

ACTION OCS-01

RELEASED IN FULL

INFO LOG-00 NP-00 CA-01 WHA-00 DS-00 UTED-00 TEDE-00
 LAB-01 SSO-00 SS-00 TEST-00 ASDS-00 DSCC-00 DRL-00
 G-00 SAS-00 /003W

-----90B64C 082319Z /38

R 081653Z AUG 03
 FM AMCONSUL CIUDAD JUAREZ
 TO SECSTATE WASHDC 9198
 INFO AMEMBASSY MEXICO
 ALL USCONS MEXICO 0865
 XMT MEXICO

UNCLAS CIUDAD JUAREZ 4919

CA/OCS/ACS/WHA JANIE A. FRIEDLEIN

E.O. 12958: N/A
 TAGS: CASC, PREL, PHUM, ASEC, ALOW,
 MX (KIECKER, CYNTHIA LOUISE)
 SUBJ: ARREST UPDATE: CONSULATE
 FOLLOWS UP ON PROTEST CONCERNING
 ALLEGATIONS OF POLICE TORTURE OF U.S.
 CITIZEN

REF: A) CDJ 2373 B) CDJ 0891 C) CDJ
 0379

1. SUMMARY: On August 6, 2003
 Consular Section Chief and ConAsst
 traveled to Chihuahua City to meet
 with the Chihuahua State Attorney
 General, Jesus Jose Solis Silva, to
 follow up on our June letter of
 formal protest citing alleged torture
 of Amcit Cynthia Louise Kiecker.
 Kiecker and her husband, who are
 accused in the disappearance and
 murder of a 16-year-old girl in
 Chihuahua City were arrested May 31,
 2003. They claim that the Chihuahua
 state police applied electric shocks
 to obtain videotaped confessions.
 Attorney General Solis, the top cop
 in a system which combines
 investigative and police powers, said
 that an investigation into the
 charges of torture was being carried
 out. Little has been done since we

formally requested an investigation on June 10, 2003.

2. Kiecker has been detained for two months and has not yet had a hearing before the judicial authorities to review the state's proof against her. The hearing functions as a trial, which is normally extended over at least a 6-8 month period. The judge has the power to find her guilty or innocent. There is no jury trial in Mexico.

3. On August 6, Judge Jesus Medina postponed the hearing for a second time and later recused himself from the case. The state's three main witnesses in the homicide were scheduled to appear at the hearing. In a June 30, 2003 press conference in Chihuahua City, the alleged witnesses recanted earlier statements implicating Kiecker and her husband. They said that they had been tortured by the Chihuahua State Police authorities to obtain false statements. Medina's postponement and recusal will lead to further delays in the case, which Kiecker's lawyer believes is being politically manipulated to avoid embarrassment to Governor Patricio Martinez' administration. END SUMMARY

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4. BACKGROUND: AMCIT and longtime Mexico resident Cynthia Kiecker and her Mexican husband were arrested on May 31, 2003 for homicide in Chihuahua

City. The evidence against them consisted of alleged eyewitness statements given by three friends of the couple. Ms. Kiecker claims she, her husband, and their friends were all tortured in an attempt by State Judicial Police to implicate them in an unsolved disappearance and murder of a young woman in that city in March 2003. The ACS chief visited her twice in June and found her story to be credible. Post officially protested her mistreatment on June 10 and formally requested a full investigation. END BACKGROUND.

5. On August 6, 2003 the Consular Section Chief traveled to Chihuahua City and met with the State Attorney General, Jesus Jose Solis Silva to follow up on the formal mistreatment protest letter delivered on June 10, 2003. We also protested the failure of the police to provide consular notification. The State Attorney General (PGE) provided an interim response, indicating that an investigation had been opened after it was requested by the American Consulate in Ciudad Juarez and was still ongoing. Solis' letter indicates that the PGE ordered a physical examination of Ms. Kiecker approximately two weeks after the alleged torture. The PGE indicates that it found no signs of torture. (Note: in a later conversation with Ms. Kiecker she acknowledged that she had been examined, but indicated that the shocks had left no marks). Solis also indicated that in their investigation the PGE had contacted the same witnesses that they were accused of torturing. The State Attorney General told the Consular Section Chief he estimated that the investigation would be concluded by early September 2003.

6. Solis listened carefully as we

explained his obligation under the Vienna Convention to provide consular notification. We noted that in recent memory his office had not met this obligation. He acknowledged the need to improve, but seemed relatively unconcerned.

7. The Consular Section Chief and the consular assistant traveled to Chihuahua City to be present at the hearing, which was to include testimony from Kiecker and her husband as well as from the three alleged witnesses. The hearing was abruptly cancelled the morning it was to have taken place. The Consular Section Chief met with Judge Jesus Medina to discuss the reasons for the postponement. Medina said he had decided to postpone the hearing two days due to an excessive workload in his court. Separately, Kiecker's lawyer told us that the State Supreme court informally indicated that Medina was intimidated by the number of reporters who showed up for the trial. Medina said that immediately following the August 6 postponement, Kiecker's attorney made a motion

requesting that the judge recuse himself from the case. On August 8, we learned that the judge had indeed recused himself from the case. This means that a new hearing will have to be scheduled on the docket of a different judge.

8. We visited with Cynthia Kiecker twice during the visit and spoke to her mother, who was in Chihuahua for the hearings. Kiecker was disappointed at the postponement, but otherwise in good spirits. She seemed to be in good health and reported no mistreatment by prison authorities. We met with the prison director, who was very helpful and provided prompt consular access to Kiecker.

9. Subsequently, ConSecChief and ConAsst met with Kiecker's attorney, Miguel Zapien de la Torre to discuss her case. He stated that the case is full of irregularities and he expressed doubts concerning Judge Medina's ability to provide a fair trial, hence the motion for recusal. Zapien believes that both postponements were politically motivated. He believes that the administration of Governor Patricio Martinez is manipulating the case to avoid negative publicity, and that Judge Medina is very susceptible to this pressure. The first hearings were scheduled during the Mexican national congressional elections. The second hearing was scheduled during the U.S-Mexico Border Governors conference. The idea that police torture suspects to extract confessions is widely believed in Chihuahua. Zapien believes that the Martinez administration is seeking to avoid embarrassment by delaying the hearing.

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