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Acknowledgments

This report was written by Jemera Rone, Counsel to Americas Watch, and is based on Ms. Rone's research in Nicaragua, including at the site of the ambush.

Americas Watch conducted this investigation as part of our continuing effort to monitor human rights in Nicaragua, including violations of the laws of war by both sides. During the past eight years, Americas Watch has conducted close to forty investigative missions to Nicaragua and has published more than fifteen reports on that country. Ms. Rone has participated in a large number of those missions and is the author or co-author of many of our reports on Nicaragua.

I. Summary

On January 1, 1990 at 6:30 p.m. a white Toyota pickup carrying three Catholic nuns and a bishop was ambushed at Ojo de Agua on the highway between Siuna and Rosita in central Nicaragua, killing two of the nuns and seriously injuring the other two passengers.

Between January 10 and 14, 1990, Americas Watch investigated the killings at the scene of the ambush and spoke to residents, local authorities, and witnesses to the crime. The two young men, Jaime Aráuz López, 20, and Ronal Dolores Mairena Sobalbarro, 16, residents of Ojo de Agua who saw the contras at the ambush site at the time of the ambush, were interviewed extensively.

It is our conclusion, based on this investigation, that those responsible were a unit of the rebel Resistencia Nicaragüense, or contras, firing indiscriminately at the vehicle without warning to stop but also without knowledge that the vehicle belonged to the church.

Contra is short for contrarrevolucionarios, or counterrevolutionaries, so called because they oppose the Sandinista revolution.

II. Background

A. Our investigation

We interviewed the two direct witnesses for several hours, first when they knew we were preparing to visit the site of the ambush, and then upon returning from the site. We find them credible witnesses. Their story is internally consistent. They do not appear to be rehearsed or pressured.

Members of the community interviewed by Americas Watch all knew the young men and uniformly stated that they are hard-working, have not been in any trouble, are not involved with either side (the government or the contras), and have the reputation of being honest. Neither has more than a grade-school education but they were both logical and straight-forward in their answers to questions. The Mairena family has lived in Ojo de Agua for nine years and the Aráuz family in Coperna Abajo for 10 years. Neither family has taken sides in the conflict, according to residents and officials, which was our impression as well.

We arrived in the Siuna-Ojo de Agua area on January 10 and stayed there until January 14. We interviewed people in Ojo de Agua on three separate days, some of them more than once, and others connected with the case, including military and state security authorities. All the interviews were private.

B. Prior contra abuses, ambushes, kidnappings, and killings in the area

Over the years, Americas Watch has documented many cases of indiscriminate attacks by the

Ejército Popular Sandinista, EPS.

The Sandinista police and the state security police (Dirección General de Seguridad de Estado, DGSE) are under the jurisdiction of the Ministry of the Interior (Ministerio del Interior, MINT).

contras on cooperatives as well as on vehicles traveling country roads. The ambush of military and government vehicles has been a frequent tactic of the contras, with civilian casualties occurring when, as has often happened, no care is taken to assure that the target is indeed military.

1. Ambushes on the highway, deaths

Ojo de Agua is about 31 kilometers east of Siuna and midway between Siuna and Rosita; it takes about an hour to reach Ojo de Agua from Siuna due to the condition of the bridges. This road is the only one east from Siuna to Rosita (two hours) and from there to Puerto Cabezas on the Atlantic Coast (another four hours).

The last contra ambush on the Siuna-Rosita highway prior to the attack on the nuns was an attack on a military vehicle on August 29, 1989. It occurred midway between Ojo de Agua and Siuna. The victims were an EPS First Lieutenant, Rodolfo Vallecillo Martínez, and a prosecutor from the office of the military prosecutor (Auditoría Militar), Héctor Chow Rodríguez, who at the time of the ambush was taking Lieutenant Vallecillo into Puerto Cabezas in connection with the investigation of a case of human rights abuse by the officer (See below.). Two others in the military vehicle were wounded and the car was burned.

The following accounts of other contra ambushes on the Siuna-Rosita two-hour stretch of road come from the military and have not all been independently verified by Americas Watch:

In April 1989, a civilian Robur microbus was shot up, and one wounded, near Lukú (between Ojo de Agua and Siuna);

On July 19, 1989, around El Empalme, between Ojo de Agua and Rosita, a contra ambush of a military vehicle killed four MINT agents and wounded six;

On May 1, 1987, a Ministry of Construction (MICON) truck was ambushed, killing one civilian and wounding another, five kilometers east of Baká, a hill near Ojo de Agua;

In 1986, in El Tesoro, east of Ojo de Agua, a MICON truck was ambushed, killing two civilian employees;

On May 7, 1985, in Lukú, an ambush of a military vehicle claimed the lives of 11 MINT and EPS soldiers, including Subcomandante Evaristo Vásquez, and wounded seven others;

In 1985, in San Antonio between Ojo de Agua and Rosita, three civilians were killed in an ambush;

In 1985, Juana Aguinaga, riding in a military vehicle, was killed and two police wounded in an ambush at Baká occurring during the day. Several residents of Ojo de Agua interviewed by Americas Watch mentioned the ambush that killed Juana, a civilian hitching a ride, although they could not agree on the year;

In 1984, an ambush on a military vehicle at Baká wounded two soldiers.

Residents of Ojo de Agua and Siuna told Americas Watch that in earlier years the highway from Siuna to Rosita was dangerous day and night because of contra ambushes. They could not recall each of the ambushes but they assured us that there were very many and that Baká was the site of several.

2. Executions

Three men associated with the Commission for Peace (created after the government-contra agreements at Sapoá in March 1988) were kidnapped on August 25, 1988, by the contras and disappeared, according to several reliable sources. Eduardo Hernández Ramos had been kidnapped

See Americas Watch, The Killings in Northern Nicaragua, November 1989 at 48.

before by the contras and escaped. After the escape, he publicly denounced the contras. His family was at home in Mongallo (west of Ojo de Agua) when contras, led by a man recognized as "Jalisco," came to capture him the second time. Marcelino González and Faustino Reyes were captured by the same contra contingent on the road. All were accused of collaborating with the government. Unconfirmed reports are that Hernández and González were executed in the mountains.

3. Kidnappings

According to a partial list of kidnap victims assembled by independent observers in Siuna, there have been some 148 contra kidnappings in the area since 1982. In some of these cases, the victims may have decided to join the contra forces voluntarily. Of the 148, 21 were kidnapped in the 1988-89 period, and another two were taken and are believed dead (See above.).

C. Prior Sandinista abuses

The worst Sandinista abuse in this area in the past two years, and one of the worst abuses we learned of by either side during recent years, was a killing of six captured correos (contra collaborators) in the area of Umbla, two days south of Siuna in the mountains, on August 20, 1988. Several were killed by machete blows and one was beheaded.

These six men and one who survived were captured by a patrol of eight "compas," as people call the military or MINT troops; it is believed that these were from the MINT. One of the eight soldiers, Merenciano López Hernández, a former contra who had turned himself in (a desalzado, literally one who has laid down his arms) was recognized by the survivor.

The survivor, Ascensión Díaz Méndez, brother of two of the slain men, made a statement to

The men were Pánfilo and Eliodoro Díaz Méndez (brothers), Juan José Granados López, Mariano Granados López, Justo López Campos, and Santiago Granados Real.

the MINT in December 1988, which we read. After capture, all the men were accused of being armed correos; Mariano finally admitted the charge and said he would take the compas to recover arms. José tried to run for it and was shot. Mariano then also tried to escape, but was grabbed and struck many times with a machete. Santiago was then shot, and had his head cut off with a machete. Justo, pleading for his life, on his knees, was killed with a machete, as was Eliodoro. Ascensión, the lone survivor, was given five blows to the back of the head and shoulders with a machete. The compas then shot the body of Mariano. Ascensión, who had not lost consciousness, saw them shoot his other brother Pánfilo.

After the compas left, Ascensión, whose hands were still tied, managed to make part of his way home; his mother encountered him on the path.

We spoke to an independent source who interviewed Ascensión, saw his wounds, and talked to others in the community. They were too afraid, however, to retrieve and bury the bodies, having seen Ascensión's condition when he staggered in, and having heard his tale of horror.

Although the case was reported to the government, including the MINT, the Auditoría Militar and the government human rights commission, none of the attackers was ever located nor could the unit be identified and no one was tried or punished for this gross violation of human rights.

In 1989 there were two reported cases of human rights violations by the EPS in this area. One occurred in Kurrín, southwest of Siuna. We learned of the case shortly after it occurred in July 1989, before it had been established who was responsible. An elderly couple, Angel González and Elsa Polanco, were killed in their remote farmhouse, their bodies and house riddled with bullets.

Comisión Nacional por la Promoción y Protección de Derechos Humanos, CNPPDH. The commission office in Managua, however, told us that they had no record of the case but would

The person under investigation for this crime was First Lieutenant Vallecillo, killed in a contra ambush on the Siuna-Rosita highway on August 29, 1989. (See above) Allegedly while drunk, he had ordered a patrol headed by a former contra (desalzado) who was an enemy of this couple (or of their sons in the contras) to investigate the couple for possible collaboration. The man allegedly responsible for pulling the trigger in the case was said to have escaped from jail in Siuna after one month's incarceration. Others involved in the case are reportedly still in jail.

On April 4, 1989, Pedro Amador Rodríguez, 20, and his brother Justino, 18, were captured separately at their home in Caño Seco, some two hours south of the highway, by soldiers from the Yaoya outpost between Siuna and Ojo de Agua. The two were taken further into the mountains, to Bocana del Caño de Tres and Coperna, where they admitted that they had been collaborating with the contras. They were shot and buried there.

Lieutenant Lucas Suárez was arrested (apparently some of his men talked) and admitted killing these "enemies of the people." The bodies were located. Lieutenant Suárez was jailed in Siuna, but since he suffers from tuberculosis he may not be in confinement at this time.

These abuses are consistent with the pattern of summary executions by military and MINT officials of alleged contra collaborators in remote areas that occurred in 1988-89, as we described in our November 1989 report, The Killings in Northern Nicaragua. These very serious violations of human rights by government forces do not include ambushes of vehicles, however. Americas Watch has not encountered any case of such an ambush by government forces in Nicaragua during the eight

look into it.

When we asked the DGSE and army in Siuna about it, they said they were under the impression that Vallecillo was being investigated for reckless endangerment for shooting off his gun in a cooperative. They noted that he had family problems and had started drinking.

years we have been investigating abuses of human rights.

D. The setting

The site of the ambush in Ojo de Agua is 31.6 kilometers from Siuna, driving east toward Rosita on a winding, two-lane dirt road, criss-crossed by several rivers with bridges in various states of disrepair. It is an area of low hills and modest to extremely poor farmhouses scattered along the highway. Forest and heavy underbrush are interspersed with cleared rolling pasture lands. Other farms are located in areas remote from the road and inaccessible by vehicle.

1. Coperna

The largest community prior to reaching Ojo de Agua is Coperna, which is a collection of wooden houses and buildings comprising a cooperative and a military outpost. The cooperative and military base have been there for about four years, and there was no major friction between Ojo de Agua and the Coperna complex, according to residents of Ojo de Agua.

Coperna has not been attacked by the contras. Military patrols operate from Coperna, which is about five kilometers to the west of the ambush site, or about 10 minutes by car and 30 minutes to one hour on foot. Residents of Ojo de Agua said that soldiers pass occasionally on patrol on the road. On January 1, 1990, no one interviewed by Americas Watch noticed any EPS patrols in the area of Ojo de Agua.

2. Military outpost at Baká Hill, Ojo de Agua

On January 1, 1990, the military posts in and near Ojo de Agua, according to its residents, were the military base at Coperna and a small post of seven soldiers almost two kilometers east of the ambush site, which had been there since December 24, 1989. This position was on a small hill facing east toward Baká Hill and its function was to guard that hill, a site of prior contra ambushes

and activity. The Baká position did not face west toward the ambush site and the ambush site was not visible from the position, even when climbing to the top of the small hill, because the forest obscured the view.

The position was set up literally in the backyard of Alejandro Mairena Cruz, 45, the father of Ronal Mairena, one of the witnesses to the contra attack on January 1.

The plastic tents of the soldiers, on the side of a small rise about 20 meters from the inhabited house, were clearly visible from that house as well as from the road, since no foliage blocked the view.

Residents interviewed said that the soldiers, who were in plain view of the road, did not have radios, grenades, grenade or rocket launchers, and were armed only with AKAs, Soviet-style automatic rifles. Their job was to watch the mountain, and they did not move from the spot, except to bathe in the river, according to residents of the area. They were not seen patrolling.

Celebrations of the Word (Catholic services without a priest) were held at the Mairena house and many families from the community, attending the celebrations on the Sundays of December 24 and 31, saw the soldiers sitting at their post near the house.

3. Contra presence

Americas Watch was told by Captain Miguel Miranda, head of the EPS in Siuna, by Captain Otilio Duarte, head of State Security in Siuna, and by the commander of the EPS base in Coperna, First Lieutenant Alfredo Zamora, that in late December they received information that the contras were moving toward the highway from a base to the south.

Contra presence in this area has substantially decreased from a high level of activity in the mid-1980s, civilian and military alike agreed. First Lieutenant Zamora said that during 1989 the

contras had not attacked any cooperative in this sector. According to him, they had kidnapped 17 peasants in June 1989 from nearby Oro Fino; of these, some eight, including women, stayed willingly with the contras.

The March 1988 Sapoá agreements and the cease-fire put in place at that time produced a sharp decrease in contra activity, although it had been declining since a high in 1985. In late 1989, however, the contras were infiltrating back into Nicaragua from their bases in Honduras. Currently contra and U.S. sources claim that, including the recently reinfilitrated contras, there are around 5,500 contras inside Nicaragua, an increase over late 1988.

The army believes that the contras have a large social base in Mongallo, between Siuna and Ojo de Agua, so they have stationed soldiers there frequently. (The father of the contra accused of leading the ambush lives in Mongallo; he complained of the military surveillance of his farm. See below.) First Lieutenant Zamora said that the contras do not have much of a social base in Ojo de Agua.

The army believes that the contras tend to step up attacks during the Christmas period, so it takes precautions at this time. According to officers interviewed by Americas Watch, the military has not engaged in any operations against the contras since the 1988 Sapoá accords and cease-fire which was lifted on November 1, 1989; they took pains to say this was a unilateral cease-fire by the

State Department spokesman Richard Boucher stated on November 2, 1989, that about 2,000 contras had re-entered Nicaragua since early October 1989. John M. Goshko, "Contra Infiltration Confirmed," The Washington Post, November 3, 1989.

Christopher Marquis, "Contras report casualties in renewed battles," The Miami Herald, November 2, 1989; John M. Goshko, "Contra Infiltration..."; "Honduras OK's letting contras cross border," The Miami Herald, November 5, 1989.

government, never respected by the contras. Even now, the military is under orders not to undertake operations, with the exception of the patrol they sent out to track down the contras who ambushed the nuns. They regard patrolling the road as maintaining vigilance, not a military operation.

The authorities received information that a contra by the name of Evaristo Aguinaga (nom de guerre "Rubén") and his brother Juan had left their base near Susún, about two days south of Siuna in the mountains, with their group of contras on or about December 25. According to the officials interviewed by Americas Watch, Rubén and Juan went to visit their father in Mongallo for Christmas.

The authorities are vitally interested in Rubén's whereabouts, in part because they have been trying to convince his family to persuade Rubén to lay down his arms.

Having received this information about contra movements, the army sent out extra units to be stationed at spots of known contra activity on the road. One was at the Baká Hill (See above.).

When the Baká unit came to camp on property owned by Ronal's father, the commander, a soldier from Coperna known by the name of Denis, told Mr. Mairena that they were there to await contra activity.

The residents of Ojo de Agua did not notice any contra presence during this period.

The army later received information that the contras returned to their base, arriving on January 5.

Americas Watch received hearsay information that various peasants who live in the mountains further south of Ojo de Agua said that the contras had passed through going north before the ambush and going south after the ambush. These peasants were not accessible to us and we were not able to verify this information. As always, such facts take time to establish in Nicaragua but we

expect that within a month or so the information will be clear.

III. The Ambush

A. The kidnapping of two boys

1. Going fishing

The afternoon of January 1, Jaime Aráuz and Ronal Mairena decided to go fishing at the Coperna River. The fishing spot was located on the path from Ronal's house on the highway at Ojo de Agua to Jaime's farm, an hour and a half walk south in Coperna Abajo.

The boys asked a friend to go with them. The friend told Americas Watch that he did not have a horse, and the two were going on one horse. Also, the friend had served two years in the army as a conscript, so he declined the invitation; he had a feeling that the contras might be around. Though no one had seen contras, a military post was placed at the Mairena house to watch the Baká Hill for contras. (The contras are harder on young men who have served in the EPS than on those who have not, and neither Jaime nor Ronal had served in the army. Jaime's family told Americas Watch that their son had a medical exemption for a nervous condition related to his slight stammer, and Ronal has just turned 16.)

2. The contras eat a cow on the Aráuz farm

That same morning, a group of contras passed through Jaime's family's farm and killed and ate a 200-pound cow, leaving behind several camp fires and the skin and some bones of the cow. Jaime's brother Felipe Aráuz found the remains a few days later, and a few days after that his father also saw the remains, which were about a 45 minute walk from the Aráuz farmhouse. They both believed that it was the contras who ate the cow because of the boot prints left behind which Felipe, who had been drafted and served two years in the army (1985-87), recognized.

No one seems to have seen either the EPS or the contras pass through the farm that day, or at

any time during this period. A worker on the farm saw them pass through eight months before, however, and in earlier years they had traversed the farm on a number of occasions. It was much rarer to see EPS patrols on the farm.

3. The kidnapping

On the highway, the two boys left the horse they were riding in a pasture and proceeded on foot. They did not go to Jaime's family's farmhouse, but went directly to fish, and intended to return that evening, they told Ronal's father and their friend.

The area south of Ojo de Agua to the Aráuz farm is not populated, several farmers told Americas Watch. (Some of the land is not suitable for farming, one added.) Two farms there were abandoned several years ago. The Aráuz farm is the first inhabited farm, walking an hour and a half south from Ojo de Agua.

The boys left Ojo de Agua about noon on January 1 and by 2 p.m. were at the fishing spot. They had barely started to fish, beginning to pull very small fish out of the stream, when the contras appeared. Ronal, catching sight of them, removed his wrist watch and slipped it in his pocket for safekeeping.

Both had seen the contras before on various occasions, as is typical in the case of boys living in the countryside in Nicaragua. The contras previously had a strong presence in the area, passing through Ronal's farm in Ojo de Agua (near Baká Hill) and other places on the highway many times before 1985. Jaime's farm was in an area where the contras also passed frequently in prior years. More recently, Jaime's family had been required to evacuate the farm in December 1988 by the EPS for "reasons of security," presumably because the contras were in the area. The family was permitted to move their cattle to a relative's farm near Siuna, and finally allowed to move home in June 1989.

Jaime had been kidnapped on at least one prior occasion by the contras. In December 1987, the contras conducted a major offensive in the "Mines" area of Nicaragua, attacking the three gold mining towns of Siuna, Rosita, and Bonanza. They occupied Siuna for almost a day and took over a nearby military base. Jaime and a brother who were then at a family farm near the base were pressed into service by the contras to carry captured munitions. The brother was slightly injured and could not proceed but Jaime was kept by the contras until he got away late that evening.

Both boys were also familiar with the EPS and the uniforms its soldiers wear. They also knew by sight many of the soldiers at Coperna because Coperna is a local center of various activities, including baseball games, and they had played baseball on teams opposing the cooperative team which included soldiers. In addition, the soldiers patrolled the highway and stood guard at various posts, including the one recently set up at Ronal's house.

The boys' recognized that the armed men approaching them were contras, based on their uniforms; these are better quality uniforms than the EPS wear. Some had "jungle" boots, of rubber at the bottom and waterproof cloth on the top; others wore rubber boots. They wore camouflage uniforms and olive green uniforms similar to those they had seen the contras wear in the past and backpacks like those worn by the contras; they had large pockets on the side of their pants, which the EPS uniforms do not have. One had a patch on his uniform, which both boys noted, with a yellow eagle and black letters.

A few contras approached the boys. They asked if they were in the EPS or had done any military service, to which the boys replied in the negative. They did not ask for documents or search them. They told the boys they had to come with them, and did not give any explanations.

The boys estimated that there were about 60 to 70 contras in this group, though they did not

see them all in one place. They saw no other civilians with them.

The boys saw that the contras were armed with AKAs, one RPG-7 (rocket-propelled grenade launcher), and one M-79 grenade launcher (popularly called a mono, or monkey). One contra carried a FAL, a heavier and smaller automatic rifle. The boys said that they recognized the weapons because they had often seen EPS soldiers and contras with weapons; indeed, the countryside is heavily militarized. Jaime, on request, was able to draw convincing sketches of the various weapons.

Later in the day, at the time of the ambush, they overheard one contra ask another about the whereabouts of the mine, and saw the second contra, who said "here it is," come forward with a green metal box which they assumed was a mine, which they had not previously seen.

4. Evaristo Aguinaga, or Rubén

The contra who carried a FAL was recognized by Jaime. He was Evaristo Aguinaga, age 35-40, whose nom de guerre is Rubén. Jaime (according to him and his family, interviewed separately by Americas Watch) had seen this man years earlier at community gatherings before he joined the contras in 1982. The Aguinaga family was from Esquipulas, Matagalpa, and moved 14 years ago to Mongallo, a community on the highway between Ojo de Agua and Siuna. At the time, Jaime, now 20, was much younger, so apparently Rubén did not recognize the boy.

Jaime described Rubén as being blond (a term used in Nicaragua to refer to blond to brown hair), with a blond beard and light eyes; others separately gave that description to us, one adding that Ruben's eyes are what is called gato (cat), or green.

Americas Watch also interviewed Rubén's father, Secundino Aguinaga Blandón, over 66, in his farmhouse in Mongallo, visible from the road. This family of five brothers and five sisters was well known in the farming community, where some of them still live; Rubén and another brother,

Juan, joined the contras in 1982 because the family was being persecuted by the Sandinistas and those who envied them, the father told us. It was widely known that these two men, and their brother in law Gregorio Trujillo, had joined the contras, and their family did not deny this. Trujillo's wife (or widow) was present during Americas Watch's interview with her father-in-law, Mr. Aguinaga.

The father said that Rubén came to visit him in March 1989 and discussed the possibility of surrendering but concluded that his brother, still in Honduras, and his troops would suffer if he left the contras.

His son last visited him three months ago, he said.

Mr. Aguinaga complained that the MINT had taken him to Puerto Cabezas after the ambush on the church vehicle and asked him for a declaration. He was not physically abused but the ride on the rough road was hard on a man of his age. He complained of prior surveillance of his farm and roundly denounced the Sandinistas for a series of acts of persecution of his family, some dating back several years. He said that such persecution was the reason hundreds and thousands of men had joined the contras.

5. Identification of contra troops

When we asked the boys who were kidnapped how they knew their abductors were contras and not compas, or EPS soldiers, the boys cited several factors, randomly, aside from the uniforms, backpacks and boots (See above.). They said that the men did not talk much on the trail, and they asked different questions from the military (or DGSE) authorities who stop civilians; the government "investigates" or questions more. The boys said that the attitude of the contra troops was more "machista," or aggressive. The leader of the group was referred to as "comandante," and they knew that the only comandantes of the EPS were in Managua, not in the muddy paths of central Nicaragua.

The armed men referred to each other as "comandos," a term used by the contras but not the army.

We wondered why the boys were taken by the contras. The boys said that they were not used as guides, but were taken along in the middle of the contra column that was moving toward the highway. They overheard some contras, who referred to each other as "comandos", say that they were going to conduct an ambush, although they did not hear who was to be ambushed.

After several interviews, the boys conceded that they were asked by the contras where they lived, and then were asked about the location of Sandinista troops in the area. They did not recall the answers they gave. We surmise that the boys were taken by the contra troops to ensure that the presence of the contras was not detected before the ambush as well as to provide information to the contras about the terrain and the current presence of Sandinista army units along the highway.

It is reasonable to assume that the boys would have informed them of the soldiers near the Baká Hill, if only to steer them in another direction and avoid cross-fire casualties to Ronal's family if the contras were to stumble upon the seven-soldier post. This would also avoid subsequent reprisals if the contras discovered the boys were lying. (If the contras decided to attack the seven-man post, however, the family would be in danger as well.)

The contras moved slowly northward toward the highway, at first on the path and then, abandoning the path that leads to Ronal's house, through the forest and underbrush. The boys recognized the area because they had passed through and worked there. The contras stopped along the way to rest.

It was raining as they advanced toward the highway.

While the rest of the troops stayed back, the two boys were sent ahead to the highway with a contingent of about 10-15 contras, including one assigned to guard them. The boys and the guard

stopped in thick underbrush which blocked their view of the highway, though they calculated that they were about 50 meters south of it, near a fence of three strands of barbed wire that separates the pasture of the Torres family from the underbrush. They knew exactly where they were. Having stood in the same underbrush, we can affirm that the highway is not visible from that spot.

The boys say they do not know why they were taken to within 50 meters of the ambush with the ambush contingent while other contra troops remained behind. We surmise that the boys were taken almost to the site of the ambush to make sure that they were not directing the contras to a spot where the EPS was stationed. (The MINT said flatly that the boys were used as guides.)

When they arrived at the highway it was about 6 p.m., and dark. The boys calculate that they were at the spot for about an hour, sitting and standing, before the sole vehicle passed by and was attacked.

By the time of the ambush it was night. When we were in that area several days in a row, we noted that the sun set rapidly starting at 5:30; by 6:00 it was dark, although patches of the sky were still a little light; and by 6:30, it was as dark as it was going to get for the rest of the night.

B. The church vehicle and the permission given

Two carloads of Catholic priests and nuns set out from Managua on the morning of January 1 by land to attend a meeting in Puerto Cabezas of those working with the church on the Atlantic Coast. In one vehicle was United States born Bishop Salvador Schlaefer, of the Capuchin order, the Catholic Bishop of the Atlantic Coast region, where he has served the Miskito community for many years, and others.

In the second vehicle, later ambushed, were Msgr. Paul Schmitz, also a Capuchin, a U.S. citizen and Auxiliary Bishop of Bluefields, and three nuns from the order of St. Agnes. Two of the

nuns, Teresa de Jesús Rosales Dickson, 24, who died in the ambush, and Francisca Colomer Kramer, 24, were Nicaraguan Miskitos; and the third, Maureen Courtney, 45, who also died in the attack, was a U.S. citizen who had served the Miskito community on the Atlantic Coast for many years.

Sister Maureen lived and worked in Waspan, on the Coco River, at least a four hour drive north from Puerto Cabezas; Bishop Schmidt lived in Bluefields, only accessible from Puerto Cabezas by plane or sea; Sister Teresa and Sister Francisca lived in Puerto Cabezas.

Sister Maureen was driving and Bishop Schmitz was in the front seat. Sister Francisca was in the back seat behind Sister Maureen and Sister Teresa sat behind Bishop Schmitz.

This car parted company with that of Bishop Schlaefter while fording the Waní or Prinzapolka river a short distance before entering Siuna. The Sisters had a residence in Rosita, two hours drive from Siuna, and hoped to spend the night there and continue on to Puerto Cabezas, at least another four hour drive, the next day. Bishop Schlaefter, interviewed by Americas Watch in Siuna, said that, perhaps because he was older, he was content to stay in Siuna and not chance the drive at night, but arrive a little later the next day in Puerto Cabezas. The drive from Managua, where they had started that morning, to Siuna takes eight hours under the best conditions and without stopping to eat.

Sister Maureen wanted to continue on to Rosita, however, that same night. The Washington Post reported an interview with Bishop Schmitz:

"We were supposed to stay overnight in Siuna, but Sister Maureen insisted in going to Rosita, where she had some sisters of the congregation with whom she wanted to share gifts and letters," Schmitz said. "It was imprudent of us to continue; it has generally been a dangerous area."

.....
Schmitz said that although the area is known to be dangerous, "lately there

has not been much combat."

The survivors told others in their congregations that Sister Maureen pressed the authorities to give the car the necessary permission to leave Siuna. The army still maintains control of vehicles leaving Siuna, day and night. Whether traveling west to Matagalpa and Managua or east to Rosita and Puerto Cabezas, a vehicle must obtain written permission from the military, who note down the car registration and the driver's license. The process does not take long.

The procedure has been not to grant permits to leave before 8 a.m. (in years of heavy contra activity, most ambushes on these roads took place in the early morning) nor after 5 p.m. The time on the permission slip, according to Bishop Schlaefer, was 5:15 pm.

We asked the head of State Security in Siuna, Capt. Otilio Duarte, why the car had been permitted to leave Siuna after 5 p.m., contrary to the rules and with knowledge that the contras were in the area. He said that the church and its workers enjoy a certain autonomy and that the police and army do not put the same restrictions on them as they do on other civilians because of the humanitarian nature of the church's work. Soldiers and the police are under orders to cooperate with the church and not place obstacles in its way.

Relations between the Miskitos and the Sandinista government, police and army have ranged from very bad to less bad since 1980. The nadir came in early 1982 when the Miskito communities on the Coco River, following insurgent Indian attacks, were forcibly evacuated by the Sandinista

Ricardo Castillo, "Injured Bishop Fails to Identify Attackers," The Washington Post, January 4, 1990.

Americas Watch was not able to interview either of the survivors. Bishop Paul Schmitz and sister Francisca Colomer, who were hospitalized in Managua, were evacuated to the U.S. for medical treatment. As of January 23, we were told that they did not wish to give further interviews for reasons of health and security.

army and had their communities and homes burned to the ground by the army to assure that the evacuees did not return. Sandinista soldiers committed a number of "disappearances" and summary executions during this period. (See previous Americas Watch reports on Nicaragua.)

Thousands of Miskitos fled across the river to Honduras in 1982 while thousands more were relocated in centers built a long distance from their homes. (The Miskitos claim that all of that area, including Tasba Pri, is their traditional land.) The religious orders that served the Miskito community identified with its suffering and their relations with the government worsened as well, although there were exceptions to this. Even now, although the Miskitos and the religious workers ministering to them were permitted to return to their places of origin on the Coco River beginning in 1985, relations with the Sandinistas range from guarded to suspicious to hostile.

Nevertheless, the churches are a force to be reckoned with in Nicaragua, and have successfully asserted their right to less government interference than other institutions.

The ambushed vehicle was not known in the area because it was newly purchased and this was its maiden voyage in this area. It was a white Toyota pickup, with front and back seats (doble cabina). Some of the residents of Ojo de Agua who saw the pickup the morning after the attack commented to Americas Watch that it was just like some of those used by the DGSE; the DGSE also said that they and some FSLN officials have similar Toyotas.

Hearsay evidence received after the attack includes a report that the contras were targeting Abelardo Rivas, an FSLN leader from Rosita who frequently traveled on that road.

The Toyota was not conspicuously marked as a church or neutral vehicle. It apparently had red crucifixes taped to the front doors, about eight inches high, but these would not have been visible

at a distance at night. Secundino Aguinaga Blandón, the father of the contra who allegedly perpetrated the attack, commented to us that church cars used to have big flags in front that clearly indicated that they were not government vehicles.

Bishop Schlaefer remarked to The New York Times that:

the attack could have been avoided if the church workers had not tried to travel at night in an area of known contra activity, and if their recently purchased pickup truck had been familiar to contra units operating in the area.

Bishop Schlaefer told Americas Watch several days later that the peasants living along the road of the attack had reported seeing no contras in the area for some time.

The pickup, with Sister Maureen driving, left Siuna and, according to the officer in charge of the base at Coperna, First Lieutenant Luis Alfredo Zamora, passed through the Coperna checkpoint at about 6:20 p.m., dropping off their written permission slip with the soldier in charge of the checkpoint. They were not stopped and did not talk with any officer.

C. The scene in Ojo de Agua

In Ojo de Agua during the afternoon of January 1 the Torres family and neighbors had been conducting a celebration in honor of the Virgin (purísima) in the Torres house on the south side of the highway facing the Gutiérrez house on the north side, both near to and quite visible from the highway.

There is a stretch of straight road starting a few hundred meters west of the Gutiérrez house

Frente Sandinista de Liberación Nacional, the governing party.

Mark A. Uhlig, "Top Contras Deny Killing Nuns, but Clergy Differs," The New York Times, January 4, 1990.

and continuing a few hundred meters east. At night, a car with headlights on can be seen approaching from a distance.

The Gutiérrez and Torres houses are, by rough measurement, about 450 meters west of the place on the north side of the highway where the car came to rest after the attack, and where two crosses have since been placed to commemorate the deaths. Local residents say that the houses are about 300 meters from the site of the attack itself.

When Americas Watch visited Ojo de Agua, the place from which the ambush was conducted was clean pasture land and the shoulder of the highway (between the pasture fence and the highway) was clean as well. Ronal told us, however, that when he passed by the site (before being kidnapped) on December 31 he noticed that the pasture land was "dirty," which he described as having weeds in some places up to the knees, and that the underbrush on the shoulder of the highway was uneven and, in some spots, as high as a man. The pasture land was still "dirty" when they arrived on the night of the ambush.

About 100 meters east of the crosses, on the south side of the highway, is the north east corner of the pasture land belonging to the Torres farm and the beginning of thick underbrush. A fence running south to north divides the Torres pasture land from this underbrush and joins at right angles the fence running west to east that separates the pasture land from the road at this 100 meter mark east of the crosses.

On the north side of the highway some 100 meters east of the crosses is a house whose thatched roof is just visible from the highway; the front of the house is otherwise obscured by undergrowth. We were told by a number of residents that no one lived in that house at the time of the ambush nor at the time of our visit.

Another 200 meters away, or 300 meters east of the crosses, on the north side of the road is a clearing and an inhabited house. About 50 meters further east is yet another house, that of the López family. The road starts to curve again. There are three other inhabited houses and other uninhabited houses on the north side of the road before coming to the house of Ronal Mairena, which is 1.7 kilometers from the site of the ambush, near kilometer 371 on the highway.

This was New Year's Day, a day of celebration, rest and not much work. The men in the Torres family had moved some cows from one pasture to the other earlier in the afternoon and other farmers had run errands, but there was more festivity and relaxation than farming activity.

No one in the community reported seeing any contras that day. They had not seen any contras for a long time, they said. Nor did they see contras in the days that followed. They could not remember if any Sandinista patrols passed along the highway that day; several said they did not, although they patrolled the road on various days from the base in Coperna.

There had been no armed robberies by common criminals along the road, either.

According to Ronal's father, the seven soldiers at the post by his house were there all day, as usual; nor did anyone else along the road report seeing them move. They were not drunk that day, we were told. They had not caused any problems in the short time they had been posted there. These soldiers were all draftees, with one low-level commanding officer.

It was raining heavily enough for two cousins on a single horse (we will call them the Eugenios) to stop at the Gutiérrez house to get out of the rain. They were riding from Coperna back home, near Ronal's house, returning from an errand. They stayed at the Gutiérrez house about one

In the case of witnesses whose names were not already public when we discovered them and who had not been interviewed by others, Americas Watch decided not to publish their real

half hour. When the rain let up, a few minutes before 6:30 p.m., they got back on the horse and continued eastward, passing by the ambush site but seeing nothing. The 18 year old cousin, sitting in front, had already served two years in the military, having been drafted at age 16; the younger cousin was only 13.

Less than 200 meters to the east of the ambush site they crossed paths with Carlos (not his real name), who was heading from east to west on the highway, on foot. He was drunk, and was heading toward his home near Coperna. Several persons commented that he was frequently a little drunk, as he was on the afternoon that we interviewed him. He continued on eastward, to the ambush site, and noted that a vehicle heading toward him stopped at the Gutiérrez house without turning off its motor or lights, illuminating his path. It then passed him. He noticed no one in hiding. The ambush occurred after he had passed the site and while he had his back to it. He estimated he was 150 meters from the Gutiérrez house when the attack occurred. When interviewed by Americas Watch, he kept commenting on his great fortune in not having stopped to talk longer to the Eugenio cousins.

At about the same time, and since the rain had let up, Angela Torres, carrying a six month old baby and holding a three year old child by the hand, came out of the Torres house (where she had been celebrating the purísima with her family and the Gutiérrez neighbors) and walked to the highway. Standing opposite the Gutiérrez house, she saw a vehicle approach from the west, Siuna.

The vehicle stopped. Inside, Angela thought, was a nun she knew, Sister Sandra Price. Sister Sandra, a U.S. citizen, and Sister Juanita, a Nicaraguan, work together and are well known in the Siuna area. Sisters Maureen, Teresa and Francisca, who were actually in the vehicle that Angela saw,

names.

did not work in the Siuna area.

A man sitting in the front seat asked her if she wanted a ride. Since she was going home, in the opposite direction, she declined. The car then pulled away. No one got out and the motor was not turned off, although the car had come to a full stop. The residents heard no other vehicle on the road that night, before or after the ambush.

In the underbrush more than 500 meters away, the kidnapped boys could hear a car but could only see the reflection of lights in the night; they could not see the road. They did not realize that the vehicle stopped.

D. The ambush

Down the road, about 100 meters from where they saw Mario and 300 meters from the ambush site, in front of the first inhabited house to the east of the site, the older Eugenio cousin asked the younger to see what time it was; there was a half moon and enough light by which to read a watch. The cousins also noted the lights of a vehicle that stopped at the Gutiérrez house behind them.

The fact that the vehicle was approaching on a straight road with its lights on at night and was not going fast (since it had just stopped for a minute) gave the attackers time to take good aim. The vehicle was hit by an explosive directly in the front windshield, and bullets hit their target as well.

Before the younger Eugenio cousin could read the watch, they heard two loud explosions. They turned toward the noise and saw the flame of an RPG-7, according to the former draftee. He thought that it landed on the road. The older boy immediately put the horse into a gallop, to get away from the action, and they heard nothing but the horse's hooves. Several neighbors heard them gallop past just after the explosions.

Angela, with the two children on the highway, heard the explosions and dashed back inside

the Torres house, in her haste dropping her umbrella in the front yard. She says she saw nothing and "suffers from nerves."

Carlos, who had his back to the ambush, saw nothing but heard two explosions and some bursts of gunfire. He dashed into the Torres house, arriving shortly after Angela.

The people in the community said that they heard two detonations and about three bursts of fire. Many said that the detonations were of RPG-7s, and some said they had heard these explosions before and recognized them. The New York Times reported:

Bishop Schmitz, interviewed on a stretcher in the evacuation plane, said he and the three church women were about halfway from Siuna to La Rosita when their white Toyota pickup truck was hit on its hood by a rocket-propelled grenade. Bishop Schmitz, who was in the front passenger seat, said the attackers then fired on the four church people for three to five minutes with automatic assault rifles.

"We couldn't see anything before we were hit," said Bishop Schmitz... who had a badly broken arm and suffered a serious loss of blood, and was trapped in the truck after the attack. "Everything just exploded."

Bishop Schmitz said he and the surviving nun yelled that they were religious workers and the firing stopped. The survivors were then found about an hour later by a Sandinista army patrol and they were taken to a farmhouse for the night before being evacuated by helicopter and then plane today.

The passengers in the car could not identify the assailants and no one approached the car, according to the survivors, until a Sandinista army patrol arrived an hour later.

1. The injuries

Dr. Kester Barquero, one of the two attending doctors at the hospital in Siuna where the wounded and dead were brought the following day, told us that Sister Maureen was dead on arrival;

Mark A. Uhlig, "2 Nuns, One From U.S., Are Slain in Raid Tied to Nicaraguan Rebels," The New York Times, January 3, 1990.

they estimated that she died instantaneously. She received what appeared to be a direct hit that took off the left side of her face and head. She also had a bullet in the tricep of the upper right arm and shrapnel in the upper left thigh.

The doctor stated that, in their considerable experience with wounds and deaths caused by high velocity weapons, she was not hit by an RPG-7 because this antitank weapon would have removed her entire head, and caused considerable damage to the inside of the car and the rest of the occupants. Instead, he thinks she was hit with a weapon of the strength of an M-79, a grenade launcher (because of the shrapnel wounds) less powerful than an RPG-7.

Sister Teresa died as the result of a bullet that struck her lower left back near the waist and damaged her intestines and destroyed her liver. The doctors guessed that she may have lingered for an hour or two.

Bishop Schmitz was wounded in the left arm by shrapnel, causing multiple fractures. The Capuchins in Nicaragua noted that the U.S. doctors who subsequently examined him said the Siuna hospital did a good job of setting his arm. After he was taken to the U.S., however, it was discovered that he had also sustained nerve damage, requiring further surgery.

Sister Francisca received a lot of shrapnel in the face, neck, chest and arms. She had second degree burns. After being examined further in the U.S., it was discovered that she had shrapnel in the eye as well, requiring an operation to remove the shrapnel.

2. Damage to the car; ballistics

The car, which was in Siuna at the church when we saw it and had been inspected and washed by the police before being returned to the church, had indeed been hit in the center of the hood just in front of the windshield, causing damage to the outside of the hood, slight damage to the

motor, and damage to the dashboard (pieces of the dashboard were found at the scene) where the radio and other instruments were. The damage to the hood could have been shrapnel.

It appears that no laboratory tests have been conducted on the physical evidence. We cannot say what high velocity explosive device hit the windshield and scattered shrapnel. Although the medical evidence suggests an M-79, no shell from that weapon was found at the scene. (The M-79 shell must be manually removed to load another grenade.)

An RPG was undoubtedly fired, according to those who heard the familiar explosion and saw its trail of flame (unlike the M-79), but it may not have hit the Toyota. (A burned area at the shoulder of the road suggested to one former draftee resident of the area interviewed by Americas Watch that it was caused by an RPG.) An RPG-2 or -7 is fired while resting on the shoulder, but can only be fired standing or kneeling and never from a prone position, according to former draftees and the military, because it emits injurious gases from the back of the grenade launcher.

There was damage to the interior of the car on the divider between the driver's door and the door to the passenger who sits behind the driver, which would indicate that whatever hit that part of the car also hit the left side of the driver's head. The windshield was missing (and pieces of windshield glass were found at the scene) but the other windows were intact. Aside from these areas, the interior of the vehicle was not greatly damaged.

There were various bullet holes in the car but it was not peppered with shrapnel or bullet holes. One bullet entered the right side of the pickup bed and entered the back of the passenger back seat; this may have been the bullet that killed Sister Teresa.

The Toyota traveled a distance and came to a stop on the north side of the road. The two boys on horseback, before they galloped away, thought they saw that the lights of the vehicle were off.

There was a hole on the south shoulder of the road, several meters behind the resting place of the Toyota, which when measured on January 3 was five inches deep and 15 inches across. Several persons interviewed by Americas Watch speculated that it was made by a mine, although there was no damage from a mine to the vehicle. The chauffeur for Bishop Schlaefer recovered a detonator at the site on January 2 when he came to repair and move the Toyota back to Siuna, and the device was turned over to the army.

DGSE and army officials speculated that the person operating the mine nervously squeezed the detonator right after the RPG was fired, without waiting for the vehicle to come within range. Another person interviewed by Americas Watch speculated that the mine was not correctly placed and threw shrapnel at a tree on the side of the highway not far from where the attackers were crouching.

Two explosions, one right after the other, were heard: an RPG emits a "boom" when fired and another when it explodes on impact with the target; an M-79 only emits a "boom" when it explodes on the target.

E. Immediately after the ambush

1. Immediate contact with the Baká post

Ronal's father, Alejandro Mairena, said that when he heard the explosions and bursts of fire he was at home with his wife and children. Ronal had not come back from fishing.

He was frightened by the explosions and went out to ask the soldiers camped nearby on his property what was happening. They said it was nothing, that the base in Coperna had said that they were going to have a drill (alarma). When Americas Watch interviewed Alejandro Mairena, he had still not talked to his son Ronal since before the kidnapping and ambush. By the time we talked to

him, however, he was aware, as was everyone in the community, that his son had given statements to the press saying that he had been kidnapped.

Alejandro told us he did not see the soldiers leave their post during the day of January 1 or that night; the dogs bark when the soldiers pass by, but they did not bark that night before the attack. After the explosions, they barked a little, then were silent. Others along the road said that they did not hear or notice the soldiers move from that post that night and the dogs did not bark at anyone passing on the road.

The next day, several people told us, the soldiers expressed surprise to them that there had been an ambush. Alejandro said that Denis (the commander of the unit on the farm) told him at 8 a.m. that what they thought was an alarm was actually an ambush that wounded a nun and killed two. They did not learn of the ambush until that morning.

2. The two kidnapped boys escape

When the explosions and shooting starting, the contra who was guarding the two boys in the underbrush told them not to move or he would kill them. Then, to get a better view of the action on the road, he moved away from them, on the pasture side of the fence, and toward the ambush.

Jaime, who was standing further in the underbrush, where they had been sitting and standing for a half hour until the ambush occurred, came up to his friend Ronal and quietly touched him on the hand, motioning him to escape. They ducked through the underbrush and crossed the highway perhaps 200 meters east of the attack site, avoiding the farm houses. They noticed the vehicle's lights were still on, and thought they heard cries for help but could not tell if it was from a man or woman. They did not stop but headed north past the vacant house with the high thatched roof, to the Baká River, where they found a hiding place for the night. The two said they did not sleep a wink, being

frightened, wet, and bothered by mosquitos.

We asked why they did not go to Ronal's home, which was less than two kilometers away. Separately, each said that it was too dangerous. Since there had just been explosions, the soldiers posted right next to the house might fire at them if they approached.

We asked why they did not go to other houses where there were no military posts. They said that they were afraid that the contras might come to the houses and find them there. So they hid near the river until it was light, thinking that each armadillo that rustled was a contra.

3. The Coperna base sends out an exploratory party

First Lieutenant Zamora of the base in Coperna said that the soldiers there also heard two explosions at 6:30 p.m. They believed that the explosions were from an RPG-2 or -7, different models of the same rocket-propelled grenade launcher. He ordered that an exploratory patrol be sent out, seven men on foot. He told Americas Watch that the post at Coperna did not have any vehicles. The EPS captain in charge of the military base at Siuna, Capt. Miguel Miranda, also mentioned that the post at Coperna did not have any vehicles.

Although First Lieutenant Zamora declined to say how many soldiers were under his command at this post, some residents of Ojo de Agua estimated that there were 200, including militia and reservists from the cooperative as well as draftees and regular soldiers. The lieutenant said that they sent out three patrols daily on the road, in the morning. There had been ten ambushes on this road by the contras, he said, the most recent in August 1989 in Mongallo killing First Lieutenant Vallecillo. (See above) The army also had a post on Baká Hill, whose job was to guard the hill and

Residents told Americas Watch that they have seen two Guas (military jeeps) at Coperna. Even if the Coperna base had jeeps, the soldiers would not have approached the ambush site in them,

assist exploratory parties, he said.

Lieutenant Zamora said that it was about six to seven kilometers to Ojo de Agua, which took about an hour to walk. The exploratory party arrived at about 7:35-40 p.m., and found the Toyota on the side of the road. They asked if there were any wounded and Sister Francisca answered, "Help." The doors to the Toyota were closed but not locked and the front window was broken; the lights were still on.

Two of the nuns inside the pickup were dead when the exploratory party arrived. One died from a direct hit from an RPG-2, he said.

The party then sent two men back to notify the lieutenant of their findings.

The lieutenant said that the base did not have radios, and could not send any with the exploratory party. Residents said that they had seen an antenna and some radios in Coperna, however. The army captain in Siuna told Americas Watch that they used to have a radio in Coperna but that it had not been working, so the Coperna base was not in radio contact with Siuna, less than an hour away by vehicle.

4. The army party led by the lieutenant arrives at the scene later that night and enlists civilians to move the wounded and dead to a nearby farmhouse.

The lieutenant set off on foot with a party of 15, including a medic from the cooperative to give first aid.

The lieutenant and his party arrived before 11 p.m. The lieutenant saw that the Bishop's arm was bleeding and that the surviving nun was bleeding in the face. They tried to stop the bleeding and put the two survivors on a mat. The lieutenant, who saw that only the rear tire of the vehicle was flat

for obvious security reasons.

and that the lights were still on, tried to move the car but it would not move out of neutral.

The soldiers then went to the nearest farm houses, belonging to the Gutiérrez and Torres families, some 300 meters west on the road, heralded by barking dogs. They asked for help in moving the wounded and dead. The residents of these houses recognized them as soldiers from Coperna, not from the little Baká post.

The residents said they did not move out of the houses until the soldiers knocked on their doors. Some of those in both houses had caught sight of the stopped Toyota; Angela had even talked to persons she thought were clergy in the Toyota, and both houses were aware that those in the vehicle included Nicaraguans and foreigners. In both houses they speculated that the explosions they heard could have hit the vehicle. Nevertheless, they did not move from their houses until the army asked them to.

There is no electricity in this community. People in these two houses were nevertheless awake, no doubt apprehensive, when the army arrived at about 11 p.m. They did not have a watch but at the Gutiérrez house asked the soldiers the time.

The lieutenant and those at the Torres house said that there was a prayer meeting (rezo) in progress when the soldiers arrived. The soldiers asked if the residents in the houses nearby had seen the contras, but the residents said they had not.

People came out of their houses and with the soldiers moved the two wounded and two dead, together with the luggage they had in the back of the Toyota, into the Gutiérrez house, where the several sisters and mother, plus others, cared for the wounded. Sister Francisca walked, with assistance, from the car. Bishop Schmitz was brought on a cot, although he could talk and gave the name of Bishop Schlaefer and a phone number where he could be contacted, as well as the names of

the nuns and where they were from and other information. He told the peasants that they had not seen their attackers.

The soldiers finished moving the occupants of the vehicle and their belongings about midnight or 1 a.m. and left a contingent to guard the house, to make sure nothing else happened, the lieutenant told Americas Watch. The rest of the unit returned to the base at Coperna.

The farmers' families then cared for the wounded and commenced a wake (vela) for the dead.

F. The day after the ambush

1. The boys arrive at the Gutiérrez house

The boys who had been kidnapped decided to go to the Gutiérrez house, south of their hiding place and between them and the highway. They were friends with Hipólito Gutiérrez González (Polo), 48, the head of the household.

They arrived about 6 or 7 a.m., after it was light. When they got to the house, the wounded and dead were still there. They were informed of the ambush and the dead and wounded.

Both boys told Americas Watch that they had a conversation at that time with Gutiérrez and Luis Felipe Aráuz López, 23, the brother of Jaime. Felipe had helped move the wounded the night before (he was in the Torres house when the soldiers arrived), and then spent the night in the Gutiérrez house helping to care for the wounded.

The boys say that they told Gutiérrez and Felipe that they had been kidnapped by the contras. They had already realized that they had to go to report the kidnapping to the base at Coperna (especially since Jaime had been questioned by State Security after the contras had kidnapped him during the attack on Siuna in 1987) and seeing the dead and wounded only made the need to clear themselves with the authorities plainer. They said that both men also told them they should report the

kidnapping.

When asked directly about this conversation by the government human rights investigating commission in the following week, Gutiérrez said that he did not have a conversation with the boys about the kidnapping at that time but only later in the day, after they had returned from reporting to the base in Coperna. When we talked to Gutiérrez and other members of his family, they said that the boys did not say they had been kidnapped until after returning from Coperna.

When Felipe was interviewed by the first of many investigatory groups to arrive in the area, Witness for Peace, on January 3, the day after the conversation with his brother, he told them that he had indeed talked to the boys before they went to the base at Coperna and had advised them to do so to avoid getting into trouble with the authorities. If they did not report and it was later found out, they would be accused of being collaborators with the contras.

When we talked to Felipe, however, a week or more later, he denied that he had this conversation with the boys. He said that he had talked to them after they came back from the base at Coperna, and reported that they had been kidnapped.

People in the Gutiérrez house noticed that the boys were all dirty when they came in about 6 or 7 a.m., and they were surprised at the boys' appearance. The boys left for Coperna after staying only a short time at the Gutiérrez house, and did not go to the house of Ronal's father, which is in the opposite direction. (Jaime's father was in Siuna, where he had been for many days; he did not return to his farm or Ojo de Agua until a week or more after the events.)

When asked why they had not reported to the soldiers posted at Ronal's house near Baká Hill, both boys replied that the soldiers were not the authorities, just draftees, and that those in charge were in Coperna.

2. Reporting to Coperna

The boys, frightened by the sight of the dead in the Gutiérrez house, set off right away for Coperna, which took them about an hour walking. They reported to First Lieutenant Alfredo Zamora that they had been kidnapped by the contras. When we asked Lieutenant Zamora if he believed them, he said he did because they came voluntarily; they were not brought in by anyone. Why should they come in with a story like this if it were not true? Also, they looked like they had been in the forest because their clothes were dirty and their arms were scratched, and it appeared that they had little or no sleep. He took the necessary military information from them about the contras and sent the boys home.

At about 6 a.m., when it was light, he had already sent out another exploratory group to try to track the contras and find out how many there were. The exploratory group followed signs that indicated the contras returned south on the same path that they had taken in to Ojo de Agua. The army patrol did not track directly on the path, however, for fear of antipersonnel land mines. They had not attempted to pursue the contras the night before for fear of an ambush.

The patrol found signs at the site of the ambush that in addition to the 10 or 15 men at the highway, there had been perhaps 55 some 500 meters south of the highway. The army theorized that this was a defensive position; if the contras on the highway received return fire from the vehicle they could drop back to the defensive line and any Sandinista pursuers could be stopped there.

An army patrol sent to track the contras found a plastic tube used to protect the charging device of an RPG-7 about 15 kilometers south of the ambush site, where the contras had passed. They believe it belonged to the contras because the EPS does not use a plastic tube for their RPG-7s.

3. The dead and wounded are brought in to Siuna

At about 7:30 or 8 a.m., a Toyota Land Cruiser driving from Siuna to Rosita was stopped in front of the Gutiérrez house and enlisted by the soldiers outside to carry the wounded nun and the two bodies back to Siuna. A Kama 3, a large flat-bed truck, coming from Rosita was stopped and took the Bishop to the hospital at Siuna. Some soldiers were with them. Bishop Schlaefer, leaving Siuna for Puerto Cabezas, encountered them on the road and turned back with them to Siuna.

The wounded and dead arrived at the Siuna hospital at 9 a.m. and were there until two military helicopters arrived to carry them to Puerto Cabezas, about four hours later, according to those at the hospital.

4. State Security locates the kidnapped boys

The boys returned from Coperna at about 10 a.m., hitching a ride in a military vehicle (patineta) going from Coperna to Ojo de Agua, and stopped to rest at the Gutiérrez house, where the residents remember them saying then that they had been kidnapped by the contras.

The military and State Security at Siuna did not learn of the ambush until the trucks with the wounded and dead arrived in Siuna on the morning of January 2. They sent out military and state security officials and passed through Coperna in four "Guases" (military jeeps), according to the lieutenant.

Americas Watch talked to one state security official who arrived on the scene from Siuna at about 11 a.m. He was known in the area because he had been based in Coperna before being transferred to Siuna. He was inspecting the site when an ex-draftee from the community approached him and told him that there were two boys who had been kidnapped by the contras, he told us. That young man later confirmed the conversation, saying that one gets in trouble if one does not notify the authorities of such things.

The state security official sent for the two boys and took them directly back to Siuna in a military vehicle for the purpose of further investigation and so they could give written declarations. The boys did not have the chance to talk to Ronal's family or anyone else, but many saw them leaving with the military. They did not return, and their families were not notified what was happening with them until much later.

This created the impression in the community, which was still the case when Americas Watch arrived more than a week later, that they had been detained.

The two boys did not stay in Siuna. They were interrogated there by the MINT and gave a written statement; then they were taken to Puerto Cabezas the same afternoon, January 2, in the same helicopter that carried the dead bodies, they told Americas Watch. In Puerto Cabezas the survivors were interviewed by the press and the boys were interrogated by more army and MINT officials.

Ronal's mother went to State Security in Siuna the next day, January 3, and was told that they were not detained and that they would be back soon. But as each day that they were told the boys were going to return passed without the boys' presence, the residents of the area began to get more and more worried.

We understand that the authorities also conducted an investigation in the area, going from house to house asking people if they had seen the contras; one person told Americas Watch the authorities blamed the nuns' deaths on the residents of the community because they had not reported anything. People began to be more and more afraid of the implications and, with each investigatory delegation that arrived, knew less and less, for self-protective reasons. We guessed that they feared that if they said they had seen the contras or appeared to know too much about anything, they would be detained, as they thought had happened to Ronal and Jaime.

VI. Conclusion

A. Could the Sandinistas have committed the crime?

The proposition that the Sandinistas committed the crime rests on several hypotheses: that the Sandinistas were in the area and the contras were not; that the witnesses are false; and that the Sandinistas are extremely devious, and they either created an incident to blame on the contras or are covering up for their own troops' error.

There appears to be no likelihood that this was a robbery; the vehicle and its passengers were not robbed and no attempt was made to force them to stop before attacking with a grenade launcher. It also appears that the attack was not the result of a negligent shooting off of weapons, because the direct hit on the windshield of the car was followed by bursts of gunfire as the pickup passed the attack point.

For the Sandinistas to have conducted this ambush, they would have had to have a patrol out in the south of the highway area that was in position prior to the time of the attack. We do not believe that the Baká patrol conducted the attack because they were seen immediately after the ambush, in their usual position. They did not patrol as a custom, did not have radio communications equipment and were not armed with anything more than AKAs, according to local residents.

No one saw or heard Sandinistas pass from their other position in the area, Coperna, on the road before the attack. Even if the army in Siuna planned an attack on the nuns, there was not enough time between the departure of the car from Siuna (which only passed through Siuna from Managua) and the time of the attack to plan and execute such an operation, even assuming there was radio communication from Siuna and Coperna, which the army says there was not. The slowness of their response the next day indeed suggests that there was no communication between Siuna and Coperna.

There is no evidence at this time to suggest that there was another Sandinista unit on patrol in the area. Just as the farmers -- other than the two boys who reported they were kidnapped -- said they saw no contras, they also saw no Sandinistas that day, with the exception of the soldiers of the Baká post, who stayed put.

It is, of course, impossible to rule out totally the possibility that there was a Sandinista unit on patrol in that area, if only because the evidence from the farmers who live several hours south of the highway and on the path the attacking force took, was not available and will not be available for a few weeks, at least. As far as the evidence now available indicates, however, there was no Sandinista patrol.

The Sandinistas do not "control" the area. If they did, and if they could, the war would have been over long ago. There is virtually no way for anyone to control fully these vast uninhabited mountainous and heavily forested stretches of the interior. Nor do we think it is significant that they gave permission to the religious vehicle to leave shortly after 5 pm. They may have been negligent in allowing anyone to be on that road after dark, but that does not mean that they conducted the attack.

If one believes that there was a Sandinista patrol in place, there is no explanation for why they would attack a vehicle similar to those used by the MINT and FSLN officials. The attack occurred at night and the ambushers did not try to establish the identity of the passengers before shooting.

The case for a Sandinista attack, such as it is must rest on the assumption that they knew the vehicle was not one of their own and that they intended to attack a church vehicle. This means that this patrol that no one saw or heard would have had radio communications with a unit that knew that the vehicle was not a government vehicle. In Nicaragua the army and the MINT do not have a track

record of killing priests or nuns, however testy relations with the church have been.

Such an ambush is not the usual modus operandi of Sandinista human rights abuses; in cases where killings have taken place, they have usually been targeted executions of those they believe to be contra collaborators in remote areas of the country. The attitude of governmental officials was unlike what Americas Watch has encountered in the past in cases of violations by the MINT or army. The government was extremely forthcoming and receptive to investigations in this case.

That the government is making propaganda use of this contra human rights violation is to be expected. One could scarcely expect them to refrain from using all evidence of contra misdeeds to discredit an insurgent force that wants to overthrow their government.

B. Did the contras commit the crime?

That the contras conducted the ambush rests primarily on the testimony of the kidnapped boys and secondarily on circumstantial evidence and inferences drawn from the contras' past actions.

Whether one believes that the contras were in the area rests principally on the testimony of the two witnesses. Because of the way they were handled, some have inferred that they were put up to their testimony by the MINT and army. They were removed from the community and taken to Puerto Cabezas and then to Managua to give statements to the press, visiting Senators, and human rights investigators. On previous occasions, the press has been presented with witnesses by the MINT who appear to have been coerced.

Corroboration for the statements by the witnesses that they told two people that they had been kidnapped by the contras before they reported to the base at Coperna was not forthcoming from those two people during most, but not all, of the interviews that various delegations conducted with these two people. This may cause speculation that the witnesses, having presented themselves to the base,

were coached on what to say.

Americas Watch interviewed the kidnapped boys extensively and we believe their testimony. They have a reputation in the community for being honest and hard-working. Neither they nor their families have been aligned with either side in the conflict. Their stories are internally consistent. They told us they had not been coerced or pressured by the MINT or army, and they did not appear to be rehearsed.

We think that the lack of corroboration may be due to the fear that people in the community have of appearing to know too much about the incident, due to investigations by the MINT and army in the community and to the many fact-finding delegations that subsequently arrived. We had the impression that if they had seen the contras they were not going to say so for fear that the MINT would blame them for not reporting the presence and thus preventing the attack. It is possible that when the focus is off the community, additional information might become available from the residents.

We think it is credible that the boys, having been kidnapped and been with the contra group that conducted an attack that they later learned resulted in two deaths, were afraid they would be blamed for the crime if they did not immediately report to the army that they were involuntarily with the contras. If they had been in the company of a Sandinista unit that conducted the attack, they would have no reason to go to the base at Coperna to report anything. If they were never kidnapped, they had no reason to go to the base at all, which they did after they saw the bodies.

Ambushes on vehicles that appear to belong to the government, and even on civilian vehicles, have been a contra method of conducting the war since the beginning of the conflict. Americas Watch has documented many incidents of contra indiscriminate attacks on civilian vehicles. There

have been many vehicles ambushed on this very road in earlier years and months, the last in August 1989, some four months before this attack.

This ambushed vehicle was traveling at night, which is something that military and other government vehicles do more frequently than other vehicles. The pickup was similar to some used by MINT and FSLN officials. Accordingly, the contras probably guessed they were attacking a government vehicle.

Kidnapping youths is also a contra hallmark. We have interviewed many who have escaped, either before they were taken to Honduras for military training, or after. There are countless incidents of kidnapping, many in this area.

The purpose of the kidnapping, it appears to us, was to prevent the boys from tipping anyone off about their presence and also to elicit useful military information about the location of Sandinista troops. In addition to the boys, there is evidence of contra presence from the remains of a 200 pound cow eaten by many men with contra boots in the area from which the contras advanced to the highway.

We conclude, based on the available evidence, that the contras engaged in this indiscriminate attack on a civilian vehicle that resulted in the death of two nuns and the serious wounding of a nun and a bishop. We consider it an indiscriminate attack because the evidence indicates that they made no effort to determine whether the occupants of the vehicle were civilian or military. Such indiscriminate attacks are violations of the laws of war.

It should be noted that FSLN vehicles that are not engaged in military operations and are not being used to transport combatants are not legitimate military targets.