, the report notes in its introductory summary that "we believe as well that it is quite possible that Colonel Carlos Eugenio Vides Casanova, then head of the National Guard and now a General and Minister of Defense, was aware of, and for a time acquiesced in, the cover-up."

GRUESOME ACCOUNT OF EVENTS

The Tyler report spares few details in relating the sequence of events that led to the murders of Sisters Ita Ford, Maura Clarke, Dorothy Kazel, and missionary Jean Donovan, on December 2, 1980. That afternoon, Kazel and Donovan were expecting to pick up Ford and Clarke, who were due to return from a Maryknoll conference in Managua, at El Salvador's

International Airport. The two picked up two of their other Maryknoll colleagues instead, and were informed that sisters Ford and Clarke were to arrive later that evening.

A national guardsman stationed at the airport, Margarito Perez Nieto, notified his local commander, Subsergeant Luis Antonio Colindres Aleman, of the women's presence at the airfield that afternoon "to report that he suspected the women of having weapons in their travel bags," according to the Tyler account.

Clarke and Ford returned later that evening to the airport to pick up Kazel and Donovan. Again Perez Nieto telephoned Colindres Aleman to notify him of their presence at the facility. At this point, according to the report's findings, "there is no reason to believe that Colindres Aleman necessarily had murder on his mind from the outset. At a minimum, however, he knew he was up to no good." The report states that he ordered five Guardsmen -- Carlos Joaquin Contreras Palacios, Francisco Orlando Contreras Recinos, Daniel Canales Ramirez, Jose Roberto Moreno Canjura, and Salvador Rivera Franco -- to "change out of their uniforms into civilian clothes." He also ordered Perez Nieto to hold all traffic for approximately ten minutes at a checkpoint at the entrance to the airport, "but to allow the 'white van' carrying the churchwomen to pass without hindrance." Together with the five guardsmen, Colindres Aleman drove up to a point along the road connecting the airport and San Salvador to intercept the vehicle.

When the van reached the awaiting guardsmen, Colindres Aleman ordered the women to get out of the vehicle and be searched. After a short interval they were told to reenter the van and, together with the guardsmen and an accompanying Guard jeep, the group headed into the neighboring hills.

At a National Guard command post in El Rosario La Paz, Colindres Aleman called for another vehicle at the airport. The first jeep was left at the command post, and, according to the report, "the five other Guardsmen crowded into the small van with the four churchwomen in the direction of Zacatecoluca." Along a dirt lane approximately six kilometers from the post, "Subsergeant Colindres Aleman directed Guardsman Contreras Recinos to bring the van to a halt, and ordered the women out of the van. The guardsmen sexually assaulted the women. Then, at Colindres Aleman's orders, they shot the women dead with their service rifles, leaving the bodies along the roadside as they fell. The guardsmen, upon completion of their grisly mission, then returned to El Rosario La Paz in the van."

Colindres Aleman later ordered that the van be burned -- after removal of personal effects belonging to the women. The bodies of the four were discovered early the following morning by villagers from Santiago Nonualco, fifteen miles northeast of the airport.

According to the Tyler account, "shortly thereafter, two National Guardsmen and three Civil Guardsmen arrived at the scene, and ordered the reparation of a common grave. The local Justice of the Peace, Juan Santos Ceron, was summoned by the Militia Commander, and authorized the immediate burial of the women as 'unknowns,' an unfortunate practice that had become common in El Salvador."

DUARTE POWERLESS TO PUSH INVESTIGATION

Under pressure from U.S. Embassy officials, the Zepeda and Monterrosa commissions were formed. Meanwhile, according to the Tyler account, an official at the U.S. Embassy "developed information that promised eventual discovery of the identity of the killers" in February 1981. "Over the next two months, this special Embassy evidence was proven reliable." Subsequent ballistics tests conducted by the FBI in March 1981 led the Embassy staff to conclude by April of that year that "only extraordinary pressure would result in the arrest and prosecution of the killers." The report states that on April 21, 1981, the Embassy identified Colindres Aleman to then-President Duarte.

President Duarte then "repeatedly instructed Colonel Monterrosa to undertake pertinent investigative steps," the report states. But "despite instructions from his civilian superior, Colonel Monterrosa did as little as possible throughout the early spring of 1981."

The in-house military investigation, authorized by then-National Guard chief Vides Casanova, proved no more forthcoming than Monterrosa's. In fact, Zepeda deliberately covered up knowledge of the identities of the killers that he had gleaned based on interviews with the guardsmen involved. As well, at a meeting convened by Vides Casanova to discuss the crime, Colindres Aleman directly informed his immediate superior, Sergeant Dagoberto Martinez, that "'the problem regarding the nuns is me,'" the report states. Colindres Aleman later confessed his involvement in the crime to Zepeda, according to the special Embassy evidence.

VIDES CASANOVA KNOWLEDGE "QUITE POSSIBLE"

With the identities of the killers in hand, Zepeda "undertook a course of action in the winter and spring of 1981 to protect Colindres Aleman and the other killers," the report states. This included submitting a commission report "absolving the guardsmen of blame" [that report, submitted months later to U.S. authorities, was "a sham," according to Tyler], and transferring the alleged murderers "away from their airport post" to make their early identification more difficult. In addition, with the knowledge that the FBI was conducting ballistics tests, Zepeda "ordered the killers to switch their rifles with others so as to make detection more difficult."

Most significantly, the Tyler report states that "although we have no direct proof, we think it is quite possible that Major Zepeda informed his superior, then Colonel Vides Casanova, of his activities. Vides Casanova appointed Zepeda, and Zepeda reported directly to him. It seems unlikely that a mid-level officer like Zepeda would have undertaken the obstructive actions he did without approval or encouragement from someone higher," the report says.

The report continues: "Moreover, when we interviewed now General Vides Casanova, we found him evasive; he professed a disturbing lack of knowledge of Zepeda's investigation, despite evidence that he was aware of and received reports concerning Zepeda's efforts throughout the investigation. In his answers to us, General Vides Casanova attempted to distance himself as completely as possible from all investigations of the crime."

LITTLE PROGRESS THEREAFTER

After the U.S. identified the suspected killers to then-President Duarte, it went to then-Defense Minister Jose Guillermo Garcia as well and demanded the arrests of the implicated guardsmen. By this time, U.S. authorities had determined that guardsman Salvador Rivera Franco did not participate in the crime. On April 29, 1981, the five suspects were arrested, and on May 17, 1981, the FBI was able to match a specific weapon with a cartridge found at the scene of the crime.

But in spite of U.S. identification of those thought to be the murderers and President Duarte's pleas, attempts on the part of Salvadoran authorities to investigate and accumulate evidence against the five guardsmen "were virtually nonexistent throughout the summer and fall of 1981," the report states.

According to a seven-page State Department document prepared in response to questions on the case submitted by the families of the churchwomen, whose contents were revealed in The Cleveland Plain Dealer on May 16, 1982, the FBI had in its possession at that time the fingerprints of only four of the six arrested in April. Significantly, the fingerprints of a total of 13 people that had been discovered on the women's van had not been identified by the FBI, according to the State Department document. Over 80 Salvadoran security personnel were in the area of the murders the night of Dec. 2, 1980. An FBI spokesman told the Plain Dealer, "We have to rely on them [the Salvadorans] to give us the prints of suspects."

Given Duarte's utter impotence in this case, even with strong U.S. pressure, it is highly unlikely that the president-elect can bring about prosecutions of those in the military responsible for directing and conducting the activities of the Salvadoran death squads, as he has promised the U.S. Congress. Nor is it conceivable that Duarte could initiate an investigation into the still-unresolved question that higher-ups may have ordered the murders of American citizens, let alone prosecutions. Nonetheless, many members of Congress rolled over on their

previous opposition to unconditional military aid to the Salvadoran security forces after a little lobbying on Duarte's part. The illogic of this action is given evidence by the probability that human rights conditions conceivably would lend Duarte a little more leverage over the actions of the armed forces, by being able to say, "reform your ways or aid will be cut off."

But both Duarte and his Reagan administration masters deem such conditions "degrading" in the name of upholding the country's "sovereignty" and counterproductive to implementing reforms, claiming that the president-elect can do so on his own. In today's El Salvador, however, the country's sovereignty is a function of the White House, since U.S. funds and advisers have penetrated every corner of its national life. Clearly, Duarte's past record says he cannot be relied upon to stand up to the security forces.

HIGHER-UPS' INVOLVEMENT IN ORDERING THE CRIME NOT FOUND

Colindres Aleman reportedly told several of his National Guard colleagues and U.S. investigators that the murders were committed on the orders of higher officers in the Salvadoran military. But the Tyler report states that, given available evidence -- including a polygraph test of Colindres Aleman conducted by an FBI official -- "it is unlikely that Subsergeant Colindres Aleman received higher orders to commit this crime. We believe that he acted on his own initiative." Nonetheless, the report states on two occasions that "the investigation of this question has not been commensurate with its importance, and all the facts are not known." At another point, the report remarks that "Colindres Aleman, more than any other person, knows whether he is protecting higher officers by his silence." A subsequent interview on the subject with Colindres Aleman was unproductive.

But former U.S. Ambassador to El Salvador Robert White has stated that two national guardsmen, who had been overheard by a witness to receive instructions by telephone on Dec. 2, the day of the murders, have since been killed, and that the two were potential witnesses to the possible participation of higher-level officers in the crime. The Tyler investigation was unable to substantiate the report.

RARE EXAMPLE OF COOPERATIVE SALVADORAN EFFORTS

In a rare display of Salvadoran cooperation with U.S. authorities, National Guard Major Jose Adolfo Medrano headed a working group set up a year after the murders to investigate and produce evidence that would corroborate the "special Embassy evidence" in order to enable a successful prosecution in a Salvadoran court of law. The "special Embassy evidence" was not publicly released -- and was not described in the Tyler report -- for fear of endangering lives, the report states. The findings of the Medrano effort were critical in making a trial of the accused in a Salvadoran court possible.

JUDICIAL SYSTEM 'IN A STATE OF DISREPAIR'

To date, only one of the accused guardsmen, Contreras Palacios, has confessed to the crime, doing so on January 14, 1982. In his trial, he withdrew that plea, saying that it had been coerced from him. The others steadfastly have maintained their innocence, and under Salvadoran law, the confession cannot be used against the co-defendants. The guardsmen, now that they have been convicted, face jail terms of between 10 and 30 years. But Tyler's findings go a long way towards repudiating the Reagan administration's claims that a functional democratic system is taking root in El Salvador. The report clearly warned that "We must state in the strongest possible terms that we do not believe a successful conviction can occur without the adoption of some adequate means of protecting the jury...." The presiding judge in the case, Bernardo Rauda, was subject to intimidation, and the report notes that Major Medrano "received multiple threats upon his life for his active role in pressing the investigation." The report went on to recommend a number of measures designed to safeguard potential jurors -- whose names, under Salvadoran law, must be made public -- from possible reprisals.

The Tyler report puts it bluntly when it states that "the criminal justice system in El Salvador is in a state of disrepair," and minces no words in describing that system. "A handful of inexperienced, undereducated, and occasionally corrupt prosecutors represent a society

that seems to have lost the will to bring to justice those who commit serious crimes against it. Intimidation and corruption of prosecutors, judges and juries are widespread, and a rigid legal system renders successful prosecutions all the more difficult. The military exerts a pervasive influence over the nation and...has sought to shield from justice even those who commit the most atrocious crimes."

In sum, while the report clearly stated that the five former national guardsmen "in fact committed the crime and the evidence of their guilt is overwhelming," it noted that unless "the jury can be safeguarded, we would be foolhardy to predict the conviction of these defendants." But a conviction did take place, leading to the irresistible conclusion that, given the current culture of violence in El Salvador -- and the fact that this entire case, including its investigation, took place against a backdrop of fear, intimidation and reprisal -- it is more than likely that the conviction occurred with money being paid and private assurances given. The Reagan administration repeatedly has been found -- even to the point of helping to covertly fund its favored candidate in the recent Salvadoran presidential election -- to be prepared to resort to any means in advancing its Salvadoran policy of a military win over the guerrilla opposition. A guilty finding was indispensable to continued congressional aid and getting the issue out of the way before Reagan himself was to run again. In these conditions, one can excuse a substantial percentage of U.S. public opinion questioning whether this was an untainted trial.

BURY THE EVIDENCE

It now is critically apparent why the State Department decided to classify the Tyler report and its highly incriminating evidence against the Reagan administration's chief military protege in El Salvador, General Vides Casanova. The classification came on Dec. 3, 1983, just after President Reagan pocket vetoed congressional legislation that would have renewed the certification process attaching human rights conditions -- including progress in the churchwomen's case -- to continued appropriations of U.S. military assistance to El Salvador. Publication of the report's findings would have produced an anticipated public outcry and sabotaged the bases for each of President Reagan's four certifications to the Congress, made even as U.S. efforts to bring to trial the five guardsmen were being thwarted by the very military officials to whom the White House was seeking -- successfully -- to provide U.S. weapons and ammunition.

Indeed, as Secretary of State George Shultz put it in explaining to reporters the pocket veto, "it would have been very difficult for me to sign certification again."

The trial at Zacatecoluca presented a delicate dilemma for the Reagan administration at a time when it is moving to augment U.S. military involvement in the Salvadoran civil war. On the one hand, a guilty verdict had to be achieved in order to placate congressional critics and a dissatisfied U.S. public demanding redress for the murders. But on the other, the U.S.-backed war effort against the leftist rebels is critically dependent upon a unified Salvadoran armed forces under the highly competent counterinsurgency commander, Vides Casanova. To the White House, the churchwomen's trial had to take place, but without opening fatal fissures within the ranks of the Salvadoran military, for the Reagan administration's policy depends on a cohesive command structure to carry its policy forward.

* * * * *

NOTE TO JOURNALISTS: A copy of the classified Tyler report is available for inspection at COHA's Washington office. Phone 775-0216.