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DRUG CONTROL

Delays in Obtaining State Department Records Relating to Colombia

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Division



Mr. Chairman and Members of the Subcommittee:

As requested, we are here today to discuss the problems we have encountered in conducting our review of counternarcotics activities in Colombia. On March 4, 1997, you asked that we review the progress of U.S. and Colombian efforts to reduce drug trafficking activities and influence and any problems that exist. Subsequently, the Chairmen of the House Committee on International Relations and the Senate Caucus on International Narcotics Control also requested that we address similar issues.¹ Mr. Chairman, our review has been significantly delayed because the State Department did not give us timely and complete access to the information we require to address the issues you, Chairman Gilman, and Senator Grassley have raised.

Summary

GAO's basic authority to access records is contained in 31 U.S.C. 716. This statute gives GAO a very broad right of access to agency records for the purpose of conducting audits and evaluations. Generally, we do not encounter problems in accessing agency records in the course of most of our work. In fact, during the past 2 years, we have conducted a number of counternarcotics-related reviews in Colombia, Mexico, Bolivia, Peru, and the Caribbean for this Subcommittee. In every case, the State Department and embassy officials were cooperative in providing us with timely and independent access to information.

In none of these past assignments did the State Department attempt to control our independent access to information. For example, in a 1995 review of the Colombia counternarcotics program, our team had independent and unrestricted access to program files of State's Bureau for International Narcotics and Law Enforcement Affairs (INL). We were allowed to review files and obtain immediate access to any document we requested. Furthermore, during our 1995 visit to Bogota, embassy officials provided similar access to their State Department files, enabling us to develop conclusions based on all readily available information. We were allowed to transmit all classified documents directly to our agency, in accordance with our established security procedures.

¹In response to these requests, we are in the process of reviewing (1) the length of time it took the executive branch to determine what assistance would be affected by the March 1, 1996, decertification of Colombia and the subsequent impacts of decertification on U.S. assistance to Colombia; (2) the status of the proposed \$40-million emergency assistance package being provided to Colombia under section 506 (a) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2318(a)(2)); and (3) the planning and implementation of U.S. antidrug efforts in Colombia.

In contrast, throughout this review, the State Department has delayed us and imposed undue restrictions on our access to documents.² The Department has established an elaborate process for considering our document requests by “screening” documents through multiple, time-consuming reviews before they are released to us. And, the State Department has insisted that we review, under restrictive conditions, many of the documents that have been released to us. Moreover, in some cases, the Department has deleted some information from these documents. After several unsuccessful attempts to resolve these problems, we formally notified the Department on June 25, 1997, that our work was being obstructed by delays in obtaining information.

Here are some examples of the problems we have encountered.

Delays in Obtaining Documents

Typically, we work with an agency’s program officials in identifying and obtaining records relevant to our review, and we receive most documents directly from program officials either on the spot or with minimal delay. In the present case, all of the documents we requested from the State Department’s INL Bureau and from the U.S. embassy in Bogota, Colombia, were subjected to review by multiple bureau’s and offices, including INL and the Bureau for Inter-American Affairs (ARA), the Office of the Legal Advisor, and the office of the Deputy Assistant Secretary of State for Information Management. This multiple review process has been extremely time-consuming and has delayed our access to certain documents for months.

For example, on April 11, 1997, we requested 35 specific documents from INL files. INL did not respond to our request until June 9, 1997—almost 2 months after the request was made—and even then only gave us less than half of the documents. We did not receive access to all of the remaining documents until July 1. On May 8, 1997, we requested an additional 115 specific documents from INL files. On June 11, 1997, INL provided about half of the documents, and the rest were made available on July 1—almost 2 months after we had requested them.

²These documents include cables, contractor and embassy reports, and correspondence. The documents cover a variety of areas such as progress reports on Colombia’s status in meeting U.S. certification criteria; the impacts of decertification; concerns about the impact of Narcotics Affairs Section (NAS) funding of unplanned requirements such as increased coca and opium poppy eradication and the delivery of certain types of section 506 (a) assistance; weekly reports that show problems in managing the coca reduction program; the counternarcotics needs of the government of Colombia; and a variety of State Department concerns about end-use monitoring and human rights and the impact that these concerns have on the delivery and use of counternarcotics assistance by the Colombian police and military.

We also experienced delays in obtaining access to information in connection with our 3 week visit to the U.S. embassy in Bogota, Colombia. About one week prior to our visit, we faxed and telephoned the embassy, providing them with a list of documents we wanted to review. At that time, embassy officials did not indicate there would be any problem in getting access to these documents. Upon arrival at the embassy on May 19, 1997, our team was informed that we could not begin our review until guidance was received from the Department about providing our team access to and release of documents requested in connection with the assignment. The next day, our team was told that the embassy had been instructed by the State Department to screen all document requests; determine the documents' releasability based on the Washington screening guidance; and then to send all the documents to the Department's ARA Bureau in Washington, which would, in turn, release them to us. Throughout the visit to Colombia, our team was not allowed to have independent access to embassy files or to have the instructions detailing how the embassy was to screen documents.

Furthermore, the team was informed that documents screened at the embassy and sent to State in Washington would not undergo another screening unless the embassy asked for it. However, it appears that all of the documents sent from the embassy underwent a second review in Washington. On May 28, 1997, the embassy sent 24 requested documents to ARA for release to our team; and, on June 5, ARA informed us that the classified documents had arrived. However, these documents were not released to us until July 3, 1997. Subsequently, on June 6, 1997, the Embassy sent another 322 documents that our team had requested during its visit. As with the earlier requested documents, these were not released until to us until July 3. We are now trying to reconcile our request for these documents with the documents provided by the State Department.

Restrictions on Review of Documents

After considerable delay, the State Department has now made most of the information we requested in Washington and at the embassy in Bogota available to us. However, the Department is delaying our review further by requiring that we read all classified documents—and there are over 100 of them—at the State Department. The Department has told us that we cannot have copies of any of these documents. We are concerned that the process of reviewing and making handwritten notes on this large number of documents at the State Department will create further unnecessary delays in our work. On other jobs, we routinely obtain copies of classified documents, including highly classified national security information and

materials. We have established procedures for ensuring that we provide these documents at least the same degree of protection as is afforded by the originating agency. Also, it is standard operating procedure for our office to seek a security classification review from the Department on a draft of any report that was derived from classified sources.

Document Withholding and Deletions

Based on guidance from the State Department, the embassy in Colombia denied us access to four requested documents. The embassy advised us that the documents were drafts leading to the completion of the annual International Narcotics Control Strategy Report issued on March 1, 1997, and as such were part of the Department's deliberative process. Based on records we have reviewed in our prior work, these documents likely contain the embassy's description of the progress that a country is making in cooperating with the United States in counternarcotics matters. While the embassy advised us to pursue our request with the State Department in Washington, we have not yet been given access to these documents. Under 31 U.S.C. 716(a), GAO has a broad right of access to agency records, and there is no exemption for internal working papers or documents containing deliberative communications.

In addition, the State Department has deleted or "redacted" portions of some documents. For example, the Department told us that it has redacted some documents to delete sensitive information relating to such things as ongoing law enforcement operations and foreign relations activities. We are concerned about these redactions, since they prevent us from knowing whether all relevant information has been provided to us. While we understand the State Department's concern about protecting sensitive information from public disclosure, we have a right of access to this information. Moreover, we are confident we can protect it through appropriate safeguards.

Conclusions

In summary, Mr. Chairman, our concern is with the delay that we have experienced in obtaining timely and independent access to information necessary to respond to your request. We are also concerned about the extent to which the State Department has controlled our access to all documents. We cannot say with certainty at this time that we have been provided with all of the information necessary to conduct an independent review of U.S. counternarcotics activities in Colombia.

This concludes our prepared remarks, we would be pleased to respond to your questions.

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