



U.S. Department of Justice

United States Attorney

District of Columbia

Judiciary Center  
555 Fourth St. N.W.  
Washington, DC 20001

MEN:WMNebeker  
June 29, 1995

Beth Stephens, Esq.  
Center for Constitutional Rights  
666 Broadway, 7th Floor  
New York, NY 10012  
and by fax: (212) 614-6499

Re: Subpoenas in Belance v. FRAPH, 94-2619 (S.D.N.Y.).

Dear Ms. Stephens:

As we have discussed, I am writing in an effort to resolve the subpoenas issued to the Central Intelligence Agency ("CIA"), Department of Defense ("DOD") and Department of State ("State") in the above-referenced matter. The three agencies have conducted computer searches of their indices for the three topics we discussed in May: 1) FRAPH (or Front Por L'Avancement at le Progres Haitien), 2) Alerte Belance and 3) Emmanuel Constant (the "Three Topics"). They have thereby located 7412 documents. We believe that there are three general categories of these documents that are responsive to your need for information: A) documents concerning the relationship between FRAPH and the government of Haiti, B) documents concerning finances and funding of FRAPH and C) documents concerning human rights abuses by FRAPH. When the agencies are determining whether their documents can be released, they therefore propose to limit their review to documents responsive to these three general categories. Although, as a practical matter, these topics may cover most of the documents, it does not make sense for the agencies to spend time on irrelevant documents.

The agencies believe that of these documents many will likely prove to be duplicative. One agency, for instance, might have a document in its indices which originated with a second of the agencies from which you have subpoenaed documents. Because the likelihood is that the second agency will already have located its copy of the document, no purpose would be served by requiring the first agency to forward another copy of the second agency's document to it to review again.<sup>1/</sup> Your selection of CIA, DOD and State as the likely repositories of responsive

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<sup>1/</sup> As you are aware, a document originating from another agency must be reviewed by that agency before it can be released. The originating agency must make any declassification decision.

records itself suggests that any relevant documents will have originated within one of these three agencies. Accordingly, we believe that it would be appropriate to permit each agency to limit its review to documents originated by that agency. Such a limitation would therefore apply to the reviews proposed by the agencies.

Within CIA, there is also a great likelihood that any documents that can be declassified would be found in the Directorate of Intelligence ("DI") component. As you seem to recognize in your May 8, 1995 letter regarding the State Department, there is a greater likelihood that so-called "finished intelligence" may be declassifiable. Such finished intelligence is almost certain to be found in the DI within the CIA. CIA therefore proposes to have its search limited to the documents located in the DI.

Similarly, the DOD is confident that all responsive documents that would be located in other DOD components would also be on file in the DIA. DOD, therefore proposes to limit its search and review to those documents in the DIA. To demand more would, we think, be inefficient, unreasonably burdensome and an abuse of agency resources.

With these explanations, the agencies are prepared to propose the following actions to resolve all efforts to gain information from the agencies in the above civil action:

#### CIA

The CIA is prepared to have its Directorate of Intelligence ("DI") review its post-1992 "finished intelligence"<sup>2/</sup> located through its computer search for the Three Topics and will determine whether any responsive documents, i.e., A) documents concerning the relationship between FRAPH and the government of Haiti, B) documents concerning finances and funding of FRAPH and C) documents concerning human rights abuses by FRAPH, are properly classified or privileged. Those that are not will be released to you. In addition, within the CIA's Directorate of Science and Technology ("DDS&T") there are likely to be several hundred unclassified documents on the Three Topics which the CIA would review and release if unclassified. The CIA anticipates that its review could be completed by the end of July 1995.

#### DOD

The Department of Defense proposes to review all post-1992

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<sup>2/</sup> By "finished intelligence" we mean those documents which the DI has created based on information from other entities inside and outside of the CIA.

DOD-originated documents that have been identified by the DIA's computer search for the Three Topics and will determine whether any responsive documents, i.e., A) documents concerning the relationship between FRAPH and the government of Haiti, B) documents concerning finances and funding of FRAPH and C) documents concerning human rights abuses by FRAPH, are properly classified or privileged. Those that are not will be released to you.

State

The Department of State proposes to review the post-1992 documents that have been identified by its computer search for the Three Topics and will determine whether any responsive documents, i.e., A) documents concerning the relationship between FRAPH and the government of Haiti, B) documents concerning finances and funding of FRAPH and C) documents concerning human rights abuses by FRAPH, are properly classified or privileged. Those that are not will be released to you. State's search and review will also include documents from the United States embassy in Haiti and the Intelligence and Research ("INR") Bureau.

Please let Mr. Nebeker know if these proposals are acceptable to you. Similarly, if you have any questions or concerns, please contact Mr. Nebeker at (202) 514-7230.

Sincerely,

ERIC H. HOLDER, JR.  
United States Attorney

By:   
W. MARK NEBEKER  
Assistant United States Attorney