AGENCY INFORMATION

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DOCUMENT INFORMATION

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                FROM : ASST. GENERAL COUNSEL
                  TO : CHIEF HISTORICAL REVIEW GROUP
               TITLE : MEMO: TRIAL OF ROLANDO MASFERRER ROJAS
                DATE : 11/05/1993
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            SUBJECTS : JFK ASSASSINATION
                       DIOSADO

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SECRET

OGC 93-53509
5 November 1993

MEMORANDUM FOR: Chief, Historical Review Group

FROM: Robert J. Eatinger, Jr.
                  Assistant General Counsel
                  Litigation Division, OGC

SUBJECT: Trial of Rolando Masferrer Rojas   (S)

1.   Your staff requested information concerning the subject criminal trial because some records pertaining to this trial are contained in the segregated collection of JFK assassination records. These records indicate that CIA reimbursed the U.S. Customs service for the salary of Cesario Diosado, the U.S. Customs officer who arrested some of the defendants in the case. The records in your possession further indicate that the defense in the case intended to call Mr. Diosado as a witness. Two issues therefore arose:

a.   Did Mr. Diosado testify at the trial?

b.   Would public revelation that Mr. Diosado's salary was paid by CIA affect the convictions because of the statutory prohibition against CIA exercising any law enforcement powers?   (S)

2.   With respect to the first issue, OGC records show that Mr. Diosado did not testify at the trial. With respect to the second issue, the CIA General Counsel in a letter dated 31 October 1967 notified Assistant Attorney General J. Walter Yeagley of CIA's relationship with Mr. Diosado. In this letter, the General Counsel noted that the relationship "might raise a question of the validity of the arrest in view of the statutory prohibitions on the Agency against the exercise of any police, subpoena, or law-enforcement functions." We could not find a DOJ response to this letter in OGC files. (S)

3.   In light of the General Counsel's letter to AAG Yeagley, we must assume that DOJ determined in 1967 that Mr. Diosado's relationship with CIA did not affect the legality of the arrest or otherwise present information that had to be disclosed to the defense. However, release of the information undoubtedly would generate publicity and cause the convicted defendants to move to vacate their convictions by alleging the government improperly withheld information from them. Regardless of the legal merits of such a motion, DOJ would have to contest the matter in open court proceedings. Further, discovery might be sought of CIA records in order to define precisely Mr. Diosado's relationship
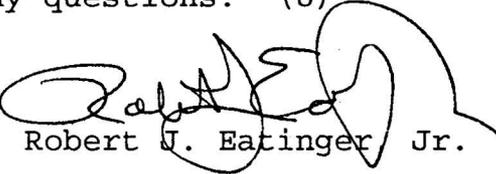
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SUBJECT: Trial of Rolando Masferrer Rojas   (S)

with CIA.   Therefore, if CIA's relationship with Mr. Diosado is to be released under the JFK Act, please advise me in advance of the release so I can give the DOJ Criminal Division the courtesy of a heads-up.   (S)

    4.   Please call me with any questions.   (U)

Robert J. Eatinger, Jr.

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DCI/OGC/LD RJE:ig 76105/ 4 Nov 1993

OGC-93-53509

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