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ACTION WHA-00

RELEASED IN FULL

INFO	LOG-00	NP-00	CA-00	CIAE-00	INL-00	DEAE-00	SRPP-00
	DS-00	OIGO-00	UTED-00	H-00	TEDE-00	INR-00	L-00
	OCS-00	PA-00	IRM-00	SSO-00	SS-00	TEST-00	ASDS-00
	FMP-00	DSCC-00	DRL-00	SAS-00	/000W		
				-----34A4B6	241512Z	/38	

P R 241512Z JUN 04  
 FM AMCONSUL CIUDAD JUAREZ  
 TO AMEMBASSY MEXICO PRIORITY  
 SECSTATE WASHDC PRIORITY 3373  
 INFO AMCONSUL CIUDAD JUAREZ

UNCLAS CIUDAD JUAREZ 008892

DEPT FOR WHA/MEX AND CA/OCS/ACS/WHA

E.O. 12958: N/A  
 TAGS: CASC, ASEC, PHUM, SNAR, KJUS, MX  
 SUBJECT: CHIHUAHUA STATE WILL NOT WITHDRAW CHARGES AGAINST CYNTHIA  
 KIECKER

REF: A. CDJ 8748  
 B. WHA/MEX (DUNCAN) EMAIL, 6/23/04

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 SUMMARY  
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1. AFTER REPEATED CONVERSATIONS WITH VARIOUS CHIHUAHUA STATE OFFICIALS, POST HAS LEARNED THAT DESPITE THE CLAIMS OF MEXICAN FEDERAL OFFICIALS, THE STATE HAS NO INTENTIONS OF WITHDRAWING MURDER CHARGES AGAINST AMCIT CYNTHIA KIECKER AND HER HUSBAND ULISES PERZABAL. IT SEEMS THAT DISCUSSIONS OVER THE LEGAL PROCESS SURROUNDING THE STATE'S OFFICIAL INVESTIGATION INTO KIECKER'S ALLEGED TORTURE WERE CONFUSED WITH THE STATE'S MURDER TRIAL. THE RESULTING STATEMENTS BY MEXICAN PRESIDENT FOX'S DELEGATION TO SENATOR COLEMAN OF MINNESOTA ARE THEREFORE INACCURATE. THE KIECKER CASE REMAINS ACTIVE IN THE STATE'S FIRST PENAL COURT.

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 STATE REAFFIRMS COMMITMENT TO TRIAL  
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2. ON JUNE 23, 2004, CHIHUAHUA'S DEPUTY ATTORNEY GENERAL EDUARDO GOMEZ ARRIAGA STATED TO POST THAT NEITHER HE NOR ATTORNEY GENERAL PINON HAD KNOWLEDGE OF ANY MOTION TO WITHDRAW CHARGES AGAINST KIECKER AND PERZABAL IN THE MURDER CASE OF VIVIANA RAYAS. GOMEZ ARRIAGA WAS ALSO UNAWARE OF HOW MEXICAN

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FEDERAL GOVERNMENT OFFICIALS MIGHT HAVE RECEIVED SUCH ERRONEOUS INFORMATION. AS RECENT PRESS REPORTS INDICATE (REF A), THE STATE REMAINS COMMITTED TO TRYING KIECKER AND PERZABAL IN THIS CASE; PINON HAS PUBLICLY DECLARED HIS BELIEF THAT THE TRIAL WILL RESULT IN THEIR BEING FOUND GUILTY OF MURDER.

3. THE MEXICAN EMBASSY INDICATED TO THE DEPARTMENT THAT THE PROSECUTOR OF THE KIECKER CASE HAD DECIDED TO WITHDRAW CHARGES AND HAD SUBMITTED SUCH A REQUEST TO THE ATTORNEY GENERAL IN ACCORDANCE WITH ARTICLE 135 OF THE STATE PENAL CODE (REF B). ON JUNE 23, 2004, POST CONTACTED THE PROSECUTOR, FRANCISCO DE LEON MERINO, AND THE FIRST PENAL COURT'S SECRETARY OF PROJECTS, ALEJANDRA RAMOS, BOTH OF WHOM DENIED ANY KNOWLEDGE OF LEGAL ACTION TO WITHDRAW CHARGES AGAINST KIECKER AND PERZABAL. IN FACT, RAMOS CONFIRMED UPCOMING COURT DATES IN THE TRIAL, INCLUDING THE TIMEFRAME UNDER WHICH KIECKER'S DEFENSE CAN REQUEST ITS OWN DNA TEST OF THE REMAINS PURPORTED TO BE THOSE OF VIVIANA RAYAS (REF A).

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POSSIBLE CONFUSION WITH TORTURE INVESTIGATION  
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4. DURING POST'S CONVERSATIONS WITH CHIHUAHUA STATE OFFICIALS, THE SIMILARITIES BETWEEN THE APPARENTLY INACCURATE INFORMATION PROVIDED BY THE MEXICAN EMBASSY AND THE ACTUAL PROCEEDINGS OF THE TORTURE INVESTIGATION BECAME APPARENT. POST CONFIRMED THE FOLLOWING INFORMATION WITH STATE ATTORNEY ERNESTO JAUREGUI, WHO HEADED THE ATTORNEY GENERAL'S OFFICIAL INVESTIGATION INTO KIECKER'S ALLEGED TORTURE: UNDER ARTICLE 135 OF THE STATE PENAL CODE, ON JUNE 10, 2004, JAUREGUI REQUESTED FROM ATTORNEY GENERAL PINON A WITHDRAWAL OF CHARGES AGAINST THE STATE OFFICIALS IMPLICATED BY KIECKER AS HAVING PARTICIPATED IN HER TORTURE. AS THE AGGRIEVED PARTY, KIECKER HAS FIFTEEN WORKING DAYS TO FILE AN APPEAL OF THIS REQUEST WITH PINON. FOLLOWING THIS PERIOD, THE ATTORNEY GENERAL WILL HAVE TWO MONTHS TO REVIEW THE INVESTIGATION, JAUREGUI'S REQUEST, AND KIECKER'S POSSIBLE APPEAL, PRIOR TO MAKING A FINAL DETERMINATION AS TO WHETHER THE REQUEST TO DROP CHARGES WILL BE GRANTED. POST SPECULATES THAT THE COINCIDENCE OF DATES, THE CITATION OF THE SAME ARTICLE OF THE PENAL CODE, AND THE FIRM STANCE OF THE STATE AGAINST KIECKER POINT TO THE LIKELIHOOD THAT THE FEDERAL OFFICIALS WHO CLAIMED THAT KIECKER HAD BEEN VIRTUALLY DECLARED INNOCENT SIMPLY MISUNDERSTOOD THE INFORMATION ABOUT THE TORTURE INVESTIGATION.

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CURRENT STATUS OF CASE  
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5. KIECKER'S DEFENSE IS CURRENTLY PREPARING TO CONDUCT ITS OWN DNA TEST ON THE PURPORTED REMAINS OF VIVIANA RAYAS, FOLLOWING THE STATE'S RESULTS INDICATING A POSITIVE IDENTIFICATION (REF

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A). THIS DNA TEST IS THE LAST REMAINING MAJOR PIECE OF EVIDENCE IN THE TRIAL, AND THE DEFENSE WILL LIKELY BE GIVEN SIX WEEKS TO PROVIDE RESULTS TO THE COURT. THERE ARE SOME MINOR HEARINGS THAT ARE LIKELY TO TAKE PLACE IN THE MEANTIME, AND THEN THE PROSECUTION AND THE DEFENSE WILL MAKE FINAL ARGUMENTS. THEREFORE, KIECKER'S CASE IS UNLIKELY TO GO BEFORE THE JUDGE FOR A DECISION BEFORE EARLY SEPTEMBER AT THE EARLIEST.

PUCETTI

PARKER

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