

Current Class: [REDACTED]  
Current Handling: n/a  
Document Number: 1981BUENOS06275

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Channel: n/a  
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ACTION ARA-16

INFO OCT-01 ADS-00 INR-10 SS-15 CIAE-00 ICA-11 DODE-00  
H-01 NSC-05 NSAE-00 SY-05 HA-06 L-03 PM-09  
PA-01 MCT-02 SAL-01 CA-01 JUSE-00 SP-02 SPRS-02  
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R 261632Z AUG 81  
FM AMEMBASSY BUENOS AIRES  
TO SECSTATE WASHDC 0748  
INFO USCINCSO QUARRY HTS PN  
USCINCLANT NORVA

[REDACTED] SECTION 1 OF 2 BUENOS AIRES 6275  
ARGENTINA PROJECT (S200000044)  
U.S. DEPT. OF STATE, A/RPS/IPS  
Margaret P. Grafeld, Director

EO 12065: GDS 8/26/87 (FRIENDMAN, T.B.) OR-P  
TAGS: SHUM AR  
SUBJECT: PEN PRISONERS

Release ( ) Excise ( ) Deny  
Exemption(s): \_\_\_\_\_  
Declassify: ( ) In Part  In Full  
( ) Classify as ( ) Extend as ( ) Downgrade to  
Date \_\_\_\_\_ Declassify on \_\_\_\_\_ Reason \_\_\_\_\_

1. [REDACTED] - ENTIRE TEXT.

2. SUMMARY. SINCE PRESIDENT VIOLA TOOK OFFICE, ARGENTINE  
AUTHORITIES HAVE BEEN MAKING A MAJOR EFFORT TO REDUCE THE NUMBER  
OF PRISONERS HELD ON OTHER THAN COMMON CRIMINAL CHARGES -- ES-  
SENTIALLY THOSE ACCUSED OF TERRORISM OR SUBVERSION. THE TREND  
IS SLOWLY DOWN, AND THE TOTAL IN THESE CATEGORIES IS NOW ABOUT  
1350. THIS COMPARES WITH AN ESTIMATED 1600 SUCH PRISONERS ON  
JANUARY 1. BASED ON SEVERAL RELIABLE SOURCES, THERE ARE APPROX-  
IMATELY 860 PERSONS HELD UNDER THE EXECUTIVE STATE OF SEIGE "PEN"  
POWERS. OF THESE 860, APPROXIMATELY 550 ARE BEING HELD UNDER  
PEN POWERS ALONE, EITHER NEVER HAVING BEEN TRIED OR BEING RE-  
TAINED AFTER COMPLETING COURT SENTENCE. THIS MEANS THAT OF THE  
1350, SOME 800 ARE SERVING A SENTENCE METED OUT BY A CIVILIAN OR  
MILITARY COURT, OR HAVE BEEN FORMALLY CHARGED AND ARE ON, OR  
AWAITING, TRIAL. (SOME OF THESE 800 ARE ALSO HELD UNDER PEN).  
[REDACTED]  
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3. WE HAVE BEEN INFORMED BY SEVERAL GOA SOURCES THAT THE GOVERN-  
MENT INTENDS TO REDUCE THE TOTAL PEN POPULATION TO ABOUT 800

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BY THE END OF THE YEAR. THE TOTAL BEING HELD UNDER PEN ALONE WITHOUT CHARGES OR SENTENCE MAY DROP TO AROUND 500, WHOM THE MILITARY BELIEVE TOO DANGEROUS TO RELEASE. THE ARGENTINE AUTHORITIES HAVE APPARENTLY TAKEN A VERY CLOSE LOOK AT PEN PRISONERS WHO HAVE BEEN THE OBJECT OF CONGRESSIONAL INTEREST: OF 28 CONGRESSIONAL INTEREST CASES WHO SEEMED ELIGIBLE FOR RELEASE ON A LIST SUBMITTED BY THE EMBASSY TO THE GOA, 10 HAVE SUBSEQUENTLY BEEN RELEASED. AT THE REQUEST OF THE FOREIGN OFFICE, WE HAVE SINCE BROUGHT THE SAME LIST UP TO DATE FOR FURTHER CONSIDERATION BY TH AUTHORITIES. END SUMMARY.

4. FOR THE FIRST SEVERAL MONTHS OF THIS YEAR, THERE WAS ALMOST NO MOVEMENT ON PRISONER RELEASES BY THE ARGENTINE AUTHORITIES. THIS INACTION MAY HAVE REFLECTED THE NEAR PARALYSIS OF THE ARGENTINE AUTHORITIES AS THEY AWAITED THE ASSUMPTION OF PRESIDENT VIOLA AT THE END OF MARCH.

5. CERTAINLY, WITH THE NEW PRESIDENT IN PLACE, AND A NEW, ACTIVIST FOREIGN MINISTER, THE COMPLICATED MACHINERY WHICH DEALS WITH PRISONER RELEASES BEGAN TO FUNCTION, AND AT AN ACCELERATING PACE SINCE VIOLA CAME TO OFFICE. THE MECHANISMS FOR ACHIEVING THIS TREND, FORMAL AND INFORMAL, REMAIN CLOAKED IN PURPOSEFUL SECRECY. AS WE UNDERSTAND IT, HOWEVER, THE MAIN INSTRUMENT FOR CONCEDING OPTION, SUPERVISED LIBERTY AND ENDING OF PEN STATUS IS AN INTER-MINISTERIAL COMMITTEE PRESIDED OVER BY THE INTERIOR MINISTER, WHO HAS NO VOTE IN THE COMMITTEE'S DELIVERATION. THE FOREIGN MINISTRY HAS OBSERVER STATUS AT THESE MEETINGS. THUS, ALL DECISION IN THE COMMITTEE ARE MADE BY THE THREE REPRESENTATIVES OF THE ARMED FORCES WHO VOTE ON EACH CASE THAT IS BROUGHT FORWARD. DECISIONS MUST BE UNANIMOUS -- EITHER TO RETAIN A PEN

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PRISONER OR TO RELEASE HIM IN ONE OF THE VARIOUS CATEGORIES. CRITERIA FOR MAKING THE DECISION ARE BOTH THE PRISONER'S RECORD -- WHAT GOT HIM INTO JAIL -- AND HIS BEHAVIOR WHILE IN JAIL, WHICH WE ARE TOLD IS INCREASINGLY IMPORTANT. WE UNDERSTAND THAT PRISONERS MAY BE REQUIRED TO SIGN A STATEMENT RENOUNCING THEIR PAST ACTIVITIES -- AND THUS IMPLICITLY ACCEPTING GUILT-- BEFORE THEY CAN BE GIVEN RELEASE -- BUT THIS IS NOT FULLY ESTABLISHED.

5. WE RECENTLY LEARNED THAT THERE IS YET ANOTHER MECHANISM BY WHICH PEN PRISONERS CAN OBTAIN RELEASE OR OPTION. WE UNDERSTAND EACH SERVICE HAS SORT OF PROPRIETARY RIGHT OVER THOSE WHO IT DETAINED. IF THAT SERVICE DECIDES THAT THE PRISONER'S PAST RECORD

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AND COMPORMENT WHILE IN JAIL JUSTIFY GRANTING HIM OPTION OR

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INFO	OCT-01	ADS-00	INR-10	SS-15	CIAE-00	ICA-11	DODE-00
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RELEASE, IT CAN TAKE THE INITIATIVE TO OBTAIN, OUTSIDE THE PRU-  
VIEW OF THE INTER-MINISTERIAL COMMITTEE, THE CONSENT OF THE  
OTHER SERVICES FOR SUCH RELEASE OR ACTION. THE OTHER SERVICES  
GO ALONG AS A MATTER OF COURSE. THE ARMY CONDUCTS A REVIEW OF ITS  
PRISONERS TWICE ANNUALLY. IT WAS THE LAST REVIEW, WE ARE TOLD,  
THAT LED TO THE RELEASE OF SEVERAL OF THE HIGH US INTEREST  
CASES RECENTLY. THE NEXT SUCH ARMY REVIEW SHOULD TAKE PLACE  
TOWARDS THE END OF THE YEAR.

7. AS A RESULT OF THE DRIVE TO FREE AS MANY AS THE AUTHORITIES  
DEEM PRUDENT FROM A SECURITY ANGLE, THE TOTAL NUMBER OF PRI-  
SONERS NOW IN JAIL ON OTHER THAN COMMON CRIMINAL CHARGES, AS  
EITHER SUBVERSIVES OR TERRORISTS, TOTALS APPROXIMATELY 1350, AS  
OPPOSED TO 1600 AT THE BEGINNING OF THE YEAR. (WE HAD EARLIER  
ESTIMATED THE JAN. 1 FIGURE AS 1550 BUT ON THE BASIS OF NEW  
INFORMATION THAT NOW SEEMS TO HAVE BEEN A BIT LOW). OF THESE,  
860 ARE BEING HELD UNDER PEN; 550 UNDER PEN ALONE AND THE OTHER  
300 OR SO UNDER PEN AND FORMAL CHARGES OR SENTENCE. THE 550 WHO  
ARE UNDER PEN ALONE ARE INDIVIDUALS WHO HAVE NEVER BEEN FOR-  
MALLY CHARGED OR WHO HAVE COMPLETED A SENTENCE BUT WHO THE AUTH-  
ORITIES BELIEVE ARE TOO DANGEROUS TO RELEASE, INCLUDING BENI-  
FICIARIES OF A 1973 AMNESTY BY PRESIDENT CAMPORA WHO WERE SUB-

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SEQUENTLY RE-ARRESTED. A HANDFUL OF THE PEN PRISONERS ARE SPECULATORS IN JAIL ACCUSED OF "ECONOMIC SUBVERSION", AND THERE IS ONE FORMER MINISTER OF THE LAST PERON GOVERNMENT ALSO BEING HELD UNDER PEN.

8. THE FIGURES WE CITE ABOVE ARE OUT BEST ESTIMATES BASED ON SOURCES WE BELIEVE ARE RELIABLE. THE FIGURES AND CATEGORIES INVOLVED IN THE GOA'S PRISONER HOLDINGS ARE BEWILDERING, EVEN FOR MANY OF THE GOVERNMENT OFFICIALS INVOLVED, AND ANY QUICK CALCULATION BASED ON THE NUMBER OF NAMES ON DECREES IS MISLEADING. THE GOA HAS BEEN RELEASING LISTS OF NAMES OF PRISONERS WHO HAVE BEEN GRANTED SUPERVISED LIBERTY, RELEASED FROM PEN OR, IN A FEW CASES, BEEN GIVEN OPTION TO LEAVE ARGENTINA. THE NUMBER OF NAMES ON THESE LISTS MIGHT SUGGEST A SOMEWHAT LOWER FIGURE FOR PRI-9,34 8, -)) :-53&9483 . HOWEVER, ON CLOSER EXAMINATION THE DECLINE IN PRISONERS IS NOT AS GREAT AS IT SEEMS, E.G. THE LISTS INCLUDE PEOPLE WHO WERE RELEASED, FOR EXAMPLE, SIX MONTHS AGO, ON SUPERVISED LIBERTY, AND ARE NOW BEING DROPPED FROM PEN AND FREED TOTALLY.

9. THOUGH THE TREND IS CLEARLY DOWN, WE DO NOT FORESEE IT GETTING TO ZERO IN THE NEAR FUTURE. THE REMAINING 550 PRISONERS WHO ARE BEING HELD UNDER PEN ALONE WILL PROBABLY BE TRIMMED FURTHER. IN THE PAST, WE HEARD THAT THE GOA WANTED TO GET IT DOWN TO 400 EVENTUALLY. THESE, WE ARE TOLD, WILL BE PRISONERS WHO THE GOA CONSIDERS TOO DANGEROUS TO RELEASE. SOME OF THEM WERE BENEFICIARIES OF THE CAMPORA AMNESTY IN 1973 AND CANNOT BE TRIED AGAIN. OTHERS ARE MEN AND WOMEN WHO COMPLETED THEIR SENTENCES BUT WHO THE GOA IS UNWILLING TO LET OUT OF JAIL ON SECURITY GROUNDS. IN THE MONTHS AHEAD AS SENTENCES ARE COMPLETED THIS LATTER GROUP WILL CONTINUE TO ADD NUMBERS TO THE PEN CATEGORY EVEN AS OTHERS ARE DROPPED FROM IT.

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10. IN THE PAST, THE SECURITY FORCES HAD DE FACTO SOLE POWER OVER THE PEN PRISONERS. THROUGH A NUMBER OF DECISIONS THIS YEAR, THE COURTS HAVE REASSESSED THEIR RIGHT TO SUBJECT PEN DETENTIONS TO JUDICIAL REVIEW. THE MOST IMPORTANT OF THESE WAS THE MOYA DECISION (BUENOS AIRES 4312), WHICH POINTED TOWARD THE ESTABLISHMENT OF DUE PROCESS FOR ALL PEN PRISONERS.

11. FINALLY, WE NOTE THAT OF A LIST CONTAINING 28 PEN PRISONERS WHO MIGHT BE ELIGIBLE FOR RELEASE IN WHICH THERE HAD BEEN

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CONGRESSIONAL INTEREST SUBMITTED TO THE FOREIGN MINISTRY LAST APRIL, 10 HAVE NOW BEEN EITHER FREED ENTIRELY OR PLACED UNDER SUPERVISED LIBERTY. WE HAVE RECENTLY UPDATED THIS LIST FOR THE FOREIGN MINISTRY. OUR CONTACTS IN THE MINISTRY MAKE IT VERY CLEAR THAT THE GOA IS SEEKING TO CLEAR UP AS MANY OF THE CONGRESSIONAL INTEREST CASES AS POSSIBLE IN AN EFFORT TO INFLUENCE A FAVORABLE OUTCOME ON HUMPHREY-KENNEDY.  
SHLAUDEMAN

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