



U.S. Drug Policy & Intelligence Operations in the Andes

By Michael L. Evans

The Bush administration recently suspended intelligence flights over Peru and Colombia after a Peruvian air force jet—acting on U.S. intelligence—fired on a civilian aircraft mistakenly suspected of drug trafficking, killing an American missionary and her daughter. The incident raises important questions about U.S. intelligence sharing in the Andean region at a time when funding for such programs has markedly increased under Plan Colombia. It also confirms the fears of State Department officials who warned in 1994 that “a shootdown leading to the death of innocent persons would likely be a serious diplomatic embarrassment for the United States.”

The U.S. conducts a range of intelligence operations in the Andean region. Plan Colombia is only the most recent manifestation of an increasingly militarized policy that has focused largely on stopping the flow of illegal drugs at the source. The counterdrug mission, in the words of former U.S. Southern Command (SOUTHCOM) chief Gen. Charles Wilhelm, relies upon “timely,

accurate, predictive, and actionable intelligence.” As the intensity of source-country counterdrug operations has increased in the 1990s, so too have the associated intelligence support programs.

The first Bush administration enhanced intelligence sharing in 1989 as part of a broader militarization of U.S. counterdrug programs with the issuance of National Security Directive 18. NSD 18 and subsequent policy papers called for “real time intelligence techniques that use leading edge radar,” establishing a constellation of coordinated intelligence systems throughout

the U.S. and Latin America. President Bill Clinton strengthened source-country interdiction programs in 1993 with the issuance of Presidential Decision Directive 14, shifting the emphasis away from transit zones in Central America and the Caribbean and toward the Andean source countries. The resulting Air Bridge Denial Program, in place since 1995, uses U.S. intelligence assets and private military contractors to track suspect aircraft in the Andean region for interception by host government forces.

The U.S. employs Relocatable Over-the-Horizon Radar (ROTHR) systems in Texas, Virginia, and Puerto Rico to provide wide-area detection and surveillance of air targets throughout the region. The U.S. has also established

Forward Operating Locations (FOL) in the Dutch Antilles, Ecuador, and El Salvador to replace aerial tracking facilities lost with the 1999 closure of Howard Air Force Base in Panama. An integrated network of radar systems, including the Caribbean Basin Radar Network and other ground-based radars throughout the region, also assists regional military operations. Detailed maps are provided by DOD's National Imagery and Mapping Agency (NIMA), while the ultra-secret National Security Agency (NSA) monitors communications and other electronic signals. These operations are planned, coordinated, and supervised by the Joint Interagency Task Force East (JIATF-E) in Key West, Florida. JIATF-E also houses the Joint Southern Surveillance and Reconnaissance Operations Center (JSSROC), which fuses and disseminates intelligence gathered by aerial, ground-based, ROTHR, and other radar systems.

Hoping to avoid U.S. casualties, the counterdrug strategy relies on source-country security forces to act on intelligence gathered by U.S. systems. This arrangement limits the extent to which the U.S. can control the way the data is used. Sovereignty issues also complicate efforts to enforce end-use restrictions.

The shoot-down in Peru is only the most recent case in which counterdrug intelligence sharing has implicated the U.S. in the potentially criminal activities of host governments. U.S. intelligence was used to locate the targets of illegal Colombian paramilitary groups during the hunt for drug kingpin Pablo Escobar in 1993. A number of Peruvian officials who were on the receiving end of U.S. intelligence assistance—including former intelligence chief Vladimiro Montesinos—are wanted or awaiting trial on charges ranging from drug trafficking to terrorism to illegal arms trafficking.

There are also indications that U.S. intelligence is supporting counterinsurgency operations. Recent statements from U.S. and Colombian officials emphasize an inextricable link between guerrillas and the drug trade in an apparent effort to permit the diversion of U.S. security assistance—including intelligence—to combat rebel groups. Just days after the shoot-down of the missionary plane, troops from the Colombian army's U.S. trained and equipped Counter-Narcotics Battalion killed guerrillas for the first time during a counterdrug operation. Furthermore, over the past several years the U.S. has significantly loosened restrictions on intelligence sharing with Andean governments. Until 1995, U.S. law banned the use of U.S. intelligence information in support of the shoot-down of civil aircraft. Guidelines in place before March 1999 also prohibited the use of U.S. intelligence in counterinsurgency operations. Both restrictions have since been relaxed.

Key Points

- The U.S. conducts a wide array of intelligence operations in the Andean region, passing information collected to host governments.
- The nature of the intelligence-sharing relationship limits the extent to which the U.S. can control how such information is used by the Andean governments.
- U.S. officials have sought to relax restrictions on intelligence sharing with Andean governments at a time when these provisions need to be strengthened.

Problems with Current U.S. Policy

The adoption of a shoot-down policy by Peru and Colombia sparked an intense debate within the Clinton administration in 1994, prompting the Department of Defense (DOD) to suspend real-time intelligence sharing due to concerns that the use of force against civil aircraft might subject DOD personnel to legal liability. State Department policymakers complained that the suspension would set back progress in counterdrug cooperation, while critics of the policy from the State Department's legal office maintained that the shoot-down policy violated domestic and international law, emphasizing that "mistakes are likely to occur under any policy that contemplates the use of weapons against civil aircraft in flight, even as a last resort."

Under intense pressure from Congress, the Clinton administration, according to a State Department memo, decided to "eliminate domestic and international legal impediments" to the shoot-down policy. U.S. law was amended to allow the use of U.S. intelligence in operations against suspicious planes when "the country has appropriate procedures in place to protect innocent aircraft." Sen. John Kerry (D-MA) sponsored legislation providing legal immunity for U.S. officials involved in these operations. The new policy did not solve the international legal problems raised by the shoot-down policy, but rather sought "to reduce the [U.S. government's] exposure to criticism that such assistance violates international law." With the legislation's passage the U.S. became accessory to a policy in violation of international law and the principle of due process.

Also disturbing are indications that Andean governments accept U.S. counterdrug assistance largely as a means to fight insurgent groups. A 1992 CIA report noted that "Andean government assertions that increased attacks against the insurgents would affect the drug trade are primarily an attempt to convince the U.S. to allow the use of counternarcotics aid for counterinsurgency operations," and that "officials in Lima and Bogotá, if given antidrug aid for counterinsurgency purposes, would turn it to pure antiguerrilla operations with little payoff against trafficking." Indeed, as of 1991 the Colombian army had no apparent intention to attack the drug trade. A Colombian army document obtained by Human Rights Watch indicates that a 1991 reorganization of the Colombian military intelligence system—drawn up with assistance from CIA and DOD officials—made no mention of drugs and instead focused on "the armed subversion."

Restrictions were modified in March 1999 to permit the sharing of intelligence on guerrillas for the purpose of planning counterdrug operations. However, that same year the U.S. General Accounting Office (GAO) reported that U.S. officials "do not have a system to ensure that [intelligence] is not being used for other than counternarcotics purposes" and that "U.S. embassy officials sometimes have difficulty distinguishing insurgents from drug traffickers."

The concept of the "narcoguerrilla" endorsed by many U.S. and Colombian officials has made it even more difficult for the U.S. to segregate counterdrug intelligence from that related solely to insurgent groups. U.S. Trade Representative Robert Zoellick, then an adviser to the

incoming Bush administration, said in January that that the U.S. "cannot continue to make a false distinction between counterinsurgency and counter-narcotics efforts." More recently, Gen. Mario Montoya, commander of Colombian army operations in southern Colombia told reporters that he no longer tries to distinguish between the various armed factions. "For us they are all drug-traffickers." The characterization of insurgent groups as drug cartels misrepresents the political objectives of the guerrillas and unduly simplifies the nature of Colombia's internal conflict.

Perhaps even more disturbing are allegations raised in Mark Bowden's recent book, *Killing Pablo*, about the U.S. role in the hunt for Colombian drug trafficker Pablo Escobar in 1992. The investigation found evidence that members of the task force charged with Escobar's capture collaborated with an illegal group that systematically eliminated people and property associated with Escobar's network. Individuals in the Colombian National Police passed intelligence obtained from the U.S. to this group, the People Persecuted by Pablo Escobar (*Los Pepes*), which used it to carry out assassinations, bombings, and other attacks on Escobar's family and associates. One of the group's alleged principals, the now-deceased Fidel Castaño Gil, is the brother of Carlos Castaño, the leader of the United Self-Defense Forces of Colombia (AUC), a paramilitary organization openly involved in the drug trade and blamed for the vast majority of the country's massacres, killings, and displacements in recent years. Documents obtained during the investigation show that officials from the U.S. Drug Enforcement

Agency had frequent contact with Fidel Castaño and other paramilitary leaders during the hunt for Escobar.

Intelligence sharing arrangements are further compromised by corruption among Andean security forces. Several Peruvian generals have been arrested since the flight of President Alberto Fujimori last year, charged with everything from bribery to drug corruption to state-sponsored terrorism. Peruvian Gen. Juan Miguel Aguila, indicted in connection to the bombing of a bank in Lima, recounted that, "The U.S. was our partner in every respect, giving us intelligence, training, equipment, and working closely with us in the field." The issue has prompted a Peruvian congressional investigation and criticism of the U.S. intelligence program. Fujimori's former intelligence chief, Vladimiro Montesinos, considered a staunch U.S. ally in the drug war, is now charged with some 31 criminal counts in connection to civilian massacres, drug trafficking and other crimes, including the illegal diversion of arms to Colombian guerrilla groups. The U.S. has yet to provide a full accounting of its involvement with these individuals.

Key Problems

- U.S.-supplied counterdrug intelligence has been used by host governments in ways that violate U.S. and international law, implicating the U.S. as accessory to potentially criminal acts.
 - Counterdrug intelligence is used to target guerrilla groups, threatening to draw the U.S. into a Vietnam-like counterinsurgency conflict.
 - Several individuals with whom U.S. intelligence agencies have developed close ties now face a variety of corruption and human rights charges.
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Toward a New Foreign Policy

In March 2001, Gen. Peter Pace, the commander of U.S. military forces in the Andean region, told a congressional committee that the "ability to execute effective [counternarcotics] operations is often hampered by restrictions on sharing data with our partner nations." Pace suggested that the U.S. "streamline sharing procedures that are currently used for time sensitive counterdrug information." The shoot-down of the missionary aircraft in Peru less than a month after Pace's testimony suggests, however, that such procedures should be tightened rather than relaxed.

Prior to the Clinton administration's decision to support the shoot-down policy, the U.S. had long opposed the use of weapons against unarmed civil aircraft. The U.S. vigorously condemned the Soviet Union's shoot-down of a Korean jet in 1984 and the Cuban air force's downing of aircraft piloted by a Cuban-American group in 1996. Indeed, the international convention on civil aviation could not be clearer on this

point: "Every state must refrain from resorting to the use of weapons against civil aircraft in flight and that, in the case of interception, the lives of persons onboard and the safety of aircraft must not be endangered."

A State Department position paper, drawn up in 1989 to oppose an effort by Sen. Mitch McConnell (R-KY) to authorize a counterdrug shoot-down policy for the U.S., made the following points:

The U.S. could not adopt such a policy without signalling [sic] its appropriateness for other nations, some that would be far less careful than the United States... Once such a practice begins, it will have dangerous and widespread consequences that could affect the safety of innocent U.S. citizens. As the world leader in civil aviation, the United States would have more to lose than any other country in the development of such a practice.

The Department of Justice expressed concern that the policy "would obviate many of the procedural safeguards fundamental to our system of criminal jurisprudence," questioning whether "the taking of lives without due process of law would be held constitutional by the courts." Aside from being illegal under domestic and international law, the policy undermines U.S. efforts to protect its own civil aircraft, subjects the

U.S. to international criticism, and has now resulted in the deaths of U.S. citizens.

The Bush administration should reject the use of weapons against civil aircraft under any circumstances. Congress should approve legislation recently introduced by Rep. Collin Peterson (D-MN) that would ban the U.S. from providing information to help foreign countries in forcing or shooting down aircraft suspected of drug-related operations. The provision of real-time aerial tracking assistance should be suspended until Peru and Colombia abandon the policy.

Second, the U.S. should clarify its policy toward Colombia, and deal openly and honestly with the complexities of that country's internal conflict. The GAO noted in 1999 that "the sharing of intelligence information with the Colombian military creates an operational and policy dilemma for U.S. officials in drawing a distinction between support for counternarcotics versus counterinsurgency activities." If the U.S. intends to support the counterinsurgency operations of the Colombian army, then this should be openly acknowledged so that Congress and the public can debate the merits of U.S. involvement. To continue to provide guerrilla-related intelligence under the guise of counterdrug assistance only confuses the issue and mischaracterizes the essentially political nature of a decades-old armed conflict that has only recently crossed paths with the drug trade.

Finally, President Bush should order the immediate declassification of documents pertaining to Peruvian officials now under investigation for corruption, terrorism, and other human rights crimes. The declassification process would shed much-needed light on the history of the U.S. intelligence program in Peru, and also demonstrate how the U.S. might in the future avoid developing cooperative intelligence relationships with individuals likely to use that information in violation of international law or human rights. Noted one Peruvian congressman, "If U.S. intelligence did not know what was going on, it certainly should have. You can't just offer that kind of assistance to a government like Fujimori's and then take no responsibility for the consequences."

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Key Recommendations

- The U.S. should not resume the sharing of intelligence in support of the shoot-down policy employed by Peru and Colombia.
- The U.S. should cease providing guerrilla-related intelligence to Colombia under the guise of counterdrug intelligence.
- President Bush should order the immediate declassification of documents pertaining to Colombian and Peruvian officials now under investigation for corruption, terrorism, or other human rights crimes.

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