

HAITI

A mission to provide Haitian professionals with training in the legal uses of physical evidence and to contribute to the on-going investigation into the "Raboteau case"

In March 1998 EAAF member Mercedes Doretti and Dr. Karen Burns of the University of North Carolina conducted a week-long mission to Haiti. The mission was conducted at the invitation of the Haitian Ministry of Justice, which requested assistance in the forensic field. During the mission Doretti and Burns presentations on the use of physical evidence to professionals in the fields of law, justice, human rights, and the media. They also assisted in the on-going investigations into a massacre known as the Raboteau case.

The mission was funded by the UN-OAS International Civilian Mission in Haiti (MICIVIH).

BACKGROUND: THE 1995 AND 1997 MISSIONS

In 1995 the Haitian National Commission for Truth and Justice, created by decree by former Haitian president Jean Bertrand Aristide after democratic government was reinstated in Haiti, requested the assistance in the forensic field from the American Association for the Advancement of Science (AAAS). The AAAS assembled, coordinated and sponsored an Inter-American team of forensic specialists, including two EAAF members, which undertook a six-week mission to Haiti in the fall of 1995.

The team's mandate was to locate and analyze physical evidence that might corroborate verbal testimonies about human rights violations that reportedly occurred during the rule of General Raoul Cedras' military government (1991-94). At the request of the Commission, the forensic team investigated ten cases that were thought to involve the remains of human rights victims.

One of these incidents occurred in Raboteau, a low-income neighborhood bordering the ocean in the city of Gonaïves. According to MICIVIH, human rights groups, and journalists, on April 22nd, 1994 Haitian military and paramilitary troops began a rampage through the Raboteau neighborhood, whose residents were known for their support of the then-exiled Aristide government. The troops pillaged several dozen houses, beat and shot at local residents, and finally executed several people on the beach of the neighborhood. Many of the residents caught up in the violence fled to the ocean and attempted to escape by boat; a number were allegedly shot in the back as they ran. MICIVIH estimated that at least twelve local residents were killed in the incident.

According to a number of witnesses' testimonies, the bodies of several victims floated out to sea and eventually washed up on the coast. The paramilitary troops did not allow local residents to collect the bodies. Instead, according to witnesses' accounts, troops buried the victims in graves near the ocean.

The Raboteau incident was investigated by the local prosecutors' office and by independent journalists and human rights organizations. In 1995 several of the military and paramilitary troops accused of leading or participating in the massacre were arrested.

As part of the investigation into the Raboteau case, on September 13th, 1995 the forensic team conducted two exhumations on the beach of an area known as Bas-Carenage, near Raboteau. Skeletal remains of three individuals, with ropes tied around their cervical areas, were removed from these sites. Team members analyzed the skeletons in the laboratory. The evidence strongly suggested that the victims had met

violent deaths. Taken together, the findings were consistent with the testimonies of witnesses who said that in the days following the incident military and paramilitary troops had used ropes to recover victims' bodies from the ocean and then buried them in shallow graves on the beach. The investigators were unable to make positive identifications of the three skeletons.

In February 1997 the Haitian Ministry of Justice requested that MICIVIH arrange for forensic anthropology specialists to provide further assistance to its continuing investigations into human rights violations. Two experts who had participated in the 1995 Inter-American team, Dr. Karen Burns of the University of North Carolina and Lic. Mercedes Doretti of EAAF, undertook a second mission to Haiti, Burns sponsored by AAAS and Doretti by MICIVH. As part of this mission Burns and Doretti traveled to Gonaïves and testified before the court of Judge Abraham Thélusmé regarding their findings at the Raboteau grave sites. During their stay in Gonaïves they learned that a key found on the body of one of the unidentified skeletons exhumed from the Bas-Carenage site, which the team members had labeled Raboteau-II-3, fit the door of the house of a local resident. The resident said he had let Mr. X, one of the persons allegedly killed in the Raboteau incident, use the house shortly before the massacre. This, together with other generally consistent pre-mortem information, led the researchers to tentatively identify the skeleton Raboteau-II-3 as Mr. X. [At this point we are unable to reveal the identity of Mr. X.]

To confirm this identification, Judge Thélusmé authorized Burns and Doretti to take blood samples from two relatives of the presumed victims and tooth samples from Raboteau-II-3. The samples were sent to two laboratories: the Forensic Identity Testing section of the Laboratory Corporation of America in North Carolina, directed by Dr. Marcia Eisenberg; and the laboratory of Dr. Marie Claire King at the Division of Medical Genetics, University of Washington, Seattle. Both laboratories arrived at similar results, concluding that there was a positive match

between the genetic material from Raboteau-II-3 and from Mr. Jean's relatives. Accordingly, Raboteau-II-3 was positively identified as the remains of Mr. X.

THE 1998 MISSION

In February 1998 the Haitian Ministry of Justice requested that MICIVIH arrange for a delegation of forensic experts to conduct another mission to Haiti. The mission was to have two main objectives: to introduce the use of physical evidence, particularly evidence obtained through the techniques of forensic analysis and genetic testing, to members of the Haitian legal, law enforcement, academic, and human rights communities; and to provide additional support to the on-going investigation into the Raboteau case under the direction of Ms. Kénaz J.B. Saint Pierre, Public Prosecutor at the Gonaïves Tribunal Civil, and Judge Abraham Thélusmé.

MICIVIH sponsored three foreign consultants to take part in the mission: Dr. Karen Burns, Lic. Mercedes Doretti, and Dr. Michele Harvey. Dr. Harvey, a specialist in identification through genetic analysis, works at the genetic laboratory directed by Dr. Marie Claire King at the Division of Medical Genetics, University of Washington, Seattle. Because genetic science played a crucial role in the identification of one of the individuals reportedly killed during the Raboteau incident, and because there is no precedent in Haiti for the use of this science for identification purposes, Dr. Michele Harvey's presence was vital to the delegation. During the presentations, she explained in detail the procedures by which identifications can be made through genetic analysis.

Training and Other Activities

The Haitian penal code was written in 1836, and has survived to the present with very little change. Haitian judges are accustomed to collecting verbal testimony and making decisions on the basis of verbal testimony alone. Physical evidence as such has never been introduced into the courts of law in Haiti. Also,

Haitian courts are not accustomed to the use of expert witnesses.

Accordingly, one of the primary objectives of the mission was to provide training in the nature and use of physical evidence and in the legal and juridical uses of forensic anthropology. During the mission the three consultants gave eight presentations in different institutions to introduce the use of physical evidence – particularly the use of evidence obtained through forensic anthropology and genetics – to legal, law enforcement, academic, and human rights professionals and to media representatives. The Haitian Ministry of Justice and MICIVIH organized these presentations.

The presentations described several investigations of criminal and human rights cases in which techniques from forensic anthropology and the genetic sciences had been used to recover skeletal remains, determine cause(s) of death, and make identifications. The consultants also described the forensic work conducted in Haiti in 1995 for the Truth and Justice Commission. Because the investigation into the Raboteau case continues, the consultants provided only general and public information about their participation on the case. All the presentations were illustrated with slides. Two translators translated into French and Creole.

In the afternoon of March 9th the consultants gave a presentation to judges, lawyers and prosecutors at the Ecole de la Magistrature, Port-au-Prince.

On March 10th, the consultants gave a presentation to members of the MICIVIH legal and investigative divisions at MICIVIH's Port-au-Prince headquarters.

Later that morning, Mr. Colin Granderson, MICIVIH Executive Director, and Mr. Rodolfo Matarollo, MICIVIH Deputy Executive Director, organized a press conference at MICIVIH's offices to introduce the foreign consultants to media representatives. Television, radio and newspaper journalists attended the event.

On March 11th the consultants gave a presentation to the Judge and public prosecutor involved in the Raboteau case. (This presentation is discussed in more detail in the

following section.)

Later in the day of March 11th the consultants gave a presentation at the Gonaïves Law School. The event was extraordinarily well-attended, with approximately 300 students in the classroom and another 60 students listening in through the windows.

On March 12th the consultants returned to Port-au-Prince. They met with Mr. Pierre Max Antoine, the Minister of Justice, to discuss the mission and the possibility of future training activities. In the afternoon they gave a presentation at the National Faculty of Ethnology (*Université Nationale d'Etnologie*). Approximately 300 students from the schools of law, ethnology and other related disciplines attended the conference.

In the morning of March 13th the consultants gave two more presentations: one to Haitian non-governmental human rights organizations and to the Haitian press.

In the early afternoon of March 13th the consultants gave another presentation at the Haitian Police Academy to the Special Criminal Unit

Assistance to the Ongoing Investigations into the Raboteau Case

Dr. Burns, Dr. Harvey, and Lic. Doretti traveled to Gonaïves on March 11th and 12th, and returned on March 14th and 15th. During the first trip they were accompanied by coordinator of the Raboteau case at the Ministry of Justice, Ms. Florence Elie, and by Mr. Mattarollo and other MICIVIH officials. During the stay in Gonaïves the delegation was assisted by Ms. Victoria Forbes Adam, coordinator of MICIVIH's Regional Office in Gonaïves.

On March 11th the delegation was introduced to Judge Abraham Thélusmé and Public Prosecutor Ms. Kénaz J.B. Saint Pierre. The foreign consultants described the new results from the genetic tests, and discussed the possibility of visiting the exhumation site. Public Prosecutor Saint Pierre emphasized the importance of oral testimony in Haiti's judicial tradition, and asked the consultants if they

would be willing to return to Haiti and testify at the Raboteau trial. The foreign consultants all agreed to do so.

Slide presentation

At noon of March 11th, at the request of Judge Thélusmé, the foreign consultants gave a slide presentation about the recovery, analysis, and use of physical evidence in judicial investigations, and about the forensic specializations such work involves. In addition to Judge Thélusmé, the presentation was attended by Public Prosecutor Saint Pierre, Ms. Elie, Mr. Matarollo, and other MICIVIH officials from Port-au-Prince and Gonaïves. The consultants focused on the forensic work conducted in Haiti, giving particular emphasis to the Raboteau case. Dr. Burns and Lic. Doretti described the exhumation and analysis of the skeletal remains and associated evidence recovered from Bas-Carenage. Dr. Harvey explained the genetic techniques used to identify skeletal remains at Dr. Marie Claire King's laboratory at the University of Washington, Seattle. The presentation concluded with a question and answer session.

Visit to the Last Residence of Mr. X and to the Exhumation Site

At 1:30 p.m., after the presentation, Judge Thélusmé and Public Prosecutor Saint Pierre decided to conduct a field trip to the exhumation sites with the foreign consultants in order to discuss the exact local of the burial place and the nature of the findings *in situ*. They also decided to visit the last home of Mr. X, the alleged massacre victim suspected to correspond to "Raboteau-II-3." Ms. Elie, Mr. Matarollo, and other MICIVIH staff attended the tour.

Mr. X's last residence was a house owned by another local resident, located in the Raboteau neighborhood near the ocean. At the house, Judge Thélusmé demonstrated that the front door lock matched the key found in the trouser pocket of Raboteau II-3.

The exhumation site was located on the beach

of Bas-Carenage, a low-income neighborhood near Raboteau. At the request of Judge Thélusmé and Public Prosecutor Saint Pierre, Doretti – who had participated the 1995 exhumations conducted under the auspices of the Truth and Justice Commission – indicated the locations of the two grave sites, Raboteau I and Raboteau II. She described how the remains and associated evidence had been positioned when they were discovered. She also pointed out that since the Raboteau beach, where victims of the incident under investigation had been killed, was visible from Bas-Carenage, it was quite possible that the bodies had floated from Raboteau to where the graves were located.

Immediately after the delegation had returned from Bas-Carenage Judge Thélusmé wrote an official record of field trip.

The delegation returned to Port-au-Prince on March 12th.

Nomination of Consultants as Expert Witnesses

On March 14th Dr. Burns, Dr. Harvey and Lic. Doretti returned to Gonaïves, again accompanied by Mr. Jean and Mr. Galand and translator Ms. Polymice. There, they took oaths before Mr. Hughes Saint Pierre, *Doyen du Tribunal Civil des Gonaïves* in order to be able to act as expert witnesses in the Raboteau case.

Collection of Pre- and Peri-Mortem Information Regarding the Raboteau Case

Judge Thélusmé authorized the consultants to collect additional testimonies from relatives of presumed victims in order to identify the remaining two skeletons exhumed at Bas-Carenage in 1995. With the assistance of translator Ms. Polymice, Burns and Doretti conducted interviews with relatives of four individuals who disappeared and or were allegedly killed during the Raboteau massacre. During these interviews the consultants request edpre- and peri-mortem information about the presumed victims.

Dr. Harvey collected blood samples for

genetic analysis from three relatives of alleged victims of the Raboteau massacre. To complete the genetic tests, Judge Thélusmé instructed Dr. Harvey remove a tooth from each of the two unidentified skeletons found at the Bas-Carenage site. Due to time constraints, however, the consultants were unable to obtain the tooth samples. Dr. Harvey therefore sent instructions to Judge Thélusmé so that a local professional could remove the teeth according to proper procedures and send them to Dr. King's laboratory in Seattle, where Dr. Harvey works.

Both skeletons were subsequently positively identified through the genetic analysis.