

The Forbidden Files: Creation and Use of Surveillance Files Against the Independence Movement in Puerto Rico

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Abstract

The discovery in 1987 that the Puerto Rican police had maintained thousands of secret files on alleged subversives opened up a dark part of the history of the island. After a brief review of the political status of Puerto Rico under rule by the United States, this article discusses the secret surveillance files, their creation and maintenance, and what happened to the files after they were discovered. It also considers some of the archival issues involved in the proper management of these very sensitive and political records.

In 1987, it was discovered that the Intelligence Division of the Police of Puerto Rico had secretly compiled files on alleged subversives. A total of 16,793 dossiers and 151,541 reference cards were found in the archives of the Intelligence Division. These files document one of the darkest periods in the history of Puerto Rico and in the relationship between Puerto Rico and the United States. People supporting the independence movement, *independentistas*, were under constant surveillance because of their political ideology.

Providencia Trabal was a leader in the Independence Movement in Puerto Rico, and her testimony at the Public Hearings of the Civil Rights Commission of the Commonwealth of Puerto Rico in 1987 exemplifies the level of surveillance against people who believed in independence for the island:

The Pro-Independence Movement was founded in my house twenty-seven years ago. From that moment on, me, my husband and my sons have been victims of one of the most brutal repressions in this country. We were persecuted during two or three years for twenty-four hours, every eight hours agents changed. The agents always acted in a provocative way, for example, if I went out of my house, they persecuted me, they provoked me, they told me

insolent things. Wherever we went the agents were watching us twenty-four hours a day.¹

This article discusses issues regarding the use and creation of these files, including the activities of the Intelligence Division of the Police of Puerto Rico as well as the special role of the U.S. Federal Bureau of Investigation (FBI) in both conducting and supporting surveillance work. Finally, this article analyzes the current archival issues regarding the preservation and management of surveillance files. But first, a general historical background of some political developments in Puerto Rico since 1898 will provide a useful context.

Puerto Rico after the U.S. Occupation

During the Spanish-American War, on 25 July 1898, U.S. troops led by Gen. Nelson A. Miles disembarked in Puerto Rico. For this island in the Caribbean, this event marked the end of 400 years of colonization by Spain and offered a ray of hope for many Puerto Ricans who believed this promise proclaimed by General Miles:

We haven't come to make war against the people of a country that has been oppressed over some centuries, but to the contrary, to give you protection, . . . promoting your prosperity and spreading the guarantees and blessings from the institutions of our Government.²

This sense of hope held by the people of Puerto Rico did not last long. Military rule was established for approximately two years. Changes to this military government started on 2 April 1900 with the Foraker Act. Sponsored by Sen. Charles Benson Foraker, the act's purpose was to regulate political and economic relations between Puerto Rico and the United States. Among the provisions of the act, a Chamber of Delegates was established, consisting of thirty-five members elected by the citizens of Puerto Rico every two years. However, the president of the United States and the Congress maintained total control over the decisions affecting Puerto Rico. The Foraker Act underwent changes on 2 March 1917, with the Jones-Shafroth Act, which replaced the Chamber of Delegates with a legislative assembly composed of a senate and a house of representatives. But, most significantly, it conferred U.S. citizenship on Puerto Ricans. These new provisions did not diminish the United States government's control over Puerto Rico.

¹ Ramón Bosque-Pérez and José Javier Colón-Morera, eds., *Las carpetas: persecución política y derechos civiles en Puerto Rico (ensayos y documentos)* (Río Piedras, P.R.: Centro para la Investigación y Promoción de los Derechos Civiles, 1997), 167. Translation by Joel A. Blanco.

² Eugenio Fernández Méndez, *Historia ilustrada de un pueblo: la evolución puertorriqueña* (Sharon, Conn.: Troutman Press, 1977), 154. Translation by Joel A. Blanco.

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During the first thirty years of occupation, reactions to the U.S. government's control over the island came mainly from political parties in Puerto Rico. One of the most outspoken was the Union Party. Founded in 1904, this party insistently asked for a solution regarding the political status of Puerto Rico, although it did not support a specific ideology. With supporters of statehood, autonomy, and independence among its members, the Union Party dominated all other organizations from 1904 to 1928. During this period, it controlled the legislative assembly and openly challenged U.S. decisions affecting Puerto Rico. But its ideological diversity also created difficulties within the party. Independence supporters left the party and in 1912 founded the Party for Independence, the first political organization to exclusively support independence for Puerto Rico. Finally, in 1922, the Union Party eliminated independence as one of the solutions to Puerto Rico's political status, leading to the founding of the National Party.

Puerto Rican journalists were also very outspoken, criticizing the United States' handling of the island. It could be argued that they were the first victims of political persecution by the U.S. government.³ Journalists who supported independence and opposed U.S. actions in Puerto Rico after the occupation in 1898 were imprisoned and their publications and newspapers censored because of their opinions against the government ruling.

The Nationalist Party brought a different approach to the defense of independence. The main leader of the party was Pedro Albizu Campos, a brilliant lawyer who received his degree from Harvard. Initially, Albizu was a member of the Union Party and promoted a plan to unify all Puerto Ricans against the colonial system. However, the decision of the Union Party to eliminate independence as an option along with the lack of action by the U.S. government to solve the status question led him to join the Nationalist Party. Albizu became its president in 1930. During the 1930s, Albizu openly challenged the government of the United States in Puerto Rico and invited Puerto Ricans to initiate an armed revolution to obtain independence and end the colonial system. This situation led to one of the most violent decades in the history of the island. In 1936, Albizu was charged along with other members of the Nationalist Party and found guilty of trying to overthrow the government. After spending eleven years living in a prison in Atlanta and a hospital in New York, Albizu returned to Puerto Rico, where he continued to propagate his revolutionary message against the U.S. government.

In 1948, Puerto Ricans were allowed for the first time to elect their governor, whom the president of the United States had previously selected. Luis Muñoz Marín, senator and founder of the Democratic Popular Party, believed that the results of this election would determine the political and economic

³ José Paraltici, "Encarcelamiento de luchadores anti-coloniales: 1898–1958," in *Las carpetas: persecución política y derechos civiles en Puerto Rico: ensayos y documentos*, ed. Ramón Bosque Pérez and José Javier Colón Morera (Rio Piedras, P.R.: Centro para la Investigación y Promoción de los Derechos Civiles, 1997), 237–51.

future of Puerto Rico. This could be an opportunity to demonstrate that enough political stability existed to make economic changes.

The Democratic Popular Party (*Partido Popular Democrático*) was founded in 1938. Under the leadership of Muñoz Marín, who early in his political career supported independence, the party sought social changes to fight poverty and hunger. Among the members were many independence supporters. However, Muñoz's language regarding political status changed dramatically. The party concentrated on dealing with economic issues first. Muñoz believed that independence was not a beneficial option for Puerto Rico, and this caused independence supporters to withdraw from the Democratic Popular Party and to establish, on 20 October 1946, the Independence Party (*Partido Independentista Puertorriqueño*). In addition, Pedro Albizu Campos had been released and had returned to Puerto Rico. The pro-independence movement was gaining support from the people, impelling the insular and U.S. governments to take new measures to control the situation.

On 21 May 1948, very late at night, the Legislative Assembly of Puerto Rico approved Law Number 53, which declared it a felony to foment the overthrow of the government by force. It also prohibited organizing groups that preach such things.⁴ Better known as *Ley de Mordaza* (Gag Law), this legislation did not fulfill its purpose of containing Albizu and the independence movement. To the contrary, it created an environment of persecution of every independence organization.

On 30 October 1950, the Nationalist Party attempted an armed revolt, but it was not successful. Governor Luis Muñoz Marín ordered mass arrests of all the Nationalists in Puerto Rico. To find them, the government used a list from the 1930s of supposed subversives. People who were not Nationalists, such as members of the Democratic Popular Party and the Independence Party, and had nothing to do with the revolt were arrested because they were on the lists. In two days, approximately a thousand citizens were arrested.

Nationalists' actions also took place in the United States. On 1 November 1950, Oscar Collazo and Griselio Torresola assaulted Blair House, the temporary Washington residence of President Harry Truman. Torresola and one guard died during a shootout. Oscar Collazo and two other guards were wounded. According to Collazo, their motivation was to create a scandal that would focus world attention on the political situation of Puerto Rico. He said that the attempted assassination of President Truman was secondary and not important to reach their goal. But instead of moving people to address the political situation, this event, along with the Nationalists' revolt, caused the media and both the U.S. and local governments to label them as terrorists.⁵

⁴ Ivonne Acosta, *La Mordaza: Puerto Rico 1948–1957* (Río Piedras, P.R.: Editorial Edil, 1989), 13.

⁵ Ronald Fernandez, *The Disenchanted Island: Puerto Rico and the United States in the Twentieth Century*, 2nd ed. (Westport, Conn.: Praeger, 1996), 182–83.

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In the 1960 elections, the independence movement received only 25,000 votes, but the FBI acknowledged that this number was not representative of the *independentistas* in Puerto Rico. The low vote total was attributed primarily to the campaign of electoral abstinence by the Movement for Independence and other pro-independence organizations. FBI director J. Edgar Hoover urged better efforts to disrupt the activities of *independentistas*. These efforts included the use of informants and the creation of dissension within groups by sending handwritten notes and letters with vicious personal attacks on pro-independence leaders.⁶ This campaign of disruption intensified during the 1967 plebiscite and the 1968 elections. In addition, the police of Puerto Rico were directly involved in the surveillance of *independentistas*, including nonviolent organizations, and engaged in illegal tactics to disrupt subversive groups. These tactics, promoted with a mentality to fight terrorism by any means possible, were primary causes of the dramatic events at Cerro Maravilla.⁷

The Events at Cerro Maravilla

The tragic events at Cerro Maravilla, a mountain located at the center of Puerto Rico, led to the discovery of the secret police files. In 1978, Cerro Maravilla became the scene of the murder of two young *independentistas* by the Puerto Rican police. What was considered merely an act of self-defense by the police later became one of the darkest scandals in Puerto Rican history.⁸ On 25 July 1978, Arnaldo Darío Rosado, twenty-five years old, and Carlos Soto Arriví, nineteen, headed to Cerro Maravilla with secret agent Alejandro Gonzalez Malavé. They were planning to sabotage the satellite towers located at the mountain. But the police were waiting for them. According to the police version, shooting erupted between them and the perpetrators, resulting in the deaths of Darío Rosado and Soto Arriví. The police claimed that they acted in self-defense. However, a 1983 investigation by the Judicial Commission of the Senate of Puerto Rico uncovered another story. As indicated in its final report, the commission concluded that according to the evidence analyzed during the investigation:

. . . what took place was clearly a planned act of entrapment against the life of Carlos Soto Arriví and Arnaldo Darío Rosado, and that they were taken there

⁶ Fernandez, *The Disenchanted Island*, 212–13.

⁷ Edgardo Perez Viera and Juan M. Garcia Passalacqua, *El juicio de la historia: contrainsurgencia y asesinato política en Puerto Rico* (San Juan, P.R., 1999). Translation by Joel A. Blanco.

⁸ For more information on the events at Cerro Maravilla, see Manuel Suarez, *Two Lynchings on Cerro Maravilla: The Police Murders in Puerto Rico and the Federal Government Cover Up* (San Juan, P.R.: Editorial Instituto de Cultura Puertorriqueña, 2003).

by the Police intentionally, maliciously, fully aware that they were going to be entrapped and illegally murdered.⁹

These murders were part of a plan by the police and the Security Council to demonstrate a show of force against the independence movement. The police prepared an ambush to kill both Darío Rosado and Soto Arriví. The investigation revealed that both men surrendered and did not offer any resistance. What is the relationship between this event and the case of the surveillance files? A former agent of the Intelligence Division, William Colón Berríos, was found guilty of conspiracy and perjury for concealing the murders at Cerro Maravilla. In 1987, prior to his sentencing, Berríos explained during a radio interview how the Intelligence Division created files of alleged subversives. He also said Carlos Lopez Feliciano, superintendent of the police at that time, had a file in the Intelligence Division because he sympathized with the *independentistas*.¹⁰ The Pandora's box was opened.

Preparation of Files

Many events happened after the discovery of these files, so only the most significant will be explained in this paper. One important event was the investigation by the Civil Rights Commission of the Commonwealth (CDC) of Puerto Rico in 1987. The CDC's final report presents a complete description of the Intelligence Division's processes for creating these files. This report outlines the process by which the files were prepared, the recordkeeping processes associated with the files, and the uses to which the files were put.¹¹

Intelligence Division

The Intelligence Division had one central office and six regional units across Puerto Rico. These regional units created and managed files of citizens and organizations. These files were then transferred to the headquarters of the division. Nine sections functioned at the headquarters with specific tasks for each: Employment, Specialists, Confidants, Study and Analysis, Special Services, Labor Management, Clandestine, Foreigners, and Front.

The Employment Section investigated candidates for employment by the police and made "security checks" regarding their political ideology. If a candidate

⁹ Perez Viera and García Passalacqua, *El juicio de la historia*, 4. Translation by Joel A. Blanco.

¹⁰ José Martínez Valentín, *Cien años de carpeteo en Puerto Rico, 1901–2000* (San Juan, P.R., J.E. Martínez Valentín, 2001), 108.

¹¹ The report was published in *Revista del Colegio de Abogados de Puerto Rico* 51 (Octubre–Diciembre 1990) and 52 (Enero–Marzo 1991).

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was an *independentista*, he or she was automatically excluded of any consideration. The commission's investigation also found that this section shared information with private companies, such as hotels and pharmaceutical industries. These companies contacted the police to check if a given candidate had any record as a subversive.¹²

The main task of the Specialists Section was to investigate supposed "subversive" groups and organizations. Agents from this section studied the records of members of organizations, and the organizations themselves, including days and places of meetings. In addition, these agents recruited confidants and informers to infiltrate the organizations. Within this section was a unit called Front ("Frente"). The Intelligence Division believed that "subversive" groups created political and legitimate organizations to cover alleged illicit activities, naming this practice *frente*. The unit's tasks were to identify these organizations and investigate all their activities.

The Confidants Section coordinated the use of secret agents and confidants. This section maintained information about the confidants and informers recruited by agents. However, it is important to note that all the information reported by confidants was kept by this section. Copies of these reports were sent to the Analysis Section. Below I will explain in more details the work of the confidants.

The report of the CDC indicates that the Analysis Section should be considered the spinal column of the Intelligence Division because it was in charge of processing all the information received from agents, confidants, and other sections. This information included transcripts of speeches and conferences, audiovisual material, and photographs of activities. Although the functions of this section were of major importance, it lacked specific norms and criteria for the processing of all the information. Simply put, its task was to process all the information received, with minimal procedures for its arrangement and appraisal.

The four sections described above were considered the main sections of the Intelligence Division, given the fact that they worked with the most important and broadest issues: agents, confidants, employment, and recordkeeping. The other sections, Special Services, Clandestine, Foreigners, and Labor Management, had even more specific tasks. The Special Services Section was in charge of providing protection and escort to dignitaries visiting Puerto Rico. But it also served the governor, checking in advance the security of the places the governor was scheduled to visit. The Clandestine Section was in charge of detecting the presence of clandestine groups that were seeking the overthrow of the government by the use of violence. This section used as its headquarters an office located at Fort Buchanan, which belongs to the U.S. Army. The Foreigners Section investigated

¹² "Informe sobre discrimen y persecución por razones políticas: la práctica gubernamental de mantener listas, ficheros y expedientes de ciudadanos por razón de su ideología política," *Revista del Colegio de Abogados de Puerto Rico* 51 (Octubre-Diciembre 1990): 103-4.

and watched foreign individuals, especially those from Cuba and the Dominican Republic, who were supporters of independence for Puerto Rico. The Labor Management Section investigated the alleged “subversive elements” involved in labor unions. Confidants infiltrated these unions to gather information about their actions.

The Intelligence Division worked along with other units and divisions within the government of Puerto Rico. For example, the division worked closely with the Office of Special Investigations (*Negociado de Investigaciones Especiales*, NIE), which is a branch of the Justice Department of the Commonwealth of Puerto Rico. The NIE works mostly with cases related to organized crime and government corruption among others. Surveillance files were found in this office, although it is not clear what the office did regarding profiling and surveillance of *independentistas*.

Agents and Confidants

The Intelligence Division gained direct access to information about groups and persons by the use of secret agents and confidants. Secret agents were members of the division, while confidants were not employed as police but were recruited by the division. The Confidants Section handled training and implementation of spying techniques to obtain information from organizations and individuals. In regard to the training of agents, a confidential instruction manual titled *Investigative Process of the Intelligence Office* gives a clear idea of how sophisticated and well planned this process was. But most importantly, it demonstrates that the Intelligence Division and the agents knew that what they were doing was illegal. The manual indicates the following:

If we fail in this work we will be exposed and processed criminally for violating the civil rights of these individuals. This is correct, because our investigations are about individuals that profess separatists ideas and if they discover that we are watching them, then they will allege that we are persecuting and repressing them because of their political ideas, and as we all know, all this is prohibited by our Constitution.¹³

One of the testimonies included in the CDC report came from a woman who was working for the Health Department prior to her recruitment by the Intelligence Division. Her job was to infiltrate the organization *Cruzada Pro Rescate de Vieques*, a pacifist group protesting the U.S. Navy’s military practices on the island of Vieques. Her infiltration was so successful that she became the secretary of the organization and shared all the minutes and records of the group with the police.¹⁴

¹³ Bosque-Pérez and Colón-Morera, eds., *Las carpetas*, 162.

¹⁴ “Informe sobre discrimin y persecución por razones políticas, 109–14. Also available at <http://www.cipdc.org/ConfiesaInformante.htm>.

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The decision to infiltrate an organization or watch an individual might result from a request by any agent in the Analysis Section. This request was sent to the Confidants Section. As explained above, the Confidants Section kept the reports of confidants and a copy was given to the Analysis Section to be processed. Agents and confidants were pervasive. At the CDC hearings, former agent Diego Robles explained one of the most common tactics.¹⁵ To present agent Robles's story, I will call the subject under surveillance Pedro. The agent would go to Pedro's neighborhood to interview neighbors without telling them the real purpose of his investigation. To accomplish this, the agent would show a photo of any convicted individual to the neighbors, telling them that he is looking him and that he was told he lives at the house next to theirs (Pedro's house). The neighbors then would tell the agent that the information is false, that the person at the house he indicates is Pedro. Eventually, the agent would go to Pedro's house and talk to his mother, telling her that he is looking for the ex-convict. Pedro's mother would tell the agent that it is her son, Pedro, who lives there. While talking to Pedro's mother, the agent would look around the house and see a photo of a pro-independence political leader and the flag of Puerto Rico. These items would convince him that the subject under surveillance was an *independentista*. When the files were released, the victims of persecution discovered a shocking fact. In many cases, neighbors, close friends, and relatives had acted as confidants.

The Files

The processes involving the preparation and recordkeeping of these files were complex. A reference index card was prepared with information about the subject under surveillance. This data included address, social security number, and confidential information. If the index card did not have a photo, the agent obtained it by requesting a copy of the subject's driver's license from the Department of Transportation. When an agent had sufficient information he or she began to observe the subject to document all the "subversive" activities in which the subject participated. When the agent had documented four such activities, a full dossier was opened.

The recordkeeping processes of the Study and Analysis Section were simple. The section's responsibility was to file all the information it received. There were no policies or restrictions in terms of file content or veracity of information; everything was kept. Many victims who later reviewed their files found false or exaggerated information. The files were arranged according to case file numbers assigned in a master registry book. All the files were kept indefinitely;

¹⁵ Bosque-Pérez and Colón-Morera, eds., *Las carpetas*, 134–37.

there was no mechanism to dispose of them even if a person died or changed his or her ideology.

On 21 July 1987, the Center to Arrange Confidential Records was created by executive order, and lawyer Migdalia Fraticelli Torres was named executive director of the center. The exact quantity of records prepared by the police of Puerto Rico was disputed, so one of the first tasks of the center was to count the files. The center made an inventory of the files, rejecting duplicates. Its final inventory counted

- 15,589 dossiers of individuals
- 1,204 dossiers of organizations and activities
- 151,541 index cards
 - 74,412 of individuals
 - 60,776 of vehicles and crafts
 - 5,000 reference cards from the Office of Special Investigations (NIE)¹⁶

Lawsuits and Trials

The discovery of the files created problems concerning privacy, confidentiality, and the legal status of third persons mentioned in the documents. Furthermore, what was to be done with these files? On 17 June 1987, House of Representatives member David Noriega, from the Independence Party, presented Information Request number 167, requesting the list of citizens and organizations considered subversive by the Intelligence Division. This petition was approved unanimously by the House of Representatives on June 23. On July 6, *Claridad*, a pro-independence publication, published a list of alleged subversives, and that same day Governor Rafael Hernandez Colón admitted the existence of surveillance files against *independentistas*.¹⁷ During a press conference the next day, Governor Hernandez Colón expressed his intention to order the destruction of the files. This declaration led Representative Noriega to present an injunction petition at the Superior Court in San Juan to safeguard the files from being destroyed. On 14 September 1987, Judge Arnaldo López Rodríguez of the Superior Court declared the practice of creating surveillance files unconstitutional, recognized the right of the victims to receive their own files, and established mechanisms for this process. In addition, Judge Lopez authorized the exclusion of the names of agents and confidants.

But the conflict was far from over. Exactly how the files were going to be distributed to the victims was not specified. On 9 January 1987, Judge Lopez issued a court order naming lawyers Abrahán Díaz González and Angel M. Martín as

¹⁶ Migdalia Fraticelli Torres, *Informe Final de la Directora Ejecutiva al concluir las Gestiones del Centro para Disponer Documentos Confidenciales* (San Juan, P.R., 7 Octubre 1993), 16–17.

¹⁷ Torres, *Informe Final de la Directora Ejecutiva*, 4.

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judicial commissioners responsible for fulfilling the court order to give the files to the victims. They would also evaluate confidentiality issues surrounding the process. An intense battle regarding confidentiality began. Approximately five months later, on 23 June 1989, the judicial commissioners presented a report recommending that the names of third persons be disclosed, but the names of agents and confidants erased. The government argued against the recommendations, urging greater confidentiality for the names of third parties in the files. Conversely, the Puerto Rican Institute of Civil Rights (IPDC) opposed the recommendations because the names of the agents were going to be erased. These arguments continued until the Superior Court declared the recommendations made by the commissioners to be legal. However, the Superior Court revoked Judge López's decision regarding the erasure of the names of agents and confidants. Then the Supreme Court ruled that the names were not to be erased and gave 1 September 1989 as the date to begin the process of distributing the files to the victims. The government appealed the injunction, paralyzing the process of giving the files to the victims. Finally, on 30 June 1992, the Supreme Court upheld the decision of the Superior Court not to erase the identities of the agents, confidants, and third persons. The Supreme Court established a deadline one year later for victims to claim the records. The process of releasing the files began officially on 17 August 1992. As Migdalia Fraticelli Torres explained during a public hearing on 26 March 2002, the Center to Arrange Confidential Records distributed a total of 6,608 dossiers from the police, 953 dossiers from the Office of Special Investigations, and 34,056 index cards from both agencies.¹⁸ The Superior Court established procedures for the distribution of the files that consisted of the following phases: notifying the victim about the existence of the documents, processing the victim's request, identifying and organizing all documents belonging to the individual, authenticating all the dossiers integrated in the file, and notifying the individual that the file was ready.¹⁹ This procedure was created to respect the confidentiality of victims.

Implementing the court-ordered procedures, though, posed problems for the Center to Arrange Confidential Records. First, the files were not well organized by the Study and Analysis Section, and no real analysis of the records had been made. The center also had problems organizing all the documents belonging to one individual and then authenticating them. Every document was submitted first for judicial scrutiny. Fraticelli Torres pointed out in a 1997 interview that much of the information was false and included incongruities between first and last names, addresses, and social security numbers. The problems found in the organization of the files presented obstacles in the distribution process. In

¹⁸ *Ponencia de la profesora Migdalia Fraticelli Torres ante la Comisión de Gobierno de la Cámara de Representantes de Puerto Rico sobre el P. de la C. 878*, 14a Asamblea Legislativa, 1ra Sesión Ordinaria, 26 Marzo 2002, 5.

¹⁹ Torres, *Informe Final de la Directora Ejecutiva*, 27.

addition, the center was not able to distribute all the files due to the fear expressed by some victims who did not want to remember their past sufferings.²⁰ After the deadline, the unclaimed files were stored in the Confidential Archive of the Judicial Branch, where the files would be closed to the public until 30 June 2003. On 29 September 2003, the same day of his retirement, the president of the Supreme Court of Puerto Rico, Judge José A. Andréu García, signed an administrative order to authorize the destruction of the files. This order generated public opposition, including a letter sent by Congressman José E. Serrano to Governor Sila María Calderón urging her to prevent the destruction of the files.²¹ On November 3, the interim president of the Supreme Court of Puerto Rico, Judge Francisco Rebollo López, signed an administrative order to prohibit the destruction of the files.²² This order also established 1 December 2003 as a starting date to reopen the process releasing the files to the victims, with December 30 as the deadline. After this date, all unclaimed files would be transferred to the University of Puerto Rico for preservation. The General Archive of Puerto Rico protested the decision regarding the final destination of the files claiming that by law the archive, not the University of Puerto Rico, is the repository for all documents generated by government agencies.²³ This dispute has delayed the transfer of unclaimed files, which are still deposited at the Confidential Archive of the Judicial Branch. Meanwhile, victims seeking compensation for the violation of their civil rights filed lawsuits. On 31 July 1990, the Puerto Rican Institute of Civil Rights sued the Commonwealth of Puerto Rico. The IPDC requested a class action suit, but it was not accepted as such by the court. Because of this, each case is managed individually, with some still pending.

In response to the legal complaints, on 14 December 1999, Governor Pedro Rosselló González signed an executive order to publicly acknowledge the injustice caused by the creation and maintenance of records on citizens for ideological reasons.²⁴ It also offered a public apology from the government and assigned funds for the compensation of victims who met certain requirements. However, not all the plaintiffs decided to accept the compensation.

²⁰ "A formar vigilantes. . . de la libertad: A diez años, las lecciones del caso de las carpetas," *Dialogo*, Octubre 1997. Also available at <http://www.cipdc.org/formar.htm>.

²¹ "Llamamiento para preservar las carpetas," *El Nuevo Día*, 2 Noviembre 2003.

²² Tribunal General de Justicia. Estado Libre Asociado de Puerto Rico. Orden Administrativa EM-2003-8. *Disposición de carpetas*, 3 Noviembre 2003, <http://www.tribunalpr.org/prensa/carpetas.html> (accessed 15 March 2005).

²³ "Reclamo de poder sobre las carpetas," *El Nuevo Día*, 6 Noviembre 2003.

²⁴ Gobierno de Puerto Rico. La Fortaleza. Orden Ejecutiva 1999-62, *Orden Ejecutiva del Gobernador de Puerto Rico para Reconocer Públicamente la Injusticia Ocasionada por las Carpetas*, 14 Diciembre 1999, <http://www.cipdc.org/orden9962.htm> (accessed 31 March 2005). Translation by Joel A. Blanco.

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The Role of the FBI

The investigation by the Commission of Civil Rights of Puerto Rico also revealed that the FBI had a role in the persecution of alleged subversives in Puerto Rico. During his testimony, Juan B. de la Cruz Marrero, a former agent of the Intelligence Division, indicated that federal agents had the authority to personally examine files retained in the division. He also indicated that the Intelligence Division and the FBI shared information. Furthermore, registration documents maintained by the police show that FBI agents studied files. In addition to sharing information, the Intelligence Division also conducted investigations in coordination with FBI agents. Sometimes agents from both agencies worked together during the surveillance of persons and organizations. The FBI engaged in other activities to disrupt the independence movement. During the 1960s and early 1970s, the FBI tapped phones and planted informers and provocateurs in pro-independence organizations, sowing discord among *independentistas*. All this was part of COINTELPRO (Counter Intelligence Program), created by former FBI director J. Edgar Hoover in the 1950s to disrupt the Communist Party of the United States. In November 1960, Hoover extended the program to try to disrupt the independence movement in Puerto Rico.

On 16 March 2000, during an FBI budget hearing, Congressman José E. Serrano of New York asked Louis J. Freeh, director of the FBI, about the role of the agency in the persecution of Puerto Ricans because of their ideology. Freeh admitted that the agency had a role in an operation to discredit and persecute members of the independence movement in Puerto Rico. He also made a commitment to investigate his agency's role in the preparation of dossiers on supposed subversives. On March 17, Freeh sent a letter to Congressman Serrano announcing the creation of a task force to begin the investigation.²⁵ Freeh's investigation not only confirmed that the FBI aided the Intelligence Division in Puerto Rico with the creation of files, but that the FBI created additional files of its own on *independentistas* and pro-independence organizations. The FBI files, which consist of approximately 1.8 million documents, have been gradually transferred to the Center for Puerto Rican Studies, located at Hunter College in New York. Copies of the documents were also sent to the Judicial Commission of the Senate of Puerto Rico. The center is currently organizing and cataloging the files, and it has already digitized some dossiers from independence leader Pedro Albizu Campos and former governor of Puerto Rico, Luis Muñoz Marín. These documents are accessible through the Internet at <http://www.pr-secretfiles.net>.

²⁵ "FBI Director informs Serrano of Task Force," press release, 21 March 2000, http://www.house.gov/serrano/pressarchive/pr_000321_freehlet.html (accessed 31 March 2005).

Archival Issues

The discovery of surveillance files presents many challenges and issues to archivists. These issues include privacy, records management, preservation, and ethical challenges. Many countries, such as Germany, Poland, and Spain, have dealt with the management of surveillance files from repressive regimes, and their experiences could provide us with examples of mechanisms to confront the challenges posed by these kinds of records. But it is important to address two particularities in the case of Puerto Rico. First, the files were created and used in a democratic country with a constitution based on the rights of free speech and free assembly. Second, the court decided to give the files to the victims, handing them the responsibility of managing their respective files as they wished. Why are these documents important? They are evidence of one of the most important and difficult periods in the history of Puerto Rico, in which the government violated civil rights. A complete analysis of the implications of this persecution on our society should be made.

Although since the early 1990s there have been extensive publications regarding this case, most of them concentrate on its political aspects. It is necessary to investigate the sociological and psychological repercussions of political persecution in Puerto Rico. Today Puerto Ricans who oppose measures taken by the U.S. and the government of Puerto Rico on the island are stigmatized as separatists and communists by different people, including political leaders. This political stigmatization surfaced in 2000 and 2001 during the protests against the presence of the U.S. Navy on the island of Vieques. In other words, no true social reconciliation has been made that will lead to respect for the ideas of all citizens. This reconciliation will not become a reality until we completely accept political persecution as a dark part of our history. And as evidenced in other cases, such as the Stasi files in East Germany and the Mississippi State Sovereignty Commission, archivists perform a leading role in this difficult reconciliation process.²⁶

What should be done? First of all, a final decision should be made regarding the institution to which the files will be transferred to assure their conservation. These documents are not currently stored under adequate temperature and humidity controls, or other preservation conditions.

The second step should be to establish specific policies and procedures for preservation, management, and access to the files. Because of the sensitivity of the case and issues regarding privacy, they must be managed differently from other types of documents. Rules should regulate access to the records, especially

²⁶ For the discussion of the Stasi Files, see Elena S. Danielson, "Privacy Rights and the Rights of Political Victims: Implications of the German Experience," *American Archivist* 67 (Fall-Winter 2004): 176-93. For the Mississippi State Sovereignty Commission case, see Sara Rowe-Sims and David Pilcher, "Processing the Mississippi State Sovereignty Commission Records," *Primary Source* 21 (Summer 1999).

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regarding the names of third parties. These policies should also specify access procedures for the victims to their own files, as well as access procedures for researchers. Here we face the challenge of balancing the historical value of the records with the right to privacy of the victims. Will researchers be able to study the files without the disclosure of names? Will victims be able to see their files without any restrictions? These questions need to be addressed before any of these records are made available. How can it be done? Given that the Supreme Court of Puerto Rico has already assured the preservation of the files, I don't believe legislation is necessary. Whether the files will be transferred to the General Archives of Puerto Rico or to the University of Puerto Rico, I strongly recommend the creation of a special committee to prepare specific policies and procedures to manage the files. The committee should

- recommend guidelines to organize and describe the files;
- formulate specific regulations for access to the files by victims and researchers; and
- recommend procedures that prevent the illegal removal of the files.

The committee should also ponder procedures for victims who might wish to donate their dossiers to the archives. If any victim wants to donate his or her file, it should be to the archives that possesses the rest of the documents. Files were created on individuals. To achieve a better understanding of the experiences of these individuals, it is necessary to analyze these files taking into account that the government organized political persecution in Puerto Rico to restrain the freedom of expression of specific sectors of the population. The purpose of such analysis is not mainly to know who had a file, but to understand how the persecution was done and how it affected social and political dynamics in Puerto Rico.

Conclusion

This case illustrates the challenges that archivists face with the preservation of controversial and sensitive records. It presents the big challenge of creating a balance between the historical value of documents, the respect for the privacy of the individuals involved, and the accountability of governmental agencies. Although it is difficult to create this balance, it is not impossible. To achieve it, special policies and procedures should be established to assure the correct management of the files. In this case, such policies should include regulations for access, procedures that prevent the illegal removal of the files, and procedures for victims who might wish to donate their dossiers to the archives.