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Colombia's Intelligence Agency: Spying on Democracy

Following on the heels of the “*falsos positivos*” scandal involving soldiers killing civilians and dressing them up as guerrillas killed in combat, a scandal far worse than Watergate is unfolding featuring Colombia's presidential intelligence agency, the Administrative Security Department (DAS). Exposed by the Colombian news weekly *Semana* and the subject of an Attorney General's office investigation, the DAS is revealed to have been illegally spying on many of the varied forces of Colombian democracy: opposition politicians, human rights groups, journalists, clergy, unions, and Supreme Court justices. The operation went deeper than surveillance, employing a variety of dirty tricks, seeking to “neutralize and restrict” the normal activities of human rights groups and any voices critical of the Uribe administration.¹

And the scandal is far from over. Indeed, *Semana* magazine just revealed on August 29th that the DAS, despite the media outcry and the Attorney General's investigation, is continuing and even increasing its illegal espionage, focused against judges, human rights lawyers and, now, presidential candidates and members of Congress. According to a DAS agent interviewed by *Semana*, “What interests us now? Simple: the referendum [the legislation allowing a referendum to permit President Uribe to be elected for a third term]. We have to know... what the politicians are thinking.”² A U.S. Department of Justice official's conversations with a Supreme Court judge were recorded. And even the prosecutors investigating the DAS were illegally wiretapped.³

Background. A special unit of the DAS, called the G-3, was created to carry out this mission. Far from being a rogue unit, the G-3 reported to the head of the DAS, coordinated activities with other DAS subdirectors and regional offices, and was conveniently located next to the DAS planning and disciplinary control offices. The Attorney General's office investigation reveals that G-3 meetings were attended by a variety of DAS subdirectors and its memos were generously cc'd. The DAS is directly at the service of the Colombian president and his top advisors. Colombia's Inspector General, which can bring disciplinary but not criminal charges, has opened an investigation into the top presidential advisors who may have ordered and been

¹ *Semana* magazine, “El espionaje era peor,” 3 April 2009, <http://www.semana.com/noticias-nacion/espionaje-peor/123258.aspx>.

² *Semana* magazine, “Increible... siguen ‘chuzando,’” 29 August 2009, <http://www.semana.com/noticias-nacion/increible-siguen-chuzando/127960.aspx>

³ *Semana* magazine, “Increible... siguen ‘chuzando,’” 29 August 2009, <http://www.semana.com/noticias-nacion/increible-siguen-chuzando/127960.aspx>

consumers of this intelligence, including the President's general secretary, his spokesperson, his judicial secretary and a press secretary.⁴

The surveillance was obtrusive and obsessive. According to Colombia's Attorney General, the DAS systematically and without warrants tapped the phones and email of Colombia's major human rights groups, prominent journalists, members of the Supreme Court, opposition politicians, Afro-Colombian leaders, and the main labor federation. Particular targets were the leadership and virtually all the employees of the José Alvear Restrepo Lawyers' Collective and award-winning documentary maker Hollman Morris. Union targets included the union federations CUT and CTC; and the hospital workers union (ANTHOC), judiciary workers union (Asonal Judicial), health and social security workers union (SINDESS), and telephone workers union (SINTRATELEFONOS).

The DAS investigated subjects' homes, daily routines, their international travels and their finances, supplementing information obtained via illegal wiretapping with data obtained from Colombia's banking system, immigration, and drivers' license bureau. Not only did DAS personnel spy on their targets, they spied on their families, taking photos of their children, investigating where they went to school, and tapping the phones of their parents, siblings and children. The DAS had a manual of spying methods for personnel to follow.⁵

The DAS actions went far beyond surveillance. Information in the surveillance files suggests that the DAS planted people in opposition rallies to "create chaos," disguised themselves as journalists, and planted false information in the press, among other actions intended to disrupt or discredit civil society activities. Information contained in the DAS files suggests that the DAS may have been behind some threats against defenders, such as the bloody doll mailed to José Alvear Restrepo Lawyers' Collective leader Zoraya Gutiérrez which contained a threat against her young daughter.⁶ One objective of DAS surveillance appeared to be to gather material which could be used to bring baseless criminal charges against human rights defenders.⁷

Anything to do with human rights was fair game. Indeed, the principal aim of this surveillance did not appear to be to investigate whether these groups and individuals had guerrilla ties, or other real threats to national security. Rather, it was aimed at investigating and undermining the activities of individuals and groups perceived to be opposing President Uribe's policies. Counterintelligence director Carlos Alberto Arzayús Guerrero, for example, is cited in an October 2005 memo as having ordered "the surveillance of organizations and individuals opposing government policy, with the goal of restricting or neutralizing their actions." Organizations and individuals were targeted, the Attorney General's investigation reveals, because they conducted such activities as

⁴ *El Espectador*, "En 2004 empezaron rastreos del DAS," 11 June 2009, <http://www.elespectador.com/impreso/articuloimpreso145453-2004-empezaron-rastreos-del-das> .

⁵ Information regarding the Attorney General's investigation and details regarding the illegal spying has been extensively covered in the Colombian press, including the sources included in these notes.

⁶ *El Tiempo*, "Manual de los Seguidores Ilegales," 14 June 2009, <http://www.eltiempo.com/archivo/documento/MAM-3484652#> , and Colectivo de Abogados José Alvear Restrepo, "Concerning the Composition of the G3 Group, Administrative Department of Security (DAS)," 25 June 2009.

⁷ *Semana magazine*, "Las fuerzas oscuras," 13 July 2009, <http://www.semana.com/noticias-nacion/fuerzas-oscuras/126116.aspx> .

producing a book critical of Uribe's "democratic security" policy; bringing human rights cases to the Inter-American Commission for Human Rights; producing documentaries on the San José de Apartadó massacre; and conducting advocacy on human rights issues in Washington, DC. Anything with a human rights aspect was considered fair game. When the Bogotá city council approved adding a human rights curriculum to city schools, the DAS ordered an investigation of all the city council members who voted in favor.⁸

The illegal surveillance was directed at international and U.S. groups as well. Missions by the Inter-American Commission for Human Rights⁹ and Nobel-Laureate Shirin Ebadi were subjected to surveillance, as was the UN High Commissioner for Refugees. Email, faxes and possibly phone conversations between Colombian human rights organizations and journalists and U.S. human rights organizations such as the Latin America Working Group, Washington Office on Latin America, Amnesty International and Human Rights Watch, regarding regular activities of human rights monitoring, were tapped. One of the DAS documents sets out the objective of "defining activities of offensive intelligence" against Human Rights Watch director of the Americas division, José Miguel Vivanco.¹⁰

Supreme Court magistrates were among those targeted by the DAS for illegal surveillance. One of the main targets was Iván Velásquez, the chief investigator of the parapolitics scandal, whom President Uribe had accused of slander. During just three months the DAS intercepted 1,900 of his phone calls, many with fellow magistrates, prosecutors and witnesses in the parapolitics investigation. Other members of the Supreme Court were also put under constant surveillance. *Semana* quotes a DAS detective as saying, "When the confrontation between the court and the presidency worsened, about a year and a half ago, the order was to know as much as possible about all the justices, using all necessary means, from human sources to technical measures. When the confrontation began to diminish, the monitoring was concentrated only on those deemed high priority, like Velásquez."¹ Even some members of the executive branch, including the vice president and defense minister, were subjects of DAS surveillance.

¹ *Semana* magazine, "El DAS sigue grabando," 21 February 2009, <http://www.semana.com/noticias-nacion/das-sigue-grabando/120991.aspx>

In a shocking revelation, the Attorney General's office found information from the Colombian government's protection program in the files containing the results of illegal

⁸ *El Espectador*, "En 2004 empezaron rastreos del DAS," 11 June 2009.

⁹ Inter-American Commission on Human Rights, "IACHR expresses concern over intelligence operations related to IACHR activities in Colombia," 13 August 2009, <http://www.cidh.oas.org/Comunicados/English/2009/59-09eng.htm> The IACHR statement explains, "According to the DAS file, the objective of this operation was 'to identify the cases being studied by the Rapporteur and the testimony presented by nongovernmental organizations, as well as the lobbying these organizations are doing to pressure for a condemnation of the State.' These intelligence activities violate the State's commitment to respect the privileges and immunities of representatives of the Organization of American States (OAS)."

¹⁰ *Semana* magazine, "Las fuerzas oscuras," 13 July 2009.

surveillance. The U.S.-funded protection program provides protection such as bodyguards, drivers, communication equipment and bullet-proof cars to the most threatened human rights activists and trade union leaders. Information from the protection program about the bodyguards, the kind of protective measures and daily routines was evidently leaked to the DAS office conducting the illegal surveillance.¹¹

The G-3 conducted its operations from 2004-2005, when it was dissolved following the discovery that the head of the DAS, Jorge Noguera, had passed names of union leaders and other activists to be targeted for killing to paramilitary leader Jorge 40.¹² However, other units, such as the so-called “National and International Investigative Group (GONI),” continued warrantless surveillance, and *Semana*’s revelations that the illegal activities continue today suggest that they are fairly standard practice within the DAS. A major coverup of the illegal surveillance occurred in 2009 (see below).¹³

Other intelligence agencies besides the DAS have been involved in illegal surveillance, including military intelligence and some police units. For example, in 2008 it was revealed that 150 email accounts of human rights defenders, including trade union leaders, international human rights organizations, academics and journalists were unlawfully intercepted by the police intelligence agency SIJIN.

The Attorney General’s investigation. One positive development is the opening of an investigation of the DAS by the Attorney General’s office, in which four former DAS directors and some 30 other DAS personnel are being investigated. However, in January 2009, shortly before the Attorney General conducted a raid upon the DAS offices, DAS security cameras caught on videotape DAS officials carting large boxes and computer equipment out of the DAS offices. The AG’s investigation thus was unable to examine a considerable portion of the evidence, and the removal of the evidence suggests either that an informant within the AG’s office tipped off the DAS or that the DAS was conducting wiretapping of the AG’s office. Moreover, the focus of the investigation appears to be limited largely to 2005-06, with almost no emphasis, at least at the moment, on more recent illegal activities. Finally, the status of the Attorney General’s investigation is in question given the transfer of leadership from former Attorney General Mario Iguarán. His term ended July 31, 2009, and the “terna” of three candidates supplied by the President to the Supreme Court were deemed unsuitable by the Supreme Court, leaving the leadership of the office uncertain.

U.S. assistance and the DAS. According to U.S. Ambassador William Brownfield, the United States supplied surveillance equipment to the DAS. The ambassador stated in June 2009 that while the United States did supply such equipment to the DAS, it was not used in illegal surveillance.¹⁴ However, the Attorney General’s investigation suggests that the G-3 did not have its own wiretapping equipment but rather relied upon the

¹¹ Colectivo de Abogados José Alvear Restrepo, “Concerning the Composition of the G3 Group, Administrative Department of Security (DAS),” 25 June 2009.

¹² *Semana magazine*, “A responder,” 9 May 2009, <http://www.semana.com/noticias-nacion/responder/123812.aspx>.

¹³ *Semana magazine*, “El DAS sigue grabando,” 21 February 2009, and *Semana magazine*, “Tapen, tapen, tapen....” 12 July 2009, <http://www.semana.com/noticias-nacion/tepen-tepen-tepen/126122.aspx>.

¹⁴ Noticias Uno, “No hubo equipo americano involucrado,” <http://www.noticiasuno.com/noticias/embajador-eeuu.html>

common interception rooms, IT teams and mobile wiretapping units that were shared by the DAS office. It is important to investigate whether U.S. training and equipment were used in these illegal operations and to establish guarantees that no U.S. training and equipment can be used for illicit purposes in the future.

Recommendations for U.S. policy:

- End assistance to the DAS and investigate whether any U.S. funding, equipment or training was provided to its illegal activities. Establish safeguards to ensure no U.S. funding, equipment, training or intelligence sharing with any Colombian intelligence agencies is used for illegal surveillance.
- Carefully monitor and encourage the Attorney General's and Inspector General's investigation of illegal surveillance, urging this investigation to encompass activities up to the present and to include those outside the DAS who ordered and were consumers of illegal intelligence.
- The State Department and U.S. Embassy should make public as well as private expressions of concern regarding illegal surveillance, and publicly demonstrate support for targets such as human rights groups, journalists, and judges through public appearances and events, including visits to the offices of the organizations and individuals most affected by illegal surveillance.
- Urge the Colombian government to guarantee that human rights defenders have access to information about themselves contained in intelligence files, as specified by the Habeas Data Law of 2008, and to permit the Inspector General, with supervision by the UN High Commissioner for Human Rights office, to regularly review the intelligence files and remove unfounded, damaging material, particularly regarding human rights defenders.
- Encourage changes in Colombia's intelligence operations to remove the capacity of the President and his advisors to order intelligence operations without safeguards or oversight, in a way that encourages politicization of intelligence. Strengthen the Colombian Congress's oversight of intelligence operations.

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