

December 14, 2010

Madame Hillary Rodham Clinton
Secretary of State
U.S. Department of State
2201 C Street NW Washington, DC 20520

Dear Secretary Clinton:

We are writing to raise our serious concerns regarding U.S. assistance to Colombian military units with credible histories of gross human rights abuses and the application of the Leahy Law, known as human rights vetting.

We applaud the instances during recent years in which the State Department has invoked the Leahy Amendment in Colombia and suspended assistance to units implicated in gross abuses, and urge the Department to make public those suspensions.

Possessing credible evidence of violations by units proposed for assistance, the Department must suspend all assistance to those units subject to Leahy Law implementation. The U.S. Senate has defined a unit, for Leahy Law purposes, as the smallest operational unit in the field implicated in a violation. Thus, credible reports of gross abuses that implicate members of a brigade, but where witnesses have not identified a sub-unit of the brigade, should lead to suspension of assistance to the entire brigade, including its command staff and sub-units. In this respect, it is not lawful for the State Department to continue assisting the following Colombian army units, each deemed eligible for assistance last year, in light of credible evidence of gross abuses committed by their members:

- Between 2002 and 2009, 19 extrajudicial executions have been attributed directly to members of the **Sixth Brigade**, in which a responsible sub-unit was not identified and have not resulted in a trial or conviction.¹ Of these 19, seven were documented by the Jesuit-run Center for Popular Research and Education (CINEP) between 2002 and 2008.² Eight others, committed from 2004 to 2007, are under investigation by the Colombian Attorney General's National Human Rights Unit, but investigations have not advanced.³ The other four killings were reported by a Colombian human rights organization or the Military Justice System.⁴ These reported killings exclude dozens of others reportedly committed by the Army in the

¹ The Human Rights Observatory of the Colombia-Europe-United States Coordination (hereafter CCEEU) convenes a Working Group on Extrajudicial Executions with 20 human rights organizations, which has assembled information on extrajudicial executions, drawing on a database created by the Attorney General Office (Fiscalía) National Human Rights Unit (hereafter Fiscalía UNDDHH), Inspector General's Office database, Ejecutiva de la Justicia Penal Militar, May 7, 2009, response to petition. (hereafter JPM database), the database of CINEP (as reported in *Noche y Niebla*), and their own casework. This information was drawn from this database.

² Reported in *Noche y Niebla* [hereafter *NyN*] No. 30, p. 118; *NyN* No. 23, pp. 127-128; *NyN* No. 25, p. 125; and *NyN* No. 38, pp. 160-161; and in JPM database [identifying Sixth Brigade]].

³ Fiscalía UNDDHH list, which also showed status of investigations as of mid-2009. More recent information on investigations status was reviewed in U.S. Department of State certification justification documents and CCEEU bulletins.

⁴ CCEEU Working Group on Extrajudicial Executions database; Fiscalía UNDDHH list; and JPM database.

Sixth Brigade's jurisdiction that did not identify the Sixth Brigade, or where responsible sub-units were identified, or that have resulted in a conviction.⁵

- The **11th Mobile Brigade**, which operates in some parts of the Peace Community of San José de Apartadó in the northwestern Urabá region, reportedly committed seven extrajudicial executions from 2005 to 2007, for which a sub-unit of the brigade was not identified. The Attorney General's National Human Rights Unit has opened investigations into these seven killings, but they have not advanced.⁶
- The **Ninth Brigade** in the conflictive Huila Department has been implicated directly in 123 civilian killings since 2002, yet not a single case has resulted in a conviction or sentencing.⁷ We appreciate the State Department's suspension of assistance last year to the Magdalena and Pigoanza Battalions,⁸ which as part of the Ninth Brigade were reportedly responsible for 96 of these deaths.⁹ However, ten of the killings were attributed by human rights organizations to the Ninth Brigade with no sub-unit identified.¹⁰ Moreover, it is not credible that brigade soldiers would carry out such a pattern of assassinations without the participation of brigade commanders, who controlled reserve funds frequently used to support "false positives."¹¹
- The **3rd Codazzi Engineering Battalion** reportedly killed 20 civilians in 2007-08, ten of them reported publicly by CINEP, with no judicial convictions.¹²
- Because of the critical role played by intelligence units within a brigade, assistance to such units should be considered as assisting the brigade as a whole. This is especially relevant given the documented role of intelligence units in the commission of "false positives."¹³ However, the United States has continued to assist an intelligence unit,¹⁴ known as **RIME**, operating within and for the **Fourth Brigade**, although members of the brigade have reportedly committed hundreds of extrajudicial executions¹⁵ – far more than any other army brigade - and the State Department has rightly not approved the brigade for assistance.¹⁶

⁵ CCEEU Working Group on Extrajudicial Executions database.

⁶ Fiscalia UNDDHH list. Brigade was identified in JPM database (except for one victim, identified in 2010 Certification document, p. 172). Fiscalia UNDDHH list was also source for non-progress in investigations (until mid-2009), combined with review of investigations and trials in State Department certification justification documents for 2009 and 2010. (Soldiers were indicted but not yet tried or convicted in the Lopera killing, committed in 2005.)

⁷ CCEEU Working Group on Extrajudicial Executions database.

⁸ U.S. Department of State, list of vetted and approved units, 2009.

⁹ CCEEU Working Group on Extrajudicial Executions database.

¹⁰ CCEEU Working Group on Extrajudicial Executions database.

¹¹ United Nations Human Rights Council, "Report of the Special Rapporteur on Extrajudicial, Summary and Arbitrary Executions, Philip Alston," March 2010, p. 13.

¹² CCEEU Working Group on Extrajudicial Executions database. Reported by CINEP in *NyN no. 34-35*, p. 193; *NyN no. 34-35*, p. 237; and *NyN no. 36*, pp. 106-107. Two other killings by Codazzi members in 2004 were reported earlier in *NyN No. 29*, p. 249 and *NyN No. 29*, p. 115. For a summary, see FOR and USOC, *Military Aid and Human Rights*, p. 18.

¹³ Alston report, p. 13.

¹⁴ Arturo Valenzuela, letter to Human Rights First and Fellowship of Reconciliation, February 2010.

¹⁵ CCEEU Working Group on Extrajudicial Executions database.

¹⁶ U.S. Department of State, lists of units vetted and approved for U.S. assistance, 2000-07, 2008 and 2009.

- On October 18, on the Colombian news program *Noticias Uno*, a professional soldier, John Quirama, denounced the participation of the **28th Brigade**, based in eastern Vichada province, in the extrajudicial killing of 22 people in 2007 and 2008, and in a drug trafficking organization led by the most wanted criminal in Colombia, Pedro Oliveira Guerrero Castillo, alias “Cuchillo.” The soldier said most of the killings were “false positives” of civilians who had been recruited for nonexistent jobs, then executed by the unit and claimed as guerrillas killed in combat. Quirama said he denounced the crimes to a regional attorney general’s office, but no action was taken and instead he received threats by officers in his unit.¹⁷

These represent only some egregious examples of army units assisted by the United States to which multiple extrajudicial killings have been reported by credible sources. The Human Rights Observatory of the Colombia-Europe-United States Coordination has documented more than 3,100 extrajudicial killings since 2002, in which nearly every Army territorial brigade and most mobile brigades are implicated. As United Nations Special Rapporteur on Extrajudicial Executions Philip Alston stated in his March 2010 report on Colombia: “There have been too many killings of a similar nature to characterize them as isolated incidents carried out by individual rogue soldiers or units, or ‘bad apples’.”¹⁸

We urge you to act decisively to fully apply Leahy Law in Colombia, by suspending assistance to all units whose members are implicated in extrajudicial killings that remain in impunity. To ensure that the Department has all available credible evidence of gross abuses reportedly committed by any of the hundreds of Colombian military units vetted by the State Department, we urge the State Department to consult with human rights organizations in Colombia and the United States during the vetting process, in such a way that permits organizations to present credible evidence of violations by members of all units proposed for U.S. assistance.

Finally, we remind you of the Department’s obligation to publish a detailed annual report on foreign military training conducted during the previous fiscal year (22 USC 2416 - Sec. 2416). The last time such a report was published was in early 2008, for Fiscal Year 2007. Bringing these reports up to date, and disclosing the lists of units supported and suspended from military assistance, are important and obligatory transparency measures for foreign assistance programs.

Thank you for your attention to these important human rights concerns.

Sincerely,

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¹⁷http://www.youtube.com/watch?v=wBVPyGZMxKI&feature=player_embedded

¹⁸ Alston report, p. 9.

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