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TITLE: SUBJECT: LIFE ON THE JUDICIAL FRONT LINE--A
CONVERSATION WITH A PUBLIC ORDER JUDGE

RELEASED IN PART B3 CIA
PERS/ORG, B6

ORIGDATE: 199005250001

SOURCE: STATE

DOCNO: BOGOTA 08287

TEXT:

TAGS: KJUS, SNAR, PGOV, CO

SUBJECT: LIFE ON THE JUDICIAL FRONT LINE--A
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1. CONFIDENTIAL -- ENTIRE TEXT.

2. BEGIN SUMMARY: CORRUPTION AND THE GOVERNMENT'S INABILITY TO PROTECT WITNESSES ARE TWO OF THE BIGGEST PROBLEMS FACING COLOMBIAN CRIMINAL JUSTICE, ACCORDING TO AN IMPORTANT BOGOTA JUDGE. THE EXISTENCE OF SEVERAL COMPETING INVESTIGATIVE POLICE AGENCIES WAS ALSO SAID TO BE A SERIOUS, BUT NOT INSURMOUNTABLE PROBLEM. DESPITE THE FAILINGS OF THE CURRENT SYSTEM, HOWEVER, THE JUDGE IS APPARENTLY MAKING AN IMPORTANT CONTRIBUTION TO THE GOC'S ONGOING STRUGGLE AGAINST NARCOTICS TRAFFICKERS. END SUMMARY.

3. POLOFF SPOKE ON MAY 17 WITH [REDACTED] [REDACTED] PUBLIC ORDER JUDGE OF BOGOTA. COLOMBIA'S PUBLIC ORDER JUDGES WERE ESTABLISHED SEVERAL YEARS AGO TO DEAL WITH THE COUNTRY'S MOST SENSITIVE CRIMINAL CASES, MOST NOTABLY THOSE DEALING WITH NARCO RELATED TERRORISM. THEY ARE RESPONSIBLE BOTH FOR INVESTIGATING CRIMES AND FOR RULING ON THE GUILT OR INNOCENCE OF INDIVIDUALS SUSPECTED OF INVOLVEMENT IN THEM. CURRENTLY, THERE ARE TEN PUBLIC ORDER JUDGES IN BOGOTA AND SOME SIXTY NATIONWIDE. [REDACTED]

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[REDACTED] HER POSITION ON THE FRONT LINES IN THE JUDICIARY'S BATTLE AGAINST MAJOR NARCOTICS TRAFFICKERS GIVES HER A UNIQUE PROSPECTIVE ON THE WORKINGS OF COLOMBIAN CRIMINAL JUSTICE:

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4. ACCORDING TO [REDACTED] ONE OF THE BIGGEST PROBLEMS FACED BY PUBLIC ORDER JUDGES IS THE ABSENCE OF ANYTHING RESEMBLING A U.S. STYLE WITNESS PROTECTION PROGRAM. SHE SAYS THAT MANY INDIVIDUALS ARE WILLING, EVEN EAGER TO TESTIFY IN IMPORTANT NARCO RELATED CASES BUT ARE DETERRED BY THE INABILITY OF THE SECURITY SERVICES OR THE JUDGES TO PROVIDE THEM WITH A NEW IDENTITY IN ANY REASONABLE PERIOD OF TIME. SECURITY FOR WITNESSES IS OFTEN NON-EXISTANT-- [REDACTED] NOTED THAT TWO OF HER WITNESSES IN A CASE INVOLVING NOW DEAD NARCO KINGPIN JOSE GONZALO RODRIGUEZ GACHA WERE KILLED. MORE RECENTLY, A WITNESS IN ANOTHER CASE WAS SHOT IN THE FACE, BUT SURVIVED.

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5. ANOTHER PROBLEM, ACCORDING TO [REDACTED] ARE THE SPECIAL PROCEDURES WHICH APPLY TO CASES HANDLED BY PUBLIC ORDER JUDGES. THE COLOMBIAN CRIMINAL CODE SPECIFIES THE LENGTH OF TIME A JUDGE IS ALLOWED FOR VARIOUS PROCEDURAL STEPS, SUCH AS CONDUCTING THE INVESTIGATION AND CONSIDERING THE ACCUMULATED EVIDENCE BEFORE RENDERING A DECISION. THE TIME PERIODS PROVIDED FOR PUBLIC ORDER JUDGES TO PERFORM THESE PROCEDURAL STEPS ARE MUCH SHORTER THAN THOSE WHICH APPLY IN ORDINARY CRIMINAL CASES ON THE THEORY THAT JUSTICE FOR THESE OFTEN NATIONALLY PROMINENT CRIMES SHOULD BE SPEEDY. THE PROBLEM, OF COURSE, IS THAT THESE CASES TEND TO BE FAR MORE COMPLICATED AND DIFFICULT TO INVESTIGATE THAN ORDINARY CRIMINAL CASES. [REDACTED] SAYS THAT SHE SIMPLY IGNORES THE PROCEDURAL TIME LIMITS AND TAKES AS MUCH TIME AS SHE NEEDS TO PERFORM A THOROUGH INVESTIGATION AND TO ARRIVE AT FAIR VERDICTS.

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6. CORRUPTION OF GOVERNMENT OFFICIALS BY THE NARCOS ALSO SEVERELY HINDERS THE ABILITY OF JUDGES TO INVESTIGATE AND CONVICT CRIMINALS, ACCORDING TO [REDACTED] A HIGH LEVEL OF CORRUPTION IS SAID TO EXIST

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 JUSTICE ALSO FOR OIA, ICITAP, AST AG MRICHARDS
 SOUTHCOM FOR POLAD
 GUATEMALA ALSO FOR AID

E.O. 12356: N/A

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SUBJECT: LIFE ON THE JUDICIAL FRONT LINE--A

IN BOTH THE INVESTIGATIVE POLICE FORCES WHICH ASSIST THE JUDGES AND AMONG JUDICIAL SUPPORT EMPLOYEES. SOME TIME AGO [REDACTED] RECEIVED A THREAT TO HER LIFE, APPARENTLY RELATED TO ONE OF HER CASES, WHICH SHE BELIEVES CAME FROM AN INDIVIDUAL WORKING WITH HER IN THE DOWNTOWN OFFICE COMPLEX WHICH HOUSES BOGOTA'S PUBLIC ORDER COURTS. THE INDIVIDUAL SHE BELIEVES MADE THE THREAT HAS NOT BEEN FIRED.

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7. [REDACTED] WHO WAS RECENTLY ASSIGNED A DRIVER AND A USG PROVIDED ARMORED VEHICLE, IS CONCERNED ABOUT HER SECURITY, BUT NOT OBSESSIVELY SO. SHE HAS NOT RECENTLY RECEIVED ANY THREATS AND SEEMS TO ACCEPT THAT RISK IS AN INHERENT PART OF HER JOB. SHE DID, HOWEVER, ASK POLOFF TO ARRANGE NON-IMMIGRANT VISAS TO THE U.S. FOR HERSELF AND HER FAMILY, "JUST IN CASE."

8. THE PUBLIC ORDER JUDGE WAS LESS CRITICAL OF THE VARIOUS SECURITY FORCES RESPONSIBLE FOR CONDUCTING INVESTIGATIONS THAN HAVE BEEN SOME OBSERVERS OF THE JUDICIAL SYSTEM WITH WHOM WE HAVE SPOKEN. SHE NOTED, HOWEVER, THAT THE EXISTENCE OF THREE MAJOR OVERLAPPING FORCES OF CRIMINAL DETECTIVES IS EXTREMELY INEFFICIENT. MOREOVER, INTELLIGENCE INFORMATION PROVIDED BY THE SECURITY FORCES, SUCH AS INFORMATION PROVIDED BY CLANDESTINE SOURCES, OFTEN CAN NOT BE USED IN COURT. JUDGE [REDACTED] BELIEVES, HOWEVER, THAT THE SECURITY FORCES GENERALLY TRY TO DO THE BEST JOB THEY CAN.

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9. [REDACTED] HAS WORKED CLOSELY WITH THE SECURITY

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SERVICES IN THE INVESTIGATION OF THE [REDACTED] MURDER. SHE HAS MET TO DISCUSS THE INVESTIGATION WITH DAS (ROUGH FBI EQUIVALENT) CHIEF GENERAL MIGUEL MAZA MARQUEZ AND WITH COL. OSCAR PELAEZ, HEAD THE NATIONAL POLICE'S PRIMARY INVESTIGATIVE UNIT. SHE IMPLIED THAT SHE BELIEVES MAZA'S PUBLIC ASSERTION THAT NARCO KINGPIN PABLO ESCOBAR WAS BEHIND THE CRIME AND SUGGESTED THAT, GIVEN TIME, SHE MAY ACTUALLY BE ABLE TO PROVE IT.

10. ONE ADVANTAGE ENJOYED BY PUBLIC ORDER JUDGES IS THAT THEIR CASE LOAD IS LIGHTER THAN JUDGES IN THE ORDINARY CRIMINAL JUSTICE SYSTEM. PUBLIC ORDER JUDGES STILL HAVE A LOT OF WORK, HOWEVER-- [REDACTED] IS CURRENTLY HANDLING 49 ACTIVE CASES. SHE SAYS THAT MANY OF HER CASES RESULT IN CONVICTIONS--SHE ESTIMATED THAT SHE HAD ORDERED CONVICTIONS IN PERHAPS SOME 30 CASES DURING THE COURSE OF 1989.

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11. COMMENT: DESPITE THE PROBLEMS WHICH PLAGUE COLOMBIAN CRIMINAL JUSTICE, THE EXISTING SYSTEM CAN PRODUCE IMPORTANT RESULTS IF COURAGEOUS AND COMPETENT JUDGES AND MEMBERS OF THE SECURITY FORCES ARE WILLING TO WORK TOGETHER. BECAUSE MANY OF THE ACADEMICS AND JURISTS WHO HAVE LONG DEBATED HOW TO BEST REFORM THE COUNTRY'S CRIMINAL JUSTICE SYSTEM HAVE HAD LITTLE CONTACT WITH THE REAL WORLD OF CRIMINAL INVESTIGATION, THE ISSUE OF PROTECTING WITNESSES HAS RECEIVED RELATIVELY LITTLE ATTENTION. AS [REDACTED] NOTES, HOWEVER, EFFECTIVE WITNESS PROTECTION IS VITAL IF THE JUDICIARY IS TO HAVE MUCH CHANCE OF CONVICTING IMPORTANT NARCO KINGPINS.

MCLEAN

REVIEW AUTHORITY: James Cooper, Senior Reviewer

END OF MESSAGE CONFIDENTIAL

[REDACTED]

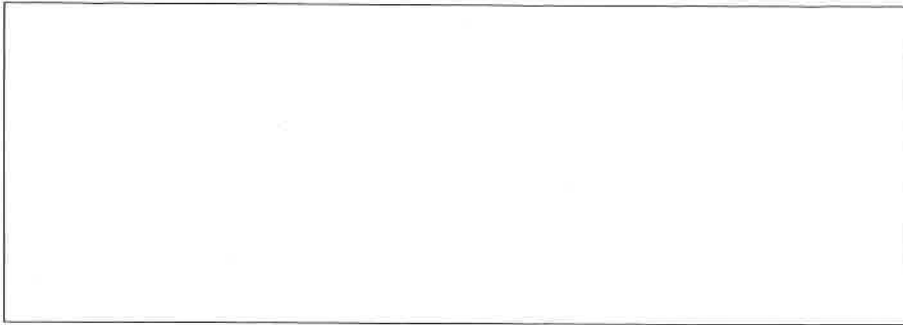
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POLAD GUATEMALA ALSO FOR AID E.O. 12356: N/A

DECLASSON: MR

DOCPREC: P

DOCST: ACTIVE

DOCTYPE: IN

DOCUMENT_ID: 166458535

DOR: 19900524

FROM: FM AMEMBASSY BOGOTA

GUIDE-UID: 1012/9g2g3

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<FROM>FM AMEMBASSY BOGOTA</FROM>

<TO>TO RUEHC/SECSTATE WASHDC PRIORITY 5920</TO>

INFO RUEBWJA/DEPTJUSTICE WASHDC

RUEHCV/AMEMBASSY CARACAS 7168

RUEHPE/AMEMBASSY LIMA 7787

RUEHLP/AMEMBASSY LA PAZ 7034

RUEHQT/AMEMBASSY QUITO 7502

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RUEHSN/AMEMBASSY SAN SALVADOR 2439
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RUEHZA/AMEMBASSY PANAMA 7291
RUEHGT/AMEMBASSY GUATEMALA 2736
RUEABND/DEA WASHDC
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INPUT_ID: 90 6775202
ORIGIN:
PRODUCER: BOGOTA
RECEIPT DATE: 90 677520219900524211426
SOURCE-INFO: STATE IN P BOGOTA 08287 BOGOTA 199005250001
TAGS: TAGS: KJUS, SNAR, PGOV, CO
TO: TO RUEHC/SECSTATE WASHDC PRIORITY 5920
TOR: 211426

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