

CLANDESTINE DETENTION IN GUATEMALA

I. INTRODUCTION

Over the past two years, the theme of human rights in Guatemala has gained an important spot in the national and international arena, in part due to the explicit commitment made by the administration of President Jorge Serrano Elías to bring about an end to the traditional impunity granted those who abuse human rights in Guatemala. Human rights has also been the focus of discussion for the past year in peace talks between the government and guerrillas of the Guatemalan National Revolutionary Unity (URNG).

The testimonies presented here—of abductions, clandestine detentions, and physical or psychological mistreatment and torture—comprise just a few examples of which Americas Watch is aware. Two occurred in 1992, while a third occurred during the government of Vinicio Cerezo Arévalo (1986-1991). They are presented here in detail because there have been so few survivors of clandestine detention in Guatemala willing to take the risk of making their stories public.

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These detentions appear to have been carried out as part of a military effort to gather information and intelligence on activities of the URNG guerrillas, although the government has denied responsibility for the practice.

The detention practices described in this report violate virtually every guarantee in the Guatemalan Constitution and Code of Criminal Procedures regarding arrest procedures and the rights of detainees. According to Guatemalan law, only the police are authorized to carry out arrests, and they must obtain an arrest warrant, except in cases where an individual is caught in the act of committing a crime. Those detained must be held in the public facilities established by law for holding criminal suspects and must be turned over, within six hours of detention, to the courts for investigation and prosecution, if warranted. These rights pertain equally to those accused of guerrilla activity as to suspected common crime offenders. Although violation of these norms is a crime, Americas Watch is aware of no case in which a member of the military or police has been sanctioned for the abuses documented below or previous examples of this nature.

Americas Watch is unable to quantify the number of guerrilla members and suspects who have been secretly detained. However, we are aware of no case in which such a prisoner has been publicly held in the Guatemalan penal system.

The methodology and facilities used in clandestine detentions and the impunity with which they are carried out suggest that the Guatemalan government either tolerates or supports these practices. The cases presented here, along with other testimonies and information to which Americas Watch has had access, point to the Guatemalan military, and possibly in some cases, the presidential security force known as the *Estado Mayor Presidencial*, as the apparatus responsible for these acts.

II. BACKGROUND

Since the 1960s, disappearances have taken place on a large scale in Guatemala.¹ The targets of this practice have included tens of thousands of people: trade unionists, leftist political activists, students, teachers, peasant and human rights activists, and many people suspected only of having contacts with or sympathizing with the guerrillas. Most of the disappeared are presumed to have been killed after a period of torture and interrogation. Many more have simply been killed.

In recent years, however, statistics gathered by human rights groups have marked a notable decline in the practice of disappearances in Guatemala. In 1992, for example, the Human Rights Ombudsman, an official elected by the Guatemalan Congress, noted 99 reported cases of forced

¹ "Disappearance" is a euphemism for an arbitrary detention which is denied by the authorities. The term was first used in Guatemala in the 1960s when many political opponents were kidnapped and never seen again. The technique was used systematically by military regimes in Argentina and Chile during the 1970s and is a common practice in Peru and Colombia today. A common thread to the practice in many countries is the involvement of specialized, highly secret bodies within the military which, although directed through a clandestine chain of command, have the necessary credentials to prevent interference from public security forces. Victims are taken to secret detention centers where they are interrogated and tortured beyond the reach of court inspections and controls. Often they are executed after interrogation and torture. (See Juan E. Méndez and José Miguel Vivanco, "Disappearances and the Inter-American Court: Reflections on a Litigation Experience," *Hamline Law Review*, Summer 1990, Volume 13, Number 3, pp. 510-511.)

disappearances, compared to 112 the year before. Of the 1992 cases, 21 persons later appeared alive and six were found dead (the report offers no further explanation of the circumstances). The Ombudsman was able to confirm a total of ten of the disappearances reported in 1992; he attributed four to the state and six to the guerrillas. The Archbishop's Human Rights Office reported eleven disappearances in 1992, which includes both state and guerrilla actions.

These statistics represent a decline from 1990 and 1991, although the refinement in methodology employed in recent years by both the Human Rights Ombudsman and the Archbishop's Human Rights Office may contribute to the diminishing figures. In 1990, for example, the Ombudsman reported 140 "forced disappearances or kidnappings", without noting how many of the cases had been verified, while in 1991, he reported a total of 45 verified disappearances, including 31 carried out by the state and 14 by "subversive groups."² The Archbishop's office reported 83 disappearances in 1991.

While it is unclear to what extent the decline in reported disappearances reflects changes in methodology of those gathering the statistics, there is no question that disappearances have become more selective in recent years, compared to the period extending from the administration of civilian President Julio César Méndez Montenegro in 1966 until the winding down of military government in 1985.

Adding to the difficulty in quantifying trends is the fact that the very nature of the practice dissuades people from reporting such cases to human rights groups, much less government authorities. Americas Watch is aware of other cases of temporary disappearances which the victims have chosen not to publicize for fear of violent retribution to themselves or their families.

Those reporting on disappearances in Guatemala have not adopted a uniform definition of the term "disappearance". To some human rights monitors, the term should only apply to persons whose disappearance is permanent. Thus a person who had "reappeared" alive would be assigned to the category of arbitrary or illegal detention, even if the state had held him or her secretly.³

However, most human rights groups and international bodies consider as disappearances cases in which a person has only been temporarily detained by the state, which has failed to acknowledge its responsibility. Guatemala's Human Rights Ombudsman, for example, defines "forced disappearance" as:

The practice of arrests, detentions and kidnappings of persons or their family members, considered political dissidents, adversaries or opposition, against their will, by means of which they are illegally deprived of their liberty; committed by governmental bodies, paramilitary groups or subversive groups, either by actions or omissions, direct or indirect,

² Twenty-one victims later appeared alive in 1991, seven were found dead, and another 39 cases were still under investigation, the Ombudsman reported.

³ For example, UN Independent Expert Christian Tomuschat placed the case of Maritza Urrutia (described below) into the category of arbitrary detention, rather than disappearance, since she reappeared and he believed she had been held by the state. (United Nations Human Rights Commission, 49th Session, *Report by the independent Expert, Mr. Christian Tomuschat, on the situation of human rights in Guatemala, prepared in accordance with paragraph 13 of Commission resolution 1992/78*, December 18, 1992, paragraphs 136-141, pp. 37-39.)

hiding their whereabouts or failing to reveal their fate or recognize that the person was detained, covering up the result of their actions with impunity.⁴

Even "temporary disappearances" instill fear in Guatemala. One study described the impact of disappearances as the following:

Enforced disappearances are a form of deliberate terror. As a strategy, it draws its particular strength from the mystery surrounding the identity of those responsible, and from the anguish over the fate of the disappeared person which it perpetuates.... Those who instigate, support and apply this method, hope that the fear it inspires will paralyse any potential opposition to the established order and increase the power of the regime they represent.⁵

The threats of reprisals routinely issued by those responsible for disappearances in Guatemala and the security forces' continuing denial of responsibility heightens the air of secrecy and fear. The released victim often goes into immediate exile, with no public denunciation of his or her case for fear of retribution against friends and family.⁶

In his most recent report on Guatemala, UN Independent Expert Christian Tomuschat stated that he "has not known of a single successful investigation of cases of disappearances in which the perpetrators have been identified and prosecuted."⁷

III. CASES OF FORCED DISAPPEARANCES

The first three cases presented here are based on testimonies of individuals who were forcibly disappeared, but later released following national and international pressure. Although in none of the cases has the Guatemalan government accepted responsibility for the detention, the circumstances of each abduction suggests a similar technique and methodology: (1) the victim is kidnapped, often in broad daylight, by armed men in civilian dress, and driven to an unknown destination, which nonetheless exhibits identifiable characteristics of a military installation, such as speed bumps outside the entrance, sounds of drums and military exercises, and military equipment and arms; (2) threats against family and friends are made—sometimes accompanied by physical violence—in an attempt to extract information from the victims; (3) in each case, the

⁴ By including as "disappearances" abductions by guerrilla groups, the Ombudsman's definition differs from that accepted by most human rights groups and the United Nations. In the UN's definition, disappearances are carried out "by officials of different branches or levels of Government, or by organized groups or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence of the Government..." (UN DOC/E/CN.4/1991/WG.10/CRP.3/Rev.1/Corr.) Kidnappings by guerrilla groups constitute grave violations of the laws of war, but are more appropriately classified as forced recruitment or hostage-taking, according to the circumstances.

⁵ *Disappeared! Technique of Terror*, A Report for the Independent Commission on International Humanitarian Issues (London: Zed Books, 1986), p. 39.

⁶ The summary of the Human Rights Ombudsman's annual report for 1992 that was presented to the Guatemalan Congress notes: "...the problem of self-exile remains, in which Guatemalans find themselves obligated to leave the country, given that the Government of Guatemala does not guarantee their security and personal integrity. These situation occur when a given citizen wants to contribute to or reinforce justice in Guatemala." p.8

⁷ *Report of the independent expert*," paragraph 121, p. 33.

interrogators possess a high level of knowledge about the personal and political activities of the victim, suggesting access to a large-scale apparatus of surveillance and intelligence; (4) the victim is forced to videotape a "confession" of his or her alleged ties to the URNG; (5) the victim is sworn to secrecy about the abduction under threat of further violence; and (6) the victim is told to continue meeting with captors after being released. In these cases, the victim's only options are thereafter either to follow their captors' instructions or flee the country. The threats against family members make it difficult, even when abroad, for the victims to speak out. The individuals in the cases described below fled the country shortly after their release.

Of the first three examples given here, it is probably instructive that the case of Maritza Urrutia has caused the government the greatest degree of embarrassment. Her captors' decision to compel her to say that she had staged her abduction stretched the bounds of credulity, bringing the matter a level of publicity unparalleled in recent years. Her subsequent admission to being a member of the URNG also provoked a long overdue public debate about the state's responsibility to protect the rights even of those it considers its enemies. Despite the government's absolute denial of any responsibility, both the Human Rights Ombudsman and the UN Independent Expert determined that government forces were responsible.

Carmen Valenzuela

In February 1990, Carmen Valenzuela, a medical doctor and professor of pediatrics at the University of San Carlos (USAC), was detained and interrogated for eight days by armed men in civilian clothes in Guatemala City. During that time, she was beaten and intimidated by threats, insults and humiliations. Her case drew immediate national and international attention, as well as a Guatemalan congressional resolution protesting her kidnapping, factors which probably accounted for her eventual release. Until very recently, she did not wish to make her story public because of threats made by her captors against her family and friends. The following is based on an interview given to Americas Watch.

On Saturday, February 10, 1990, Dr. Valenzuela was kidnapped at 8:30 a.m. in front of the Vista Hermosa baseball diamond, where she had played softball regularly for twenty years. A car crashed into her car as she was turning into the parking lot and four men with guns got out and started banging on her windows with their pistols until she got out. They took her car, put her into a large European car, and drove away.

Once in the car, they communicated by radio that the kidnapping had been successful. They put a jacket over her head and later wrapped her head with newspapers and masking tape. After driving for about half an hour, they took her out of the car into what appeared to be a garage.

"You know why you're here, don't you? We're going to ask you some questions and the treatment you get will depend on the answers you give," one of her captors explained. They questioned her about various people, but she told them that she did not know the information they were demanding.

They sat her down in a chair with her hands handcuffed behind her, and began hitting her while trying to elicit responses to their questions. They beat her with wooden sticks on her thighs, knees and below the knees. They also hit her in the stomach, thorax and back, to the point

of possibly breaking a rib.⁸

Later that first day, they put a plastic bag over Valenzuela's head and tightened it around her neck, telling her to stamp her feet when she was ready to talk, and continuing to hit her as well. The men told her, "You have no choice but to speak, because you're not going to leave this place anyway." She received no food the first day of her detention.

Valenzuela's interrogators asked her for names and places related to activities of the URNG, but she could only tell them about her projects with the displaced and marginalized populations of Villa Nueva. Unable to give her interrogators the information they sought, she said she took them to various places on both Saturday and Sunday, in the hope that the beatings would stop. When she was unable to show them anything, however, they were furious. When leaving and entering the garage on these trips, she could feel the speed bumps immediately outside the entrance, although she didn't see anything because her eyes were covered.

The second day, Sunday, she was not beaten but continued to be interrogated. She was asked about the free medical samples she had collected from her colleagues' private offices in Escuintla—and which they accused her of stealing from the hospital—to send to different projects in the countryside. In the interrogation room, she saw several boxes full of numbered files and, at one point, one of her interrogators indicated that he was going to check out a piece of information she had given them on a computer. One interrogator said, "Look Doctor, many people less educated than you have sat in that chair, and we have gotten much more information from them." They displayed a good knowledge of her and her work, showing her photographs of people she knew and asking her questions. At one point, her interrogator said, "Listen Doctor, now you are more dangerous to us, because you know much more about our work than when you came."

Later, one of her interrogators made what she believed to be an allusion to the Estado Mayor Presidencial, or presidential guard: "Do you believe, Doctor, that President Cerezo himself doesn't have a security force that does all these things [kidnappings] in order to maintain stability? What we do might be construed as being illegal, but we do it precisely in order to control those who are outside of the law."

During the time in the garage, Valenzuela heard the shouts and chorus of voices that sounded like soldiers. Someone would give a command, and the men would shout their chants. This was perhaps only ten meters away. She could see some fifteen other cars in the garage and heard people talking about changing the license plates on the various vehicles. She could also hear men communicating by radio, one of which was left on at all times. One night, she was given an olive green poncho with which to sleep.

At midnight on the third day, Monday, they brought her into an office and demanded that she write everything she had told them. Each time that she wrote more, they gave her more food and treated her better. The following day, an interrogator who claimed to have once been with the guerrillas had a long discussion with her about politics. He told her about his "terrorist activities" in the early 1980s and of his conversion to a "good Guatemalan" after being held

⁸ Shortly after her exile, Valenzuela continued to suffer intense pain in her lower left chest. A medical examination on February 20 revealed that one of her ribs might have been broken.

prisoner for ten months.

Another interrogator asked if she knew a "Dr. Brooks," an apparent reference to Dr. Ruth Graviola Brooks who had been kidnapped and tortured before being turned over to the Special Tribunals of the Ríos Montt government.⁹

On Wednesday, Valenzuela was transferred to a house in the country. She was not interrogated again until Saturday night when they told her that she was going to be released under four conditions. First, they said she must place a newspaper announcement thanking the armed forces, as well as other institutions and organizations, for all they did for her during her kidnapping, and explaining that she was now safe and sound at home. Second, she must say that her kidnapping was a case of mistaken identity, that she was confused with a member of the Valenzuela family that owns a chain of pharmacies. Third, she should contact them once a week, and then later once every two weeks. Fourth, she must agree to make a videotaped statement.

During the making of the video, they held up flashcards of what they wanted her to say, asking her to make references to various guerrilla commanders and the ORPA guerrilla organization¹⁰ or its the Javier Tambriz front. They had to film her twice, because she was so nervous.

Her interrogators said her "tribulations do not end here; it begins when we free you." They warned her that if she did not go along with the four conditions, they could make the video public. They also said they had information on her entire family. At 4:30 a.m. on Sunday, February 18, they left her in Zone 9 with her car; she fled the country that afternoon.

Anonymous

A similar case took place in 1992 when a woman was abducted and detained for 18 days. This account of her detention is based on a tape-recorded statement she made following her release. At her request, details of names and places have been excluded from the testimony in order to protect her family, against whom her captors threatened to retaliate should her story be made public. She has since left Guatemala.

In early 1992, the woman was kidnapped by six men in civilian dress in a departmental capital of Guatemala. She was taken to a small room, where she was held for the next few days, then taken to Guatemala City. During her captivity in this first location, she heard the sounds of people training and giving orders, which led her to believe she was being kept in the local military garrison, although she could not tell for certain, as she was blindfolded.

During the next few days, she was accused of being a guerrilla and interrogated about names and places. She was given nothing to eat or drink for the next four days, except for an occasional glass of water. At first, she gave her captors false names and addresses, out of fear of what would happen to her family and friends. When she said she didn't belong to any guerrilla organization, one of her captors began choking her until another told him to leave her alone.

⁹ Americas Watch, *Guatemala: A Nation of Prisoners*, (New York: January 1984), pp. 198-207.

¹⁰ Revolutionary Organization of the People in Arms.

The next day, the interrogation continued. They said if she would give them the names of her comrades, she and her family would be left alone. They slapped her on the head and threatened to burn her with electric wires. That night, they took her to the town and demanded that she show them where the guerrilla safe house was, but she said she didn't know anything. She was then brought back to the place where she was being held and slapped some more. A young man again accused her of being a guerrilla, put a blinding light to her face, and pressed his thumbs hard against her eyes, which left her sightless for a while.

The third day, the interrogation continued and they let her go to the bathroom for the first time. She was forced to walk blindfolded and naked through a patio while a group of men made insults and degrading comments. Later she was taken out to the city and instructed to show them the location of a safehouse, which she once again failed to do. Upon returning to her room, one of her captors threatened to kill her, adding that he would let loose a panel of wasps from the ceiling so that they could "pick her apart piece by piece."

The afternoon of the fourth day, she was taken away blindfolded in a car. When they removed the blindfold, she could tell they were on the highway to Guatemala City. One of the men told her he was now in charge of her, that no one would hurt her, but that she had to tell him the truth so that he could help her. That night, in a new place of detention, she was offered food for the first time since her capture.

Her new interrogator displayed a detailed knowledge of her and her family. During the next day's interrogation, she decided to give him her real name. She continued to deny, however, that she belonged to a guerrilla organization. They also asked her whether she belonged to any of a long list of popular organizations, including CUC, CONAVIGUA, and UASP.¹¹ "Whichever organization you're in," her interrogator said, "it's all the same since they're all part of the guerrillas." When she replied that she didn't know if that was true, but that she was sure that these were all unarmed groups, the interrogator left the room angrily.

Evidently realizing they weren't going to get any information out of her, the interrogators dictated to her a long script about how she joined the guerrillas which she was ordered to memorize. She made two videotapes in which she told her entire history from the time she was born until she "turned herself in" to the army; she also had to say that she had been in the URNG, but now denounced the guerrillas because of their violence.

Having made the films, she was told that she would be released, and instructed to tell people that she had been in Antigua with her boyfriend. She was also told to make contacts with the guerrillas and then report back to her captors. They gave her instructions to attend three different meetings with them.

During the last days of her detention, one of her captors reiterated several times to her that, if she told anyone what had happened to her, he would begin with her family and not rest until he found her, and then he would do with her whatever he pleased.

¹¹ The Committee for Peasant Unity (CUC), The National Coordinating Committee for Guatemalan Widows (CONAVIGUA), and the Unity for Labor and Popular Action (UASP).

A full 18 days after her initial capture, she was released in Guatemala City. She did not attend any of the designated meetings with her captors, and soon left the country.

Maritza Urrutia

The third and most recent case involves the unacknowledged eight-day detention of Maritza Urrutia. Her detention fits the pattern of previous cases, in that she was forced to videotape a confession and instructed to continue meeting her captors following her release. It differs, however, in that she later admitted to having been a member of the URNG. The extraordinarily public nature of her reappearance—in which she presented herself at the Attorney General's office asking for amnesty, only to go into hiding immediately afterwards—was probably due to the enormous national and international attention the case drew. The following account is based on an Americas Watch interview as well as written testimony she presented to the Inter-American Commission on Human Rights in Washington, D.C..

Maritza Urrutia was kidnapped by four men driving a white vehicle with smoked glass windows after she dropped her son off at day care on the morning of July 23, 1992, in Guatemala City's Zone 13. The men covered her head with a jacket and took her to a garage, where they began interrogating her. She spent most of her eight-day unacknowledged detention handcuffed and with her eyes covered by a cone made out of newspaper and taped at the top.

While being led through the corridors of her place of detention, she occasionally saw from the bottom of the newspaper cone olive green knapsacks and military weapons. Once she also caught sight of a man in well-shined black shoes and khaki pants like those used by military officers. Although her captors kept a loud radio playing in her cell night and day, she could hear the sounds of drums most mornings at the same time over the radio's noise. On several occasions in which her captors drove her away from and returned to the detention site she could feel the vehicle pass over speed bumps. At one point, one of her guards assured her she was in the hands of the army.

During the course of her interrogation, her captors showed her numerous photographs of herself, her son, family and friends, indicating that they had had her under surveillance for some time. They also showed her letters that she had written to her son's father, a URNG combatant, which soldiers had seized after a firefight. She admitted to having sent the letters, but said she knew nothing of his political activities.

After a couple of hours, she was allowed to call her mother to ask her to pick up her son. They dialed the number through a switchboard operator, and then passed the call to Urrutia in the bathroom. Later in the day, they took her out to a public telephone, where they told her to call her parents to tell them that she was fine and that she was trying to leave the "organization." On the way to the pay phone, she overheard one of the men say they were going to Zone 18. For several days, they took her out to make calls to her family from pay phones, sometimes in Zone 18.

The interrogation continued intensely for several days. Her captors identified themselves as part of a "very strong organization" that was "patriotic" and "independent of the government"; an organization which even acted against army personnel that caused problems. They told her she was not in the hands of the army, but rather with a "super-clandestine" group that operated against whoever threatened the security of the country: subversives, drug traffickers and swindlers.

During the first few days, they often threatened to kill or torture her if she didn't provide the

information they sought. They showed her photo albums of tortured bodies and said that she could end up that way as well if she didn't collaborate with them. Finally, she broke down and told them she wanted to be amnestied and return to a normal life with her son. The threats became less energetic after that.

Over the course of five days, her captors made her videotape a scripted statement in which she declared that she had not been kidnapped, but had gone into hiding in order to leave the guerrilla movement. At one point, her captors brought her new clothes and makeup from a shopping center in Zone 6, Mega-6. The taping sessions were repeated for six or seven hours a day in an effort to make her statement appear spontaneous and natural. She was told that she, her family, and the family of her former common-law husband (a URNG commander) would face violent reprisals if she subsequently contradicted the version of events she was forced to declare on camera.

The videotape was dropped off at Guatemalan television stations which promptly aired it on July 29. Urrutia was released on July 30 with express instructions to apply for an amnesty for her subversive activities, and to hold a press conference in the Attorney General's office repeating what she had been forced to say on the video. She was also instructed to remain inside the country and to meet her captors at a prearranged date, time, and place.

Prior to her release, they told her that they would provide security so that neither the guerrillas nor the army could hurt her. They also told her that it was important that the military see that she was disposed to collaborate, since her case "did not have anything to do with" the military.

Around the same time that Urrutia turned up at the Attorney General's office asking for amnesty, the URNG published a communiqué acknowledging that she was a URNG member and asking that she be placed under the protection of the Human Rights Ombudsman. (She later left a letter dated August 6 for the UN Independent Christian Tomuschat relating the details of her capture, as well as the fact of her membership in the URNG.)

With the help of the Archbishop's Human Rights Office, Urrutia was granted a visa to the United States, leaving early on the morning of August 7. On September 30 she publicly contradicted the official story and filed a complaint at the Inter-American Commission of Human Rights against the government for her temporary disappearance.

The Urrutia case reflects badly not only on the military, which carried out the illegal detention and subsequently covered it up, but also on civilian officials who insisted that there had been no kidnapping, even though witnesses had seen Urrutia forced into the white car on July 23. Bernardo Neumann, president of a cabinet-level executive branch human rights commission, unquestioningly accepted and repeated that the kidnapping had not occurred. Then-Attorney General Acisclo Valladares also supported the official version of events; he later was quoted saying that Vice President Gustavo Espino told him that they had checked with all the security forces and that none had her in their custody.¹²

Worse still, in letters to President Serrano which were widely distributed in Washington by

¹² *Polémica*, December 1992.

Guatemala's lobbying firm, Neumann and Attorney General Acisclo Valladares suggested that the Archbishop's Human Rights Office had acted improperly in offering Urrutia the Church's protection, when it most likely was responsible for saving her life. Moreover, it was only on August 6, a full two weeks after Urrutia's capture and one week after her release, that Attorney General Valladares opened a judicial investigation to determine whether or not she had been kidnapped. Valladares later supported the resolution of Human Rights Ombudsman Ramiro de León Carpio and said that he did not discard the possibility of a kidnapping.¹³ Valladares has since been forced out of his post, and the investigation has languished in the courts with very little progress.

After Urrutia had left the country and made her story public, Interior Minister Francisco Perdomo and Presidential Public Relations Secretary Arturo Alvarado accused Human Rights Ombudsman de León Carpio of covering up a crime, because, although Urrutia had told him of her kidnapping before she fled the country, he abided by her request to keep the information confidential until she felt secure enough to go public. Alvarado threatened to bring charges of coverup against both the Ombudsman and the Archbishop's office for their role in protecting Urrutia.¹⁴ These accusations reflect bad faith efforts by presidential advisers to smear de León Carpio and the Archbishop's Human Rights Office, both institutions which acted honorably throughout the episode.

Captured Guerrilla Combatants

The army frequently presents to the news media URNG combatants who, it claims, have deserted the insurgency and sought the "protection" of the armed forces. There are many cases of such individuals who remain in the army's custody for indefinite periods.

The UN Independent Expert cited ten such cases for 1992, including that of Verónica Ortiz, a captured guerrilla who, having spent months under army "protection" fled to Spain; María Angela Simón Misa, who according to the army deserted and was placed "under the protection of the armed forces in order to prepare socially and psychologically for her reintegration into society"; Jaime Adalberto Agustín Recinos and Reginaldo de Jesús Pérez, presented to the press on August 16, 1992, and at the time of the UN report (December 1992) still in army custody; and Tomás Velásquez Xon, who surrendered on September 9 and remains at the army base in Santa Cruz del Quiché.¹⁵

The cases documented by Americas Watch above cast doubt on the voluntary nature of these ex-combatants' stay with the army. The testimony of two guerrillas who alleged they had been captured by the army and escaped after months of clandestine detention further undermines the army's assertions. The testimonies of Santiago Cabrera López, aka "Carlos," and Jaime Adalberto Agustín Recinos, aka "William," were presented to the United Nations Human Rights Commission in Geneva by the Mexico-based Guatemala Human Rights Commission (CDHG) in

¹³ *La Hora*, October 9, 1992.

¹⁴ *La Hora*, October 2, 1992. Article 474 of the Guatemalan Penal Code establishes that the crime of *encubrimiento* (coverup) can be punished by 2-3 years in prison.

¹⁵ *Report by the independent expert*, paragraphs 134-135, pp. 36-37.

February 1993. According to the written account, "Carlos" was captured by the army on March 8, 1991, in San Marcos. "William" was captured on August 3, 1992, when he went to a prearranged meeting with combatant María Angela Simón Misa (see above), unaware that she had been captured by the army a few days earlier. She met him in the company of a group of plainclothes officers, who took him into their custody.

Neither Carlos or William were ever presented to a court or charged with any crime. They each report that from the time of their capture until they were able to escape (Carlos on December 22, 1992, and William on October 23, 1992), they were repeatedly tortured in different military bases—including centers they believe to be in or near the headquarters in Guatemala City of the PMA—by army officers who wanted them to collaborate by providing information about the guerrillas. They each allege that they saw several other captured guerrillas as well as suspected civilian collaborators in clandestine army custody, many of them suffering torture and in some cases, apparent disappearances.

Among those that Carlos claimed to have seen on several occasions was Efraín Bámaca Velásquez, aka Everardo, who the army apparently reported to have died following combat in March 1992. An exhumation of a body which the army reportedly claimed to be that of Everardo in Retalhuleu on May 20, 1992, was halted by then-Attorney General Acisclo Valladares, according to a witness. The exhumation was never resumed.

On February 22, 1993, the CDHG presented a habeas corpus petition for those detainees who Carlos and William claim to have seen in military custody. President Serrano was quoted in the press on February 25 denying that URNG commanders are illegally detained.

IV. THE QUESTION OF RESPONSIBILITY

While it is difficult to assign precise responsibility for the cases listed above, the evidence suggests the involvement of a well-organized and well-equipped unit, which has access to military intelligence records and which also acts within military installations. The techniques also bear a striking resemblance to that used by security forces in the handling of Gonzalo Cifuentes Estrada, who was arrested in August 1991 on suspicion of killing the former chief of the National Police Homicide Division, José Miguel Mérida Escobar, earlier that month. (Mérida Escobar, as one of the officers in charge of investigating the September 1990 murder of anthropologist Myrna Mack, had provided key evidence linking the Estado Mayor Presidencial to the crime.) The UN Independent Expert gave the following account of Cifuentes Estrada's detention in his 1991 report:

On October 5, 1991, the Expert visited the Detention Center in Zone 18 of Guatemala City where he interviewed Gonzalo Cifuentes alone. According to his account, he was detained on the street on August 27, 1991 at 3:00 p.m. by five men in civilian clothing. Blindfolded, his captors transported him in a vehicle to an unknown location where he was interrogated about a supposed robbery of a vehicle, and later, about the assassination of Mr. Mérida Escobar.... For four hours, he was subjected to an intensive interrogation during which they threatened to disappear and execute members of his family...if he did not confess to the murder of Mr. Mérida. In the face of these pressures, and even though he did not confess to the murder of Mr. Mérida, he gave in to the demands of his interrogators and he was forced to memorize a confession, which was subsequently videotaped in the same secret location where he had been interrogated.

A little later he was transferred to National Police headquarters, where the blindfold was taken off and he could see that his captors and interrogators were dressed in civilian clothes. Once in the custody of the National Police, he made the appropriate statement and was transferred to the Detention Center where he is now jailed. The videotaped version of his confession was given by the police to the television stations, which broadcast it widely along with police statements which named Gonzalo Cifuentes as the assassin of Mr. Mérida Escobar, thus violating the principle of the presumption of innocence until proven guilty.

Thirty-eight days later, the Expert observed that Gonzalo Cifuentes remained in detention, frightened, and had not been assisted by an attorney, nor had he been visited by his family. Under these circumstances, it is the Expert's view that a thorough investigation should be launched to determine the location of the clandestine detention center where Gonzalo Cifuentes was taken (there is some indication that it was a center run by the Military Ambulatory Police) and his participation or lack of participation in the assassination of Mr. Mérida Escobar.¹⁶

The Expert's description of official collusion between the unidentified detaining party and the National Police, to whom they turned over their clandestinely produced video, is revealing. In addition, the UN Expert's reference to the Military Ambulatory Police (PMA) is also significant: it is located in Guatemala City's Zone 6, which is immediately adjacent to Zone 18. In the testimony of Maritza Urrutia, she noted that telephone calls to her family were often made from public telephones in Zone 18, near where she was being held, and that clothes and makeup brought to her had been bought in a store in Zone 6.

V. POSSIBLE LINKS TO THE ESTADO MAYOR PRESIDENCIAL

Americas Watch has received information which leads us to believe that the Estado Mayor Presidencial, a security force purportedly operating directly at the president's command and which rose to notoriety when one of its former specialists was tried and convicted for the murder of Myrna Mack,¹⁷ may be responsible for some of the abductions covered in this report. This body's principal responsibility is ostensibly to provide for the security of the president and his family. Yet information gathered by Americas Watch, including testimony given in the Mack case and that of a former police official, paints a picture of a large intelligence apparatus that coordinates with, but is also somewhat autonomous from, the Army General Staff and the security forces.

¹⁶ UN Doc. E/CN.4/1992/5, pp. 40-41. Gonzalo Cifuentes was released in mid-1992 for lack of evidence.

¹⁷ Myrna Mack was a Guatemalan anthropologist and cofounder of a research institute known as the Association for the Advancement of the Social Sciences in Guatemala (AVANCSO). On September 11, 1990, she was stabbed to death upon leaving her office in Guatemala City. At the time of her death, she was completing a study on the displaced population, including several thousands of displaced peasants who had at the time spent eight years hiding from the army in the mountains and jungles of northern Quiché province. A police investigation into her death identified a suspect, Noel de Jesús Beteta, from the Estado Mayor Presidencial. It also established the motive for the killing as an effort to suppress her work on the displaced. The conclusions of this police report, however, were suppressed for many months. When the report was finally revealed and ratified by one of the police investigators, José Miguel Mérida Escobar, he was murdered. In February 1993, Noel de Jesús Beteta was convicted for the murder of Myrna Mack and sentenced to 25 years in prison. An additional 5 years was added for the wounding of a minor, Herbert Ramírez.

UN Expert Tomuschat's most recent report states that the "competences" of the military intelligence department and the Estado Mayor Presidencial "should be reviewed to meet democratic standards." Moreover, the report calls for the replacement of the EMP by a civilian agency composed of advisers to the president.¹⁸

Since the Tomuschat report was made public, Vice President Gustavo Espino has publicly rejected the recommendation that the EMP be replaced as "definitely impossible."¹⁹ President Serrano said in a press conference on February 22 that his government was studying Tomuschat's recommendations and that they would discuss the matter further with him. He added, however, that "every person knows that any president in the world has a presidential high command with functions that are perfectly defined and understood." But the functions and responsibilities of the Estado Mayor Presidencial are neither well-defined nor understood by the public.

The role of the Estado Mayor Presidencial, in fact, appears not to have changed dramatically since Amnesty International reported in 1981 that a presidential intelligence unit located in the Presidential Guard annex of the National Palace served as the "center of the Guatemalan Government's program of 'disappearances' and political murder...." Amnesty reported various names the unit has held since the 1960s, including the Regional Telecommunications Center or Regional Police, Presidential Intelligence Agency, and Special Services of Communications of the Presidency.²⁰ The existence of a specialized presidential intelligence agency dates back to the regime of Colonel Enrique Peralta Azurdia (1963-66), who—with the assistance of the U.S. government's controversial Office of Public Safety—set up a communications system that linked military and security forces within the country.²¹

Last year, the Guatemalan newsweekly *Crónica* published a rare account of the role of the Estado Mayor Presidencial and its current head, General Francisco Ortega Menaldo.²² *Crónica* reported that Ortega, whose previous posts included being the head of military intelligence and of the PMA, was not only the most informed person in the country, but that he virtually controlled the daily agenda of President Serrano. In effect, noted another Guatemalan weekly, *Crítica*, most politicians and cabinet ministers considered Ortega the second most powerful person in the country.²³ A high-ranking Army officer told *Crónica* in late 1991 that the EMP "has total independence" from the army. Its intelligence body, the *Dirección de Seguridad Presidencial*

¹⁸ Report by the independent expert, paragraph 242, p. 64.

¹⁹ *La Hora*, February 15, 1993.

²⁰ This agency's activities were publicly denounced by opposition politicians and a former official of the ministry of interior who resigned in 1980. Amnesty International, *Guatemala: A Government Program of Political Murder*, (London: 1981), pp. 7-9.

²¹ Michael McClintock, *The American Connection, Volume II, State Terror and Popular Resistance in Guatemala*, (London: Zed, 1985), pp. 70-75; also pp. 169-178.)

²² Carmen Sofía Brenes and Haroldo Shetemul, "La voz que siempre atiende el Presidente," *Crónica*, September 4, 1992, p. 16-20.

²³ "El Hombre del Túnel," *Crítica*, June 17, 1992.

(DSP), reports directly to the president, and its funds come from a confidential budget assigned to the presidency.²⁴

According to one source with close ties to the military, the EMP, along with its intelligence unit, the DSP (earlier known as "archivos"), is actually larger than the army's D-2 intelligence department. The DSP maintains more extensive files on people than the D-2, and carries out many activities, including killings, that the D-2 gets blamed for, according to this source. The DSP has files on everyone who has ever applied for a passport or a driver's license, a more sophisticated computer data base, access to a wider variety of vehicles, etc. This source also claimed that the DSP often carries out vigilante-style killings: if someone is convicted eight times for criminal offenses, they can expect a lethal visit from DSP agents.

Americas Watch has further learned that the EMP operates a facility adjacent to the PMA headquarters in Zone 6. This could account for the reference to the PMA by UN Expert Christian Tomuschat suggesting that the clandestine center in which Gonzalo Cifuentes was held may have been located in the PMA. Furthermore, in a March 21, 1991, interview, a former D-2 technician told Americas Watch of the existence of several clandestine detention centers in Guatemala City, including one that operated out of the PMA headquarters in Zone 6.

The history of Noel de Jesús Beteta Alvarez, the former EMP specialist convicted in February 1993 for the Mack murder (see footnote 17), sheds some light on the functioning of the EMP. Beteta was a rising star in intelligence circles before he was implicated in the Mack murder. On March 1, 1984, Beteta joined the National Police to work for its Directorate of Technical Investigations (DIT). After that unit was disbanded in February 1986 by President Vinicio Cerezo because of its involvement in political violence, Beteta became one of four hundred former DIT officers who joined the Special Investigations and Narcotics Brigade (BIEN), which was created in June 1987.²⁵ For a short period, he headed the BIEN's department on kidnappings and disappearances.²⁶ On August 5, 1987, Beteta was discharged from the National Police in order to join the EMP. There he achieved the rank of Sergeant Major Specialist, the highest rank given to specialists and which indicates he had people under his command.

Americas Watch has received sworn confidential testimony from a former high-ranking police official which further details the activities of these investigative units of the police, as well as the transfer of Beteta and others to the EMP in the late 1980s. The official has requested to remain anonymous for security reasons. His testimony described the domination by, the army's D-2 intelligence department and the Estado Mayor Presidencial's DSP over the National Police's Department of Criminal Investigations (the latest incarnation of the DIT and the BIEN).²⁷ Beteta and others represented a more "operative" group of persons who used heavier weapons, worked

²⁴ "Secretos del Estado," *Crónica*, December 13-19, 1991, p. 20.

²⁵ In July 1988, the BIEN was renamed the Department of Criminal Investigations (DIC). See Americas Watch, *Closing the Space: Human Rights in Guatemala, May 1987-October 1988*, (New York: 1988), p. 19-20.

²⁶ *Prensa Libre*, October 28, 1992.

²⁷ This continues a pattern which held during the Cerezo administration. *Closing the Space*, p. 20. In his most recent report, the UN Independent Expert decried the encroachment by military intelligence into investigative functions that should be the domain of civilians.

on more "delicate" cases, and whose methods were more violent; a second, less powerful group of police officers constituted a "new generation" of detectives who had received technical training and were more professional, according to the officer's testimony. The most important cases, such as high-profile political assassinations, are always carried out by the DSP, according to this official. The National Police are sometimes warned by army intelligence that, "in such a sector at a determined time and on determined dates, the police ought not to intervene to avoid foulups in the operation," the official testified.²⁸

Senior military officers were obliged to provide testimony about the EMP in the Myrna Mack case. Their sparse and contradictory testimony suggested a deliberate attempt to shield the EMP from public scrutiny, yet also provided insight into its functioning. The former head of the EMP at time of the Mack murder (until mid-1992 head of the Army General Staff) General Edgar Godoy Gaitán, said that the EMP engaged in "analysis of factors of power," including political, military, social and economic issues, in addition to its responsibilities for guarding the president and his family. However, Beteta told the court that "only sporadically" had he provided security to the president. Among his responsibilities were the investigation of kidnappings, robberies and murders. "In reality," Beteta testified, "I liked the work that I did, because it permitted me to let my imagination fly."²⁹

Beteta's superiors testified that they were unaware of the duties he described. The Army General Staff and Ministry of Defense gave contradictory written responses to the court, first saying that Beteta had worked in the "security section" of the EMP, and later twice indicating that he worked in the press office. Godoy also noted that some 1,000 specialists worked for the EMP, which he offered as an excuse for why he never knew Beteta personally.³⁰

VI. FURTHER QUESTIONS ABOUT THE EMP

Despite the attempts by high-ranking military officers to downplay the role of the EMP, there are indications that its role is much broader than has previously been known. The following are a few instances that raise questions about the role of the EMP.

◆ On the evening of July 23, 1992, the day of the kidnapping of Maritza Urrutia, two members of the EMP arrived at her family's home and set up a tape recorder to record phone calls. They advised the family not to publicize the abduction so as "not to harm Maritza." Two members of the EMP also appeared at the press conference given by Urrutia at the Attorney General's office, according to a witness interviewed by Americas Watch who recognized them.

◆ All high-ranking military and EMP officers testified in the Myrna Mack case that the issue of refugees and displaced persons was not of concern to the military, despite evidence that Mack

²⁸ This practice is similar to the "green light" or "liberated area" used by the security forces in Argentina under the military. See *Nunca Mas: Informe de la Comisión Nacional Sobre la Desaparición de Personas* (Buenos Aires: Editorial Universitaria de Buenos Aires, 1984) p. 19.

²⁹ "Secretos del Estado," *Crónica*, December 13, 1991, p. 20.

³⁰ *Prensa Libre*, August 28, 1992.

was killed to suppress her work on this issue. Nevertheless, the former executive director of the government's Special Commission for Aid to Refugees (CEAR) testified that "several persons who identified themselves as from the EMP visited CEAR and, in particular, two persons had a permanent relationship with CEAR, with the purpose of gathering up-to-date information on this issue for use by the Presidency."³¹

◆ In recent years, the publisher, business partners, and journalists with the daily *Siglo Veintiuno* have received pressures directly from President Serrano and the EMP, complaining about articles relating to the Mack case and unfavorable references to the president. Following pressures from the president, vice president, and General Ortega of the EMP, business partners of *Siglo Veintiuno's* publisher have occasionally received anonymous threats. After a meeting with the army general staff last December, the most recent set of threats stopped within 24 hours.

◆ Following the recent removal of Attorney General Acisclo Valladares from office, the Public Ministry has been reorganized, bringing in new personnel. The new director of the Institute of Criminal Investigations of the Public Ministry is Edgar William Ligorria Hernández, who will oversee some 20 professionals who carry out investigations for the Attorney General. Although both the director and the deputy director of this institution are required to be lawyers, Ligorria reportedly is not. According to the court record, Ligorria presented himself to the mother of Herbert Ramírez, a teenager wounded by EMP Sergeant Major Beteta in January 1990, as Beteta's lawyer.³² Furthermore, press reports indicated that Ligorria had denounced to the security forces some of a group of university student activists who subsequently disappeared in August and September 1989.³³

This last connection, in which the Public Ministry figure in charge of criminal investigations is linked to Beteta, is especially worrisome, and casts doubts on the independence of the Public Ministry, especially when dealing with sensitive cases involving the military.

VII. CONCLUSION AND RECOMMENDATIONS

Americas Watch believes that the combined weight of the evidence points to a continuing policy by the Guatemalan government of forced disappearances and clandestine detentions. Although we are unable to quantify the practice, we are alarmed by the fact that it continues with impunity, inspiring fear in the population.

Americas Watch calls on the government of Guatemala to take the following steps:

³¹ Cited in "*Exposición de la Acusadora Particular Helen Beatriz Mack Chang en la Vista Pública del juicio contra el ex-sargento mayor Noel de Jesús Beteta Alvarez por el asesinato contra la antropóloga Myrna Mack,*" manuscript, October 13, 1992, p. 19.

³² The Ramírez case was joined with the Mack case in the courts, and Beteta was sentenced to a total of 30 years for these crimes, 25 years for the murder of Mack and an additional five years, plus 10,000 *quetzales* in damages, for wounding Ramírez.

³³ *Prensa Libre*, January 24, 1993, *Domingo* weekend supplement, pp. 8-9. Ligorria was expelled from the leadership of the University Students' Association in February 1989 on charges of corruption.

- ◆ thoroughly investigate the cases presented in this report to determine who is responsible for the practice of clandestine detention described;
- ◆ disclose the results of the investigations to the public;
- ◆ ensure that the individuals found responsible be prosecuted and punished to the full extent of the law;
- ◆ determine the location of the clandestine detention centers which are used for such activities, and make sure that these and any others which might replace them be shut down;
- ◆ take effective measures to enforce the rights of detainees—even those accused of guerrilla activities—guaranteed in the Guatemalan Constitution;
- ◆ adopt the measures recommended by the UN Independent Expert with respect to the separation of the military from the police, especially in the area of criminal investigations; as well as his recommendations regarding the Estado Mayor Presidencial (see above);
- ◆ acknowledge the detention of any person currently held clandestinely, and either file charges before a court of law or release him or her immediately;
- ◆ account for the fate and whereabouts of any and all persons reported as disappeared;
- ◆ provide moral and material compensation to victims of temporary disappearances and to families of victims who have disappeared permanently.

Americas Watch was established in 1981 to monitor and promote the observance of internationally recognized human rights. *Americas Watch* is one of five regional divisions of Human Rights Watch. The Chair of *Americas Watch* is Peter D. Bell; Vice Chairs, Stephen L. Kass and Marina Pinto Kaufman; Executive Director, Juan E. Méndez.

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