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978-0-521-51436-1 - Seeking Human Rights Justice in Latin America: Truth, Extra-Territorial Courts, and the Process of Justice

Jeffrey Davis

Excerpt

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BUILDING JUSTICE FROM TRUTH – THE PROCESS BEGINS

THE CASE OF THE JESUITS

Justice follows a twisted path from the boiling up of criminal intent, to the act of violence, through a thicket of impunity, emerging into a small clearing of truth, and then venturing off again to more obscure destinations of accountability, deterrence, and reconciliation. On a cool November day in 2009, inside the National Court Building in Madrid, Spain, American researcher Kate Doyle explained to Spanish judge Eloy Velasco how declassified U.S. Central Intelligence Agency (CIA) documents linked former Salvadoran President Alfredo Cristiani and fourteen members of his high command to the murders of six Jesuit priests, their housekeeper, and the housekeeper's sixteen-year-old daughter. Ms. Doyle was an expert witness called by the San Francisco-based Center for Justice and Accountability (CJA) to support its effort to convince Judge Velasco to open a criminal case against Cristiani and his officers for murders committed twenty years earlier in El Salvador.

How U.S. lawyers and witnesses found themselves in Madrid thousands of miles and twenty years removed from the murders in El Salvador is the story of legal justice. This justice must be understood for what it is – a process – and not just a result. It does not stop with the denial, amnesty law, or pardon. It is not encompassed in the guilty verdict, prison sentence, or truth commission report. Legal justice is the *process* that can lead to those results, and it is the *process* that follows them. Revealing the truth, increasingly through original documents like the intelligence communiqués upon which the story of the Jesuits

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in this chapter is based, catalyzes this process. Justice is the process that can overthrow the cycle of violence and must, if it is to be meaningful, restore at least a measure of human dignity.

“Kill Father Ellacuría and leave no witnesses.” Colonel Emilio Ponce gave this order at a secret meeting of military commanders on November 15, 1989.¹ As a prominent Jesuit priest, philosopher, and author and the rector of the Central American University (UCA), Father Ellacuría played a crucial role in El Salvador’s peace process. At a peace march just eight months earlier, he had spoken to the crowds, telling them, “We need to work for peace from the perspective of the suffering of the orphans and widows, and the tragedy of the assassinated and disappeared.”²

Ellacuría formed a link between members of the Farabundo Martí National Liberation Front (FMLN) rebels and the government. According to a secret cable from the CIA in El Salvador obtained by a U.S. nongovernmental organization (NGO) called the National Security Archive, six weeks before November 15 the FMLN had asked Ellacuría to arrange negotiations between its representatives and members of the El Salvadoran military (see Figure 1.1).³ He had approved of the “five friends” who would represent the FMLN and had contacted military officials seeking representatives. On November 15, the day Colonel Ponce gave the order to have Ellacuría killed, Ellacuría had reported to the FMLN that “arrangements seemed to be going well.”⁴ Because they were coming days after the FMLN had launched a major offensive on San Salvador, the negotiations were urgent. One of the FMLN demands noted by the CIA cable was the removal from leadership positions of members of the Salvadoran military who were part of the Tandoná class in military college. Colonel Ponce had graduated first in the Tandoná class.

¹ UN Security Council, Annex, *From Madness to Hope: The 12-Year War in El Salvador: Report of the Commission on the Truth for El Salvador*, S/25500, 1993, 5–8. IV, B, 1.

² Roger S. Gottlieb, *Liberating Faith: Religious Voices for Justice, Peace, and Ecological Wisdom* (Lanham, MD: Rowman and Littlefield Publishers, Inc.), 229.

³ Central Intelligence Agency, Secret Cable, Murder of Father Ignacio Ellacuría, document obtained by the National Security Archive, *El Salvador: War, Peace, and Human Rights, 1980–1994*.

⁴ Ibid.

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Three hours after Colonel Ponce gave the order to kill Father Ellacuría, Colonel Guillermo Alfredo Benavides called his officers together to explain that Ponce had given them special orders to deal with the FMLN offensive. Benavides told them that they were charged with eliminating known subversive elements, including Father Ellacuría. According to a secret cable from the U.S. ambassador in El Salvador, William Walker, to Bernard Aronson at the U.S. State Department, Benavides told his men that Ellacuría “was one of them and he must die” (Figure 1.2).⁵ “It’s either them or us,” Benavides said. He asked his officers if any of them objected to the order.⁶ No one spoke up at that time.⁷

Major Hernández Barahona had quickly organized the operation. Lieutenant José Ricardo Espinoza Guerra was selected to command troops from the U.S.-trained Atlacatl Battalion. According to Walker’s cable, Espinoza “balked at the command,” but Benavides told him, “This is an order and you will do it.”⁸ “It’s either them or us,” he explained again. “They have been bleeding our country and we must break them.”⁹ To make sure, Benavides sent Lieutenant Yussy René Mendoza Vallecillos, who, according to Walker, Benavides trusted to see the order carried out.¹⁰ Both lieutenants were Tandon graduates. Benavides and his officers planned to blame the FMLN for the murders. They decided not to use their regulation firearms and instead armed Private Mariano Amaya Grimaldi with an AK-47 captured from the FMLN. Amaya remembered being told he was going “to kill some delinquent terrorists.” Lieutenant Mendoza told him, “you are the key man.”¹¹

⁵ U.S. Department of State, Secret Cable from Ambassador William G. Walker to Bernard Aronson, January 26, 1990, document obtained by the National Security Archive, *El Salvador: War, Peace, and Human Rights, 1980–1994*. <http://www.gwu.edu/~nsarchiv/nsa/publications/elsalvador2/>.

⁶ Lawyers Committee for Human Rights, “The ‘Jesuit Case,’ The Jury Trial (La Vista Publica),” September 1991, 15.

⁷ *From Madness to Hope*. See also Inter-American Commission for Human Rights, *Ellacuría, S. J. y Otros v. El Salvador*, Case 10.488, Report N° 136/99, OEA/Ser.L/V/II.106 Doc. 3 rev. at 608 (1999).

⁸ Walker to Aronson, January 26, 1990.

⁹ Ibid.

¹⁰ Ibid.

¹¹ Lawyers Committee for Human Rights, “The ‘Jesuit Case,’” 16.

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The lieutenants led members of the Atlacatl Battalion to the UCA. After posting a perimeter defense, eight soldiers, including Lieutenants Mendoza and Espinoza, approached the south gate of the university near the Pastoral Centre, the residence of the Jesuit priests. The noise awakened Father Ellacuría and he opened the door and let the soldiers in. They quickly roused four other priests and ordered them into the garden. Father Joaquín López y López hid in one of the adjoining rooms.

Five of the six Jesuit priests at the UCA Pastoral Centre were born in Spain. They were scholars and human rights advocates. Father Segundo Montes founded and directed the UCA Human Rights Institute and he gained international notoriety for his work for refugees in the Americas. For example, he worked closely with Massachusetts congressman Joe Moakley to help Salvadoran refugees in the United States. Father Montes's first teaching job was at a school that served the children of El Salvador's elite classes. One of his students was José Ricardo Espinoza Guerra, who grew up to be Lieutenant Espinoza.¹²

Father Amando López, a philosophy professor, was known for his work with the poor and suffering. In 1975 he was in Managua, Nicaragua, at the Central American University, as President Anastasio Somoza struggled to hold on to power. When President Somoza's forces began bombing civilians, Father López opened the campus to poor families fleeing the violence. In El Salvador he pastored a church in a poor community on the outskirts of San Salvador.¹³

Father Ignacio Martín-Baró was a social psychologist and philosophy professor who became dean of students and chair of the psychology department at UCA. He called his sister, Alicia Martín-Baró, who lived in Spain, the night of November 15. Ms. Martín-Baró asked her brother about the crisis in El Salvador and when it would improve. She remembered her brother telling her, "Oh, many people have to die before that happens."¹⁴

Like his peers, Father Juan Ramon Moreno was an accomplished academic whose work was inspired by liberation theology. An architect

¹² Center for Justice and Accountability, The Jesuits Case, The Victims. <http://cja.org/article.php?list=type&type=116> (last accessed June 1, 2010).

¹³ Ibid.

¹⁴ Ibid.

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of liberation theology, Father Ellacuría often talked about bringing the suffering people of Latin America “down from the cross.”¹⁵ The only El Salvadoran-born priest in the Centre that night was Father Joaquín López y López. He founded the Fe y Alegria (Faith and Joy) organization, which opened thirty educational centers in El Salvador. The centers educated marginalized communities across the country, and almost fifty thousand people had received vocational training through Fe y Alegria.

On November 16, Father Ellacuría let the soldiers into the priests’ living quarters, the Pastoral Centre, because he recognized the two lieutenants. They had conducted a search of the Centre three nights before, claiming to be looking for FMLN insurgents. It now seems likely that they were conducting reconnaissance for a later attack on the Jesuits. Ellacuría’s fellow priests were already awake and partially dressed when the soldiers came in. Father Martín-Baró was angry and protested loudly that “this is unjust,” calling the soldiers carrion.¹⁶ Witnesses claimed they heard shouting coming from the Centre. One bystander said she heard voices whispering in unison – as if in prayer.

Once in the garden, the lieutenants ordered the priests to lie face down in the grass. Lieutenant Espinoza ordered his men to shoot and kill the priests, “Apurenses. Delen.” (“Finish them off. Give it to them.”)¹⁷ Private Amaya shot and killed Fathers Ellacuría, Martín-Baró, and Montes.¹⁸ Deputy Sergeant Antonio Ramiro Avalos Vargas shot and killed Fathers López and Moreno.¹⁹ Jolted by the shots, Father López y López, still hiding inside, jerked and gave himself away. Corporal Angel Pérez Vásquez and other soldiers tracked him down and killed him.

The soldiers then searched the other rooms in the residence and found Julia Elva Ramos, who worked at the Centre, and her

¹⁵ Jon Sobrino, “Ignacio Ellacuría, The Human Being and the Christian: Taking the Crucified People down from the Cross,” in *Love That Produces Hope: The Thought of Ignacio Ellacuría*, María Pilar Aquino, Robert Anthony Lassalle-Klein, eds. (Collegeville, MD: Liturgical Press, 2006), 8.

¹⁶ Walker to Baronson, January 26, 1990.

¹⁷ *From Madness to Hope*; Walker to Baronson, January 26, 1990. The cable quotes Lt. Espinoza as stating “Apurenses! Delen.”

¹⁸ *From Madness to Hope*.

¹⁹ Ibid.

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sixteen-year-old daughter, Celina Mariceth Ramos. Deputy Sergeant Tomás Zarpate Castillo shot them both, then Private José Alberto Sierra Ascencio shot them again.²⁰ Zarpate shot them until he was sure they were dead because “they no longer groaned.”²¹ Julia Elva Ramos’s body was found wrapped around her daughter’s; she had tried to shield her from the bullets.²²

As they left the residence, the troops fired their weapons into the walls, threw grenades, and launched rockets to give the impression of an FMLN attack. Father Ellacuría was believed to be in danger of attack by hard-line FMLN members because of his criticism of its attacks against civilians. A secret cable from Ambassador Walker to the U.S. secretary of state on the day of the murders stated:

It is plausible that extremists on either the right or left may be responsible for the murders. Ellacuría, a leading leftist intellectual who often sympathized with FMLN positions ... would be a target for right wing extremists.... However ... FMLN extremists may have murdered Ellacuría et al. in order to salvage their hoped-for popular uprising.²³

The government troops sought to blame the FMLN for the massacre and thereby turn public opinion against the FMLN during their offensive. On a piece of cardboard left at the Centre they wrote, “FMLN executed those who informed on it. Victory or death, FMLN.”²⁴

The murder of the Jesuit priests, Julia Elva Ramos, and Celina Mariceth Ramos was shocking even in the context of the extreme violence that characterized El Salvador’s civil war. Like the assassination of Archbishop Óscar Romero in 1980, the massacre of the Jesuits attacked the church itself, and, in Father Ellacuría, a prominent voice for the poor and an indispensable player in the peace process. Like

²⁰ Ibid.; Walker to Baronson, January 26, 1990.

²¹ Lawyers Committee for Human Rights, “The ‘Jesuit Case,’” 16.

²² Center for Justice and Accountability, *The Jesuits Case, The Victims*.

²³ U.S. Department of State, Secret Cable from Ambassador William G. Walker to George P. Shultz, November 16, 1989, document obtained by the National Security Archive, *El Salvador: War, Peace, and Human Rights, 1980–1994*.

²⁴ *From Madness to Hope*; Documents obtained by the National Security Archive, *El Salvador: War, Peace, and Human Rights, 1980–1994*.

[REDACTED]

10 NOVEMBER 1989
COUNTRY: EL SALVADOR
SUBJ: MOVEMENT OF 1,000 FRESH FMLN TROOPS TO SAN SALVADOR;
PLANNED ROLE OF ELLACURIA IN EFFECTING NEW
NEGOTIATIONS BETWEEN THE FMLN AND THE GOVERNMENT
DOI: 16 NOVEMBER 1989

[REDACTED]

[REDACTED] SAID THAT IN THE WAKE OF THE
ASSASSINATION THAT DAY OF SIX JESUIT PRIESTS, INCLUDING UNIVERSITY OF
CENTRAL AMERICA RECTOR IGNACIO ((ELLACURIA)), THE MILITARY COMMAND OF
THE FARABUNDO MARTI NATIONAL LIBERATION FRONT (FMLN) HAS DECIDED TO
SEND 1,000 FRESH TROOPS INTO THE CITY.

[REDACTED] THE TROOPS ARE FROM THE POPULAR LIBERATION FORCES (FPL), AND
HAVE BEEN WAITING IN TWO GROUPS IN NEJAPA AND APOPA TO COVER THE
EXPECTED RETREAT OF FMLN FORCES FROM THE CITY.

2. WITH THE ASSASSINATION OF ELLACURIA
[REDACTED] THE "SCHEME OF BATTLE" FOR THE OFFENSIVE HAS CHANGED AND THE
FMLN LEADERSHIP THINKS THE COMBAT CAN BE PROLONGED UNTIL ABOUT 22
NOVEMBER WITH THE FRESH TROOPS.

3. [REDACTED] THREE FMLN
COLLEAGUES ASKED ELLACURIA ON 13 NOVEMBER TO HELP EFFECT NEW CONTACTS
BETWEEN THE FMLN AND SALVADORAN GOVERNMENT TO DISCUSS PEACE
NEGOTIATIONS. [REDACTED] THE FMLN HAD COMPILED A LIST OF
FIVE "FRIENDS" WHO WOULD SPEAK FOR THE FRONT, AND THAT ELLACURIA HAD
BEEN IN TOUCH WITH A NUMBER OF MILITARY OFFICIALS TO COMPILE A
SIMILAR LIST OF MILITARY OFFICERS WHO WOULD TALK WITH THE FMLN
REPRESENTATIVES. [REDACTED] THE BASIC DEMAND OF THE
FMLN IN SUCH TALKS WOULD HAVE BEEN THE REMOVAL OF "TANDONA" MEMBERS
FROM MILITARY LEADERSHIP POSITIONS.

4. [REDACTED] ELLACURIA APPROVED THE IDEA OF
THE NEGOTIATIONS, AND HAD REPORTED TO THE FMLN MEMBERS ON 15 NOVEMBER
THAT THE ARRANGEMENTS SEEMED TO BE GOING WELL.

5. [REDACTED] WITH THE ASSASSINATION OF
ELLACURIA AND THE OTHER PRIESTS, THE INTERNATIONAL AND INTERNAL
OUTLOOK HAS CHANGED; HE PREDICTED THE UNITED STATES WOULD BRING
PRESSURE ON THE SALVADORAN GOVERNMENT TO REMOVE THE MILITARY
OFFICIALS RESPONSIBLE FOR THE MILITARY'S "POOR SHOWING" DURING THE
OFFENSIVE, AND OTHER "CRIMES," INCLUDING THE MURDER OF ELLACURIA.

6. [REDACTED] THE FPL HAS CONTROLLED NEJAPA AND APOPA
SINCE THE OFFENSIVE BEGAN. [REDACTED] CANNOT CONFIRM THE NUMBERS OF
FPL COMBATANTS IN THAT AREA [REDACTED]

Figure 1.1. Central Intelligence Agency Secret Cable on the Murder of
Father Ignacio Ellacuria.

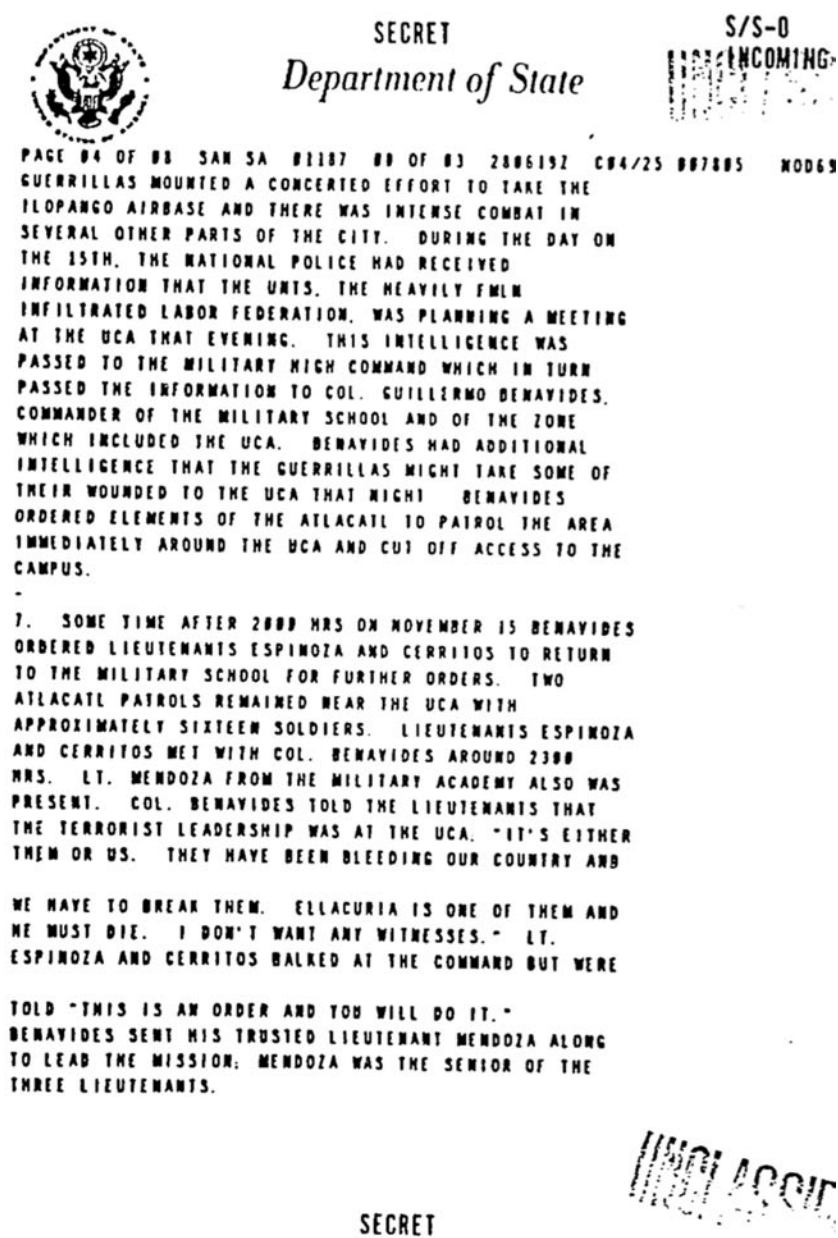
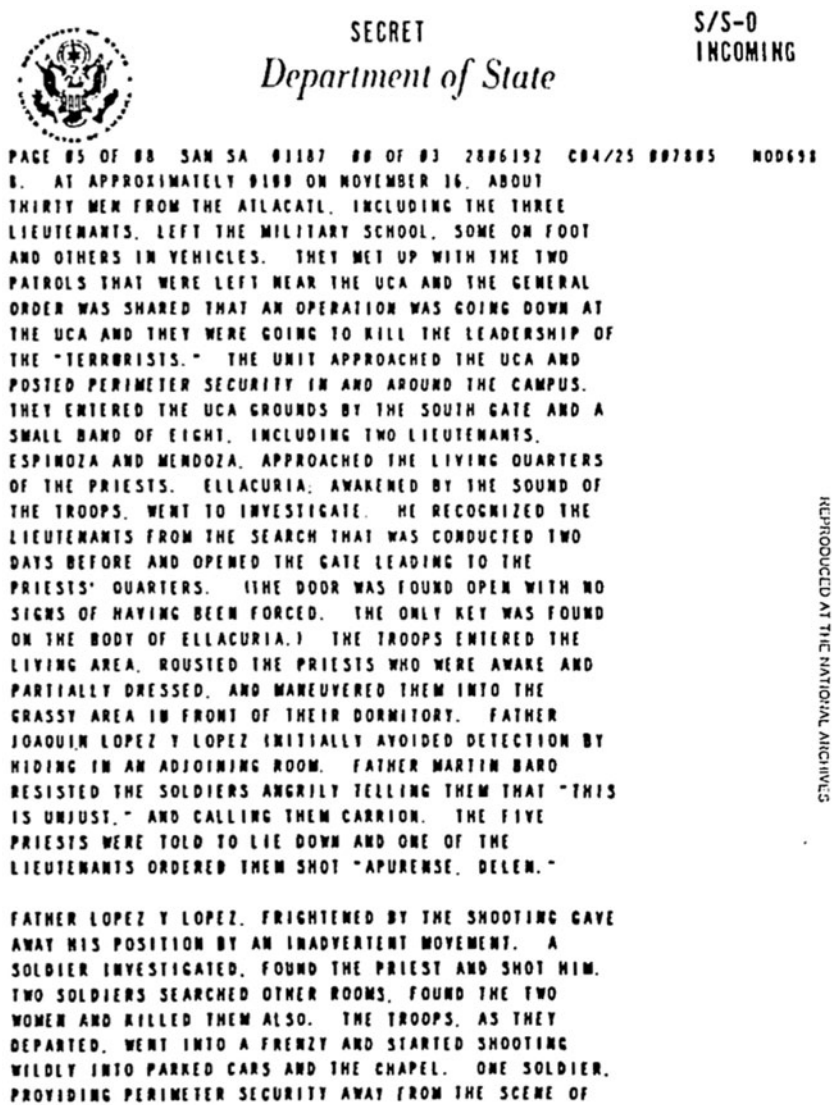


Figure 1.2. Cable from the U.S. Ambassador in El Salvador, William Walker, to Bernard Aronson at the U.S. State Department.



SECRET

Figure 1.2. (continued)

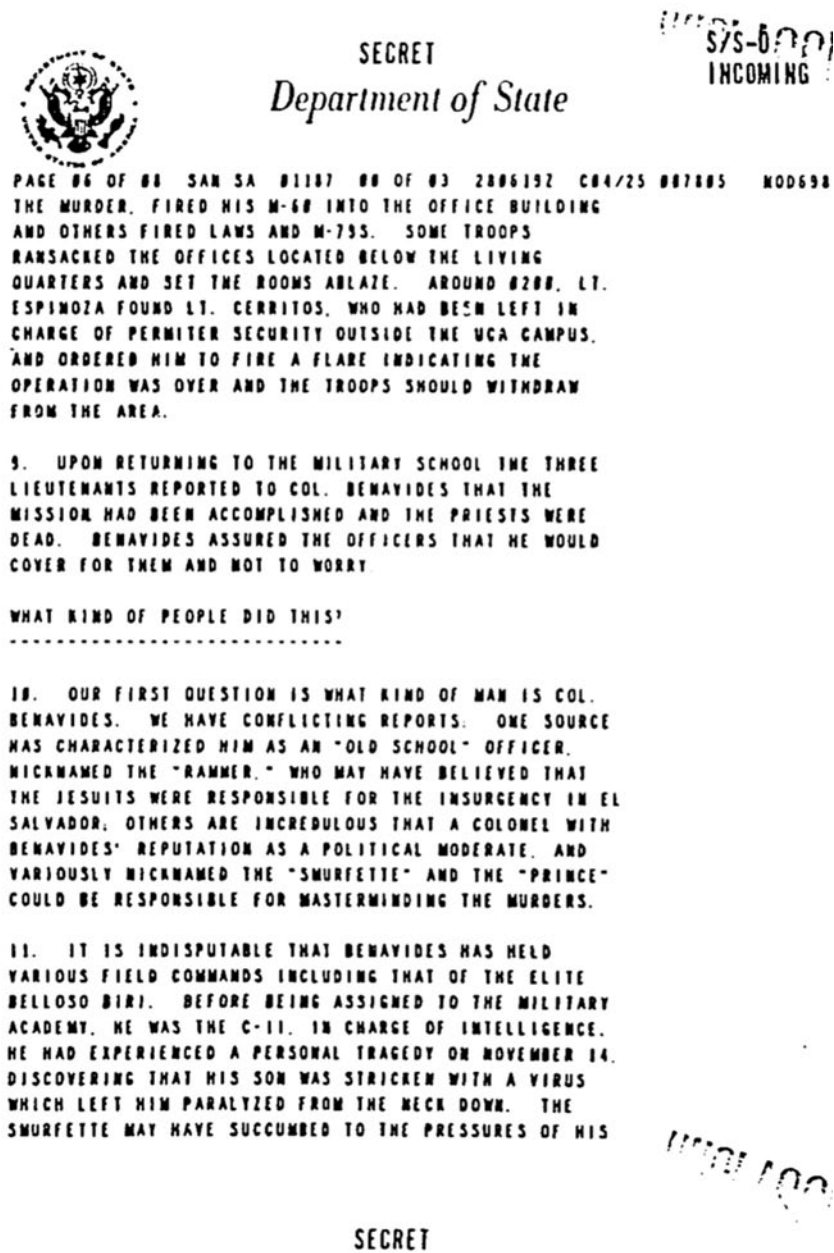


Figure 1.2. (continued)