

via fax: 011 57 1 570 2000 ext 2017  
 Acting Attorney General of Colombia

via fax: 011 571 640 0491/691 5500  
**Dr. Volmar Antonio Pérez Ortiz**  
 National Human Rights Ombudsman

August 24, 2009

Dear Sirs:

We are extremely concerned over the use of intelligence collected by the Colombian national intelligence agency (DAS) in the criminal trial of **Arney Antonio Tapasco Reyes** and **Felix Antonio Hernández Alcalde** in Caldas Department. Both men are community leaders in the indigenous reservation of Canamomo Lomapieta in the town of Embera Chami. On March 15, 2002, the Inter-American Commission on Human Rights (IACHR) recognized them for their important work and authorized precautionary measures to provide security for the indigenous reservation and settlements of Embera Chami.

Both men have been detained for eight months and were recently charged with rebellion in a criminal trial with significant procedural flaws. While they were provided bodyguards by DAS, Human Rights First has learned that the bodyguards used their position to collect intelligence about their activities in an attempt to falsely discredit them as collaborators with guerrilla forces. The evidence used in the trial of both defenders is inadmissible evidence under Colombian law (Article 4 of the Intelligence and Counter-Intelligence Law and law 906 of 2004 new penal code). The criminal prosecutor did not provide Arney Tapasco and Felix Hernández with notice of the charges against them or an opportunity to contest those charges.

Therefore, we **strongly urge** that you:

- investigate whether DAS has complied with a ruling by the Colombian Constitutional Court ordering the officers of DAS to "instruct their agents in writing that protection activities are not intelligence-gathering opportunities, and that carrying out intelligence activities with respect to the actions of protected individuals is prohibited";
- open an investigation against the DAS bodyguards assigned to Arney Tapasco and Felix Hernández to evaluate whether their activities breached the new intelligence law and, if so, to prosecute those responsible;
- act firmly to put an end to the pattern of DAS agents collecting intelligence about the people they are charged with protecting and of prosecutors using such intelligence in criminal proceedings;
- investigate whether the actions of Armando Castrillon Grajales, the local prosecutor in the investigation against Arney Tapasco and Felix Hernández, complied with the intelligence law and due process requirements.

Sincerely,

Brian J. Stefan Szittai  
 Coordinator

cc: Armando Castrillon Grajales, local prosecutor, Manizales, Caldas ~ via US mail  
 Magistrado Dr. Hector Salas Mejia , Fifth Criminal Circuit Court of Manizales ~ ~ via US mail  
 Carolina Barco Isakson, Colombian Ambassador to the US ~ via fax: 202.232.8643  
 William Brownfield, US Ambassador to Colombia ~ via fax: 011.571.315.2197  
 Nan N. Fife, Desk Officer for Colombia, US State Department ~ via fax: 202.647.4173  
 Javier Hernández Valencia, UN High Commissioner for Human Rights, Colombia office ~ via fax: 011-571. 658-3300  
 Paolo Carozza, US member of the Inter-American Commission on Human Rights ~ via fax: 202.458.3992  
 US Senators Brown & Voinovich ~ via email  
 US Representatives Boccieri, Fudge, Kaptur, Kucinich, LaTourette, Latta, Ryan, Space, Sutton, Wilson ~ via email

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**The following people hereby urge that you take action on this matter as indicated in this letter:**