

**“DIPLOMATIC ASSURANCES” ON TORTURE:
A CASE STUDY OF WHY SOME ARE ACCEPTED
AND OTHERS REJECTED**

HEARING
BEFORE THE
SUBCOMMITTEE ON INTERNATIONAL
ORGANIZATIONS, HUMAN RIGHTS, AND OVERSIGHT
OF THE
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HOUSE OF REPRESENTATIVES
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THURSDAY, NOVEMBER 15, 2007

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON INTERNATIONAL ORGANIZATIONS,
HUMAN RIGHTS, AND OVERSIGHT,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC.

The subcommittee met, pursuant to notice, at 3:22 p.m. in room 2337, Rayburn House Office Building, Hon. Bill Delahunt (chairman of the subcommittee) presiding.

Mr. DELAHUNT. The Subcommittee on Oversight will come to order.

First, let me apologize for our delay. But as I am sure many are aware that we have been having votes on the floor, as well as a moment to wish Dennis Hastert, the former Speaker of the House, a fond farewell. Let me begin.

Protecting America’s borders is a matter of great concern to the American people. Both Republicans and Democrats have expressed alarm about the possibility that terrorists could penetrate our borders as they did on 9/11.

It turns out that this concern is not unwarranted, because in April 2005 an individual illegally entered the United States. He has a reputation as a notorious terrorist known to law enforcement not only in this country, but throughout the hemisphere. He has a well-documented history of violence. Many believe that he was a mastermind, the intellectual author of the destruction of a civilian airliner with 73 innocent people on board.

Curiously, he did not go immediately underground to become part of some sleeper cell or otherwise hide his identity, though it was widely reported that he had entered the United States illegally; and his lawyer announced that he was requesting political asylum. I sent a letter to the Department of Justice requesting that media reports of his presence be investigated, and without objection, I will enter that into the record of the hearing.

[The information referred to follows:]

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May 4, 2005

The Honorable Alberto Gonzales
Attorney General of the United States
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear General Gonzales:

After the horrific terrorist attacks of September 11, 2001, President Bush put the world on notice: "Either you are with us, or you are with the terrorists."

Last month, a self-confessed foreign terrorist announced through his lawyer that he is in the United States and is seeking political asylum. As our nation's chief law enforcement officer, I respectfully request that you make clear that the United States will never be a refuge for any terrorist.

Luis Posada Carriles is a Venezuelan citizen of Cuban origin who, after taking part in the failed Bay of Pigs invasion, devoted his life to violent opposition to the regime of Fidel Castro. The crimes with which he has been associated include: killing 73 people, including a number of teenagers on the national fencing team, by blowing up a civilian Cuban airliner in 1976; escaping from a Venezuelan jail in 1985 while facing charges in that bombing; masterminding a series of attacks in Cuba in 1997 that killed an Italian and wounded several other non-combatants; and endangering public safety while planning Castro's assassination during a regional summit in 2000.

If such a dangerous terrorist has entered the US and remained free for nearly a month, it demonstrates a failure of our nation's ability to detect and respond to threats -- and a serious breach in our homeland security.

According to the *Associated Press* (5/3/05) Assistant Secretary of State for the Western Hemisphere Roger Noriega declared that the US "has no interest in giving quarter to someone who has committed criminal acts;" at the same time, however, Noriega denied the claims of Posada's lawyer that the fugitive is in Florida, saying "I don't even know if he [Posada] is in the United States."

To my knowledge, however, there has been no official declaration from the Department of Justice that it is trying to determine if this terrorist is actually in the US; that he is unwelcome here; and that, if he is actually here, he will be immediately detained and deported. I suggest an official announcement to that effect be made forthwith.

The war on terror depends on multilateral cooperation and collaboration. We put that at serious risk if we remain officially silent. Any reservation on our part with regard to a particular terrorist threatens to undermine the fundamental credibility of our global effort. There are mounds of historical evidence – reportedly including US intelligence memos – that link Posada to numerous terrorist incidents. But he is an anti-Castro Cuban – not an Arab or Muslim. Two other notorious terrorists, Orlando Bosch and Emmanuel Constant, already enjoy refuge in the US. Like Posada, their violence was directed against foreign nationals (Cubans and Haitians, respectively) whose leaders were reviled by this Administration. And, like Posada, they are neither Arab nor Muslim.

Unfortunately, for many around the world, the inference could be made that the lack of clarity about Posada's purported presence in the US derives from the fact that the target of his acts of violence was Fidel Castro – and that Posada is not an Arab or Muslim.

The disparity between our rhetoric and the Justice Department's lack of action regarding Posada's possible presence is made all the more glaring by Monday's announced increase – which, according to published news reports, you personally approved – in the reward for the capture of Joanne Chesimard, whom FBI officials have labeled a “domestic terrorist.” Chesimard was convicted in 1977 of murdering a New Jersey State Trooper, but was broken out of prison in 1979. Ironically, she received political asylum in Cuba in 1984, whose government the State Department harshly criticized last week for providing “safe-haven to terrorists,” specifically citing her case as an example.

We should forthrightly reaffirm that our war on terror applies to *all* terrorists. If we exempt *certain* terrorists from prosecution because we have political differences with their targets, then we play right into the hands of al Qaeda and the insurgents in Iraq – who, like Posada and his defenders, justify their violence by arguing that “one man's terrorist is another man's freedom fighter.”

The President was crystal clear after September 11. That clarity has now been shaken by the assertion that Posada could cross our border unimpeded – and that we are doing little to determine whether that, in fact, is the case. Just last month, the Vice President acknowledged that we are losing the public diplomacy portion of the war on terror; and the White House explicitly elevated that mission, which I support. I respectfully observe that our adversaries and allies alike will assess our seriousness more by what we do than what we say.

In my capacity as the Ranking Member on the Oversight and Investigations Subcommittee of the House International Relations Committee, I have already asked our panel's leaders to undertake a formal investigation into this matter. But, since I also

serve on the House Judiciary Committee, I am mindful of the responsibilities of the Justice Department in the war against terrorism.


To that end, I respectfully request your answers to the following questions:

- 1) Has an investigation been initiated to determine if Posada is actually in the US? If one has been initiated, by what agency is it being conducted? If one has not been initiated, please explain why not, and who made that determination.
- 2) If an investigation has been initiated, but his location nevertheless remains unclear, are you increasing the personnel and resources available to the inquiry, in order to more quickly determine whether he is in this country?
- 3) If his location is clear, why has he not yet been arrested or detained?
- 4) Have plans been made to detain him?
- 5) Have plans been made to deport him if he is detained?
- 6) If no plans have been made to deport him if he is detained, will we respect all of our bilateral treaties regarding extradition?
- 7) Is it possible that Posada has been assisted, both in entering the US and during his stay here, by people under US jurisdiction, including permanent residents or US citizens?
- 8) Is it not a crime to provide financial and material assistance to terrorists?
- 9) Do you plan to investigate whether Posada has received such assistance?
- 10) If it is determined that he has been assisted by people under US jurisdiction, do you plan to arrest and prosecute them? If you do not intend to take any action, please explain why.

The answers to these questions are critical to a clear understanding of what your Department is doing regarding the Posada case – and to ensuring our nation's continued credibility in the war on terrorism.

I would appreciate the courtesy of a prompt written response. Please feel free to contact me or my staff at (202) 225-3111 with any questions or for more information. Thank you.

Sincerely,



William D. Delahunt

CC: The Honorable Robert S. Mueller, Director, Federal Bureau of Investigation

Mr. DELAHUNT. But it turned out to be unnecessary because he called another press conference. But this was too much even for this administration. They were forced to arrest him.

His name is Luis Posada Carriles. Compelling evidence exists implicating Posada in the worst single act of international terrorism in this hemisphere prior to 9/11, the bombing of Cubana Air Flight Number 455 on October 6, 1976. After two explosions that flight sank into the sea. There were no survivors.

The victims included Cuban teenagers celebrating their success in an international athletic competition, as well as high school graduates from Guyana who had won full scholarships to medical schools in Cuba. And today we will hear from Roseanne Nenninger, whose brother was one of those victims. We will hear about the nightmare that she has endured for the past 31 years.

The evidence of his guilt is substantial. It includes declassified FBI and CIA documents that link him to the bombing. One of our witnesses, Peter Kornbluh, will present some of those declassified documents as part of his testimony.

Not surprisingly, the FBI has determined that Luis Posada Carriles is a threat to our national security. The Justice Department's own filings in a Federal Court describe him—and this is their language—as “an unrepentant criminal and admitted mastermind of terrorist plots and attacks.” But when the Bush administration finally apprehended Mr. Posada, incredibly they brought a charge against him that would have resulted in a maximum sentence of 6 to 12 months under the U.S. sentencing guidelines, a case that has proven to be an embarrassment and earned a stinging rebuke from a Federal judge who dismissed the case noting that he had already been detained for over a year.

It is vitally important to understand that pursuant to a provision in the PATRIOT Act, the Attorney General could have, and should have in my opinion, designated Posada as a terrorist and detained him based on the government's own abundant evidence. I found this lack of action so egregious that I sent a letter to Attorney General Gonzalez asking why the PATRIOT Act was not invoked. The response was a resounding silence.

I am bewildered by this reaction. After all, this is the administration that has repeatedly vowed to give no quarter to terrorists and has condemned those nations that do. It was President Bush himself who proclaimed that if you harbor terrorists, then you are a terrorist. This administration claims to be unrelenting in its pursuit of terrorists, except perhaps in the case of Luis Posada Carriles.

The fact that they did not pursue their authority under the PATRIOT Act is not the end of the story. The administration has not even formally responded to a request for Posada's extradition by the Venezuelan Government with whom we have a legally binding extradition treaty. When Posada's lawyers argued that he might face torture if sent to Venezuela, the administration failed to seek so-called “diplomatic assurances” that he would not be tortured. And yet when Venezuelan officials publicly provided assurances that he would be treated humanely and not rendered to Cuba, the administration's response was, once more, silence.

However, the administration has repeatedly accepted “diplomatic assurances” from countries that are known to practice torture. Last month, this subcommittee heard that the Bush administration accepted such assurances from the Government of Syria, that our own State Department routinely identifies as practicing torture.

They did this in the case of a Canadian national by the name of Maher Arar, who was rendered to Syria from JFK Airport over his objections and without notifying the Canadian Government. It should be noted that an independent inquiry in Canada established his innocence and the Prime Minister personally apologized. And yet, for that hearing we had to have Mr. Arar testify by video-conference because he is still not allowed to enter this country.

Meanwhile, Luis Posada Carriles is comfortably and openly living in Miami. Just recently, he was lionized as an artist, whose paintings were proudly displayed at the Fontainebleau in Miami, and the affair was covered in the local press. It is clear that Luis Posada has not hidden himself in obscurity because he hasn’t been the terrorist needle in the haystack whom the United States Government had to hunt down. No, he is the haystack flaunting his presence in this country. And we wonder why our prestige and credibility have fallen. When testifying before the 9/11 Commission, then-National Security Adviser Condoleezza Rice said the following:

“Terrorism is terrorism is terrorism. We don’t make a distinction between different kinds of terrorism. Terrorism is never appropriate. It is never a justified response just because of political difficulties and differences.”

Those are noble words. Ones that I think we all embrace. But the presence of Luis Posada Carriles in this country casts such noble words into question. If we wish to claim the mantle of moral authority that sets us apart among the family of nations, America cannot have two rules for terrorists. There are no good terrorists or bad terrorists; there are just simply terrorists.

This case offers an opportunity for some self-reflection. We must insist on answers about the disparity of treatment provided him on one hand and to Maher Arar on the other, in order to restore our credibility and improve our security.

That is my intention. This will be the first in a series of hearings to achieve that goal. We must demonstrate that we apply our laws fully and equally without regard to political ideology if we want to ensure international cooperation regarding terrorism. And with that, I yield to my distinguished ranking member and friend, my colleague from California, Mr. Rohrabacher.

Mr. ROHRABACHER. Thank you, Mr. Chairman. And this is going to be a hearing in which I am going to make sure that I learn a lot from this hearing, and I appreciate your calling this hearing.

Let me just say from the start, targeting and killing of innocent civilians in order to achieve some political objective is totally unacceptable under any context. If the subject of our hearing today, Luis Posada Carriles, is guilty of blowing up a civilian airliner or any other civilian target to achieve whatever his political ends were, he deserves the same treatment as any other terrorist in the

world. And as you are aware, I am not someone who believes that terrorists should be treated lightly.

In today's hearing we will hear all about one of our witnesses—in today's hearing we will hear all but one of our witnesses who will be adamantly against Mr. Posada. They believe that he is guilty of a major crime against these people who were the victims and, thus, a crime against humanity—so, all of our witnesses except for one.

But it is important that we hear what they have to say, as well as those people on the other side of the case. And we have a witness on the other side of the case as well. So those people who are testifying and do so adamantly and aggressively, I am certainly going to listen carefully to the specific points they have to make; and I think everyone should. We do not have necessarily an equal balance, but we will have someone on the other side.

Luckily, we were able to scramble and locate Mr. Posada's defense attorney. And at very short notice he came here today in order to make sure that we had both sides of this issue. And I really would like to express my appreciation to him for joining us today.

Let me just note that as we hear these witnesses, I will suggest that I and, I would hope, everyone on this committee has an open mind and listens carefully. The story of Mr. Posada is a long and, yes, a complex story. What he is accused of is not complex, whether or not he was engaged in the murder of innocent civilians in order to further a political agenda.

Let us note, he was a valuable asset to the CIA during some of the most dangerous years in our country's history, a time when the Soviets were using Castro's Cuba as a base to destroy America, at one point stationing missiles there that would have threatened tens of millions of American lives. Mr. Posada helped us defeat those efforts.

Later, in the 1980s, Mr. Posada helped the United States in Central America at a time when the Soviet Union had invested billions of dollars of military equipment into Nicaragua and into other Central American countries in order to spread their brand of Marxist-Leninism dictatorship.

What is the question today, however, is whether or not Mr. Posada—during his tenure of helping the United States fight communism in those days, whether or not he crossed the line and targeted and killed innocent civilians. That is the issue at hand today. If he did, you are satisfied that he did, he should be treated like any other murderer and terrorist. More witnesses today will say that is what he did, he crossed the line and he murdered this large number of civilians.

In the first and only trial held in the matter, a Venezuelan military tribunal—which in itself, of course, leads to question—acquitted Mr. Posada of this crime. However, 8 years later in a Venezuelan prison, while he was awaiting retrial, Mr. Posada escaped, and since then the matter has gone unresolved.

Mr. Chairman, I do not know if this man is guilty or innocent. If he is guilty of bombing the Cubana Airlines flight, he should be subject to the same consequences of any other terrorist in any other murder. And while the Communist regimes in Cuba and the

dictatorship that seems to be emerging in Venezuela uses this case as an attempt to embarrass our country and as propaganda against us, I know that what we have to do is what is right no matter where this comes down.

Our greatest defense is that we are trying to do what is truthful and right. And I know that this hearing is intended to help us determine what the truth is and what the right course of action is. I look forward to hearing the witnesses and making my determination with an open mind.

Thank you very much, Mr. Chairman.

Mr. DELAHUNT. Thank you, Mr. Rohrabacher, for a very thoughtful statement.

Mr. Carnahan.

Mr. CARNAHAN. Thank you, Mr. Chairman and Ranking Member Rohrabacher. I too look forward to hearing the testimony of the witnesses today.

I would just ask unanimous consent to put my opening remarks in the record so we can get on to hearing the panel today. I think the chairman and ranking member framed the issues well, and I look forward to hearing the testimony.

Mr. DELAHUNT. Without objection so ordered.

[The prepared statement of Mr. Carnahan follows:]

PREPARED STATEMENT OF THE HONORABLE RUSS CARNAHAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSOURI

Mr. Chairman, thank you for hosting this hearing to examine the case of Luis Posada Carriles and its relevance regarding diplomatic assurances on torture.

The account of Mr. Posada as an anti-Castro activist trained in the United States is a story with a sordid past. The image of Mr. Posada as either a freedom fighter or a terrorist depends on what side of the issue you are standing. From the written testimony of Ms. Nenninger, who lost her brother, Raymond, in the 1976 bombing of a Cuban airliner, Mr. Posada is a terrorist. Others have labeled him as an activist fighting to bring about change in communist Cuba.

This case is a prime example of the double standards the Administration has applied to this alleged "war on terror." A few weeks ago, the Foreign Affairs Committee heard from Maher Arar, a Canadian citizen who was detained by the United States government and sent to Syria for alleged ties to terror—which have proven to be totally false. The Administration refuses to neither acknowledge any wrong doing in the handling of his case nor apologize to Mr. Arar. Mr. Posada represents the flip side of this coin. Mr. Posada was trained here in the United States and had served as a C.I.A. operative in the past. He has a know history of violence and repeated requests from the Venezuelan government for his extradition have gone unanswered.

As we try to reengage in diplomatic relations with other countries, we need to hold ourselves to the high standard that we project. If we expect other countries to cooperate engage us diplomatically, we must hold ourselves to these same standards.

I am eager to hear our witnesses' evaluations of Mr. Posada's case. Thank you for taking the time out of your busy schedules to appear before us today. I look forward to hearing your testimonies.

Mr. DELAHUNT. Let me first go—I want to acknowledge the presence of the ranking member of the Subcommittee on the Western Hemisphere, the gentleman from Indiana, Mr. Dan Burton, and I will ask him if he wishes to make any opening remarks. But I think I should—because of protocol, the rules of this subcommittee, which we adhere to meticulously, I should first go to the gentleman from Arizona to determine whether he wishes to make any opening remarks, Mr. Jeff Flake.

Mr. FLAKE. I just want to say thank you, Mr. Chairman, for holding this hearing. I look forward to hearing the witnesses.

This is something that has long troubled me. If we are going to have any moral standing in the world, we need to make sure that we deal forthrightly with those who are accused of terrorist activities, just like anybody else, no matter what the politics involved. So this is an important hearing. I thank the chair.

Mr. DELAHUNT. Mr. Burton.

Mr. BURTON. Mr. Chairman, I don't have any opening remarks. I think that the statements that you made and Mr. Rohrabacher made were very comprehensive and don't need any additional comments.

But I would just like to ask when we—and I am not a member of this subcommittee. But as a member of the full committee, there is a policy that is not a rule, but to let the minority know when there are new witnesses being asked to testify. And I understand some of these witnesses were called at the last minute. I would just like to ask, in the future, if it would be possible to give us a little more notice.

Mr. DELAHUNT. Of course, Mr. Burton.

Mr. BURTON. Thank you, sir.

Mr. DELAHUNT. Let me begin by introducing our witnesses. And I will begin first with Attorney Arturo Hernandez.

Welcome, Mr. Hernandez.

Mr. HERNANDEZ. Thank you, Mr. Chairman.

Mr. DELAHUNT. He graduated—I am going to give your resume out here—

Mr. HERNANDEZ. Be my guest.

Mr. DELAHUNT. Take this opportunity for some free publicity.

He graduated from the University of Florida in 1977. He entered graduate school at the University of Miami, and secured his master's degree, and then went to law school at the Broad Sheppard School of Law, Nova University in Fort Lauderdale. He received his juris doctor degree in 1980. In the same year, he was hired by Bennet Brummer, Dade County Public Defenders Office, for the 11th Judicial District of Florida.

The initiation of his career as a public assistant defender coincided with the "Mariel Boat Lift" that resulted in a mass sea bound exodus from Cuba of over 150,000 Cubans to the south Florida area. As a result of the unexpected influx of migrants and concomitant increase in all types of crimes, young public defenders were quickly promoted up the ranks in order to address the increased felony case load. Mr. Hernandez was one of those and he quickly distinguished himself as one of the most aggressive and caring assistant public defenders.

From 1980 to 1983, Mr. Hernandez took to trial many serious cases, including capital, first and second degree murder cases, many of which resulted in acquittals. By 1983, Mr. Hernandez was recognized as one of the up-and-coming trial lawyers in the Miami-Dade County area.

In 1983, he ended his career as an assistant public defender and entered private practice. He quickly distinguished himself in the private sector, obtaining important acquittals in the cases of *United States v. Jorge Valdez*; *United States v. Habibe*, one of the

largest drug and money laundering conspiracies in U.S. history; *United States v. Humberto Hernandez*, a former Miami commissioner; and more recently, *United States v. Santiago Alvarez*, wherein he represented a prominent Cuban American developer charged with conspiracy to possess illegal firearms.

In addition to the above, he has been tapped to be the lead counsel in several high-profile Federal indictments around the country. He is lead counsel in Riverside, California, in a Federal indictment charging possession of the largest private gun caché in the history of the United States.

And in early 2007, Mr. Hernandez scored a victory of seemingly epic proportions in the case of *United States v. Luis Posada Carriles*, a case which I referred to in my opening remarks, which he describes as a politically charged and internationally renowned case in which he succeeded in getting the government's indictment against the lifetime Cuban exile militant dismissed.

After more than 100 trials and 27 years of the practice of law, Mr. Hernandez is regarded by his colleagues as a top criminal defense attorney. He has received the highest rating by Martindale & Hubbell and is a member in good standing of the Florida bar, NACDL and FACDL, and the Cuban American Bar Association—and those are prominent criminal defense counsel associations.

So welcome, Mr. Hernandez.

Mr. HERNANDEZ. Thank you. It is a pleasure to be here, Mr. Chairman.

Mr. DELAHUNT. And before you proceed, I am going to introduce Mr. Blake Fleetwood.

Mr. Fleetwood was formerly on the staff of the *New York Times* and has written for the *New York Times* magazine, *New Yorker Magazine*, the *New York Daily News*, the *Wall Street Journal*, *USA Today*, the *Village Voice*, *Atlantic* and the *Washington Monthly* on a number of issues.

He was born in Santiago, Chile, and moved to New York City at the age of 3. He graduated from Bard College and did graduate work in political science and comparative politics at Columbia. He also has taught politics at NYU.

Welcome, Mr. Fleetwood.

Mr. FLEETWOOD. Thank you. I am pleased to be here.

Mr. DELAHUNT. And why don't we proceed with you, Mr. Hernandez.

**STATEMENT OF MR. ARTURO V. HERNANDEZ,
ATTORNEY-AT-LAW**

Mr. HERNANDEZ. Members of the subcommittee, as Chairman Delahunt has just indicated, my name is Arturo V. Hernandez. Thank you so much for this invitation and opportunity to address you on the important issues that comprise the focus of this hearing.

I appear before you today in order to present a needed counterbalance to the rhetoric and misinformation—often, misinformation—that has emanated from Cuba and Venezuela and their acolytes in our own country on the subject of my client, Luis Posada Carriles.

As you may be aware, I am an attorney who specializes in Federal criminal defense. It was in that capacity that I came to be in-

volved as lead counsel in the defense of Luis Posada Carriles. He was charged by indictment in El Paso, Texas, in a seven-count indictment alleging, in sum and substance, that he had made false statements during the course of his application for naturalization.

After 5 months of litigation and on the eve of trial, United States District Court Judge, the Honorable Kathleen Cardone, dismissed all charges against him. In dismissing all charges against him, the court stated, and I quote:

“This Court will not set aside rights, nor overlook government misconduct because the defendant is a political hot potato. This Court’s concern is not politics; it is the preservation of criminal justice.”

As a result of the judge’s ruling, Mr. Posada Carriles was conditionally released back to his community in Miami, Florida. This entire matter is now under appeal by the government and is before the Fifth Circuit Court of Appeals that sits in New Orleans, Louisiana. Today, Mr. Posada lives quietly in Miami, Florida, awaiting the conclusion of the appellate process, where he is joined by his wife, his children and his grandchildren, all of whom are United States citizens for many years.

Members of the subcommittee, Mr. Posada Carriles is now almost 80 years old. His is the story of a man’s singular mission to combat Castro’s violent revolutionary communism in all its manifestations and permutations wherever it has reared its ugly head and at whatever personal cost to him. His individual struggle against communism was in a very real sense the often unobserved struggle of our own hemisphere to avoid the Sovietization of Latin America as part of the great ideological and strategic contest between the United States and the Soviet Union that we all know as the “Cold War.”

Mr. Posada Carriles, who, I remind the committee, served as a second lieutenant in the United States Army and volunteered to fight in Vietnam for this country, was a valiant soldier in that Cold War on behalf of the interests of the United States and Venezuela during the decades of the 1960s through and including the 1980s. And it is no exaggeration today to suggest that more than just a few South American and Central American countries owe their democracies to the sacrifices incurred by men and women such as Mr. Posada Carriles.

It is a point of incredible historical irony that a terrorist nation such as Cuba that systematically has trained and armed entire armies of terrorists over four decades, resulting in the deaths of hundreds of thousands of innocent civilians in our hemisphere, should now be heard on the international stage accusing Mr. Posada Carriles of being a terrorist and the United States of hypocrisy in the war on terror.

These voices over and over again repeat the accusation that Mr. Posada Carriles was involved in the downing of the Cubana Airliner Flight 455 over the ocean near Barbados in the year 1976. But the true facts of this tragedy, however, refute their contention. No American jury would convict Mr. Posada Carriles on these facts. The forensic evidence alone proves that he is innocent, the metal shards found embedded in the bodies of the victims showed that

the explosion came from the cargo hold, a secure area of the aircraft that Mr. Posada Carriles, or anyone on his behalf, would not have had access to and not from, as the prosecution contended, from the bathroom area.

Forensic examinations were secretly conducted at the behest of the countries of Trinidad and Venezuela by a British Government laboratory by the name of "Lararde"—which is an acronym for Royal British Forensic Examinations Laboratory; in other words, it is a function of the British Government—and a forensic expert from England by the name of Eric Newton, who performed tests on whatever evidence was left from the bombing. Both failed to confirm the chemical signature of the explosives that the prosecution contended had come from the bathroom.

Those are just some of the multiple reasons why a Venezuelan military tribunal, after a full trial and over 3 years of investigation acquitted Mr. Posada Carriles of all charges. It is further the reason why, after a seemingly endless round of reviews, the Venezuelan civilian prosecutors recommended that the verdict of acquittal that had been entered into as a result of the military tribunal's 4 years of examination be affirmed.

Despite this recommendation, and purely for political reasons to appease Fidel Castro, Mr. Posada Carriles was not released from custody and served an additional 8 years of prison waiting for the court's endless reviews to conclude. When it became apparent to him that the legal process in Venezuela was being subverted by the influence of international considerations, primarily pro-Castro elements within the Government of Venezuela, he decided to escape from prison.

In the final analysis, the historical record is clear, Cuba has stood for years as a poisonous dagger aimed at the side of the United States. Mr. Posada Carriles, as an ally of the United States, does not deny that he confronted Cuban-trained and rebel insurgencies in Venezuela and in other countries in defense of their democracies. It would be unfair, we submit, years after the collapse of the Soviet Union, to look back now and sort piecemeal through the events of those decades, the decades of the Cold War, and isolate persons and events without respect to the times in which they occurred.

Members of the committee, there is always the danger that in a time of war against terrorism, the moniker of "terrorist" can become so flexible that it loses all meaning. Mr. Posada Carriles is not and has never been a terrorist. His lifelong ambition has been to bring democracy and freedom to his place of birth, Cuba. He has been, throughout his life, a staunch ally of the United States. To many in the Cuban American community he is a hero. He is now simply an old man who tried to do his duty as he best saw that duty and to live out the remaining days of his life in peace.

What may not reasonably be denied is that Cuba and Venezuela are purposefully manipulating the case of Mr. Posada Carriles as an instrument of their own foreign policy that seeks to undermine our legitimate goal of eradicating terrorism. Their desire, I assure you, is not to seek justice against an accused terrorist, but rather to satisfy a base need to retaliate against a hated enemy. Cuba's Government and, increasingly, the Government of Venezuela, an-

swer to no law, domestic or international, or any convention or treaty. They respond only to the will of its dictators.

There is no doubt, members of the subcommittee, that neither Cuba nor Venezuela would hesitate to torture and kill Mr. Posada Carriles if he were ever to fall into their hands. That is why, after a full evidentiary hearing before a United States Immigration Judge, the court determined that Mr. Posada Carriles was a removable alien, but ruled that he could not be removed to either Venezuela or Cuba because of the likelihood that this 80-year-old man would be subjected to torture and certain death.

The great scientist Galileo once observed that to accuse a man of heresy is simple; all you need is a tongue. There have been no shortages of tongues in the case of Luis Posada Carriles. But what there has not been is credible evidence of wrongdoing. Most of the allegations found in the declassified materials that you will hear about today are over three to four decades old and are based on dubious double hearsay from unidentified sources.

The truth of the matter is—the truth of the matter is that Mr. Posada Carriles does not represent a threat to anyone, but he especially does not represent a threat to the United States, a country that he loves and has sought to protect throughout his entire life.

Thank you, members of the subcommittee.

[The prepared statement of Mr. Hernandez follows:]

PREPARED STATEMENT OF MR. ARTURO V. HERNANDEZ, ATTORNEY-AT-LAW

Members of the subcommittee, my name is Arturo V. Hernandez, thank you for this invitation and opportunity to address you on the important issues that comprise the focus of this hearing. I appear before you today in order to present a needed counter balance to the rhetoric and misinformation that has emanated from Cuba and Venezuela and their acolytes in our country on the subject of my client, Luis Posada Carriles. As you may be aware, I am an attorney who specializes in federal criminal defense. It was in that capacity that I came to be involved as lead counsel in the defense of Luis Posada Carriles. He was charged by indictment in El Paso, Texas, in a seven count indictment alleging, in sum and substance, that he had made false statements during the course of his application for naturalization. After five months of litigation, and on the eve of trial, United States District Court Judge, the Honorable Kathleen Cardone, dismissed all charges against him.

In dismissing all charges against him the Court stated: “. . . this Court will not set aside such rights, nor overlook Government misconduct because Defendant is a political hot potato. This Court’s concern is not politics; it is the preservation of criminal justice.”

As a result of the Judge’s ruling, Mr. Posada Carriles was conditionally released back to his community in Miami, Florida. This entire matter is now under appeal by the Government and is before the Fifth Circuit Court of Appeals. Today Mr. Posada lives quietly in Miami, Florida, awaiting the conclusion of the appellate process, where he is joined by his wife, his children and grand children, all of whom are United States Citizens for many years.

Members of the subcommittee, Mr. Posada Carriles is now almost 80 years old. His is the story of a man’s singular mission to combat Castro’s violent revolutionary communism in all its manifestations and permutations wherever it has reared its ugly head and at whatever personal cost to him. His individual struggle against communism was in a very real sense the often unobserved struggle of our hemisphere to avoid the sovietization of Latin America as part of the great ideological and strategic contest between the United States and the Soviet Union known as the “Cold War.” Mr. Posada Carriles, who served as a second lieutenant in the US Army and volunteered to fight in Vietnam, was a valiant soldier in the Cold War on behalf of the interests of the United States and Venezuela during the decades of the 1960’s through the 1980’s, and , it is no exaggeration to suggest that more than a few South American and Central American countries owe their democracies to the sacrifices incurred by men and women such as Mr. Posada Carriles.

It is a point of historical irony that a terrorist nation such as Cuba that systematically trained and armed entire armies of terrorist over four decades resulting in the deaths of hundreds of thousands of innocent civilians, should now be heard on the international stage accusing Mr. Posada Carriles of being a terrorist and the United States of hypocrisy in the war on terror.

These voices over and over again repeat the accusation that Mr. Posada Carriles was involved in the downing of the Cubana Airliner flight 455 over the ocean near Barbados in 1976. The true facts of this tragedy, however, refute their contention. No American jury would convict Mr. Posada Carriles on these facts. The forensic evidence alone proves that he is innocent. The metal shards found imbedded in the bodies of the victims, showed that the explosion came from the cargo hold, a secure area of the aircraft that Mr. Posada Carriles would not have had access to, and not from the bathroom area as the prosecution contended during the trial.

Forensic examinations conducted by British Government laboratory "Lararde," and a forensic expert named Eric Newton, failed to confirm the chemical signature of the explosives the prosecution contended had come from the bathroom.

Those are just some of the multiple reasons why a Venezuelan military tribunal after a full trial and over three years of investigation, acquitted Mr. Posada Carriles of all charges. It is further the reason why, after a seemingly endless round of reviews, the Venezuelan civilian prosecutors recommended that the verdict of acquittal be affirmed. Despite this recommendation, Mr. Posada Carriles was not released from custody and served nine years of prison waiting for the Court's reviews to conclude. When it became apparent to him that the legal process was being subverted by the influence of pro Castro elements within the government of Venezuela, he decided to escape from prison.

In the final analysis, the historical record is clear that Cuba has stood for years as a poisonous dagger aimed at the side of the United States. Mr. Posada Carriles, as an ally of the United States, does not deny that he confronted Cuban rebel insurgencies in Venezuela and in other countries in defense of their democracies. It would be unfair, years after the collapse of the Soviet Union, to look back now and sort piecemeal through the events of those decades, the decades of the cold war, and isolate persons and events without respect to the times in which they occurred.

There is always the danger that in a time of war against terrorism that the moniker of "terrorist" can become so flexible that it loses all meaning. Mr. Posada Carriles is not and has never been a terrorist. His life long ambition has been to bring democracy and freedom to his place of birth, Cuba. He has been throughout his life a staunch ally of the United States. To many in the Cuban American community he is a hero. He is now simply an old man, who tried to do his duty, as he best saw that duty, and to live out the remaining days of his life in peace.

What may not reasonably be denied is that Cuba and Venezuela are purposely manipulating the case of Mr. Posada Carriles, as an instrument of their foreign policy that seeks to undermine the legitimate goal of the eradication of terrorism. Their desire is not to seek justice against an accused terrorist, but rather to satisfy a base need to retaliate against a hated enemy. Cuba's government, and increasingly the government of Venezuela, answer to no law, domestic or international, or any convention or treaty. They respond only to the will of its dictators. There is no doubt, members of the subcommittee, that neither Cuba or Venezuela would hesitate to torture and kill Mr. Posada Carriles if he were ever to fall into their hands. That is why after a full evidentiary hearing before a United States Immigration Judge, the Court determined that Mr. Posada Carriles was a removable alien, but ruled that he could not be removed to either Venezuela or Cuba because of the likelihood that this 80 year old man would be subjected to torture and certain death.

CONCLUSION

The great scientist Galileo once observed that to accuse a man of heresy is simple, all you need is a tongue. There have been no shortage of tongues in the case of Luis Posada Carriles. But what there has not been is credible evidence of wrongdoing. Most of the allegations found in the declassified materials are over three to four decades old and are based on dubious double hearsay from unidentified sources. The truth of the matter is that Mr. Posada Carriles does not present a threat to anyone but he especially does not represent a threat to the United States—a country that he loves and has sought to protect throughout his entire life.

Mr. DELAHUNT. Thank you, Mr. Hernandez.
And now we will go to Mr. Fleetwood for his statement.
Please proceed.

**STATEMENT OF MR. BLAKE FLEETWOOD, FREELANCE
JOURNALIST**

Mr. FLEETWOOD. In early 1977, I became—I was a young reporter and I became interested in the assassination of Orlando Letelier in Dupont Circle not far from here. I contacted Eugene Propper, who was the U.S. Attorney investigating the matter, and he seemed very frustrated. He said the man who may know about this is Orlando Bosch—and Luis Posada. He said, “I spent several weeks in Venezuela, but I could not get close to them. They were in jail, arrested for the bombing of the Cubana flight.”

I went to Venezuela and I managed to infiltrate the prison on the outside on the outskirts of Caracas. I wandered around the prison and soon found myself face-to-face with Luis Posada and Orlando Bosch. I had a tape recorder.

Between them, according to their admissions to me, they had orchestrated hundreds of bombings and assassinations. They were being held in connection with the bombing, as I said before.

They were both extremely angry and feeling betrayed. The Venezuelans and the CIA, they claimed, had locked them away to keep them silent. Over the din of homemade drums in a nearby courtyard, they poured out their story to me for more than 6 hours. I realized I had an extraordinary opportunity that few journalists would ever have to penetrate the world of Cuban exile terrorists by state-sponsored secret agencies.

Posada told me he was on a CIA draw, and he bragged to me, “The CIA helped me set up my detective agency”—this would be in the middle-1970s—“from which we planned the actions.” “Actions” was a code word that Posada used to describe bombings and assassinations. They spoke about the murder of two Cuban diplomats in Argentina, the bombing of the Mexican Embassy in Buenos Aires, the bombings of the Air Panama office in Bogota, the Cubana Airlines office in Panama, and finally, the Cubana Airlines bombing.

“It is true,” Bosch and Posada told me, “we had a great meeting in the Bonaio Mountains in the Dominican Republic, plotting bombings and killings.” Everything was planned there. The meeting was to coordinate terrorist actions in the hemisphere. Both men were very proud of what they had done.

Hernan Ricardo, who worked for Posada’s detective agency, was arrested in Trinidad and confessed to planting a bomb on the civilian airliner, to the Trinidad police chief. The night before, Bosch and Posada told me, they had met with Hernan Ricardo in the very same Aunaco Hilton in Caracas where I was staying.

After the interview, I felt very nervous about what I had heard and what my notes and my tapes indicated. I called Eugene Propper in Washington, and he couldn’t believe I had the taped interviews. He told me to sit tight and he would get back to me. Within a few moments, he was on the phone again and seemed scared. “The CIA told the secret police, the Venezuelan secret police, everything. They are out to get you. You are in great danger.”

I asked Propper if I should go back to the Embassy. He told me that he thought it would be the worst place for me to go. “I have no power down there. You are on your own.”

We were both aware of the reputation of the notorious secret police and their death squads that had caused the disappearance and

murder of hundreds of dissidents, politicians and journalists over the last few years. "Get out of there," he told me in no uncertain terms. "You are not safe."

Posada, parenthetically, worked for the secret police in Venezuela and was an active participant in the death squads.

I later learned that the secret police had issued an arrest warrant for me and were closely watching the airports and ports. U.S. Ambassador Viron Vaky had learned of my interview, and instead of rejoicing over its potential for assisting in Propper's antiterrorism investigation, he was not happy. Venezuelan President Perez had personally ordered the secret police to arrest me.

Then the Venezuela Government sent a formal protest to the United States Embassy claiming I was a CIA agent working with Propper. The CIA and Propper were clearly on opposite sides, but that didn't stop the Venezuelan Government from declaring that my interview was a breach of faith between the United States and Venezuela.

Back in the United States, I let Propper copy my tapes, which he then used to question Cuban suspects in the Letelier investigation. I published my interviews in the *New Times* magazine and caused a certain stir in the Miami Cuban community, as well as political upheaval in Central and South America.

In September 2005, I contacted Dean Boyd of the Department of Homeland Security and told him I had notes and tapes that clearly implicated Posada in many, many terrorist activities. As I said, he was proud of these activities. I contacted Dean Boyd, and within a few days I was contacted by Jo Ellen Ardinger, an attorney with the Department of Homeland Security.

She seemed excited by my information and phoned and e-mailed me. She asked me to fax it down and e-mail it to her. She told me this information was exactly what the U.S. Government needed to prevent Posada from entering the U.S. The information would help make a case that he was a terrorist. She asked me if I was willing to testify; I said that I was.

There was a trial on these matters shortly thereafter, and I waited for the Department of Homeland Security to get back to me and ask for my notes and tapes that would link Posada with terrorism.

They never did.

Thank you very much.

[The prepared statement of Mr. Fleetwood follows:]

PREPARED STATEMENT OF MR. BLAKE FLEETWOOD, FREELANCE JOURNALIST

In 1977 I interviewed two of the most deadly terrorists of the twentieth century, Luis Posada and Orlando Bosch in a Venezuelan prison. I had a tape recorder.

Between them, they had orchestrated hundreds of bombings and assassinations. They were being held in connection with the bombing of a civilian Cubana Airline plane that had killed 73 civilians five months earlier in October 1976.

"How did you get in here?" Bosch asked me suspiciously. When I told him, Bosch seemed happy for the chance to tell his story to a foreign reporter. He took me into his well-appointed cell and introduced me to Luis Posada, a long-time ally and cell-mate.

"Would you like a cigar?" Luis Posada asked me. "America may have an embargo against Cuban cigars, but we don't."

They were extremely angry and felt betrayed. The Venezuelans and the CIA had locked them away to keep them silent. Over the din of homemade drums in a nearby courtyard, they poured out their story for more than six hours.

I realized that I was being given an extraordinary opportunity that few journalists would ever have—an extended, taped interview with terrorists who proudly bragged of their complicity in hundreds of murders, bombings and assassinations throughout the world, supported and financed, and sometimes betrayed, by state-sponsored nefarious secret agencies, including the CIA.

“I was on a CIA draw of \$300 plus all expenses,” Posada bragged to me. “The CIA helped me set up my detective agency from which we planned actions.” “Actions” was a code word that Posada used to describe bombings and assassinations. They spoke about the murder of two Cuban diplomats in Argentina, the bombing of the Mexican embassy in Buenos Aires, the bombings of the Air Panama office in Bogotá, the Cubana Airlines office in Panama and, finally, the Cubana Airlines bombing which killed 73 civilians.

“It is true,” Bosch and Posada told me. “We had a great meeting in the Bonao mountains in Dominican Republic . . . Plotting bombings and killings. Everything was planned there.”

The meeting was to coordinate all terrorist actions in the hemisphere. Both men were proud of what they had accomplished. Hernan Ricardo, who worked for Posada’s detective agency, was arrested in Trinidad and confessed to planting the bomb on the civilian airliner to the Trinidad Police chief. The night before he had met with Bosch and Posada in the lobby of the very same Aunaco Hilton in Caracas where I was staying.

Back at the Hilton, I was feeling a little nervous and called Eugene Propper, the Assistant US Attorney in Washington, who was investigating the Orlando Letelier murder in Washington, D.C. He couldn’t believe I had the taped interview. He told me to sit tight and that he would get right back to me. Within a few moments he was on the phone again and seemed scared. “The CIA told the secret police everything. They are out to get you. You are in great danger.”

I asked Propper if I should go back to the Embassy. He told me that he thought that would be the worst place for me to go. “I have no power down there. You are on your own.”

We were both aware of the reputation of the notorious secret police and their Death Squads that had caused the disappearance and murder of hundreds of dissidents, politicians and journalists over the last few years. “Get out of there” he told me in no uncertain terms. “You are not safe.”

I later learned that the secret police had indeed issued an arrest warrant for me and were closely watching the airports and ports. US Ambassador Viron Vaky had learned of my interview and, instead of rejoicing over its potential for assisting in Propper’s anti-terrorism investigation, he was not happy. Venezuelan President Perez had personally ordered his secret police to arrest me. Then, the Venezuelan government sent a formal protest to the US Embassy claiming that I was a CIA agent working with Propper. The CIA and Propper were clearly on opposite sides, but that didn’t stop the Venezuelan government from declaring that my interview was a “breach of faith” between the US and Venezuela. Back in the US, I let Propper copy my tapes which he then used to question Cuban suspects in the Letelier investigation. I published the interview in New Times Magazine and it caused a certain stir in the Miami Cuban community, as well as political upheaval in Central and South America.

In September of 2005 I offered this information, notes and tapes, to the Department of Homeland Security.

I was contacted by Jo Ellen Ardinger, an attorney with DHS. She seemed excited by my information and phoned and emailed me. She told me that this information was exactly what the US government needed to prevent Luis Posada from entering the US. The information would help make the case that he was a terrorist.

She asked me if I was willing to testify. I said that I was.

There was a trial on these matters in Texas a few months later and I waited for the Department of Homeland Security to get back to me to ask for my notes and tapes.

They never did.

Mr. DELAHUNT. Thank you, Mr. Fleetwood.

And I expect and anticipate we will have two rounds with this particular panel.

But let me begin by posing a question to you, Mr. Hernandez. In your written testimony you indicated a full evidentiary hearing was done before the immigration judge.

Mr. HERNANDEZ. That is correct, sir.

Mr. DELAHUNT. Are you aware that there was only one witness at that particular hearing?

Mr. HERNANDEZ. That is incorrect, sir.

Mr. DELAHUNT. That is incorrect? What other witnesses were there?

Mr. HERNANDEZ. Mr. Posada testified and Joaquin Chaffardet testified. Two witnesses.

Mr. DELAHUNT. So there were two witnesses. Well, thank you.

Mr. HERNANDEZ. You are welcome.

Mr. DELAHUNT. Mr. Chaffardet was testifying on behalf of Mr. Posada?

Mr. HERNANDEZ. He was called by the respondent, Mr. Posada. And my understanding, if my recollection serves me correctly, is that—his name escapes me, but Immigration and Customs Enforcement also provided one witness who testified on behalf of the petitioner of the United States.

Mr. DELAHUNT. I reviewed that record. I can't find any witness called by the government.

Mr. HERNANDEZ. It predates my entry as a criminal lawyer. I was not involved in the immigration proceedings.

Mr. DELAHUNT. But you are aware, of course, that Mr. Chaffardet was the lawyer in Venezuela for Mr. Posada?

Mr. HERNANDEZ. I am aware that he was one of the lawyers, yes.

Mr. DELAHUNT. And that Mr. Chaffardet was a subordinate of Mr. Posada in the Venezuelan secret police, the so-called DISIP?

Mr. HERNANDEZ. That fact, I am not aware.

I know that Mr. Chaffardet—and I have had a couple of conversations with him—was one of the lawyers that represented Mr. Posada Carriles.

The secret police that you are referring to is the Directory of Intelligence and Special Services and Forces, which is an organism of the Venezuelan Government that has existed for the entire length of time of its democracy.

Mr. DELAHUNT. Right. And Mr. Chaffardet was a subordinate, according to the information that I have, of Mr. Posada.

Mr. HERNANDEZ. I have never heard that fact. I am not aware of that fact.

Mr. DELAHUNT. Are you aware that he was the business partner of Mr. Posada in the detective agency?

Mr. HERNANDEZ. No, I am not aware of that either.

Mr. DELAHUNT. Do you know that he was indicted, Mr. Chaffardet, as a result of the escape of Mr. Posada from jail?

Mr. HERNANDEZ. I know that recently he has been the subject of a—

Mr. DELAHUNT. No, this would have been back in 1985.

Mr. HERNANDEZ. No, I am not familiar with that part of his history, but it would not surprise me.

Mr. DELAHUNT. Right.

Well, I guess what I am suggesting is, at a full evidentiary hearing, this information was never brought to the attention of the immigration judge—I think his name is Abbott—and so I am surprised at the government. I am not being critical of counsel for Mr. Posada. But I am very surprised that the counsel for the govern-

ment, the Department of Homeland Security, would not have brought this information to the attention of the immigration judge.

But I guess it is just another surprise.

Mr. HERNANDEZ. If I may, Chairman Delahunt.

Mr. DELAHUNT. Please.

Mr. HERNANDEZ. Again, neither you nor I were present. But I have reviewed the record of the proceedings, and I am satisfied that the government was adequately and appropriately represented during those proceedings and that they very much sought to litigate and defend the interest of the United States insofar as those hearings were concerned.

The bottom line is that a judge, after an evidentiary hearing, concluded that there was a reasonable likelihood that the Government of Venezuela would not be able to or would willingly permit Cuban agents to enter into Venezuela, and that there was that risk that he could be—"he" being Mr. Posada—

Mr. DELAHUNT. I am not disagreeing with the conclusion, and I think you report that accurately, but I guess where we find ourselves in disagreement is the characterization of the hearing as a full evidentiary hearing.

To be candid with you, Mr. Hernandez, I can't say that I am particularly pleased with the competence in the presentation of the government in this particular matter. But let me go on to another subject.

Mr. Fleetwood indicated that he was interested in the case of Orlando Letelier who was, along with an American, assassinated here in Washington, DC. Would you agree with me that that was a terrorist act?

Mr. HERNANDEZ. Yes.

Mr. DELAHUNT. I also noted that in the report of the art show at the Fontainebleau, that your client, Mr. Posada, during that exhibition had a number of his paintings. The report was interesting because it indicated that he has become an artist of some note, but that he shared that particular exhibition with one Jose Suarez, Jose Dionisio Suarez. Are you familiar with that individual?

Mr. HERNANDEZ. Yes.

Mr. DELAHUNT. You were present at that art exhibit?

Mr. HERNANDEZ. I was not present at the Fontainebleau, sir.

Mr. DELAHUNT. You weren't there?

Mr. HERNANDEZ. No, sir.

Mr. DELAHUNT. You were present at the first one?

Mr. HERNANDEZ. I was present at one of the art exhibits, but it was not at the Fontainebleau.

Mr. DELAHUNT. Do you know if your client and Mr. Suarez are friends?

Mr. HERNANDEZ. I do not.

Mr. DELAHUNT. Have they worked together in the past?

Mr. HERNANDEZ. I do not.

Mr. DELAHUNT. Do you know anything about Mr. Suarez's background.

Mr. HERNANDEZ. I do not.

Mr. DELAHUNT. So you are unaware of the fact that he pled guilty in the case of Orlando Letelier?

Mr. HERNANDEZ. That would be a matter of record. I have no reason to refute that or not to believe it if that is what the record reflects.

Mr. DELAHUNT. The record does reflect that he pled guilty and served 12 years for the assassination of a former foreign diplomat, an American citizen here in Washington, DC, and actually served 12 years.

If I am accurate in that matter, I think we could agree that he would aptly fit the definition of terrorist.

Mr. HERNANDEZ. Well, one of the things that I—and my short answer to your question is that, yes, that as we define terrorism today—

Mr. DELAHUNT. How do you define terrorism?

Mr. HERNANDEZ. Well, how I personally define terrorism?

Mr. DELAHUNT. Sure.

Mr. HERNANDEZ. Well, I think that the use of violence to accomplish a political end could be broadly defined as being terrorism.

If you defined it so broadly, then all of the Framers of our Constitution and most of the individuals who at one point or another have taken arms against oppressive governments and have used violence in which civilians have died could be qualified under that definition as being terrorists.

Our actions in Iraq, for example, have had collateral damage, and we have done it for the purpose of bringing democracy to Iraq.

Mr. DELAHUNT. Let me—

Mr. HERNANDEZ. If I may just conclude this thought, and then I will allow, or I will listen to your question.

Mr. DELAHUNT. Sure.

Mr. HERNANDEZ. If an action is taken by a government, it is not terrorism. If an action is taken by an individual, it probably fits the definition of terrorism. And these distinctions we draw from a historical perspective.

But I would agree with the chairman that the bombing of an ambassador in a foreign country, or in our own country, for a political point is terrorism, and I would condemn it.

Mr. DELAHUNT. Again, I appreciate your definition.

You invoked Iraq. And I think what I found somewhat ironic, somewhat tragic really, was that in the case of Orlando Letelier and Ronni Moffitt, it was a car bomb, it was a car bomb that was used. And the United States attorney who prosecuted that case was referenced by Mr. Fleetwood.

And you should know that I have never met Mr. Fleetwood until this moment. Mr. Eugene Propper, I have never met him either.

But there are people who, you know, maybe the spotlight of history doesn't shine on them necessarily. I would suggest we are all kind of footnotes. But a man of great courage, Mr. Propper, because I think that was a case that disturbed all Americans of both political parties, of any political persuasion, to imagine that a foreign diplomat and an American citizen were the objects of a car bomb here in Washington, DC.

That is disturbing. And I found it—I don't want to use the term "disturbing," but I found it ironic that your client would be sharing a venue with an individual whom I would suggest is a terrorist.

Mr. HERNANDEZ. He is a convicted terrorist; is that right?

Mr. DELAHUNT. He pled guilty and has served 12 years.

Mr. HERNANDEZ. In prison, and he served his time, is that correct Mr. Chairman?

Mr. DELAHUNT. He did. He served his time. And as a former prosecutor myself, Mr. Hernandez, I understand when someone serves their time, there is redemption for all of us. So this is not—

Mr. HERNANDEZ. Understood. But please understand that in Cuba, and perhaps in Venezuela, that due process would not have occurred.

Mr. DELAHUNT. Believe me, I have condemned what goes on in Cuba on multiple occasions. In fact, you should know that I have intervened on behalf of a number of individuals who have been imprisoned in Cuba over and over, and over again. So this is not about Cuba.

I am sure there is much that we could agree and disagree with when it comes to Cuba. But let us talk about, not individuals, but the blowing up of an airliner with 73 individuals on board—

Mr. HERNANDEZ. Yes, sir.

Mr. DELAHUNT [continuing]. Some of whom were teenagers coming back from an international athletic competition. Some of whom—and we will hear from the sister of a victim in the next panel, a young man coming from Guyana, a Third World country, to go to medical school. He had a dream.

The intentional destruction of an airliner with 73 innocents on board: Would you agree with me that that is an egregious act of terror?

Mr. HERNANDEZ. Yes.

Mr. DELAHUNT. Thank you. We are going to have a second round. I am going to go to my friend, Mr. Rohrabacher.

Mr. ROHRABACHER. Mr. Hernandez, you have just agreed that the bombing of that airliner was an egregious terrorist act, but I guess it is your belief that your client did not do that bombing; is that correct?

Mr. HERNANDEZ. It was the belief of the Venezuelan tribunals, the Venezuelan prosecutors, both in the military and civilian sectors.

When the chairman was discussing a little bit about the chronology of what happened in Venezuela, there are some facts that I think are very, very telling about how it happened. Mr. Posada Carriles was charged with treason. I think it was in fact, Congressman Rohrabacher, yourself who questioned why it was in a military tribunal. It was in a military tribunal because the act itself jurisdictionally should not have been brought to trial in Venezuela. It should have been brought to trial in either Barbados or Trinidad because the incident itself occurred within the territorial waters of Barbados.

So in order for it—and I don't wish to digress too much and take up the Congressman's time for questions, but the reason why it ends up being in Venezuela was a kind of jurisdictional gymnastics exercise that was undertaken by a variety of countries in order to bring it to Venezuela. And in order to bring it to Venezuela, they had to charge Mr. Posada Carriles with treason, that the act of sabotage was treasonous to the country, the state of Venezuela, by

bringing the state of Venezuela to a point of war with Cuba, which was a stretch to say the least.

Originally, the file, which, by the time it left Trinidad, was over 850 folios long—by the time it makes it to Venezuela, it goes actually to a civilian court, a judge by the name of Estaba. And she managed to so bungle the process, the judicial process, that almost as an act of desperation, she turned it over to a military tribunal.

So that is the short course of the history.

Mr. ROHRABACHER. I am not a lawyer, and my chairman, of course, is a lawyer, but I know how lawyers think about procedure, and various things that are done exactly right procedurally are important.

I don't really give a damn about those things. I want to know what the truth is, and I ask you a question: Do you think your client did this?

Mr. HERNANDEZ. No.

Mr. ROHRABACHER. Okay. That is what I asked originally.

Mr. HERNANDEZ. And the physical evidence, Congressman, I think very clearly shows that the signature, the chemical signature, based on these reports of the explosives was not a C-4 explosive.

Mr. ROHRABACHER. But you know your client, you have talked to your client a lot now, and you are here telling us that you are swearing before God and before your country that you believe this man is innocent.

Mr. HERNANDEZ. I believe he is innocent of the bombing of the Cubana flight.

Mr. ROHRABACHER. That is what the question is.

And I take it you believe in God.

Mr. HERNANDEZ. I am a firm believer. I am a Catholic.

Mr. ROHRABACHER. Good. And so you are swearing before God now, that is what you honestly believe, that he is innocent of that crime?

Mr. HERNANDEZ. I honestly believe that.

Mr. ROHRABACHER. All right. That is what I am asking.

Do you have a comment on any of the points made by our freelance journalist here?

Mr. HERNANDEZ. I will try not to be legalistic, Congressman. Of course, I have comments. As a lawyer, I deal with evidence in courtrooms, as I am sure the chairman, as a former prosecutor, would appreciate.

Where are these tapes? I would ask to see the tapes. I would like to see what my client allegedly made in these conversations.

Mr. ROHRABACHER. Do you have a transcript of the tapes?

Mr. FLEETWOOD. Not with me.

Mr. ROHRABACHER. Would you please—would you submit them to this committee?

Mr. FLEETWOOD. I can submit what I have. It is 30 years old. Yes.

Mr. ROHRABACHER. They are the tapes that you had from these interviews?

Mr. FLEETWOOD. Right.

[The information referred to is included in the *Congressional Record*.]

Mr. ROHRABACHER. All right. So you will have a chance. And afterwards we will have a chance to have a critique of those tapes.

By the way, you went down there to freelance, down to Venezuela to meet these guys?

Mr. FLEETWOOD. Yes, I had talked to a magazine editor in New York, and he had encouraged me, yes.

Mr. ROHRABACHER. And who was paying your bill? I mean, that is—I was a freelance journalist. That is quite a trip down there to have to pay for all of your expenses. And you mentioned the hotel that you were staying at, which seemed to be a pretty high-priced hotel. Who was paying your bill?

Mr. FLEETWOOD. I paid my own bill. And I was trying to make a mark as a journalist.

Mr. ROHRABACHER. And you were paying your own bill? When I was a freelance journalist, I was starving to death. I wasn't a very good one. But if I would have been a better journalist, I probably wouldn't be here today.

Let me ask you, it says here that you talked to these two guys and they bragged about these various instances; they spoke about the murder of two Cuban diplomats—they spoke about. Did that mean that they themselves said that that is what they had been involved in, that they themselves had been involved in the murder of the Cuban diplomats?

Mr. FLEETWOOD. They, Mr. Posada and Mr. Bosch, were involved in raising monies down there from the exile community to—

Mr. ROHRABACHER. So they didn't—

Mr. FLEETWOOD [continuing]. To finance these actions. They cut a deal with the Government of Venezuela that they couldn't do actions. This is what they told me.

Mr. ROHRABACHER. Okay, they spoke about. I have to tell you, the way your wording is—and you are a good wordsmith—that made it sound like they were involved in that murder.

How about, did they say that they are personally involved in the bombing of the Mexican Embassy in Buenos Aires? Did they plant the bombs there? Is that what they told you?

Mr. FLEETWOOD. They told me that that they were involved, yes.

Mr. ROHRABACHER. Okay, they told you that—now, remember, you are under oath, and we are going to listen to your tape.

So they told you that they were personally involved with planting the bombs at the Mexican Embassy?

Mr. FLEETWOOD. They told me that they were responsible for the bombs. I don't know whether they were physically at the Mexican Embassy, but they were responsible and were financing these actions.

Mr. ROHRABACHER. Okay. In any of these things where it says, "They spoke about," at any of those things did they tell you that they personally were involved in the actual execution of these incidents?

You have a number of times here you say "spoke about." In any one of those, did they say they actually participated in the actual execution of that terrorist act?

Mr. FLEETWOOD. At this point, I can remember that Mr. Posada told me that he personally infiltrated Cuba and was involved in bombing civilian targets in Cuba, which he felt would help—

Mr. ROHRABACHER. Well, we are not talking about that. You listed a whole bunch of things here. "He spoke about the murder of two Cuban diplomats in Argentina, the bombing of the Mexican Embassy in Buenos Aires, the bombing of the Air Panama office in Bogota, the Cubana Airlines office in Panama and, finally, the Cubana Airlines bombing that killed 73 civilians."

At any time, did he tell you—you have this on tape; we are going to hear it. He never said he personally executed those things.

Mr. FLEETWOOD. He said things like, "That was us."

Mr. ROHRABACHER. "That was us." And "us" could have meant the United States of America for all you know.

Mr. FLEETWOOD. That is not the way I took it.

Mr. ROHRABACHER. Okay. Well, but did he go into detail about how—it sounds like, to me, that it was pretty nebulous. Frankly, a lot of people brag about a lot of things, and unless they get into specifics, specifics, as a journalist, you should know that you ask questions about, "Oh, really? When did it happen? Where did you get the dynamite? How did you transport it to the office there in Panama City?" You didn't ask him any of those questions? Because they just said, "We were involved," and—

Mr. FLEETWOOD. You are perfectly right. They could have been bragging and talking about things that they never were involved in. That is what they told me, that they were involved.

Mr. ROHRABACHER. They could have been trying to put pressure on the CIA to try to get them the heck out of there and saying that we know things. But I am not saying that you right now are not making the charge that these two men actually personally were involved in executing any of these terrorist acts, are you?

Mr. FLEETWOOD. But they were involved in a conspiracy to execute—

Mr. ROHRABACHER. Personally involved in executing that?

Mr. FLEETWOOD. Yes, yes.

Mr. ROHRABACHER. When you get together and you are talking in the mountains with a group of people, and that is where all this terrorism—by the way, did they say, at the meeting, they were there to coordinate all terrorist actions in the hemisphere? Did they call them "terrorist actions"? Did they use the word "terrorist action"?

Mr. FLEETWOOD. They used the words that indicate that terrorist actions—

Mr. ROHRABACHER. No, no, no. That is your definition. I am saying, did they use the words "terrorist actions"?

Mr. FLEETWOOD. I would have to go back to the transcript.

Mr. ROHRABACHER. Because you may consider an act against a member of the Cuban secret police, for example, a terrorist act if that Cuban secret policeman is in Venezuela or someplace—may or may not be a terrorist act. I personally define terrorism as an act of violence against civilians to achieve a political purpose. I don't include that when you have members of a regime, especially a dictatorship, that is engaged in terrorism in their own country, I don't consider that a terrorist act necessarily.

But when you say their meeting was to coordinate all terrorist actions in the hemisphere, isn't that your way of explaining, using that word? They didn't actually use that word, did they?

Mr. FLEETWOOD. That is what they were telling me.

Mr. ROHRABACHER. No, no. That is your definition of it. Did they use the word "terrorist"? "We were there to plan terrorist actions"?

Mr. FLEETWOOD. They talked to me about actions, bombings, killings and otherwise disrupting—

Mr. ROHRABACHER. All bombings and not all actions are not terrorists. Did they say "against civilian targets"?

Mr. FLEETWOOD. No, they did not say "against civilian targets."

Mr. ROHRABACHER. So it is your definition of what terrorism—and you would say anybody who is against Castro, who does things against the Castro regime, and is not in uniform actually doing it up front, is a terrorist. Now, I would suggest anybody who would bomb an airline and kill Cuban civilians is a terrorist. But I wouldn't say, necessarily, if somebody was engaged, as they were back in the 1970s and 1980s, where they basically were a hit-and-run-type operation, where the Cuban secret police were killing these people overseas and they were killing Cuban secret policeman overseas—that is the type of thing that was going on in the Cold War—that is not necessarily a terrorist act, simply because it is not one army versus another army.

So let us get back to the planting of the bomb on the civilian airliner, which is what this is all about.

Mr. FLEETWOOD. Right.

Mr. ROHRABACHER. I mean, this is what led to it. They told you and your tape, which you will give to us, is going to indicate that they told you that they were involved in planting that bomb?

Mr. FLEETWOOD. They did not say to me explicitly—they told me that this was part of what was set up in the Bonao Mountains meeting. They told me that they were involved—

Mr. ROHRABACHER. That specific airliner was set up way in advance.

Mr. FLEETWOOD. The idea of blowing up airliners was set up in the Bonao Mountains.

Mr. ROHRABACHER. Okay, so that is not—so some people got together and were mouthing off and talking about some things that were illegal, like plane bombs. But you didn't have a direct tie to them and this specific airliner. Just, somewhere in the past, they were actually engaged in discussing the bombing of airliners.

Mr. FLEETWOOD. Yes. But they told me that they had met with Hernan Ricardo, who was one of the people on that plane, who confessed to the bombing—

Mr. ROHRABACHER. Okay.

Mr. FLEETWOOD [continuing]. The night before.

Mr. ROHRABACHER. So they told you that they had met with him the night before?

Mr. FLEETWOOD. Yes.

Mr. ROHRABACHER. And this guy then admitted that he actually was the one who bombed the airplane?

Mr. FLEETWOOD. Posada admitted it?

Mr. ROHRABACHER. No, no. You said that they talked—

Mr. FLEETWOOD. Yes, Hernan Ricardo confessed to bombing the airplane.

Mr. ROHRABACHER. Okay. He confessed to bombing the airplane.

Mr. FLEETWOOD. Yes.

Mr. ROHRABACHER. And in your tape they said they had met him the night before.

Mr. FLEETWOOD. Yes. He was the right-hand man to Luis Posada.

Mr. ROHRABACHER. Okay. That is a pretty good connection.

What you do you say about that, Mr. Hernandez?

Mr. HERNANDEZ. I disagree with that. First of all, he confessed, supposedly confessed, while he was in Trinidad. The Venezuelan court refused to accept both the translation and refused to accept the confession because it was, A, coerced and, secondly, there was no interpreter.

And after a long series of hearings—

Mr. ROHRABACHER. Is the confession he made on tape anywhere? He has somebody on tape saying that we met with this guy the night before, and the guy admits that he—now he said there is some other tape somewhere where that guy admits that he was the one who planted that bomb. And—

Mr. HERNANDEZ. To my knowledge, there is no tape regarding Hernan Ricardo. I know that Hernan Ricardo—

Mr. ROHRABACHER. Now, if he confessed, where do we get a copy of his confession?

Mr. FLEETWOOD. It was taken by the police chief there, and there are transcripts around.

Mr. ROHRABACHER. Okay. I would like to ask our staff—

Mr. DELAHUNT. Would my friend yield for a moment?

Mr. ROHRABACHER. Sure.

Mr. DELAHUNT. Just a single question. It is a matter of record that Hernan Ricardo was an employee of Mr. Luis Posada Carriles in his detective agency.

Mr. HERNANDEZ. Yes. It is also a matter of record—

Mr. DELAHUNT. Thank you. I want to get back. I don't want to interrupt.

Mr. ROHRABACHER. Say that again. He was what?

Mr. DELAHUNT. That Mr. Hernan Ricardo, who was charged with and convicted of actually planting the bombs in the airliner, was an employee of Mr. Luis Posada Carriles. We will hear some more evidence to that with the next panel.

Mr. HERNANDEZ. I just wanted to say that he did not just work for Mr. Posada Carriles. He also worked for other people. For example, he worked for Ricardo "Monkey" Morales, who was the division chief of Section 54 of the counterintelligence.

Mr. DELAHUNT. That is Monkey Morales?

Mr. HERNANDEZ. Monkey Morales. And, in fact, Monkey Morales, under oath, about 10 years later in a deposition in Miami, Florida, took responsibility for the bombing and indicated that he had had a relationship with Hernan Ricardo and that Hernan Ricardo had been asked to go on that flight, to take surveillance photographs of the North Koreans who were on that flight. That is my understanding of the testimony. And he also said that the bomb had been placed in Guyana, that it had not been placed in Trinidad, Barbados.

Mr. ROHRABACHER. Well, wherever the bomb was placed it is irrelevant. The bomb was placed on a civilian airplane and brought

it down, all right? And we had lots of civilians killed. And whoever did that is a murderer and a terrorist.

Mr. HERNANDEZ. I don't disagree with that.

Mr. ROHRABACHER. Now, we are trying to determine—because this is about Mr. Posada, that is who we are discussing, really, today. And so far, the closest that we have come—I will have to say, as a former journalist myself, I understand the use of words. And except for this one point, your words don't—that does not bring any evidence to this case, except that last point that you made, which was he told you—and you have this on tape—that the night before the bombing that they had met together.

Mr. FLEETWOOD. Right.

Mr. ROHRABACHER. So, thus, there would be—there is going to be some kind of evidence that we have that this man actually did the bombing, rather than this Monkey—whatever his name is.

Mr. HERNANDEZ. Well, Monkey Morales is a notorious figure, Congressman. But I do not wish—

Mr. ROHRABACHER. Notorious what?

Mr. HERNANDEZ. He is a notorious figure, subsequently was shot and killed in a bar fight.

Mr. DELAHUNT. Terrorist, is that accurate?

Mr. ROHRABACHER. He is a notorious guy. Okay.

Mr. HERNANDEZ. And there is a lot to say about him.

Mr. ROHRABACHER. Well, he is claiming that he did it, and right now we have a suggestion that this other fellow that worked for Posada is the guy who actually planted the bomb and that Posada actually talked to him the night before, and that is what he had told you.

Mr. FLEETWOOD. Right. And he told me the next day after the bomb went off that he was called by Hernan Ricardo, and Hernan Ricardo made a number of phone calls, and was told that he needed help, that he was in a lot of trouble. And that is as far as—

Mr. ROHRABACHER. Okay. Now, when he told you that he met with this guy the night before the bombing, was he telling you that he had done the bombing, that he had helped plan the bombing?

Mr. FLEETWOOD. He didn't tell me directly that he helped plan the bombing.

Mr. ROHRABACHER. Now, wait, you are a journalist now. Are you trying to tell me that this guy told you that he had met with the man who planted the bomb the night before and you didn't ask him whether or not he was involved with the planting of the bomb, the bomb on the plane? You didn't ask him that?

Mr. FLEETWOOD. In a long conversation, it was understood that he was not going to tell me directly that he had planned the bomb.

Mr. ROHRABACHER. And you didn't ask him?

Mr. FLEETWOOD. No, I didn't. He did tell me directly that he was involved in these other assassinations, which were primarily civilian targets, as he told me.

Mr. ROHRABACHER. Well, let me put it this way. There were lots of people getting killed during that time period, who were, as I say—this was one of those—as John Kennedy called it, the twilight struggle was going on, where Castro was sending out his people, knocking people off. And there were Cubans who wanted democ-

racy in their country who were fighting those people. And there was this almost, like, gangland warfare.

Mr. DELAHUNT. Would the gentleman yield?

Mr. ROHRABACHER. And, at some point, if they target civilians to accomplish their end, it becomes terrorism at that point, but only at that point.

Knocking off somebody who is a member of Castro's secret police or involved with the secret police would not have been an act of terrorism, as far as I am concerned, just like if somebody had tried to kill somebody in the KGB or something like that. These are dictatorships. It is not a democratic country, where you just have someone who is in charge of protecting their country. If you have a democratic government, it is different than with a dictatorship which has a secret police.

Sure, I would yield.

Mr. DELAHUNT. I think that some of our colleagues are getting a bit—let me go to—

Mr. ROHRABACHER. I would yield back the balance of my time. Thank you.

Mr. DELAHUNT. I will go to the vice chair of the committee, Mr. Carnahan from Missouri. And then I will go to Mr. Flake, and then we will go to Mr. Meeke, and then we will go to my good friend from Indiana.

Mr. CARNAHAN. Thank you, Mr. Chairman.

Thank you, panel, for your detailed descriptions about this case and your knowledge of it.

We heard of another case, as referenced by the chairman, in a prior hearing, Mr. Arar, and on the issue of diplomatic assurances from other countries, assuring that the person in question would not be tortured.

In your experience in this case or others, how are these assurances obtained? What types of channels are used to obtain them?

And I want to get your comment about that first, and then I have a follow-up question.

Mr. HERNANDEZ. Are you directing, Congressman, the question to me?

Mr. CARNAHAN. Yes, I will start with you, Mr. Hernandez.

Mr. HERNANDEZ. My understanding is that, in the affairs between countries, through their diplomatic corps, written assurances are delivered that are, for the most part, binding upon those countries who make those agreements.

However, I think that I am not very familiar with the Syrian-Canadian that was referenced in the chairman's opening comments, and I am certainly not offering any opinion about whether or not the assurances coming from Syria or coming from another country should or not be accepted by the United States.

The point is that, as you draw a direct connection to the Posada situation and you ask the question, would diplomatic assurances coming, for example, from Venezuela, given the nature and the evolution of the Venezuelan Government as we are observing it today—should the United States be in a position to accept those assurances because they actually, in the real world, mean anything?

And I would respectfully submit to the Congressman that, in the case of Venezuela, you may very well have an element of the Ven-

ezuelan Government that does in good faith give these assurances with every intention of following suit, but there is absolutely, in my judgment, no guarantee that, as Judge Abbott noted in his removal order, denying Venezuela the right to be a country who would accept the removal of Mr. Posada Carriles and said that there is no assurance and no guarantee that Cuba would not be allowed to bring in agents who would extraordinarily render Mr. Posada Carriles back to Cuba or who would, in fact, interrogate him in a Venezuelan prison, inject him with whatever they wanted to inject him with, and showcase him to the rest of the world and embarrass the United States or perhaps even get information that is part of our right to protect as secrets.

And I would, again, respectfully submit to the Congressman two things: That if Luis Posada Carriles is removed or extradited to either Cuba or Venezuela, that I personally have absolutely no doubt that within a month's time we are going to see Mr. Posada Carriles being paraded in front of cameras and that they will have their way with him and that they will get an absolute public-relations harvest, which is what they really want out of this case.

Because I want to further assure the Congressman that neither Chavez nor anyone in the Government of Venezuela has any serious intention of proceeding and having a trial about this airliner back in 1976. Cuba has consistently, for the last 30 years, resisted any attempt to salvage the aircraft, which might have answered the questions of the international community about how that airplane was downed.

And this is nothing but a political sideshow, that they would want to be able to get their hands on Posada Carriles, get out of him whatever they think they can get of him, parade him in front of the cameras and embarrass the United States of America.

And all those people who do not think that that will happen I think are very naive in understanding the ways of the Castro regime and now the regime of Mr. Chavez.

Mr. CARNAHAN. Let me get Mr. Fleetwood to respond, as well.

Mr. FLEETWOOD. Can you repeat the question? I am sorry.

Mr. CARNAHAN. Yes. I wanted to get your thoughts on the issue of diplomatic assurances.

Mr. FLEETWOOD. I really don't have much opinion on this. I would favor sending Mr. Posada to a World Court-type thing where they could try him, and that would be my preference.

Mr. CARNAHAN. And do either of you have any knowledge about any dialogue that has taken place between the United States Government and Venezuela about this particular case?

And, again, I will start with Mr. Hernandez.

Mr. HERNANDEZ. I do not have any direct knowledge. I do know, only by public media reports, that there have been requests by the Venezuelan Government to exercise its options under the Mutual Assistance Treaty and the Treaty of Extradition, which, incidentally, because Mr. Posada Carriles was fully tried and was fully acquitted by not one but two tribunals in Venezuela, it does raise certain issues of comity and other issues having to do with whether or not the United States would be bound if there ever was an actual extradition hearing on the matter to return him to Venezuela.

But I do not have any access to any direct dialogue that may have occurred between Venezuela and the United States. Although I am making the assumption, as I testify here today, that there has been.

Mr. DELAHUNT. I am going to ask the gentleman to yield and let me recognize the gentleman from Arizona, Mr. Flake.

Mr. FLAKE. Thank you.

If you could answer just as briefly as possible, I will try to state quickly so we can move on to the next panel as well and get the other questioners.

Mr. Hernandez, you mentioned that “no American jury would convict Mr. Posada” on charges related to the Cubana Airlines bombing. How do you know that?

Mr. HERNANDEZ. Well, I know it based on my intimate knowledge of the rules of evidence and also my experience as a trial lawyer. The rules of evidence, as you know probably, that, under Section 803 of the Code, prevents the use of hearsay. You are talking about matters that occurred 30 years ago. Most of it is double hearsay.

Mr. FLAKE. That same sure knowledge leads you to believe—you say that Posada escaped from prison in Venezuela because “it became obvious that the legal process was being subverted by the influence of pro-Castro elements in the Government in Venezuela.”

Mr. HERNANDEZ. Yes, sir.

Mr. FLAKE. Was Chavez in charge at that time?

Mr. HERNANDEZ. No. A general by the name of Barrios was in charge. And what happened there was that photographs subsequently were found that showed and evidence was produced that showed that General Barrios, during the 4-year period of time he was reviewing the acquittals, had traveled to Cuba, had been photographed embracing Fidel Castro and had connections to Fidel Castro.

Mr. FLAKE. Back to Venezuela, you mentioned that he was acquitted; you keep mentioning that. But Venezuela wants him back, because he escaped before a civil trial could take place, correct?

Mr. HERNANDEZ. No, that is incorrect. It is correct that he escaped, but it is incorrect before the civil process had been undertaken. To suggest that—

Mr. FLAKE. So he escaped, then, after it took place?

Mr. HERNANDEZ. He escaped when it became abundantly clear to him, after 9 years in deplorable conditions, that his case was never, ever going to be resolved because of all of the dysfunctions that had occurred for a period of over 9 years. Eleven thousand folios were produced over the course of these 9 years. After first going through a civil process and being kicked over to a military process, being acquitted after 4 years under the auspices of the military, it went to a superior military tribunal that took another 3 years. And after that 3-year period, Congressman, it got kicked back to a civil proceeding, and one of the judges said that we are going to start the process all over again.

And these things happen in a political context. Castro had a lot of influence on the government. And it became an international problem. But I could expand upon that, if you would like.

Mr. FLAKE. Mr. Fleetwood, you mentioned that DHS talked to you initially and expressed interest in having the tapes and the transcript?

Mr. FLEETWOOD. Yes.

Mr. FLAKE. Has the FBI ever contacted you?

Mr. FLEETWOOD. No. I mentioned this to a woman who said she was an attorney at DHS, and a public information officer talked to me. I e-mailed them information and notes and the kind of testimony I would give and the notes and tapes that I would make available to them. They never got back to me.

Mr. FLAKE. So we have somebody who is a suspected terrorist, who enters the country illegally, is being held, and we have evidence that could acquit him or convict him, and the U.S. Government has not asked for that information from you. We have actual tapes that might be relevant here, and they haven't asked you for them?

Mr. FLEETWOOD. Right. That is exactly true. The woman's name was Jo Ellen Ardinger. The e-mails I got from her, and talked to her on the phone.

Mr. FLAKE. Mr. Chairman, I would suggest that if we take anything from this hearing, it is—I am completely astonished at the lack of curiosity on the part of our Government. If we truly want to have any moral authority with regard to terrorism worldwide, to not even request these documents, that just completely floors me.

Mr. ROHRABACHER. Would the gentleman yield for one moment?

Mr. FLAKE. I am going to yield my time back. I would rather move through quickly. Please, make it very, very fast.

Mr. ROHRABACHER. Just to note that we do have the curiosity about that transcript and those tapes. And my request for you specifically is the transcript and the tapes and a copy of the tapes, so that we can make sure the transcript we get is accurate. And we would love to see it, and we have a great deal of curiosity about that.

Mr. DELAHUNT. I can assure the ranking member that, as I indicated in the beginning, this is the beginning of a hard look at the conduct of the Government and the administration. I want to be very clear. This is not a panel to determine the guilt or innocence of Mr. Posada.

Mr. HERNANDEZ. Understood.

Mr. DELAHUNT. We all have opinions; we have articulated those opinions. But this is about the administration's handling of this matter.

And, with that, I yield to the gentleman from New York, Mr. Meeks.

Mr. MEEKS. Thank you, Mr. Chairman.

And I am just curious—I am glad the chairman made that statement, because I am concerned about what my Government did or did not do. I am concerned in the answers in questioning that Mr. Carnahan was asking, for example, the statement that the only thing the Venezuelan Government wants to do is to use whatever it is to embarrass the United States.

From my viewpoint, I want to know what was the United States' involvement or not involvement, and if, in fact—you know, when I look at the fact that, obviously, Mr. Posada had strong connections

to the CIA, when I look at the fact that Mr. Posada then worked for them in Panama, when I look at the fact that Mr. Posada then entered this country illegally, and then still, in fact, we decide that he can stay here, knowing that there is a request for extradition, that concerns me, as to what our Government is doing, particularly in light of the fact that, right now, we are very upset with another country, Panama, because the chair of its national assembly, though he was found innocent in a Panamanian court, he is still wanted here. And we are putting tremendous pressure on the Panamanian Government to extradite that individual here.

And then, you know, I know the chairman referenced earlier the situation with a Canadian that we sent to Syria, where we knew that they were being tortured. And I don't know—and maybe you can tell me—of any references of any immediate torture being given to Venezuelan prisoners under the jurisdiction of Mr. Chavez.

The fact of the matter is, for me, you know, there was a coup d'état attempt in Venezuela not too long ago, and there were several individuals caught red-handed. And Mr. Chavez, to my knowledge, did not even torture those individuals who attempted a coup d'état against him.

So where is the evidence or how would you say that if someone who is wanted in another country—and we do have an extradition agreement with them—that a person should not go back simply because he is going to be tortured? I don't know where the evidence is of torture in Venezuela. I know where the evidence is of torture in Syria, but yet we still do that.

So I am really befuddled by the actions of my Government, and understanding that sometimes it is difficult dealing with Venezuela. I have currently my difficulties dealing with the Embassy of Venezuela. But, given all that, we are talking about Mr. Chavez and what he has or has not done. And I don't see the evidence, unless you have some.

Mr. HERNANDEZ. I certainly appreciate your comments, Congressman Meeks. You have to see the big picture in this matter and try to understand that the real coup d'état that is occurring in Venezuela is what is happening to the Venezuelan Constitution in slow, progressive steps by Chavez and those that support him, and that ultimately the new 21st-century totalitarianism is not going to be like the 20th-century totalitarianism. It is going to be a slow manipulation of democratic institutions and the institutionalization of power in one man or perhaps in a few persons.

And I say, with all due respect to what you, the Congressman, is saying, that that is what I see happening in Venezuela, unfortunately. And that is why you see the youth movement in Venezuela at the different universities. Very recently, I read in the press that three students were shot and killed simply because they were protesting. And over and over again, as the protests—

Mr. DELAHUNT. Would the gentleman yield?

I would like to see that report, because I tend to follow those incidents very carefully, and you just made a statement that a student was killed, and I have yet to see that.

Mr. HERNANDEZ. Yes, a student was killed in one of the universities protesting the new constitutional amendments that would

allow the elimination of term limits in the Venezuelan Constitution. And what I see happening in Venezuela is that.

Now, as to your direct question, whether or not there is a direct connection between Venezuela and whether or not, posing the question, I could show here today that there is torture going on in Venezuela or not, no, I do not have a specific example that I can offer to you.

But I would validate and echo the conclusion of the immigration judge when he concluded that, because of the symbiosis in government between Venezuela and Cuba and the closeness of the alliance between Chavez and Castro, that—I don't think anyone would disagree with this—that, certainly, the Castro regime has a long and storied history of torture. And I have no doubt in my own mind, Congressman Meeks, that that opportunity would be presented to Castro with such a high-profile defendant such as my client, who is a former CIA agent.

Mr. MEEKS. And I agree; I hear you. But here is my concerns about, you know, my country. I can go and individuals are saying some of the same things that you have said about us, when they look at what is taking place in Guantanamo Bay, for example. And there clearly seems to have been some sense of torture going on there, in regards to us.

And so, you know, I always look where we are criticizing or saying we are not going to do something without clean hands, and that is why I ask for the evidence on the other part.

I also look at, based upon some of the same things that you have indicated here, at our history. You know, being an African American in this country, I can think, in my lifetime, where there were many, from the Black Panther party or others, that were talking and protesting the Government, and our Government infiltrated them and did certain things that I think were uncalled for. And hopefully we have corrected that, and we will correct it within our own institutions.

You know, I find some fault with, quite frankly, if you are just talking about the politics of Venezuela, with the opposition there. They chose not to run for re-election, et cetera. I was there when there was recall elections. I saw people standing in lines, voting for Hugo Chavez, in lines longer than—you know, I hadn't seen such since I saw Nelson Mandela being elected the President of South Africa. Poor people, people who had never had the opportunities to hear any of their concerns previously.

And so, then when I look at the justice system, the way it is—and I am looking for torture. I mean, that is why I said, if there is some evidence of it, give it to me. But if, in fact, there is a person who has been in prison, escaped from prison, some alleged that he bought his way out of prison, and the country says, "Well, we just want justice to happen," in my estimation, if, in fact, we would want the same thing for anybody that is accused of wrongdoing in this country, we would want them extradited here. I would think that we have to live up to our commitments in the same way that we would want someone else to live up to theirs.

I yield back. You can answer the question.

Mr. DELAHUNT. I am going to try to move this along, and I am going to ask the gentleman from New Jersey if he would submit his questions in writing, along with the gentlelady from Texas.

I just wanted to note—let me wrap up, just addressing a few questions to you, Mr. Hernandez.

Mr. HERNANDEZ. Yes, sir.

Mr. DELAHUNT. Who else, besides you, represents Mr. Posada?

Mr. HERNANDEZ. In my team there were two other lawyers. There was a local lawyer out of El Paso, Venezuela, a very fine person; his name is Felipe Millon. And an appellate lawyer, who has worked with me for the past 25 years, by the name of—

Mr. DELAHUNT. What about a woman by the name of—

Mr. HERNANDEZ [continuing]. Wanda Anderson.

Mr. DELAHUNT. And an individual by the name of Soto?

Mr. HERNANDEZ. He handled, together with Mr. Millon, the immigration part of the case.

Mr. DELAHUNT. Because I will tell you, I ran across a statement—and she will be testifying shortly—written by Ann Louise Bardach. It was a November 12, 2006, news piece for the *Washington Post*. In there, she says, “While I was working on an article about Posada for the *Atlantic Monthly*, one of his attorneys told me that Posada’s case is being handled at the highest levels of the Department of Justice. ‘All I have to do to detain Posada indefinitely,’ he explained, ‘is to have Attorney General Gonzales certify him as a national security threat’”—which, I know you are familiar with the PATRIOT Act, of course.

Mr. HERNANDEZ. Yes.

Mr. DELAHUNT. “But they are not going to do that,” he added. “That would create problems for the Bush people with their Cuban-exile base in Miami.”

I take it you are not that lawyer that made those statements to Ms. Bardach?

Mr. HERNANDEZ. No, I am not. Let me—no, I am not. There is—Mr. Soto is a possibility. I don’t know who may have made that comment to her.

Mr. DELAHUNT. Well, I would ask you if you would inquire of your team as to who made this statement to Ms. Bardach, so that we would be inclined to have your colleague on your team, or whomever, to come before the committee to explain that statement.

Mr. HERNANDEZ. If I may?

Mr. DELAHUNT. Of course.

Mr. HERNANDEZ. If I may, I believe that I did have a conversation with Ms. Bardach at one point before I became the lawyer for Mr. Posada Carriles. It was a telephone conversation. I am not quite certain—at the time, I did not know who she was. And—

Mr. DELAHUNT. But you didn’t make this statement?

Mr. HERNANDEZ. I do not recall making that statement, although I do believe that the Posada case was being handled at the highest levels of the Department of Justice.

Mr. DELAHUNT. But you didn’t make the statement that they will not certify him as a national security threat—

Mr. HERNANDEZ. No, I did not make that statement.

Mr. DELAHUNT [continuing]. Because it would have presented problems for the Bush administration with their base in Miami?

Mr. HERNANDEZ. No. No, I did not make that statement.

Mr. DELAHUNT. Okay. Thank you. That is fine.

Santiago Alvarez is also a client of yours.

Mr. HERNANDEZ. That is correct. Not any longer, Mr. Chairman. He was. I withdrew from the case in February of this year.

Mr. DELAHUNT. He is also a friend of Luis Posada Carriles.

Mr. HERNANDEZ. That is correct, sir.

Mr. DELAHUNT. Is he still in prison?

Mr. HERNANDEZ. He is in prison.

Mr. DELAHUNT. Okay. And what was he convicted of?

Mr. HERNANDEZ. He was convicted of possession of illegal firearms.

Mr. DELAHUNT. And silencers?

Mr. HERNANDEZ. And silencers.

Mr. DELAHUNT. And a false passport?

Mr. HERNANDEZ. No, not that I am aware of.

Mr. DELAHUNT. Okay. And do you know how many years his sentence was?

Mr. HERNANDEZ. He received, as I recall, a 48-month or 47-month prison sentence.

Mr. DELAHUNT. And he refused to testify before a grand jury on how Mr. Posada entered the country; is that correct?

Mr. HERNANDEZ. Well, the quick answer is yes, and I think it is a matter of public record. I just—

Mr. DELAHUNT. Right.

Mr. HERNANDEZ. I do not think it infringes upon my attorney-client privilege.

Mr. DELAHUNT. I won't ask you to do that.

Mr. HERNANDEZ. But I think it is a matter of public record that there was a refusal and that there was an indictment, but he has not been convicted of that as of yet.

Mr. DELAHUNT. Okay. But he was actually the prime benefactor, if you will, for your client, Mr. Posada. That has been reported in the newspaper.

Mr. HERNANDEZ. No. I—

Mr. DELAHUNT. Well, let me rephrase the question then. He was one of the primary supporters for Mr. Posada and actually arranged for the press conference prior to Mr. Posada's public appearance?

Mr. HERNANDEZ. I am not going to answer that question, respectfully, because I think that it calls upon when I was a lawyer with Mr. Alvarez—

Mr. DELAHUNT. Okay.

Mr. HERNANDEZ [continuing]. And I think that it would be inappropriate for me to get into that.

I would acknowledge only this, that my answer—

Mr. DELAHUNT. That is fine. I respect your professionalism.

Mr. HERNANDEZ. Well, the connection that you are drawing between Santiago Alvarez and Luis Posada Carriles is an accurate one; they are friends. And I think I answered that question.

Mr. DELAHUNT. Is Mr. Posada Carriles a friend of Orlando Bosch?

Mr. HERNANDEZ. I would say that the answer to that is yes.

Mr. DELAHUNT. They have worked together?

Mr. HERNANDEZ. I think that that is a loaded question, Mr. Chairman.

Mr. DELAHUNT. It is a loaded question.

Mr. HERNANDEZ. And I don't know how to answer that. Please define what you mean by "work."

Mr. DELAHUNT. They collaborated.

Mr. HERNANDEZ. In which ways?

Mr. DELAHUNT. Well, I will withdraw that question.

Mr. HERNANDEZ. If you mean, have they collaborated in trying to free Cuba?

Mr. DELAHUNT. Yes.

Mr. HERNANDEZ. Yes.

Mr. DELAHUNT. Okay. And Mr. Posada and Mr. Bosch have exhibited their artwork together at the La Corda De Prin.

Mr. HERNANDEZ. I am unfamiliar with that, Mr. Chairman.

Mr. DELAHUNT. I thought you were there on that occasion.

Mr. HERNANDEZ. I was not there.

Mr. DELAHUNT. It was reported that you were there and advised Mr. Posada not to have any conversations with a newspaper reporter.

Mr. HERNANDEZ. That is correct, but that was not—

Mr. DELAHUNT. Which was good advice.

Mr. HERNANDEZ. That was not at that location.

Mr. DELAHUNT. It wasn't. Okay.

Mr. HERNANDEZ. If you would like to know, it was at the Big 5 Club.

Mr. DELAHUNT. At the Big 5 Club. Which is part of the Fontainebleau.

Mr. HERNANDEZ. No, sir. It has no absolutely connection to the Fontainebleau.

Mr. DELAHUNT. Okay. It is a nice venue, I imagine.

Mr. HERNANDEZ. You know, we may disagree or agree on that. It was an appropriate venue because it is a social club for Cuban Americans. And I just thought it was an appropriate venue for Mr. Posada, who primarily paints Cuban-themed paintings. And for that reason—

Mr. DELAHUNT. Thank you.

Are you representing—there has been published reports. Did you represent Mr. Posada in his application for a pardon from the Government of Panama?

Mr. HERNANDEZ. No, sir. No.

Mr. DELAHUNT. There have been published reports about a grand jury proceeding in New Jersey involving Mr. Posada.

Mr. HERNANDEZ. Yes, that is correct.

Mr. DELAHUNT. And, again, this is reported in local papers, alleging that the Federal Government is investigating him for his involvement in bombings in Havana, which resulted in injuries to 11 civilians as well as the death of an Italian tourist. Have you read those stories?

Mr. HERNANDEZ. I have more than read them. I am aware of the existence of that grand jury investigation.

Mr. DELAHUNT. Do you represent him in that matter?

Mr. HERNANDEZ. Well, at this point, there is no reasonable prospect that Mr. Posada is going to be called in front of the grand jury.

If he were to be called, I would submit to you that probably I would be the attorney. If, after 24 months and on the second grand jury term, by the way, a grand jury in New Jersey ultimately admits an indictment against him and charges him with terrorist-oriented charges for that death that you mentioned, then I would be his lawyer, and I would represent him then.

Mr. DELAHUNT. Have you received a target letter?

Mr. HERNANDEZ. No, absolutely not. And, you know, not everyone who is a target gets a target letter. As a matter of fact, the general practice is that targets do not get target letters, unless and until they move from being subject or witness in the grand jury to one of being target.

Mr. DELAHUNT. I am going to read excerpts from an interview by a reporter on Miami's Channel 41 with Mr. Bosch regarding the Cubana plane bombing, so bear with me.

Mr. HERNANDEZ. Yes, sir.

Mr. DELAHUNT. "If I tell you that I was involved, I will be implicating myself. And if I tell you that I did not participate in that action"—that is that term, again, "action" that Mr. Fleetwood refers to—"you would say that I am lying. I am, therefore, not going to answer one thing or another."

But when the journalist asked Bosch to comment on the civilians who died when the plane crashed off the coast of Barbados, Bosch responded, "In a war such as us Cubans who love liberty wage against the tyrant, you have to down planes, you have to sink ships, you have to be prepared to attack anything which was within your reach."

He then was asked, "But don't you feel a little bit for those who were killed there, for their families?" He said, "Four members of the Communist Party, chico. Who was there? Our enemies."

"And the fencers?" He was referring to the fencing team from Cuba, about the fencing team that had just won gold, silver and bronze metals at a youth fencing competition in Caracas. "The young people on board?"

This is Bosch's reply: "I saw the young girls on television. There were six of them. After the end of the competition, the leader of the six dedicated their triumph to the tyrant. She gave a speech filled with praise for the tyrant. We had already agreed in Santo Domingo that everyone who comes from Cuba to glorify the tyrant had to run the same risks as those men and women that fight alongside the tyranny."

He then asked the question, "If you ran into the family members who were killed on that plane, wouldn't you think it difficult?" the reporter said. "No," was Bosch's reply, "because, in the end, those who were there had to know they were cooperating with the tyranny in Cuba."

And we will take a recess. We have votes now.

Mr. ROHRBACHER. Mr. Chairman?

Mr. DELAHUNT. Please.

Mr. ROHRBACHER. If you will indulge me with at least 1 minute of balance here.

Mr. DELAHUNT. Sure.

Mr. ROHRABACHER. Let me just note that the quotes, for example, that you read that were unnamed, an unnamed source, sometimes, having been a former journalist myself, I can tell you—

Mr. DELAHUNT. Well, my friend, I am reading from an interview done by a TV reporter directly with Mr. Bosch.

Mr. ROHRABACHER. No, I am talking about the first quote that you gave.

Mr. DELAHUNT. Which one?

Mr. ROHRABACHER. The first one where you were mentioning and asking Mr. Hernandez about the government is going to do this and that, and there was a speculation by someone on the defense team. And it was printed in a paper, which was the first part of your quotes—the first quote that you gave us in your second round.

Let me just note that that quote, obviously, was a speculation and that it was then portrayed by the journalist as something that was some type of an authoritative analysis of why the government was doing something. And being a former journalist myself, I look very closely at these words and the way things are, and it appeared to be speculation on the part of a member of that defense team and not necessarily someone who knew what policy the government was going to have.

Second of all, let me note, we mentioned the assassination—by the way, again, let me reiterate: Anybody who is involved directly in killing innocent civilians in order to obtain a political end, whether it is Mr. Bosch or if the target of our hearing today was involved, that person is a murderer and should be executed. And I got no problems with that at all. We are just trying now to see whether or not our Government has a double standard.

But let us know—I don't have a double standard as well, when I talk about Fidel Castro. And I understand these people's rage. It never excuses, however—these people are outraged about the murders that Castro committed against his people and organized throughout Latin America—never excuses any type of attack on innocent Cuban civilians or any other civilians.

Mr. DELAHUNT. Well said, Mr. Ranking Member. We have to—

Mr. ROHRABACHER. One last note. The Chilean Ambassador, Mr. Letelier, was a Cuban agent. He was on the payroll of the Cuban Government. At least that is the information I have. I will submit that for the record—

Mr. DELAHUNT. I would like to have that. Thank you.

Mr. ROHRABACHER [continuing]. In detail. And if I am wrong by that, I will take that out of the record.

[The information referred to follows:]

Letelier's Political Fund
Rowland Evans and Robert Novak
The Washington Post (1974-Current file); Feb 16, 1977; ProQuest Historical Newspapers The Washington Post (1877 - 1991)
Pg. A21

Rowland Evans and Robert Novak

Letelier's Political Fund

Before his assassination in Washington last September, exiled Chilean Orlando Letelier was leading a campaign to "mobilize" liberal congressmen against Chile's military government while concealing world Communist support for his movement—including funds from Cuba that helped finance a congressman's trip to Mexico.

Letelier arranged the Mexican trip for Rep. Michael Harrington of Massachusetts, House sponsor of the successful 1976 amendment to stop aid for the Chilean junta. Harrington's trip to an Oaxtepec, Mexico, conference in November 1975 was sponsored by the Institute for Policy Studies (IPS), a left-wing think-tank based in Washington. It was financed by \$544.26, ostensibly from IPS.

But of that total, \$174.26 came out of Letelier's secret political fund from Cuba, and the remainder may also have had foreign origin. Harrington told us he was not informed that any of the funds had a foreign source and "had no reason to ask."

Details of Harrington's trip come from previously undisclosed documents contained in Letelier's attache case, which survived the fatal bomb blast set off in his auto. What's more, confidential papers that Letelier, foreign minister in Chile's Marxist Allende regime, carried around with him show frequent correspondence (addressed to "comrades") with East Berlin and Havana. His personal telephone book lists Julian Rizo, Cuban spy based at the U.N. Since East German and Cuban police activities are now intertwined with the Soviet KGB, the Kremlin's hand was behind Letelier's campaign to promote Chilean "human rights" on Capitol Hill. Mike Harrington's unwitting acceptance of Cuban expense money is only a particularly embarrassing instance of idealistic liberal congressmen manipulated by the dashing, handsome Letelier.

A March 29, 1976, letter from him to Beatrice (Tati) Allende, daughter of the late President Salvador Allende and Letelier's principal contact in Havana, makes all this clear. Detailing strategy for the congressional fight against U.S. aid to the junta, Letelier wrote that Chilean exiles in Washington were seeking to maintain "an apolitical character, oriented exclusively to the problems of human rights."

"The object is to mobilize the 'liberals' and other persons, who if they don't identify with us from an ideological point of view, are in it for what human rights reflects," he added. Letelier also expressed concern that the Chilean hu-

man rights committee not be linked to Havana "since you know how these 'liberals' are. It's possible that one of the sponsoring congressmen might fear that they might be connected with Cuba, etc., and eventually stop giving his support to the committee."

Letelier never mentions "liberals" without quotes around the word. Nor does he leave any doubt where he stands. Closing that letter, he declared: "Perhaps some day, not far away, we also will be able to do what has been done in Cuba."

The Cuban connection is clarified by a letter to Letelier last Aug. 10 from Clodimiro Almeyda, like Letelier a former Chilean foreign minister and now East Berlin-based executive secretary of the Unida Popular—Allende's socialist-Communist coalition. He listed UNIDA popular working groups in Paris, Venezuela, Mexico and Berlin but asserted to Letelier, "You have to work independently" in the U.S.—to avoid blowing his cover as an IPS fellow. Almeyda instructed him to coordinate human rights activities with Chilean Luis Maira in Cuba.

Other documents in the Letelier briefcase newly come to light show monthly accountings of how Letelier spent the money from Cuba. The June 1975 disbursement of the Cuban funds shows \$174 for "payment of difference outstanding to Congressman Harrington for his trip to Mexico." Harrington was in Mexico Nov. 23-25, to attend the IPS conference at Oaxtepec on U.S.-Latin American relations, and for a Mexico City lecture.

Another document shows \$544.26 listed for the "Harrington fare"—\$174.26 "paid from my pocket" (actually the Cuban account from Tati Allende) and the balance of \$380 "received from Helsinki." There is no elaboration about this source, but could conceivably connote a secret money drop in the Finnish capital. Yet, Marcus Raskin, director of IPS, denied to us any foreign funding of the Mexican meeting.

Further indication that Harrington's trip was under the auspices of the Chileans is contained in a May 8, 1975, letter from Tati Allende in Havana to Letelier, saying: "I showed your letter to Carlos (Altamirano) and to Jorge Arrate (Chilean radical leaders), who promised to arrange the Harrington matter." In the next paragraph, she reveals the \$1,000-a-month payment from Cuba approved by Altamirano, leader of the radical-left Chilean Socialist party, with a beginning payment of \$5,000 enclosed.

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Mr. DELAHUNT. We are going to have to recess, because we have votes. This panel is excused.

And when we return—I should announce to those particularly on the panel that we will be in recess for approximately an hour. That is how many votes that we have. So feel free to go feed yourselves and then return.

[Recess.]

Mr. DELAHUNT. The committee will reconvene. And again, my profound apologies for the delay. But this is not uncommon in this institution. Votes are being called. But I understand that we have an hour and a half. I also was informed by the ranking member that he is receiving an award, one I am sure that is justly deserved, and will make every effort to return as quickly as possible. But with his consent, we will proceed and we will hear from this very distinguished panel. Let me begin by introducing Ms. Bardach. She has an extraordinary resume. She is the author of the highly acclaimed *Cuba Confidential: Love and Vengeance in Miami and Havana*. And the forthcoming *Without Fidel: The Death of Castro and Other Tales*. I will be eagerly awaiting its publication.

She is also the editor of *The Prison Letters of Fidel Castro*, as well as *Cuba: A Traveler's Literary Companion*. Her work has been anthologized in *Killed: Journalism Too Hot to Print* and *Mexico in Mind*. She was a staff writer for *Vanity Fair* for 10 years, and has written for the *New York Times*, *Washington Post*, and the *Los Angeles Times*. She is a CBS news consultant on Fidel Castro and Cuba, and has appeared on *60 Minutes*, *Today*, *Dateline*, *CNN*, *The O'Reilly Factor*, *Charlie Rose*, *National Public Radio*, and *PRI's Marketplace*.

She has written the Global Buzz column for *Newsweek International*, and the Interrogation Column for *Slate*. She has won numerous awards, including the PEN USA award for journalism in 1995 for her reporting on Mexican politics. She was a finalist in 1994 for her coverage of women in Islamic countries. Her book, *Cuba Confidential*, was a finalist for the New York Public Library Helen Bernstein Award for Excellence in Journalism, and the PEN USA award for best nonfiction, and named one of the 10 Best Books of 2002 by the *Los Angeles Times*. The book is a very important contribution not just to the literature, but for those of us who welcome its insights and its understanding of Cuba and the relationship of Cuba, particularly with the Cuban-American community.

I am going to now introduce Dr. Roseanne Nenninger. As I said in my opening remarks, she is a sister of Raymond Persaud, a Guyanese student who was killed in the bombing of Cubana Airlines flight number 455. I don't think she needs any other introduction. And last, but certainly not least, Peter Kornbluh is the director of the National Security Archives Chile Documentation Project and of the Cuba Documentation Project. He has played an extremely significant role in the campaign to declassify government documents via the Freedom of Information Act relating to the history of the U.S. Government's support for the Pinochet dictatorship. He is the author of several books, most recently *The Pinochet File: A Declassified Dossier on Atrocity and Accountability*. Kenneth Maxwell

wrote a review in November–December 2003 issue of *Foreign Affairs*, creating a controversy about Henry Kissinger’s involvement in Operation Condor, based on much of the work of Mr. Kornbluh. Let me begin with Ann Louise Bardach.

**STATEMENT OF MS. ANN LOUISE BARDACH, BARDACH
REPORTS**

Ms. BARDACH. Thank you, Congressman. I am going to try to help to facilitate tracking this complex story with just a brief history of Mr. Posada’s career as an anti-Castro militant, mostly based on CIA, FBI, and State memorandum just very quickly as an overview. Of course, Luis Posada Carriles was born in Cienfuegos, Cuba. He entered the United States on April 28, 1961, and he was selected to be part of a Cuba infiltration team, the Black Falcons, an anti-Castro group. And that is where he begins his career as an anti-Castro militant. And very distinguished anti-Castro militant with a lot of recommendations in his files for his work. In March, 1963, he enrolled in the U.S. Army Officer Candidate School at Fort Benning. He received instructions in demolition, propaganda, and intelligence. He left after around a year, when it became clear that the United States had no intention of invading Cuba.

He received approximately \$300 a month from the CIA, and was selected to head of one of the three major anti-Castro groups. He was terminated under some murky circumstances in July, 1967, somewhat amicably, but the file also makes mention that there were suspicions of some poor behavior, suggestions of some poor behavior, suggestions of problems with drug dealing and other suspicions that were brought to their attention. He then became the head of DISIP, a division of the Venezuelan police, and but in March, 1974, he lost his job—sorry about that. The microphone wasn’t on.

All right. He lost his job in March, 1974, when there was a change in the presidential leadership. Mr. Posada became of intense interest, and for the purpose of this hearing, became of intense interest to the CIA shortly after the October 6, 1976 crash of a Cubana airliner off the coast of Barbados with 73 people aboard. On October 7, 1976, a CIA memo states,

“This agency has conducted an investigation of the names suspected in the involvement of the crash. We have determined that this agency had a relationship with one person whose name is mentioned in the reported bombing.”

They point out that both Lugo and Ricardo, the two who confessed to the bombing, that their employer in Caracas is Luis Posada Carriles. On November 8, 1976, we have another memo saying some plans regarding the bombing of a Cubana airline discussed at the bar in the Hotel Anauco in Caracas, at which Frank Castro, Gustavo Castillo, Luis Posada Carriles, and Mono Morales were present. Posada was charged by Venezuela with the bombing. He was tried and acquitted in a military court, but the acquittal was deemed invalid due to a lack of jurisdiction.

And in 1985, while awaiting trial in a civil court, Luis Posada escaped from a Venezuelan prison after 9 years of incarceration. He remains, to this day, the subject of an extradition request from

Venezuela. After his escape from Venezuela, Mr. Posada went to El Salvador and reestablished ties with the CIA. He played a key role there in supplying arms to the United States-backed Contras fighting the Sandinistas in Nicaragua. In September, 1989, he moved to Guatemala, and the following year he was the victim of an assassination attempt. He was shot 11 times in the face and body. In 1992, FBI Special Agents Michael Foster and George Kiszynski conducted a detailed tape recorder interview of him in Tegucigalpa, Honduras, concerning his involvement and role in the Iran-Contra affair.

So we are now up to date to the point where I want to talk about the *New York Times* series, of which I was a co-author. The background of the *New York Times* series concerned a series of 11 hotel and restaurant bombings that went off in Cuba from April 19, 1997, through September 4, 1997. One of these bombings killed Fabio Di Celmo, an Italian tourist. Early on, Mr. Posada was accused by the Cuban Government and suspected and investigated by United States authorities of having masterminded those bombings. The bombings attracted extensive media attention.

The *Miami Herald*, at one point, quoted three Miami exiles identifying Mr. Posada as obtaining \$15,000 from wealthy Cuban exiles to pay the Salvadorans to commit the bombings and as part of commanding the operation. The *New York Times* Caribbean bureau chief, Larry Rohter, and myself, began work on a series about Cuban exile militant activities in early 1998. The *Times* published our first article, "A Plot on Castro Spotlights a Powerful Group." This article described how in October 1997, the U.S. Coast Guard boarded a cabin cruiser called La Esperanza near Puerto Rico and found four Cuban exiles who claimed to be on a fishing trip, but they had no fishing gear. One of them blurted out that he was there—the rifles were present on the boat "for the purpose of assassinating Fidel Castro."

In June 1998, a colleague of *Vanity Fair*, where I worked for 10 years, put me in touch with a Cuban businessman living in Caracas with close ties to Luis Posada. In the first week of June 1998, I met with this businessman in New York City and asked him to arrange an interview with Mr. Posada, although I had little hope it would ever happen. Around the same time, a police source who worked on the Havana bombings, the FBI being deeply involved in the investigation at that point, told me that the FBI had sent agents to Guatemala to interview a Cuban exile named Antonio Alvarez, who represented a business firm there that employed two men named Jose Alvarez, or "Pepe" Alvarez, and Jose Burgos.

Also frequently in this man's office in Guatemala was another Cuban exile who had a crushed, gravelly voice. His name was Luis Posada Carriles. Antonio Alvarez related precisely how Mr. Posada's Cuba bombing operation worked, and identified its intended targets when he was interviewed by the FBI. "We found him entirely credible," said one FBI agent who worked for years on the case. "We thought it would be a slam dunk. We'd charge and arrest Mr. Posada." But then the agent said we had a meeting one day and the chief said, "Hey, wait a minute, lots of folks around here think Posada is a freedom fighter. We were in shock, and they closed down the whole Posada investigation." When we asked for

a wiretap on Orlando Bosch, a famed militant who we knew was working on bombing runs, “we were turned down.” Two weeks after my New York meeting with the Cuban exile businessman I received a message on my phone machine from a Ramon Medina. He left a number and asked that I call back. I knew that Ramon Medina was a nom de guerre of Luis Posada Carriles.

As I was working on the *Times* series, I phoned my editor, I played him Mr. Posada’s message. He instructed me to call Mr. Posada and arrange to meet him wherever as soon as possible. I did speak with Mr. Posada again by phone several times, and we arranged to meet. Prior to meeting with Mr. Posada, I had gone to Caracas, Venezuela, and Isla Margarita, where a Venezuelan official had given me a copy of a fax sent from Mr. Posada to his partners, Jose Alvarez and Jose Burgos in Guatemala in August 1977.

In the fax, Mr. Posada indicated that the two men would receive “via Western Union, four transfers of \$800 each from New Jersey.” The fax also stated, “If there is no publicity the work is not useful.” The United States newspapers don’t publish anything unless it is confirmed, reflecting Mr. Posada’s concern that the Cuban Government was, in fact, hushing up many of the summer bombings to avoid creating panic in its tourism industry.

The fax was signed Solo, one of Mr. Posada’s code names, and it was clear to us that the “Solo fax” concerned the Havana bombings. While I was in Caracas, my writing partner, Larry Rohter, flew to Guatemala City to investigate Mr. Posada’s operations there and the men who worked there. We then both flew to Aruba in June 1998. Mr. Posada picked me up at the airport wearing Bermuda shorts and sandals. Mr. Rohter stayed long enough to observe Mr. Posada, watched for a while, and then he went to the hotel to continue working on the story. Mr. Posada carried my bags outside to a waiting van, and off we went to his gated safe house, hidden from view by a high stucco gated wall.

He explained that he had granted the unprecedented interview because publicity was necessary for the bombing campaign against Cuba’s tourist industry. We also felt he wanted to see his side of the story published, believing it would aid the anti-Castro cause. During that first day, Mr. Posada spoke for several hours, and I recorded much of the conversation. I continued to conduct taped interviews of Mr. Posada over the next several days.

Not infrequently, he would turn the tape recorder off so he could tell me some things that he would not want recorded. Sometimes he would turn it on and off and then put it back on. I showed him “the Solo fax” during one of our interview sessions, and he seemed troubled by it. And he fretted that it could cause him problems with the FBI. And he asked me my opinion of that situation. On my last day in Aruba, Mr. Posada handed me three pages of notes he had written in Spanish and English. “Ideology,” he had written at the top in Spanish, but he made this observation:

“The absence of freedom of expression, of freedom of movement for all hungry people oppressed and terrorized by Communist oppression, this gives all free Cubans a right to take up arms against the tyrant, using violence or whatever means at our disposal to derail this terrible system and bring freedom to our country.”

At the bottom he wrote something in English. "He does not admit the bombs in the hotels, but he does not deny either." On the basis of our review of all the CIA, FBI memoranda, of dozens of interviews with Mr. Posada's collaborators, government investigators, and the interview with Mr. Posada, we prepared three new articles that appeared in the *New York Times*. Mr. Posada said he organized the wave of bombings in Cuba last year, and this is reading from the *New York Times* series, so Luis Posada Carriles said he organized the wave of bombings in Cuba last year at hotels, restaurants, and discotheques, killing an Italian tourist, and alarming the Cuban Government.

Mr. Posada was schooled in demolition and guerilla warfare by the Central Intelligence Agency in the 1960s. He described them as acts of war intended to cripple a totalitarian regime by depriving it of foreign tourism and investment. For several months the attacks did indeed discourage tourism. With a rueful chuckle, Mr. Posada described the sad fate of the Italian tourist as a freak accident, but he later declared that he had a clear conscience, saying, "I sleep like a baby."

A second article was based primarily on the interview with Antonio Alvarez, the whistleblower in Mr. Posada's office who notified the FBI, who came to us at the *New York Times*, and who had been alarmed by the bombing campaign. The *Times* also published with this article a copy of the Posada "Solo fax" that he signed. Mr. Alvarez claimed that for nearly a year he watched with growing concern as two of his Cuban partners acquired explosives and detonators, congratulating each other whenever a bomb went off in Cuba. We reported that he said that he overheard men talk of assassinating Fidel Castro at an upcoming conference summit to be held in Margarita Island, Venezuela.

Mr. Alvarez reported this to the Guatemalan officials, and when they did not respond he wrote a letter that eventually found its way into the hands of Venezuelan intelligence agents as well as the United States FBI. The article reported that the FBI showed little interest in Mr. Alvarez's information. According to Mr. Alvarez at the time that we interviewed him in 1998, the FBI had contacted him once by telephone, told him his life was in danger, and that he should leave Guatemala, and never spoke with him again.

Mr. Alvarez told us about possible links between plotters in Guatemala and Cuban exiles living in Union City, who Mr. Alvarez said were wiring the money to Mr. Posada. The article talked extensively about that fax, about the various men mentioned on the fax, and about how three of the men whose names were mentioned on the fax belonged to the Union of Former Political Prisoners. This is an exile group whose members have served long and harsh terms in Cuban jails, and are committed to Castro's overthrow by any means.

On July 13th, a third article appeared in which we wrote that Mr. Posada did not fear prosecution by the U.S. "as Mr. Posada sees it, because he does not stage his anti-Castro activities from within the U.S., his activities should be of no concern to American authorities." "What I do is from Latin America, and my targets are outside Cuba," he said. "I am not a citizen, so they do not have power over me."

On October 25, 1998, and this is the last prosecution in this case, a United States grand jury in Puerto Rico indicted Angel Alfonso Aleman, the man who was on the fishing boat who said the mission was to assassinate Fidel Castro, and five others for various charges, including conspiring to assassinate Fidel Castro. We prepared a further article on this subject, "Cuban Exile Leader Among Seven Accused of Plot." We reported that the lawyer for Mr. Alfonso, Ricardo Pesquera, stated that "the government was opening a Pandora's Box they are going to regret."

And he vowed to demand access to every CIA and FBI document for the last 40 years. However, he need not be so concerned. The judge decided that Mr. Alfonso's confession that the rifles on the boat were intended to assassinate Castro would not be used as evidence. The defense, based upon the U.S. support of efforts to overthrow Castro evidently worked, because they were all acquitted on December 8, 1999.

In November 2000, Mr. Posada, along with three of his collaborators, were arrested in Panama regarding an alleged plot to kill Fidel Castro. The charges were dropped, but on April 20, 2004, he was convicted of crimes against national security and counterfeiting public records. He was sentenced to 8 years in prison, but was released on August 25, 2004, after outgoing Panamanian President Mireya Moscoso issued him a surprise last minute pardon. On April 13th, Mr. Posada's attorney at the time, immigration attorney filed an application for political asylum, not long after he had been seen around Miami. His lawyers would claim that on March 26th, he had entered the United States illegally by crossing the border of Mexico, and then making his way to Florida.

In the midst of the news of Mr. Posada's return to the United States, an FBI agent phoned me and asked me if I would voluntarily share my copies of FBI and CIA files regarding Mr. Posada. When I asked why, he said, "Do us a favor. We can't find ours." I wasn't sure if he was joking.

Later I would learn that the Miami bureau of the FBI had done the unimaginable, they had closed its file on Mr. Posada, and that closure had green-lighted or allowed the destruction of extensive evidence regarding him, reportedly some five boxes of materials.

On May 3rd, 2005, Venezuela approved an extradition request for Posada. The same day in Washington, State Department Assistant Secretary Roger Noriega stated somewhat incredibly that Posada might not have been in the United States and that charges against Posada "may be a completely manufactured issue."

I heard from sources inside the FBI an astonishing story, that in August 2003, the Miami FBI had closed its investigation of Luis Posada. This, as I have said, allowed a green-lighted destruction of the evidence that conscientious FBI agents had so meticulously gathered against him for years, including some of the original cables from Union City and other documents.

FBI spokeswoman Judy Orihuela confirmed the destruction, but explained it as "a routine cleaning" of the evidence room. Once the case is closed, she said, it is green-lighted for destruction in order to free up space in "the bulky." That is what the evidence room is called.

So in other words, in order to make some room in the bulky, rather than throw out maybe some drive-by shootings or a mugging, this was the evidence that was selected in order to allow for more room in the bulky was how it was explained to me. Therefore, the reasoning went, it no longer warranted keeping his case file open. And because, as Ms. Orihuela explained, they believed that Posada had disappeared from sight and was out of action and his location was unknown.

In fact, Luis Posada had rarely been more active. He had just been front page news as to his exact location. He and his three comrades were, in fact, in a Panamanian prison for their attempted assassination on Fidel Castro at a summit held in Panama. Ms. Orihuela told me that the supervisory agent in charge, or SAC, Hector Pesquera, and the U.S. Attorney's office of Marcos Jimenez would have had to "sign off" on the file closure and destruction of evidence of files in the case of Posada.

She added that the file had been reopened in 2005, after Posada had reentered the country, and "is now a pending matter." However, I learned from staff in the Miami FBI office that five boxes of the most crucial materials had been destroyed. One can only wonder why the FBI Special Agent in Charge and the U.S. Attorney's Office would agree to close, then destroy much of the Posada evidence. Does this not raise the question of possible obstruction of justice? At the time the file closure took place, as I said, Mr. Posada was in prison and was sentenced to prison.

However, on May 8, 2003, several south Florida Members of Congress, including Representatives Ileana Ros-Lehtinen and Lincoln Diaz-Balart had written on congressional stationery to President Mireya Moscoso, asking for her to release Posada. The congressional leaders reportedly then sent a second letter asking for Posada's release on November 5, 2003. The sequence of events demonstrated to me that important U.S. officials were far keener on securing Mr. Posada's release than in pursuing a criminal prosecution against him.

I am going to jump ahead, because what happens next is really quite incredible. While the FBI is destroying documents and files, I received a subpoena. On October 6th—and I am jumping ahead to my third subpoena, as there has been several of them—on October 6, 2006, my attorney, retained by the *New York Times*, received a grand jury subpoena which directed me to appear and testify before the grand jury and to produce materials.

My attorney, Mr. Thomas Julin, on behalf of the *New York Times* continues to fight to keep me out of the grand jury on First Amendment grounds. At stake is not only my right, but the right of the public to continue to have access to information that is critical to its participation in our democracy. In this case, my independence as a professional reporter allowed me to bring to the public through the *New York Times* information on a private war that was being conducted against a foreign nation, and the fact that the Justice Department was doing little, if anything, to prevent these actions.

Moreover, the declassified FBI, CIA documents show that the government has had extensive sources of information concerning Mr. Posada's involvement. These materials are now in the hands of the Newark grand jury that was convened in 2005, and that they

appear now to be looking at. If the government were seriously interested in prosecuting Mr. Posada or others associated with his attacks against Cuba, it had ample evidence for a very long period of time, but chose not to do so. Instead, it has forestalled any prosecution of him and others, and has sought to compel evidence from me, thus compromising the reporter's privilege.

And doing so after it had destroyed its own files regarding Mr. Posada. I just want to add that in May 2007, U.S. District Judge Kathleen Cardone dismissed the sole charge brought by the U.S. Justice Department against Luis Posada, and issued a blistering rebuke against the U.S. for basically trying to seek to attempt to try a terrorism case in an immigration proceeding. She made some interesting points.

Mr. Posada's lawyers made much of a woeful interpreter who conducted an interview with Posada about his career. They cited several errors in translation. They won the Judge's ire, et cetera. However, no one pointed out that Luis Posada hardly did not need a translator, having learned English as a young man when he worked in the United States in Akron, Ohio, for the Firestone Tire Company, and later when he served as a translator during Iran-Contra for United States servicemen.

I also wanted to point out that when he joined the U.S. Army in 1963 you had to speak English. You had to have fluency. When I interviewed him, he spoke mostly in English, as he did with Blake Fleetwood for the *New Times* in 1976. And at no time did Mr. Posada indicate to either of us that he did not understand something in English. At no time. In fact, one of his previous attorneys who handled his arraignment that I attended spoke to him exclusively in English.

With all immigration charges dropped against him, Mr. Posada walked out of jail on May 8th a free man, albeit one branded by the U.S. Justice Department in their latest filings as "a dangerous criminal, an admitted mastermind of terrorist plots." But former U.S. Attorney Alberto Gonzales had refused to declare Posada a security threat and arrest him. The PATRIOT Act, legislation that Mr. Gonzales so carefully crafted and ardently supported, would have allowed him to do so, but he declined to do so. Soon after release, Mr. Posada returned to Miami. He has been seen at El Club Big Five with his old friends—

Mr. DELAHUNT. We have had testimony. If you could just wrap it up.

Ms. BARDACH [continuing.] Where he was seen with his friend and former cell mate Orlando Bosch. And the two have been seen around town in Miami. On November 6th, a couple of days ago, the DOJ announced they would appeal Judge Cardone's ruling. Call me a strict constructionist, but somehow I do not believe that our Founding Fathers intended that our Government be allowed to raid the news media for their work files after it bungles a case and destroys crucial evidence. And that is exactly what happened in the case of Luis Posada Carriles. Thank you.

[The prepared statement of Ms. Bardach follows:]

PREPARED STATEMENT OF MS. ANN LOUISE BARDACH, BARDACH REPORTS

I first began reporting on the Cuban exile militant arena in the early 1990's when I was a staff writer for *Vanity Fair* magazine. In 1998, I co-authored a five part series in the *New York Times* on the exile militant Luis Posada Carriles and his cohorts in 1998. I also wrote extensively about Posada in my book *Cuba Confidential: Love and Vengeance in Miami and Havana*, and have done considerably more research for my new book *Without Fidel* (to be published in 2008). Additionally, I wrote a 10,000 word investigative article on the 1976 bombing of the Cubana airline in *The Atlantic Monthly* in November 2006 <http://www.theatlantic.com/doc/200611/cuba> , <http://www.theatlantic.com/doc/200610u/posada-qa?ca=0iOPA9JtNFepUh54A%2BWhzsNXNmaGrDtEWQxfYBXgFzY%3D> and <http://www.theatlantic.com/doc/200610u/posada-notes?ca=IQI74xpBzb1dzIWIJ5fPwG65VGq6LhH1gAgqzG2Bzjz%3D>.

Several other pieces by me on Luis Posada have appeared in *The Washington Post* and other newspapers. To facilitate tracking this complex story, what follows is a brief history of Mr. Posada's career as an anti-Castro militant based on CIA, FBI, and State Department memorandum.

POSADA'S DOCUMENTED HISTORY

Mr. Posada entered the United States at Miami from Cuba on April 28, 1961, and was selected to be part of a Cuba infiltration team of the Black Falcons, an anti-Castro commando group. (Exhibit 5 at 3). "Posada said he was planning to place limpet mines on either a Cuban or Soviet vessel in the harbor of Veracruz, Mexico and had 100 pounds of C-4 explosives and detonators." (Exhibit 5 at 3).

In March 1963, Mr. Posada enrolled in U.S. Army officer candidate school at Fort Benning and received instruction in demolition, propaganda and intelligence. He left the Army, however, about one year later after it became clear that the United States had no intention of invading Cuba. (Exhibit 6).

After leaving the Army, Mr. Posada joined Junta Revolucionaria Cubana, an anti-Castro organization, and built a military training camp in Polk City, Florida for guerrillas who were planning to invade Cuba. (Exhibit 5 at 4).

Mr. Posada "has been of operational interest to [the Central Intelligence] Agency since April 1965" and "was a member of the crew of a motor launch which was to be used January 1965 by the Junta Revolucionario Cubana to infiltrate JURE leader Manuel Ray Rivero into Cuba." (Exhibit 7).

Mr. Posada received approximately \$300 per month from the CIA and was selected to head of three anti-Castro organizations. (Exhibit 8).

In the late 1970s, Mr. Posada told investigators from the House assassinations panel that he had been trained as a CIA operative in the Florida Keys and had quickly become a "principal agent" who "worked with the company direct" and had had arms, boats, and a network of safe houses. (Exhibit 9).

Mr. Posada has been recognized as "a former Agent of CIA" who "was amicably terminated in July 1967." (Exhibit 10).

Mr. Posada then became head of the Counterintelligence Division of the Directorate for the Services of Intelligence and Prevention (DISIP) for the Venezuelan Civilian Security Service, but that he lost his position with DISIP in March 1974 as a result of a change in the Venezuelan government. (Exhibit 11).

Mr. Posada became of intense interest to the CIA shortly after the October 6, 1976, crash of a *Cubana* airliner off the coast of Barbados with 73 people aboard, including teenagers from Cuba's national fencing team. An October 7, 1976 CIA memo states "This Agency has conducted an investigation of the names of persons suspected of involvement in the 5 October 1976 crash of the Cubana airlines flight . . . We have determined that this Agency had a relationship with one person whose name has been mentioned in connection with the reported bombing. Both [Freddy] Lugo's and [Hernan Ricardo] Lozano's employer in Caracas is Luis Posada Carriles." (Exhibit 12).

A November 8, 1976, declassified FBI memo notes that "Some plans regarding the bombing of a Cubana Airlines airplane were discussed at the bar in the Anauco Hilton Hotel in Caracas, Venezuela, at which meeting Frank Castro, Gustavo Castillo, Luis Posada Carriles and [Ricardo "Mono"] Morales Navarrete were present. This meeting took place sometime before the bombing of the Cubana DC-8 near Barbados on October 6, 1976." (Exhibit 13 at 2-3).

The CIA and FBI memoranda as well as numerous press reports show that ultimately, Mr. Posada was charged with Venezuelan authorities with the bombing, tried and acquitted in a military court, but the acquittal was deemed invalid due to lack of jurisdiction and in 1985, while awaiting trial in a civil court, Mr. Posada escaped from a Venezuelan prison after eight years of incarceration. He remains the

subject of an extradition request from the Venezuelan government for his alleged involvement with the bombing.

After his escape from Venezuela, Mr. Posada went to El Salvador and re-established ties with the CIA. He became involved there in supplying arms to the U.S.-backed Contras fighting the Sandinistas in Nicaragua. (Exhibit 14) (R&R at 4).

In September, 1989, Mr. Posada moved to Guatemala. In February, 1990, he was shot numerous times in the face and torso during an assassination attempt. (Exhibit 14) (R&R at 4).

On February 3, 1992, FBI special agents Michael S. Foster and George R. Kiszynski conducted a detailed, tape-recorded interview of Mr. Posada in Tegucigalpa, Honduras concerning Mr. Posada's involvement in the Iran-Contra Affair. (Exhibit 15).

THE NEW YORK TIMES SERIES

The background of the New York Times series concerned a series of eleven hotel and restaurant bombings that went off in Cuba from April 11, 1997 through September 4, 1997. One of the bombings on September 1, 1997, killed Fabio Di Celmo, an Italian tourist. Early on, Mr. Posada was accused by the Cuban government—and suspected and investigated by US authorities of masterminding the bombings. (Exhibit 14) (R&R at 5).

The bombings attracted extensive national media attention. For example, the *Los Angeles Times* published an article on July 15, 1997, headlined, *U.S. Denies Role in Havana Hotel Blasts*, and an article on September 11, 1997, headlined *Salvadoran Held in 4 Recent Explosions*. On September 7, 1997, *The Washington Post* published an editorial entitled *Murder in Havana*. *The Miami Herald* published the results of its investigation of the Havana bombings on November 11, 1997, in article headlined, *Exiles Directed Blasts That Rocked Island's Tourism, Investigation Reveals*. *The Herald* article quoted three Miami exiles as identifying Mr. Posada as obtaining \$15,000 from wealthy Cuban-American businessmen in Miami to pay the Salvadorans to commit the bombings and as commanding the operation. (Exhibit 16).

THE BEGINNING OF THE NEW YORK TIMES SERIES

New York Times Caribbean Bureau chief, Larry Rohter, and I began work on a series about Cuban exile militant activities in early 1998. *The Times* published our first article, *Plot On Castro Spotlights A Powerful Group*, on May 5, 1998. (Exhibit 17). The 2200-word article described how in October, 1997, U.S. Coast Guard officials boarded a cabin cruiser called *La Esperanza* near Puerto Rico and found four Cuban exiles who claimed to be on a fishing trip, but who had no fishing gear. Instead, the Coast Guard found two .50-caliber Barrett high-powered sniper rifles, registered to the president of the Cuban American National Foundation (CANF), and that the cabin cruiser was registered to a company owned by Jose Antonio Llama, a member of the CANF executive board. (Exhibit 17). One of the exiles on *La Esperanza*, Angel Alfonso Aleman, reportedly blurted out during the search that the rifles were "for the purpose of assassinating Fidel Castro." (Exhibit 17). The article also reported how the incident touched off an investigation of CANF, which had raised more than \$1 million for Republicans and Democrats and forged close ties to every Administration from Ronald Reagan onwards. That is, until the current Administration of George W. Bush, for whom they were judged to be insufficiently hardline enough in regard to Cuba.

In this first article, Larry Rohter and I reported that the lawyer representing Mr. Alfonso, Ricardo Pesquera, warned that if the Government tried his client, "we will go after the Government very strongly" and "attack their hypocrisy." We also reported that Mr. Pesquera had a sheaf of declassified CIA documents about Government efforts to overthrow the Cuban leader and complained that "for 30 years they tried to kill Castro and now they say others can't do the very same thing they were doing." (Exhibit 17).

The first article also reported that in August 1997, CANF "startled some in Miami when it declined to condemn a string of bombings of hotels and restaurants in Cuba" and took out a full page ad in *The Miami Herald* announcing that it would continue using every means at its disposal against Cuba, without excluding violence. (Exhibit 17).

In our *New York Times* article was an interview with Angel Alfonso Aleman of Union City, N.J. in which he said "I am a Cuban patriot." He also said that he had visited the White House on four occasions, "once with Reagan, once with Bush, and twice with Clinton," and that he produced a photograph of himself alone with Mr. Clinton. (Exhibit 17). We reported that the case was under investigation by the

United States Attorney, Customs, the Coast Guard, the Bureau of Alcohol, Tobacco and Firearms, the Maritime Enforcement Agency, the CIA, the FBI and the State Department. (Exhibit 17).

MY INTERVIEW WITH LUIS POSADA

In June 1998, a colleague at *Vanity Fair*, where I worked for 10 years as a Contributing Editor, put me in touch with a Cuban businessman living in Caracas with ties to Mr. Posada. In the first week of June, 1998, I met with the businessman in New York City and asked him to arrange an interview with Mr. Posada.

Around the same time *The Miami Herald* published an article on Sunday, June 7, 1998, entitled *An Exile's Relentless Aim: Oust Castro*. (Exhibit 18). *The Herald* was unable to interview Mr. Posada, but it identified two of his co-conspirators in Guatemala as Jose Alvarez and Jose Burgos, officers of three Guatemala City subsidiaries of WRB Enterprises, a Tampa firm whose Guatemala operations were headed up by Antonio Alvarez, a Cuban exile from Greenville, S.C.

A FBI agent who worked on the Havana bombing case told me that the FBI had sent agents to Guatemala to interview Antonio Alvarez. Mr. Alvarez related precisely how Mr. Posada's operation worked and identified its intended targets. "We found him entirely credible," said one FBI agent, who worked extensively on the case. "We thought it would be a slam dunk: we'd charge and arrest Posada." "But then," the agent said, "we had a meeting one day and the chief said, 'Hey, wait a minute. Lots of folks around here think Posada is a freedom fighter.' We were in shock. And they closed down the whole Posada investigation. When we asked for a wiretap on [famed militant] Orlando Bosch, who we knew was working on bombing runs, we were turned down."

Two weeks after my New York meeting with the Cuban-exile businessman, I received a message on my phone machine from "Ramon Medina. He left a number and asked that I call him back. I knew that Ramon Medina was a nom de guerre of Luis Posada Carriles. As I was working on *The Times'* investigative series on exile militant groups, I phoned my editor, Steve Engleberg, and played Mr. Posada's message. He instructed me to call Mr. Posada back and to arrange to meet with him wherever he might be.

I did speak with Mr. Posada again by phone several times and arranged to meet him for an interview. Prior to meeting with Mr. Posada, I had gone to Caracas, Venezuela and Isla Margarita where a Venezuelan official gave me a copy of a FAX from Mr. Posada sent to his partners, Jose Alvarez and Jose Burgos, in Guatemala City in August, 1997. In the FAX, Mr. Posada indicated Alvarez and Burgos would receive "via Western Union four transfers of \$800 each . . . from New Jersey." The FAX also stated: "If there is no publicity, the work is not useful. The U.S. newspapers don't publish anything unless it's confirmed," reflecting Mr. Posada's concern that the Cuban government was hushing up many of the summer bombings to avoid creating panic in its tourism industry. The FAX was signed "Solo," one of Mr. Posada's code names and it was clear to us that Posada's "Solo FAX" concerned the Havana hotel bombings. While I was in Caracas, my reporting partner, Larry Rohter, flew to Guatemala City to investigate Mr. Posada's operation there.

Mr. Rohter and I then flew to Aruba to meet Mr. Posada on June 18, 1998. Mr. Posada picked me up at the airport wearing Bermuda shorts and sandals. Mr. Rohter stayed long enough to observe Mr. Posada's entrance and greeting of me, then left by taxi to a hotel where he continued working on the story. Mr. Posada carried my bags outside to a waiting van, and off we went to his gated safe house, the home of a supporter, hidden from view by a high stucco gated wall. He explained that he had granted the unprecedented interview because publicity was necessary for the bombing campaign he had launched in 1997 against Cuba's tourist industry. We also felt he wanted to see his side of the story published, believing it would aid the anti-Castro cause.

During that first day, Mr. Posada spoke for several hours and I recorded much of the conversation. I continued to conduct taped interviews of Mr. Posada over the next several days. Not infrequently, Mr. Posada would turn the tape recorder off so that he could tell me things that would not be recorded. I showed Mr. Posada the "Solo FAX" during one of the interviews and he seemed troubled by it and fretted that it could cause him problems with the FBI.

On my last day in Aruba, Mr. Posada handed me three pages of notes he had written in Spanish and English. "Ideology," he had written at the top in Spanish. They included this observation:

The absence of freedom of expression, of freedom of movement for a hungry people oppressed and terrorized by communist repression . . . This gives all free Cubans a right to take up arms against the tyrant, using violence or whatever

means at our disposal to derail this terrible system and bring freedom to our country.

At the bottom he had written, in English: "He does not admit the bombs in the hotels but he does not deny either." (Exhibit 19).

THE JULY 1998 NEW YORK TIMES ARTICLES

On the basis of our review of declassified CIA and FBI materials, dozens of interviews we had conducted in Union City, Miami, Guatemala, and Venezuela with Mr. Posada's collaborators and government investigators, and my interviews of Mr. Posada, Larry Rohter and I prepared three new articles. *The Times* published the first article on page one on Sunday, July 12, 1998, under the headline *A BOMBER'S TALE: Taking Aim at Castro; Key Cuba Foe Claims Exiles' Backing*. The article stated:

Luis Posada Carriles, said he organized a wave of bombings in Cuba last year at hotels, restaurants and discotheques, killing an Italian tourist and alarming the Cuban Government. Mr. Posada was schooled in demolition and guerrilla warfare by the Central Intelligence Agency in the 1960's. . . .

Mr. Posada proudly admitted authorship of the hotel bomb attacks last year. He described them as acts of war intended to cripple a totalitarian regime by depriving it of foreign tourism and investment. . . .

For several months the attacks did indeed discourage tourism. With a rueful chuckle, Mr. Posada described the Italian tourist's death as a freak accident, but he declared that he had a clear conscience, saying, "I sleep like a baby."

(Exhibit 2).

This first article also reported that money had been delivered to Mr. Posada by several friends, some of whom held key positions in the Cuban American National Foundation that "was used for his living expenses and for operations" and that his late friend, Jorge Mas Canosa, CANF's former chairman, told him "he did not want to know the details of his activities." (Exhibit 2).

The article noted that Mr. Posada identified Gaspar Jimenez, who was jailed in Mexico in 1976, as a Cuban exile who delivered money to him from Miami. (Exhibit 2).

The article further reported Mr. Posada's belief that after the hotel bombings began, American authorities did not bother to question him due to his longstanding relationship with American law enforcement and intelligence agencies. (Exhibit 2). The first article also reported that Mr. Posada denied any role in the Cubana airline bombing. (Exhibit 2).

The Times published a second article the same day under the headline *A Cuban Exile Details the 'Horrendous Matter' of a Bombing Campaign*. This article was based primarily on an interview of Antonio Jorge Alvarez, a whistleblower in Posada's office who was alarmed by the bombing campaign. (Exhibit 3). *The Times* also published with this article a copy of the FAX that Mr. Posada had sent to Mr. Alvarez's office signed "Solo."

Mr. Alvarez claimed that for nearly a year, he had watched with growing concern as two of his Cuban partners acquired explosives and detonators, congratulating each other whenever a bomb went off in Cuba. We reported that he said that he overheard the men talk of assassinating Fidel Castro at a conference of Latin American heads of state to be held in Margarita Island, Venezuela. Mr. Alvarez reported this to Guatemalan security officials and when they did not respond, he wrote a letter that eventually found its way into the hands of Venezuelan intelligence agents and the U.S. FBI. (Exhibit 3).

The article reported that the FBI showed little interest in Mr. Alvarez's information. According to Mr. Alvarez at the time we interviewed him in 1998, the FBI had contacted him once by telephone, told him that his life was in danger and that he should leave Guatemala, and never spoke with him again. (Exhibit 3).

The article reported that Mr. Alvarez told us about possible links between the plotters in Guatemala and Cuban exiles living in Union City, N.J., who Mr. Alvarez said were wiring money to Mr. Posada. (Exhibit 3). Mr. Alvarez said events in his office rapidly made clear that Mr. Posada's main interest was waging war in Cuba against Fidel Castro. (Exhibit 3).

The article contained Mr. Alvarez's detailed account and description of how Mr. Posada moved explosives to Cuba. (Exhibit 3). It reported that in August, 1997, at the height of the bombing campaign in Cuba, Mr. Alvarez had intercepted the FAX that Mr. Posada had sent from El Salvador and signed "Solo" and that Mr. Alvarez gave the FAX to Guatemalan intelligence. The FAX identified Abel Hernandez, who is the owner of Mi Bandera (My Flag), a restaurant in Union City as well as a West-

ern Union office, a Cuban-American community just across the Hudson River from Manhattan. At the restaurant's entrance, one of Mr. Posada's paintings faced a photograph of Mr. Hernandez arm in arm with Jorge Mas Canosa, the late founder of the Cuban-American National Foundation. Three other men named in the FAX also lived in Union City and at least two belonged to the Union of Former Political Prisoners, an exile group whose members have served long and harsh terms in Cuban prisons and are committed to Castro's overthrow by any means. (Exhibit 3).

The two articles published on July 12, 2006, were accompanied by a timeline chart of Mr. Posada's life from his birth through the commencement of the Havana hotel bombings in 1997. The last entry read, "APRIL 1997—Bombs begin to explode at Havana's better hotels, an operation Mr. Posada says he directed." (Exhibit 2).

The following day, Monday, July 13, 1998, *The Times* published our third article under the headline, *Decades of Intrigue; Life in the Shadows, Trying to Bring Down Castro*. (Exhibit 4). This article provided a broader perspective on Mr. Posada's life and his involvement with U.S. law enforcement agencies over the course of four decades. (Exhibit 4). In the following passage, Mr. Posada explained why he did not believe that the United States could prosecute him for his involvement in attacks on the Castro regime:

As Mr. Posada sees it, because he does not stage his anti-Castro activities from within the United States, his activities should be of no concern to the American authorities. "What I do is from Latin America, and my targets are inside Cuba," he said. "I am not a citizen, so they do not have power over me."

(Exhibit 4).

THE FAILED PROSECUTION

On August 25, 1998, a United States grand jury in Puerto Rico indicted Jose Rodriguez Sosa, Alfredo Otero, Angel Alfonso Aleman, Angel Hernandez Rojo, Juan Bautista Marquez and Francisco Secundino Cordova were indicted on various charges, including conspiring to assassinate Fidel Castro. See *United States v. Alfonso*, No. 3:97-cr-00257-HL-1 (D.P.R. Aug. 25, 1999) (D.E. 123).

Mr. Rohter and I then prepared a further article for the *Times* which was published on August 26, 1998, under the headline, *Cuban Exile Leader Among 7 Accused of Plot* (Exhibit 20). The article reported that the lawyer for Mr. Alfonso, Ricardo Pesquera, stated that the Government was "opening a Pandora's box they're going to regret" and that he vowed to demand access to every CIA and FBI document on nearly 40 years of plots, some of them Government-organized, to kill Mr. Castro. (Exhibit 20).

Later, the prosecutor decided that Mr. Alfonso's confession—that the rifles found on *La Esperanza* were intended to assassinate Castro—would not be used as evidence because its legality was too vague. (Exhibit 21). The defense, based on the United States support of efforts to overthrow Castro, evidently worked because six of the defendants were acquitted on December 8, 1999, by the jury in Puerto Rico. See *United States v. Alfonso*, No. 3:97-cr-00257-HL-1 (D.P.R. Dec. 8 & 21, 1999) (D.E. 344 & 348). The seventh, Mr. Bautista had been severed because he was arrested in Miami before the trial for smuggling cocaine. *United States v. Alfonso*, No. 3:97-cr-00257-HL-1 (D.P.R. Nov. 21, 1999) (D.E. 306).

LUIS POSADA ARRESTED IN PANAMA, THEN RELEASED & RETURNS TO THE UNITED STATES

In November 2000, Mr. Posada, along with three collaborators, was arrested in Panama regarding an alleged plot to assassinate Fidel Castro. (Exhibit 14) (R&R at 5). The charges were dropped, but on April 20, 2004, he was convicted in Panama of crimes against national security and counterfeiting public records. (Exhibit 14) (R&R at 5). He was sentenced to eight years of imprisonment, but was released on August 25, 2004, after outgoing Panamanian President Mireya Moscoso pardoned him. (Exhibit 14) (R&R at 5). His pardon followed intense lobbying from several hardline exile groups and leaders in Miami, including several representatives to Congress.

On or about April 13, 2005, Mr. Posada's attorney filed an application for political asylum in the United States, not long after Mr. Posada was seen in and around Miami. His lawyers subsequently would claim that on March 26, 2005, Mr. Posada had entered the United States illegally by crossing the border from Mexico near Brownsville, Texas and then made his way to Florida. (Exhibit 14) (R&R at 5).

In the midst of the news of Mr. Posada's return to the United States, an FBI agent phoned me and asked if I voluntarily would share my copies of FBI and CIA files regarding Mr. Posada. When I asked why, he said, "Do us a favor. We can't

find ours.” Later, I would learn that the Miami bureau of the FBI had closed its file on Mr. Posada and that the closure had greenlighted or allowed the destruction of extensive evidence regarding Mr. Posada, reportedly some five boxes of materials. On May 3, 2005, the Venezuelan Supreme Court approved an extradition request for Posada. Speaking the same day in Washington, D.C., State Department Assistant Secretary, Bureau of Western Hemisphere Affairs Roger Noriega stated somewhat incredibly that Posada might not have been in the United States and that charges against Posada “may be a completely manufactured issue.” (Exhibit 22) (BBC News).

THE GOVERNMENT’S FIRST SUBPOENA TO ME

On May 6, 2005, the Immigration and Customs Enforcement Division of the U.S. Department of Homeland Security issued two subpoenas duces tecum commanding *The New York Times* and me to produce to it “Copies of all tape recordings and documents relating to the interview of Luis Posada Carriles by Ann Bardach, which was conducted in June 1998, excerpts of which were published in the New York Times on July 12 and 13, 1998.” (Exhibit 23).

I regarded the subpoena as an attack on my independence as a journalist because I had conducted the interview of Mr. Posada in my role as a professional journalist. I had not promised Mr. Posada confidentiality, but I believe that I was able to obtain the interview because Mr. Posada did not view me as a tool of U.S. law enforcement agencies. He granted me an interview in my role as a reporter for *The New York Times*, not as a prosecutor for the US government.

Coincidentally, on May 10, 2005, The National Security Archive (NSA) compiled information that it had assembled regarding Mr. Posada in a single briefing book called, *LUIS POSADA CARRILES THE DECLASSIFIED RECORD CIA and FBI Documents Detail Career in International Terrorism; Connection to U.S.*, National Security Archive Electronic Briefing Book No. 153. The National Security Archive, an independent non-governmental research library located at The George Washington University, collects and publishes declassified documents obtained through the Freedom of Information Act and is accessible online at: <http://www.gwu.edu/~nsarchiv/>. One can read hundreds of documents relating to Luis Posada at <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB153/index.htm>.

On Monday, May 16, 2005, I filed a petition in the United States District Court for the Southern District of Florida asking the Court to quash the subpoena as it had been issued in violation of constitutional and common law protections of journalists, the Department’s own guidelines for subpoenaing journalists, and constitutional protections of privacy rights. (Exhibit 24). I pointed out in a declaration filed in support of that motion that “the Department already is in possession of abundant materials concerning the actions of Mr. Posada Carriles upon which it could dispose of the petition.”

The following day, May 17, 2005, Mr. Posada appeared at a news conference in Miami-Dade and announced his intention to leave the United States. He was then detained by Immigrations & Customs Enforcement agents of the Department of Homeland Security. (Exhibit 14) (R&R at 5). Posada’s arrest presented diplomatic problems because his extradition had been sought by both Cuba and Venezuela. His arrest also coincided with large anti-Posada protest demonstrations in Havana, estimated in the hundreds of thousands. (Exhibit 26). Relatives of the victims of the Cubana bombing also protested in the US.

The Department of Homeland Security placed Mr. Posada in detention in a federal facility in El Paso, Texas shortly after his arrest and reportedly charged him with entering the country illegally. On August 8, 2005 the Justice Department withdrew its subpoena of me instead of responding to my petition to quash. (Exhibit 27).

MR. POSADA’S LIMBO

On September 27, 2005, an immigration court denied Mr. Posada’s request for political asylum and found him removable from the United States either to Cuba or Venezuela for violating the immigration laws of the United States. (Exhibit 14 at 1–2).

On September 28, 2005, the same immigration judge ruled that Mr. Posada could not be deported because he “faced the threat of torture in Venezuela.” The Venezuelan government reacted by claiming that the United States had a “double standard in its so-called war on terrorism.” (Exhibit 28). The judge had no recourse as the U.S. government did not produce a single witness in its prosecution of Mr. Posada.

After a petition for political asylum is denied and an alien is found to be excludable, the Attorney General is required to remove the alien from the United States

within 90 days. See 8 U.S.C. § 1231(a)(1). It is my understanding that an alien may obtain a deferral of removal beyond 90 days, however, by showing a substantial likelihood that he would be tortured or killed upon his removal to his countries of nationality. 8 CFR § 208.17 (implementing article III of the Convention Against Torture). Mr. Posada applied for and obtained such a deferral. (Exhibit 14 at 2).

The Supreme Court has held, however, that detention after a removal order may not continue indefinitely and that an alien generally must be released if after six months of post-removal order detention he or she can establish that his or her removal is not reasonably foreseeable. See *Clark v. Martinez*, 543 U.S. 371 (2005); *Zadvydas v. Davis*, 533 U.S. 678 (2001).

Although the six-month period following entry of the Mr. Posada removal order would expire on March 25, 2006, the Department of Homeland Security determined in an interim decision on March 22, 2006, to maintain Mr. Posada in custody for the purposes of effectuating his removal to a third country that would be willing to accept him. (Exhibit 14 at 2).

On September 11, 2006, U.S. Magistrate Norbert J. Garney entered a recommendation that Mr. Posada must be released. (Exhibit 14). The order began as follows:

Petitioner is a 78-year-old native and citizen of Cuba and naturalized citizen of Venezuela. As observed by the IJ, Petitioner's "case reads like one of Robert Ludlum's espionage thrillers, with all the plot twists and turns Ludlum is famous for.

The Magistrate further noted that 8 U.S.C. §§ 1531–37 establish the Alien Terrorist Removal Court and that upon receipt of classified information that an alien is an alien terrorist, the Attorney General may seek removal of the alien by filing an application with the removal court and may take the alien into custody indefinitely, *but that the Attorney General had not provided the certification required by this statutory mechanism.* (Exhibit 14 at 20–21). Specifically, the Magistrate pointed out: "In this case, Petitioner was never certified by the Attorney General as a terrorist or danger to the community or national security."

The Magistrate also observed that 8 C.F.R. §§ 241.13(e)(6) & 241.14 allow for continued detention if the Attorney General certifies that there are special circumstances that require continued detention, *but again the Attorney General had not certified any such circumstances exist.* (Exhibit 14 at 21–22). These procedures authorize continued detention of an alien for additional periods of up to six months of any alien whose removal is not reasonably foreseeable and who has engaged in terrorist activities or otherwise presents a threat to national security et al.

In sum, the Magistrate concluded that the Government had any number of alternative legal means for ensuring that Mr. Posada would continue to be held, but that it had chosen not to employ any of those means. This seemed to demonstrate that the Government did not regard investigation or prosecution of Mr. Posada as a *compelling interest*. Instead, it appears to be the view of the current Administration that because Mr. Posada's actions historically have been directed against overthrowing Fidel Castro, an objective which appears to be consistent with the interests of the United States, that Mr. Posada should not be prosecuted. It also appears that the Government is hesitant to state this view openly due to the criticism that it likely would engender.

The Government's hesitancy to express its true views regarding Mr. Posada manifested itself in the nominal objection that the Government filed to the Magistrate's recommendation to release Mr. Posada. There, the Government stated that he had not yet decided whether to make the certifications allowed under the various statutes and regulations authorizing continued detention, but that it may do so in the future. (Exhibit 30).

THE GOVERNMENT'S RENEWED INTEREST IN MY JOURNALISM

While Mr. Posada and the Government were arguing about whether he would be removed, detained, or released, my attorney Thomas R. Julin of Hunton & Williams LLP heard again from attorneys for the Government. On October 31, 2005, an assistant United States Attorney assigned to the Counterterrorism Division of the Justice Department contacted *The Times'* attorney to let him know that the Justice Department might seek a grand jury subpoena to require me to turn over materials relating to my interview of Mr. Posada.

If the Government had been serious about criminally prosecuting Mr. Posada on the basis of the statements he made in June, 1998 and that had been reported on the front page of *The New York Times* and other national newspapers, it could have done so long ago.

MORE EVIDENCE

In June 2006, I received a copy of a document written by Mr. Antonio “Tonin” Llama, a former director of the Cuban American National Foundation, who had been indicted and acquitted in the *Esperanza* case in 1998. In it, Mr. Llama demanded that the CANF “deliver the titles and assets that I bought and paid for the campaign that we carried out when I was a director, with the purpose of destabilizing Castro’s communist government that has been in power in Cuba for almost half a century.” He explained that he needed the assets to deliver them to the International Finance Bank, “which lent me part of the money to buy 10 airplanes, 8 ships and armaments, since I have not been able to pay them after having filed for bankruptcy.” (Exhibit 31 is the original document sent by Mr. Llama in Spanish and Exhibit 32, is an English translation of that document).

When I became aware of Mr. Llama’s admissions, it seemed to me that the Government then would be able to obtain extensive information from Mr. Llama regarding whatever the Grand Jury might be investigating. Indeed Mr. Llama has since been interviewed by the FBI in Miami. Antonio Alvarez was another obvious alternative source of detailed eyewitness testimony concerning Mr. Posada and those who had been working with him during the 1997 bombings. I was confident the Government would end its efforts to obtain materials or information from *The Times* or me because that evidence seemed so unnecessary either to any investigation, to obtain an indictment, or to prosecute those involved. But that was before I learned that the Miami FBI office, evidently bowing to local political pressure, had done the unimaginable.

THE GOVERNMENT DESTROYS ITS OWN FILE

I learned from sources inside the FBI that in August 2003, the Miami FBI had closed its investigation of Mr. Posada. The closure of his case allowed a green-lighted destruction of the evidence that conscientious FBI agents had so meticulously gathered against him for many years—including some of the original cables from Union City to Posada. FBI spokeswoman Judy Orihuela, confirmed the destruction but explained it as a “routine cleaning” of the evidence room. Once a case is closed, she said, it is greenlighted for destruction in order to free up space in The Bulky, as the evidence room is known. Ms. Orihuela initially said that the Bureau believed that Posada had disappeared from sight, and was out of action, with his location unknown. Therefore, their reasoning went, it no longer warranted keeping his case file open. However, Posada had rarely been more active and it had been front page news as to his exact location. He and his three comrades were sojourning in a Panamanian prison for their attempted assassination on Castro at a summit held in Panama.

Ms. Orihuela, told me that the supervisory agent in charge or SAC, Hector Pesquera, and the U.S. Attorney’s Office of Marcos Jimenez would have had to “sign off” on the file closure and destruction. Ms. Orihuela added that the file has been reopened in May 2005 after Posada had reentered the country “and is now a pending case.” However, I learned from staff in the Miami FBI office that five boxes of some of the most crucial data regarding Posada and the Havana bombings had been destroyed. One can only wonder why would the FBI Special Agent in Charge and the US Attorney agree to close, then destroy much of the Posada files and evidence? Does this not raise the question of possible obstruction of justice?

Moreover, the Posada file closure and subsequent destruction struck me as compelling evidence that the Government had no real interest in prosecuting Posada and that at that time (2003), it may have taken intentional steps to make sure that Posada could not be prosecuted.

At the time that the file closure took place in August, 2003, Mr. Posada was being held in jail in Panama for attempting to assassinate Fidel Castro. (Exhibit 33). Several months earlier on May 8, 2003, several South Florida members of Congress, including Reps. Ileana Ros Lehtinen and Lincoln Diaz Balart, had written on Congressional stationery to Panamanian President Mireya Moscoso asking for her to release Posada. (Exhibit 33). The Congressional leaders reportedly then sent a second letter again asking for Mr. Posada’s release on November 5, 2003. (Exhibit 33). This sequence of events demonstrated to me that important U.S. public officials were far keener on securing Mr. Posada’s release than in pursuing a criminal prosecution of him or those working with him against Fidel Castro notwithstanding their awareness of the material that *The New York Times* and other media had published about him in 1997 and 1998.

Preserving case files and evidence against Posada and his comrades has proven challenging in several countries. As far back as 1988, President Carlos Andrés Pérez asserted that “the [*Cubana* bombing] file had been tampered with.” His successor,

Hugo Chavez, likewise complained that in the days before he assumed the presidency in 1998, many sensitive DISIP files were destroyed, including Cubana case records, according to Jose Pertierra, who has represented Venezuela in its case against Posada.

In 1992, a fire at the police station in Port of Spain, the capital of Trinidad and Tobago, destroyed many of the files in the *Cubana* bombing. When I called Dennis Ramdwar, Trinidad's former police commissioner, who had interviewed Hernán Ricardo and Freddy Lugo, he was initially helpful. But during subsequent calls, Ramdwar, now 82, said, "I don't want to talk about it. I don't want to get in between Chavez and the U.S." Nor did he want to comment on his files on Bosch and Posada. "They have powerful friends who protect them," he said. "They did then and they do now."

There were other thorny details in this case. To give you a sense of how challenging the environment in Miami is consider that the Miami-Dade Police Department's liaison to the FBI's Joint Terrorism Task Force is a detective named Luis Crespo Jr. Although well-liked, he is the son of Luis Crespo, one of the most famous anti-Castro militants, known as El Gancho, or The Hook, because of the hand he lost to an ill-timed bomb.

Working alongside Crespo Jr. is detective Hector Alfonso, whose father is also a legendary anti-Castro militant, Hector Fabian, who also hosts a radio show. Assigned to the MDPD intelligence unit, Alfonso has access to the most sensitive information on homeland defense, including all materials on Cuban exile militants. "Say you had a tip for the FBI about a bombing," mused one former agent who worked on Posada's case. "Would you want to give it to a guy whose father is Luis Crespo?"

THE ATLANTIC MONTHLY ARTICLE

On October 3, 2006, *The Atlantic Monthly* magazine published a new article that I wrote concerning Mr. Posada and others entitled *Twilight of the Assassins*. (Exhibit 34). Relying on newly declassified FBI and CIA files, I reported that 30 years after the downing of a Cubana airliner that still more evidence implicated Mr. Posada. For example, I reported that the two Venezuelans arrested for placing a bomb on the Cubana airliner made their first call after the attack to the office of Luis Posada's security company." The article also reported for the first time that the Miami bureau of the FBI had closed its file on Mr. Posada and that this had cleared the way for destruction of evidence gather by the FBI concerning Mr. Posada's operations.

Shortly after publication of my *Atlantic Monthly* article, the NSA released still more documents that it had obtained from Government files including new investigative records which the NSA stated "further implicate Luis Posada Carriles" in the downing of the Cubana airliner (<http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB202/index.htm>). Among the documents posted is an "annotated list of four volumes of still-secret records on Mr. Posada's career with the CIA, his acts of violence, and his suspected involvement in the bombing of Cubana flight 455 on October 6, 1976."

THE GRAND JURY SUBPOENAS ME

On October 6, 2006, my attorney, retained by *The New York Times*, received a grand jury subpoena which directed me to appear and testify before the grand jury and to produce all tape recordings that I have of the 1998 interviews of Posada. My attorney, Mr. Julin continues to fight to keep me out of the Grand Jury on First Amendment grounds. At stake, is not only my right, but the right of the public to continue to have access to information that is critical to its participation in our democracy. In this case, my independence as a professional reporter allowed me to bring to the public through *The New York Times* information showing that a private war was being conducted against a foreign nation and the Justice Department was doing little, if anything, to prevent it notwithstanding the availability of abundant evidence that could be used to prosecute those involved in that effort.

The United States Government has compiled extensive information concerning Luis Posada Carriles and his activities since he openly opposed Fidel Castro shortly after the Cuban Revolution in 1959, left Cuba in February, 1961, and volunteered for training by the Central Intelligence Agency-backed Bay of Pigs invasion two months later.

My knowledge of the Government's extensive files is based in part on *The New York Times'* review of declassified CIA and FBI documents, a good deal of it compiled by the National Security Archive. The NSA has publicly stated that the Government has hundreds of other documents relating to Mr. Posada and the *Cubana* airliner downing which it refuses to release to the public.

The declassified FBI and CIA documents show that the Government has extensive alternative sources of information concerning Mr. Posada's involvement in actions that the Newark Grand Jury—convened in 2005—appears to be now investigating.

If the Government were seriously interested in prosecuting Mr. Posada or others associated with him for criminal activities for attacks against Cuba, it has had ample evidence so for a very long period of time but it chose not to do so. Instead, it has forestalled any prosecution of him and others and has sought to compel evidence—thus comprising the reporter's privilege—from me *only after it has destroyed its own files regarding Mr. Posada.*

In early May, 2007, US District Judge Kathleen Cardone dismissed the sole charge brought by the US Justice Department against Luis Posada. The charge was not for acts of terrorism, but for having illegally entering the country. Just days before his trial was to begin in El Paso, the judge issued a blistering rebuke against the US government, chastising prosecutors for "fraud, deceit and trickery" in their attempt to try a terrorism case in an immigration court proceeding.

Posada's lawyers had made much of a woeful interpreter who had conducted an extended interview with Posada about his career as a militant. Citing several errors in translation, they won the judge's ire, who also was irked that prosecutors were shopping for information against Posada in the wrong legal venue. However, no one pointed out that Luis Posada did not need a translator—having learned English as a young man and who later served as a translator during Iran-Contra for US servicemen. I had interviewed him mostly in English, as did Blake Fleetwood for *New Times* in 1976, and at no time did Posada indicate to either of us that he did not understand something. In fact, his attorney, Matthew Archambleault, who handled his arraignment, spoke to him in English.

With all immigration charges dropped against him, Luis Posada walked out of jail on May 8th a free man—albeit one branded by the U.S. Justice Department as "a dangerous criminal and an admitted mastermind of terrorist plots." Pressure mounted as to why former U.S. Atty. Gen. Alberto R. Gonzales refused to declare Posada a security threat and arrest him under The Patriot Act, legislation he crafted and so ardently supported. Former Attorney General Gonzalez and the Bush Administration have consistently refused to do so.

Soon after his release, Posada was seen celebrating at El Club Big Five, an exclusive private club popular with many of Miami's political elite. With Posada was his old comrade and former cellmate, Orlando Bosch. In early 1972, Mr. Bosch was convicted of acts of terrorism and sent to federal prison. He later became a fugitive and was charged in the bombing of the Cubana plane downing in 1976. He spent 11 years in prison then returned to the U.S. Over the objections of the FBI, CIA and the Justice Department, Bosch was granted US residency by Pres. George H.W. Bush.

It was not until Nov. 6, 2007, that DOJ prosecutors announced that they would appeal Judge Kathleen Cardone's ruling dismissing charges against Posada regarding his immigration status.

Call me a strict constructionist, but somehow I do not believe that our founding fathers intended that our government be allowed to raid the news media for their work files after it bungles a case and destroys crucial evidence. And that is exactly what happened in the case of Luis Posada Carriles

Mr. DELAHUNT. Thank you, Ms. Bardach. And now I am going to go to Mr. Kornbluh. Peter, please proceed.

**STATEMENT OF MR. PETER KORNBLUH, SENIOR ANALYST,
THE NATIONAL SECURITY ARCHIVE, THE GEORGE WASHINGTON UNIVERSITY**

Mr. KORNBLUH. Thank you, Mr. Chairman. I want to thank you for holding this important hearing today. I want to thank you for the opportunity to testify on what history records as the first major act of international terrorism involving a civilian airliner in the western hemisphere, an atrocity that quite frankly still demands an accounting more than 30 years later. And for that reason, my office, Mr. Chairman, my organization, the National Security Archive, has made it a priority to centralize as many of the investigative records on this act of international terrorism as possible.

In my testimony today I want to present just a handful of these documents to the committee. And before I do that, let me just share with you the cumulative weight of the evidence: One, that Luis Posada Carriles, a demolitions expert, as Ann Louise Bardach has just said, trained in the 1960s by the CIA, had clear foreknowledge of the bombing of this civilian Cuban airliner. Two, that Posada was in possession of what can only be described as a terrorist target list, essentially a scouting report on potential sites related to Cuba that included the route of the Cubana Airlines flight 455 that was eventually blown out of the sky.

Three, the Venezuelan who drafted this report, whose name has come up in the earlier part of this hearing, Hernan Ricardo Lozano, was employed by Mr. Posada in Caracas. Ricardo, along with a subordinate named Freddy Lugo, placed the bombs on the plane before it took off from Barbados. Four, as soon as the mission was accomplished, Ricardo actually placed phone calls to both Luis Posada and Orlando Bosch, his co-conspirator, to say that the mission had been accomplished. And five, within hours after the plane went into the ocean, our own intelligence community began reporting that their sources in Caracas had identified specifically Luis Posada Carriles and Orlando Bosch as the engineers of this terrorist attack.

Mr. DELAHUNT. Mr. Kornbluh, let me interrupt you right there for a moment, because I want to correct the record. There was earlier testimony by Arturo Hernandez regarding Mr.—and I think it was mistaken, unintentionally, that it was Luis Posada Carriles was on the plane and actually planted the bomb.

Now, I have reviewed most of the documents here. There never has been, at least to my understanding, an allegation or an assertion that Luis Posada Carriles was ever on the plane, but that he and Bosch were the intellectual authors.

Mr. KORNBLUH. The intellectual authors of this crime, using—

Mr. DELAHUNT. Are you aware of any document that has put Posada Carriles on the plane?

Mr. KORNBLUH. No, it has always been understood that people working for him carried out, using equipment that may well have come from him, this attack. And I think that is going to become evident as we go through just a handful of these documents, literally a handful of these documents. And document one is already mounted over here. This is just two pages of a five-page CIA intelligence report which gathered detailed intelligence in Caracas both before the bombing took place and then in the week following the bombing.

And before the bombing took place, the CIA was reporting from a high level Venezuelan source on a fund-raising dinner, \$1,000 a plate, which in 1976 was a lot of money. I think that many people in Congress would consider it a lot of money today for a fund-raiser. But this was in Caracas in late September 1976. It was held for Orlando Bosch, who had just arrived a few weeks earlier to Caracas, like Posada considered a godfather of anti-Castro violence. And this cable reports that Posada actually met Bosch at the airport when he arrived in Caracas in September, and that Bosch was actually being hosted in Venezuela by the intelligence sector of Carlos Andres Perez's government. The CIA source tells the CIA

that at this fund-raiser Orlando Bosch is overheard to say, "Now that our organization has come out of the Letelier job looking good, we are going to try something else." The reference to "the Letelier job" has been discussed earlier in this hearing.

Mr. DELAHUNT. Let me just interrupt again. I think just for housekeeping purposes I would move that all of the documents that you are referring to be incorporated into the records of this particular hearing. And it is so ordered without objection. Please proceed.

Mr. KORNBLUH. The documents are attached to my testimony. And we have provided a professional translation of one of the key documents that is in Spanish. At any rate, Orlando Bosch is overheard referring to "the Letelier job," which was the assassination just days earlier in Washington, DC, of Orlando Letelier and Ronni Moffitt, which you, Mr. Chairman, referred to earlier. He refers to going to "try something else." And the source that the CIA has then reports that a few days after the fund-raiser Luis Posada Carriles adds that key detail of what the "something else" is. He states, "We are going to hit a Cuban airplane, and Orlando has the details." And that is right there in this document that is mounted there.

The second document that I brought is actually, as I refer to it, a scouting report. It is a handwritten report. I brought the first page of it. It is in Spanish, but we have provided a professional translation in English for members of the committee and for the record. This is a rather extraordinary report. It gives you a sense of how terrorists go about doing their dirty job, their dirty work. Somebody goes out with a camera, stakes out certain sites, watches what happens, who goes in, who goes out, reports on security arrangements. And in this case the scout was Hernan Ricardo Lozano, Luis Posada's employee, who was sent apparently in the spring of 1976 throughout the Caribbean area and in countries like Panama and Colombia to find what he referred to as sites "with links to Cuba."

And he described these sites in Barbados, Colombia, Panama, and Trinidad, and provided details right down to the make, model, color and even license plate numbers of the cars that Cuban ambassadors were using in these capital cities of the countries that he was conducting surveillance in.

It is important to note that in this document, which is six pages long, there are a number of sites that actually were struck by terrorist violence in the summer of 1976. Some of those sites are the sites that Posada and Orlando Bosch eventually told your earlier witness, Blake Fleetwood, about.

But the most important site on this list is actually the route of the Cubana flight 455. If you look over to the right-hand side where the highlighting is, you will see a description of the planes, the Cubana flights that come to Barbados. And there is a description of two of them. And the second one was flight 455, which came from Caracas, carrying a Cuban Olympic fencing team, stopped in Guyana, where it picked up Roseanne Nenninger's brother and six other Guyanese medical students on the way to Barbados, and then to Jamaica, and then on to Havana. The bombs that were left on the plane between Trinidad and Barbados went off approximately

5 minutes after take off from Barbados, and the plane was unable to make it back to the airport before crashing into the ocean.

What is important to note, Mr. Chairman, about this document is that it was found in the possession of Luis Posada after Venezuelan authorities raided his home and his office in Caracas. They raided his home after his employee was captured in Trinidad, confessed during interrogation, and named Posada as his employer. And this information was provided back to authorities. As one would expect in an effort to find intellectual authors of a heinous crime, it was relayed back to authorities in Venezuela. Posada's office was raided, his house was raided, and in a drawer this document was found in his possession.

Document three is actually part of the confession that Hernan Ricardo Lozano made in Trinidad when he was being interrogated there. He actually drew a diagram of the detonation device that was used and actually listed a series of steps that someone who wanted to blow up a plane would take in order to carry out this type of operation.

And it is hard to see—but the document is attached to the testimony that you have in your packet—but on the left-hand side of the document is a list of six things to do. They include getting “false documentation.” And indeed, Hernan Ricardo traveled under a false passport on this trip, and was initially misidentified actually in intelligence cable traffic and news reports with a different name. It lists the acquisition of “C-4 explosives” on the list of things you would need to blow up a plane.

But the major part of the diagram is what is known in the trade as a pencil detonator. And this is a very small device that one inserts into a plastic explosive. It has, depending upon which device you use, it has a certain time frame in which it triggers and then the explosive is set off.

In the interrogation report, which Congressman Rohrabacher asked for, he asked for the confession, and which my office is going to be happy to provide to this committee, the deputy police chief, Dennis Ramdwar, wrote that Ricardo described the detonator, and I am quoting now, as “a pencil-type with chemicals which could be timed for 8 minutes, 45 minutes, 1 hour, 2 hours, 3 hours, and 24 hours.

“He said that these pencil-type detonators were various colors, depending upon the time at which the bomb was to be detonated. He said that a certain chemical was filled in a tube of Colgate toothpaste after the toothpaste was extracted.” I just want to add, Mr. Chairman and members of the committee, that when you eventually get declassified Luis Posada's CIA file, which is known as a 201 file, you will see repeated references to his expertise in, and acquisition of, possession of both C-4 explosives and pencil-type detonators.

There is a CIA report that when Posada moved from the United States to Caracas in 1967 he actually took U.S. equipment that included 10 pencil detonators.

The other accomplice who left the bomb on the plane with Hernan Ricardo was also interrogated and confessed in Trinidad. And he added details about watching Hernan Ricardo actually put plastic explosives into a toothpaste tube. He also described how—

Mr. DELAHUNT. Can you identify that individual?

Mr. KORNBLUH. Yes. His name is Freddy Lugo.

Mr. DELAHUNT. My information is that he is currently living in Caracas, Venezuela.

Mr. KORNBLUH. He is a taxi driver in Caracas. He was interviewed recently by the *New York Times*. He is ambiguous in terms of what he now says happened. But he confessed, and not under any torture or stress position in Trinidad, but during 3 or 4 days of interviews, interrogations by the police there. And he described how this happened, who did it. He described how Hernan—

Mr. DELAHUNT. Let me just be clear with you, Mr. Kornbluh, this committee will give serious consideration to interviewing both Mr. Lugo, if we can identify his whereabouts, as well as Hernan Ricardo, and update the committee's information as to their view of Mr. Luis Posada Carriles.

Mr. KORNBLUH. It is hard to know what they will say. They were both convicted in Venezuela of being involved in this crime and did serve over 10 years each there. They have both been subsequently released. Let me just move to—well, let me just say that Ricardo told a story that was really rather extraordinary. He was there—Freddy Lugo told a story that was rather extraordinary. He was there in the hotel lobby as Hernan Ricardo tried desperately to get ahold of Orlando Bosch and Luis Posada.

He made two calls to Posada's office after the plane went down. He called Orlando Bosch also, who he referred to as "Mr. Panyagua." "Mr. Bread and Water" was the code name Bosch was using. But what was most interesting when I read this description and this confession is that Lugo reported that Ricardo called his own mother and said to her, "Mama, please call Luis Posada. Give him the telephone number of the hotel we are staying at and tell him to call us."

Document four is the very first FBI report after the plane bombing. I just want to say, Mr. Chairman, Congressman Flake, that the men who committed this terrorist attack were quite well known to both CIA personnel and FBI personnel in Caracas. In fact, only 5 days before the bombing the FBI Attaché, Joseph Leo, who parenthetically I think would make a very important witness for this committee, actually gave Hernan Ricardo a visa to visit Puerto Rico on this very trip he was taking 4 or 5 days later. Our FBI Attaché gave this visa to Ricardo even though he knew that his employer, Posada, was involved in violent operations against Cuban targets, and he suspected Ricardo of actually helping him. But the FBI Attaché, knowing all these connections, began gathering intelligence on the bombing almost immediately. And these two pages—or these are two, the first page of the October 7th cable and page number 6 of that cable, in which he says that he had a confidential source that "all but admitted that Posada and Bosch had engineered the bombing of the airline."

The source also suggested that a deleted service, which in my interpretation is a reference to the Venezuelan Intelligence Service DISIP, where Posada had a very deep relationship, that this intelligence service was "arranging for Luis Posada and Orlando Bosch to leave Venezuela as soon as possible." They never did get out of Venezuela. They were both arrested on October 12th or 13th.

The very last document that I want to share with you is an FBI summary report that was done for Secretary of State Henry Kissinger in early November, slightly less than a month after the bombing of the plane. And in this report from Director Clarence Kelly to Secretary of State Kissinger, he is updating him on the information the FBI has gathered. And he says that they have a source who is in the Venezuelan Intelligence Service whose name has come up in this hearing, Ricardo Morales, who actually has told the FBI that the bombing—that “the bombing of Cubana Airlines DC-8 was planned in part in Caracas, Venezuela, at two meetings, both attended by Luis Posada.”

And it was Morales, this particular source, that transmitted to our intelligence community the coded message that Hernan Ricardo was leaving for Luis Posada and Orlando Bosch after the plane went down as he tried to reach them on the telephone. And that message was, “A bus with 73 dogs went off a cliff and all got killed.”

Mr. Chairman, these are just a few examples of the historical record that my Cuba Documentation Project has obtained on Luis Posada and the bombing of flight 455. The evidence would seem sufficient to have allowed former Attorney General Alberto Gonzales to have designated Posada as a national security threat under the PATRIOT Act. It would seem to be sufficient to grant Venezuela’s petition that Posada be extradited back to Caracas, where he remains an international fugitive for this very crime.

But I don’t want to leave you with the impression that we have all of the documents and all the evidence. This is just the tip of the iceberg. And there is much that remains secret and stored in the archives of the national security agencies. There are hundreds of documents, Mr. Chairman, that I believe this committee and the American people have a need to know about, and indeed a right to know about. I will work with your committee on what those documents are and where I believe you can find them.

I hope this committee, Mr. Chairman, will continue to investigate the scandalous situation of having not just one of the individuals that our intelligence community identifies as the mastermind of an act of international terrorism living freely and unfettered in Florida, but having two, both of the intellectual authors identified by our own intelligence community living freely in our country. And I offer you any assistance that the National Security Archive can provide in getting the entire historical record into your hands and into the hands of the American public so that we can know the truth and pursue a just end to this heinous crime.

[The prepared statement of Mr. Kornbluh follows:]

PREPARED STATEMENT OF MR. PETER KORNBLOH, SENIOR ANALYST, THE NATIONAL SECURITY ARCHIVE, THE GEORGE WASHINGTON UNIVERSITY

LUIS POSADA CARRILES AND THE BOMBING OF CUBANA FLIGHT #455

MR CHAIRMAN, REP. ROHRBACHER, AND MEMBERS OF THE COMMITTEE: I WANT TO THANK YOU FOR HOLDING THIS IMPORTANT HEARING. AND I WANT TO THANK YOU FOR THE OPPORTUNITY TO TESTIFY ON WHAT HISTORY RECORDS AS THE FIRST MAJOR ACT OF INTERNATIONAL TERRORISM INVOLVING A CIVILIAN AIRLINER IN THE WESTERN HEMISPHERE—AN ATROCITY THAT MORE THAN 30 YEARS LATER STILL DEMANDS AN ACCOUNTING.

LIKE YOU, MR. CHAIRMAN, I AM CONCERNED ABOUT HOW THE CASE OF LUIS POSADA CARRILES—AKA “COMISARIO BASILIO,” “BAMBI,” “RAMON MEDINA,” AND “SOLO,”—HAS BEEN HANDLE OVER THE LAST TWO AND ONE/HALF YEARS BY OUR GOVERNMENT. BY ANY OBJECTIVE STANDARD, POSADA IS ONE OF THE TOP TEN MOST PROLIFIC PURVEYORS OF POLITICAL VIOLENCE IN CONTEMPORARY HISTORY. YET, AS THE UNITED STATES FINDS ITSELF WAGING A WAR ON INTERNATIONAL TERRORISM, A MAN WHO OUR OWN JUSTICE DEPARTMENT HAS RECENTLY CALLED ‘A TERRORIST ALIEN’ SO FAR HAS ONLY BEEN CHARGED WITH IMMIGRATION FRAUD AFTER ILLEGALLY ENTERING THE COUNTRY? HOW IS THIS POSSIBLE?

INDEED, HOW IS IT POSSIBLE THAT A MAN THAT OUR OWN CUSTOMS AND IMMIGRATION ENFORCEMENT AGENCY HAS DETERMINED TO “POSE A DANGER TO BOTH THE COMMUNITY AND THE NATIONAL SECURITY OF THE UNITED STATES” IS TODAY LIVING FREELY IN MIAMI, FLORIDA?

WITH THE CREDIBILITY OF THE U.S. LEADERSHIP IN THE WAR ON TERRORISM AT STAKE, THESE ARE IMPERATIVE QUESTIONS FOR THIS COMMITTEE TO CONSIDER.

IN LEGAL PAPERS, CUSTOMS AND IMMIGRATION OFFICIALS HAVE IDENTIFIED WHAT THEY CALL POSADA’S “LONG HISTORY OF CRIMINAL ACTIVITY AND VIOLENCE IN WHICH INNOCENT CIVILIANS HAVE BEEN KILLED.” AT THE CENTER OF THAT LONG VIOLENT HISTORY IS THE MID-AIR BOMBING OF A CIVILIAN AIRLINER ON OCTOBER 6, 1976. SHORTLY AFTER TAKE OFF FROM THE BARBADOS SEAWELL INTERNATIONAL AIRPORT AT LEAST ONE BOMB EXPLODED ON CUBANA FLIGHT 455, PLUNGING THE PLANE INTO THE OCEAN AND KILLING ALL 73 CREW AND PASSENGERS ABOARD—MANY OF THEM CUBAN AND GUYANESE TEENAGERS.

MR. CHAIRMAN, THIS WAS A CRIME OF TREMENDOUS CONSEQUENCE. IT IS A CRIME THAT REMAINS RELEVANT TODAY BECAUSE OF OUR PRESSING NEED TO UNDERSTAND HOW TERRORISTS ACTUALLY PLAN AND COMMIT SUCH ACTS OF MASS MURDER AND BECAUSE THE MEN THAT OUR OWN INTELLIGENCE COMMUNITY IDENTIFIED AS THE MASTERMINDS OF THIS ATROCITY ARE LIVING FREELY IN FLORIDA.

FOR THOSE REASONS, MR. CHAIRMAN, MY ORGANIZATION, THE NATIONAL SECURITY ARCHIVE, HAS MADE IT A PRIORITY TO CENTRALIZE AS MUCH OF THE INVESTIGATIVE RECORD AS POSSIBLE ON THE BOMBING OF FLIGHT 455. BECAUSE IT WAS AN INTERNATIONAL CRIME, THE DOCUMENTATION DERIVES FROM A NUMBER OF COUNTRIES: THE BOMBING OF THE PLANE WAS PLANNED AND ORGANIZED IN CARACAS, VENEZUELA, AND THE BOMBERS WERE EVENTUALLY PROSECUTED THERE, SO THERE ARE VENEZUELAN RECORDS. THE MEN WHO PLACED THE BOMB ON THE PLANE WERE CAPTURED AND INITIALLY INTERROGATED IN TRINIDAD, AND SO THERE ARE POLICE RECORDS FROM THAT NATION. THE UNITED STATES WAS INVOLVED BECAUSE THE ANTI-CASTRO EXILES WHO PLANNED THIS CRIME HAD PREVIOUS TIES TO THE CENTRAL INTELLIGENCE AGENCY—IN POSADA’S CASE RATHER EXTENSIVE TIES—AND BECAUSE POSADA AND HIS VENEZUELAN EMPLOYEE, HERNAN RICARDO LOZANO, WHO PLACED THE BOMB ON THE PLANE, WERE WELL KNOWN TO OUR FBI ATTACHE IN CARACAS. WE HAVE OBTAINED SOME OF THE KEY CIA AND FBI INTELLIGENCE CABLES THAT WERE TRANSMITTED BEFORE AND AFTER THE BOMBING.

MR. CHAIRMAN, I WANT TO PRESENT JUST A HANDFUL OF THE THESE DOCUMENTS WITH THE COMMITTEE. BEFORE I DO, LET ME SAY THAT THE CUMULATIVE WEIGHT OF THE EVIDENCE DEMONSTRATES THE FOLLOWING:

**LUIS POSADA CARRILES, A DEMOLITIONS EXPERT TRAINED IN THE 1960S BY THE CIA, HAD FOREKNOWLEDGE OF THE BOMBING OF THE CUBAN AIRLINER.

**POSADA WAS FOUND IN POSSESSION OF A TERRORIST TARGET LIST—ESSENTIALLY A SCOUTING REPORT ON POTENTIAL SITES RELATED TO CUBA.

**THE VENEZUELAN WHO DRAFTED THIS REPORT, HERNAN RICARDO, WAS EMPLOYED BY POSADA IN CARACAS. RICARDO, ALONG WITH A SUBORDINATE NAMED FREDDY LUGO, PLACED THE BOMBS ON THE PLANE BEFORE IT TOOK OFF FROM BARBADOS.

**AS SOON AS THE MISSION WAS ACCOMPLISHED, RICARDO PLACED PHONE CALLS TO BOTH POSADA AND HIS CO-CONSPIRATOR ORLANDO BOSCH.

**WITHIN HOURS AFTER THE PLANE WENT INTO THE OCEAN, MULTIPLE FBI SOURCES IDENTIFIED POSADA, AND BOSCH AS HAVING ENGINEERED THIS TERRORIST ATTACK.

LET ME SHARE WITH YOU SOME OF THE DOCUMENTS THAT REFLECT THIS INFORMATION:

DOCUMENT 1: IN THE DAYS BEFORE THE BOMBING OF THE PLANE, THE CIA GATHERED RATHER COMPREHENSIVE INTELLIGENCE ON A FUNDRAISING DINNER—\$1000 PER PLATE WHICH WAS A HELLUVA LOT OF MONEY IN 1976—HELD IN CARACAS FOR ORLANDO BOSCH—LIKE POSADA A GODFATHER OF ANTI-CASTRO CUBAN VIOLENCE.

THE CABLE REPORTS THAT POSADA MET BOSCH AT THE AIRPORT WHEN HE ARRIVED IN CARACAS IN MID SEPTEMBER, AND WAS HOSTED IN VENEZUELA BY THE GOVERNMENT OF CARLOS ANDRES PEREZ.

ACCORDING TO A HIGH-LEVEL CIA SOURCE, AT THE FUNDRAISER BOSCH IS HEARD TO SAY: "NOW THAT OUR ORGANIZATION HAS COME OUT OF THE LETELIER JOB LOOKING GOOD, WE ARE GOING TO TRY SOMETHING ELSE." (THIS IS A REFERENCE TO THE CAR BOMB ASSASSINATION OF FORMER CHILEAN AMBASSADOR ORLANDO LETELIER AND HIS COLLEAGUE RONNI KARPEN MOFFITT ON SEPTEMBER 21, 1976—A CRIME COMMITTED NOT FAR FROM HERE ON MASSACHUSETTS AVENUE BY AGENTS OF THE CHILEAN SECRET POLICE WORKING WITH MEMBERS OF BOSCH'S VIOLENT ANTI-CASTRO COALITION, CORU.)

A FEW DAYS AFTER THE FUNDRAISER, ACCORDING TO THE CIA'S SOURCE, LUIS POSADA ADDED A KEY DETAIL TO BOSCH'S REFERENCE TO TRYING "SOMETHING ELSE." POSADA STATED:

"WE ARE GOING TO HIT A CUBAN AIRPLANE" AND "ORLANDO HAS THE DETAILS."

DOCUMENT 2. THE TARGET SCOUTING REPORT: MR CHAIRMAN, THIS RATHER EXTRAORDINARY DOCUMENT IS A HANDWRITTEN SURVEILLANCE REPORT ON BUSINESSES, EMBASSIES AND OFFICES "WITH TIES TO CUBA" IN THE CARIBBEAN/CENTRAL AMERICAN REGION—**AMONG THEM THE CUBAN STATE AIRLINES AGENCY CUBANA AVIACION.** IT WAS DRAFTED SOMETIME IN THE SPRING OF 1976 BY POSADA'S EMPLOYEE, HERNAN RICARDO, AND PROVIDED DETAILED DESCRIPTIONS OF TARGETS IN BARBADOS, COLOMBIA, PANAMA, AND TRINIDAD RIGHT DOWN TO THE MAKE, MODEL, COLOR AND LICENSE PLATE NUMBERS OF THE CARS THAT THE CUBAN AMBASSADORS IN THOSE NATIONS USED.

IT IS IMPORTANT TO NOTE THAT SEVERAL OF THE TARGETS DESCRIBED IN THIS REPORT WERE SUBSEQUENTLY STRUCK BY ACTS OF TERRORIST VIOLENCE IN THE SUMMER OF 1976, INCLUDING THE BRITISH WEST INDIES AIRLINE OFFICE IN BRIDGETOWN ON JULY 14, AND THE GUYANESE CONSULATE IN PORT-O-SPAIN WHICH WAS BOMBED ON SEPTEMBER 1, 1976. (POSADA'S EMPLOYEE LATER CONFESSED TO BEING INVOLVED IN THOSE ATTACKS.)

BUT THE MOST IMPORTANT TARGET DESCRIBED ON THIS LIST THAT WAS SUBSEQUENTLY BLOWN UP IS THE CUBANA AIRLINES FLIGHT. LET ME DIRECT THE COMMITTEE'S ATTENTION TO THE RIGHT HAND SIDE OF THE FIRST PAGE WHICH LISTS TARGETS IN BARBADOS, WHERE THE AUTHOR NOTES THAT ON WEDNESDAY THERE IS A CUBANA FLIGHT FROM JAMAICA THAT ARRIVES AT APPROXIMATELY 11AM, AND AT 12 NOON, ANOTHER PLANE ARRIVES FROM TRINIDAD, EN ROUTE TO JAMAICA.

THE LATTER FLIGHT WAS NUMBER 455, CAME FROM CARACAS CARRYING THE CUBAN OLYMPIC FENCING TEAM, STOPPED IN GUYANA—WHERE IT PICKED UP ROSEANNE NENNINGER'S BROTHER AND FIVE OTHER TOP GUYANESE SCIENCE STUDENTS ON THEIR WAY TO HAVANA TO STUDY MEDICINE—AND PROCEEDED TO TRINIDAD AND THEN TO BARBADOS EN ROUTE TO JAMAICA AND HAVANA. THE BOMBS WENT OFF APPROXIMATELY FIVE MINUTES AFTER TAKEOFF AND THE PLANE WAS UNABLE TO MAKE IT BACK TO THE AIRPORT BEFORE CRASHING IN THE OCEAN.

THIS DOCUMENT, MR. CHAIRMAN, **WAS FOUND IN LUIS POSADA'S POSSESSION WHEN VENEZUELAN AUTHORITIES RAIDED HIS HOME AND OFFICE AFTER HIS EMPLOYEE, HERNAN RICARDO, WAS ARRESTED IN**

TRINIDAD. POSADA HIMSELF WAS ARRESTED IN CARACAS SIX DAYS AFTER THE BOMBING ON OCTOBER 12, 1976.

DOCUMENT 3. RICARDO'S SKETCH OF THE DETONATOR: MR. CHAIRMAN, WHILE IN CUSTODY IN TRINIDAD, HERNAN RICARDO AND FREDDY LUGO BOTH CONFESSED TO PLANTING EXPLOSIVES ON THE PLANE. ON OCTOBER 19, DURING AN INTERROGATION WITH DEPUTY POLICE COMMISSIONARY DENNIS RAMDWAR, RICARDO STATED HE AND LUGO WORKED FOR LUIS POSADA, THAT "LUGO AND HIMSELF BOMBED THE PLANE."

RICARDO ALSO EXPLAINED TO RAMDWAR THE STEPS A TERRORIST WOULD TAKE TO PREPARE TO BOMB A PLANE AND HOW PLASTIC EXPLOSIVES ARE DETONATED; HE EVEN MADE A ROUGH DIAGRAM OF THE DETONATOR USED FOR THE BOMB, WHICH I BROUGHT TO SHOW THE COMMITTEE. (SHOW DIAGRAM).

MR. CHAIRMAN, YOU WILL SEE ON THE LEFT HAND SIDE OF THIS DRAWING A SERIES OF SIX STEPS THAT RICARDO LAID OUT, INCLUDING OBTAINING "FALSE DOCUMENTATION" THAT EXPLICITLY COULD "NOT BE CUBAN," AS WELL AS OBTAINING "EXPLOSIVO C-4."

THE DETONATION DEVICE HE DESCRIBED IS WHAT IS KNOWN AS A "PENCIL DETONATOR." ACCORDING TO RAMDWAR'S OFFICIAL REPORT ON THE INTERROGATION, RICARDO

DESCRIBED THE DETONATOR AS A PENCIL-TYPE WITH CHEMICALS WHICH COULD BE TIMED FOR 8 MINUTES, 45 MINUTES, 1 HOUR, 2 HOURS, 3 HOURS, AND 24 HOURS. HE SAID THAT THESE PENCIL-TYPE DETONATORS WERE OF VARIOUS COLOURS DEPENDING ON THE TIME AT WHICH THE BOMB WAS TO BE DETONATED. . . . HE SAID THAT A CERTAIN CHEMICAL IS FILLED IN A TUBE OF COLGATE TOOTHPASTE AFTER THE TOOTHPASTE IS EXTRACTED.

LET ME ADD, MR. CHAIRMAN, THAT DOCUMENTS IN LUIS POSADA'S CIA "201" FILE SHOW THAT HE HAD EXPERIENCE WITH, AND POSSESSION OF, PENCIL DETONATORS AND PLASTIQUE EXPLOSIVES. EARLY IN HIS CAREER OF SABOTAGE, POSADA HAS DESCRIBED USING "TIME-BOMB PENCILS." WHEN HE LEFT THE UNITED STATES TO GO TO CARACAS IN 1967, ACCORDING TO HIS OWN CIA FILE, **HE TOOK U.S. GOVERNMENT EQUIPMENT THAT INCLUDED TEN PENCIL DETONATORS.**

MR. CHAIRMAN, THE OTHER VENEZUELAN, A PHOTOGRAPHER NAMED FREDDY LUGO WHO WORKED PART TIME FOR POSADA, ALSO CONFESSED TO RAMDWAR. HE DESCRIBED SEEING RICARDO FILL A COLGATE TOOTHPASTE TUBE WITH A WHITE PUTTY. IN THIS HANDWRITTEN AND SIGNED CONFESSION, LUGO DESCRIBES HOW RICARDO TRIED TO CALL BOTH POSADA AND ORLANDO BOSCH WHO USED THE CODENAME "SR PANYAGUA" (MR BREAD AND WATER), IMMEDIATELY AFTER THE PLANE WENT DOWN. AFTER NOT REACHING POSADA, RICARDO ACTUALLY CALLED HIS OWN MOTHER AND TOLD HER TO "GIVE THE TELEPHONE NUMBER OF THE HOTEL IN BARBADOS TO MR LUIS POSADA SO THAT HE COULD CALL AND TO TELL HIM THAT THERE WAS A PROBLEM."

DOCUMENT 4. FIRST FBI REPORT ON PLANE BOMBING: MR. CHAIRMAN, THE MEN WHO COMMITTED THIS TERRORIST ATTACK WERE WELL KNOWN TO BOTH FBI AND CIA PERSONNEL IN CARACAS; ONLY FIVE DAYS BEFORE THE BOMBING, THE FBI ATTACHE, JOSEPH LEO, ACTUALLY GAVE HERNAN RICARDO A VISA TO VISIT PUERTO RICO EVEN THOUGH HE KNEW HIS EMPLOYER POSADA WAS INVOLVED IN VIOLENT OPERATIONS AGAINST CUBAN TARGETS AND SUSPECTED RICARDO OF HELPING HIM. THE FBI ATTACHE BEGAN GATHERING INTELLIGENCE ON THE BOMBING ALMOST IMMEDIATELY AND THIS IS HIS FIRST REPORT, DATED ONE DAY AFTER THE ATTACK.

LEO REPORTED THAT A CONFIDENTIAL SOURCE HAD "**ALL BUT ADMITTED THAT POSADA AND BOSCH HAD ENGINEERED THE BOMBING OF THE AIRLINE.**" THE SOURCE ALSO SUGGESTED THAT A [DELETED] INTELLIGENCE SERVICE—WHICH IS NO DOUBT A REFERENCE TO THE VENEZUELAN SECURITY FORCE KNOWN AS "DISIP" WHERE POSADA HAD WORKED AS HEAD OF THE DEMOLITIONS DIRECTORATE—"WAS ARRANGING FOR LUIS POSADA AND ORLANDO BOSCH TO LEAVE VENEZUELA. AS SOON AS POSSIBLE."

DOCUMENT 5. FBI BRIEFING TO SECRETARY OF STATE HENRY KISSINGER: THIS FINAL DOCUMENT IS THE FIRST PAGE OF ONE OF SEVERAL BRIEFINGS ON THE FBI'S INTELLIGENCE THAT WAS SENT BY FBI DIREC-

TOR CLARENCE KELLY KISSINGER. THE INFORMATION DERIVED FROM A MEMBER OF THE VENEZUELAN INTELLIGENCE SERVICE, KNOWN AS "DISIP," WHO REPORTED THAT **"THE BOMBING OF THE CUBANA AIRLINES DC-8 WAS PLANNED IN PART, IN CARACAS, VENEZUELA, AT TWO MEETINGS,"** BOTH ATTENDED BY LUIS POSADA.

THIS SOURCE WAS THE FIRST TO RELATE THE CODED MESSAGE THAT THE BOMBERS HAD LEFT WHEN THEY PLACED CALLS TO BOSCH AND POSADA AFTER THE PLANE WENT DOWN:

"A BUS WITH 73 DOGS WENT OFF A CLIFF AND ALL GOT KILLED."

MR. CHAIRMAN, THESE ARE JUST A FEW OF THE EXAMPLES OF THE HISTORICAL RECORD THAT HAVE BEEN OBTAINED AND DECLASSIFIED ON LUIS POSADA AND THE BOMBING OF FLIGHT 455. I DARE SAY THAT HAD THIS CRIME BEEN COMMITTED MORE RECENTLY AND IF POSADA'S FIRST NAME WAS MOHAMMED RATHER THAN LUIS, THIS EVIDENCE WOULD HAVE BEEN MORE THAN SUFFICIENT TO GET HIM RENDERED TO GUANTANAMO BAY, CUBA.

AND IT WOULD SEEM SUFFICIENT TO HAVE ALLOWED ATTORNEY GENERAL ALBERTO GONZALES TO HAVE CERTIFIED POSADA AS A TERRORIST UNDER THE CLAUSES OF THE PATRIOT ACT, RATHER THAN ENGAGE IN A DUBIOUS AND FAILED ATTEMPT TO PROSECUTE HIM AS A SIMPLE ILLEGAL ALIEN. AND SUFFICIENT AS WELL TO GRANT VENEZUELA'S PETITION THAT HE BE EXTRADITED BACK TO CARACAS WHERE HE REMAINS AN INTERNATIONAL FUGITIVE FROM JUSTICE IN THIS CASE.

BUT THESE DOCUMENTS I HAVE SHARED ARE SIMPLY THE TIP OF AN ICEBERG OF EVIDENCE—MUCH OF WHICH REMAINS SECRET AND STORED IN THE ARCHIVES OF THE U.S. NATIONAL SECURITY AGENCIES. EVEN THOUGH WE HAVE GATHERED DOZENS OF DOCUMENTS ON THIS CASE, MR. CHAIRMAN, THERE ARE HUNDREDS MORE THAT I BELIEVE THIS COMMITTEE AND THE AMERICAN PEOPLE HAVE A NEED-TO-KNOW, INDEED A RIGHT-TO-KNOW. THESE DOCUMENTS FALL INTO SEVERAL CATEGORIES:

FIRST, THERE ARE DOCUMENTS THAT HAVE BEEN DECLASSIFIED BUT REMAIN HEAVILY CENSORED, HIDING INFORMATION THAT IS CRITICAL FOR INVESTIGATING THE HANDLING OF THIS CASE.

SECOND, THERE IS A COMPREHENSIVE FILE COMPILED BY THE CIA ON POSADA THROUGHOUT HIS CAREER AND TIES TO THE U.S. KNOWN AS A "201" FILE. VOLUME FIVE OF THIS VOLUMINOUS SET OF PAPERS COVERS THE PERIOD OF TIME OF THE CUBANA AIRLINES BOMBING AND SHOULD CONTAIN USEFUL INFORMATION ON POSADA'S ROLE. (MY OFFICE HAS REQUESTED THE DECLASSIFICATION OF THIS FILE BUT SO FAR THE CIA HAS NOT BEEN RESPONSIVE.)

THIRD: THERE ARE SPECIFIC FBI DOCUMENTS THAT HAVE NOT YET BEEN DECLASSIFIED RELATING TO THE BOMBING AND ITS AFTERMATH THAT WOULD SHED MORE LIGHT ON HOW THIS CRIME WAS CARRIED OUT.

AND FINALLY, MR. CHAIRMAN, THERE IS A DOSSIER MADE UP OF 700 STILL SECRET FBI AND CIA DOCUMENTS THAT HAS ALREADY BEEN COMPILED BY OUR GOVERNMENT AND WAS PART OF IMMIGRATION PROCEEDINGS AGAINST ORLANDO BOSCH, POSADA'S CO-CONSPIRATOR IN THIS CRIME. AS YOU KNOW, BOSCH WAS IMPRISONED IN VENEZUELA FOR 11 YEARS FOR THE PLANE BOMBING AND THEN RETURNED ILLEGALLY TO FLORIDA IN 1988 WHERE HE WAS DETAINED FOR OVER A YEAR AS AN EXCLUDABLE ALIEN. THIS DOSSIER WAS COMPILED AND SUBMITTED TO THE IMMIGRATION JUDGE, AS WELL AS REVIEWED BY THE JUSTICE DEPARTMENT.

BASED ON THIS EVIDENCE, ACTING ASSOCIATE ATTORNEY GENERAL JOE WHITLEY ISSUED A STRONGLY WORDED DECISION THAT CHARACTERIZED BOSCH AS "RESOLUTE AND UNWAVERING IN HIS ADVOCACY OF TERRORIST VIOLENCE . . . WHOSE ACTIONS HAVE BEEN THOSE OF A TERRORIST, UNFETTERED BY LAW OR HUMAN DECENCY."

YET ON JULY 17, 1990, THE WHITE HOUSE OF GEORGE HERBERT WALKER BUSH, OVERRULED ITS OWN JUSTICE DEPARTMENT AND ISSUED AN ADMINISTRATIVE PARDON FOR BOSCH. FOR WHAT APPEAR TO BE CLEAR POLITICAL REASONS, MR. CHAIRMAN, THE BUSH WHITE HOUSE SIMPLY IGNORED THE ELOQUENT POSITION VOICED IN THE JUSTICE DEPARTMENT REPORT THAT PREVIEWED TODAY'S DEBATE OVER THE POSADA CASE:

“THE UNITED STATES CANNOT TOLERATE THE INHERENT INHUMANITY OF TERRORISM AS A WAY OF SETTLING DISPUTES. WE MUST LOOK ON TERRORISM AS A UNIVERSAL EVIL, EVEN IF IT IS DIRECTED TOWARD THOSE WITH WHOM WE HAVE NO POLITICAL SYMPATHY.”

WITH BOSCH SET FREE IN 1990, AND THE SITUATION WITH POSADA TODAY, MR. CHAIRMAN, THE UNITED STATES FINDS ITSELF IN THE FRANKLY INEXPLICABLE POSITION OF HAVING NOT ONE BUT BOTH MEN WHO OUR OWN INTELLIGENCE AGENCIES IDENTIFIED AS RESPONSIBLE FOR BRINGING DOWN A CIVILIAN AIRLINER LIVING FREE AND UNFETTERED LIVES IN FLORIDA. IN THE MIDST OF A WAR ON TERRORISM, THIS HAS SIGNIFICANT REPURCUSSIONS FOR THE UNITED STATES.

I HOPE THIS COMMITTEE, MR. CHAIRMAN, WILL INVESTIGATE HOW THIS SCANDALOUS SITUATION CAME TO BE. I URGE THE COMMITTEE TO USE ITS POWERS TO SEEK THIS DOCUMENTATION, AND OFFER YOU ANY ASSISTANCE THAT MY CUBA DOCUMENTATION PROJECT AT THE NATIONAL SECURITY ARCHIVE CAN PROVIDE.

IN CLOSING, LET ME SAY THAT THIS IS A CRIME THAT ABSOLUTELY DESERVES BOTH A HISTORICAL AND JUDICIAL ACCOUNTING. THE REASONS ARE MANY AND VARIED:

IN THIS DAY AND AGE WHEN NONE OF US CAN BOARD A PLANE WITH A BOTTLE OF WATER OR A DISPENSER OF DEODORANT, THE AMERICAN PEOPLE DESERVE TO KNOW THAT ITS GOVERNMENT HAS RETRIEVED AND EXAMINED EVERY DETAIL OF HOW TERRORISTS BROUGHT DOWN AN AIRLINER USING A TUBE OF TOOTHPASTE.

THE INTERNATIONAL COMMUNITY NEEDS TO KNOW THAT OUR PRESIDENT IS SINCERE WHEN HE DENOUNCES ANY NATION THAT HARBORS TERRORISTS, WHEN HE STATES, HAS HE HAS DONE IN THE PAST, THAT “WE’VE GOT TO SAY TO PEOPLE WHO ARE WILLING TO HARBOR A TERRORIST, OR FEED A TERRORIST, YOU’RE JUST AS GUILTY AS THE TERRORIST.”

AND FINALLY, THE FAMILIES OF THE VICTIMS OF THIS ATTACK—FAMILIES LIKE ROSEANNE NENNINGER’S, AND THE 72 OTHER CUBAN, GUYANESE AND KOREAN FAMILIES THAT LOST LOVED ONES ON THIS PLANE—DESERVE AN ACCOUNTING. THEY DESERVE TO KNOW THAT AS THE LEADER IN THE CAMPAIGN AGAINST INTERNATIONAL TERRORISM, THE UNITED STATES GOVERNMENT WILL DO WHAT NEEDS TO BE DONE TO PURSUE BOTH THE JUSTICE AND TRUTH THAT HAVE BEEN SO ELUSIVE IN THE BOMBING OF CUBAN AIRLINES FLIGHT 455.

THANK YOU.

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SOURCES AND METHODS INVOLVED -- NOT RELEASABLE TO FOREIGN NATIONALS --

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COUNTRY: VENEZUELA/CUBA

DOI : LATE SEPTEMBER - 12 OCTOBER 1976

SUBJECT: ACTIVITIES OF CUBAN EXILE LEADER ORLANDO BOSCH DURING HIS STAY IN VENEZUELA

VENEZUELA; CARACAS (13 OCTOBER 1976) FIELD NO. *17514*

SOURCE: A FORMER VENEZUELAN GOVERNMENT OFFICIAL WHO STILL MAINTAINS CLOSE RELATIONSHIPS WITH GOVERNMENT OFFICIALS. HE IS A USUALLY RELIABLE REPORTER. THIS INFORMATION IS NOT TO BE DISCUSSED WITH ANY FOREIGN OFFICIALS, INCLUDING THOSE OF THE VENEZUELAN GOVERNMENT.

1. (FIELD COMMENT: IN LATE SEPTEMBER 1976 A USUALLY RELIABLE SOURCE REPORTED THAT CUBAN EXILE LEADER ORLANDO BOSCH WAS IN VENEZUELA UNDER THE PROTECTION OF VENEZUELAN PRESIDENT CARLOS ANDRES PEREZ. FURTHERMORE, PEREZ HAD APPOINTED HIS SECURITY AND INTELLIGENCE ADVISER ORLANDO GARCIA TO PROTECT AND ASSIST BOSCH DURING HIS STAY IN VENEZUELA. FOR THIS INFORMATION SEE

70408748076 FIRDB-315/09634-76. IN *7483*, TDIRDB-315/09430-76.

SECRET

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(Classified)

OF MID-SEPTEMBER, A SOURCE OF UNDETERMINED RELIABILITY REPORTED THAT BOSCH ARRIVED IN VENEZUELA ON APPROXIMATELY 13 SEPTEMBER.

2. UPON HIS ARRIVAL IN CARACAS, BOSCH WAS MET AT THE AIRPORT BY GARCIA AND LUIS CLEMENTE POSADA, A PRIVATE INVESTIGATOR AND ONE-TIME MEMBER OF THE DIRECTORATE FOR THE SERVICES OF INTELLIGENCE AND PREVENTION (DISIP), WHO ESCORTED BOSCH TO HIS CARACAS HOTEL. (FIELD COMMENT: WHILE CURRENTLY NATURALIZED VENEZUELAN CITIZENS, BOTH GARCIA AND POSADA ARE NATIVE-BORN CUBANS.)

3. SOMETIME FOLLOWING BOSCH'S ARRIVAL IN CARACAS, A \$5,000 (APPROXIMATELY U.S. \$1,118) PLATE FUND-RAISING DINNER FOR BOSCH WAS HELD AT THE HOME OF HILDO FOLGAR, A PROMINENT SURGEON AND CUBAN EXILE. IN ADDITION TO BOSCH, AMONG THOSE ATTENDING THE DINNER WERE GARCIA; RICARDO ORALES NAVARETTE, GARCIA'S DEPUTY WHO IS ALSO A NATIVE-BORN CUBAN; POSADA; AND AN UNIDENTIFIED HIGH-LEVEL OFFICIAL OF THE MINISTRY OF INTERIOR.

4. DURING THE EVENING BOSCH APPROACHED THE MINISTRY OF INTERIOR OFFICIAL THROUGH GARCIA PROPOSING THAT THE VENEZUELAN GOVERNMENT MAKE A SUBSTANTIAL CASH CONTRIBUTION TO HIS ORGANIZATION. IN RETURN, BOSCH AGREED TO GUARANTEE THAT THERE WOULD BE NO CUBAN EXILE DEMONSTRATIONS IN THE UNITED STATES DURING PRESIDENT PEREZ' PLANNED

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(Classification)

NOVEMBER APPEARANCE AT THE UNITED NATIONS (UN). (SOURCE COMMENT: IT IS BELIEVED THAT BOSCH'S PROPOSITION WAS AT LEAST TENTATIVELY ACCEPTED BY THE MINISTRY OF INTERIOR OFFICIAL.)

5. ALSO DURING THE EVENING BOSCH MADE THE STATEMENT THAT, "NOW THAT OUR ORGANIZATION HAS COME OUT OF THE LETELIER JOB LOOKING GOOD, WE ARE GOING TO TRY SOMETHING ELSE." BOSCH DID NOT NAME THE ORGANIZATION NOR DID HE EXPAND ON HIS MEANING. (FIELD COMMENT: THE LETELIER MENTIONED ABOVE IS PROBABLY FORMER CHILEAN FOREIGN MINISTER ORLANDO LETELIER, WHO WAS ASSASSINATED IN THE UNITED STATES ON 21 SEPTEMBER.)

6. A FEW DAYS FOLLOWING THE FUND-RAISING DINNER, POSADA WAS OVERHEARD TO SAY THAT, "WE ARE GOING TO HIT A CUBAN AIRPLANE," AND THAT "ORLANDO HAS THE DETAILS." (SOURCE COMMENT: THE IDENTITIES OF THE "WE" AND "ORLANDO" MENTIONED IN THE STATEMENT ARE NOT KNOWN.)

7. FOLLOWING THE 6 OCTOBER CUBANA AIRLINE CRASH OFF THE COAST OF BARBADOS, BOSCH, GARCIA AND POSADA AGREED THAT IT WOULD BE BEST FOR BOSCH TO LEAVE VENEZUELA. THEREFORE, ON 9 OCTOBER POSADA AND GARCIA ESCORTED BOSCH TO THE COLOMBIAN BORDER, WHERE THE LATTER CROSSED OVER INTO COLOMBIAN TERRITORY.

8. ON THE BASIS OF INFORMATION RECEIVED FROM TRINIDADIAN

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AUTHORITIES IMPLICATING HIM, POSADA WAS ARRESTED BY DISIP AUTHORITIES ON 12 OCTOBER. HIS OFFICE WAS SUBSEQUENTLY RAIDED AND ALL FILES AND EQUIPMENT CONFISCATED.

9. MEANWHILE, PRESIDENT PEREZ WAS ASSURED THE CUBAN GOVERNMENT, THROUGH CUBAN AMBASSADOR NORBERTO X H E R N A N D E Z X MOURBELO, THAT THE VENEZUELAN GOVERNMENT WILL ENERGETICALLY PURSUE THE INVESTIGATION OF THE CUBANA CRASH. IN RETURN, HOWEVER, CUBA WILL BE EXPECTED TO SUPPORT VENEZUELA'S ANTI-TERRORISM POSITION AT THE UN.

10. EMBASSY COMMENT: THE AMBASSADOR COMMENTS: "THE LEGATT HAS DIFFERENT INFORMATION AS TO WHETHER BOSCH WAS EXFILTRATED OR IS OR IS NOT IN VENEZUELA. GARCIA SPOKE TO LEGATT SUNDAY MORNING, 10 OCTOBER, AND ON THE AFTERNOON OF 12 OCTOBER TOLD HIM "INFORMALLY" THAT THE PRESIDENT WOULD SHORTLY ADVISE ME THAT BOSCH WOULD BE TURNED OVER TO US. THIS WAS REPEATED TO LEGATT BY DISIP DIRECTOR RAUL X S I M E N E Z X KINZA AND OTHER DISIP OFFICIALS (INCLUDING GARCIA) IN A MEETING THE MORNING OF 13 OCTOBER. CONCEIVABLY GARCIA CAN BE PLAYING A DARK GAME BUT THE DISCREPANCIES ARE NOTEWORTHY. I HAVE NOT YET RECEIVED ANY OFFICIAL WORD AS TO THE PRESIDENT'S DECISION."

11. FIELD 08-4: EMBASSY, LEGATT AT [unclear] SENT TO

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PORT OF SPAIN, GEORGETOWN, KINGSTON, MEXICO CITY, MANAGUA,
 GUATEMALA CITY, PANAMA CITY, SANTO DOMINGO, SANTIAGO, BOGOTA
 REPORT CLASS S E C R E T--WARNING NOTICE--SENSITIVE INTELLIGENCE
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S E C R E T

1. Barbados

On the island of Barbados there is a single place that has a link to Cuba, that point is in the center of Bridgetown, which is the office of the airline BWIA. BWIA represents the airline Cubana de Aviación, it is situated between Bay Street and Probyn St., in the Sunjet House building, across the street is the 'Car Park,' a booth with two police, armed, engaged in continuous surveillance.

The administrative offices of BWIA are in the same building, on the second floor. Ticket sales and the advertising logotypes of "Cubana" are on the ground level.

At the Seawell airport there is a counter for La Cubana, which operates on Wednesday each week.

Weekly on Wednesdays a Cubana airliner arrives from Jamaica, it arrives at approximately 11:00 am. At 12 another airplane arrives from Trinidad, on a stopover on the way to Jamaica.

2. Colombia

The pro-Castro activities are developed exclusively in the capital Bogotá.

2.1 With regard to trips to Cuba, they are represented by Air Panama, situated in the Centro Internacional No. 69.

Aereocondor, whose administrative offices are in the well-known Seguros del Valle building, 10th floor.

It is possible to travel to Cuba in combination with Aereomexico situated across from the Hotel Bogotá Hilton.

2.2 Prensa Latina:

Cuban news agency, situated at Avenida Jiménez López 4-03. Lender Building Office No. 904. (Across from the Hotel Continental) in the heart of downtown Bogotá. It has security, an armed watchman (private) right by the doors to the building.

2.3 Cuban Trade Office

Commercial representation of the Cuban government.

Situated in the Seguros del Valle building, 8th floor. The elevator opens directly to the receptionist's desk, which is staffed by a Cuban woman.

The building in question has two armed doormen on the ground level, who ask visitors where they are going in the building.

2.4 Cuban embassy:

Situated on Carrera 92A - Norte Chicó,

a fine residential sector of Bogotá. Two-floor building, with outside gates more than 2 meters high. It has a police booth made of concrete and small windows for seeing.

Its access is in vehicles by carrera 92, crossing section A, which necessarily takes one in front of the embassy, on arriving in front of the embassy it has a 45 degree angle crossing to the left to continue to the parallel 93.

2.5 Ambassador's vehicle

The '76 Cadillac, lead-gray, with a black vinyl roof with diplomatic plates CD-0046.

3. Panama

3.1 Travel offices

Apart from the two offices of Cubana de Aviación there is another with links to Cubana de Aviación, which is AIR PANAMA, situated at Av. Justo Arosemena and Calle 34.

3.2 Prensa Latina

News agency, situated in the Bacena building, 6th floor, office 6B, Calle 41, across from the Executive Panama Yacht Club.

The building in question is recently-built, has 14 floors, two apartments per floor, the one occupied by Prensa Latina is to the right when exiting

the elevator.

At present the building has a doorman at the entrance to provide information on prices and to show the offices for sale.

The personnel of Prensa Latina work behind closed doors, it is known that they continuously stay there until the early morning hours.

3.3 Cuban embassy

Situated on Av. Cuba 41-E parallel to the offices of the Panamanian foreign ministry.

That embassy has a security system that is one-of-a-kind in Panama. This system includes a videotaping system around it, security doors, and a system for entry of the ambassador's vehicle that consists of the arrival of the vehicle, positive verification of it by the video, the opening (first) by the ambassador's chauffeur of the metal door (Santa María) by means of a key with three codes, once one passes the first door it locks shut, and the vehicle enters the internal patio of the embassy, where the ambassador gets in.

The other vehicles of the diplomatic representation are parked in front of the embassy, such as the red Ford Cortina pick-up CD 0211, CD0222, CD0414, CD0207, CD-0224 (vehicles observed on two work days, one also observes spaces for more than 10 official vehicles).

3.4 There is no Cuban cultural association.

3.5 The '76 LTD vehicle of light maroon color was detected two nights in a row CD [ILLEGIBLE] in the parking lot of the Embajador building, situated at Av. 4 Sur across from the Imperio Oriental restaurant.

The vehicle presumably spends the night in the parking lot, for in the checks that were done it was observed there at different hours of the night.

3.5.2 In addition, the vehicle CD0222 was observed two nights in a row at Calle D 28, El Cangrejo, it being presumed that a diplomatic officer lives there.

3.5.3 At the Bacena building on Calle 41 (Prensa Latina) the vehicle CD0224 was observed the same two nights.

The outside surveillance of the Cuban Embassy is inoperative since on the left-hand point it has an eatery, only at the corner (front) where the Chamber of Commerce, Industry and Agriculture operates. It has a stationary police guard 24 hours a day.

In observations made of the [ILLEGIBLE] police from the public park, they are very careless, for they walk 20 meters away from their objective, answer tourists' questions, etc.

4. Trinidad

As regards Trinidad the pro-Castro link is reflected and represented in only two points:

1. The representation of Cubana is BWIA, situated in Sunjet House, 30 Edward St., and at the airport.

In Trinidad the flights of the DC8 of Cubana de Aviación (CU454 and CU453) make stops on Wednesdays towards Guyana or returning from Barbados.

2. The consulate of Guyana in Trinidad, situated between Richamont Street and Park, with No. 61.

That consulate is [ILLEGIBLE] to help, provide any type of help in problems that pro-Castro Cubans in Trinidad might have. Matters of diplomatic pouch are handled there.

1.- Barrios:

En la isla de Barbados solamente existe un solo punto de vinculación con Cuba, dicho punto queda en el centro de Bridgetown, lo cual es la oficina de la línea aérea "BWIA". Los "BWIA" representan a la línea "Cubana de Aviación", esta situada entre las calles Bay Street y Probyn St. en el edificio Sun-let House, al frente le queda el San Paak, una granja son dos policías armados en vigilancia continua.

Las oficinas administrativas de la "BWIA" quedan en el mismo edificio en el 2º piso la visita de pasajes y los logotipos publicitarios de "Cubana" quedan en la planta baja.

En el aeropuerto "Seawell" existe una oficina representativa de la "Cubana". La oficina funciona los días miércoles de cada semana.

Semanalmente llega a los miércoles un avión de "Cubana" procedente de La Haya, llega aproximadamente a las 11:00 am a las 12 llega otro avión procedente de Trinidad, en escala a Jamaica.

2) Colombia

Las actividades "castro" se desarrollan exclusivamente en la capital Bogotá.

2.1) Lo referente a los viajes a Cuba son representados por "Fila Prensa" situada en el "Centro Interamericano" No 69. "Hemecombos" cuyo oficina administrativa se ubica en el conocido edificio "Seguros del Valle" piso 10.

Es posible ver a Cuba en combinación con "Americas" situado frente al Hotel Bogotá Hilton.

2.2) Prensa Latina:

Agencia noticiosa cubana, situada en la "Av. Jiménez" No 4-83. Edificio "Londres" Cl. No 924, (Frente al Hotel Continental).

COPIA Y NUEVE (05)

en pleno centro de Bogotá tiene vigilancia de un sereno armado (Plan) a los puertos del edificio.

2.3) Oficina Comercial de Cuba. Representación comercial del gobierno cubano.

Situada en el edificio "Seguros del Valle" piso No 8. El ascensor sirve directamente a la recepción de la oficina la cual es atendida por una dama cubana.

El edificio en referencia cuenta con la vigilancia de dos porteros armados en la planta del mismo, estos a su vez preguntan a los visitantes su lugar de destino en el edificio.

2.4) Embajada Cubana:

Situada en la Carretera 92 A - Monte Chico.

sector residencial fino de Bogotá. Quinta de dos plantas, con rejas exteriores de más de 2 metros de altura. Tiene una garita portada de concreto y ventanillas de visión.

Su acceso se efectúa en vehículo a través de la casaca 92, cruzando por la sección A, la cual obligatoriamente desemboca al frente de la embajada al llegar al frente de la embajada tiene un ángulo de 45° cruzando a la izquierda para continuar a la final 93.

25 Vehículo del Embajador
El vehículo Cadillac Model 76 gris plomo con techo negro de vinyl placas diplomáticas CD-0046.

2) Panamá

3.1. Casinos de Viajes

Frente de los dos edificios velados de Casanova de Panamá, existe otro, con vinculación con la "Cubana de Aviación", la cual es AIR PANAMA situada en la Av. Justo Ruessmena y Calle 34.

3.2. Prensa Latina

Agencia noticiosa, situada en el edificio "Barrera", Piso 6 oficina 6B, Calle 41, frente al Executive Panama Yacht Club.

El edificio en referencia es recién construido, tiene 14 pisos, dos apartamentos por piso, el de prensa latina está a la izquierda del edificio.

NOVENTA Y UNO (91)

NOVENTA Y UNO (91)

del acceso. En las actuales memorias el edificio tiene un puesto en la entrada a efecto de información de paises y muestra de sus oficinas en venta. El personal de prensa latina, labores a puertos espaciales, se tiene conocimiento que continuamente se quedan hasta la modernizada.

3 Embajada Cubana
Situada en la Av. Cuba 41-6 paralela a las oficinas de la Cancilleria Paramenaria. La referida embajada genera un sistema de seguridad unido en primer lugar, este sistema incluye sistema de video-tape alrededor de la misma. Puertas de seguridad y un sistema de entrada del vehiculo del embajador el cual consiste en la siguiente del

34 No existe asociación cultural de Cuba.

Novena 9 de 92

completo la verificación positiva de un tipo por el video la apertura (primera) por parte del chofar del embajador la puerta de chapa (Santa Mita) por medio de una llave de 3 siglos, pasada la primera. Puerta esta se trancan, entrando el vehiculo al patio interior de la embajada, en el cual el embajador se introduce a la misma.

Los vehiculos restantes de a representación diplomática son aparados en el frente de la embajada, tales como la camioneta Forz Cochira de color Rojo CD 02H el CD0222 CD 0414 - CD0207 - CD0224 (vehiculos observados en 2 dias operativos, se observo tambien puertos para más de 10 vehiculos oficiales)

35 Se detiene el vehículo LTD Mercedes
 76 culca muere el lado izquierdo
 deo hecho seguido el CD
 en el estacionamiento del edificio
 ficio Embajador situado en
 la AV 4 Sur frente al Restu-
 ran Imperio Oriental
 El vehículo pasablemente
 por la noche en el estaciona-
 miento, debido a que en los
 cheques efectuados se observó
 su permanencia en distintos
 horas de la noche.

352. También se observó durante
 dos noches seguidas al vehículo
 CD-0222 en la Calle P 28
 El congreso. Perseguir a un
 via funcionamiento diplomático en
 la misma

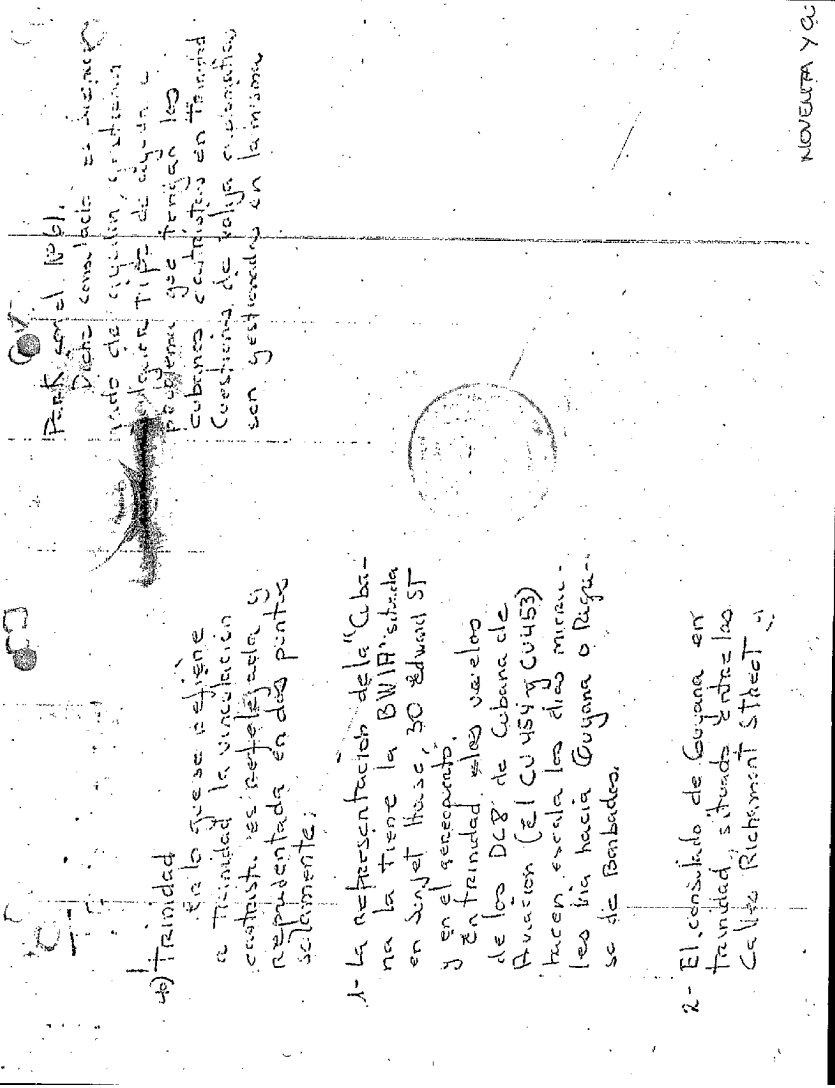
353 En el edificio Bacardi de la
 calle 41 (Pransa la hora) se obser-
 vo durante las mismas dos
 noches el vehículo CD-0224

La vigilancia exterior de la
 Embajada Cubana es importante
 debido a que en su parte izqda
 de frente un estacionamiento
 en la esquina (frente) donde
 funciona la Cámara de Comercio
 e Industria y Agricultura
 un policía de patrulla los 24
 horas del día.

En observaciones hechas al
 dicho policía desde el
 punto público los mismos son
 muy desconfiados ya que
 caminan hechos de 20 metros
 al contrario de su objetivo,
 responden preguntas a los
 transeúntes, etc.

noventa y tres (93)

NOVENTA Y TRES (93)



Frank son el 1961.

Dicho consuleto es un sistema de ciudad, sistema de alguna tipo de alguna a problema que tiene en los cubanos centrados en Trinidad. Cuestiones de política internacional son gestionadas en la misma.

4) Trinidad

En la que se refiere a Trinidad la vinculación socialista es reflejada y representada en dos puntos solamente.

1- La representación de la "Cubana" la tiene la BWIA, situada en Sujet House, 30 Edward ST y en el aeropuerto. En Trinidad, los vuelos de los DC8 de Cubana de Aviación (El CU 454 y CU 453) hacen escala los días miércoles hacia Guyana o República de Barbados.

2- El consulado de Guyana en Trinidad, situado entre las Calles Richmond Street y

NOVENA Y GU

documentos obtenidos por (280) 62 (RDX)

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 documentación falsa - idubital.
 no puede ser cubano
 cubata
 Explosivo C-Fi.
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 de 9 min - 15 min - 1 hora -
 2 hora - 5 hora - 8 horas -
 12 - h - 24 hrs

27°

Fura

Pan

Posiciones de hecho y de (280)

The image shows a piece of paper with handwritten notes and diagrams. At the top, there are circled numbers '62' and 'RDX'. The text is written in Spanish and includes terms like 'solvente', 'documentación falsa', 'cubano', 'idubital', 'cubata', 'Explosivo C-Fi.', and '# nbe'. There are several diagrams: a vertical column with a scale from 0 to 24 hours, a box labeled '27°', a box with a star symbol, and a box with a circle and a dot. The word 'Fura' is written above a diagram of a rectangular object. At the bottom, the word 'Pan' is written above another diagram. On the right edge, there is a vertical note: 'Posiciones de hecho y de (280)'. The paper is aged and has some stains.

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- RUEBWA Immigration and Naturalization Service RUEOIAA National Security Agency
- RUEBWA U.S. Marshall Service RUEBNS U.S. Marshall Service
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- RUEBWA Commandant, U.S. Coast Guard RUEHSE U.S. Secret Service (PID)
- RUEBWA Director, Defense Intelligence Agency RUEHCA Secretary of State
- RUEBWA Energy Research and Development Administration RUEBKA Department of Transportation
- RUEBWA Federal Aviation Administration RUEHES Department of Commerce
- RUEBWA Other (Name) APH U.S. Customs
- RUEBWA Other (Name) U.S. Department of Treasury
- RUEBWA Other (Name) U.S. Department of Justice
- RUEBWA Other (Name) U.S. Department of Health, Education & Welfare

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FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

OCT 07 1976

TELETYPE

~~0 572345Z OCT 76~~
~~FM CUBANA (249)~~
~~TO DIRECTOR IMMEDIATE HQ 102 87~~

~~SECRET~~

Cubana Airlines

INSUBS. SUSPECTED BOMBING OF CUBANA AIRLINES DC-8 NEAR BARBADOS,

WEST INDIES, OCTOBER 6, 1976, NM - CUBA - WEST INDIES.
By teletype 10/7/76, Legat CARACAS ADVISED AS FOLLOWS:
CUBANA AIRLINES FLIGHT 455, DC-8 AIRCRAFT LEASED BY CUBANA

FROM AIR CANADA, CRASHED IN THE CARIBBEAN SEA OFF THE COAST OF
BARBADOS AT ABOUT 1:45 PM ON OCTOBER 6, 1976, SHORTLY AFTER
TAKEOFF FROM SEAWELL AIRPORT, BARBADOS, EN ROUTE TO HAVANA, CUBA,
VIA KINGSTON, JAMAICA. NO SURVIVORS REPORTED AMONG THE 78 PER-
SONS ABOARD THE PLANE.

ACCORDING TO AMERICAN EMBASSY, BRIDGETOWN, BARBADOS, PILOT
REPORTED TO SEAWELL AIRPORT TOWER SHORTLY BEFORE CRASH THAT AN
EXPLOSION HAD OCCURRED ABOARD THE PLANE. FLIGHT LOG RECOVERED
AFTER CRASH NOTED POWER FAILURE IN NUMBER FOUR ENGINE, BUT NO
MENTION OF EXPLOSION. AIRPORT OFFICIAL AT BARBADOS REPORTEDLY
INFORMED THAT PILOT TOLD TOWER THERE HAD BEEN EXPLOSION IN ONE
OF THE REAR LAVATORIES OF THE PLANE.

STATE DEPT.
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AUTHORITY
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AMERICAN EMBASSY, PORT OF SPAIN, TRINIDAD, ADVISED ON
OCTOBER 7, 1976, AS FOLLOWS:

TRINIDAD AND TOBAGO POLICE ARE HOLDING TWO VENEZUELAN

END PAGE ONE

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~~CARBON COPY DO NOT FILE~~

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~~TOP SECRET~~
 CITIZENS WHOM THEY BELIEVE MAY BE CONNECTED WITH THE CIBANA AIRLINE
 CRASH OCTOBER 6 OFF BARBADOE. TWO SUSPECTS ARE:

"A. JOSE VAZQUEZ GARCIA - HOLDER OF VENEZUELAN PASSPORT
 720753 (THIS IS THE PERFERATED NUMBER--NUMBER WRITTEN IN THE PASS-
 PORT IS 3140006), ISSUED ON JUNE 6, 1976, IN CARACAS. BORN
 DECEMBER 9, 1950 IN CARACAS. HOLDS VENEZUELAN ID CEDULA V
 3140006.

"B. FREDDY (NOT FEDERICO) LIQO - HOLDER OF VENEZUELAN PASS-
 PORT 006543 (THIS IS THE PERFERATED NUMBER--NUMBER WRITTEN IN THE
 PASSPORT IS 2123051), ISSUED JULY 6, 1976, IN CARACAS. SINGLE.
 BORN OCTOBER 17, 1942. GAVE RESIDENCE AS CARACAS AND OCCUPATION
 AS JOURNALIST. HOLDS ID CEDULA VO 2123051. CARRIES OFFICIAL
 PRESS CARD NO 152 OF CIRCULO DE REPORTEROS GRAFICOS DE VENEZUELA.
 LIQO ALSO HAD IN HIS POSSESSION TOURIST CARD FOR COLOMBIA DATED
 JULY 15, 1976. THIS GAVE PERMANENT ADDRESS AD URB URBANETA VERDA
 24, CARACAS.

"THESE TWO VENEZUELAN ARRIVED IN TRINIDAD FROM CARACAS ON
 PANAM 443 EARLY MORNING HOURS WEDNESDAY, OCTOBER 6. CHECKED INTO
 HOLIDAY INN AT 0200 HOURS. HOTEL REGISTRATION MADE IN NAMES OF
 END PAGE TWO

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 8/18/96

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~~SECRET~~
 JOSE GARCIA/FREDDY PEREZ. HOME ADDRESS GIVEN AS URB CRISTO
 REY NO 61, VALENCIA, VENEZUELA. HAD LUGGAGE WHEN CHECKED INTO HOTEL.

"VENEZUELAN CHECKED OUT OF HOLIDAY INN ABOUT 0600 OCTOBER 6
 WITH LUGGAGE AND WERE SEEN AT PEARCE AIRPORT. BOARDED CIBANA FLIGHT
 AT 1150 OCTOBER 6 TO BARBADOS.

"RETURNED FROM BARBADOS TO TRINIDAD ON SAME DAY ON BWIA FLIGHT
 AT 2150 AND CHECKED INTO HOLIDAY INN AT 2300 WITHOUT SUITCASES.
 REGISTRATION IN NAME OF GUSTAVO GARCIA, RESIDENCE BOGOTA, COLOMBIA.
 THEY CLAIMED THE SUITCASES HAD BEEN STOLEN, BUT THEY HAVE MADE NO
 REPORT OF STOLEN SUITCASES EITHER TO AIRLINE OR BARBADOS OR
 TRINIDAD POLICE.

"AMONG DOCUMENTS IN HANDS OF POLICE IS BOARDING PASS OF E.
 SEALY FOR DIFFERENT BWIA FLIGHT. POLICE CHECKING THIS OUT. THIS
 THEY BELIEVE COULD BE TRINIDAD ACCOMPLICE.

"OF INTEREST IS FACT BOTH PASSPORTS FAIRLY NEW. THEREFORE
 DIFFICULT TRACE PAST TRAVEL. HOWEVER, PASSPORT OF FREDDY LUGO DID
 HAVE STAMP SHOWING ENTRY AT BARBADOS ON JULY 9. (NOTE: THE BOMBS
 WHICH WENT OFF AT THE BWIA OFFICE AND AT THE GENERAL MANAGER'S CAR
 AND YACHT IN BRIDGETOWN, BARBADOS, TOOK PLACE ON 10 AND 11 JULY
 1975.)

END PAGE THREE

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"PAGE IN POSSESSION OF LIGO APPARENTLY FROM ADDRESS BOOK WITH
LETTER "E" ON IT CITED FOLLOWING: EMBASSY AMERICAN 2046111-127;
FBI JOSEPH LEO 331911.

"TRINIDAD AND TOBAGO POLICE ARE FINGERPRINTING BOTH SUSPECTS
AND COPYING ALL DOCUMENTS IN THEIR POSSESSION.

"TRINIDAD AND TOBAGO POLICE REQUEST URGENTLY ANY INFORMATION
OF THESE PERSONS, PARTICULARLY ANY CRIMINAL RECORDS. NO OBJECTION
TO LEGATT CONTACTING LOCAL POLICE/SECURITY SERVICES. POLICE REQUEST
AT LEAST INTERIM REPLY BEFORE 1700 LOCAL TIME. PLEASE SEND REPLY
NEXT IMMEDIATE.

"POLICE WOULD LIKE TO KNOW IF ANYONE FROM LEGATT OFFICE PLANS
TO COME TO TRINIDAD ON THIS CASE, OR HOW YOU WOULD LIKE TO RECEIVE
COPIES OF FINGERPRINTS, ETC."

[REDACTED]

4

(S)

ON OCTOBER 7, 1976, A CONFIDENTIAL SOURCE ABROAD ADVISED THAT (S)
END PAGE FOUR

SECRET

5

SECRET

~~PAGE FIVE - CONFIDENTIAL~~

FREDDY LUGO IS A VENEZUELAN NEWSMAN WHO IS ALSO EMPLOYED AS AN INVESTIGATOR BY LUIS FOSADA, [REDACTED]

[REDACTED] CARACAS. HE RESIGNED FROM HIS POSITION [REDACTED] IN 1973. [REDACTED]

[REDACTED] FOSADA IS A CLEAN EXILE WHO IS KNOWN FOR HIS ANTI-COMMUNIST ACTIVITIES AND HE REPORTEDLY ASSISTED ORLANDO BOSCH AVILA IN 1974, SHORTLY BEFORE BOSCH WAS ARRESTED BY VENEZUELAN AUTHORITIES. [REDACTED]

LEGAT BECAME ACQUAINTED WITH FOSADA WHILE THE LATTER WAS [REDACTED]

[REDACTED] AND AFTER HIS RESIGNATION, FOSADA CONTINUED TO CONTACT LEGAT ON RARE OCCASIONS, USUALLY IN ORDER TO OBTAIN PERSONALIZED SERVICE IN CONNECTION WITH VISA REQUESTS. IN VIEW OF LUGO'S EMPLOYMENT BY FOSADA, LEGAT ASSURES HIS NAME AND TELEPHONE NUMBER WERE FURNISHED TO LUGO BY FOSADA. LEGAT ESTIMATES HE HAS SEEN FOSADA IN PERSON ON PERHAPS THREE OCCASIONS SINCE 1973, THE LAST TIME BEING ON JUNE 10, 1976, WHEN FOSADA VISITED LEGAT OFFICE TO INQUIRE IF FBI HAD INTEREST IN CARLO BORDONI (BUFILE 2516668A)

(CARFILE 29-19). INFORMED IN THE AFFIRMATIVE, FOSADA REVEALED BORDONI HAD HIRED TWO OF HIS OPERATIVES AS ARMED BODY GUARDS AT HIS HOME. THAT INFORMATION WAS SUBSEQUENTLY PASSED BY LEGAT TO [REDACTED]

[REDACTED] WHO WERE INVOLVED IN THE ARREST ACTION AGAINST BORDONI. [REDACTED]

END PAGE FIVE

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~~INFO SIX CAN 2'S SECURITY~~

POSADA MORE OFTEN REFERRED TO LEGAT RELATIVES AND ASSOCIATES SEEKING ADVICE REGARDING VISAS, THE LAST BEING ONE OF HIS EMPLOYEES, HERNAN RICARDO LOZANO, WHO SOUGHT A VISA TO TRAVEL TO SAN JUAN, PUERTO RICO, ON OCTOBER 1, 1976. LEGAT WILL PROVIDE ADDITIONAL INFO DEVELOPED REGARDING RICARDO IN A SUBSEQUENT COMMUNICATION. (S)

ON OCTOBER 7, 1976, THE CONFIDENTIAL SOURCE FURTHER ADVISED THAT IN VIEW OF THE ARREST OF VAZQUEZ AND LISO IN TRINIDAD, THE [REDACTED] WAS ARRANGING FOR LUIS POSADA AND ORLAND BOSCH AVILA TO LEAVE VENEZUELA AS SOON AS POSSIBLE. THE SOURCE ALL BUT ADMITTED THAT POSADA AND BOSCH HAD ENGINEERED THE BOMBING OF THE AIRLINE, AND HE PROMISED TO FURNISH FURTHER DETAILS ON OCTOBER 8, 1976. (S)

~~CLASSIFIED BY 4020, AND BY 401038 R AND A, EMBERTHILL~~
ADMIN TO FIELD AND LEGATS ONLY
ADMINISTRATIVE: CONFIDENTIAL SOURCE IS [REDACTED]

[REDACTED] CARACAS, VENEZUELA. (S)(U)

FROM STATEMENTS OF [REDACTED] IT APPEARS ALMOST CERTAIN THAT THE [REDACTED] WAS PRIVY TO THE ACTIVITIES OF POSADA AND BOSCH AND THAT IT NOW WILL ATTEMPT TO DISASSOCIATE ITSELF FROM THEM FOR FEAR OF RETALIATION BY THE CUBAN GOVERNMENT. (S)(U)

ADMIN TO FIELD AND LEGATS ONLY

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RELEASED PER P.L-102-526(JFK ACT)
NARA 68 DATE 5-9-05

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- 1 - Mr. I. G. Held
- 1 - Mr. J. B. Adams
- 1 - Mr. D. W. Moore
- 1 - Mr. W. K. DeBruin

November 6, 1976

- 1 - Mr. J. A. Mintz
- 1 - Mr. T. W. Leavitt
- 1 - Mr. R. J. Gallagher
- 1 - Mr. J. G. Deegan
- 1 - Mr. R. K. McHargue
- 1 - Mr. J. P. Graham

FEDERAL GOVERNMENT

Honorable Henry A. Kissinger
The Secretary of State
Washington, D. C. 20520

Dear Mr. Secretary:

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 5/21/81 BY SP-1/STW

DECLASSIFIED BY SP-1/STW 6/9/81

In connection with the loss of Cubana Airlines Flight Number 455 in the Caribbean Sea on October 6, 1976, a confidential source of our Miami Office who has provided reliable information in the past, reported on November 1, 1976, the following significant information which is summarized below:

On October 23 and 24, 1976, our confidential source ascertained from Ricardo Morales Navarrete, an official of the Venezuelan Intelligence Service (DISIP), that the bombing of the Cubana Airlines DC-8 was planned, in part, in Caracas, Venezuela, at two meetings attended by Morales Navarrete, Luis Posada Carriles and Frank Castro. On one occasion, Gustavo Castillo was present. One of the meetings took place in the apartment of Morales Navarrete located in the Anauco Hilton Hotel. Morales Navarrete reportedly stated that this group had previously attempted to bomb Cubana aircraft in Panama and in Jamaica. It is noted that Castro and Castillo are American citizens who have been active in anti-Castro terrorist activities in the past. Castro, a resident of the Dominican Republic, is a leader of Coordination of United Revolutionary Organizations (CORU), an anti-Castro terrorist organization which has claimed responsibility for numerous terrorist acts throughout the Caribbean. Castillo is a subject in an attempted kidnapping plot against the Cuban Consul in Merida, Mexico, on July 23, 1976, engineered by CORU which resulted in the death of the Consul's bodyguard. Two other CORU members who are Miami residents are currently jailed in Mexico

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Serv. _____
- Ext. Affairs _____
- Fin. & Pers. _____
- Gen. Inv. _____
- Ident. _____
- Inspection _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Eval. _____
- Rec. Mgnt. _____
- Spec. Inv. _____
- Training _____
- Telephone Rm. _____
- Director's Sec'y _____

JPG:jmb (12)

REC-19 2-2173-174

~~Classified by 6008 Director~~
~~Group 1 from automatic declassification~~
~~date of declassification indefinite~~

NOV 12 1976

ROUTE IN ENVELOPE

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CHM
JLB

NOV 19 1976

TELETYPE UNIT

Honorable Henry A. Kissinger

for this act. Castillo was able to escape from Mexico and was known to have fled from Caracas to Puerto Rico on October 18, 1976, following the arrest of Posada, Orlando Bosch Avila and others, in connection with the Cubana air crash. Castillo's present whereabouts is unknown.

Morales Navarrete told our source that some people in the Venezuelan Government are involved in the Cubana DC-8 bombing and that if Posada talks, then Morales Navarrete will "go down the tube" in a Venezuelan-style Watergate. Carlos Fabri, a DISIP bomb expert and friend of Posada, is reported to be involved in that bombing. The Venezuelan Judicial Technical Police reportedly have knowledge of the participants in this act but have been prohibited from investigating by DISIP officials who wish to cover up Venezuelan participation. Posada and Fabri have previously been arrested by Venezuelan authorities for providing false identification and explosives to Bosch.

According to Morales Navarrete, arrested suspect Hernan Ricardo Lozano telephoned Bosch from Trinidad stating "a bus with 73 dogs went off a cliff and all got killed."

Morales Navarrete stated that Gustavo Castillo and members of his "Youth of the Star" group composed of Gaspar Jimenez, Orestes Ruiz Hernandez, Duncy Perez Alamo and Raciél Rodriguez Gonzalez are responsible for the following terrorist actions in the Miami, Florida, area: bombing of the Dominican Consulate, October 6, 1975; bombing of the Dominican Airlines ticket office, October 20, 1975; bombings at the Broward County Court House, October 10, 1975; and attempted bombing of a Bahamasair Airliner at Miami International Airport, November 27, 1975. Jimenez and Ruiz Hernandez are in jail in Mexico in connection with the attempted kidnapping of the Cuban Consul.

Morales Navarrete also stated that Bosch told him that Guillermo Novo traveled to Chile in early 1975 to visit Bosch. At that time, Novo made contact with the ultra-right wing organization known as "Fatherland and Liberty." According to Morales Navarrete the death of Orlando Letelier in Washington, D.C., on September 21, 1976, was the result of an agreement between Novo and this group, some members of which are also members of the Chilean National Directorate for Intelligence (DINA).

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NARA 18 DATE 5-9-05

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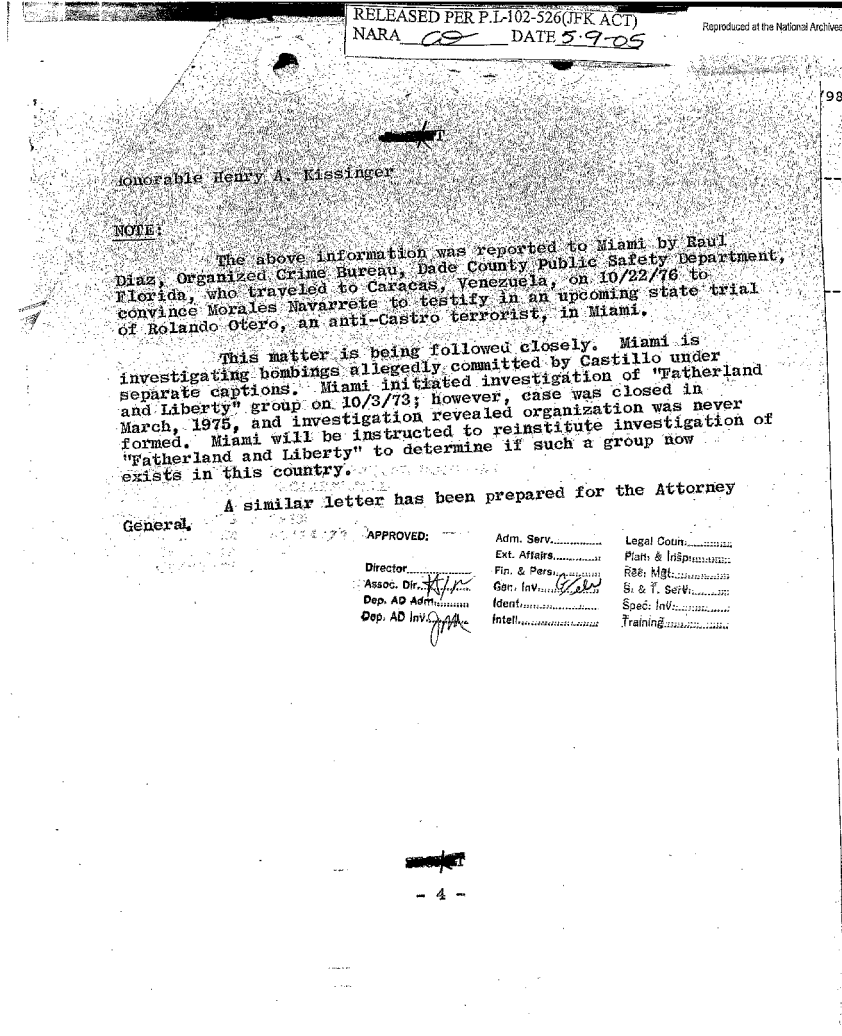
Honorable Henry A. Kissinger

According to our source, the Venezuelan Government now disclaims knowledge of Morales Navarrete. Calls to his apartment and office are answered by unknown individuals who state that they do not know Morales Navarrete. Morales Navarrete's girlfriend in Miami, Florida, was instructed by him not to call as "he does not exist."

Most of the above information was told to our source in strict confidence by Morales Navarrete and disclosure of this information would immediately compromise our source. Our source has requested that this information not be divulged outside of the U. S. Government. No action may be taken on the information mentioned herein which would compromise our sensitive and valuable informant.

Sincerely yours,

Clarence M. Kelley
Director



Mr. DELAHUNT. Thank you, Mr. Kornbluh. And let me assure you that we will be welcoming that assistance. I don't think it is a well kept secret that my ranking member, Mr. Rohrabacher, and myself disagree on just about everything, except we both have a profound commitment to seeking the truth. And I have no doubt that he will join me in that effort, as will every member on this committee, to secure the truth and have full access to those records so that this country can stand tall among the family of nations.

Last, but certainly not least, and I thank you, Ms. Nenninger, for your endurance and your patience, and I know that I speak for other members of the panel, both sides, Republican and Democrat, that we share your loss, we want to express our condolences. This is clearly a horrific tragedy. It is an act of terrorism that should make us all aware of the consequences of war and the con-

sequences of violence, because it just simply does not end with the victim, in this case your brother, but goes on for generations. So please accept, on behalf of everybody who serves on this committee and on the full committee, and Members of Congress, all of us, our sincere condolences. Please proceed.

STATEMENT OF ROSEANNE NENNINGER, N.D. (NATUROPATHIC DOCTOR)

Ms. NENNINGER. Thank you, Mr. Chairman. Mr. Chairman, Congressman Flake, my name is Roseanne Persaud Nenninger. And my brother, Raymond Persaud, was on flight 455. As you already know, a horrific bomb exploded in mid-air, killing him and 72 other passengers and crew. Let me just pause for a moment to show you this photograph of Raymond. That is Raymond in the brown suit specifically tailored for him for this trip, my other brother Trevor, who is in California at the moment, and myself. I was 11 years old. I am here today to put a human face to this tragic, untimely end to my brother's life. I want justice to be served for this dreadful act of terrorism. I feel justice has long been overdue, not only for my brother, but for all the victims who were aboard that flight.

I would like to share some cherished memories about my brother Raymond. He was an academic scholar. He received the highest marks on his exams. He was truly gifted at the study of science. Because of his aptitude in science and overall scholastic achievement, the Guyanese Government selected Raymond to receive a special full scholarship to study medicine in Cuba. Then and now this is a coveted scholarship for any young Guyanese student who dreams of becoming a doctor. At that time there were no medical schools in Guyana, and Mr. Chairman, there are none now still. So for my brother, having the opportunity to follow his dream was the closest thing to a miracle.

Sorry, this is a little difficult for me.

Raymond had big dreams. He had dreams of becoming a doctor, dreams of giving back to his country by coming back after graduating and completing his residency in his homeland, to be of service to Guyana. From a very young age, Raymond displayed traits of strong leadership. He was always involved in helping others. He was a group leader for youth organizations, class president in his high school, and mentor to our community in Georgetown, Guyana. He loved spending time with his family. And I have fond memories of playing checkers together, of him helping me with my homework, reading novels and comic books to me. He was number five—he was number two and I was number six.

So, you know, we had a bit of an age difference there. Raymond was a great, wonderful big brother to me. My parents were so proud of him, and so was I. Let me tell you why. Raymond was the first of five siblings in the family to go to college, much less to go to medical school. We had a wonderful farewell party for Raymond the night before he left for his journey. My father borrowed 80 chairs from the church nearby to accommodate all the guests at Raymond's farewell party.

And only a few days later, those were the same chairs used for his wake and memorial service. We never got to have a full funeral because his body could not be recovered in the ocean wreckage. Let

me account for you what happened that fateful day, October 6, 1976. It began with high hopes. My family and I went to the airport to bid Raymond farewell. He was dressed in a brown suit specially made at the tailor for his travels. My parents were feeling so proud to have their son heading off to medical school. At the airport, we watched Raymond walk on the tarmac, heading onto the airplane. He stopped, waved good-bye, and we wiped our tears from our eyes and waved back. Raymond turned the corner and headed into the plane. We headed back home sad, but excited at the same time, and tired from the night before, so tired we all decided to take a nap.

After a couple of hours there was a knock on our door. It was our cousin. It was very odd for her to come to our home on a Wednesday. She worked for the Department of Foreign Affairs. She said she had some news to share with us and we all needed to be sitting down. I had just woken up from a nap, I was very groggy and I was sitting at the dining room table. My mom and dad were there waiting to hear what my cousin would say. She said the plane that Raymond was on off the coast of Barbados went down. The next thing I remember was shrieks coming from my mother. I am sure most of the neighbors heard those shrieks. Tears flowed down my cheeks. It all seemed unreal. How was this possible? We just saw Raymond.

My mom asked if there were any survivors. My cousin couldn't answer that question. More screams came from my mother. I will never be able to get over that sound that came from my mother.

I am sure the committee can understand how October 6, 1976, became the saddest day for us. At that moment my family realized that all my brother's dreams for his future and all our dreams for him had gone down in the ocean, gone forever. At the time there were no televisions in Guyana, so we depended on overseas information through the radio to find out more information about the tragedy that had struck our family and so many others.

Eventually my father started to piece all the information together and we realized that the plane crash was not an accident but, in fact, terrorism carried out by fanatical anti-Castro Cubans, chief among them Luis Posada Carriles.

Mr. Chairman, my brother Raymond Persaud was only 19 years old. He was a young man with a wonderful and bright future. It was all taken away with that terrible act of terrorism.

In 1979 my whole family immigrated to the United States. My parents couldn't bear the thought of another one of their children heading overseas for graduate school so we made our new home in New York. We are all now American citizens. And my brothers and my sisters and I have all succeeded professionally and personally in this great land of opportunity. Yet as an American citizen, I am sure you can appreciate how outraged I am that a known terrorist, a man who planned the act of international terrorism that killed my brother, five of his fellow Guyanese medical students, and the Cuban Olympic fencing team, is now living as freely as I am in the United States.

My President says he wants all countries who are harboring terrorists to be held accountable and that he is committed to bringing justice for those who are involved in acts of terrorism. But for rea-

sons that I hope this committee will help me understand, this is not the case with Luis Posada. In his case there seems to be some sort of exemption. As an involuntary member of a unique group of families that have suffered an irreplaceable loss at the hands of terrorists, I can honestly and clearly say that the handling of Posada's case has been a travesty of justice and a message of hypocrisy amidst the ongoing U.S. war of terrorism.

I got so angry, Mr. Chairman, that as the 30th anniversary of this crime approached last year I wrote a letter to the then-Attorney General, Alberto Gonzalez, appealing to him in the name of justice for my brother Raymond and the other passengers on that doomed airplane, to certify Posada as a terrorist under the PATRIOT Act and incarcerate him indefinitely. "Mr. Attorney General," I wrote, "if Luis Posada does not meet the definition of a terrorist, it is truly hard to imagine who does."

Mr. Chairman, more than a year has gone by and I have never received even a courtesy reply to my letter. Indeed, this committee is the first government agency of my adopted homeland to have listened to my concerns about how this administration has turned its back on the victims of a heinous crime of international terrorism.

Why, I ask you, are both Luis Posada and Orlando Bosch not behind bars? My hope is that this committee will find the answers that the Attorney General and the Department of Justice have refused to provide for me and my family. It is now 31 years since my brother Raymond died and no words can describe the pain, grief, and loss we have faced. Our family, as I am sure you understand, has never been the same since October 6, 1976. It is still painful for us to sit and have conversations about Raymond's death. We wonder what kind of man Raymond would have been and how he would have contributed to our complex world. My brother was an amazing individual, full of hopes and dreams that were stolen forever in an instant of an explosion. What a selfish act of Luis Posada Carriles to kill innocent young lives for no other reason than that they were traveling to Cuba.

Mr. Chairman, I hope my voice and those of other families of flight 455 who cannot be here to speak today will be heard through these words. We want justice now. We have waited far too long. Thank you.

[The prepared statement of Ms. Nenninger follows:]

PREPARED STATEMENT OF ROSEANNE NENNINGER, N.D., (NATUROPATHIC DOCTOR)

IN MEMORY OF MY BROTHER, RAYMOND PERSAUD

MR. CHAIRMAN, MEMBERS OF THIS HONORABLE COMMITTEE:

MY NAME IS ROSEANNE PERSAUD NENNINGER AND MY BROTHER RAYMOND PERSAUD WAS ON FLIGHT 455. AS YOU ALREADY KNOW, A HORRIFIC BOMB EXPLODED IN MID AIR, KILLING HIM AND 72 OTHER PASSENGERS AND CREW.

I AM HERE TODAY TO PUT A HUMAN FACE TO THIS TRAGIC, UNTIMELY END TO MY BROTHER'S LIFE. I WANT JUSTICE TO BE SERVED FOR THIS DREADFUL ACT OF TERRORISM. I FEEL JUSTICE HAS BEEN LONG OVER DUE—NOT ONLY FOR MY BROTHER, BUT FOR ALL OF THE VICTIMS WHO WERE ABOARD THIS PLANE.

I WOULD LIKE TO SHARE WITH YOU SOME CHERISHED MEMORIES ABOUT MY BROTHER RAYMOND. HE WAS A ACADEMIC SCHOLAR. HE RECEIVED THE HIGHEST MARKS ON HIS EXAMS AMONG HIS PEERS BUT WAS PARTICULARLY GIFTED AT THE STUDY OF SCIENCE.

BECAUSE OF HIS APTITUDE IN SCIENCE AND OVERALL SCHOLASTIC ACHIEVEMENT, THE GUYANESE GOVERNMENT AWARDED RAYMOND A SPECIAL, FULL SCHOLARSHIP TO STUDY MEDICINE IN CUBA. THEN, AND NOW, THIS IS A COVETED SCHOLARSHIP FOR ANY YOUNG GUYANESE STUDENT WHO HAS DREAMS OF BECOMING A DOCTOR. AT THAT TIME, THERE WERE NO MEDICAL SCHOOLS IN GUYANA, AND, MR. CHAIRMAN, THERE STILL ARE NONE.

SO FOR MY BROTHER, HAVING THE OPPORTUNITY TO FOLLOW HIS DREAM WAS THE CLOSEST THING TO A MIRACLE. RAYMOND HAD BIG DREAMS! HE HAD DREAMS OF BECOMING A DOCTOR, DREAMS OF GIVING BACK TO HIS COUNTRY BY COMING BACK AFTER GRADUATING AND COMPLETING HIS RESIDENCY IN HIS HOMELAND, TO BE OF SERVICE TO GUYANA.

FROM A VERY YOUNG AGE RAYMOND DISPLAYED TRAITS OF STRONG LEADERSHIP. HE WAS ALWAYS INVOLVED IN HELPING OTHERS. HE WAS A GROUP LEADER FOR YOUTH ORGANIZATIONS, CLASS PRESIDENT IN HIGH SCHOOL, AND MENTOR IN OUR COMMUNITY OF GEORGETOWN, GUYANA.

HE LOVED SPENDING TIME WITH HIS FAMILY AND I HAVE FOND MEMORIES OF PLAYING CHECKERS TOGETHER, OF HIM HELPING ME WITH MY HOMEWORK, READING NOVELS AND COMIC BOOKS TO ME. RAYMOND WAS A GREAT, WONDERFUL BIG BROTHER TO ME.

MY PARENTS WERE SO PROUD OF HIM AND SO WAS I. LET ME TELL YOU WHY:

RAYMOND WAS THE FIRST OF FIVE SIBLINGS IN THE FAMILY TO GO TO COLLEGE, MUCH LESS GO TO MEDICAL SCHOOL! WE HAD A WONDERFUL FAREWELL PARTY FOR RAYMOND THE NIGHT BEFORE HE LEFT FOR HIS JOURNEY. MY FATHER BORROWED EIGHTY CHAIRS FROM THE CHURCH TO ACCOMMODATE ALL THE GUESTS AT RAYMOND'S FAREWELL PARTY. AND ONLY A FEW DAYS LATER THOSE WERE THE SAME CHAIRS USED FOR HIS WAKE AND MEMORIAL SERVICE. WE NEVER GOT TO HAVE A FULL FUNERAL BECAUSE HIS BODY COULD NOT BE RECOVERED IN THE OCEAN WRECKAGE.

LET ME ACCOUNT FOR YOU WHAT HAPPENED THAT FATEFUL DAY, OCTOBER 6, 1976. IT BEGAN WITH HIGH HOPES. MY FAMILY WENT TO THE AIRPORT TO BID RAYMOND FAREWELL. HE WAS DRESSED A BROWN SUIT, SPECIALLY MADE AT THE TAILOR FOR HIS TRAVELS. MY PARENTS WERE FEELING SO PROUD TO HAVE THEIR SON HEADING OFF TO MEDICAL SCHOOL.

AT THE AIRPORT, WE WATCHED RAYMOND WALK ON THE TARMAC HEADING ON TO THE AIRPLANE. HE STOPPED, WAVED GOODBYE AND WE WIPED THE TEARS FROM OUR EYES AND WAVED BACK. RAYMOND TURNED THE CORNER AND HEADED INTO THE PLANE. WE HEADED BACK HOME SAD BUT EXCITED AT THE SAME TIME. AND TIRED! SO TIRED, WE ALL DECIDED TO TAKE A NAP.

AFTER A COUPLE OF HOURS, THERE WAS A KNOCK ON OUR DOOR. IT WAS OUR COUSIN. IT WAS VERY ODD FOR HER TO COME TO OUR HOUSE ON A WEDNESDAY. SHE WORKED FOR THE DEPARTMENT OF FOREIGN AFFAIRS. SHE SAID SHE HAD SOME NEWS TO SHARE WITH US AND EVERYONE HAD TO BE SITTING DOWN. I WAS IN A CONFUSED STATE, STILL GROGGY FROM MY NAP, SITTING AT THE DINING ROOM TABLE. MY MOM AND DAD WERE THERE WAITING TO HEAR WHAT MY COUSIN WOULD SAY.

SHE SAID THE PLANE THAT RAYMOND WAS ON WENT DOWN OFF THE COAST OF BARBADOS.

THE NEXT THING I REMEMBER WERE SHRIEKS COMING FROM MY MOTHER; I'M SURE MOST OF THE NEIGHBORS HEARD TOO. TEARS FLOWED DOWN MY CHEEKS. IT ALL SEEMED UNREAL. HOW WAS THIS POSSIBLE? WE JUST SAW RAYMOND A FEW HOURS AGO. MY MOM ASKED IF THERE WERE ANY SURVIVORS. MY COUSIN COULDN'T ANSWER THAT QUESTION. MORE SCREAMS CAME FROM MY MOTHER. I WILL NEVER BE ABLE TO GET THAT SOUND OUT OF MY HEAD.

I'M SURE THE COMMITTEE CAN UNDERSTAND HOW OCTOBER 6, 1976, BECAME THE SADDEST DAY FOR US. AT THAT MOMENT MY FAMILY REALIZED THAT ALL OF MY BROTHER'S DREAMS FOR HIS FUTURE, AND ALL OF OUR DREAMS FOR HIM, HAD GONE DOWN IN THE OCEAN . . . GONE FOREVER.

AT THE TIME, THERE WERE NO TELEVISIONS IN GUYANA SO WE DEPENDED ON OVERSEAS INFORMATION THROUGH THE RADIO TO FIND

OUT MORE INFORMATION ABOUT THE TRAGEDY THAT HAD STRUCK OUR FAMILY AND SO MANY OTHERS. EVENTUALLY, MY FATHER STARTED TO PIECE ALL THE INFORMATION TOGETHER AND WE REALIZED THIS PLANE CRASH WAS NOT AN ACCIDENT, BUT AN ACT OF TERRORISM CARRIED OUT BY FANATICAL ANTI-CASTRO CUBANS—CHIEF AMONG THEM LUIS POSADA CARRILES.

MR. CHAIRMAN, MY BROTHER RAYMOND WAS ONLY 19-YEARS OLD. HE WAS A YOUNG MAN WITH A WONDERFUL AND BRIGHT FUTURE. AND IT WAS ALL TAKEN AWAY WITH THAT TERRIBLE ACT OF TERRORISM.

IN 1979, MY WHOLE FAMILY IMMIGRATED TO THE UNITED STATES. MY PARENTS COULDN'T BEAR THE THOUGHT OF ANOTHER ONE THEIR CHILDREN HEADING OVERSEAS FOR GRADUATE SCHOOL SO WE MADE OUR NEW HOME IN NEW YORK. WE ARE ALL NOW AMERICAN CITIZENS AND MY BROTHERS AND MY SISTER AND I HAVE ALL SUCCEEDED PROFESSIONALLY AND PERSONALLY IN THIS GREAT LAND OF OPPORTUNITY.

YET, AS AN AMERICAN CITIZEN, I'M SURE YOU CAN APPRECIATE HOW OUTRAGED I AM THAT A KNOWN TERRORIST, THE MAN WHO PLANNED THE ACT OF INTERNATIONAL TERRORISM THAT KILLED MY BROTHER, FIVE OF HIS FELLOW GUYANESE MEDICAL STUDENTS, AND THE CUBAN OLYMPIC FENCING TEAM, IS NOW LIVING AS FREELY AS I AM IN THE UNITED STATES.

MY PRESIDENT SAYS THAT HE WANTS ALL COUNTRIES WHO ARE HARBORING TERRORISTS TO BE HELD ACCOUNTABLE AND THAT HE IS COMMITTED TO BRINGING TO JUSTICE THOSE WHO ARE INVOLVED IN ACTS OF TERRORISM. BUT FOR REASONS THAT I HOPE THIS COMMITTEE WILL HELP ME UNDERSTAND, THIS IS NOT THE CASE WITH LUIS POSADA. IN HIS CASE THERE SEEMS TO BE SOME SORT OF EXEMPTION. AS AN INVOLUNTARY MEMBER OF A UNIQUE GROUP OF FAMILIES THAT HAVE SUFFERED AN IRREPLACEABLE LOSS AT THE HANDS OF TERRORISTS, I CAN SAY HONESTLY AND CLEARLY THAT THE HANDLING OF POSADA'S CASE HAS BEEN A TRAVESTY OF JUSTICE AND A MESSAGE OF HYPOCRISY AMIDST THE ONGOING U.S. WAR OF TERRORISM.

I GOT SO ANGRY, MR. CHAIRMAN, THAT AS THE 30TH ANNIVERSARY OF THIS CRIME APPROACHED LAST YEAR, I WROTE A LETTER TO THE THEN ATTORNEY GENERAL ALBERTO GONZALES APPEALING TO HIM IN THE NAME OF JUSTICE FOR MY BROTHER RAYMOND AND THE OTHER PASSENGERS ON THAT DOOMED AIRPLANE, TO CERTIFY POSADA AS A TERRORIST UNDER THE PATRIOT AND INCARCERATE HIM INDEFINITELY. MR. ATTORNEY GENERAL, I WROTE: "IF LUIS POSADA DOES NOT MEET THE DEFINITION OF A TERRORIST, IT IS TRULY HARD TO IMAGINE WHO DOES."

MR. CHAIRMAN, MORE THAN A YEAR HAS GONE BY AND I HAVE NEVER RECEIVED EVEN A COURTESY REPLY TO MY LETTER. INDEED, THIS COMMITTEE IS THE FIRST GOVERNMENT AGENCY OF MY ADOPTED HOMETLAND TO HAVE LISTENED TO MY CONCERNS ABOUT HOW THIS ADMINISTRATION HAS TURNED ITS BACK ON THE VICTIMS OF A HEINOUS CRIME OF INTERNATIONAL TERRORISM. WHY, I ASK YOU, ARE BOTH LUIS POSADA AND ORLANDO BOSCH NOT BEHIND BARS? MY HOPE IS THAT THIS COMMITTEE WILL FIND THE ANSWERS THAT THE ATTORNEY GENERAL AND THE DEPARTMENT OF JUSTICE HAVE REFUSED TO PROVIDE FOR ME AND MY FAMILY.

IT IS NOW 31 YEARS SINCE OUR BROTHER RAYMOND DIED AND NO WORDS CAN DESCRIBE THE PAIN, GRIEF AND LOSS WE HAVE FACED. OUR FAMILY, AS I AM SURE YOU UNDERSTAND, HAS NEVER BEEN THE SAME SINCE OCTOBER 6, 1976. IT IS STILL PAINFUL FOR US TO SIT AND HAVE CONVERSATIONS ABOUT RAYMOND'S DEATH. WE WONDER WHAT KIND OF MAN RAYMOND WOULD HAVE BEEN AND HOW HE WOULD HAVE CONTRIBUTED TO OUR COMPLEX WORLD. MY BROTHER WAS AN AMAZING INDIVIDUAL, FULL OF HOPES AND DREAMS, THAT WERE STOLEN FOREVER IN AN INSTANT OF AN EXPLOSION. WHAT A SELFISH ACT OF LUIS POSADA CARRILES TO KILL INNOCENT YOUNG LIVES FOR NO OTHER REASON THAN THAT THEY WERE TRAVELING TO CUBA.

MR. CHAIRMAN, I HOPE MY VOICE, AND THOSE OF THE OTHER FAMILIES OF FLIGHT 455 WHO CANNOT BE HERE TO SPEAK TODAY, WILL BE HEARD THROUGH THESE WORDS. WE WANT JUSTICE NOW. WE HAVE WAITED FAR TOO LONG.

THANK YOU.

Mr. DELAHUNT. Thank you. And you have inspired us. And we will try. And we will dedicate our efforts to your brother, to the other victims, to your families.

Congressman Flake.

Mr. FLAKE. I want to thank you as well for the testimony. That was extremely moving.

Let me just ask you, how does it make you feel, and the other survivors and family members, when you hear Orlando Bosch or Posada Carriles are hailed as heroes?

Ms. NENNINGER. It is indescribable. It makes no sense. I can't understand it.

Mr. FLAKE. You mentioned that you had heard fairly soon after that Posada Carriles was involved. Was that pretty much accepted by people at that point, or was it known early on that he was involved?

Ms. NENNINGER. Yes. My father—because my father was the one who really spent a lot of time figuring it out and doing the research; and, yes, early on it was figured out that it was Luis Posada Carriles.

Mr. FLAKE. Thank you.

Mr. Kornbluh, you mentioned that there is a lot of information that we haven't gotten to yet.

Mr. DELAHUNT. If the gentleman would yield for just a moment. Before we ask our final questions here, I think I should note for the record that as she stated, Ann Louise Bardach has been subpoenaed to the New Jersey grand jury regarding her work. To date Ms. Bardach and the *New York Times* have strenuously and successfully resisted said subpoena to appear before the grand jury. However, because the matter is ongoing and the Department of Justice has invoked the privilege of secrecy, she cannot comment, neither confirm nor deny, on any aspect regarding herself and the grand jury.

Jeff, go ahead.

Mr. FLAKE. Thank you.

Mr. Kornbluh, you mentioned that there are documents that we still haven't gotten yet. Why is it so difficult and what needs to be done to have access to those documents?

Mr. KORNBLUH. Simply put, they are intelligence documents. They reveal relations with people who are now renowned as purveyors of violence, so they are embarrassing. And those people who keep the secrets like to continue to keep them. However, the congressional power of persuasion, whether it is political power or subpoena power, I think can free up these documents. What is, I think, important is that a number of these documents have already been centralized for a variety of reasons.

Orlando Bosch, very similar to Luis Posada, came to this country illegally in early 1988. He was a fugitive from justice in this country, jumped bail, gone abroad. So when he got out of prison in Venezuela, he came back here without proper documentation. He was arrested, he was put in immigration detention. He went through a very similar process that Luis Posada has gone through. There was a 700-page dossier of CIA and FBI documents that was put together by the Intelligence Community, given to the judge in the case, and reviewed by the Justice Department, which concluded

that he was an unrepentant and violent terrorist. They were very clear in their ruling. That dossier should be available to the committee if it hasn't been shredded as some of the other evidence has been on Posada. Hopefully it is still in the possession of the court that reviewed this case. And certainly the FBI and the CIA and the Justice Department itself should still have a copy of it.

The end of that story, of course, Mr. Congressman, is that after the Justice Department issued a very, very clear ruling on this, stating that Bosch was irresolute and unwavering in his advocacy of terrorist violence and his actions have been those of a terrorist unfettered by law or human decency, the administration of George Herbert Walker Bush issued an administrative pardon for Bosch, overruled its own Justice Department's decision and allowed him to go free.

We have seen a very similar situation, not quite exactly the same, but similar situation with Posada. And that is how we have ended up with both Bosch and Posada living in Miami today.

Mr. FLAKE. Thank you.

Ms. Bardach, I have enjoyed your writings over the years—

Ms. BARDACH. Thank you.

Mr. FLAKE [continuing]. And appreciate what you have done to make this more public. Can you elaborate?

You talk some in your testimony of the pressures that have come on you because of the—I see you rolling your eyes—can you elaborate a little on the kind of pressure that has come on you as a result of writing these articles?

Ms. BARDACH. Right. Well, I have been under one subpoena or another for almost 2½ years. It requires a huge amount of time to deal with; various subpoenas, beat one and another one comes up. If it were not for the *New York Times* being so dedicated to this case and the attendant costs—which I can assure you that 2½ years of legal work and fencing with the Department of Justice are considerable—I don't know what would happen.

Because it began with FBI agents showing up at my house in Santa Barbara. This is kind of ironic. Luis Posada showed up in Miami. He is in Miami and has a press conference, but the FBI is at my house in Santa Barbara. I never figured that out.

But it has been tremendous. There is not a day, hardly a day has gone by in 2½ years when I do not speak to lawyers. Sometimes I do no work except talk to lawyers. I have had to basically become a lawyer and assemble all this massive material.

Again, my position has been I am a reporter, I am a journalist, I talk to anybody who will talk to me and I put their story down. I am not a prosecutor, but I have a big problem that when there has been considerable evidence assembled over 45 years or something, whatever it has been, let us just say 1976—let's just take Cubana—over 30 years, and the other bombings, and it is meticulously put together by agents, tremendously dedicated agents in the FBI, and the government chooses not to prosecute. Well, that is their decision. Okay, they don't want to prosecute.

But then they destroy their evidence and then they show up at my house and say basically, "We have thrown it out, we need your material." As if I work for—as if I am a prosecutor. And that is very troubling. It is very troubling about the First Amendment. I

can't tell you how much work I have not gotten done because this is something I have to do. I obviously continue to write and publish regularly, but it has been a big drain. Anybody who thinks a Federal subpoena that comes from the Department of Justice, National Security Division, Counterterrorism, is not intimidating—which is where mine come from—in my case Alberto Gonzalez himself signs my paperwork, used to sign my paperwork, just in case I didn't know it was important. So this commands my attention. It is a very problematic situation when the government doesn't want to use their own materials but wants reporters to do the work for you. I can only speculate that they don't want their own fingerprints on this case.

Mr. FLAKE. I mentioned in the last panel it is very troubling to me that the government doesn't seem very curious about some of these documents that are there, the tapes and interviews that have been done. But it is worse than that; they seem interested enough to get it and then destroy it.

Ms. BARDACH. Right, right.

Mr. FLAKE. So it is troubling.

Ms. BARDACH. There is no question in my mind, whatever happens in this case—and we hear about scandals with the U.S. Attorney's Office—that we need an investigation into what happened in August 2003: The U.S. Attorney's Office signed off on the closure and destruction of evidence in this case and the special agent in charge (SAC) at FBI also did. So you have two of the top law enforcement people. I mean, that is the procedure. If something else happened, I would like to be illuminated. But the procedure is that the special agent in charge of the FBI, supervisory agent and the U.S. Attorney, who was then Marcos Jimenez, would have to sign off for this to happen. How they could take the most important case in that office and say that is the one we are going to clear out because we have to make some extra space around here. And then green light it for destruction is astounding. And everything else I hear about U.S. Attorneys doing this and that doesn't come near this situation. And that is what I would like to learn more about.

Mr. DELAHUNT. If the gentleman would yield for just a moment. We do have a new Attorney General. Let us give him an opportunity. Because I intend, and I know that Mr. Flake shares my view, as do other colleagues, that this is a priority and we will approach the Department of Justice and have a conversation in that regard.

In the testimony of Mr. Hernandez, he indicated that some countries in Latin America should be or are grateful to Mr. Luis Posada Carriles for his efforts. And yet I read the decision of the immigration judge and the magistrate, and in the order of removal it indicates that he is to be deported through any country, other than Cuba or Venezuela, that will accept him. I think there are some seven countries that have rejected Mr. Posada Carriles: Canada, Mexico, Honduras, others, El Salvador where he spent some time, and Panama. And I found something interesting in the decision that indicated that those who would make the decision about accepting him are under investigation in Panama for his departure from Panama.

In your research has anyone, either Peter or Ann Louise, have you information regarding those in Panama who were involved in his departure from Panama? For what reason are they under investigation, if you know?

Ms. BARDACH. I have some information. It may be, I am not quite sure, there might be some I have already published in *The Atlantic Monthly*. If it is not it is going to be in my new book.

There was an intense lobbying campaign, as I mentioned in my testimony, letters appearing on congressional stationery from Ileana Ros-Lehtinen and Lincoln Diaz-Balart beseeching a pardon from Mireya Moscoso, the President. Two letters were written on congressional stationery as I understand it. There was a tremendous amount of lobbying behind the scenes without congressional stationery. And in fact our former Ambassador to Panama, I believe Simon Ferro—I think it was Simon Ferro—and also he was solicited to lobby. And also Herminio San Roman, the former head of Radio Marti, Radio and TV Marti. And the two of them invoked their privilege to lead a lobbying campaign in Miami.

According to some of the investigators I spoke with who were very crucial in gathering the evidence in this case, one of them—or more than one of them told me about an unsettling lunch. And during that lunch the two men, Mr. Ferro and San Roman, made it very clear that they did not want anyone at the FBI to block the release of Mr. Posada and his three cohorts, one of whom you know was indicted and charged with the Letelier case, Mr. Guillermo Novo. They all had very, very long and storied track records, prison records and/or convictions. The investigator said to me that this was quite disconcerting, and said, “Here we were thinking we are going to close this case, we are going to move for charges.” They had been very hopeful that they were going to get a RICO action. That was the plan that the FBI was pushing. I can’t underestimate enough how important it is to separate the rank-and-file investigators who dedicate themselves to this, and the political appointees or people susceptible to politics.

Most of the people on the Joint Terrorism Task Force team in Miami are outstanding and they couldn’t have been more disappointed and demoralized and distressed by what happened to their hard-earned efforts. But they were particularly distressed because they felt that they were—they felt they were given a very stern message; and that was, “Back off. Just back off. This is what is going to be happening. We are going to push for this pardon and we are going to get it.”

Of course, as I have written in my work, Mireya Moscoso has strong social contacts in Florida. She maintains a home in Key Biscayne and has personal relationships with these various people.

There are also many rumors. You can hear them everywhere from both sides and all sides, and I have no idea nor can I attest to their veracity. I don’t know. I have heard the rumors from right, left, and center that a considerable amount of money changed hands, but have no firsthand information. That is the common scuttlebutt in Miami in Cuban circles, is that something happened.

Now, that would not be the first time in Latin America that money changed hands regarding a judicial pardon. So that is basically what I know led to this, that there was this strenuous cam-

paign. And after the first letter leaves, that is signed by Representatives Ros-Lehtinen and Lincoln Diaz-Balart—remember, the letter goes out and then—that is in May I believe, and in August the files disappear. Now, I am not saying, but lots of things happened in the summer of 2003 that remain inexplicable, particularly for such a high-profile case.

Mr. DELAHUNT. Ms. Bardach, you indicated that you interviewed Antonio Alvarez.

Ms. BARDACH. Yes.

Mr. DELAHUNT. And he had provided—and I think, Peter, you have corroborated this, provided substantial corroboration to the efforts that, purportedly, Luis Posada Carriles made in terms of these bombings, one of which resulted in the death of an Italian tourist, but nothing was done by the FBI.

Ms. BARDACH. Well, they did meet with Mr. Alvarez, as I said in my testimony.

Mr. DELAHUNT. But there was no follow-up.

Ms. BARDACH. No. They met with him.

Well, he had to solicit them. Nobody came to him. First he told people in Guatemala. Then he went to the Venezuelan authorities. And then finally he went to the FBI and he said, “Look I work in this office, this man is in this office, I am watching and listening to various—there is explosive materials in the closet in our office.” He actually told them that. And he wrote a very—and at that point, somebody showed up from the FBI. I happen to know the agents that went there. They were very, very impressed with him. But like I said, the agents said that they found him very credible, they thought they had a slam-dunk prosecution. But when they returned back, they were told to back off.

Mr. DELAHUNT. Who is the—you use the term “chief.” Could you identify who the chief was?

Ms. BARDACH. The special agent in charge at that time was named Hector Pesquera. He had previously been in Puerto Rico. He was actually involved with the Esperanza case. There was a lot of good will when he showed up. People thought he would be very gung ho. He was of Puerto Rican background. But the rank-and-file became severely disillusioned. Complaints were made to him, complaints were made about him. They felt that he had become cozy with very political elements. Not just political elements, but certain figures in the Miami political firmament who had been indicted and convicted of various charges. And they took a dim view of that, so much so that they complained to him about it and asked him not to, for instance, appear in person, in public with certain of these people. But what they felt is that it kind of dripped down and affected his judgment.

Mr. DELAHUNT. And he made it back from receiving his award. And I am going to ask him what the award was for. But before I do that and yield to my friend from California, you heard the—you were here present during the testimony of Mr. Hernandez.

Ms. BARDACH. Yes.

Mr. DELAHUNT. Would anyone—I am going to direct this to Peter and to you, Ms. Bardach. If you have any comment on his testimony, I would like to hear it.

I would note, and I do this for the benefit of Mr. Rohrabacher, that I find it ironic—and, again, Mr. Hernandez—and I think well-intentioned—indicated that there are governments and there were his efforts in terms of walking, if you will, the infiltration of Communists into particularly Central American countries, was a good thing from his perspective. And yet today who is the President of Nicaragua? Daniel Ortega. So for 30 or 40 years. I guess I am saying what do we learn from that? But if you would care to comment on anything in his testimony that you agree with or that you disagree with.

Ms. BARDACH. Well, there are two points that sort of stood out for me. And first of all, there were a couple of misstatements of facts which are simply easy to verify. One of them, of course, is that Joaquin Chaffardet actually hired Luis Posada at the DISIP. Chaffardet was in a superior role. And then they were very close. They subsequently became business partners in a private investigation company. Mr. Chaffardet, who I have also interviewed, is a very close friend of Luis Posada. He has recently had to leave Venezuela. So they have been very close friends, business friends. They worked in the government together for many years, with Chaffardet having initially had the higher position.

The second point that jumps out at me is I have heard many things. This is a very smoke-and-mirrors arena. You hear everything on Cuban issues. Something about the effect that there was a Cuban agent that infiltrated the death of Letelier. I can tell you that the four men, Dionisio Suarez, Virgilio Paz, Guillermo Novo and his brother Ignacio, I can assure you at no time in history has anyone accused any of those men of being a Cuban agent, least of all the Cuban Government who has had them at the top of their watch list for around 30 years as the most dangerous men and never can they come into the country.

Dionisio Suarez is now in Miami, as is Virgilio Paz. They remain committed and dedicated. Those two men did plead guilty and did a significant amount of time. Previous to the murder of Letelier, they had a long track group record with various militant anti-Castro groups. Never had I heard them referred to as Cuban agents.

Mr. DELAHUNT. I yield to my friend.

Mr. ROHRABACHER. How do you pronounce the Lete—

Ms. BARDACH. Dionisio Suarez and Virgilio Paz, which means peace, P-A-Z.

Mr. ROHRABACHER. Who is the—

Ms. BARDACH. Letelier. Orlando Letelier.

Mr. ROHRABACHER. I will submit at this point in the record an article by Evans and Novak that came from an FBI source, suggesting that in the vehicle was indications that he was on the Cuban payroll.

Ms. BARDACH. Congressman Rohrabacher, I would encourage you to read the full record assembled by the U.S. Attorney who handled the prosecution, Propper. He has a book out called *Labyrinth*. That is a widely discredited piece of information. It was condemned at the time. It is discredited. But I am not an expert in that area except to know that it was discredited enough that—

Mr. ROHRABACHER. Neither am I, but I have also been around long enough to know that anytime people came up with such infor-

mation about someone's connection with Castro or whatever, they were always discredited.

Ms. BARDACH. Listen, I would be the first one to tell you that Cuba has one of the most effective and successful intelligence apparati in the world. I have written pieces about it in the *Washington Post*, that it is preeminent. That said, it almost makes one laugh. These particular four people—

Mr. ROHRABACHER. I wasn't talking about those four people. I am talking about that one person.

Ms. BARDACH. I am just saying we have never—I am aware of what you are referring to.

Mr. ROHRABACHER. The Chilean Ambassador, is that who he was?

Ms. BARDACH. Orlando Letelier was the former Ambassador from Chile to Washington.

Mr. ROHRABACHER. And to your knowledge, then, you are saying that you believe that he was not a recipient of payments from the Cuban Government?

Ms. BARDACH. I thought you asked me about whether one of the four men was a Cuban agent. I have never seen that verified.

Mr. ROHRABACHER. No. What the mention was, was that he was—that that particular individual, which I have seen reports on, was on the payroll of the Cuban Government.

Ms. BARDACH. I can't speak to that, sir. But if you are trying to suggest that somebody receives money from Cuba which would involve millions and millions of citizens and that they deserve to be blown up on Embassy Row, I would find that—

Mr. ROHRABACHER. No. It just means that if someone is receiving money from a dictatorship, that they must be doing the business of the dictatorship. And Castro was a dictator. I am not saying they deserve to be blown up.

Ms. BARDACH. At that point he was not a government official. He had come to the United States to speak about the abuses of the—

Mr. ROHRABACHER. Let me ask you this. If someone is on the Cuban payroll, is he a government official?

Ms. BARDACH. I have no information he was on the Cuban payroll, at no time. I have at no time seen that.

Mr. ROHRABACHER. There is other evidence to suggest that, which I am putting in the record. If he was on the Cuban payroll, is he a government official?

Ms. BARDACH. I think you have to kind of look at what kind. For instance, as Ms. Nenninger has talked about, her brother was going to go to Cuba to study because there were no medical schools—you missed this testimony—but there are no medical schools in Guyana, so he was very grateful to be able to go to a medical school in Cuba as a young man. Now—and I guess by your definition, then, he is accepting some kind of gift or money so therefore is worthy of being a target.

Mr. ROHRABACHER. No, that is a totally ridiculous comparison between a guy who used to be an Ambassador of Chile versus some honest citizen—

Ms. BARDACH. He was no longer a government official when he was murdered.

Mr. ROHRABACHER. I understand that. A diplomat who was on the payroll—

Ms. BARDACH. He was not a diplomat.

Mr. ROHRABACHER [continuing]. Of a Cuban dictatorship is some way comparable to just an individual person who wants to go to medical school.

Ms. BARDACH. Well, that argument is made in Miami on almost a weekly basis. That is how ridiculous you think it is. You can hear it on Radio Mambi, that people who are the recipients of any materials or gifts from Cuba do not deserve the liberties we have. If you think that is ridiculous, I suggest you tune into Radio Mambi.

Mr. ROHRABACHER. You are absolutely right. That position is ridiculous. And have you a double standard, because what you just said is ridiculous.

Ms. BARDACH. I don't have a double standard. Congressman, with all due respect, I don't know whether you are telling me—you are telling me for the first time that a man who is dead may have received money from the Cuban Government. I have never heard that before.

Mr. ROHRABACHER. You have never heard that before?

Ms. BARDACH. No, no.

Mr. ROHRABACHER. How come that was very well known to me, except I don't know how to pronounce the guy's name, that was very well known to me for the last 10 years, and you have never heard it before?

Ms. BARDACH. I have never seen a verified credible report.

Mr. ROHRABACHER. Then let me note, Mr. Chairman, we will submit for the record at this point several articles containing the specific charge—it wasn't a charge, it was a leak from the FBI, suggesting that this former Chilean Ambassador was on the payroll of the Cuban Government when he was blown up.

Now, by the way, does that mean he should be blown up? No. But that makes it different than they are just taking—

Ms. BARDACH. What about the American citizen, Ronni Moffitt, who was 20-something years old? Does that make her a worthy target?

Mr. ROHRABACHER. No, it doesn't. You are the one with the double standard here, not me.

Ms. BARDACH. What is the double standard?

Mr. ROHRABACHER. You are condemning the people down in Cuba.

Ms. BARDACH. I did not condemn anybody. I have not said the word "condemn" once. I am not a prosecutor, I am a reporter. I do not have a dog in this fight.

Mr. ROHRABACHER. I do not have a double standard about condemning them for that, and I would condemn anybody for doing that, but I would not suggest that those people are on par with someone who is a paid—someone on the payroll, a high-level diplomat who is on the payroll of the Cuban Government.

Mr. DELAHUNT. Former.

Mr. ROHRABACHER. That is a question. Is he still a diplomat if he is receiving payments from Castro? He may not be a diplomat for Chile, but he is obviously a government agent somewhere if he is receiving that pay.

Mr. DELAHUNT. If.

Mr. ROHRABACHER. If he is.

Ms. BARDACH. There are a lot of “ifs” you are saying about a man who has been murdered and cannot speak for himself.

Mr. DELAHUNT. I think this has been a very good exchange.

Mr. ROHRABACHER. Right.

Mr. DELAHUNT. And in your absence, Mr. Rohrabacher, this was faint praise, but I noted that you and I disagree on just about everything. But I did acknowledge that we both share a desire to get to the truth and an effort to not rely on media reports and not to even rely on intelligence reports, but to attempt to go to the original source is something that I thought that you would agree with and that we—we as a committee should make that effort.

I wish that and I know—and, again, I congratulate my friend and my colleague on his award, but I wish that you could have been here to hear Ms. Nenninger. And I know you as a human being, and I know that you would have been as moved as I. I really think that this is something that we can take on; make an effort, an honest effort. We can work together and do the digging that is required.

Mr. ROHRABACHER. Listen, as I have stated about a dozen times in the hearing now, if some scumbag, pardon the expression, brought down a civilian airplane, he should be fried. I have no problem with—and I don’t care what his ideology is, I don’t care if he is anti-Castro or pro-Castro, I don’t care if they believe that Allah is telling them how to do it, or whether or not there is some Christian group that feels they are going to do it, if you are going to target civilians in order to obtain or to achieve a political end, you are a terrorist and you should be dealt with as that, and that is a murderer. I have no problems with that.

But all I know in my experience is that quite often you got people who are anti-Communist who end up being accused of things that are beyond what they did. And there are exaggerations because there is an ideological—there was a huge ideological fight going on. I am interested in the truth there.

And I will say, the witness that we had earlier, the so-called journalist that was here—and I say “so-called” because after listening to him, I don’t believe that I would call him a journalist. But I want to see the tape that he said he had, and I want to see the transcript of that tape. But I also want to hear that tape and have it translated myself, because I found his testimony to be filled with words that were reasonable words, trying to make someone believe that he had something on tape, and then when you ask him about it he didn’t. So if this guy is guilty let us find out.

I don’t want our country to have a double standard either. I think that there is nothing that hurts us more than, as we have talked about it—and if you say, hey, America has a double standard here, we are letting terrorists of the right go—

Mr. DELAHUNT. Terrorists are on the left.

Mr. ROHRABACHER. Terrorists on the left, that is wrong and we need to make sure that we have one standard of that.

Mr. DELAHUNT. I hope, if I may, I hope that, Roseanne, you are hearing this. Because I think this reflects the best about your adopted land, the land that Dana Rohrabacher and I were born in.

This is the best about America. It takes us a while to get it, it takes us a while, but we will get there.

And I want to inform my ranking member that Mr. Kornbluh, again who might share a different perspective politically than you or myself or whatever, has talent in this regard. We can have our staff on both sides work this in a way that we can vet it, we can get the records. He presented documents that have validity, that have validity, that are real. And if we do nothing more than just simply demonstrate to the world that we are making this effort, I think it bespeaks well of the institution of Congress.

And I—and you have heard me say again and again, and this is not just the Bush administration; this goes back to the Clinton administration, this goes back to both Republican and Democratic administrations. It is the responsibility of the U.S. Congress to roll back the veil of the curtain of secrecy that does not allow the truth to emerge. And I know you share that and I share that. And whatever is there, it has to be exposed.

Ms. BARDACH. I just want to make one comment, Congressman Rohrabacher, I have been sort of working in this arena for more than 15 years of research from every side. I think I am one of the few people who has actually interviewed most of the principals personally and have written accounts from their point of view. I just wanted to just give you some indication of how smoke-and-mirrors this arena is.

I am, of course, fed information all the time, and every day I have to make a value judgment: Who says it, what is the motive, what is the backup? I try to get what we call three-part corroboration—more than one time, more than five times, more than ten times. This is how incredible this world is—I have been told that Luis Posada Carriles is a Cuban agent. And I do not mean from just somebody who is smoking a cigar and having too many drinks. I mean educated people. That is how smoke-and-mirrors this is.

Now, that also speaks to two things: How effective Cuban intelligence is, but it tells you also how much rumor and how careful we all must be between what we can verify and rumors and anonymous leaks, even when they came from the FBI back then.

To your point I would encourage you to look at the official account in the book, *Labyrinth*, written by the U.S. Attorney and Taylor Branch. They talk about that extensively. And then you can contact them. They are both alive and living in this area. They could give you the full background on that.

Mr. ROHRABACHER. Well, I am not saying, by the way, he should have been blown up or anything. I am just saying that you need to—

Ms. BARDACH. Right.

Mr. ROHRABACHER. Anyway, during that time period, there was—you know Castro was involved in killing people and anti-Castro people were involved in killing people. There was this warfare going on.

Listen, I went down to Nicaragua and I personally was involved with excavating a grave, a mass grave that nobody reported on, that the Sandinistas had killed 30 people from this village. So I went down there and actually dug up some of the bodies and talked

to some of the people in the village and they told me what happened.

Now, during the Cold War there were people who just felt they were aligned with the progressive forces of the world or they were aligned with the anti-Communists of the world and it secured their ability to speak the truth.

Ms. BARDACH. Absolutely. The ideology has blurred everybody's vision on both sides.

Mr. ROHRABACHER. Obviously—you know, I believe I am an anti-Communist, but in reality I am someone who believes in freedom and democracy and liberty and justice and truth. And so when I am up here giving people on the left hell at times, because other people don't necessarily give them hell, I would be giving that same type of thing to people on the right who are trying to, like you say—believe me, anybody who would come in my presence and suggest that anybody taking any money from the Castro regime to get an education or whatever deserves to be treated like an enemy, I would be the same—behind the scenes, I would be condemning them as much as I would in front of the scenes.

Ms. BARDACH. It is true. It happens even today in Miami. You can hear that.

Mr. ROHRABACHER. So I appreciate that we will—if the chairman looks at this as an example of the type of double standard that we had during the Cold War, that maybe we have now, maybe there are residues of this double standard that are still involved with what is going on today, even though this guy is an 80-year-old man, if you want to clear that up and want to set the record straight, hey, let's listen. As long as it is the truth, I am going to go for it and be beside you. But see what we come out with.

And I will put in the record the thing about whether or not this former Chilean Ambassador was on the Cuban payroll.

Ms. BARDACH. Well, it is worth looking into. Like I said, these things are often said. And back in the Letelier case there were some unfortunate leaks that the State Department—they actually reprimanded the FBI about some of those leaks. So it is worth looking at firsthand, talking to the participants who are still alive, the U.S. Attorney, and then making a determination on those issues.

Mr. DELAHUNT. Is Eugene Propper still here?

Ms. BARDACH. Yes. He lives locally. Actually I just spoke to him. He is, I think, in South Carolina right now, but I believe he would be available.

Mr. KORNBLUH. Mr. Congressman, even though you say that that is not an issue that you are going to use to detract from the idea that it was wrong to blow somebody up on the streets of Washington, in fact that issue was used that way in the press by Evans and Novak, by Accuracy in Media, by all of the ardent conservatives who wanted to somehow damage the integrity of the victim and divert attention away from the perpetrators of that crime, the Pinochet regime, which was a big ally of the anti-Communists in those days, working with Cuban exiles, militant anti-Castro, violent Cuban exiles who have come up again and again and again—Orlando Bosch being one, Guillermo Novo being another—and who continued on well after that to be involved in efforts that can only be defined by any objective standard as terrorism. And that is what

is sad about spending time on that, what I would consider a total diversion of what we are really here to discuss.

Mr. ROHRABACHER. I guess the reason why it is important is if this man was on the payroll of the Cuban Government at the time, which was just—look, 10 years before that Fidel Castro was involved with going out and shooting hundreds of people. And eventually it became the very same supporters that had helped him in the mountains, no longer the Batista people, but the guys who had helped him in the mountains who were not Communists, who did not want to go the Communist direction. Fidel Castro ended up, you know, yes, he got into power, and a lot of the people who helped him overthrow Batista were not trying to set up a Marxist-Leninist dictatorship. And within a short period of time he was even killing people who had actually been in the mountains with him. Talk about volatility, talk about—

Mr. KORNBLUH. I fail to see what that has to do with the justice of somebody being murdered on the streets of Washington, DC.

Mr. ROHRABACHER. What it means is it is not just somebody; it is somebody who was directly on the payroll of a government that was committing those kinds of crimes.

Mr. KORNBLUH. Sir, I can tell you, as somebody who has spent considerable time working on the Letelier-Moffitt assassination, in fact virtually the entire 30 years that I have been in Washington, that Orlando Letelier was killed by Augusto Pinochet and the head of the Chilean secret police, Manuel Contreras, who eventually was indicted here in Washington. The U.S. asked for his extradition. He did eventually, after democracy returned to Chile, serve time in a Chilean jail for that crime. And Letelier was not assassinated because he was on the Cuban payroll, which he wasn't, but because he was the leading critic and the most effective critic of the military dictatorship in Chile.

Mr. ROHRABACHER. Okay. But let me ask you then, so you looked into this, and you are telling me, you are saying right now there really isn't any substantial evidence, something that you would think was legitimate evidence to suggest that he was on the Cuban payroll?

Mr. KORNBLUH. It is hard to describe factually to someone who seems to believe that anybody who is a member of a Socialist Party or a Communist Party deserves violence in their life what the truth of this situation was. I can do it if you want me to spend a moment.

Mr. ROHRABACHER. I don't know who you are talking about. You think that I think that all Socialists are equal to Communists?

Mr. KORNBLUH. No, or all Socialists deserve to be killed.

Mr. ROHRABACHER. No, you got somebody all wrong. You are talking about some myth that you just created over here, some straw man. I happen to respect democratic Socialists. Fidel Castro doesn't respect democratic Socialists. Fidel Castro puts them in jail or executes them, democratic Socialists. There are differences. There is a Marxist-Leninist concept that will permit them to have a dictatorship of the proletariat.

Mr. KORNBLUH. It was the enemies of Fidel Castro that engaged in blowing up a retired former diplomat on the streets of our city

and killing a 26-year-old New Jersey woman who just got married 4 months before—

Mr. ROHRABACHER. Yes, they are murderers. People like that are murderers. They are murderers. And they are on the same moral level as Fidel Castro.

Mr. KORNBLUH. One of them was arrested with Luis Posada in Panama with yet another attempt to assassinate Fidel Castro in the year 2000. So there is some issue of association there.

Mr. DELAHUNT. Let me—

Mr. ROHRABACHER. But I did ask a question. So you believe there is no substantial evidence to suggest that the gentleman that we are talking about was on the Cuban payroll.

Mr. KORNBLUH. Orlando Letelier—

Mr. ROHRABACHER. Yes.

Mr. KORNBLUH [continuing]. Was the leading figure in the world of democratic opposition to the Pinochet military dictatorship. He was a leading force in the Chilean Socialist Party.

Mr. ROHRABACHER. Okay.

Mr. KORNBLUH. He traveled around the world. Allende's daughter, Tati Allende, lived in Cuba and was the treasurer of the Chilean Socialist Party.

Mr. ROHRABACHER. Okay.

Mr. KORNBLUH. When this type of Solidarity work goes on, there are funds that get distributed. They get distributed from governments. They get raised at events around the world, Solidarity events. And the basis for the outrageous article that you plan to put into the *Congressional Record* yet again, because I have to say that some of your predecessors like Jesse Helms put those articles into the *Congressional Record* back—

Mr. ROHRABACHER. So you don't think there is any—there is no substance to it.

Mr. KORNBLUH. No, I am telling you what the basis is. Orlando Letelier just had his legs blown off, and his colleague has died, drowned in her own blood from shrapnel from the bomb that was detonated by two anti-Castro Cubans riding in a car behind their car. As they are dying, the District police detective picked up Orlando Letelier's briefcase and took it. And he went through it, and he found communications with Allende's daughter in Cuba about distribution of Solidarity money. And on the basis of that, this detective then went to the conservative forces and leaked the story that somehow Orlando Letelier was an agent of the Cuban Government and on the Cuban Government payroll. That couldn't be more false.

Mr. ROHRABACHER. And you are saying Solidarity money. You are suggesting that the Solidarity money was the source of this story and that it was not Cuban Government money.

Mr. KORNBLUH. That is correct.

Mr. ROHRABACHER. Okay.

Ms. BARDACH. And there was a lot of criticism—

Mr. ROHRABACHER. That is a legitimate position. I will look at it and see if that is accurate or not. You may well be correct. But it took you a long time to get to say that.

Mr. KORNBLUH. And if some of that money came from Cuba, it doesn't necessarily mean that he is a paid agent of the Cuban Government.

Mr. ROHRABACHER. It took you a long time to say the money he was receiving from that source may not have been Cuban Government money. Now I will go look into that. If you are right, I will be the first one to say, hey, what we have got here is this collection plate is going around for the people in Chile, and they are trying to help with the democratic Socialists in Chile, and that money came from that, and all of this was just something that was a misrepresentation.

Mr. KORNBLUH. I am reluctant to engage in this debate because it has gone on for more than—because it has been raised, you know, every 5 or 6 years by certain forces who want to discredit the victim and somehow get the perpetrators off.

Mr. ROHRABACHER. No. The only way you are going to protect anybody who wants to discredit the victims is to get the truth out. And to suggest you don't want to engage in a dialogue to get to that truth because you just want to dismiss it is not the way to get the truth out. But if indeed you are correct that this was a fund that came from non—it was not a government fund, it was actually some kind of a volunteer socialist thing that they were trying to get together to support the socialist forces and people contribute to it, hey, you are right then. That should get out.

Mr. KORNBLUH. How this is relevant into looking into the crimes of Luis Posada and Orlando Bosch I am not sure.

Mr. DELAHUNT. It isn't. I think we have digressed. But I think it is important.

And Peter, I would suggest that these kinds of conversations are very productive, are very, very productive because we all, all of us have something to learn from them, okay and only with these kinds of conversations that are done in the kind of exchanges that maybe are passionate but are respectful and are civil, okay, do we move forward. Because that is what democracy is about. I yell at him all the time. Dan Burton, who was here earlier, I mean, he happens to be a personal friend. I can't find anything that I agree with him on other than let us just work it out, bang it around, do the democratic thing and have these frank and open discussions.

Mr. ROHRABACHER. Can I count on you to get me the information that will secure in my mind that your point is correct when you say that that was not—he was not on a stipend from the Cuban Government? Then I can refute all my conservative, right wing friends who ever suggested that. Right now, I don't know that.

Ms. BARDACH. Congressman Rohrabacher, it also might interest you that periodically I am told that—this just to give you an extent of how incredible the information that comes to one, and why one has to be so selective and so careful with what one publishes. On the *New York Times* series, we really tried to get three sources to agree on most points because really you have so much testimony coming that people volunteer. This just tells you that I am told every now and then, "You know who blew up that Cubana plane? Fidel Castro blew up that Cubana plane." People tell me this with the same straight face that they tell me that Luis Posada is an agent of Castro. And they are not uneducated people. But this is

the environment that it is just rife with rumor, intrigue and incendiary stories. So, you know, Peter really does have the situation. And you can read extensively about that situation and why that was discredited in *Labyrinth* and also *Assassination on Embassy Row*. There is a lot of literature that will give you background.

Mr. ROHRABACHER. Listen, I don't dismiss anybody who gives me facts. And I will tell you this. It is easy to stereotype each other. And I will tell you right now, this may break your mold of me, but I was a very severe opponent of Pinochet. And I was a very severe opponent of the tactic that was used to eliminate Allende, using a Pinochet military dictatorship. I thought Allende would have been overwhelmingly removed from office had they just waited. And I think that if indeed the United States Government nodded to Pinochet and his militarists when they came up here and asked what they should do, if our Government under Nixon nodded to Pinochet and said, "Go ahead and do it," that was a terrible, immoral thing for our Government to do. And so don't get me wrong about that. I am anti-dictatorship, and Pinochet overthrew a democratically elected government.

Mr. KORNBLUH. When I was younger, in the early 1980s, when the issue of the U.S. Congress passing legislation that would—when I was younger, the issue of the Letelier case came up in the U.S. Senate. And I sat as a U.S. citizen and listened to Jesse Helms on the floor of the U.S. Senate waving the exact same article that you are referring to, state on the floor of the Senate that those who live by the sword die by the sword. And that was his position on the assassination by car bombing of Orlando Letelier and Ronni Moffitt. And I found that sickening at the time and—

Mr. ROHRABACHER. If you are right and the money that he is talking about was not a stipend from the Cuban Government, from a dictatorship, just like the Pinochet dictatorship, if he was not on a stipend of the Castro dictatorship, and instead this was money, of Solidarity money that people voluntarily put into a fund to help other Socialists, democratic Socialists out, my hat is off to you; you are right, that is absolutely a horrible thing for anybody to suggest any different. I am open-minded to seeing your arguments on that and making, if you convince me, making those same arguments to other people.

Mr. KORNBLUH. Why should we even be discussing it now?

Mr. ROHRABACHER. Don't confuse me with someone who is against socialism. If people want to elect Socialists, there you go, that is fine. And again, Allende won the elections. He was the legitimate government. Anybody who used force to take that government out is an enemy of freedom.

Ms. BARDACH. Congressman, I wanted to point out, because you were gone I think at the time, if you want sort of a comprehensive primer, this piece I wrote last week in the *Atlantic Monthly* called, "Twilight of the Assassins," it is sort of chapter and verse in a 10,000 word, you don't have to read a whole book or 20 books on what happened on the Cubana shootdown on all sides. Principal sources to me were Luis Posada himself, Orlando Bosch and some of their collaborators. I always try to interview all the parties concerned. And you can find things in their own words here if you want to. And also there is some background on the Letelier case

and what happened there. And, you know, what Posada and Bosch told me was, "Look, you know, part of our deal in working at DISIP in Venezuelan intelligence is we were getting so much support from the Pinochet Government; they would ask us to do them favors now and then." And one of the things Orlando Bosch said to me, and this is only 2 years ago, he said, and I am paraphrasing him because I don't have the quote right in front of me, he said, "Oh, my God, the Pinochet people were always bothering us to knock off Letelier." And Guillermo Novo, who is a very good friend of both men and was arrested with Mr. Posada more recently, he of course was charged with the killing, but Orlando Bosch told me this several times, that they were always bugging him because Pinochet had given him sanctuary to operate in Chile when he got thrown out of Venezuela for a while. Sort of tit for tat; now you owe us something, get rid of some of our domestic pests. And this is in the words of Orlando Bosch. So I recommend it to you. You can read the direct quotes and that might put your mind at rest.

Mr. ROHRBACHER. By the way, I am not suggesting that these people that we are looking into here, any of them, especially the main focus of our hearing today, that he in any way shares a commitment to democracy simply because he is an anti-Communist or any type—again, if he brought down this airplane, I am interested in hearing about it, and I think it should be made clear, and he should be treated like a murderer.

Mr. BARDACH. Again, I think you may have missed this, Orlando Bosch has been very clear on this, not just with me but in interviews with Andres Oppenheimer. He was on the television just a year or 2 ago. And he is consistently clear that he regards himself as a freedom fighter, that the cause of bringing down Fidel Castro means that at any means necessary. And he specifically says, whether they are civilian targets, bringing down planes, blowing down ships; he says nothing is off, can be ruled out, because—

Mr. ROHRBACHER. Sounds like a pretty bad guy to me.

Mr. BARDACH. No, he is just saying his point of view is this is the primary goal, and nothing can be taken off the table to achieve it. That is his point of view, and it is shared by people of the hard line militant stripe in that community. There are not very many of them, but that is their belief. And they say this in their own words, and they don't mince words.

Mr. ROHRBACHER. I think what you are telling me is, I am sure, accurate. And those type of people I have got no sympathy with. But also I will have to note that I realize that I don't discount the stories of torture and of out and out murder that has gone on with Fidel Castro and Che Guevara and that crowd who the left romanticizes all the time. And I try to be consistent. If I say, look, I know Che Guevara and Fidel Castro did these things, what you are telling me these other people who are against them did these things, hey, I am not for these bad guys over here just like I am not for the bad guys over there.

Mr. BARDACH. You must recall Orlando Bosch was a very important military commander in the Veinte-Seis de Julio movement, the 26th of July movement of Fidel Castro. He was so exemplary that he was given the governorship of Las Villas. He then breaks with Castro because he feels Castro has betrayed the revolution.

Mr. ROHRABACHER. There it was.

Mr. BARDACH. And he becomes a militant to bring Castro down. And so, at one time, they were colleagues and cohorts, and then only to break.

Mr. ROHRABACHER. He probably, and I am just saying probably, if he was that high up, he probably had friends who Castro murdered before he fled Cuba, and that turned him into a fascist as well, that psychological type of thing. That is not an excuse. That is just—and I would never excuse that.

Mr. BARDACH. I would encourage you, because he speaks extensively to me in his own words, it was a tape recorded interview, and you can read him in his own words in this particular *Atlantic Monthly* article.

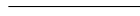
Mr. ROHRABACHER. I will take a look. Thank you.

Mr. DELAHUNT. This hearing has turned into a conversation. And it is going to be adjourned. And I thank all of our witnesses.

And again, Roseanne, thank you for inspiring us. And we will dedicate our efforts to you and to all of the victims in our effort to discover the truth. We are adjourned.

[Whereupon, at 8:25 p.m., the subcommittee was adjourned.]

A P P E N D I X



MATERIAL SUBMITTED FOR THE HEARING RECORD

MATERIAL SUBMITTED FOR THE RECORD BY MR. PETER KORNBLOH, SENIOR ANALYST,
THE NATIONAL SECURITY ARCHIVE, THE GEORGE WASHINGTON UNIVERSITY

000339

POLICE HEADQUARTERS,
57, WINGMONT STREET,
PORT-OF-SPAIN,
TRINIDAD.

Wednesday, 26th October, 1976.

DEMLIC 0110000 RABDWAR Statist-

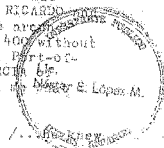


I am a Deputy Commissioner of Police of the Trinidad and Tobago Police Service. On Thursday, 7th October, 1976, two (2) men giving their names as JOSE VASQUEZ GARCIA and FREDDY LUOGO were brought to Police Headquarters by Assistant Commissioner SHROBROGH and a party of Police Officers. Assistant Commissioner SHROBROGH referred to me, in a conversation of that Mr. SHROBROGH told me, at 8.00 p.m. on Friday, 8th October, 1976, I interviewed a man who called himself JOSE VASQUEZ GARCIA in the presence of Senior Superintendent GORDON CATHERMAN, Head of the Criminal Investigation Department, No. 6823 Corporal OSCAR KING of the Special Branch and Miss JOY KESSELL who acted as interpreters.

Through the interpreters, I informed JOHN LLOYD who I was and that I was in charge of the enquiries regarding the crash of Cubana Aircraft Flight CU-455 which occurred off the North Coast of Barbados on the 6th October, 1976. I told him that he and FREDDY LUOGO were detained as it was alleged that they both knew something about the crash as they had travelled from Trinidad to Barbados on the said plane. I told him that I knew that he and LUOGO had travelled from Barbados to Trinidad after the crash on a B.V.I.A. Plane Flight 400, leaving without luggage and later booked in at the Holiday Inn Hotel, Port-of-Spain, under the name of GUSTAVO GARCIA of Bogota, Colombia. I further told him that when they were brought to Headquarters and asked about their luggage by Corporal KING, he (GARCIA) said that his luggage was stolen from a taxi in Barbados. I showed him several documents and other articles which were found on him at the time he was detained, among which was a key No. 61 for a room at the Village Beach Hotel in Barbados. I told him that I wished him to tell me what he knew about this matter and requested a statement of him. He gave me a statement which is appended and marked 'B.R.' 11 for identification. This statement is dated 9th October, 1976. In this statement, JOSE VASQUEZ GARCIA told me that his correct name was HERNAN RICARDO LOZANO, Cedula No. 32250Y, that everything else in his passport was false except for his photograph.

On Saturday 9th October, 1976, I interviewed FREDDY LUOGO. I told him who I was and that I was investigating the crash of Cubana Flight CU-455 which occurred around 5.00 p.m. on 6th October, 1976, off the North Coast of Barbados. I told him in the presence of Senior Superintendent CATHERMAN, Miss JOY KESSELL and No. 6823 Corporal OSCAR KING, Interpreters, that he and HERNAN RICARDO LOZANO had, on the 6th October, 1976, travelled by Cubana Airline CU-455 from Trinidad to Barbados; that that plane after taking off from Barbados had crashed; that RICARDO himself had returned from Barbados to Trinidad sometime around 9.00 p.m. on the 6th October, 1976, by B.V.I.A. Flight 400 without luggage; that they registered at the Holiday Inn Hotel, Port-of-Spain, later on that evening in the name of GUSTAVO GARCIA of Bogota, Colombia. I told him that I wished him to tell me

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he knew. He gave me a statement, through the interpreters, which was recorded in writing, marked 'B.R. 2' for identification. This statement is dated 9th October, 1976. In this statement, LOGG denied knowledge of the crash.

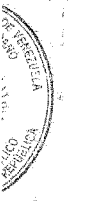
At 10.00 a.m. on Saturday, 9th October, 1976, I saw the local representative of the Cubana Airline, Mr. GOMEZ, and Mr. PACIFIQUE, Manager of Cubana Airlines here. Mr. GOMEZ showed me two (2) airline tickets. I examined these tickets and saw that one ticket was a LAV ticket in the name of FREDDY LOGG, No. 0462 3196735 for a flight from Caracas/Port-of-Spain/Cubana Airlines Port-of-Spain/Barbados. This ticket was later handed to me by the Manager of Cubana Airlines and is enclosed as 'D.R. 3' for identification. I was also shown LAV airline ticket No. 0462 3284913 in the name of JOSE VASQUEZ in respect of a flight Caracas/Port-of-Spain Port-of-Spain/Barbados Cubana Airlines. Both tickets were purchased in Caracas on the 5th October, 1976. This ticket was given me by Mr. GOMEZ and is appended and marked 'D.R. 4' for identification.

On Sunday, 10th October, 1976, at 6.05 p.m., I interviewed HENRIK RICARDO LOZANO. I showed him a notebook, a diary, the front of which showed 'Colubre 1976' and two (2) B.I.A. airline tickets No. 1062 915100 in the name of JOSE VASQUEZ in respect of flight Barbados/Port-of-Spain/Caracas dated 6th October, 1976, purchased in Venezuela and ticket No. 0462 3284914 dated 5th October, 1976, in respect of a flight Barbados/Caracas. He told me that the tickets shown to him were his and that the notebook and diary were also his. I asked him whether he could assist me any further with respect to the airline tickets and the notebook which contained several names and telephone numbers and a calendar in which there was recorded a name 'Mr. ORLANDO Telephone No. 213016.' I asked him whether the handwriting which appeared in both books were his and he told me yes. He then said that he would give a statement. This was recorded in writing through the interpreters and appended as 'D.R. 5' for identification.

As a result of certain information received, I left Trinidad at 8.00 a.m. on Monday, 11th October, 1976, in Coast Guard plane TTBV 1 and arrived at Margueta Airport at 11.45 a.m. In company with the Trinidad and Tobago Ambassador to Caracas, His Excellency Mr. Alfred McLeod. I spoke with the Deputy Foreign Minister, Dr. JOSE GOMEZ MARTINEZ and two (2) officials of D.I.S.I.P. (DIRECCION SUPERIOR DE INVESTIGACION Y PREVENCIÓN). As a result of our talks, I interviewed the following persons at the Headquarters of D.I.S.I.P.:

- (a) General RAQUEL JIMENEZ CÁRERA,
- (b) Dr. WILSON RIVAS VARGAS,
- (c) Dr. ORLANDO GARCÍA MATEO,
- (d) Dr. RAMÓN JOSE VARGAS (Director de Identificación y Migración).

As a result of this discussion, I received a declaration dated 11th October, 1976, signed by RAMÓN IGNACIO VARGAS (National Director of Identification and Immigration) marked 'D.R. 6' for identification. This document discloses the



CARACAS (04)

000341

passport in the name of JOSE VASQUEZ GARCIA dated 6th June, 1976, which was found in the possession of HERNAN RICARDO LOSANO at the time of detention on 7th October, 1976, was taken away (stolen) from Cabina in the State of Zulia and that the said passport was false.

I returned to Trinidad at 10.15 a.m. on Tuesday, 12th October, 1976, from Caracas.

On Tuesday, 12th October, 1976, I interviewed FREDDY LUGO in the presence of Sr. Superintendent GORDON WATERMAN, Corporal OSCAR KING and Sr. Superintendent DURANE. Through interpreter Corporal KING, LUGO gave me a further statement marked 'D.R. 7' for identification. In this statement, LUGO told me that RICARDO had told him on the flight between Caracas and Port-of-Spain that he was travelling with a false passport.

At 5.15 p.m. on Friday, 15th October, 1976, FREDDY LUGO requested to see me and told me that he wished to make a further statement which was recorded through the interpreter in writing. In this statement, he said that RICARDO told him on the flight between Caracas and Trinidad that ORLANDO BOSCH and LUIS POSADA must be worried about him (RICARDO), and that after twenty (20) minutes of flight on the Cubana Airline between Trinidad and Barbados, RICARDO became very nervous, was sweating, went to the bathroom, returned from the bathroom even more nervous and sweating heavily. Statement marked 'D.R. 8' for identification. This statement is dated 15th October, 1976.

At 3.15 p.m. on Saturday, 16th October, 1976, FREDDY LUGO requested to see me in the presence of Sr. Superintendent GORDON WATERMAN; Sergeant Anthony JACK, No. 5123; Corporal Oscar KING, No. 6823 and Miss JOY KESHALL. I saw LUGO in my office. He told me that he had thought the whole matter over and that he wished to tell the truth about the Cubana Aircraft crash. I cautioned him in accordance with the Judges' Rules of Trinidad and Tobago and he made a statement which was recorded in writing. Statement marked 'D.R. 9' for identification. This statement is dated 16th October, 1976. In this cautioned statement, LUGO told me that he was convinced that HERNAN RICARDO was the one who placed the bomb on the aircraft. He told me that RICARDO had told him on the flight from Caracas to Trinidad that he (RICARDO) was going to blow up a Cubana aircraft. In the same statement, he said that while en route in a taxi from the Holiday Inn Hotel to the Piarco Airport, Trinidad, RICARDO again told him with great determination that he was going to blow up a Cubana aircraft.

On Sunday, 17th October, 1976, at about 6.30 p.m., RICARDO asked to see me. At the time, I was in company with Senior Superintendent WATERMAN, Inspector HEADLEY, Sergeant JACK, Corporal KING and Miss JOY KESHALL. He told me that he wished to speak to me in confidence and asked that Sr. Superintendent WATERMAN, Inspector HEADLEY and Sergeant JACK leave the office. These gentlemen left the office. He told me:-

- (a) that he was a member of the C.I.A. (Central Intelligence Agency);
- (b) that he was recruited by the C.I.A. in Venezuela between 1970 and 1971;



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-4-

- (a) that he was trained in Venezuela and Panama in Intelligence and Counter-Intelligence;
- (d) that he was also trained in handling bombs, arms, arms with silencers and photographic equipment;
- (b) that the name "EL CORDON" is a front for a group called "EL CORO" which is the abbreviation for Commander of Revolutionary Organisation Unit;
- (f) that the head of EL CORO is ORLANDO BOSCH also known as Mr. ORLANDO and sometimes as Mr. PANYGUA;
- (g) that LOUIS POSADA PARRILES is the head of a firm known as Industrial and Commercial Investigations Agency;
- (h) that LOUIS POSADA is his employer and the head of that Agency;
- (i) that LOUIS POSADA was at one time employed in the Caldera Government as head of the Counter Intelligence Division of the Organisation called "D.I.S.I.P.";
- (j) that he (LOZANO) was in possession of three (3) passports, namely, a U.S. passport, a forged passport with which he was found in possession in Trinidad and a genuine Venezuelan passport in his own name;
- (k) that he and LUCO were in Barbados from 9th to 12th July, 1976, when the B.W.I.A. Office was blown up there. He said that the office was blown up at 10.30 p.m. on the 10th July, 1976, and that the bomb was placed there by a Panamanian who is a naturalised Venezuelan and who now resides in Barbados;
- (l) that he (LOZANO) was in Trinidad with a man by the name of OLEG GUITON RODRIGUEZ DE LA SIERRA TRATAKOFF from 29th August to 1st September, 1976, and they stayed at the Trinidad Hilton Hotel leaving Trinidad for Caracas at 12 noon on 1st September;
- (m) that RODRIGUEZ is a member of his (LOZANO'S) organization;
- (n) that the bomb which was placed in the Guyanese Consulate in Trinidad was placed at 10.00 a.m. on 1st September by OLEG RODRIGUEZ DE LA SIERRA TRATAKOFF and another member of the Organisation and that both these men were now in Venezuela;

[Handwritten signature]

(3) (1)



[Handwritten initials]

(o) that the bomb placed at the Guyanese Consulate in Trinidad was a C4 (composition 4) 1 lb. in weight and brought into Trinidad in a suitcase made for the purpose in Virginia, U.S.A;

(p) that the black belt he was found wearing upon detention at the Holiday Inn on October 7th which is hollow and carries a rip on the inside is used by him to ~~secret~~ transmitters;

(q) that he would like to stay in Trinidad as he knows wherever he went in the world he would be killed. He told me that he was violently against the Castro Government because he knew that Castro has been responsible for the killing of innocent poor people;

(r) that he had evidence that before Castro ~~arrived~~ he would first ~~visit~~ them and then they ~~would~~

[Faded text, mostly illegible]

... told me that he would consider it *[illegible]* the following day.

On *[illegible]* at 3.45 p.m., in the presence of *[illegible]* WATERMAN, *[illegible]* saw RICHARD *[illegible]* he advised *[illegible]* for

[Faded text, mostly illegible]



000344 Ordo (P)

-6-

quickly tucked into his shirt pocket. He also remembered that while they were on the plane RICARDO took out the tube of toothpaste. He made other disclosures.

At 8.30 p.m. on 19th October, 1976, the same day RICARDO LOZANO requested to see me. He told me in the presence of Sr. Superintendent GORDON WATERMAN, and Corporal OSCAR KING that he had thought the matter over and he wished to speak to me in the greatest confidence. He told me that he was a member of the C.I.A. in Venezuela and that FREDDY LUGO was also a member of the C.I.A. recruited by him (LOZANO), that he received his pay through him (LOZANO) and LUGO was assigned to him. He said that LUGO was graded class D. He went on to say that he and LUGO had left Caracas on October 5th 1976 to do some intelligence work on a Cubana aircraft between Trinidad and Barbados. He told me that LUGO carried two (2) cameras - one strung around his neck and the other in his shoulder bag, and these were taken aboard the Cubana aircraft in Trinidad on 6th October, 1976. He said that he (LOZANO) checked his luggage into the hold of the plane. He went on to say that he knew who blew up the plane, that the persons were Venezuelans and that they were at present in Trinidad. At this stage, I cautioned him as follows:-

"You are not obliged to say anything but anything you say may be given in evidence."

He continued and told me that if I use my police brain it would be clear to me who bombed the plane. I told him I believed I knew who committed the crime. He hesitated for a while and then told me, saying that it was in the greatest confidence, that LUGO and himself bombed the plane. He asked me for a sheet of paper and in his own handwriting recorded the steps to be taken before a bomb was placed in an aircraft and how a plastic bomb is detonated. This document is marked 'D.R. 12' for identification. On the obverse side of the document, he drew a sketch of the bomb and detonator and described the detonator as a pencil-type with chemicals which could be timed for 8 minutes, 45 minutes, 1 hour, 2 hours, 3 hours, 8 hours, 12 hours and 24 hours. He said that these pencil-type detonators were of various colours depending on the time at which the bomb was to be detonated. He took a pencil from my desk and told me that that pencil resembled one of the detonators he had described. He said that a certain chemical is filled in a tube of colgate toothpaste after the toothpaste is extracted. This pencil is in my possession. He went on to tell me that he knew everything about the Organisation 'CORCO'. He requested another sheet of paper and on this sheet of paper he drew the organisational chart of the Organisation. This document is marked 'D.R. 13' for identification. He told me that he called ORLANDO BOSCH from Barbados after the plane had crashed and BOSCH told him "Friend we have problems here in Caracas you never blow up a plane while it is in the air." I asked him whether he was prepared to put this in writing and he told me that he would think about it that night and let me know the next morning.

At 10.30 a.m. on Wednesday, 20th October, 1976, RICARDO requested to see me. He was brought to my office at 11.10 a.m., and in the presence of Sr. Superintendent WATERMAN, Corporal OSCAR KING and Miss JOY KIRKALL, advised me



told me

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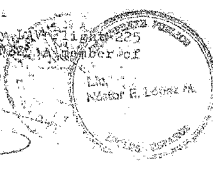
REC'D (11)

told me that he had thought the matter over, the night before and was prepared to make a written statement and that he wished Miss KIRSHALL to record it. I captioned him in accordance with the Judges' Rules of Trinidad and Tobago and he made a statement which was recorded in writing. Statement marked D.R. 14, for identification. This statement is dated 20th October, 1976. Among the things he said in the statement was that EREDDY LUGO had two (2) cameras, one in his travelling bag and the other around his neck. He said that one camera was left on the plane and he was almost sure that a bomb must have been in that camera left by LUGO on the aircraft.

On Wednesday, 20th October, 1976, a meeting chaired by the Honourable Attorney General and Minister for Legal Affairs, Senator RICHARDSON, called by the Trinidad Government at which representatives of the Guyanese, Barbados, Cuba, was convened at the Ministry of National Security in Port-of-Spain at 2.30 p.m. At about 3.45 p.m. during the discussion, certain disclosures were made, as a result of which, the Acting Attorney General of Venezuela and Dr. CARLOS IRAZABAL, Ambassador for Venezuela in Trinidad and Tobago, made a request to interview RICARDO and LUGO. This request was granted by the Chairman, and Asst. Commissioner BURROUGHS and I accompanied the two (2) gentlemen to Police Headquarters where the detainees were interviewed in my presence. Corporal OSCAR KING was also present. The Acting Attorney General for Venezuela interviewed both suspects, and after the interview, the party returned to the Conference. The Acting Attorney General for Venezuela spoke with the Chairman, and the Chairman announced to all present at the Conference that the two detainees had reported to him that they were well health-wise, that they were well treated by the Trinidad Police.

On Friday, 22nd October, 1976, a request was made to me by the Venezuelan Ambassador to allow the Acting Attorney General to interview LOZANO before he left for Venezuela. LOZANO was interviewed in the presence of Dr. CARLOS IRAZABAL and FRANCIS DAVIDA of the Venezuelan Embassy here. I saw on LOZANO'S forearm a medical dressing. Dr. IRAZABAL told me in English in the presence and hearing of the Acting Attorney General for Venezuela and LOZANO that LOZANO had no complaints.

LOZANO and LUGO left Trinidad by flight 225 at 1.20 p.m. accompanied by Inspector J. GONZALEZ, Asst. Chief of D.I.S.I.P.



DERNIS ELLECT RAMDWAR,
Deputy Commissioner of Police.



2

I, EUAN FOCH HAIG NUNEZ, Permanent Secretary, Ministry of National Security in the country of Trinidad and Tobago do hereby certify that the signature Dennis Elliott Ramdwar appearing on the reverse side is that of DENNIS ELLIOTT RAMDWAR, Deputy Commissioner of Police in the said country of Trinidad and Tobago.

000346

Dated this 28th day of October, 1976

Euan Foch Haig Nunez
Permanent Secretary
Ministry of National Security

I, RABINDRANATH PERMANAND, Chief of Protocol, Ministry of External Affairs in the country of Trinidad and Tobago do hereby certify that the signature E.F.H. Nunez appearing above is that of EUAN FOCH HAIG NUNEZ, Permanent Secretary, Ministry of National Security in the said country of Trinidad and Tobago.

Dated this 28th day of October, 1976

Rabindranath Permanand
Chief of Protocol
Ministry of External Affairs

REPUBLICA DE VENEZUELA
Consulado en Puerto España
Trinidad y Tobago

En fecho de hoy me autorizo del poder
de *Euan Foch Haig Nunez*
de *Euan Foch Haig Nunez*
de *Euan Foch Haig Nunez*
del 28 de Octubre de 1976

EL CONSUL
Euan Foch Haig Nunez
Euan Foch Haig Nunez
Consul

LETTER SUBMITTED BY THE HONORABLE BILL DELAHUNT, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF MASSACHUSETTS, AND CHAIRMAN, SUBCOMMITTEE ON INTERNATIONAL ORGANIZATIONS, HUMAN RIGHTS, AND OVERSIGHT

THE CLAYTON COLUMBIA
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 GARY L. AGRESTI, New York
 KENT HALLIBURTON, Tennessee
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 Chief Counsel

ONE HUNDRED TENTH CONGRESS
 CONGRESS OF THE UNITED STATES
 COMMITTEE ON FOREIGN AFFAIRS
 U.S. HOUSE OF REPRESENTATIVES
 WASHINGTON, DC 20515

TELEPHONE: (202) 225-4024
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January 11, 2008

LESTER KAHN, Illinois
 Ranking Member

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 JIM BURTON, Indiana
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 JOHN HENNINGSEN, California
 FRANK R. LUTZ, Florida
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 STEVE CLAYTON, Ohio
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 LEO CLAY, Ohio

VICTOR L. ROBERTO
 Republican Staff Director

DAVID J. GARDNER
 Republican Staff Director

ANDREW J. GARDNER
 Democratic Staff Director

Subcommittee on International Organizations,
 Human Rights and Oversight
 Committee on Foreign Affairs
 2170 Rayburn House Office Building
 Washington, D.C. 20515

Dear Members of the Subcommittee:

During our recent hearing on Luis Posada and the Cubana airliner bombing, our distinguished Ranking Member, Mr. Rohrabacher, requested information on the charge by newspaper columnists in 1976 and 1977 that documents found in a briefcase belonging to Orlando Letelier at the scene of his murder indicated that he received money from the Cuban Government or in some way acted as an agent of Cuba. Specifically, the hearing transcript has this statement by the Ranking Member:

The Chilean Ambassador, Mr. Letelier, was a Cuban agent. He was on the payroll of the Cuban Government. At least that is the information I have. I will submit that for the record in detail. And if I am wrong by that, I will take that out of the record.

While we cannot "take out" statements from the record, the Ranking Member and all other members of the Subcommittee are always invited to provide any statements they wish for the printed record as comment, correction, or clarification of their views. This memorandum will also become part of the printed record for the hearing. I know that Mr. Rohrabacher shares my commitment to a full and fair exploration of any facts that are alleged before the Subcommittee, and I hope all members will conclude that this letter provides such an exploration.

The summary answer to the question is found in the following statement on December 13, 1978, in United States District Court for the District of Columbia by Eugene Propper, the Assistant United States Attorney who prosecuted the murder case. Details about the issue are provided below. Please note that all documents referred to in this memorandum are available in the original from the Subcommittee.

...the FBI went over those documents quite carefully and found no evidence that Mr. Letelier was working for any government, either Chilean or Cuban, or otherwise, or anything to suggest he might have been.

Subcommittee staff recently checked with Mr. Propper to see if he had received any information to change his opinion during the intervening 30 years. His answer was that, "we investigated Letelier to death," that he was targeted because he was "a pain in the ass" to the Chilean government, and that allegations that he was a Cuban agent were "a load of crap."

* * *

Orlando Letelier was the former Chilean ambassador and defense minister in the democratic government that was overthrown by General Augusto Pinochet in 1973. He was murdered in a car bombing along with his colleague at the Institute for Policy Studies, Romi Moffitt, at Sheridan Circle on Massachusetts Avenue here in Washington, just one month before the Cubana bombing.

The plot to murder Ambassador Letelier is certainly an appropriate topic to discuss in the context of our Subcommittee's investigation of the Cubana bombing. A number of the alleged plotters of the Letelier-Moffitt murders, such as Orlando Bosch, and actual convicted perpetrators, such as Guillermo Novo, have been accused, jailed, and in some cases convicted along with Mr. Posada to some of the dozens of acts of political violence against civilian targets that he has been accused of in his 40-year career as a terrorist:

* A declassified CIA cable displayed at the hearing by Peter Kornbluh of the National Security Archive stated that "a former Venezuelan Government official who still maintains close relationships with government officials... (and) is a usually reliable reporter" told the CIA that at a dinner attended by Mr. Posada at some point between the two bombings, Dr. Bosch stated that "now that our organization has come out of the Letelier job looking good, we are going to try something else." This cable is in your hearing materials.

* The organization Dr. Bosch is referring to appears to be the anti-Castro militant coalition CORU, which he established in June 1976 at a meeting of militant groups in the Dominican Republic. The Cuban National Movement, whose members included Guillermo Novo, took part in this founding meeting and in the CORU coalition. According to a list compiled in one of the two detailed books on the Cubana bombing, Assassination on Embassy Row, by John Dinges and Saul Landau, CORU claimed credit for the Cubana bombing, and CORU members planned and conducted a series of at least a dozen violent attacks on individuals and offices of Cuban entities (including three attacks on Cubana planes or offices prior to the bombing the subcommittee is investigating) or of entities of governments thought to be friendly to Cuba or hostile to CORU.

* A few days later, according to the CIA cable, the same source reported that Mr. Posada stated that "we are going to hit a Cuban airplane... Orlando has the details." Orlando Bosch was arrested with Mr. Posada for plotting the Cubana bombing, but was acquitted after a Venezuelan court ruled inadmissible the case files from the police in Barbados and Trinidad and Tobago. These files included statements by the two men who were arrested for carrying out the bombing, and who were convicted of related charges in Venezuela, Hernan Ricardo and Freddy Lugo. These two men acknowledged that they were employed by Mr. Posada and that they tried to call him and Dr. Bosch after the bombing. According to U.S. Government documents, Dr. Bosch has been arrested for numerous bombings in the United States, convicted of a terrorist attack in a U.S. court, and identified by Attorney General Richard Thornburgh as an "unrepentant terrorist."

* According to another witness at our hearing, journalist Ann Bardach, Venezuelan newspapers reported that police found a map of Washington, DC, with Letelier's driving route to work highlighted, in Posada's home or office when searching it after arresting him for the Cubana bombing. Also in this search, as Mr. Kornbluh testified, the police found a "scouting report" handwritten by Mr. Posada's employee Hernan Ricardo, which included details on the Cubana flight of which he was convicted of bombing. The scouting report was also displayed at the hearing, and is in your hearing materials.

* Guillermo Novo, convicted in the Letelier-Moffitt bombing, was also convicted with Mr. Posada in Panama in 2000 in a bomb plot.

* According to two different Venezuelan security officials, Dr. Bosch, while he was in custody for the Cubana bombing, stated that the Letelier-Moffitt bombing was carried out by Mr. Novo and his brother Ignacio, who was also convicted in that case. This development is discussed in full in a chapter titled "First Leads" in the other detailed book on the Letelier-Moffitt bombing, Labryinth, by Mr. Propper and noted civil rights historian Taylor Branch. Subcommittee staff recently spoke with Mr. Propper, who confirmed that he had traveled to Venezuela as a result of these claims, and that while he was unable to arrange an interview with Dr. Bosch under conditions that would be acceptable for U.S. courts, his interviews with Venezuelan officials who had spoken with Dr. Bosch provided an important advance in his effort to solve the Letelier-Moffitt murders.

* According to a declassified State Department cable, provided to the Committee by witness Peter Korubtuli, four days after the plane bombing, the president of Venezuela, Carlos Andres Perez, met with U.S. Ambassador to Caracas, Viron Vaky. President Andres Perez told Vaky that Bosch had "been providing information regarding the Chilean junta. The President said that Bosch claims to have done some jobs for DINA [the Chilean secret police]...Bosch now says, the President went on, that he has stopped working for DINA, but that the Novo brothers who are in the US are still doing so and that it was the Novo brothers who organized the Letelier assassination."

It is apparent from this record that the Letelier-Moffitt and Cubana bombings were related as being part of the same series of violent attacks against perceived enemies carried out by individuals in the militant Cuban exile community who were associated with CORU.

As regards the contents of Ambassador Letelier's briefcase, as noted above, United States District Court for the District of Columbia by Eugene Propper, the Assistant United States Attorney who prosecuted the murder case, states that the FBI did examine the contents carefully, investigate them fully, and decide that there was no substance to the charge that Ambassador Letelier received funds or instructions or was in any way an agent of the Cuban Government:

...the FBI went over those documents quite carefully and found no evidence that Mr. Letelier was working for any government, either Chilean or Cuban, or otherwise, or anything to suggest he might have been.

This statement is contained in the official court record of a December 13, 1978, pretrial hearing for United States of America vs. Guillermo Novo Sumpol, Alvin Ross Diaz and Ignacio Novo Sumpol. During the hearing, attorneys for the defendants requested access to the contents of the briefcase, on the grounds that according to newspaper columns they contained evidence that

indicate that Ambassador Letelier had "ties to foreign governments and foreign intelligence agencies, possibly...(and) that Mr. Letelier was in contact with and perhaps working for the Cuban Government."

The defense attorneys further stated that:

There was a letter supposedly in the case from a Tatí Allende, who had been the daughter, as I understand, the daughter of the former president of Chile before he had been assassinated. I understand there was material in there which indicated he was being paid certain amounts of money...(If such documents are contained within the attaché case, they are certainly relevant to Mr. Letelier's associations with foreign governments as an alternative theory as to how he was assassinated and why he was assassinated.

The defense attorneys were invoking a principle known as "Brady," from a Supreme Court case that stated that the prosecuting authorities must provide to the defense any materials that would tend to assist defendants. In opposing the request to provide the materials in the briefcase, which had been returned as personal effects to the widow of Ambassador Letelier, the prosecutor, Mr. Propper, made the following statement:

I have personally viewed (the contents) Your Honor. By that, I mean I have personally viewed the Xerox contents. I took the original briefcase and gave it to the FBI because they wanted to check it for fingerprints and things like that... We will acknowledge (Tati Allende) wrote to him as a friend, and we acknowledge there are letters in there by her. And she is married to somebody who lives in Cuba. We will also state that the FBI went over those documents quite carefully and found no evidence that Mr. Letelier was working for any government, either Chilean or Cuban, or otherwise, or anything to suggest he might have been. Now, some people in the press put interpretations upon it.

At this point the Judge denied the request that the contents of the briefcase be provided to the defense, and Mr. Propper further asserted that:

(T)here is nothing which comes close to Brady in there...There was nothing in there that either the FBI or the US attorney's office found relevant to this case other than the fact that, for example, he had an address book in there with names of people all over the United States and all over the world...

According to Assassination on Embassy Row, the documents that are being referred to by the defense attorneys appear to have been an account book and a letter found in the briefcase. This book quotes the documents, so I assume that the authors were provided access to them by the Letelier family. According to this book, at least one of the two columns that cited and in some cases quoted from the documents appear to have gotten access to them from an aide to Senator Jesse Helms, who in turn received them from a Washington, DC, homicide sergeant who had made a copy of some of the contents. According to this book, the account book read as follows:

Political office expense sheet – until October 1975. Received: Two payments, one for \$3,000 at the beginning of the year, and the other for \$5,000 in May 1975. Total received: \$8,000.

The letter, from the daughter of the late President Allende, allegedly read as follows:

Havana, May 8, 1975

Dear Orianda:

*I know that Altamirano wants to communicate with you to offer a solution to the problems that have arisen there, and he has asked me to inform you that, from here, we will send you, in the name of the party, a thousand dollars (\$1,000) per month to support your work. I am sending you five thousands now in order not to have to send it monthly.
A big hug for you and Isabel Margarita from...Tati*

Please note the following identities:

- "Orlando" is clearly Ambassador Letelier;
- "Altamirano" is Carlos Altamirano, the General Secretary of the Chilean Socialist Party, who is in exile and, ironically, also under an assassination order from the Chilean secret police;
- "the party" would appear to be the Chilean Socialist Party, which raises money in exile to support the work of its adherents who, of course, still consider themselves the legitimate government of Chile.
- "Isabel Margarita" is Letelier's wife
- "Tati" is the nickname of Beatrice Allende, Allende's daughter, who married a Cuban and lived in Cuba at the time.

On December 20, 1976, columnists Jack Anderson and Les Whitten stated in a column in The Washington Post titled "Letelier's Havana Connection," that the briefcase contained these two documents, but they included a statement by Letelier's widow, Isabel, that the funds in question came from the Chilean political party, and not the Cuban Government. Anderson and Whitten agreed that the Allende letter made that clear, but wrote that: "Intelligence sources contend that money couldn't have been transmitted to Letelier with Cuban government's approval."

On Feb. 16, 1977, columnists Rowland Evans and Robert Novak printed a similar story in The Washington Post titled "Letelier's Political Fund." According to Dinges and Landau, their access to the documents was provided by Senator Helms' aide John Carbaugh, and Mr. Novak has acknowledged him as his source in his recent autobiography, The Prince of Darkness. Evans and Novak cited the letter from "Tati" and said that the money she mentioned was a "payment from Cuba, approved by Altamirano." On this basis, Evans and Novak concluded that Ambassador Letelier was supported by "funds from Cuba."

The Washington Post assigned a reporter, Lee Lescaze, to investigate the story, and he was provided access to the briefcase as well, by Ambassador Letelier's lawyer. His conclusion, in a story on February 17, 1977, titled "Briefcase Opened to Press; Tantalizing Hints Dimmed," was that the columnists "followed the darkest interpretation of the scanty material." However, Mr. Evans continued to make such interpretations in his recent autobiography.

Another author, Rael Jean Isaac, in the magazine Midstream, published by the Theodor Herzl Foundation in 1980, referred to the earlier columns and wrote that Ambassador Letelier was "an 'unregistered' agent receiving payments from Cuba." Responding to that article, the director and the chairman of the Board of Trustees of the Institute for Policy Studies cited the statement in open court by Assistant United States Attorney Propper, and added:

In fact the money which Letelier received from Beatrice Allende, Allende's daughter who at the time lived in exile in Cuba with her Cuban husband, was from funds raised from churches and unions throughout Western Europe to support Chilean refugees and the movement for a democratic Chile. The New York Times and The Washington Post and every other legitimate news sources which has investigated the charge has agreed that it is a groundless fabrication.

Nobody, of course, can rule out the possibility that funds from governments friendly to the exiled Chileans found their way into the coffers of the Chilean Socialist Party. Even if they had, this would not necessarily indicate to me that Ambassador Letelier was an agent of such a government. For example, the United States passed funds to pro-democracy movements in Eastern Europe throughout the Cold War, up to and including the Solidarity trade union movement in Poland in the 1980's. Both Sweden and the Soviet Union funded the operations of the African National Congress during its years of exile. Yet I would certainly never consider Lech Walesa or Nelson Mandela, Noble Peace Prize winners recognized as heroes devoted to their countries' democratic futures, to have been agents of any foreign power, and my guess is that the members of the Subcommittee would agree with me.

Sincerely,



BILL DELAHUNT
Chairman
Subcommittee on
International Organizations,
Human Rights and Oversight

WD:cr/ep

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Members of the International Organizations, Human Rights,
and Oversight Subcommittee
House Foreign Affairs Committee
2170 Rayburn House Office Building
Washington, DC 20050

Dear Subcommittee Members:

During the November 15, 2007 subcommittee hearing into the status of Cuban exile, Luis Posada Carriles, I noted there were published reports suggesting that former Chilean ambassador Orlando Letelier -- whose assassination has been tied to Posada Carriles's associates -- was himself an agent of or on the payroll of the Cuban Communist dictatorship.

I readily admitted then, and do now, that I have not done the necessary research to reach a confident conclusion on this charge. It is a charge, however, that deserves consideration when trying to determine the nature of Luis Posada Carriles. During the time in question, the Cuban dictatorship and its agents were engaged in a murderous back and forth war with Cuban exiles who sought to bring down the Castro regime and restore democracy to Cuba. Posada Carriles, himself, had fought with Castro and was betrayed when Castro created an iron fist communist dictatorship and allied his regime with the Soviet Union and other Marxist Leninist dictatorships.

Castro had declared war on his own people, especially those exiles who dared to oppose him. Not dissimilar was General Pinochet's brutal anti-communist dictatorship in Chile. Both of these regimes committed horrible crimes against their people and were at war with exile communities. When analyzing Posada Carriles or any other figure in the murky bloodletting of that day, it is fair to ask as to the nature of those who were targeted. Yes, Castro targeted democratic activists -- not only Cuban exiles but also non Communist democrats in Venezuela and elsewhere in the Americas. If Letelier, then, was financed by the Castro regime, it is relevant.

I note that Chairman Delahunt has made a good case for the argument that Letelier was not a Cuban agent or on the payroll of the Cuban government. Letelier's murder, if Chairman Delahunt is correct, was an act of terrorism, perhaps at the behest of Pinochet's repressive regime in Chile. While acknowledging that Chairman Delahunt may be correct, I would suggest, it is not irrational to question that conclusion. As a former prosecutor, Chairman Delahunt may be inclined to totally accept the analysis of the federal prosecutor in the Posada Carriles case, but

I am always concerned when evidence, like the contents of Letelier's briefcase, are kept from the defense and characterized as irrelevant by the prosecution.

In the case made against Posada Carriles, as Chairman Delahunt documented, a prosecutor characterized the evidence in Letelier's briefcase as irrelevant, but the defense never saw it. We know that some documents in the briefcase revealed payment made to Letelier from the daughter of President Allende. She was residing in Cuba. The funds, however, could well have been, as Chairman Delahunt suggests, donations from non-communist sources who were sympathetic to the cause of restoring democracy to Chile. Yes, that could well be true. After reading Chairman Delahunt's description, however, I must still conclude that Letelier may have had a financial relationship with Castro's Cuban dictatorship, and that is not irrelevant. One item that should be of concern was the refusal of the prosecutors to permit the defense from even seeing Letelier's address book, which may have contained the names of known Cuban agents.


All of this comes as the credibility of one of the primary witnesses in our November 15th, 2007 hearing, Blake Fleetwood, is now called into question. This witness has, for decades, been a source of serious accusations against Posada Carriles concerning his alleged role in the bombing of a Cubana airliner. Under questioning, it appears that this witness had, since 1976, mischaracterized statements allegedly made by Posada Carriles about any role he may have played in blowing up the plane.

Contrary to all the inferences of Mr. Fleetwood's testimony, Posada Carriles never admitted to a personal involvement in the bombing. In fact, under questioning in our November 15th hearing, Mr. Fleetwood stated that he never asked Posada Carriles about his direct involvement in the bombing. However, a transcript of the interview reveals that not to be true and that Posada Carriles actually denied any involvement when asked several times about the downing of the airliner. Posada Carriles, as revealed by the tapes, actually believed the Castro regime itself may well have committed the crime. Clearly, the tapes of his interview did not support the witness's suggestion that Posada Carriles had a hand in the airline bombing. Coincidentally, Posada Carriles also denies involvement in the Letelier bombing.

All of this considered, no one should conclude, as one of the witnesses obviously did, that I am in any way sympathetic to the Pinochet dictatorship or that I would ignore such inexcusable acts of terrorism as the bombing of a Cuban, or any other, airliner.

My strong belief in human rights also leads me to demand the truth and expect a certain level of evidence before a series of charges are accepted as fact. With due admiration and respect for Chairman Delahunt, the hearing of our subcommittee was not definitive enough to convince me that Luis Posada Carriles is a murderous terrorist instead of a Cuban exile trying to bring democracy to his country and prevent Communist dictatorships from taking hold in other Latin America countries. Did he cross the line into murderous terrorism? Our hearing did not prove that.

Sincerely,



Dana Rohrabacher
Ranking Minority Member

