

# CONVERGENCE

*The Christic Institute*

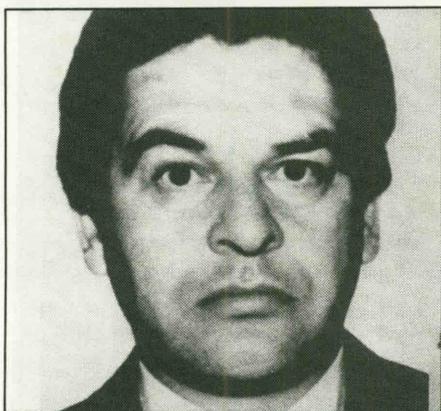
Winter 1991

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## 'A coup: a spirit at odds with liberty'

INSIDE



UPI/BETTMAN

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### *Despite end of cold war, Congress votes to increase Presidential covert ops power*

Last year began with the promise of a "peace dividend" and ended with preparations for war on a scale unknown since Vietnam. At press time it was not clear if the Gulf crisis would be resolved by negotiations or escalate into a shooting war. One outcome was already certain, however: Despite the end of the Cold War, the President and his supporters in Congress believe the United States must act as a military superpower into the indefinite future.

The peace dividend was not the only casualty of the Gulf crisis: So was the constitutional responsibility of Congress to declare war. President Bush now claims the right to send United States troops into action on his own authority. He is also claiming expanded powers to conduct covert operations—a form of secret, undeclared war—without the consent of Congress.

This issue of *Convergence* centers on the human and moral costs of covert operations, both in the past and the future. We introduce the subject with a warning by Bill Moyers from "High Crimes and Misdemeanors," a recent *Frontline* special aired on the Public Broadcasting System.

"Basic constitutional issues still have not been confronted. Can a President, on his own, wage a war that Congress opposes? And how are we the people to hold our leaders accountable if we are kept in the dark about their deeds? What happened in Iran-*contra* was nothing less than the systematic disregard for democracy itself.

"It was, in effect, a *coup*—a spirit at odds with liberty. Officials who boasted of themselves as men of the Constitution showed utter contempt for the law. They had the money and power to do what they wanted, the guile to hide their tracks and the arrogance simply to declare what they did was legal.

"The frightening thing is not that it almost worked, but that it could happen again. The state of democracy almost guarantees it will. The men responsible for Iran-*contra*, except for a few, have been absolved, exonerated or reprieved and gone on to better things. The Government continues to hide its dirty linen behind top secret classifications.

"And just last month with little debate and scant attention from the media, the House and Senate agreed on a new intelligence bill giving the President wider power than ever to conduct covert operations using any agency he pleases.

"Next time the crimes of Iran-*contra* may not be crimes at all. Or even misdemeanors." □

For more on the intelligence bill, please turn to page 11 ■

## Jury convicts ex-C.I.A. agent for tax evasion

By TIA LESSIN and CARL DEAL

Thomas G. Clines, the highest-ranking retired Central Intelligence Agency official ever to stand trial, was found guilty in September on four counts of tax evasion.

A Federal jury in Baltimore found that Clines attempted to conceal more than \$250,000 in profits from secret Iran-*contra* arms deals. He was sentenced in December to 16 months in Federal prison.

Along with business partners Albert Hakim, former assistant defense secretary Richard Secord, former C.I.A. operations director Theodore Shackley, and 24 others, Clines is a defendant in *Avirgan v. Hull*, the Christic Institute's Federal racketeering lawsuit against the arms-smuggling and drug-trafficking enterprise exposed by the Iran-*contra* affair. The case is currently pending before the 11th Circuit Court of Appeals. *For more information about Avirgan v. Hull, please read the story on page 9.*

The jury deliberated only three hours before convicting Clines of failing to report his full income by at least \$203,431 in 1985 and \$57,009 in 1986. He was also found guilty of concealing assets in foreign financial accounts.

Clines has been implicated in illegal activities throughout his career. During the agency's secret war in Southeast Asia, he was named by an Australian Government commission as a key figure in a bank used to launder the proceeds from heroin sales. Later promoted to director of training in the C.I.A. Office of Clandestine Services, Clines was forced into retirement in 1978 because of his close association with fellow agent Edwin Wilson. Wilson is serving a Federal prison term for selling explosives to the Libyan Government.

### Overcharged \$8 million to the Pentagon

five years later, Clines' Egyptian American Transport Company (EATSCO) was convicted of fraud after the United States Government learned the firm had overcharged \$8 million in arms sales to the Pentagon. Clines incorporated EATSCO in 1979 with silent partners Wilson, Secord, Hakim and Shackley.

According to Christic Institute staff attorney Joanne Royce, his recent tax conviction "is reminiscent of the days when Chicago gangsters were convicted on tax evasion charges, and due to the difficulty in obtaining convictions, were never charged on the crimes they committed to get that money."

Clines may have to answer for his other crimes, however, if the Christic Institute's civil racketeering case is reinstated by the Federal appeals court in Atlanta. The suit was filed under RICO, the Racketeer Influenced and Corrupt Organizations Act, which gives private citizens the

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# CONVERGENCE

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# Death of a Federal narcotics agent

## *Drug enforcement officials condemn C.I.A. help for Mexican druglords*

By ANDY LANG

The murder of a United States narcotics agent in Mexico has exposed a rift between the Drug Enforcement Administration and the Central Intelligence Agency over the C.I.A.'s collaboration with Mexican drug traffickers.

According to D.E.A. sources, the C.I.A. used drug bases in Mexico to smuggle military supplies to the Nicaraguan *contras* during the United States Government's covert war to overthrow the Nicaraguan Government.

The conflict between the two agencies surfaced during the trial in Los Angeles last summer of four Mexicans accused of the murder of D.E.A. agent Enrique Camarena, who was assassinated in 1985 in Guadalajara, Mexico. The trial also forced declassification of secret D.E.A. reports on two earlier deaths—the murders of Mexican investigative reporters Manuel Buendia and Javier Juarez Vasquez.

Buendia, a syndicated columnist read throughout the Spanish-speaking world, was following leads on the relationship between the C.I.A. and Mexican druglords when he was shot down in Mexico City on May 30, 1984.

Vasquez was killed one hour later. On the same day in La Penca, Nicaragua, an assassin detonated a bomb at a press conference, killing three journalists but only wounding the bomb's intended target, *contra* commander Eden Pastora.

The Christic Institute is investigating whether the murders of Buendia and Vasquez are related to the attempt on Pastora's life.

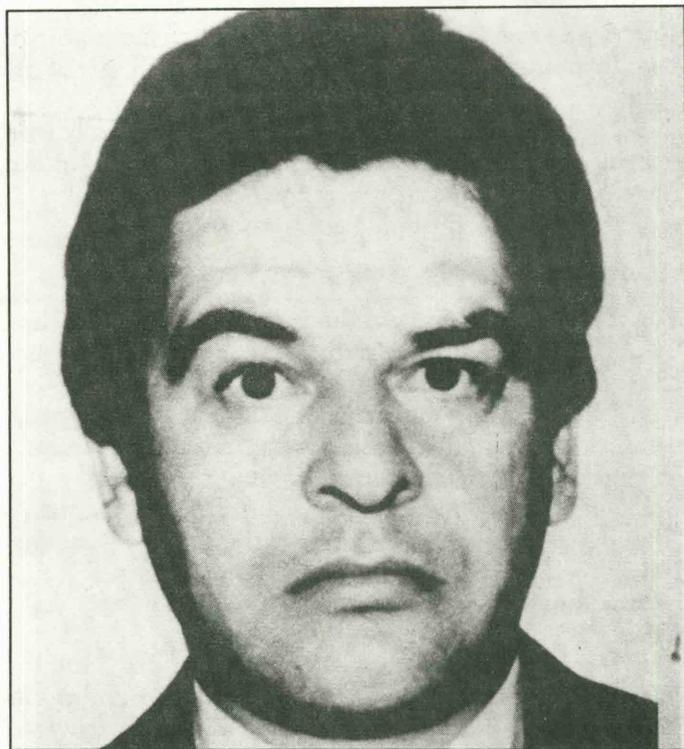
### **Drug cartel one of Latin America's biggest**

Camarena's murder unleashed a bloodbath D.E.A. officials have blamed on the powerful and secretive Federal Security Directorate (D.F.S.), an elite agency that collaborated with the C.I.A. for years. More than a dozen witnesses and suspects connected with the case have been killed.

Until it was finally disbanded by the Mexican Government, the D.F.S. was closely tied to the Guadalajara drug cartel, a criminal organization responsible for nearly a third of the cocaine smuggled into the United States.

The cartel flourished under the protection of Mexico's law enforcers. Some of Mexico's leading drug traffickers were surrounded by bodyguards drawn from the ranks of the Federal Judicial Police and the D.F.S.\*

\*For a history of the Mexican drug underworld and its relationship with the C.I.A., read Jonathan Marshall's *Drug Wars*, published in 1990 by Cohan and Cohen and available from the Christic Institute.



*Enrique Camarena, the D.E.A. agent slain by Mexico's drug underworld. The trial of his killers produced evidence that the C.I.A. worked closely with the Mexican drug traffickers.*

Camarena arrived in Guadalajara in June 1980 after reassignment from the D.E.A.'s office in Fresno, Calif. Within months the enterprising agent had concluded that Mexico's drug eradication program, heavily financed by the United States Government, was a failure. Corrupt officials in the Mexican Attorney General's office were stealing most of the United States aid.

"In Guadalajara, Camarena found himself pitted against an underworld cartel that was running the city like an occupation force," writes journalist Elaine Shannon in her book, *Desperados*. The cartel was led by three men—Felix Gallardo, Rafael Caro Quintero and Ernesto Fonseca Carrillo. *Rafael Caro Quintero is not related to Rafael "Chi Chi" Quintero, a Cuban-American terrorist and one of the defendants in Avirgan v. Hull.*

Repeated attempts by the drug agents in Guadalajara to warn the Reagan-Bush Administration that the Mexican cocaine industry was operating under the protection of the country's Government were a failure. By 1985 Camarena had had enough. He applied for a transfer to the United States.

On Feb. 7, three weeks before he was scheduled to leave, Camarena was abducted outside his office at the United States consulate in Guadalajara. The D.E.A. later identified his kidnappers as a drug trafficker, two state policemen and two hired killers.

The agent's body was found several weeks later. The

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## D.E.A.

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autopsy showed that Camarena's captors had first tortured him, then drove a blunt instrument into the left side of his skull.

By 1989 the United States Government was finally able to bring four suspects in Camarena's murder to trial in Los Angeles. In July 1990 they were convicted on Federal racketeering and kidnapping charges.

### Overshadowed by charges of C.I.A. complicity

The trial was overshadowed, however, by charges that the C.I.A. used Mexican drug traffickers to smuggle weapons to *contra* forces in Central America.

"[T]he Mexican drug-trafficking cartel that kidnapped, tortured and murdered D.E.A. agent Enrique Camarena... operated until then with virtual impunity," William Branigin of the *Washington Post* reported during the trial, "not only because it was in league with Mexico's powerful Federal Security Directorate (D.F.S.), but because it believed its activities were secretly sanctioned by the C.I.A."

Evidence released at the trial suggests that the C.I.A. traded protection for drug traffickers in Mexico for help in the Reagan-Bush Administration's war against the Nicaraguan Government.

"At a minimum," Branigin reported, "the C.I.A. had turned a blind eye to a burgeoning drug trade in cultivating its relationship with the D.F.S. and pursuing what it regarded as other U.S. national security interests in Mexico and Central America."

"The C.I.A. didn't give a damn about anything but Cuba and the Soviets," retired D.E.A. agent James Kuykendall told the *Post*. The agency protected the D.F.S. and "didn't want their connection . . . to ever go away, and the D.F.S. just got out of hand."

Kuykendall served with Camarena in Guadalajara.

One senior D.E.A. official charges that the C.I.A. has withheld information about drug traffickers from his agency. "They look at it from the standpoint that narcotics is related to national security," he told the *Post*.

### Not the first reports

The dramatic revelations during the Camarena murder trial are not the first reports that the Administration used drug traffickers to fight its covert war in Central America. Several independent investigations already have shown that *contra* bases were used as staging areas for cocaine flights into the United States. The testimony of pilots who flew weapons to the *contras* and returned to the United States with drug cargoes was published in 1988 by the Senate Foreign Relations narcotics subcommittee. The "guns-for-drugs" scheme is also a key issue in *Avirgan v. Hull*, the Christic Institute's pending lawsuit against 27 Iran-*contra* figures.

But until the trial of Camarena's killers, most of these reports centered on *contra* camps in Honduras and Costa Rica. Documents released at the trial show that drug

airstrips and bases in Mexico also played a role in the Central American war.

One source for charges that the C.I.A. worked hand-in-hand with the Guadalajara cartel is Lawrence Victor Harrison. Harrison, the cartel's specialist in electronic communications, says he worked directly for Fonseca, Caro and Gallardo—the three cartel chieftains who allegedly ordered Camarena's murder.

Harrison says he overheard thousands of radio and telephone communications by drug traffickers and their partners in the Mexican police. He told D.E.A. agents that:

- He spoke to C.I.A. agents visiting Fonseca's house in 1983.
- He knew that the C.I.A. was using a ranch owned by Caro for *contra* war games.
- Gallardo told him the cartel felt secure because it was supplying arms to the *contras*.

C.I.A. spokesman Mark Mansfield, however, has denied the agency trained guerrillas at Caro's ranch in Mexico and has called Harrison's statement that C.I.A. agents stayed at Fonseca's house "ridiculous." "I want to emphasize in the strongest possible terms that the C.I.A. neither engages in nor condones drug trafficking," he told the *Washington Post* in July.

Harrison's confidential reports to the D.E.A. were disclosed last summer when defense lawyers for the four men accused of Camarena's murder obtained copies of two classified D.E.A. documents.

According to the documents, Harrison told the D.E.A. that the two alleged C.I.A. agents who visited Fonseca's home told him they were "working with the *contras*." When he warned one of the men of the danger of being picked up by United States radar if they flew too close to the border, "he said he *was* the U.S., that he didn't have any problem."

### Journalists were getting too close

The documents also show that Buendia and Vasquez, the two journalists murdered on the same day as the La Penca bombing, were killed because they were getting too close to the "guns-for-drugs" operation in Mexico.

According to one of the D.E.A. documents, Harrison "had learned that the reporter from Veracruz [Vasquez] . . . before his death was allegedly developing information that, using the D.F.S. as cover, the C.I.A. established and maintained clandestine airfields to refuel aircraft loaded with weapons which were destined for Honduras and Nicaragua.

"Pilots of these aircraft," the report continues, "would allegedly load up with cocaine in . . . Colombia and in route to Miami, Florida, refuel in Mexico" at airstrips operated by narcotics traffickers and maintained by the C.I.A.

Buendia and Vasquez were working together on the investigation. Vasquez, according to Harrison, was Buendia's source for information that Caro's ranch was a training camp for the *contras*. "The operations/training at the camp were conducted by the American C.I.A., using

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# John Hull flees to Nicaragua

## *Costa Rican officials seek fugitive's extradition on murder charges*

In December C.I.A. contract agent John Hull, a key figure in a "guns-for-drugs" scheme that supplied weapons to the *contras* and cocaine for the North American market, was tracked by investigators to a remote town in southern Nicaragua.

Costa Rican officials say they will ask the Nicaraguan Government to extradite Hull, who used his sprawling ranch in northern Costa Rica as a supply depot for *contras* and a base for drug traffickers. Hull, 70, is wanted in Costa Rica on murder charges for his role in the La Penca bombing, a terrorist attack in May 1984 that killed or wounded several reporters during a press conference. He is also a defendant in *Avirgan v. Hull*, the Christic Institute's \$24-million lawsuit against 29 Iran-*contra* figures. Plaintiffs in that case are Tony Avirgan and Martha Honey, a husband-wife journalist team who live Costa Rica. Avirgan was severely wounded in the La Penca bombing.

*The lawsuit is now on appeal. Please read the story on p. 9 for details.*

Hull fled Costa Rica in 1989, leaving behind his ranch and a \$35,000 bail bond posted by friends. According to several reliable sources, Hull was helped out of the country by Juan Perez, an agent for the United States Drug Enforcement Administration. The United States Embassy in Costa Rica supplied a visa for Hull's 20-year-old female companion.

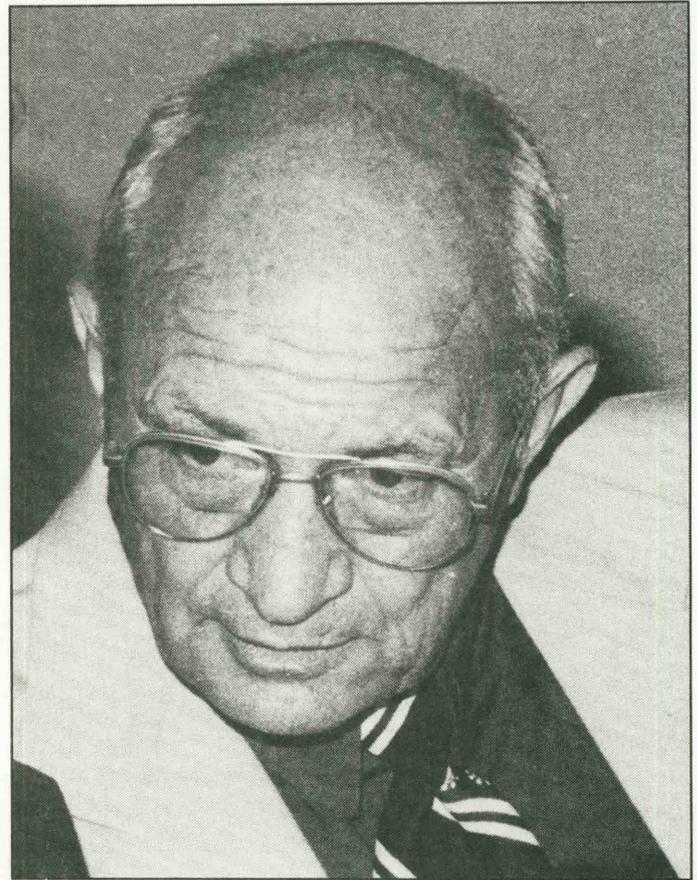
Following his escape, Hull returned to his home state of Indiana. The Costa Rican Government then posted a "red notice" through Interpol, the international police agency, alerting the United States Government that Hull was a fugitive from justice. It is not known if the Justice Department or the Federal Bureau of Investigation have taken any action against Hull as a result.

Christic Institute investigators have been tracking the accused drug-trafficker's movements since he disappeared from Indiana earlier last year.

### **Went to center of *contra* activity**

It has now been confirmed that Hull settled in Juigalpa, Nicaragua, a small rural town that has become the seat of a *contra* rebellion against the conservative government of Nicaraguan President Violetta Chamorro.

Hull apparently arrived in Nicaragua in October. On Nov. 18 he was spotted in a Managua hotel by Joe Ryan, a United States citizen who works in Nicaragua as an environmental expert. Ryan immediately alerted the Christic Institute on PeaceNet, a computer network that links Nicaragua with the United States.



Julio Lanier/Tico Times

*John Hull is wanted for first degree murder in connection with the La Penca bombing.*

Hull's new neighbors have told investigators that his house in Juigalpa is frequented by *contras* and right-wing members of President Chamorro's governing coalition.

*At press time, the Christic Institute learned that Hull may have disappeared again. He drove out of Juigalpa with his female companion on Dec. 4 and has not been seen since then.*

If Hull returns to the United States, he still faces the threat of extradition to face murder charges in Costa Rica.

Hull says the murder allegations against him are the result of a communist plot. "I think the same thing I've always thought," he told the *Bay Guardian* newspaper last year. "The government down there [in Costa Rica] is infiltrated and manipulated by communists led by the Christic Institute."

In a related development, the Costa Rican legislature has formed a new commission to investigate the La Penca bombing.

The four-member panel is equally divided between the country's conservative and social-democratic parties.

In its first session, commission president Sonia Rodriguez described the bombing as "a horrible crime." "The context [of the La Penca bombing] is the Iran-*contra* affair in part, narcotics trafficking and the activities of Panama's Gen. Manuel Noriega in our country."

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## CLINES

■ *Continued from page 2*

power to sue organized criminal enterprises. The Institute's lawsuit charges Clines with a number of racketeering crimes—including unlawful trafficking in arms and explosives.

Clines is the eighth person to be criminally prosecuted for crimes related to the Iran-*contra* scandal. He joins former national security aide Lt. Col Oliver North, National Security Advisers John Poindexter and Robert MacFarlane, conservative fundraisers Spitz Channel and Richard Miller, and business associates Secord and Hakim.

Unlike other key Iran-*contra* players who have been depicted as overzealous ideologues or naïve dupes, Clines was characterized as a shrewd businessman who willfully and knowingly lied to the Internal Revenue Service and Congressional investigators about his financial dealings. Government attorneys accused the former C.I.A. agent of "recharacterizing" the ledgers given to Congressional investigators to conceal both his profits and his central role in the *contra* resupply network.

In 1985 and 1986, Clines arranged for the purchase of millions of dollars worth of rifles, machine guns, grenades and explosives which were sold to the *contras* after a considerable markup. Clines pocketed 20 to 30 percent of the profits on each sale, collecting more than \$882,000. □

## FUGITIVE

■ *Continued from page 5*

The bombing is still a controversial issue in Costa Rica, where journalists have continued to pressure the Government to investigate the crime and prosecute those responsible.

One year ago, a report by Costa Rican state prosecutor Jorge Chavarria concluded that Hull played a key role in the attack along with collaborators in the C.I.A.

Since then, the Costa Rican cabinet has formally declared that Oliver North, Robert Owen, Richard Secord, John Poindexter and former United States Ambassador Lewis Tambs are *persona non grata*. The decision to bar these Iran-*contra* figures from Costa Rica followed a report by the Legislative Assembly finding that they were responsible for the *contra* supply operation used as a cover for drug smuggling.

As *Convergence* went to press we learned that the Costa Rican Government had formally asked Nicaragua to extradite John Hull. However, a Nicaraguan official said the rancher was under the protection of the *contras*. On Dec. 14 Ronald Bailey of the *Tico Times* in San Jose, Costa Rica reported:

"The Costa Rican Government last Friday officially asked Nicaragua to extradite . . . John Hull to face murder charges stemming from the bombing of Nicaraguan rebel leader Eden Pastora's press conference at La Penca on May 30, 1984. Three journalists, including *Tico Times* reporter Linda Frazier, were killed in that attack.

"The Nicaraguan Supreme Court this week ordered that

Hull be taken into 'protective custody' pending the processing of the Costa Rican extradition request, according to wire service reports.

"Hull has not been seen at his rented house in Juigalpa, Nicaragua for more than a week, according to press reports. However, according to a wire service report, an unidentified Nicaraguan deputy from the ruling UNO party said Hull is still in Nicaragua, staying on a farm in Chontales province where he 'is being protected by *contra* rebels.'

"The Costa Rican press has speculated that the controversial rancher may have fled to El Salvador. Hull told the *Tico Times* in an interview two weeks ago that he planned to stay in Nicaragua 'until you guys get me kicked out.'

"Repeated efforts this week to get [Costa Rican] President Rafael Angel Calderon to confirm or deny Hull's claim two weeks ago that the two men met for more than an hour in Washington, D.C. last spring were unavailing.

"Meanwhile, the Costa Rican legislative commission that is looking into the La Penca bombing heard testimony from chief judicial prosecutor Jose Maria Tijerino and judicial prosecutor Jorge Chavarria in secret session, both this week and last week. Next week's session will also be secret.

"Commission member Victor Emilio Rojas said the commission asked the judicial prosecutor's office to assign a permanent investigator to work for in for the duration of its inquiries.

"Deputy Sonia Rodriguez, president of the commission, said this week that the commission will soon draft a letter to the U.S. Government requesting any information it may have about the bombing. Rodriguez said she hopes to get a response within 30 days. . . ." □

## ACTION



### *Christic staff needed!*

The Christic Institute is looking for writers, organizers, bookkeepers and fundraisers to work at our offices in Washington, D.C., Durham, N.C., Portland, Ore., San Francisco and Los Angeles. People of color and women are especially encouraged to apply. We offer a diverse and enriching experience for activists dedicated to social and political change.

If you would like to apply for an internship or staff position at the Institute, please send your resume and cover letter to Sheila Wolfe, Christic Institute, 1324 North Capitol Street, N.W., Washington, D.C. 20002. □

# Concert benefits Christic Institute

*Bruce Springsteen,  
Bonnie Raitt,  
Jackson Browne  
perform in L.A.*

Jackson Browne, Bonnie Raitt and Bruce Springsteen performed in an acoustic benefit concert for the Christic Institute Nov. 16 and 17 at the Shrine Auditorium in Los Angeles. Proceeds from the event will help the Institute prosecute *Avirgan v. Hull*, a lawsuit that exposes drug trafficking and political assassination by the "enterprise" that aided the *contras* in defiance of Congress.

"I'm happy to support the Christic Institute in its effort to make our government more open, honest and law-abiding," Springsteen said before the concert. Springsteen decided to help after he was introduced to General Counsel Daniel Sheehan by Browne. Both Browne and Raitt are longtime supporters of the Institute. It was Springsteen's first public concert in



Photos by Nels Israelson

more than two years.

"The Institute is fighting for an open society in which criminals will not be able to disguise their actions behind the veil of 'covert operations,'" Browne told reporters after the concert.

Raitt said: "I strongly believe the American people have a right to know what is done in their name, and that is why I support the Christic Institute." □



*Danny Sheehan,  
Bonnie Raitt, Jackson  
Browne and Bruce  
Springsteen together  
after the concert.*

Photos by Nels Israelson

## D.E.A.

■ *Continued from page 3*

the D.F.S. as a cover, in the event any questions were raised as to who was running [the] operation.

"Members of the Mexican Federal Judicial Police (M.F.J.P.) arrived at the ranch while on a separate narcotics investigation and were confronted by the guerrillas," the document adds.

"As a result of the confrontation, 19 M.F.J.P. agents were killed. Many of the bodies showed signs of torture; the bodies had been drawn and quartered.

"Buendia had allegedly also gathered information on C.I.A. arms smuggling activity and the relationship the C.I.A. had with known narcotic traffickers in Veracruz area."

Anxious to share the information with law-enforcement authorities, Buendia went to D.F.S.

Director Jose Antonio Zorilla Perez. According to the D.E.A. report, Zorilla told the journalist that the "C.I.A.-narcotic trafficker situation was very delicate (not to be spoken about)."

The reporter's decision to go to the head of the security service apparently was a fatal mistake. Zorilla assigned a contingent of D.F.S. agents "ostensibly to provide security and protection for Buendia and his family," according to the D.E.A. report. The security detail surrounded Buendia's home.

### Shot by men assigned to protect him

Buendia was shot dead on May 30 by the men assigned to protect him. Thirteen minutes after the shooting Zorilla arrived on the murder scene to take charge of the investigation.

Shortly before his death Buendia published a column in Mexican newspapers on the complicity of high Mexican public officials in the drug trade.

According to Harrison's debriefing by the D.E.A., D.F.S. agents removed Buendia's files "concerning the information on C.I.A. arms smuggling and the connection the C.I.A. had to narcotics traffickers."

The document notes that the La Penca bomb was detonated on the same day as Buendia's murder. "Shortly thereafter Eden Pastora . . . another individual who had given Buendia information on C.I.A. arms smuggling,

allegedly suffered a C.I.A.-sponsored bomb attack," the report says.

The attempt to kill Pastora came as the renegade *contra* leader was resisting pressure by the C.I.A. to merge his small guerrilla band with the "Nicaraguan Democratic Force," a larger rebel army controlled by the United States. Although Pastora was a *contra* commander, he hated other *contra* leaders who had been officers in the Nicaraguan National Guard. Before his regime was toppled in 1980 by

the Sandinista revolution, dictator Anastasio Somoza used the National Guard to suppress political opposition.

Pastora's hatred of the National Guard was personal. His father had been killed by its troops.

The La Penca bombing is the central issue in *Avirgan v. Hull*, which alleges the attack was ordered by the same criminal enterprise that used *contra* bases for drug smuggling operations.

The Christic Institute is in-

vestigating whether the bombing is related to the murders of Buendia and Vasquez.

### Not the only source

Harrison is not the only source for reports that the C.I.A. may have protected drug traffickers in the Mexican D.F.S. In 1981 the man then serving as D.F.S. chief, Miguel Nazar Haro, was indicted in San Diego on charges that he was part of a ring that smuggled stolen cars across the Mexican border. Witnesses in other Federal trials have charged that Nazar was also active in the drug trade.

The United States Embassy in Mexico City urged the Justice Department not to prosecute Nazar, however. Nazar was "an essential contact for C.I.A. station Mexico City," the embassy told prosecutors.

The angry United States Attorney in San Diego, William Kennedy, publicly revealed that the C.I.A. was blocking the trial on national security grounds. He was soon forced out of office by President Reagan, and the charges against Nazar were dropped.

Another source on the "guns-for-drugs" operation in Mexico is Robert Plumlee, who describes himself as a former arms pilot for the C.I.A. Plumlee admits that he flew weapons to the *contras* between 1979 and 1986. The pilot made "four or five" stops at a Mexican ranch owned by Caro, and once observed Caro personally unloading a cargo of marijuana the pilot had flown up from Panama. □



*Camarana's body is carried to a waiting hearse by United States Marines in March 1985.*

United Press International

# La Penca lawsuit nears trial

## *Federal appeals court schedules oral arguments on Avirgan v. Hull*

*Avirgan v. Hull*, the Christic Institute lawsuit that charges 27 Iran-*contra* figures with political assassination and drug trafficking, is one step closer to trial.

In December, the 11th Circuit Court of Appeals announced it will hear oral arguments on the case in late February in Miami. The Institute is asking the court to reinstate the suit, which was dismissed in June 1988 by Federal Judge James L. King of Miami.

*Avirgan v. Hull* charges that members of a criminal racketeering enterprise of *contra* supporters detonated a bomb during a 1984 press conference in La Penca, Nicaragua, killing three reporters and wounding several others. Defendants include arms merchant Albert Hakim, C.I.A. operative John Hull, Iran-*contra* courier Robert Owen and retired Air Force Maj. Gen. Richard Secord. Secord controlled the secret bank accounts in Switzerland used to deposit the profits of illegal missile sales to Iran.

The suit was filed more than four years ago in Miami by the Christic Institute on behalf of journalists Tony Avirgan and Martha Honey. Avirgan was covering the La Penca press conference for ABC News when he was wounded by the explosion.

The bombing was an attempt to assassinate Eden Pastora, a rival *contra* leader who refused to merge his small guerrilla band with a larger *contra* army controlled by the Central Intelligence Agency.

### **Ruling handed down three days before trial**

The Avirgan lawsuit has been on appeal since Judge King dismissed the case three days before the trial was scheduled to begin. King said the Institute had no evidence proving the identity of the La Penca bomber, his connection with

any of the other defendants or even that he was at the scene of the bombing.

The ruling was followed several months later by an order that the Institute and its clients pay a \$1.2 million penalty to the defendants and their attorneys because the Institute "must have known prior to suing that they had no competent evidence to substantiate the theories alleged in their complaints." The penalty was imposed under Rule 11, which allows Federal judges to impose punitive sanctions on plaintiffs and lawyers for "frivolous" lawsuits.

The Institute immediately challenged both rulings, and last year was joined by 13 churches and public-interest groups in *amicus curiae* briefs asking the appeals court to strike down the sanctions order.

Lawyers for the plaintiffs and the Institute will argue that Judge King never asked for evidence on the bomber's identity before cancelling the trial, says Christic Institute General Counsel Daniel Sheehan. "If the trial had been allowed to proceed, jurors would have seen videotape footage showing the bomber at the scene and heard eyewitness testimony describ-



*Wounded by the 1984 bombing at La Penca, Tony Avirgan arrives at a hospital in San Jose, Costa Rica. His wife, journalist Martha Honey, looks on.*

Maria Esquivel/Tico Times

ing his movements before, during and after the bombing."

The footage was shot by a Costa Rican television news cameraman minutes before he died in the explosion.

Costa Rican police who combed the bombing scene for evidence found that the device used to detonate the bomb was wrapped in red tape that matched a piece of tape discovered in the bomber's hotel room. State prosecutors in Costa Rica have concluded that the man identified as the bomber in the Christic Institute's lawsuit—a professional terrorist posing as a Danish journalist—planted and detonated the bomb.

Costa Rican prosecutors have also acted against John Hull, the businessman who served as liaison between the C.I.A. and *contra* forces in Costa Rica. Hull is now facing a murder indictment in Costa Rica for his role in the bombing. He fled the Central American country after he was released from jail last year on bail, and now reportedly has rejoined the *contras* in Nicaragua. *See story on page 5 of this issue.*

*Continued on page 10* ■

## ORAL

■ Continued from page 9

Judge King never ruled on the other charges made by the plaintiffs, especially allegations that some of the defendants organized a "drugs-for-guns" ring that smuggled weapons to *contra* bases and used the same bases as staging areas for cocaine shipments to the United States. Those charges have been supported by investigations by United States and Costa Rican congressional committees.

Lawyers supporting the Institute say the sanctions will have a "chilling effect" on other public-interest law firms unless the appeals court reverses the ruling. "The outrageous nature of the sanctions order in this case threatens every public-interest group that seeks to use the judicial system to correct injustices," said Alan Morrison, director of the Public Citizen Litigation Group. Morrison was one of three authors of an *amicus* brief supporting the Institute filed by Public Citizen and the Alliance for Justice. The brief argues that "because there was no bad faith or improper purpose in bringing this action, and because appellants conducted a more than sufficient investigation of the facts supporting the complaint and the legal theory underlying it prior to filing this action, the decision should be set aside."

In a separate brief, 10 leading religious organizations and churches argued that the sanction ruling "leaves the impression that the order was not based upon the authority of the cited law, but upon political *animus* toward plaintiffs and their counsel." They added: "The award of sanctions in an order so lacking in references to legal standards but bristling with hostile characterizations of the actions of plaintiffs' counsel creates the impression that the district court sought to punish the plaintiffs for bringing a case simply because it was fraught with political implications."

The religious groups include the National Council of Churches, Church of the Brethren, the Mennonite Church, Unitarian Universalist Association, the Women's Division of the United Methodist Board of Global Ministries, and the two leadership councils of Roman Catholic religious communities in the United States. The groups represent more than 30 million Americans.

"There is too much evidence supporting our allegations for the courts to ignore," Avirgan told *Convergence*. "This suit is painful because it exposes violent crimes committed by self-described 'patriots' in the name of 'national security,' but it must be given a fair hearing before an impartial jury and judge."

### Rule 11 used to punish civil rights lawyers

In a related development, the Federal judiciary is scheduled to open a review in January into charges that Rule 11 sanctions have been misused by Federal judges to punish civil rights lawyers. One prominent target of a Rule 11 ruling is Julius Chambers, director of the N.A.A.C.P. Legal Fund, who was punished for filing a civil lawsuit charging racial discrimination on an Army base. Another is former Attorney General Ramsey Clark. He was sanctioned by

Federal judges because he challenged the legality of the 1988 United States air attack on Libya.

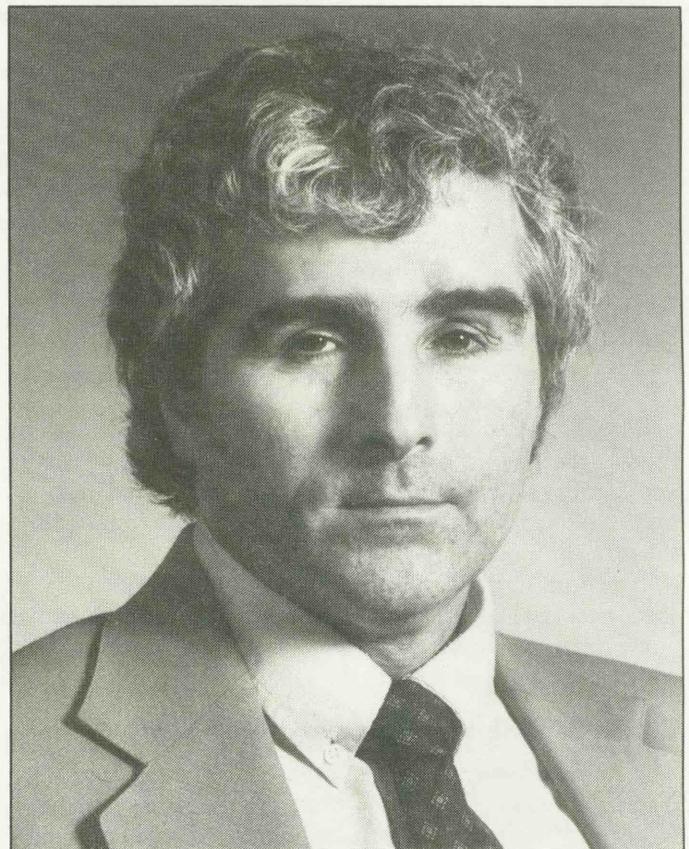
Trial lawyers and law professors are urging the Federal judiciary to change the rule, which they say is so vague it can be abused by judges who are politically hostile to civil rights attorneys and their clients. More than 60 percent of all Federal judges were appointed during the conservative Nixon, Reagan and Bush Administrations.

One question facing Christic Institute lawyers will be the political views of the three judges who will consider the appeal. Their names will not be announced until the week before oral arguments. The 11th circuit, which handles appeals for Federal courts in the southeastern states, includes six active judges appointed during the Carter or Johnson Administrations. Five were appointed during the Nixon, Ford or Reagan years.

### Prominent attorneys will represent plaintiffs

Two prominent attorneys will represent the Institute and their clients when oral arguments are heard. Eugene Scheiman, litigation director at the New York law firm of Baer, Marks and Upham, will ask the court to reinstate the lawsuit and strike down sanctions against Avirgan and Honey. Morton Stavis, director of the Center for Constitutional Rights in New York, will seek reversal of the sanctions order against Sheehan. Sheehan will also speak in his own behalf before the court.

The Institute is also asking the appeals court to remove Judge King from the case because his rulings have demonstrated a clear "*animus* of hostility" against the plaintiffs and their lawyers. □



Christic Institute General Counsel Daniel Sheehan.

# Bush vetoes covert operations bill

## *Christic supporters campaign against new Presidential powers*

A controversial bill that institutionalized covert operations as a permanent instrument of foreign policy was vetoed by President Bush in early December.

Bush did not object to most provisions of the bill, which increased his statutory power to wage secret wars. But he refused to accept a modest attempt by Congress to require notification in writing when the President decides to use foreign countries or private contractors to conduct covert operations.

"Bush's veto is one more sign that the imperial President is opposed to any form of Congressional control over covert actions—even the most modest of reforms," said Christic Institute Executive Director Sara Nelson.

The bill—which Congress adopted with bipartisan support—authorized spending for intelligence activities and covert operations in fiscal year 1991. The total is a classified

secret, but sources on Capitol Hill say the bill increased budget authority for the C.I.A. and other clandestine agencies to \$30 billion—the highest spy budget in history.

Congress is expected to move quickly to draft a new version of the bill more to the President's liking.

The bill's progress through Congress coincided with months of crisis in the Gulf, and therefore was hardly noticed by the press. But the decision by Congress to increase the President's power to conduct covert operations is an important signal that the end of the Cold War does not mean the end of secret warfare as a tool of United States policy.

### **Foreign governments, private companies**

The bill's most controversial provision gave the President new statutory powers to use foreign governments and private companies for covert operations. Critics in the House of Representatives, led by California Democrat

Barbara Boxer, said this provision legalized the methods used by the White House during the war against Nicaragua to evade a Congressional ban on military aid to the *contras*. When Congress blocked funding, Oliver North used foreign governments to finance the war and various front companies and private contract agents to smuggle weapons to the *contras*.

"Using private companies and foreign countries to finance or carry out covert actions threatens the 'power of the purse'—now virtually the only control Congress has over the C.I.A. and other spy agencies," said Lanny Sinkin, the Christic Institute staff attorney who led efforts to defeat provisions of the bill.

The decision to use private firms and contract agents for covert operations in Central America also created new

opportunities for organized crime. In 1988 the Senate Foreign Relations narcotics subcommittee confirmed what supporters of the Christic Institute have known since *Avirgan v. Hull* was filed in Federal court in May 1986: that *contra* bases in Central America were used as staging areas for cocaine flights to the United States.

"The logic of having drug money pay for the pressing needs of the *contras* appealed to a number of people who became involved in the covert war," the

committee said. "Indeed, senior U.S. policy makers were not immune to the idea that drug money was a perfect solution to the *contras*' funding problems."

*The covert war in Central America may also have had a hand in the collapse of several savings and loan institutions. See story on page 16.*

### **Product of negotiations between President, Congress**

The Senate version of the bill, S. 2834, included one key provision that required the President to tell the House and Senate Intelligence Committees in writing when he orders a covert action.

This provision, Title VII, also gave the President statutory powers to use foreign governments and private companies, however. It also said the President could spend funds from any Government agency or department to finance a covert operation, even if the funds were not

*Continued on page 13* ■



*Covert operations are not an abstraction but a form of warfare that creates victims. This photo by Brian Strickland is reproduced from Children of Conflict: Nicaragua, published by five Corners Publications, Plymouth, Vermont. It shows a child severely burned in a contra attack.*

## Covert operations: A history

By LANNY SINKIN

The National Security Act of 1947 created the Central Intelligence Agency and the National Security Council. The act set the stage for a new type of warfare—covert operations.

This was not the intention of Clark Clifford, the bill's author. In August 1987 Clifford told columnist Philip Geyelin of the *Washington Post* that the Iran-*contra* scandal revealed that covert operations were out of control. "We read of events taking place that surpass any nightmare we have ever had," he said, "unbelievable acts that bore no resemblance whatsoever to the functions of the N.S.C. and the C.I.A. . . . a secret government operating in a democracy.

" . . . I don't think our forefathers had any concept of anything like that taking place. I know I had no thought at any time of such an organization taking place. . . . This operation constituted the grossest kind of violation of the tenets of our government."

According to Clifford, the National Security Council was supposed to be an advisory group recommending policy to the President. The C.I.A. was originally organized to coordinate Government-wide intelligence gathering. Neither organization was authorized to conduct covert operations.

But in the formative years of the Cold War, the idea of ruthless secret warfare against a hated enemy gained ground in the inner circles of the United States Government. The year after Congress adopted the National Security Act, State Department planning chief George Kennan outlined the new rationale for a foreign policy based on unprincipled self-interest.

" . . . [W]e have about 50 percent of the world's wealth, but only 6.3 percent of its population," Kennan wrote. "In this situation, we cannot fail to be the object of envy and resentment. Our real task in the coming period is to devise a pattern of relationships which will permit us to maintain this position of disparity without positive detriment to our national security. To do so, we will have to dispense with all sentimentality and day-dreaming; and our attention will have to be concentrated everywhere on our immediate national objectives. We need not deceive ourselves that we can afford today the luxury of altruism and world-benefaction. We should cease to talk about vague and . . . unreal objectives, such as human rights, the raising of the living standards and democratization. The day is not far off when we are going to have to deal in straight power concepts. The less we are then hampered by idealistic slogans, the better."

Kennan's argument was rooted in an amoral pragmatism. The United States controlled most of the world's wealth. The poorer nations on earth were envious, and therefore threatened our security. The only solution was to create a permanent war machine—

despite the absence of war. But Kennan was wrong about "idealistic slogans." A permanent war economy could not be sustained without a permanent war psychology. Politicians had to condition public opinion to support an unprecedented expansion of America's military power, including nuclear weapons, foreign bases and the new instruments of covert warfare. "It is not an army we must train for war," Woodrow Wilson said when the United States entered World War I. "It is a nation."

Politicians therefore had to appeal to America's great national myth: We were not a nation like other nations, fighting wars only for markets, colonies or economic empire, but a messianic society destined to use military power for moral purposes. The Cold War therefore became a dualistic struggle of spiritual light against darkness.

By 1954 the Central Intelligence Agency was no longer the central clearinghouse for intelligence originally conceived by the authors of the National Security Act. Without any basis in statutory law, the C.I.A. was now used to overthrow unfriendly governments and assassinate foreign leaders. These were not "moral" acts, especially in peacetime, but the politicians now believed in total war against Communism without moral limits.

This was the conclusion reached in 1954 by the Doolittle Commission, an advisory commission created by President Eisenhower to head off a public investigation of the C.I.A. "We are facing," they said, "an implacable enemy whose avowed objective is world domination by whatever means and at whatever cost. There are no rules in such a game. Hitherto acceptable means of human conduct do not apply. . . . We must learn to subvert, sabotage and destroy our enemies . . . by more effective means than those used against us. It may become necessary that the American people be made acquainted with, understand and support this fundamentally repugnant philosophy."

Covert operations are by their very nature secret. Secrecy may be a military necessity in wartime, but after nearly 50 years of permanent war against Communism, secrecy has become a permanent instrument of foreign policy. It is no longer a means but an end in itself. Two generations of politicians and government officials have been trained to believe that the people have no inherent right to know about the covert policies that protect "national security" or their "way of life" against unseen enemies.

The Iran-*contra* scandal should have irreparably damaged the reputation of America's spy agencies, and the end of the Cold War should have persuaded Congress that covert agencies no longer serve a useful purpose. But in the 1991 intelligence authorization bill

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# VETO

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appropriated by Congress for that purpose.

The Christic Institute argued that the reporting requirement in the Senate bill was "vague and toothless." The President, for example, was not obliged to tell Congress which foreign governments or private companies he planned to use, only of his intention to use them. Moreover, the bill mentioned no criminal penalties or enforcement mechanisms if the President intentionally withheld information from Congress. The bill also authorized the President to omit from his report to Congress any matters he considered "exceptionally sensitive."

"Most important, in conceding to the President the power to initiate covert actions without prior approval of Congress, Title VII illegally amended the Constitution by transferring to the Executive Branch the exclusive congressional powers to declare war, to raise and finance armies, and to appropriate funds," Sinkin said.

The bill "all but eliminates what little accountability to Congress that has existed until now," said David MacMichael, a former C.I.A. intelligence analyst who now directs the Association of National Security Alumni, a reform group. The members of the Senate Intelligence Committee "have tossed the bitter lessons of past abuses into the shredder."

## Nationwide lobbying effort

At first the Senate bill attracted little notice in the press. It was passed without debate at 3:30 a.m. on Aug. 4, two days after Iraqi forces invaded Kuwait. Both Democrats and Republicans supported the measure as a routine budget authorization bill for intelligence agencies.

"When analysts at the Christic Institute learned that Title VII of the Senate bill increased Presidential power to conduct covert operations," Sinkin said, "we began to organize a nationwide coalition to oppose passage."

In Washington, representatives of the governing bodies of 26 national religious and human rights organizations signed a letter to Congress opposing the provisions in the Senate bill. Christic Institute staff visited more than 250 offices on Capitol Hill.

During the summer and fall the Institute's three citizen action networks—Legislative Action, Media Watch and

Religious Response—went to work against the bill. Nearly 10,000 calls, letters and telegrams to congressional offices protested the new Presidential powers voted by the Senate.

Emboldened by strong grassroots pressure, Rep. Barbara Boxer, Democrat of California, offered an amendment that directly challenged Title VII of the Senate version of the bill. The Boxer amendment

- Required Congressional approval before the President could order most covert actions.
- Banned the use of foreign governments and private parties to finance or carry out covert operations.
- Restricted the use of Federal employees apart from

intelligence personnel for covert operations.

• Said that covert actions would only be approved to meet extraordinary threats to the national security.

"Thanks to the Boxer amendment, a forum was created to debate the future of covert operations," Sinkin said.

In October the House of Representatives debated the Intelligence Authorization Act and amendments to that act. This seven-hour

exchange was the most comprehensive discussion about covert action to take place in the Congress since the early Seventies.

Another critical amendment, introduced by Democratic Reps. Ron Dellums of California, Mervyn Dymally of California and Lee Hamilton of Indiana sought to cut off covert aid in support of military or paramilitary operations in Angola. "The brutality of covert action is amply demonstrated by the Angola War in which women and children are constantly victims of mines and other explosives," said Dymally. "Angola now has the highest amputation rate in the world."

Rising to speak for the Boxer Amendment were some of the most respected members of the House including Democrats Robert Kastenmeier of Wisconsin, then a senior member of the Intelligence Committee, Don Edwards of California, chair of the Judiciary subcommittee on civil and constitutional rights, and Ted Weiss of New York, a senior member of the Foreign Affairs Committee. "They and others addressed the unconstitutional nature of covert action, the inherent tension between democracy and secrecy, and the abysmal history of blood and terror that U.S. covert actions have produced around the world," Sinkin said.

"The only sure way to avoid a repetition of the Iran-*contra* affair would be to eliminate covert actions altogether," said Weiss. "But if we can not do that, we must, at least, ensure that such actions are strictly limited and



*Victims of C.I.A.-supported guerrillas in Angola.*

MPLA

*Continued on page 14* ■

# VETO

■ *Continued from page 13*

scrupulously monitored by Congress.”

Seventy members of Congress voted for the Boxer amendment. The amendment on Angola was also defeated. “Although the amendment did not pass, the campaign was a victory considering the strength of its language and the short time available for building support,” said Mary Cassell, the Christic Institute’s organizing director. “It represents a building block toward forming the Congressional coalition and the national constituency needed to reverse 40 years of usurpation of Congressional authority by the Executive Branch and to end the practice of covert operations.”

After passage of the House version of the intelligence bill, conferees from the two houses agreed on the bill’s final language, including most of the Title VII provisions from the Senate bill. A provision asserting that the President had a basis in the Constitution for covert operations was removed, however.

The President vetoed the bill after Congress adjourned, meaning that there is no possibility of a vote to override the veto.

Rep. Anthony Beilenson, the California Democrat who

chairs the powerful House Permanent Select Committee on Intelligence, told the *Washington Post* that the veto might disrupt “an excellent working relationship between the intelligence committees and the Administration.”

In his veto message the President said that the requirement of a written notification to Congress would have had a “chilling effect on the ability of our diplomats to conduct highly sensitive discussions concerning projects that are vital to our national security.”

Bush said he was also disturbed by language in the Congressional report explaining provisions of the bill, which said that prior notice of covert actions should be withheld only in exceptional situations and that the intelligence committees would still have to be notified within “a few days” after an operation was ordered by the President. The *Washington Post* reported that the President also objected to classified provisions in the bill limiting covert aid for antigovernment rebels in Angola, Cambodia and Afghanistan.

Observers on Capitol Hill say that Democrats probably do not have enough votes to override the veto. Instead, a bill further weakening Congressional oversight of covert operations may be introduced when Congress convenes in January. “Such a bill will probably once again avoid the real issue of congressional control over Executive Branch actions in the covert arena and focus solely on how much the President has to tell the intelligence committees about such actions,” Sinkin said.

“The challenge to us is clear. There is no doubt that the vast majority of people in this country do find assassination, drug smuggling and the other criminal acts committed in the name of national security to be fundamentally repugnant,” says Christic Institute Executive Director Sara Nelson. “But only an aroused public pressuring a resistant Congress and removing from office corrupted executives will successfully put an end to such activities.”

*For a list of members of Congress who voted for the Boxer amendment, turn to page 18.* □

## ACTION

### *Covert operations*

The Institute urges its supporters to continue the effort to curb covert operations that began with the Boxer Amendment. We encourage you to:

**Write letters to Congress.** Send letters of thanks to Rep. Barbara Boxer and to your own representative if she or he voted for the Boxer Amendment. If your representative voted against Boxer, write to ask for an explanation. Urge your representative to support future legislation to prohibit use of private companies and foreign governments to finance and conduct covert operations.

**Send copies of your letters** to the Institute’s Organizing Department and to the chair of the House Intelligence Committee:

Hon. Anthony Beilenson  
Permanent Select Committee on Intelligence  
U.S. House of Representatives  
Washington, D.C. 20515.

**Order the Boxer debate video** and show it to your friends and colleagues. For \$25 you will receive a video copy of the congressional floor debate on the Boxer Amendment, plus a background analysis of covert operations and a transcript of the debate. This packet is an excellent tool for telling the public about the dangers of covert operations and what can be done to stop them. □

## HISTORY

■ *Continued from page 13*

Congress acted to institutionalize the President’s power to conduct covert operations.

Why has this happened? Despite the collapse of Communism, the archenemy used to justify an economy and political system geared to conduct covert and overt war, the system now seeks new enemies. These enemies include the international drug trade, terrorism and regional conflict. Even if the armies now massed in the Middle East do not clash, the Bush Administration still intends to use the C.I.A. and its private subcontractors to wage secret warfare as a permanent instrument of United States foreign policy. And Congress approves.

The time has come to declare that the covert element within our society is an aberration that belongs to the past. □

# Developers desecrate black cemetery

## *Christic Institute South represents islanders in state lawsuit*

Residents of a predominantly black island off the South Carolina coast are challenging developers of an exclusive resort who are desecrating the island's oldest African American cemetery.

Christic Institute South, which represents the islanders, is seeking an injunction in state court to bar development on the burial site.

Daufuskie Island, one of the Sea Islands in South Carolina's Beaufort County, is also one of the oldest African American communities in the United States. Relatively isolated from the mainland, most black islanders still speak the unique "Gullah" dialect of the West African slaves who were brought to Daufuskie more than two hundred years ago.

In recent years, however, resort development and land speculation have driven native Daufuskians out of the homes their families have owned for generations.

"Melrose Plantation," a private golf club owned by developers, is now encroaching on the Cooper River Cemetery. first mentioned by land records in 1884, the site probably was used much earlier as a burial ground for plantation slaves. In 1985 a reception center for members of the exclusive club was built directly over the unmarked graves of the island's earliest settlers.

Christic Institute South Director Lewis Pitts and staff attorney Gayle Korotkin represent the six islanders who are trying to protect the burial site from desecration. The six are descendants of African Americans who are buried at the cemetery.

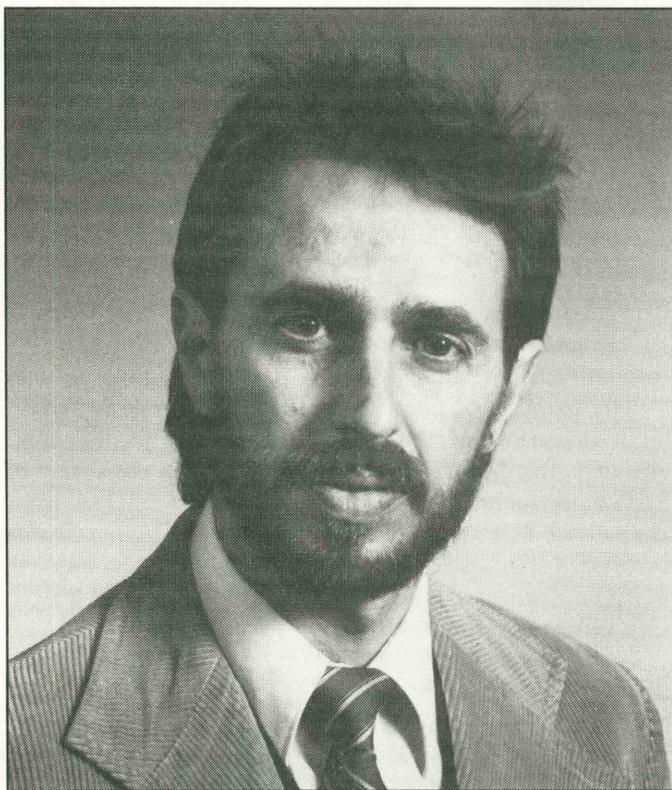
### **'Graves did not disappear'**

According to the developers, the cemetery's boundaries are limited to a half-acre plot which has not yet been disturbed by the golf club. The 1884 land records, however, show an area at least twice that size.

"The cemetery did not shrink and the graves did not disappear," Korotkin said. "What happened is that the waterfront property became extremely valuable. Developers simply stole the land."

One of the defendants is Dr. Jack Scurry, who has built a private home on the burial ground. As a member of the South Carolina Coastal Commission, Scurry has opposed earlier attempts to protect the island's native population from developers and land speculators. The commission is supposed to regulate development of coastal areas in the state.

"Scurry's job is to protect the public interest," said Pitts. "Instead he has profited from the theft of land and the



Sara Barout

*Christic Institute South Director Lewis Pitts.*

destruction of the people and resources of the island's shoreline."

The desecration of the Daufuskie gravesites is symbolic of the theft of black-owned land on the island and the rise of a "new plantation economy" in the South, Pitts said.

The island's poorest residents are trapped in a vicious circle. Development drives up tax rates beyond their ability to pay. The land is then seized by banks or county tax collectors and sold to developers to build more resorts and country clubs.

One local official, Beaufort County Chairman Bill Bowen, told a local newspaper last year that residents who cannot pay their taxes should sell their land and get out. "If someone can't afford to own property because they cannot pay taxes then they shouldn't own the property," he said.

### **Cemeteries part of island's history**

"Most cultures respect the graves of the dead, but the Cooper River Cemetery is also an irreplaceable part of the cultural legacy of Daufuskie Island," Pitts said. "Slaves were not permitted to attend school or learn how to read and write the language of their masters. They could not leave a written record of their lives."

Blacks were allowed to bury their dead, however. Cemeteries therefore are among the few physical records that survive of the slaves and their culture.

Social scientists Elaine Nichols has called African American burial customs "the strongest material demon-

*Continued on page 20* ■

# Committee may block S&L probe

## *Intelligence committee did not trace money looted by operatives*

At press time it was not clear if the House Intelligence Committee would investigate the alleged use of failed savings and loan institutions to launder funds for the Reagan Administration's secret war in Nicaragua.

The last issue of *Convergence* (Fall 1990) reported that an investigation by the Christic Institute had found new evidence that drug traffickers may have taken advantage of S&L deregulation to launder cocaine profits destined for the *contras*. In a separate investigation, the *Houston Post* has concluded that several failed S&Ls were looted by businessmen connected with both organized crime and the Central Intelligence Agency.

Last summer the House Banking subcommittee on financial institutions attempted to investigate the reports, but dropped the investigation when C.I.A. Director William Webster refused to testify. But the subcommittee's chair, Illinois Democrat Frank Annunzio, referred the allegations to the House Intelligence Committee, which has jurisdiction over America's spy agencies.

On Nov. 15 the Christic Institute delivered 30,000 petitions to Rep. Anthony Beilenson, the California Democrat who chairs the Intelligence Committee, asking for a full investigation of the reports. The signatures were gathered in 22 cities in one day of canvassing by volunteers from the Christic Institute's local action networks and the Citizen/Labor Energy Coalition.

But as *Convergence* went to press Beilenson still had not decided whether or not to authorize an investigation of the charges. The congressman was still waiting for documents from the C.I.A., committee staff told the Institute.

### **Conducted dozens of interview**

A spokesman for the committee said the staff had conducted dozens of interviews to determine whether the reports should be investigated. But in November investigative journalist Pete Brewton reported in the *Houston Post* that "the committee has not attempted to trace any of the S&L money looted by C.I.A. operatives."

The committee staff also failed to contact a former C.I.A. contract agent who told a Federal court in 1988 that the agency used funds from failed banks and thrift institutions to finance covert operations.

When asked by Brewton why the committee did not attempt to trace any S&L money to discover if it was used for covert operations, staff director Dan Childs said "we have only three attorneys to do this."

In late 1988 Christic Institute investigators found evidence that C.I.A.-sponsored drug traffickers may have

used dozens of thrifts in several states to launder cocaine profits destined for the *contra* war effort.

"The Christic Institute has uncovered evidence that covert operatives and drug traffickers exploited dozens of S&Ls to launder funds destined for the illegal *contra* war," said Daniel P. Sheehan, the Institute's general counsel. "This evidence suggests that the links among S&Ls, covert operatives and organized crime can be traced to the 'off-the-shelf enterprise' described by Oliver North before the Iran-*contra* investigating committees.

"It appears that S&Ls may have made fraudulent loans in order to siphon money to the *contras* at a time when Congress had cut off aid to the rebels."

Brewton's investigative series in *Post* has concluded that "at least 27 failed financial institutions (25 S&Ls and two banks) had links to C.I.A. operatives or to organized crime figures with links to the C.I.A."

"The savings and loan collapse will cost taxpayers over \$500 billion," said Sara Nelson, the Institute's executive director. "If it is true that S&L money went to the *contras*, then the U.S. public was duped into paying the bill for the *contra* war after Congress had outlawed *contra* aid." □

## ACTION

### *Join our network!*

The campaign to save RICO succeeded because thousands of Christic Institute supporters belong to an Action Network that informs them quickly about important developments on Capitol Hill. We invite you to join our network and increase your power in Washington! Members receive action alerts and background information every four to six weeks on RICO reform, covert operations, drug trafficking and other issues related to the La Penca lawsuit. If you are interested, please mail the following coupon to the Christic Institute Outreach Department, 1324 North Capitol Street, N.W., Washington, D.C. 20002.

Yes, I would like to join the Christic Institute Action Network.

Name \_\_\_\_\_

Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Home phone \_\_\_\_\_

Office phone \_\_\_\_\_

# Supporters save racketeering law

## *Bill to abolish RICO statute dies at end of session*

Last fall thousands of Christic Institute supporters rallied to defeat a bill that would have protected savings and loan criminals from civil lawsuits.

The bill, H.R. 5111, began last summer to move quietly toward almost certain passage as an uncontroversial measure designed to curb abuses of the Racketeer Influenced and Corrupt Organizations Act (RICO), a law that gives private citizens broad powers to sue organized racketeering enterprises.

The Christic Institute and other critics, however, charged that the bill would make it virtually impossible for citizens to file RICO lawsuits in cases of S&L fraud.

Originally considered so uncontroversial it was adopted by the House Judiciary crime subcommittee without public debate, H.R. 5111 began to run into trouble when thousands of Christic Institute supporters flooded Congress with letters, mailgrams, telegrams and phone calls defending the RICO statute.

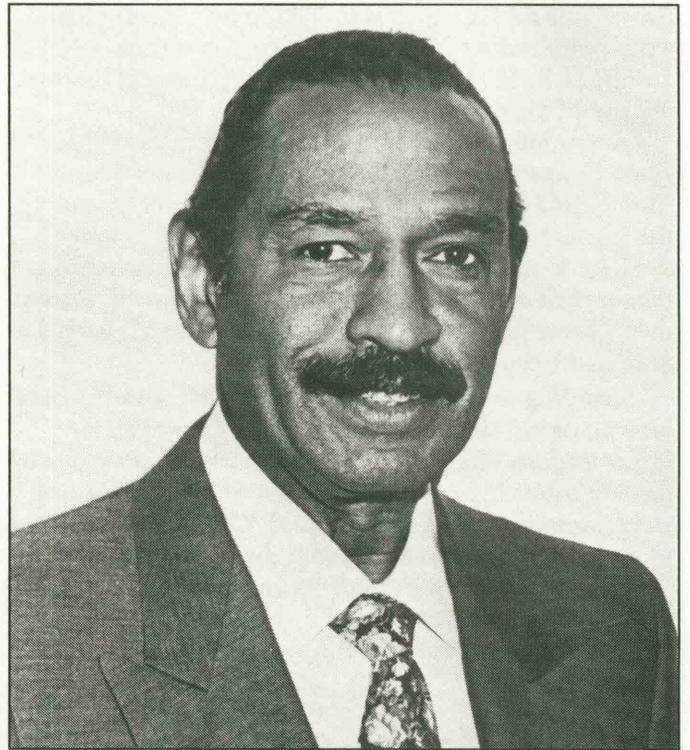
A key provision in the bill would have applied the "reforms" retroactively to RICO cases already pending before the courts. That spelled trouble for *Avirgan v. Hull*, the Institute's racketeering lawsuit against 29 key figures in a criminal enterprise that smuggled guns to the *contras* and organized cocaine shipments to the United States. Defendants could have used the provision to argue that the suit should be thrown out of court.

Also opposing the reform bill were 23,000 elderly plaintiffs in a pending RICO lawsuit alleging fraud by Charles Keating, one of the most notorious figures in the S&L scandal.

The principal opponent of H.R. 5111 in the Judiciary Committee was Rep. John Conyers, Democrat of Michigan. "This bill, backed by powerful special interest lobbies—banking, thrift and accounting, to name but a few—is now sailing through the House at an alarming speed," he wrote in September in the *New York Times*. "When the public becomes aware of this blatant favoritism, it will not sit for it."

A week later the *Times* weighed in with an editorial charging that the bill's provision "more closely resemble fraud relief—for the crooks."

"The Christic Institute's campaign to defeat H.R. 5111 was one of the most successful organizing efforts launched by our national office," said Lanny Sinkin, a policy analyst and staff counsel who led the campaign along with Organizing Director Mary Cassell. "Overnight we changed the terms of debate on what had until then been an 'uncontroversial' bill supported by one of the most power-



*Rep. John Conyers of Michigan led the fight to save the racketeering law.*

ful lobbying coalitions in Washington."

Supporters of the bill included the "Big Eight" accounting firms, which could lose millions if more S&L lawsuits are filed under the racketeering act.

### **Alerted thousands of activists**

Before the full Judiciary Committee was able to schedule a vote on the bill, the Institute alerted thousands of its activists around the country through mass mailings, computer networks and phone banks. Local Christic Institute action teams organized letter-writing campaigns. Within days more than 7,000 phone calls, mailgrams, telegrams and letters convinced members of Congress they might have to pay a political price if the "reform" bill effectively abolished the RICO statute.

The campaign's first casualty was the "retroactive" clause. It was voted down by the full Judiciary Committee in September, although the remaining provisions were approved and reported to the House of Representatives.

There was little enthusiasm for a bill that protected S&L criminals, however. By the end of the session Congress quietly killed H.R. 5111 by refusing to schedule a vote.

A similar fate met a similar Senate bill introduced by Sen. Dennis DeConcini, the Arizona Democrat who at press time was still under investigation by the Senate Ethics Committee for his role in the S&L scandal. DeConcini's bill included a provision that would have exempted from racketeering

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## RICO LAW

■ *Continued from page 15*

lawsuits any private citizen who claimed his alleged crimes were committed for a Government covert operation.

Like H.R. 5111, DeConcini's bill died a quiet death at the end of the session.

"A new bill could be introduced sometime in 1991 when Congress returns to Washington," Sinkin said. "Some RICO critics have made a good case for amending the law, but Christic Institute supporters should watch carefully to make certain that any measure introduced in the future is a genuine reform and does not fatally weaken the racketeering statute or threaten the status of *Avirgan v. Hull* in the courts."

According to Christic Institute Executive Director Sara Nelson, defeat of H.R. 5111 leaves the door open for future lawsuits like *Avirgan v. Hull*. "Civil RICO is one of the best tools citizens have in the law to oppose criminal racketeering enterprises when the U.S. Government refuses to investigate or prosecute," she said.

RICO was enacted by Congress in 1970 to allow private citizens who have been injured by racketeers to act as "private attorneys general" in cases where the Government

is unable or unwilling to prosecute criminal charges.

*Avirgan v. Hull* is an example of a civil lawsuit designed to fill such a "prosecutorial gap." It alleges that a small group of United States citizens and *contra* leader Adolfo Calero plotted a bombing in Nicaragua that killed or wounded several reporters. It also alleges that cocaine was routinely smuggled through *contra* bases en route to the United States.

Neither the Reagan or Bush Administrations has investigated these charges, although both the Costa Rican Government and the Senate Foreign Relations narcotics subcommittee have confirmed that *contra* bases were by drug traffickers. In some cases, investigations of *contra* drug trafficking were called off by the Reagan-Bush Administration.

As a result, RICO may be the only remedy for citizens who have been injured by crimes committed during the secret war in Central America, Nelson said. "It is obvious why the right supports a weak RICO law. We can promise our supporters that we will continue to defend their right to win damages against criminal racketeers who defraud or injure them—even if their crimes are committed in the name of national security."

*Christic Institute staff intern Sherry Glickman contributed to this story.* □

## Voters for Boxer

### California

Glenn M. Anderson, Long Beach  
 Jim Bates, San Diego  
 Douglas Bosco, Santa Rosa and Eureka  
 Barbara Boxer, San Francisco  
 Ron Dillum, Berkeley  
 Mervyn Dymally, Compton  
 Don Edwards, San Jose, Fremont  
 Matthew G. Martinez, Montebello  
 George Miller, Pleasant Hill, Richmond, Antioch  
 Norman Y. Mineta, San Jose  
 Leon Panetta, Monterrey, Salinas, Santa Cruz  
 Nancy Pelosi, San Francisco  
 Pete Stark, Hayward  
 Esteban Edward Torres, Pico Rivera

### Other states

Les AuCoin, Portland, Ore.  
 Charles E. Bennett, Jacksonville, Fla.  
 David E. Bonior, Mt. Clemens, Port Huron, Mich.  
 Terry L. Bruce, Olney, Champaign, Danville, Ill.  
 John Bryant, Dallas, Tex.  
 William L. (Bill) Clay, St. Louis, Mo.  
 Cardiss Collins, Chicago, Oak Park, Ill.  
 John Conyers Jr., Detroit, Mich.  
 Peter DeFazio, Portland, Ore.  
 Byron Dorgan, Bismarck, Fargo, N.D.  
 Thomas J. Downey, West Islip, N.Y.  
 Richard J. Durbin, Springfield, Decatur, Ill.  
 Lane Evans, Moline, Galesburg, Monmouth, Macomb, Ill.  
 Floyd Flake, Jamaica, Far Rockaway, N.Y.  
 Thomas M. Foglietta, Philadelphia, Penn.  
 Sam M. Gibbons, Tampa, Brandon, Fla.  
 Henry B. Gonzalez, San Antonio, Tex.

Charles E. Hayes, Chicago area, Ill.  
 Dennis M. Hertel, Detroit, Warren, Mich.  
 George J. Hochbrueckner, New York City area, N.Y.  
 Andrew Jacobs Jr., Indianapolis, Ind.  
 Jom Jontz, Kokomo, Valparaiso, Ind.  
 Robert W. Kastenmeier, Madison, Wisc.  
 William Lehman, North Miami Beach, Fla.  
 John Lewis, Atlanta, Ga.  
 Nita M. Lowey, White Plains, N.Y.  
 Edward Markey, Boston, Mass.  
 Frank McCloskey, Bloomington, Evansville, Ind.  
 Jim McDermott, Seattle, Wash.  
 Kweisi Mfume, Baltimore, Md.  
 Patsy Mink, Eastern half, Hi.  
 Jim Moody, Milwaukee area, Wisc.  
 Robert J. Mrazek, Huntington, N.Y.  
 Austin J. Murphy, Washington, Uniontown, Charleroi, Aliquippa, Waynesburg, Penn.  
 Mary Rose Oaker, Cleveland-Euclid area, Ohio  
 Major R. Owens, Brooklyn, N.Y.  
 Donald M. Payne, Newark, N.J.  
 Carl Perkins, Ashland, Pikeville, Morehead, Ky.  
 Charles B. Rangel, New York, N.Y.  
 Gus Savage, Chicago, Ill.  
 James Scheuer, Flushing-Bronx, N.Y.  
 Pat Schroeder, Denver, Colo.  
 Jose Serrano, New York City area, N.Y.  
 Louis Stokes, Cleveland, Ohio  
 Al Swift, Bellingham, Everett, Port Angeles, Wash.  
 Edolphus Towns, Brooklyn, N.Y.  
 James A. Traficant Jr., Youngstown, Warren, Ohio  
 Jolene Unsoeld, Olympia, Vancouver, Wash.  
 Craig Washington, Houston, Tex.  
 Ted Weiss, New York City area, N.Y.  
 Alan Wheat, Kansas City, Independence, Mo.  
 Howard Wolpe, Kalamazoo, Lansing, Mich.  
 Ron Wyden, Portland, Ore.  
 Sidney Yates, Chicago, Evanston, Ill.

# Administration blocks C.I.A. trial

## *Defendant threatened to expose deals between C.I.A., drug traffickers*

By CARL DEAL

Attorney General Dick Thornburgh's decision to block disclosure of what he deemed "government secrets" has forced Special Prosecutor Lawrence Walsh to drop charges against a former C.I.A. station chief who was charged with Iran-*contra* crimes.

The defendant, Joseph Fernandez, headed the C.I.A. station in Costa Rica during the height of the secret war against Nicaragua. The case against him ran aground when he threatened to expose clandestine operations in Costa Rica, including evidence that the C.I.A. and their *contra* allies were involved in narcotics trafficking.

In a related development, excerpts from Oliver North's office notebooks released to the press last year show that the former national security aide intended to warn the Drug Enforcement Administration not to investigate an airstrip in Costa Rica used by drug traffickers.

### **Not first time Walsh has clashed**

This was not the first time Walsh has clashed with the Bush Administration. In earlier trials, the Justice Department's refusal to release classified documents to defense lawyers forced the special prosecutor to drop the most serious charges against Iran-*contra* conspirators Oliver North, John Poindexter, Albert Hakim and Richard Secord.

Fernandez was originally charged with lying to C.I.A. and Congressional investigators about his role in *contra* resupply operations. Despite a ban on lethal aid to the *contras*, Fernandez worked with Oliver North to equip the Nicaraguan rebels operating on the southern front of the *contra* war.

Fernandez planned to defend himself by exposing C.I.A. involvement in illegal military aid to the *contras*. The agency has denied it had any role in the affair. To prove his point, Fernandez subpoenaed 5,000 classified documents. Anticipating that the judge would dismiss charges against Fernandez if the documents were not available for his defense, Walsh withdrew the charges when Thornburgh refused to comply with the subpoena.

Walsh has complained to Congress that there is "an appearance of conflict of interest" in Thornburgh's actions because "the agency refusing disclosure [the C.I.A.] is itself a subject of investigation."

Fernandez threatened to disclose the locations of C.I.A. stations and facilities, including the Santa Elena airstrip, a *contra* resupply facility used to fly drugs out of Costa Rica on planes after they emptied their military cargoes. Al-

though the location of the Santa Elena strip has been a matter of public record for nearly four years, Thornburgh said that official acknowledgement by the United States Government would be a threat to national security.

According to newly released entries in Oliver North notebooks, a plan to move the rebels inside Nicaragua and keep them supplied from Costa Rica was conceived at an August 1985 meeting in San Jose, the Costa Rican capital. "[M]ove all op[eration]s inside for [air] drops. . . . [Central Intelligence] Agency trainers to S[outh] to train in log[istic] deliveries. . . . Agency to provide log[istics]." Costa Rican Ambassador Lewis Tambs and Robert Owen, North's liaison to the *contras*, worked with Fernandez on the project.

North's notebooks also reveal that Felipe Vidal, an anti-Castro Cuban emigre, helped North in Central America. The Costa Rican Legislative Assembly recently reported that Vidal received large amounts of money from Frigorificos de Puntarenas, a company that smuggled Colombian cocaine to Miami in frozen shrimp containers.

Vidal also collaborated with John Hull, the United States businessman whose farm in Costa Rica was used as a staging area for weapon and drug shipments. Both men are under indictment in Costa Rica for their role in the La Penca bombing. *See story on p. 5.*

Fernandez testified to Congress in a secret session that "Vidal . . . had a problem with drugs," and that the C.I.A. had to "protect" him. Despite this "problem," Vidal was regarded highly by the North network, which chose him to oversee the logistics of the Santa Elena supply operation.

Costa Rican Minister of Public Security Benjamin Piza, a founding member of an extreme rightist political movement, was instrumental in masking the role of the United States Government in the Santa Elena project. While officials in Costa Rican government officially identified the airstrip as a tourism project, Piza assigned Civil Guard Col. Jose Ramon Montero to Santa Elena. Montero lent personnel and equipment to the venture, and reportedly accepted a new car for his help.

### **'D.E.A. will be briefed to leave hands off'**

At the May 1989 trial of drug trafficker and *contra* supporter Edwin Viales, Montero testified that Viales had offered to pay him to look the other way when drug flights left the Santa Elena airstrip. Piza and North also agreed that the D.E.A. should ignore activities at the airstrip. After meeting with Piza in January 1986, North recorded that the "D.E.A. will be briefed to leave hands off [of Santa Elena]."

The involvement of high government officials in the war against Nicaragua and the *contra*-cocaine connection have so far been central to at least four judicial proceedings and several official investigations in Costa Rica. Piza and Montero have been dismissed from office and await their trials.

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## FERNANDEZ

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John Hull was investigated by Costa Rican authorities for his involvement in drug trafficking and later indicted for murder for his role in the La Penca bombing. In February 1989, United States Congressmen David Dreier and Lee Hamilton threatened President Oscar Arias of Costa Rica that the drug proceedings against Hull could affect the future relations between the U.S. and Costa Rica. Arias responded with an elementary lesson in separation of powers and conflict of interest:

"It is not possible that you are ignorant of the significance of... the [U.S.] model [of] separation of powers which sustains our democratic system and which we Costa Ricans respect with such pride.... It is not my place to judge Mr. Hull. That is done, in my country, with total independence, by the Judicial Branch."

Corruption of foreign government officials, violation of the Boland Amendment, violation of the U.S. Neutrality Act, violation of Costa Rica's neutrality laws and facilitating the flow of narcotics into the United States were all part of the secret operation at Santa Elena, and the larger C.I.A. effort to resupply the contras. Had Thornburgh allowed the Fernandez case to go forward, these criminal activities could have been exposed.

The assumption made by Congressmen Dreier and Hamilton that the executive branch can interfere in criminal prosecutions is reflected in the Bush Administration's handling of Fernandez case and other Iran-*contra* proceedings. Perhaps Costa Rica's democracy is more resilient than ours to have weathered the embarrassment of exposing and prosecuting criminal behavior by public officials who overstepped their authority. □

## DAUFUSKIE

■ Continued from page 15

stration of African-inspired memories."

Most of the slaves brought to the Sea Islands came from West and Central Africa, particularly the Congo and Angola. Many were influenced by the religion of the Bakongo people, who believed in one supreme deity and a spirit world which included the souls of dead ancestors. The burial traditions based on these beliefs survived long after the slaves adopted Christianity.

The slaves, who believed the spirit world was beneath the water, often placed their burial grounds near some body of water. It is possible the Sea Islanders also buried the dead near water to help the spirits return to their African homeland across the sea. □

## ACTION

### Join C.I. South

Christic Institute South continues to fight for civil rights and social justice in the South. They need your support. With a tax-deductible contribution of \$35 you will receive a year's subscription to the *People's Advocate*, a bimonthly newsletter that will keep you informed about C.I. South's projects. To contribute or to learn more about C.I. South, please write to:

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