

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Robert Malley to Richard Nuccio and Eric Schwartz re: Cuba Migration (6 pages)	03/14/1996	P1/b(1)
002. email	Malley to Kelly Letts re: Package-Urgent (4 pages)	03/27/1996	P1/b(1)
003. email	Fulton Armstrong to Schwartz re: Cuba Developments (3 pages)	08/19/1996	P1/b(1)

COLLECTION:

Clinton Presidential Records
 NSC Emails
 MSMail-Record (Sept 94-Sept 97) ([Schwartz and Cuba...])
 OA/Box Number: 590000

FOLDER TITLE:

[03/13/1996-08/26/1996]

2011-1039-F

rs1855

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
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- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
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- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

M S M a i l

DATE-TIME 13 March 96 12:23
FROM Malley, Robert
CLASSIFICATION ~~CONFIDENTIAL~~
SUBJECT Draft PDD [CONFIDENTIAL]
TO Boynton, Peter J.
CARBON_COPY NO CC's on THIS MESSAGE
TEXT_BODY

Peter --

Per your request, attached is the draft PDD that was sent out for comments.
I have incorporated Coast Guard's comments, but have received no other yet.

Thanks

[[REFPDD.DOC : 3169 in REFPDD.DOC]]

ATTACHMENT
FILE DATE

13 March 96 12:22

ATTACHMENT
FILE NAME

REFPDD.DOC
~~CONFIDENTIAL~~
~~CONFIDENTIAL~~
Classified by: Eric P. Schwartz
Reason: 1.5 (d)
Declassify on: 12/08/05

~~CONFIDENTIAL~~
~~CONFIDENTIAL~~
1. INTRODUCTION

The Government of the United States has a deep and abiding
interest
in developing policies on international migration issues that
seek to
protect individuals fleeing persecution and conflict while
maintaining the security of our borders.

Most importantly, such policies keep faith with our values as a
nation. The United States was founded as a refuge from tyranny
and
we have offered a haven for those fleeing repression throughout

DECLASSIFIED
E.O. 13526
White House Guidelines, September 11, 2006
By MS NARA, Date 3/28/16
2016 1034 F

our history. We further formalized our commitment to refugee protection through ratification of the International Protocol Relating to the Status of Refugees in 1967, and every U.S. Administration since then has endorsed the goals of the Protocol. We have also led international efforts to provide humanitarian assistance to the more than 20 million refugees and displaced persons worldwide.

Conversely, our darkest moments as a nation have been when we have abandoned the tradition of refugee protection, such as the 1939 decision by immigration officials to turn away the refugee ship St. Louis, resulting in the return to Europe of Jewish refugees, many of whom ultimately perished in Nazi death camps.

The United States also has important concerns in the areas of law enforcement and immigration control. Increased migration has resulted in unprecedented levels of asylum-seekers in Europe and North America in recent years. Effective measures to ensure against abuses are essential to avoid the dangers inherent in mass boat migration, to control irregular economic migration that imposes strains on domestic social services and to maintain public support for generous policies on refugee-related issues. To be sure, our worldwide efforts to promote democracy and the development of market economies, as well as our emphasis on political and ethnic reconciliation in states experiencing civil conflict, can help to limit the potential for refugee flight and large-scale migration.

Even under the best of circumstances, however, we will continue to witness such outflows and need to be prepared to respond effectively.

In view of these factors, I am hereby articulating the policy of this Administration on refugee and international migration issues and tasking further efforts to implement our policy.

2. REFUGEE ASSISTANCE

□ Funding Level: We will continue efforts to provide between 20% and 25% of worldwide contributions to refugee emergencies, which roughly equates to our percentage of worldwide GDP.

□ Planning: We will undertake efforts to ensure that planning for refugee assistance is integrated into overall U.S. Government funding for humanitarian assistance. Detailed procedures for coordination will be promulgated in the forthcoming Presidential Review Directive on international humanitarian assistance.

3. REPATRIATION

□ Non-refoulement principle: The U.S. goal for most large-scale refugee populations should be repatriation to their homes as early as conditions allow this to be accomplished safely. We recognize that, even when conditions for return are deemed safe, some may continue to express fears of return. Such cases should be considered on a basis that recognizes the principle of non-refoulement and the right of those who express the need for protection to have claims heard.

□ International Programs: State, AID and DOD will augment support for both repatriation and for local integration by increased funding for economic and social development efforts to facilitate these durable solutions. We will be prepared to use traditional sources of refugee and migration funding for these purposes.

□ Domestic Programs: Justice and HHS will prepare proposals to encourage return of those who have been granted, but no longer require, temporary protection in the United States. The agencies will consider creation of an escrow fund into which such persons would make regular payments and from which they could draw upon return to their countries of origin.

4. OVERSEAS PROTECTION

□ Encouraging Other Governments: We will continue to encourage governments to adopt policies that do not result in the return of bonafide refugees to locations where they would have well-founded fears of persecution based on race, religion, nationality, membership in a social group or political opinion. We will also encourage governments not to summarily return asylum-seekers to situations of conflict.

□ International Programs: State will seek to strengthen and broaden the protection role of the UNHCR and our contributions to protection efforts. We will be prepared to devote resources from humanitarian, refugee and migration assistance funds to projects

designed to protect the rights of refugees and displaced persons.

These could include investigations of abuses such as forced movement, torture and killing of refugees.

☐ Internal Safe Haven in the Countries of Origin: While internal safe haven can play an important role in international protection, U.S. support for such a protection regime will be contingent on assurances of personal security for those expected to return or remain in their countries of origin.

5. REQUESTS FOR PROTECTION TO USG OFFICIALS OUTSIDE THE UNITED STATES

☐ Consideration of Requests: We reaffirm general United States guidance issued in 1972 regarding policy for dealing with requests

for asylum by foreign nationals: foreign nationals in international waters who request protection will have the opportunity to have that request considered by U.S. Government personnel and will not be arbitrarily or summarily returned to a location where he or she has a well-founded fear of persecution. Individuals in U.S. custody will be provided the opportunity to make such requests and, in general, U.S. officials will make reasonable efforts to ascertain the circumstances of departure.

☐ Guidance: The State Department will update and redistribute to all relevant agencies its 1972 administrative guidance, including sections dealing with handling asylum requests by persons within foreign jurisdictions.

☐ Screening: While we will consider any request for protection made

in international waters, in the case of migrants from refugee producing countries, it may be appropriate for U.S. officials to initiate status determination procedures to ensure against return of bonafide refugees. The Immigration and Naturalization Service,

in consultation with the State Department, will identify the circumstances under which we will initiate such status determination procedures and, in particular, will formulate a list

of countries whose internal conditions require that we initiate status determination procedures when migrants from those countries

are interdicted. INS, in conjunction with State, will also formulate status determination procedures applicable for each such situation.

6. MIGRATION MANAGEMENT, IMMIGRATION CONTROL AND PROTECTION

□ Illegal Immigration: Our broad-based effort to address illegal immigration, which includes enhanced efforts at the border, at sea, work-site enforcement, combating document fraud and reform of affirmative asylum, will continue to be directed by the Immigration Core Group chaired by the Domestic Policy Council staff.

□ Alien Smuggling: We will continue efforts initiated under PDD-9 to combat trafficking in migrants by criminal syndicates, while maintaining protection for bonafide refugees. When migrants interdicted by the Coast Guard have transited third countries, State will urge those governments to accept return of such migrants. State will also seek to obtain agreement from third countries to serve as staging areas for repatriation of smuggled aliens. State will seek reversal of Chinese Government restrictions on third country repatriation to China and on the involvement in repatriations by the International Organization for Migration. DOD will make available on a standby basis facilities at Wake Island and Guantanamo Bay, Cuba, to provide means for temporary holding and repatriation of smuggled migrants when use of third countries is not possible or practical. Justice will ensure that funding to support maritime interdiction, temporary holding, and repatriation is included in the FY 1997 budget request.

□ Expedited Exclusion at Ports of Entry: We will continue to seek legislation providing, in extraordinary migration situations, authority to impose expedited exclusion at ports of entry. We will continue to seek standing authority to impose expedited exclusion for migrants interdicted at sea. We will oppose legislative provisions that appear to conflict with the letter or spirit of Convention and Protocol obligations, such as time limits on applications for asylum, absence of review and detention of claimants who appear to have credible claims to asylum.

□ Regional Safe Haven: In efforts to provide protection for those fleeing persecution or conflict, we should seek to avoid mass economic boat migration that threatens widespread loss of life, taxes domestic social services and undermines public support for asylum and other forms of protection. For this reason, we will consider the option of regional safe havens outside the United States -- thus providing protection without the guarantee of U.S. resettlement -- in the case of large-scale migration close to our

shores of those who may be fleeing persecution or conflict. State will seek standby arrangements with governments in the region to maintain temporary safe havens. In addition, DOD will ensure a stand-by capacity at Guantanamo Bay, Cuba, for up to _____ migrants.

☐ Third Country Resettlement: We will also seek third country resettlement for refugees in circumstances where the prospect of asylum in the United States risks encouraging large-scale economic migration by boat. State will seek agreement from governments in the region, and will be willing to support financially, third country resettlement for boat migrants deemed to be refugees but for whom resettlement in the United States risks encouraging large-scale departures.

☐ Domestic Response to Immigration Emergency: The Justice Department will continue to review current plans to manage an immigration emergency in which large numbers of migrants enter the United States, including the capacity to provide for care and maintenance for such migrants

7. REFUGEE ADMISSIONS AND RESETTLEMENT

☐ Burden-Sharing: The U.S. does and should continue to play a unique leadership role in refugee resettlement, contributing on average about one-half of the third country resettlement places offered worldwide from countries of first asylum. We should use our position to ensure that resettlement needs are viewed as a shared international responsibility.

☐ Standards: Without abandoning historical commitments to affected communities, we should seek gradually to establish uniform standards of review for determining who has a well-founded fear of persecution in overseas refugee admissions processing.

☐ Priorities: With millions of refugees around the world, we have to make difficult judgments about who will or will not be considered for U.S. admission. Under these circumstances, our processing priorities should include: 1) UNHCR or Embassy-referred individual cases of compelling concern (particularly for security cases and vulnerable populations such as women at risk, torture victims, medically needy); 2) groups of special concern to be established as needed by nationality and based on UNHCR

recommendations or a determination that the USG has a particular interest and has concluded that specified individuals or groups are in need of and qualify for resettlement in the U.S. 3) spouses, unmarried sons and daughters and parents of persons permanently in the United States; 4) more distant relatives of persons permanently in the United States.

☐ In-country processing: In countries where human rights abuses are rampant, it is appropriate for the U.S. to consider in-country processing to ameliorate the situation while avoiding the magnet effect of admissions processing elsewhere. However, while in-country processing should be seen as alternative to flight, it should not be the only alternative for individuals seeking to flee persecution. In response to concerns raised by non-governmental organizations, State should report on means to enhance the security and safety of in-country processing operations.

☐ Presidential Authority: We will strongly oppose legislative attempts to limit the President's flexibility in determining refugee admissions numbers in any given year.

8. PROTECTION AND RESETTLEMENT OF CASES OF HUMANITARIAN CONCERN

There may be circumstances where aliens in the United States who have credible fears of return to abusive practices in their countries of origin are nonetheless ineligible for asylum or other measures of protection (such as Temporary Protected Status). Justice shall develop administrative procedures to provide protection for victims of abusive practices. Justice shall seek legislative authority to provide permanent legal status to those provided such protection.

9. COORDINATION AND ORGANIZATION

☐ Interagency Group: An interagency working group on international migration and refugee affairs with representatives at least at the Deputy Assistant Secretary level will meet periodically to discuss evolving migration issues. It will be chaired by NSC staff and include representatives of the Departments of State, Defense,

Justice/INS, DOT/Coast Guard and CIA.

☐ Report: The Secretary of State, in coordination with other concerned agencies, shall submit to me a report on the implementation of this directive in sixty days and annually thereafter.

Withdrawal/Redaction Marker

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M S M a i l

DATE-TIME 20 March 96 13:40
FROM Schwartz, Eric P.
CLASSIFICATION UNCLASSIFIED
SUBJECT FW: migrant iwg mtg [UNCLASSIFIED]
TO Boynton, Peter J.
CARBON_COPY NO CC's on THIS MESSAGE
TEXT_BODY

Let me go through the stuff first, over the next hour or so, then I'll let you know what I think.

Eric

From: Boynton, Peter J.
To: Schwartz, Eric P.
CC: /N, NonRecord at A1
Subject: migrant iwg mtg [UNCLASSIFIED]
Date: Wednesday, March 20, 1996 01:18 PM

Eric; I just met with Jim Puleo and Phylis Coven here in my office (following Rob's Cuba meeting today). When I met with Phylis on Monday, she and Jim decided it would be a good idea to get together prior to the iwg to iron out their views on the recommendations and what they as co-chairs needed to do during the iwg (i think i was acting in the capacity of referee...)

They would like to characterize tomorrow's meeting as being 'hosted' by NSC, but still co-chaired by them. Jim will fax their version of the agenda, I will get it to you. Here's what it will look like:

- Co-Chairs Introduction
- Co-Chairs Opening remarks
- NSC NSC views on IWG report
- Co-Chairs Taskings:
 - recommendations (status, who's lead, policy/resource issues)
 - formation of a Mexico sub-working group
- Co-Chairs Role of iwg (viewed as Coordinating Group for Migrant Trafficking)

I think we can do this in less than the two hours allocated. The intent of the taskings is to have the participants identify status/lead/etc in time for the next meeting of the iwg (which will be the larger group meeting at

State under the co-chairs). It will likely be scheduled in late April.

I would like to discuss with you the resource/policy issues, the role of the iwg, and the intel issue

do you have a slot of time available today??

tk

M S M a i l

DATE-TIME 21 March 96 11:04

FROM Joshi, M. Kay

CLASSIFICATION ~~CONFIDENTIAL~~

SUBJECT Cuba Cable [~~CONFIDENTIAL~~]

TO Schwartz, Eric P.

CARBON_COPY Baker, Jane E.
Letts, Kelly J.

TEXT_BODY

Eric: the Cuba cable re monitoring arrested migrant returnees has come in.
It is crosshatch 33410 -- due tomorrow.

DECLASSIFIED
E.O. 13526
White House Guidelines, September 11, 2006
By ML NARA, Date 3/28/16
2011-1039-F

M S M a i l

DATE-TIME 22 March 96 08:24
FROM Malley, Robert
CLASSIFICATION UNCLASSIFIED
SUBJECT Yet another package [UNCLASSIFIED]
TO Letts, Kelly J.
CARBON_COPY NO CC's on THIS MESSAGE
TEXT_BODY
Please check on letter, adding address,, etc. ALso, neither Rick, Eric, nor Bill has seen.
[[0364.DOC : 2060 in 0364.DOC]][[0364A.DOC : 2061 in 0364A.DOC]][[0364B.DOC : 2062 in 0364B.DOC]]
ATTACHMENT FILE DATE 22 March 96 8:22
ATTACHMENT FILE NAME 0364.DOC

Dear Representative Ros-Lehtinen:

Thank you for your letter concerning Cuban nationals in the Bahamas.

This Administration's policy has been focused on the promotion of safe, legal migration from Cuba. To date, these efforts have met with remarkable success, greatly reducing the number of Cubans who seek to reach our shores in unseaworthy rafts while providing significantly expanded opportunities for Cubans to come to the United States legally.

While I share your concern about the well-being of Cuban migrants

in
the Bahamas, to parole them into the United States would
undermine
our efforts. However, we have consistently urged all countries
in
the region, including the Bahamas, to adhere to their
international
obligations toward refugees. In particular, I firmly believe
that
refugees in need of protection should not be returned to Cuba.

Thank you for your interest in this matter.

Sincerely,

[Name/Title in Initial Caps]
[Title/Senate/House in Initial Caps]
[Organization/Position - Initial Caps]
[Address - Initial Caps]

**ATTACHMENT
FILE DATE**

21 March 96 18:59

**ATTACHMENT
FILE NAME**

0364A.DOC
0364
cc: Vice President
Chief of Staff

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: ANTHONY LAKE
JOHN HILLEY

SUBJECT: Response to Rep. Ros-Lehtinen Letter on Cuba

Purpose

To respond to a letter from Representative Ros-Lehtinen.

Background

Rep. Ros-Lehtinen has written to urge the United States to consider for parole Cuban migrants currently in the Bahamas.

RECOMMENDATION

That you sign the attached response to Representative Ros-Lehtinen.

Attachments

Tab A Response to Rep. Ros-Lehtinen

Tab B Incoming Correspondence

ATTACHMENT FILE DATE

22 March 96 8:10

ATTACHMENT FILE NAME

0364B.DOC
0364

March 22, 1996

ACTION

MEMORANDUM FOR ANTHONY LAKE

THROUGH: ERIC SCHWARTZ/RICHARD NUCCIO

FROM: ROB MALLEY

SUBJECT: Response to Ros-Lehtinen Letter on Cubans in Bahamas

Representative Ros-Lehtinen has written to urge the President to consider for parole into the United States Cuban migrants currently in the Bahamas.

Concurrence by: Bill Danvers

RECOMMENDATION

That you sign the attached memorandum to the President.

Attachments

Tab I Memorandum to the President

Tab A Response to Rep. Ros-Lehtinen

Tab B Incoming Correspondence

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M S M a i l

DATE-TIME 29 March 96 13:45
FROM Schwartz, Eric P.
CLASSIFICATION ~~SECRET~~
SUBJECT Cuba Migration Contingency Paper [~~SECRET~~]
TO Bass, Peter E.
Cicio, Kristen K.
Hall, Wilma G.
Veit, Katherine M.
Wiley, Mary C.
CARBON_COPY NO CC's on THIS MESSAGE
TEXT_BODY

Sandy:

Status of the Cuba migration contingency paper:

John White has seen the paper and has asked Slocombe to look it over and get back to White with comments before it is sent to us.

White knows you are eager for the paper but is not sending it before Slocombe's office has the chance to look it over.

I've got a call into Slocombe and am waiting to hear back.

You may wish to call Slocombe yourself -- or White. White returns tonight.

I will continue to pursue this with Slocombe and White's office until you call me off.

If you choose to call either of them on this, please let me know so I'm not unnecessarily double-tracking you.

Eric

DECLASSIFIED

E.O. 13526

White House Guidelines, September 11, 2006

By M NARA, Date 3/28/16

2016 1039-F

M S M a i l

DATE-TIME 30 March 96 12:15

FROM Schwartz, Eric P.

CLASSIFICATION UNCLASSIFIED

SUBJECT Mandelbaum's Essay in Foreign Affairs [UNCLASSIFIED]

TO Bass, Peter E.
Cicio, Kristen K.
Hall, Wilma G.
Schifter, Richard
Veit, Katherine M.
Wiley, Mary C.

CARBON_COPY Armstrong, Fulton T.
Bassett, Leslie A.
Benjamin, Daniel
Blinken, Antony J.
Dobbins, James F.
Gray, Wendy
Letts, Kelly J.
Lorin, Matthew E.
Malley, Robert
Schuker, Jill A.
Schwartz, Eric P.
Showalter, Victoria A.

TEXT_BODY

Tony/Sandy/Dick:

When I read Mandelbaum's Foreign Affairs piece, I thought his analysis of Haiti was sloppy and unfair. Based in part on my own work on the issue, I jotted down some quick reactions which I never bothered to share with you.

I now understand that Dick may be writing a rebuttal to the Mandelbaum essay. Thus I thought I'd show you what I wrote, for what it's worth.

Please note that my paper was not written with a view toward publication. Some of my points may be accurate but not necessarily the best ones to make in a public rebuttal.

[[HAITI110.DOC : 3102 in HAITI110.DOC]]

**ATTACHMENT
FILE DATE** 30 March 96 12:7

**ATTACHMENT
FILE NAME** HAITI110.DOC

MANDELBAUM'S ANALYSIS IS INCONSISTENT AND SCATTERED: DO
VALUES
MATTER OR NOT? SHOULD WE HAVE INTERVENED IN 1994 OR NOT?

I confess that I'm not sure I know where he comes out on these issues.

On the one hand, he claims that in Haiti in 1993, the case for intervention "was not even plausible." This echoes his general theme that "foreign policy as social work" is not sustainable.

On the other hand, he seems to suggest that the case for intervention was quite plausible, as he states that "Haiti, was, however, one place where an appeal to values might have generated support. ... A serious effort to put Haiti on a path toward decent politics and rational economics could have been presented as a good deed in the neighborhood at manageable cost and justified by the fact that America is a rich, powerful and generous country."

MMANDELBAUM MISCHARACTERIZES ADMINISTRATION POLICY
ON ENDING
REPRESSION

In suggesting at one point (and contradicting what appears to be a major theme of his essay) that a values-based approach that emphasized our desire to alleviate suffering might have made sense, he states that the Clinton Administration never tried to appeal to such values but, rather, when it came time to make the case for invading, fell back to the kinds of argument that had justified the use of force during the Cold War. In making his case, he quotes Brian Atwood, who apparently said that autocratic rule was "an assault on the progress toward democracy that has been made throughout the hemisphere."

While some of our rhetoric emphasized support for democracy within the hemisphere, it is silly to suggest that this quote of Brian's reflects a serious attempt by the Administration to base its actions

on Cold War rationales. Moreover, I'm not sure where Mandelbaum was during the summer-fall of 1994, but the notion that we were not appealing to values that relate to alleviation of suffering/good neighborliness, etc. is ludicrous. Our statements continually stressed these themes.

MANDELBAUM MISUNDERSTANDS ADMINISTRATION POLICY
CONCERNS ON
DIRECT
RETURN OF BOAT PEOPLE AND FAILS TO ADDRESS A CRITICAL
ISSUE

Mandelbaum suggests that the Clinton election campaign's opposition to direct return of boat people was another example of its desire to do foreign policy social work. This reflects a subtle but significant misunderstanding on Mandelbaum's part.

To be sure, Administration officials were uncomfortable with direct return (which we ultimately ended in June 1994). I saw this time and again in Administration meetings and papers circulated at the very highest level. However, this discomfort did not stem from the Administration's desire to change Haiti (as Mandelbaum implies), but rather from the implications of U.S. law enforcement personnel (i.e., the Coast Guard) engaging in the very controversial practice of direct return.

Did the issue of direct return of boat people involve moral considerations such as human rights? Of course.

Were our positions/actions on this particular issue a reflection of a desire to change Haiti (as Mandelbaum suggests they were)? I think not.

But in view of the migration dilemma we faced, restoring a modicum of humanity to the government of Haiti became a policy imperative if we wanted to avoid the unenviable choice between direct return on the one hand or the need to process many thousands of boat people

over
the long-term on the other.

Mandelbaum never confronts this issue frontally or addresses the implications or sustainability of a long-term policy of direct return to a repressive regime. I suppose one can infer from the rest of his essay that he believes a policy of direct return was sustainable, but that is a controversial and questionable view that he should have defended.

Again, the Administration's willingness to grapple with the issue of direct return was not foreign policy as social work (as Mandelbaum's piece wrongly assumes), as this issue is not about remaking another government, but rather about the acceptability of the actions of our own government and its law enforcement personnel.

M S M a i l

DATE-TIME 01 April 96 09:18
FROM Nuccio, Richard A.
CLASSIFICATION UNCLASSIFIED
SUBJECT What am I missing? [UNCLASSIFIED]
TO Malley, Robert
CARBON_COPY NO CC's on THIS MESSAGE
TEXT_BODY [[WGCUB.DOC : 2385 in WGCUB.DOC]]

**ATTACHMENT
FILE DATE** 1 April 96 9:18

**ATTACHMENT
FILE NAME** WGCUB.DOC

Inter-Agency Task Force on Cuba
Working Groups (4/1/96)

Working Group

Chair/Co-chair

Airspace Monitoring
Rob Malley (NSC)
Embargo Enforcement
Rick
Newcomb (OFAC)/ Mark Richards
(DOJ)
GTMO
Rob Malley (NSC)
Helms/Burton
Anne Patterson (State)
Inter-diction, Protection, Return
Eric Schwartz (NSC)
Migration
Talks
Anne Patterson (State)
Monitoring of Returned Migrants
Phyllis
Coven (INS)/ Anne Patterson
(State)

Support for the Cuban People
Mike Rannenberger (State)/
Peter Orr
(AID)

M S M a i l

DATE-TIME 02 April 96 08:23
FROM Malley, Robert
CLASSIFICATION ~~CONFIDENTIAL~~
SUBJECT PDD [~~CONFIDENTIAL~~]
TO Letts, Kelly J.
CARBON_COPY NO CC's on THIS MESSAGE
TEXT_BODY

Can you make copies of the attached for the 10:30 PDD meeting. (It is a revised version of the one you have)

[[REFPDD.DOC : 2114 in REFPDD.DOC]]

ATTACHMENT
FILE DATE 2 April 96 8:22

ATTACHMENT
FILE NAME ~~REFPDD.DOC~~
~~CONFIDENTIAL~~
~~CONFIDENTIAL~~
Classified by: Eric P. Schwartz
Reason: 1.5 (d)
Declassify on: 12/08/05

~~CONFIDENTIAL~~
~~CONFIDENTIAL~~
1. INTRODUCTION

The Government of the United States has a deep and abiding interest in developing policies on international migration issues that seek to protect individuals fleeing persecution and conflict while maintaining the security of our borders.

Most importantly, such policies keep faith with our values as a nation. The United States was founded as a refuge from tyranny and we have offered a haven for those fleeing repression throughout our history. We further formalized our commitment to refugee protection through ratification of the International Protocol Relating to

DECLASSIFIED

E.O. 13526

White House Guidelines, September 11, 2006

By Mr NARA, Date 3/26/16

2011-1039-F

the
Status of Refugees in 1967, and every U.S. Administration since
then
has endorsed the goals of the Protocol. We have also led
international efforts to provide humanitarian assistance to the
more
than 20 million refugees and displaced persons worldwide.

Conversely, our darkest moments as a nation have been when we
have
abandoned the tradition of refugee protection, such as the 1939
decision by immigration officials to turn away the refugee ship
St.
Louis, resulting in the return to Europe of Jewish refugees, many
of
whom ultimately perished in Nazi death camps.

The United States also has important concerns in the areas of law
enforcement and immigration control. Increased migration has
resulted in unprecedented levels of asylum-seekers in Europe and
North
America in recent years. Effective measures to ensure against
abuses are essential to avoid the dangers inherent in mass boat
migration, to control irregular economic migration that imposes
strains on domestic social services and to maintain public
support
for generous policies on refugee-related issues. To be sure, our
worldwide efforts to promote democracy and the development of
market
economies, as well as our emphasis on political and ethnic
reconciliation in states experiencing civil conflict, can help to
limit the potential for refugee flight and large-scale migration.

Even under the best of circumstances, however, we will continue
to
witness such outflows and need to be prepared to respond
effectively.

In view of these factors, I am hereby articulating the policy of
this Administration on refugee and international migration issues
and
tasking further efforts to implement our policy.

2. REFUGEE ASSISTANCE

□ Funding Level: We will continue efforts to provide between 20%
and 25% of worldwide contributions to refugee emergencies, which
roughly equates to our percentage of worldwide GDP.

□ Planning: We will undertake efforts to ensure that planning for refugee assistance is integrated into overall U.S. Government funding for humanitarian assistance. Detailed procedures for coordination will be promulgated in the forthcoming Presidential Review Directive on international humanitarian assistance.

3. REPATRIATION

□ Non-refoulement principle: The U.S. goal for most large-scale refugee populations should be repatriation to their homelands [INL/ICJ recommendation] as early as conditions allow this to be accomplished safely. We recognize that, even when conditions for return are deemed safe, some may continue to express fears of return. Such cases should be considered on a basis that recognizes the principle of non-refoulement and the right of those who express the need for protection to have claims heard.

□ International Programs: State, AID [and DOD -- JCS and OSD object as falling outside of mission; DoD has no statutory authority for these efforts.] will augment support for both repatriation and for local integration by increased funding for economic and social development efforts to facilitate these durable solutions. DoD programs for humanitarian relief may be available to support repatriation and local integration efforts. [OSD suggestion] We will be prepared to use traditional sources of refugee and migration funding for these purposes.

□ Domestic Programs: Justice and HHS will prepare proposals to encourage return of those who have been granted, but no longer require, temporary protection in the United States. The agencies will consider creation of an escrow fund into which such persons would make regular payments and from which they could draw upon return to their countries of origin.

4. OVERSEAS PROTECTION

□ Encouraging Other Governments: We will continue to encourage governments to adopt policies that do not result in the return of bonafide refugees to locations where they would have well-founded fears of persecution based on race, religion, nationality, membership in a social group or political opinion. We will also encourage governments not to summarily return asylum-seekers to situations of conflict.

□ International Programs: State will seek to strengthen and broaden the protection role of the UNHCR and our contributions to

protection efforts. We will be prepared to devote resources from humanitarian, refugee and migration assistance funds to projects designed to protect the rights of refugees and displaced persons.

These could include investigations of abuses such as forced movement, torture and killing of refugees.

☐ Internal Safe Haven in the Countries of Origin: While internal safe haven can play an important role in international protection,

U.S. support for such a protection regime will be contingent on assurances of personal security for those expected to return or remain in their countries of origin. [State/PRM cautions that UNHCR, among others, has strong reservations]

5. REQUESTS FOR PROTECTION TO USG OFFICIALS OUTSIDE THE UNITED STATES

☐ Consideration of Requests: We reaffirm general United States guidance issued in 1972 regarding policy for dealing with requests

for asylum by foreign nationals: foreign nationals in international waters who request protection will have the opportunity to have that request considered by U.S. Government personnel and will not be arbitrarily or summarily returned to a location where he or she has a well-founded fear of persecution. Individuals in U.S. custody will be provided the opportunity to make such requests and, in general, U.S. officials will make reasonable efforts to ascertain the circumstances of departure. [State/PRM suggestion: Rewrite to clarify distinctions based on whether migrants close to U.S. shores or not]

☐ Guidance: The State Department will update and redistribute to all relevant agencies its 1972 administrative guidance, including sections dealing with handling asylum requests by persons within foreign jurisdictions.

☐ Screening: While we will consider any request for protection made

in international waters, in the case of migrants from refugee producing countries, it may be appropriate for U.S. officials to initiate status determination procedures to ensure against return of bonafide refugees. [State/PRM suggests we clarify distinctions

based on whether migrants are close to our shores] The Immigration

and Naturalization Service, in consultation with the State Department, will identify the circumstances under which we will initiate such status determination procedures and, in particular, will formulate a list of countries whose internal conditions

require that we initiate status determination procedures when migrants from those countries are interdicted. As appropriate, the

Departments of Defense and Transportation will be consulted on operational feasibility prior to the execution of status determination procedures. [JCS suggestion]. INS, in conjunction with State, will also formulate status determination procedures applicable for each such situation. [INL/ICJ comments that this section appears to apply to practice with respect to Cubans. If there will be variations in screening practices, believes they should be noted]

6. MIGRATION MANAGEMENT, IMMIGRATION CONTROL AND PROTECTION

□ **Illegal Immigration:** Our broad-based effort to address illegal immigration, which includes enhanced efforts at the border, at sea, work-site enforcement, combating document fraud and reform of affirmative asylum, will continue to be directed by the Immigration Core Group chaired by the Domestic Policy Council staff.

□ **Alien Smuggling:** We will continue efforts initiated under PDD-9 and the President's Executive Memorandum of February 7, 1995 [INL/ICJ suggestion] to combat trafficking in migrants by criminal syndicates, while maintaining protection for bonafide refugees. When migrants interdicted by the Coast Guard have transited third countries, State will urge those governments to accept return and repatriation [INL/ICJ suggestion] of such migrants, as appropriate [INL/ICJ]. State will also seek to obtain agreement from third countries to serve as staging areas for repatriation of smuggled aliens. State will seek reversal of Chinese Government restrictions on third country repatriation to China and on the involvement in repatriations by the International Organization for Migration. [DOD will make available on a standby basis facilities at Wake Island and Guantanamo Bay, Cuba, to provide means for temporary holding and repatriation of smuggled migrants when use of third countries is not possible or practical.] [JCS wants to delete this entire sentence -- argues specific guidance of this type is inappropriate in a PDD and DOD facilities are in any event available for crisis response when so directed. Finally, argues that this would obligate DOD facilities for use in unfunded activities]. [OSD suggests alternative: DoD may, on a case by case basis, make facilities available to provide

shelter for smuggled migrants pending their repatriation, when use of third countries is not possible or practical, subject to interagency agreement and consistent with other operational requirements]. Justice will ensure that funding to support maritime interdiction, temporary holding, and repatriation is included in the FY 1997 budget request and that the Immigration Emergency Fund is maintained at the authorized level [INL/ICJ].

☐ Expedited Exclusion at Ports of Entry: We will continue to seek legislation providing, in extraordinary migration situations, authority to impose expedited exclusion at ports of entry. We will continue to seek standing authority to impose expedited exclusion for migrants interdicted at sea. We will oppose legislative provisions that appear to conflict with the letter or spirit of Convention and Protocol obligations, such as time limits on applications for asylum, absence of review and detention of claimants who appear to have credible claims to asylum.

☐ Regional Safe Haven: In efforts to provide protection for those fleeing persecution or conflict, we should seek to avoid mass economic boat migration that threatens widespread loss of life, taxes domestic social services and undermines public support for asylum and other forms of protection. For this reason, we will consider the option of regional safe havens outside the United States -- thus providing protection without the guarantee of U.S. resettlement -- in the case of large-scale migration close to our shores of those who may be fleeing persecution or conflict. State will seek standby arrangements with governments in the region to maintain temporary safe havens. [State/PRM comments that this raises funding issues]

In addition, DOD will ensure a stand-by capacity at Guantanamo Bay, Cuba, for up to _____ migrants. [JCS suggests deleting this sentence for same reason as above].

☐ Third Country Resettlement: We will also seek third country resettlement for refugees in circumstances where the prospect of asylum in the United States risks encouraging large-scale economic migration by boat. State will seek agreement from governments in the region, and will be willing to support financially, third country resettlement for boat migrants deemed to be refugees but for whom resettlement in the United States risks encouraging large-scale departures. [State/PRM comments that this raises resources issues; also comments distinction should be made according to whether migrants are close to our shores]

☐ Domestic Response to Immigration Emergency: The Justice Department will continue to review current plans to manage an immigration emergency in which large numbers of migrants enter the United States, including the capacity to provide for care and maintenance for such migrants

7. REFUGEE ADMISSIONS AND RESETTLEMENT

☐ Burden-Sharing: The U.S. does and should continue to play a unique leadership role in refugee resettlement, contributing on average about one-half of the third country resettlement places offered worldwide from countries of first asylum. We should use our position to ensure that resettlement needs are viewed as a shared international responsibility.

☐ Standards: Without abandoning historical commitments to affected communities, we should seek gradually to establish uniform standards of review for determining who has a well-founded fear of persecution in overseas refugee admissions processing.

☐ Priorities: With millions of refugees around the world, we have to make difficult judgments about who will or will not be considered for U.S. admission. Under these circumstances, our processing priorities should include: 1) UNHCR or Embassy-referred individual cases of compelling concern (particularly for security cases and vulnerable populations such as women at risk, torture victims, medically needy); 2) groups of special concern to be established as needed by nationality and based on UNHCR recommendations or a determination that the USG has a particular interest and has concluded that specified individuals or groups are in need of and qualify for resettlement in the U.S. 3) spouses, unmarried sons and daughters and parents of persons permanently in the United States; 4) more distant relatives of persons permanently in the United States.

☐ In-country processing: In countries where human rights abuses are rampant, it is appropriate for the U.S. to consider in-country processing to ameliorate the situation while avoiding the magnet effect of admissions processing elsewhere. However, while in-country processing should be seen as alternative to flight, it should not be the only alternative for individuals seeking to

flee
persecution. In response to concerns raised by non-governmental
organizations, State should report on means to enhance the
security and safety of in-country processing operations.
[State/PRM cautions against promising more than can be delivered
in
light of sovereignty concerns of states in which programs would
be
undertaken]

☐ Presidential Authority: We will strongly oppose legislative
attempts to limit the President's flexibility in determining
refugee admissions numbers in any given year.

8. PROTECTION AND RESETTLEMENT OF CASES OF HUMANITARIAN CONCERN

There may be circumstances where aliens in the United States who
have credible fears of return to abusive practices in their
countries
of origin are nonetheless ineligible for asylum or other measures
of
protection (such as Temporary Protected Status). Justice shall
develop administrative procedures to provide protection for
victims
of abusive practices. Justice shall seek legislative authority
to
provide permanent legal status to those provided such protection.

9. COORDINATION AND ORGANIZATION

☐ Interagency Group: An interagency working group on
international
migration and refugee affairs with representatives at least at
the
Deputy Assistant Secretary level will meet periodically to
discuss
evolving migration issues that implicate cross-cutting agency
interests . It will be chaired by NSC staff and include
representatives of the Departments of State, Defense,
Justice/INS,
DOT/Coast Guard and CIA. State/PRM maintains lead
responsibility
for U.S. refugee admission program].

☐ Report: The Secretary of State, in coordination with other
concerned agencies, shall submit to me a report on the
implementation of this directive in sixty days and annually
thereafter.

10. MIGRATION DIPLOMACY [State/PRM suggestion]

☐ Objectives: State and DOJ/INS will pursue the following objectives in international migration fora:

-- to encourage states which have not acceded to the 1951 Convention on the Status of Refugees or the 1967 Protocol to do so, and to adopt appropriate national legislation to implement agreements;

-- to encourage respect for the human rights of migrants, regardless of legal status;

-- to establish humane and efficient migration control regimes, including, as appropriate, legal quota migration;

-- to cooperate with other states to combat illegal immigration;

-- to encourage peaceful resolution of migration-related conflicts among states.

POSSIBLE NSC ADDITIONS:

☐ Add humanitarian category to Refugee Act, e.g., for cases where UNHCR determines there is a need for protection (children, victims of violence).

☐ Modification of procedures for refugee programs in emergency situations to increase flexibility and speed of processing.

M S M a i l

DATE-TIME 02 April 96 16:40

FROM Schwartz, Eric P.

CLASSIFICATION ~~SECRET~~

SUBJECT Cuba: Migration Contingency Paper [~~SECRET~~]

TO Bass, Peter E.
Cicio, Kristen K.
Hall, Wilma G.
Veit, Katherine M.
Wiley, Mary C.

CARBON_COPY Malley, Robert
Nuccio, Richard A.

TEXT_BODY

Sandy:

John White has the paper we asked DOD to prepare.

He is not prepared to release it.

You should call him.

Eric

DECLASSIFIED
E.O. 13526
White House Guidelines, September 11, 2006
By ML NARA, Date 2/28/16
201-1034-8

M S M a i l

DATE-TIME 10 April 96 14:58
FROM Cicio, Kristen K.
CLASSIFICATION ~~SECRET~~
SUBJECT FW: Cuba Migration [~~SECRET~~]
TO Schwartz, Eric P.

CARBON_COPY Bass, Peter E.
Cicio, Kristen K.
Hall, Wilma G.
Letts, Kelly J.
Malley, Robert
Veit, Katherine M.
Wiley, Mary C.

TEXT_BODY

Eric,

Sandy notes..."Spoke to John. He's not happy with what he received but will send it to me in draft. I'll let you know."

Kris

From: Schwartz, Eric P.
To: @NSA - Nat'l Security Advisor
CC: /R, Record at A1; Malley, Robert
Subject: Cuba Migration [~~SECRET~~]
Date: Wednesday, April 10, 1996 11:30 AM

Sandy:

Did you contact Dr. White about the DOD paper on contingency options? (As I told you, he was not prepared to release it.)

Do you need me to do anything more on this?

Eric

DECLASSIFIED
E.O. 13526
White House Guidelines, September 11, 2006
By NI NARA, Date 3/28/16
101-1039-F

M S M a i l

DATE-TIME 12 April 96 17:54
FROM Malley, Robert
CLASSIFICATION ~~CONFIDENTIAL~~
SUBJECT Cuba -- Migrants [~~CONFIDENTIAL~~]
TO Bass, Peter E.
Cicio, Kristen K.
Hall, Wilma G.
Veit, Katherine M.
Wiley, Mary C.
CARBON_COPY Bendick, Gordon L.
Burrell, Christina L.
Danvers, William C.
Davis, William K.
Dobbins, James F.
Schwartz, Eric P.
TEXT_BODY
Please pass to SB

Congressman Torricelli's office has been calling Rick Nuccio, and he passed on the calls to me. He is obviously concerned about our continuing to return migrants to Cuba, given the situation in the aftermath of the shutdown. He is particularly concerned about the fate of those migrants who had prior illegal exit charges. I anticipate that Cong. Torricelli himself will be in touch with the WH on this matter.

As you know, our policy is to return Cuban migrants except those who:

- a) are found to have a credible fear of persecution; or
- b) would face the risk of punishment for a prior violation of Cuba's illegal exit laws. The GOC recently assured us that it would NOT take any action against returnees with pending illegal exit charges, even those who had escaped from prison. We are awaiting a formal, written assurance from the GOC before taking this into account. Accordingly, some 24 Cubans remain at GTMO.

DECLASSIFIED
E.O. 13526
White House Guidelines, September 11, 2006
By MM NARA, Date 3/28/16
2011-10397

M S M a i l

DATE-TIME 16 April 96 12:25
FROM Malley, Robert
CLASSIFICATION UNCLASSIFIED
SUBJECT package [UNCLASSIFIED]
TO Letts, Kelly J.
CARBON_COPY NO CC's on THIS MESSAGE
TEXT_BODY
Kelly,

Welcome back. Enjoy the package . . .

[[2429.DOC : 3130 in 2429.DOC]][[2429A.DOC : 3131 in 2429A.DOC]][[2429B.DOC : 3132 in 2429B.DOC]]

**ATTACHMENT
FILE DATE** 15 April 96 19:34

**ATTACHMENT
FILE NAME** 2429.DOC

Dear Representative Ros-Lehtinen:

Thank you for your letter regarding the Cuban Adjustment Act.

While we have taken significant steps in the last two years to regularize migration from Cuba to the United States, I believe that our country needs to retain the flexibility to respond to possible immigration emergencies. In particular, and until such time as the Cuban people live in a free society, the United States must be able

to address changing conditions in Cuba in a manner that promotes our central goal of a peaceful transition to democracy.

The Cuban Adjustment Act provides precisely such flexibility. Therefore, my Administration has strongly opposed the provision in S. 269, the Immigration Control and Financial Responsibility Act of 1996, to repeal the Cuban Adjustment Act.

Thank you for your interest in this matter.

Sincerely,

[Name/Title in Initial Caps]
[Title/Senate/House in Initial Caps]
[Organization/Position - Initial Caps]
[Address - Initial Caps]

**ATTACHMENT
FILE DATE**

16 April 96 12:20

**ATTACHMENT
FILE NAME**

2429A.DOC
2429
cc: Vice President
Chief of Staff

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: ANTHONY LAKE
JOHN HILLEY

SUBJECT: Response to Representative Ros-Lehtinen Letter on
Cuba

Purpose

To respond to a letter from Representative Ros-Lehtinen on the

Cuban
Adjustment Act.

Background

A provision in the Senate immigration bill, S-369, would repeal the Cuban Adjustment Act (CAA) which enables the Attorney General to adjust the status of Cubans who are admitted or paroled into the United States and have resided in the U.S. for one year.

Although steps the Administration has taken with respect to immigration from Cuba (principally the decision to return migrants to Cuba) have lessened the importance of the CAA, the Administration has publicly opposed its repeal. The CAA continues to provide the United States with necessary flexibility to address potential migration contingencies.

Representative Ros-Lehtinen wrote to urge you to support the CAA.

Your proposed response indicates that the Administration has opposed the provision in S-369 that would repeal it.

RECOMMENDATION

That you sign the attached response to Representative Ros-Lehtinen.

Attachments

Tab A Response to Representative Ros-Lehtinen

Tab B Incoming Correspondence

**ATTACHMENT
FILE DATE**

16 April 96 12:23

**ATTACHMENT
FILE NAME**

2429B.DOC
2429

April 16, 1996

ACTION

MEMORANDUM FOR ANTHONY LAKE

THROUGH: ERIC SCHWARTZ

FROM: ROB MALLEY

SUBJECT: Response to Rep. Ros-Lehtinen Letter on Cuba

Representative Ros-Lehtinen wrote to the President to urge him to support the Cuban Adjustment Act. A provision in the Senate immigration bill would repeal the Act.

Concurrence by: Fulton Armstrong; Bill Danvers

RECOMMENDATION

That you sign the attached memorandum to the President.

Attachments

Tab I Memorandum to the President

Tab A Response to Rep. Ros-Lehtinen

Tab B Incoming Correspondence

M S M a i l

DATE-TIME 26 April 96 08:57
FROM Malley, Robert
CLASSIFICATION UNCLASSIFIED
SUBJECT package [UNCLASSIFIED]
TO Letts, Kelly J.
CARBON_COPY NO CC's on THIS MESSAGE
TEXT_BODY
Thanks!
[[CUPOTUS.DOC : 2110 in CUPOTUS.DOC]][[CUPOTUS2.DOC : 2111 in CUPOTUS2.DOC]][[CUPOTUS3.DOC : 2112 in CUPOTUS3.DOC]]
ATTACHMENT FILE DATE 26 April 96 8:55
ATTACHMENT FILE NAME CUPOTUS.DOC
cc: Vice President
Chief of Staff

INFORMATION

MEMORANDUM FOR THE PRESIDENT

FROM: ANTHONY LAKE

SUBJECT: Cuba-related Issues for April 29 Visit to Miami

This memorandum provides background on a variety of Cuba-related matters that might come up during your April 29 trip to Miami. Talking points are attached at Tab A.

I. Migration Issues

United States policy since May 2, 1995 balances the need to discourage Cubans from attempting to reach the U.S. unlawfully

and at great risk to their lives against our reluctance to return Cubans to a country that violates human rights. To address both concerns, we return (and closely monitor their treatment in Cuba) Cubans interdicted at sea and Cubans entering Guantanamo, with two exceptions: (1) Cubans who would face persecution if returned; (2) Cubans who would face imprisonment for prior violation of Cuba's "illegal exit" law. We recently received assurances in writing by the Cubans that they would drop pending charges against 18 named individuals we had kept at Guantanamo. As a result, they were returned to Cuba. This decision has been criticized by some members of the Cuban-American community.

II. Human Rights

Over the past several months, Cuba has cracked down on human rights activists, in particular members of the Concilio Cubano. The Concilio is a broad coalition of pro-human rights, pro- democracy activists. Last week, the United Nations Human Rights Commission (UNHRC) approved by a wide margin a U.S.-sponsored resolution criticizing Cuba's human rights record.

III. Cuban-American Flotilla

On May 1, the Cuban government is planning a massive labor day rally. In response, some Cuban-Americans are planning to set out in vessels and possibly aircraft just outside Cuban territory. This could lead to a tense situation at the 12-mile line. Coast Guard assets will be on hand to assist any flotilla member in need and to inform participants when they are approaching Cuban waters. Similar events have taken place over the last two months, principally to honor the victims of the shootdown; this has resulted in increased U.S.-Cuba tension.

IV. Compensation to Families of Victims of Shootdown

In response to the Cuban shootdown of two U.S. aircraft, you

announced that compensation would be provided to the families of the victims. Senator Graham and several of the families recently have raised this issue. The Department of Treasury and the Justice Department are taking final steps to enable compensation.

V. Helms-Burton

Some members of Congress and of the Cuban-American community are waiting for clear signals that we will vigorously implement the more controversial provisions of the Helms-Burton bill -- Title III, that will subject to suit any entity that "traffics" in property expropriated by Cuba; and Title IV, that would deny entry into the U.S. to such "traffickers." Both Titles have been strongly criticized by the international community, which has asked that you use your authority to suspend Title III.

VI. Relocation of Radio-Marti

The Continuing Resolution mandates the relocation of Radio and TV Marti from Washington, D.C. to south Florida. The Administration quietly opposed the move which has been urged by Jorge Mas and his supporters; others in the Cuban-American community fear it will undermine the credibility of the Martis. The provision is somewhat ambiguous as to the timing and extent of the relocation.

Attachment
Tab A Talking Points

**ATTACHMENT
FILE DATE**

26 April 96 8:49

**ATTACHMENT
FILE NAME**

CUPOTUS2.DOC

Talking Points

I. Migration Issues

☐ U.S. policy is to discourage illegal, unsafe migration from Cuba

while encouraging legal migration.

□ Policy extremely successful in (1) preserving integrity of our borders; (2) saving lives that would have been lost at sea; (3) providing protection for genuine refugees; and (4) aggressively monitoring treatment of returnees.

□ Recent return of Cubans from Guantanamo consistent with policy. They were returned only once we received assurances in writing and by individual name that all charges and sentences for prior illegal exit would be dropped

□ We will closely monitor their treatment and take action if Cubans failed to honor their commitments.

II. Human Rights

□ Like downing of U.S. aircraft, Cuban harsh crackdown demonstrates lack of respect for human rights and regime's fear of free expression.

□ Human rights activists in Cuba are courageous heroes fighting to help promote peaceful change.

□ Vote at UNHRC to condemn Cuba demonstrates the Cuban regime's growing isolation in the world community.

III. Cuban-American Flotilla

□ Respect for Americans, and particularly Cuban-Americans, who honor the memory of the victims of shootdown or peacefully reach out to victims of repression in Cuba.

□ USG message since Cuba's lawless act has been consistent: To Cuba, we will not tolerate further loss of lives Americans; to those who would seek to violate Cuban waters or airspace, we will vigorously enforce our laws.

IV. Compensation to Families of Victims of Shootdown

☐ Victims of Cuba's lawless act must inspire us to redouble efforts to help Cuban people build democratic society.

☐ Families of victims deserve justice.

☐ As I stated on February 26, the USG will use Cuba's blocked accounts to do what it can to bring a measure of justice to the families of the victims.

V. Helms-Burton

☐ Worked with the Congress to ensure passage of a strong, bipartisan bill that tightens the economic embargo in a way that will promote peaceful change in Cuba.

☐ U.S. policy combines tough economic embargo against Cuban regime with effort to reach out to the Cuban people.

☐ Administration is taking steps to vigorously implement the bill.

[If asked about suspension of Title III]

☐ Consistent with the legislation, decision on suspension will be made based on whether it would be in the national interest and would expedite a transition to democracy in Cuba.

VI. Relocation of Radio and TV Marti

☐ Radio Marti plays central role in providing Cubans access to information.

☐ All the more important given current situation in Cuba.

☐ Should be careful to ensure that relocation does not disrupt this unique source of objective information at this critical time.

**ATTACHMENT
FILE DATE**

26 April 96 8:53

**ATTACHMENT
FILE NAME**

CUPOTUS3.DOC

April 26, 1996

ACTION

MEMORANDUM FOR ANTHONY LAKE

THROUGH: ERIC SCHWARTZ/JIM DOBBINS

FROM: ROB MALLEY

SUBJECT: Cuba-related Issues for President's April 29 Visit
to Miami

Attached at Tab I is a memorandum to the President on a number of Cuba-related issues that might arise during his April 29 visit to Miami. Corresponding talking points are attached at Tab A.

RECOMMENDATION

That you sign the attached memorandum to the President.

Attachments

Tab I Memorandum to the President

Tab A Talking Points

M S M a i l

DATE-TIME 01 May 96 15:19
FROM Schwartz, Eric P.
CLASSIFICATION UNCLASSIFIED
SUBJECT FW: Cuban adjustment act [UNCLASSIFIED]
TO Malley, Robert
CARBON_COPY NO CC's on THIS MESSAGE
TEXT_BODY

___OK

From: Malley, Robert
To: Dobbins, James F.; Schwartz, Eric P.; @PRESS - Public Affairs;
@LEGISLAT-Legislative Affairs
CC: /R, Record at A1
Subject: Cuban adjustment act [UNCLASSIFIED]
Date: Wednesday, May 01, 1996 08:25 AM

[[CAA2.DOC : 3862 in CAA2.DOC]]

Attached is a rough draft statement on yesterday's Senate vote re. Cuban Adjustment Act.

I wrote this up just in case -- might not be appropriate.

Please let me know.

**ATTACHMENT
FILE DATE** 1 May 96 8:24

**ATTACHMENT
FILE NAME** CAA2.DOC

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release May 1, 1996

STATEMENT BY THE PRESS SECRETARY

The President strongly supports the vote by the Senate to maintain the Cuban Adjustment Act. While the Administration has made significant progress in encouraging safe, orderly, and legal migration from Cuba, the President believes that the United States must retain the ability to react rapidly to unforeseen conditions that might arise due to the oppressive nature of the Cuban regime. The amendment sponsored by Senator Bob Graham maintains this flexibility by keeping the Cuban Adjustment Act in place until such time as the Cuban people live in a free and democratic society. The broad support enjoyed by the amendment is another demonstration of continued bipartisan unity on United States policy toward Cuba.

M S M a i l

DATE-TIME 30 May 96 09:29

FROM Malley, Robert

CLASSIFICATION UNCLASSIFIED

SUBJECT package [UNCLASSIFIED]

TO Letts, Kelly J.

CARBON_COPY NO CC's on THIS MESSAGE

TEXT_BODY

Attached is a package; it contains a memorandum from the POTUS to Sec. of State (I don't know exact format)

I will have to discuss content with Eric, but in the meantime could you set it up?

Thanks

[[3717.DOC : 2305 in 3717.DOC]][[3717A.DOC : 2306 in 3717A.DOC]][[3717B.DOC : 2307 in 3717B.DOC]]

ATTACHMENT FILE DATE 30 May 96 8:47

ATTACHMENT FILE NAME 3717.DOC
3717
cc: Vice President
Chief of Staff

ACTION

MEMORANDUM FOR THE PRESIDENT

THROUGH: THE EXECUTIVE CLERK

FROM: ANTHONY LAKE
JOHN HILLEY

SUBJECT: FY 1997 Refugee Admission Numbers

Purpose

To determine the number and allocation of refugees authorized for admission in the United States in FY 1997.

Background

Pursuant to the Immigration and Nationality Act, you are required to present to the Congress the Administration's proposals for refugee admissions during the coming year. After receiving the views of the Congress, a final determination shall be made for FY 1997. The proposed overall ceiling on refugee admissions reflects budgetary considerations; the regional breakdown is based on projections and specific statutory provisions.

For FY 1997, the State Department is recommending a total ceiling of 78,000, which contrasts with a ceiling of 90,000 in FY 1996. Regions experiencing the most significant drop are East Asia (reflecting the near-completion of resettlement from first-asylum camps in Southeast Asia) and Latin America and the Caribbean, where we fell short of projected admissions FY 1996. The proposal also includes 3,000 slots that will become available if needed for Vietnamese and Bosnian refugees.

Attached at Tab A is a proposed Memorandum to the Secretary of State authorizing consultations with Congress on FY 1997 admissions. Tab B presents the proposed admissions allocation. Tab 3 describes the various programs.

RECOMMENDATION

That you sign the Memorandum to the Secretary of State.

Approve _____

Disapprove _____

Attachments
Tab A Memorandum to the Secretary of State
Tab B Admissions Table
Tab C FY 1997 Program Description

**ATTACHMENT
FILE DATE** 30 May 96 9:10

**ATTACHMENT
FILE NAME** 3717A.DOC

MEMORANDUM FOR THE SECRETARY OF STATE

SUBJECT: FY 1997 Refugee Admissions Consultations

In accordance with Section 207 of the Immigration and Nationality Act (INA), you are authorized to consult with the appropriate committees of the Congress concerning refugee admissions as follows:

1. The authorization of 78,000 refugee admissions during FY 1997, which would be allocated by specific region as follows: 7,000 for Africa; 10,000 for East Asia; 4,000 for Latin America and the Caribbean; 4,000 for the Near East; 48,000 for the former Soviet Union and Eastern Europe; 2,000 for Unallocated Reserve; and an additional 3,000 to be made available if needed, particularly for Vietnamese of Bosnian refugees, and if necessary funding can be identified within existing appropriations for the Departments of State and Health and Human Services.
2. The authorization of an additional 10,000 refugee admission numbers to be made available for the adjustment to permanent resident status of persons who have been granted asylum in the United States.
3. The designation, pursuant to section 101(a)(42)(B) of the INA, of persons in Cuba, Vietnam, and the former Soviet Union who, if they

otherwise qualify for admission as refugees, may be considered refugees under the INA even though they are still within their country of nationality or habitual residence.

cc: The Attorney General
The Secretary of Health and Human Services

ATTACHMENT
FILE DATE

30 May 96 9:24

ATTACHMENT
FILE NAME

3717B.DOC
3717

May 30, 1996

ACTION

MEMORANDUM FOR ANTHONY LAKE

THROUGH: ERIC SCHWARTZ

FROM: ROB MALLEY

SUBJECT: FY 1997 Refugee Admission Numbers

Attached at Tab I is a Memorandum to the President recommending that he sign the Memorandum to the Secretary of State on FY 1997 numbers and allocation of refugee admissions. The decline in the refugee admissions ceiling (from 90,000 in FY 1996 to 78,000 in FY 1997) reflects budgetary constraints. The overall numbers and regional allocations were earlier circulated to all regional directorates for comment.

Concurrence by: Alan Kreczko

RECOMMENDATION

That you sign the attached memorandum to the President

Attachments

Tab I Memorandum to the President

Tab A Proposed Memorandum to the Secretary of State

Tab B Admissions Table

Tab C FY 1997 Program Description

M S M a i l

DATE-TIME 04 June 96 20:53
FROM Malley, Robert
CLASSIFICATION UNCLASSIFIED
SUBJECT Haitian migrants [UNCLASSIFIED]

TO Cullin, Brian P.
Fetig, James L.
Johnson, David T.
Naplan, Steven J.
Schuker, Jill A.
Wozniak, Natalie S.

CARBON_COPY Armstrong, Fulton T.
Baker, James E.
Bass, Peter E.
Beers, Rand R.
Bell, Robert G.
Bendick, Gordon L.
Boynton, Peter J.
Brown, Dallas
Burrell, Christina L.
Cicio, Kristen K.
Clarke, Richard A.
Danvers, William C.
Davis, William K.
Dobbins, James F.
Hall, Wilma G.
Hunerwadel, Joan S.
Kreczko, Alan J.
Malley, Robert
Rice, Susan E.
Schwartz, Eric P.
Sheehan, Michael A.
Sigler, Ralph
Simon, Steven N.
Sparks, John E.
Veit, Katherine M.
Wiley, Mary C.

TEXT_BODY

Background:

A freighter containing 65 Haitian migrants entered U.S waters on June 4. The freighter entered into U.S. internal waters before it was intercepted and boarded by Coast Guard. Based on one precedent and the exceptional

circumstances of this case, DoJ and INS have concluded that the freighter had actually entered the US and therefore that the migrants should be placed in exclusion proceedings (as opposed to being directly repatriated to Haiti). They will be detained and -- unless they can show a credible fear of return -- promptly returned to Haiti.

Points

This matter should be referred to INS for questions.

(If needed, the important points that should to be made are the following:

- The migrants were placed in exclusion proceedings upon the conclusion of the Department of Justice and the INS that this was required by law.
- This is not a change in policy. The facts of the case are exceptional and dictated the legal outcome.
- All migrants will be detained and placed in exclusion proceedings.
- As has been the case in the past, they will be promptly returned to Haiti if they are not determined to be bona fide refugees.

M S M a i l

DATE-TIME 14 June 96 10:28

FROM Malley, Robert

CLASSIFICATION UNCLASSIFIED

SUBJECT Guidance on Cuban migration [UNCLASSIFIED]

TO Cullin, Brian P.
Fetig, James L.
Johnson, David T.
Naplan, Steven J.
Schuker, Jill A.
Wozniak, Natalie S.

CARBON_COPY Bass, Peter E.
Cicio, Kristen K.
Dobbins, James F.
Hall, Wilma G.
Schwartz, Eric P.
Veit, Katherine M.
Wiley, Mary C.

TEXT_BODY

Attached is guidance on the Al Kamen's piece

[[CUBMIG2.DOC : 2582 in CUBMIG2.DOC]]

**ATTACHMENT
FILE DATE** 14 June 96 10:28

**ATTACHMENT
FILE NAME** CUBMIG2.DOC

Cuban Migration

-- The United States remains fully committed to protecting Cuban refugees.

-- We are confident that no migrant with a credible fear of persecution is returned to Cuba.

-- Cuban migrants interdicted at sea are rigorously screened to ensure that anyone with a credible fear of persecution is not returned to Cuba.

-- All migrants interdicted at sea have an opportunity to speak with INS officials about any concerns they might have about returning to Cuba.

-- U.S. officials in Cuba closely monitor the treatment of returned migrants and visit them in their homes throughout the island.

-- U.S. also conducts in-country refugee processing in Cuba, one of only three such programs in the world.

-- Policy has been remarkably successful in providing protection to genuine refugees while discouraging dangerous outflow of migrants in unseaworthy vessels and promoting safe and legal migration.

☐ More legal migrants entered the U.S. from Cuba in the past 18 months than in the six previous years combined;

☐ At the same time, fewer migrants are being interdicted at sea by Coast Guard than at any time since the late 1980s.

-- As a result, many lives that would have been lost at sea have been saved, and many families separated for decades across the Florida straits have been safely reunited in the United States.

Number of Cuban migrants returned under the accords

-- Since May 2, 1995, 342 Cubans migrants have been returned to Cuba.

-- Generally satisfied that the Cuban government has lived up to its commitment not to take any action against returned migrants as a consequence of their attempts to leave Cuba.

-- 32 migrants have been found to have a credible fear of persecution. They have not been returned to Cuba, but rather resettled in third countries or, in exceptional cases, paroled into the U.S.

M S M a i l

DATE-TIME 03 July 96 08:48
FROM Schwartz, Eric P.
CLASSIFICATION ~~CONFIDENTIAL~~
SUBJECT FW: [CONFIDENTIAL]
TO Letts, Kelly J.
Malley, Robert
Ragan, Richard F.
Schwartz, Eric P.
CARBON_COPY NO CC's on THIS MESSAGE
TEXT_BODY

Rob:

Here's the cable forgot to send it

DIST: ARMSTRONG, BASSETT, BROWN, CLARKER, DOBBINS, EDDY,
MALLEY, RAGAN,
SCHWARTZ, SHEEHAN, WECHSLER, NSC

PREC: ROUTINE CLASS: UNCLASSIFIED DTG:011154Z JUL 96

FM: AMEMBASSY NASSAU

TO:
RUEHPU/AMEMBASSY PORT AU PRINCE 0754
RUEHC/SECSTATE WASHC 0185

RUEAWJB/INS MIAMI FL
RUCTFOA/MARINCEN MIAMI FL
RUCBSAA/USCINCLANT NORFOLK VA
RULSJGA/COMDT COGARD WASHDC//G-OLE//
RUEHUB/USINT HAVANA 1379
RUEHDG/AMEMBASSY SANTO DOMINGO 0051
RUEHGV/USMISSION GENEVA 0479
RUDMGRD/COGARD INTELCOORDCEN WASHDC
RHEVAZZ/CJTF ONE EIGHT ZERO
RUEHWN/AMEMBASSY BRIDGETOWN 2577
RUCTFOA/CCGDSEVEN MIAMI FL//OLE/CC/OII//
RUEHLO/AMEMBASSY LONDON 2145
RUCBSAA/USCINCOM NORFOLK VA

DECLASSIFIED
E.O. 13526
White House Guidelines, September 11, 2006
By *[signature]* NARA, Date *3/28/16*
2011-1039-F

RUEHKG/AMEMBASSY KINGSTON 4987
RUDJARD/COMLANTAREA COGARD NEW YORK NY//AO/AI//
RULYSGG/CTU 44.7.4
RUEBWJA/USINS WASHDC

UNCLAS NASSAU 001635

SENSITIVE

E.O. 12958: N/A

TAGS: CVIS, SMIG, PHUM, PREL, HA, TK

SUBJECT: TURKS AND CAICOS GETS TOUGH ON HAITIANS

REF: (A) PORT AU PRINCE 4617 (B) STATE 133527

1. IMMIGRATION OFFICIALS OF THE TURKS AND CAICOS ISLANDS (TCI) ESTIMATE THERE ARE ABOUT 7000 HAITIANS LIVING IN TCI IN ADDITION TO THE APPROXIMATELY 15,000 NATIVES OF THE ISLANDS. OF THE HAITIAN POPULATION, 5000 ARE BELIEVED TO BE ILLEGAL.

2. NASSAU'S NEWLY ARRIVED VISA CHIEF CALLED THE OFFICE OF IMMIGRATION IN GRAND TURK TO INTRODUCE HIMSELF AND TO LEARN MORE ABOUT THE FUTURE OF HAITIANS THERE, SINCE TCI'S RESIDENT HAITIANS, LEGAL AND ILLEGAL, OFTEN APPLY IN NASSAU FOR VISAS TO VISIT THE UNITED STATES. THE IMMIGRATION OFFICIAL WITH WHOM CONOFF SPOKE WAS CLEAR THAT ALL THE HAITIANS WHO COME TO TCI SEE IT AS A WAY STATION TO THE UNITED STATES.

3. THE IMMIGRATION OFFICIAL CONFIRMED THE INFORMATION CONTAINED REF A, STATING THAT AS MANY AS 300 UNDOCUMENTED

HAITIANS HAVE BEEN REPATRIATED IN SMALL PLANES TO HAITI SINCE THE WEEKEND OF JUNE 22-23. CONOFF WAS TOLD THAT REPATRIATIONS WILL CONTINUE, WITH SCREENINGS BY THE INTERNATIONAL ORGANIZATION FOR MIGRATION (IOM), UNTIL ALL UNDOCUMENTED HAITIANS ARE REMOVED FROM TCI. THE OFFICIAL'S APPARENT BELIEF THAT IOM HAS AGREED TO SCREEN REPATRIATES SEEMS AT ODDS WITH THE STATEMENTS MADE BY AN IOM EMPLOYEE REPORTED REF B.

4. HAITIANS WITH BONA FIDE WORKING PAPERS IN THE TURKS AND CAICOS WILL NOT BE DEPORTED. HOWEVER, THE IMMIGRATION OFFICIAL TOLD CONOFF THAT THE MINISTRY HAS RECENTLY BEGUN REFUSING THE RENEWAL OF "A LOT" OF HAITIANS' WORK PERMITS, AND IN THE FUTURE WORK PERMITS

WILL BE HARDER FOR THEM TO GET. ONLY HAITIANS WHO HAVE REEN LEGALLY IN TCI AT LEAST TEN YEARS CAN BREATHE SOMEWHAT EASILY.

5. ASKED WHETHER SIMILARLY LARGE NUMBERS OF CUBANS ARE ARRIVING IN TCI, THE OFFICIAL SAID THAT CURRENTLY, THEY WERE NOT. A FEW CUBANS WHO HAD ARRIVED EARLIER ARE SETTTLING IN WELL, HE SAID.

6. COMMENT: FROM A CONSULAR POINT OF VIEW, THE MESSAGE RECEIVED BY CONOFF IS THAT THE FUTURE OF TCI'S HAITIAN COMMUNITY IS LOOKING RATHER UNSTABLE. THE OFFICIAL TO WHOM CONOFF SPOKE WAS UNABLE TO GUESS AT THE LEVEL OF UNEMPLOYMENT IN TCI, BUT GAVE THE IMPRESSION THAT IT IS CONSIDERABLE. AS AN EXAMPLE, THE DISTRAUGHT MOTHER OF A 1996 TCI HIGH SCHOOL GRADUATE RECENTLY CALLED CONOFF ASKING ABOUT THE POSSIBILITY OF A WORK VISA FOR THE UNITED STATES, SINCE SHE RATED THE LOCAL EMPLOYMENT POSSIBILITIES FOR HER SON AS NIL. WILLIAMS

SECT SECTION: 01 OF 01
SSN 1635
TOR 960702163704 M2297611

FROM:
SITREPR

From: Schwartz, Eric P.
To: Malley, Robert
CC: /R, Record at A1
Subject: [CONFIDENTIAL]
Date: Wednesday, July 03, 1996 08:46 AM

Rob:

Please find out: what kind of screening is done, and how does it comport with UK obligations under Protocol?

Eric

M S M a i l

DATE-TIME 08 July 96 08:05

FROM Malley, Robert

CLASSIFICATION UNCLASSIFIED

SUBJECT Cuba - migrants [UNCLASSIFIED]

TO Armstrong, Fulton T.
Dobbins, James F.
Malley, Robert

CARBON_COPY Bass, Peter E.
Cicio, Kristen K.
Hall, Wilma G.
Schwartz, Eric P.
Veit, Katherine M.
Wiley, Mary C.

TEXT_BODY

Yesterday, Coast Guard intercepted 3 boats containing roughly 12-15 Cuban migrants. Two of the boats appeared to be traveling together.

Three smugglers appear to have been involved. The inter-agency will consider whether we wish to prosecute the smugglers or return them to Cuba.

M S M a i l

DATE-TIME 10 July 96 12:35

FROM Davis, William K.

CLASSIFICATION UNCLASSIFIED

SUBJECT cuba rafters [UNCLASSIFIED]

TO Armstrong, Fulton T.
Dobbins, James F.
Malley, Robert

CARBON_COPY Bassett, Leslie A.
Bendick, Gordon L.
Burrell, Christina L.
Danvers, William C.
Davis, William K.
Kinser-Kidane, Brenda J.
Letts, Kelly J.
Melton, Stephen D.
Natoli, Kim M.
Piccone, Theodore J.
Ragan, Richard F.
Schwartz, Eric P.

TEXT_BODY

Jim, Rob:

I just received a call from Marisol Rodriguez in Sen. Bob Graham's Miami district office who says she has heard 3 reports that people in Cuba are massing rafts and planning an exodus "between the expiration of the migration accord and its renewal" in August. She has heard this from a woman who is here from Cuba on a visitor's visa who reports her husband and son are preparing to leave as well as a report from another part of the island where people have been seen constructing rafts. She requests we get back to her on the credibility of this rumor. I'd be happy to call her if you folks can provide some guidance. thanks

M S M a i l

DATE-TIME 12 August 96 16:48
FROM Armstrong, Fulton T.
CLASSIFICATION UNCLASSIFIED
SUBJECT Cuban Seaborne Migrants [UNCLASSIFIED]
TO Bass, Peter E.
Cicio, Kristen K.
Hall, Wilma G.
Veit, Katherine M.
Wiley, Mary C.
CARBON_COPY Armstrong, Fulton T.
Dobbins, James F.
Malley, Robert
Natoli, Kim M.
Schwartz, Eric P.
TEXT_BODY
for SANDY

Coast Guard today has picked up 27 Cuban rafters 25 miles south of Key West. They were aboard what is being described as a fiberglass raft. Two other migrants previously paddled off to "get help" but haven't been found yet. Pleasure boaters spotted the dead bodies of two other rafters, which Coast Guard is going to retrieve. INS officer aboard the cutter will conduct asylum pre-screening as soon as situation permits. Unless the rafters demonstrate credible threat of persecution if returned to Cuba, they will be repatriated in accordance with current policy.

Miami media are already abuzz with the story. Brothers to the Rescue are in the air -- flight plan says they intend to fly to the "northern edge of Cuban airspace" -- possibly to help find the missing rafters.

M S M a i l

DATE-TIME 19 July 96 09:35
FROM Sparks, John E.
CLASSIFICATION UNCLASSIFIED
SUBJECT RE: USCG and GTMO [UNCLASSIFIED]
TO Malley, Robert
CARBON_COPY Baker, James E.
Hunerwadel, Joan S.
Kreczko, Alan J.
Sparks, John E.

TEXT_BODY

cleared w/ edits[[THIRDCN2.DOC : 2347 in THIRDCN2.DOC]]

From: Malley, Robert
To: Sparks, John E.
CC: /R, Record at A1; Armstrong, Fulton T.; Boynton, Peter J.
Subject: RE: USCG and GTMO [UNCLASSIFIED]
Date: Thursday, July 18, 1996 07:00 PM

<<Attached File: THIRDCN2.DOC>>
<<Attached File: THIRDCNT.DOC>>

John --

This is the package I propose sending up, subject to Kantor's opinion (but we should press him to agree, if this is acceptable to you).

I would like to move ASAP, as the numbers at GTMO are getting to be much too high.

Please send me your comments and suggestions. Thanks

From: Sparks, John E.
To: Malley, Robert
CC: /R, Record at A1; @LEGAL - Legal Advisor
Subject: USCG and GTMO [UNCLASSIFIED]
Date: Thursday, July 18, 1996 04:27 PM

You may have heard that the Coast Guard is still resisting the OLC interpretation of removal authority re the 3d country nationals at GTMO. I've talked w/ OLC who say that it may take a formal opinion from them to

resolve the issue. Unfortunately, this process is formal and it's fairly long and drawn out. But it would require CG to fully brief their side of the issue. This seems to defeat the goal of prompt action to remove these folks at GTMO.

I have a call in for Capt Kantor, but I'll be leaving today by 5:00. Any ideas other than seeking formal OLC opinion?

**ATTACHMENT
FILE DATE**

19 July 96 8:56

**ATTACHMENT
FILE NAME**

THIRDCN2.DOC

July 18, 1996

ACTION

MEMORANDUM FOR ANTHONY LAKE

THROUGH: ERIC SCHWARTZ

FROM: ROB MALLEY

SUBJECT: Repatriation of Third-Country Nationals from
Guantanamo

Background: Four third-country nationals currently are being held at Guantanamo -- two Indians, a Jordanian, and a Hungarian. They came from Cuba during the 1994 rafting crisis and have been at GTMO for roughly two years. Although they do not wish to return to their countries of origin, they have been found by INS not to have credible fears of persecution. The four are travel-ready.

The legal obstacle: All agencies involved assert that they lack the legal authority to repatriate migrants who were brought to Guantanamo. As a result, this issue has been mired in inter-agency discussions over the past several months. We asked OLC for an informal opinion on this issue; it concludes that the Coast Guard (CG)

has the authority -- derived from President Bush's Executive Order -- to repatriate the migrants. However, CG is challenging this interpretation, which it views as setting the dangerous precedent that it is responsible for repatriating all intercepted aliens. Given CG's position, OLC informs us that the process for having a formal OLC opinion issued could take several weeks.

Proposed course of action: Because of the significant amount of time the migrants have spent at GTMO, and because of the importance of reducing the population on the base prior to the onset of rafting season, we propose to address the underlying legal question at a later stage. For now, we would request the CG to delegate to the INS the authority it possesses in this specific case to repatriate the third-country nationals. To meet CG's concerns, we would specify that this course of action did not constitute a precedent for future cases. The inter-agency is comfortable with this course of action.

Concurrence by: Fulton Armstrong; John Sparks; Peter Boynton

RECOMMENDATION

That you authorize Andrew Sens to sign the attached memorandum.

Attachment

Tab A Memorandum from Andrew Sens

M S M a i l

DATE-TIME 19 July 96 10:14
FROM Malley, Robert
CLASSIFICATION UNCLASSIFIED
SUBJECT package [UNCLASSIFIED]
TO Letts, Kelly J.
CARBON_COPY NO CC's on THIS MESSAGE
TEXT_BODY

Please circulate for concurrence -- I would like to get this out today.
John Sparks has seen and concurs -- I will sign for him. Fulton and Peter
should be quick.

Thanks

[[THIRDCN2.DOC : 2608 in THIRDCN2.DOC]][[THIRDCNT.DOC : 2609 in
THIRDCNT.DOC]]

**ATTACHMENT
FILE DATE** 19 July 96 10:2

**ATTACHMENT
FILE NAME** THIRDCN2.DOC

July 18, 1996

ACTION

MEMORANDUM FOR ANTHONY LAKE

THROUGH: ERIC SCHWARTZ

FROM: ROB MALLEY

SUBJECT: Repatriation of Third-Country Nationals from
Guantanamo

Background: Four third-country nationals currently are being held

at
Guantanamo -- two Indians, a Jordanian, and a Hungarian. They
came
from Cuba during the 1994 rafting crisis and have been at GTMO
for
roughly two years. Although they do not wish to return to their
countries of origin, they have been found by INS not to have
credible
fears of persecution. The four are travel-ready.

The legal obstacle: All agencies involved assert that they lack
the
legal authority to repatriate migrants who were brought to
Guantanamo. As a result, this issue has been mired in
inter-agency
discussions over the past several months. We asked OLC for an
informal opinion on this issue; it concludes that the Coast Guard
(CG)
has the authority -- derived from President Bush's Executive
Order
-- to repatriate the migrants. However, CG is challenging this
interpretation, which it views as setting the dangerous precedent
that it is responsible for repatriating all intercepted aliens.
Given CG's position, OLC informs us that the process for having a
formal OLC opinion issued could take several
weeks.

Proposed course of action: Because of the significant amount of
time the migrants have spent at GTMO, and because of the
importance
of reducing the population on the base prior to the onset of
rafting
season, we propose to address the underlying legal question at a
later stage. For now, we would request the CG to delegate to the
INS
the authority it possesses in this specific case to repatriate
the
third-country nationals. To meet CG's concerns, we would specify
that this course of action did not constitute a precedent for
future
cases. The inter-agency is comfortable with this course of
action.

Concurrence by: Fulton Armstrong; John Sparks; Peter Boynton

RECOMMENDATION

That you authorize Andrew Sens to sign the attached memorandum.

Attachment
Tab A Memorandum from Andrew Sens

ATTACHMENT
FILE DATE

19 July 96 10:13

ATTACHMENT
FILE NAME

THIRDCNT.DOC

MEMORANDUM FOR

MR. WILLIAM J. BURNS
Executive Secretary
Department of State

COL. ROBERT P. MCALEER
Executive Secretary
Department of Defense

MR. JAMES G. MCADAMS, III
Counsel for Intelligence
Policy
Department of Justice

COL. F. C. WILSON, USMC
Secretary, Joint Staff

CAPTAIN V. S. CREA, USCG
Executive Assistant to the
Commandant (G-C)
U.S. Coast Guard

SUBJECT: Repatriation of Third-Country Nationals from
Guantanamo

Agencies are requested to pursue the following course of action
to
address in an expeditious manner the issue of the four

third-country
nationals currently at Guantanamo:

1. Coast Guard will delegate to the Immigration and Naturalization Service (INS) the authority it has in this specific case to escort the four country nationals to their respective countries of origin. This procedure does not constitute a precedent applicable to future repatriation operations.
2. The State Department will bear the cost of transportation for the four third-country nationals. The cost of transportation for the escort will be borne by INS.

Andrew D. Sens
Executive Secretary

M S M a i l

DATE-TIME 19 July 96 17:04
FROM Schwartz, Eric P.
CLASSIFICATION UNCLASSIFIED
SUBJECT FW: Haitian migrant agreement [UNCLASSIFIED]
TO Letts, Kelly J.
Malley, Robert
Ragan, Richard F.
Schwartz, Eric P.
CARBON_COPY NO CC's on THIS MESSAGE
TEXT_BODY

Rob:

If it is, it's our issue. Please discuss with Peter.

Eric

From: Boynton, Peter J.
To: Brown, Dallas; Clarke, Richard A.; Schwartz, Eric P.
CC: /R, Record at A1; Eisenhower, James J.; Verville, Elizabeth G.
Subject: Haitian migrant agreement [UNCLASSIFIED]
Date: Friday, July 19, 1996 04:10 PM

Item for Haiti Excom?

Although for many years the USG had a migrant interdiction agreement with Haiti, we no longer do (and have not for some time now).

At a Caribbean migrant briefing at Justice on Wednesday chaired by Seth Waxman, Coast Guard briefed that we have not presented a new migrant agreement to GOH because State thought the timing was not right.

There are two implications of not having a migrant agreement with Haiti:

- First, repatriations are done on a "no objection" basis. This seems to be working OK, but we have nothing else to rely on (at least with the prior agreement, there was a six month waiting period from the time one of the parties decided to abrogate before the agreement - including the basis for repatriation - lapsed).
- Second, and most importantly, CG authority to board Haitian flag vessels is limited in the absence of an agreement. The prior agreement authorized CG boardings of Haitian flag vessels in international waters.

Now, the CG can board if the vessel is grossly overloaded on the basis of SOLAS (safety of life at sea), but if not so overloaded as to make the vessel unseaworthy, the CG must then rely on one of two options: The CG can ask for the master's CONSENT TO BOARD, but the master can refuse. If that fails, the CG can ask for flag state permission. While GOH is likely to agree, it may take too much time. As an example, there was a comparable drug interdiction case involving a Haitian flag vessel last December, and GOH permission to board came quickly, but it took DAYS to get GOH permission to seize and arrest. If that happened in a migrant case that was anywhere near Florida (but still in international waters), then the CG could be faced with having to just follow the Haitian vessel into the Miami river.

Is the Haiti Excom an appropriate forum for the CG to present the case that we should draft and present to the GOH a new migrant interdiction agreement? (Dallas, CG poc is Capt Tony Tangeman at 267-1890)

tk

M S M a i l

DATE-TIME 24 July 96 10:39
FROM Malley, Robert
CLASSIFICATION ~~CONFIDENTIAL~~
SUBJECT package [~~CONFIDENTIAL~~]
TO Letts, Kelly J.
CARBON_COPY NO CC's on THIS MESSAGE

TEXT_BODY

One dot, please! (and if Eric doesn't sign it out by 3:00 today, I'll do it for him. Thanks)

[[CUBTORI2.DOC : 2608 in CUBTORI2.DOC]][[CUBTORIC.DOC : 2609 in CUBTORIC.DOC]]

ATTACHMENT
FILE DATE

24 July 96 10:38

ATTACHMENT
FILE NAME

~~CUBTORI2.DOC~~
~~CONFIDENTIAL~~
~~CONFIDENTIAL~~
Classified by: Malley
Reason: 1.5(d)
Declassify On: 7/24/06

~~CONFIDENTIAL~~
~~CONFIDENTIAL~~

July 24, 1996

ACTION

MEMORANDUM FOR SANDY BERGER

THROUGH: ERIC SCHWARTZ

FROM: ROB MALLEY

SUBJECT: Cuban Migrants at Guantanamo

Per your request, attached is a memorandum from you to Leon Panetta

DECLASSIFIED

E.O. 13526

White House Guidelines, September 11, 2006

by NARA, Date 3/28/11

2011-1039-F

concerning the six Cuban migrants mentioned by Representative Torricelli.

Concurrence by: Bill Danvers; Fulton Armstrong

RECOMMENDATION

That you sign the attached memorandum to Leon Panetta

Attachment
Tab I Memorandum to Leon Panetta

ATTACHMENT
FILE DATE

24 July 96 10:35

ATTACHMENT
FILE NAME

CUBTORIC.DOC
~~CONFIDENTIAL~~
~~CONFIDENTIAL~~
Classified by: Malley
Reason: 1.5(d)
Declassify On: 7/24/06

~~CONFIDENTIAL~~
~~CONFIDENTIAL~~

July 24, 1996

MEMORANDUM FOR LEON PANETTA

FROM: SAMUEL BERGER

SUBJECT: Cuban Migrants at Guantanamo

In your meeting with Representative Torricelli, he raised the issue of six Cubans who arrived at Guantanamo after allegedly evading arrest by the Cuban police.

☐ The six Cubans had left Cuba on a prior occasion and come to Guantanamo. They had charges pending against them in Cuba for earlier attempts at illegal exit. We decided not to return them until the Cuban government provided us with assurances that the charges would be dropped and no action taken against them. These assurances were received, and a group of migrants including the six was returned on April 24, 1996.

□ Despite these assurances, at least one of the migrants (not among the six) was arrested in Cuba subsequent to his return. There also are reports, mentioned by Representative Torricelli, that another three returnees have been detained. Our Interest Section in Havana is looking into these allegations and the State Department has requested information from the Cuban government. If confirmed, these arrests would constitute unusual violations of the migration accords to which the Cubans generally have adhered.

□ The six migrants claim they were about to be arrested when they made it (for a second time) to Guantanamo. The Immigration and Naturalization Service questions the credibility of their account.

□ However, in light of the detention of one and possibly four returnees, we have decided not to return the six until all these cases have been resolved to our satisfaction.

□ In the event Cuba neither released the detainees nor provided a legitimate justification for their arrest (e.g., criminal conduct subsequent to their return) we would not repatriate the six. Instead, we would seek to resettle them in third countries.

M S M a i l

DATE-TIME 01 August 96 17:01
FROM Malley, Robert
CLASSIFICATION UNCLASSIFIED
SUBJECT package [UNCLASSIFIED]
TO Letts, Kelly J.
CARBON_COPY NO CC's on THIS MESSAGE
TEXT_BODY
Thanks:

[[4984.DOC : 4352 in 4984.DOC]][[4984A.DOC : 4353 in 4984A.DOC]][[
4984B.DOC : 4354 in 4984B.DOC]]

**ATTACHMENT
FILE DATE** 1 August 96 11:15

**ATTACHMENT
FILE NAME** 4984.DOC

Dear Bob:

I am writing in response to your letter concerning four Cubans who recently arrived at the Guantanamo Naval Base.

As you know, the United States considers Cuba's "illegal exit" and "illegal entry" laws to be inconsistent with international law and basic human rights principles. As a result, we have not returned migrants charged with violating these laws absent assurances from the Cuban government that no action would be taken against them. On the

basis of such assurances, a group of migrants facing migration-related charges -- including the four mentioned in your letter -- were returned to Cuba last April.

Since that time, at least one individual from this group has been imprisoned; our Interest Section in Havana also is investigating the

possibility that action might have been taken against others.

This

is a very serious matter, and my Administration has insisted that the

Cuban government resolve this situation immediately. Let me assure

you that none of the Cubans to which you refer will be returned if

these cases are not resolved to our satisfaction.

While I am deeply concerned by reports of harrassment against some

returned migrants, I remain convinced that our accords have been remarkably successful. More legal migrants have entered the United

States from Cuba in the past eighteen months than in the six previous

years combined. Fewer migrants are being interdicted by the Coast

Guard than at any time since the late 1980s. And we have continued

both to provide protection to Cubans with a credible fear of persecution and to monitor closely the treatment of all returned migrants.

Thank you for your interest in this matter.

Sincerely,

[Name/Title in Initial Caps]

[Title/Senate/House in Initial Caps]

[Organization/Position - Initial Caps]

[Address - Initial Caps]

ATTACHMENT
FILE DATE

1 August 96 16:55

ATTACHMENT

FILE NAME

4984A.DOC
4984
cc: Vice President
Chief of Staff

ACTION**MEMORANDUM FOR THE PRESIDENT**

FROM: ANTHONY LAKE
JOHN HILLEY

SUBJECT: Letter from Representative Torricelli Regarding
Cuban Migrants at Guantanamo

Purpose

To respond to a letter from Representative Torricelli urging you to grant political asylum to four Cubans.

Background

A number of Cubans who have arrived at Guantanamo over the past few months had charges pending in Cuba for violation of Cuba's migration laws prohibiting unauthorized exit from or entry into the island.

Because we consider these "illegal exit" and "illegal entry" laws to be inconsistent with international law, we have refused to return migrants facing such charges absent assurances from the Cuban government that no action would be taken against them. Last April, we received such assurances and returned a number of Cubans with pending charges.

Representative Torricelli has written about four migrants who were among this group and have now fled to Guantanamo for a second time. He alleges that they faced harassment and possible imprisonment

in
Cuba and urges you to grant them political asylum in the United States.

The Immigration and Naturalization Service has interviewed these migrants and found their accounts to lack credibility. However, in light of the detention of one and possibly more of the migrants we returned in April -- in apparent breach of the assurances the Cuban government had provided -- we have decided not to return the four until these cases have been resolved to our satisfaction.

The proposed response states that we will not return the four migrants absent satisfactory resolution of these cases. At the same time, it affirms your belief that the migration accords have been successful.

RECOMMENDATION

That you sign the attached response at Tab A.

Attachments
Tab A Proposed Response
Tab B Incoming Correspondence

**ATTACHMENT
FILE DATE**

1 August 96 16:47

**ATTACHMENT
FILE NAME**

4984B.DOC
4984

July 31, 1996

ACTION

MEMORANDUM FOR ANTHONY LAKE

THROUGH: ERIC SCHWARTZ/JIM DOBBINS

FROM: ROB MALLEY

SUBJECT: Response to Representative Torricelli Letter on
Cuban Migrants at Guantanamo

Representative Torricelli has written to the President urging him
to
grant political asylum to four Cuban migrants currently at
Guantanamo.

Concurrence by: Bill Danvers

RECOMMENDATION

That you sign the attached memorandum to the President.

Attachments

Tab I Memorandum to the President

Tab A Proposed Response

Tab B Incoming Correspondence

M S M a i l

DATE-TIME 13 August 96 15:07
FROM Armstrong, Fulton T.
CLASSIFICATION UNCLASSIFIED
SUBJECT Cuba migrants [UNCLASSIFIED]
TO Schwartz, Eric P.
CARBON_COPY NO CC's on THIS MESSAGE
TEXT_BODY
Have fun.
[[CUBA.DOC : 3892 in CUBA.DOC]]
ATTACHMENT
FILE DATE 13 August 96 15:6
ATTACHMENT
FILE NAME CUBA.DOC

for SANDY for Eric Schwartz and Fulton Armstrong

As you'll recall, Coast Guard yesterday picked up 27 Cuban rafters and the bodies of two drowned rafters -- an unrelated 16-month-old girl and 47-year-old woman -- about 25 miles south of Key West. The 27 remain aboard a cutter. The two bodies were brought to the Marathon because the vessel that picked them up did not have proper storage facilities. (Two other rafters -- described only as fair-haired and poor speakers of Spanish -- paddled away from the raft to seek help and have not been found.)

The grandfather of the deceased infant has stated publicly that he wants the funeral held in Miami, and he wants the surviving parents and aunt (who are aboard the cutter) to be allowed to attend -- essentially paroling them into the U.S. It is likely that the family of the deceased woman will make a similar request. Miami media have given the grandfather's appeal tremendous publicity; at this

point,
pressure to allow the family members into the U.S. appears likely to
continue growing. AG Reno -- who wants to do the "appropriate humanitarian" thing -- wants a decision by tomorrow. She feels that
allowing the families in would not have a significant magnet effect,
although the inter-agency unanimously believes that it could send the
wrong message to the Cuban government and other would-be migrants.

Given the backing the request is gaining, it would appear that the
best that we can do is ensure that our message of commitment to the
migration accords not get lost in the noise. State Department expressed concern about allowing the families in and believes that any
such decision must be accompanied by a strong restatement of our commitment to the May 2 accord. We agree. If possible, we should time the family members' arrival to coincide with repatriation of all
the other rafters. INS will not receive readouts of the protection
interviews until tomorrow but is confident determinations can be made
within a day or two -- presumably around the time a funeral would take place. (Justice's guidance today is simply that we remain committed to the May 2 accord and that no decisions have yet been taken on the status of the rafters.) ARA will discuss the matter with Tarnoff later this afternoon, so you may get a call.

Two other issues might complicate matters:

-- Several of the rescued rafters have injuries -- mostly complications arising from coral lacerations -- and may have to be
medevaced to the U.S. for emergency treatment. A girl has a serious
leg injury. They can't be taken to GTMO; standard procedure is to
get them to the nearest hospital.

-- DOJ may want to investigate this as a possible alien-smuggling case. The participation of the two unidentified men who left the
rafter and a Coast Guard intell report on the presence of a go-fast

boat in the area the night before have raised suspicions. If DOJ decides to pursue the case, all of the rafters may have to be taken to GTMO for interviews as witnesses.

Another PD-27 is scheduled for 10:00 tomorrow morning to take stock of the situation.

M S M a i l

DATE-TIME 13 August 96 20:30
FROM Cicio, Kristen K.
CLASSIFICATION UNCLASSIFIED
SUBJECT FW: Cuban Migrants [UNCLASSIFIED]
TO Armstrong, Fulton T.

CARBON_COPY Bass, Peter E.
Cicio, Kristen K.
Dobbins, James F.
Hall, Wilma G.
Kinser-Kidane, Brenda J.
Natoli, Kim M.
Piccone, Theodore J.
Pyatt, Geoffrey R.
Veit, Katherine M.
Wiley, Mary C.

TEXT_BODY

Fulton,

SRB says..."Let's discuss Wednesday"...

From: Armstrong, Fulton T.
To: @NSA - Natl Security Advisor
CC: /R, Record at A1; Schwartz, Eric P.; @CUBA - Cuban Affairs
Subject: Cuban Migrants [UNCLASSIFIED]
Date: Tuesday, August 13, 1996 03:52 PM

for SANDY from Eric Schwartz and Fulton Armstrong

As you'll recall, Coast Guard yesterday picked up 27 Cuban rafters and the bodies of two drowned rafters -- an unrelated 16-month-old girl and 47-year-old woman -- about 25 miles south of Key West. The 27 remain aboard a cutter. The two bodies were brought to Florida because the vessel that picked them up did not have proper storage facilities.

The Florida-based grandfather of the deceased infant has stated publicly that he wants the funeral held in Miami, and he wants the surviving parents and aunt (who are aboard the cutter) to be allowed to attend. It is likely that the family of the deceased woman will make a similar request. Miami media have given the grandfather's appeal tremendous publicity; at this point, pressure to allow the family members into the U.S. appears likely to continue growing. AG Reno -- who wants to do the "appropriate humanitarian" thing -- wants a decision by tomorrow. She feels that allowing the families

in would not have a significant magnet effect. That may be true, though any such entry could send the wrong message to the Cuban government and would-be migrants.

On at least one prior occasion, we permitted entry for a relative of a deceased migrant whose body had been brought to the U.S.

We could refuse the family members entry or even try to repatriate the bodies. But given the broad public support for the request, the presence of U.S.-based relatives, and the humanitarian issue involved, we think it would be very hard to do anything other than permit burial here and allow entry for the family members (we can try to return them after the funeral, but they will undoubtedly request asylum).

State has expressed concern about allowing the families in and believes that any such decision must be accompanied by a strong restatement of our commitment to the May 2 accord. We agree. State is briefing Tarnoff this afternoon. If you (and Peter) agree that we should bring them in, we should try to time the arrival of the family members to coincide with repatriation of the other rafters (presuming none has a credible fear of persecution). INS will not receive readouts of the protection interviews until tomorrow but is confident determinations can be made within a day or two. (Justice's guidance today is simply that we remain committed to the May 2 accord and that no decisions have yet been taken on the status of the rafters.)

Two other issues might complicate matters:

-- Several of the rescued rafters have injuries -- mostly complications arising from coral lacerations -- and may have to be medevaced to the U.S. for emergency treatment. Established, standard procedure is to get them to the nearest hospital (Florida).

-- DOJ may want to investigate this as a possible alien-smuggling case. If DOJ decides to pursue the case, all of the rafters may have to be taken to GTMO for interviews as witnesses.

Another PD-27 is scheduled for 10:00 tomorrow morning to take stock of the situation.

ISSUES FOR DECISION

Whether to permit entry of the family members.

Agree _____

Agree, but would want to discuss with Peter if he feels differently _____

Disagree _____

M S M a i l

DATE-TIME 14 August 96 12:02
FROM Schwartz, Eric P.
CLASSIFICATION ~~CONFIDENTIAL~~
SUBJECT revised draft [~~CONFIDENTIAL~~]
TO Armstrong, Fulton T.
CARBON_COPY NO CC's on THIS MESSAGE
TEXT_BODY
How's this? A bit more user-friendly.
Eric
[[CUBA1.DOC : 3165 in CUBA1.DOC]]

ATTACHMENT
FILE DATE 14 August 96 12:1

ATTACHMENT
FILE NAME CUBA1.DOC

~~CONFIDENTIAL~~

For SANDY from Eric Schwartz and Fulton Armstrong

STATUS: The five relatives of the two deceased rafters were
paroled
into the United States last night and released to family in
Miami.
Miami reaction has been positive.

INS has reviewed the cases of the 20 rafters remaining on the
Coast
Guard cutter. Only three were found to be potential protection
cases, and INS has requested additional information on two of
them
from USINT on their past applications for the refugee program.
We
expect closure today, and then can finalize a repatriation plan
for
the non-credible claimants.

PRESSURE TO PAROLE: There will be some pressure to parole in all
20. Per Bill Danvers' e-mail to you last night, Torricelli and
Menendez have expressed interest in granting them parole

DECLASSIFIED
E.O. 13526

White House Guidelines, September 11, 2006
By N1 NARA, Date 3/28/12
721-1034-F

(although a Torricelli staffer this morning did not react strongly when we told her that a claim to being Jehovah's Witnesses is not, in itself, adequate reason to do so). Miami press says that Jorge Mas Canosa is pressing the White House for full paroles as well.

At the working level, all agencies agree that bringing in all 20 could do significant harm to our Cuba migration policy. The agencies are correct -- parole for all of them would suggest a brand new policy, sending the wrong signal to the GOC and Cuban people about our commitment to deal with illegal migration. The current consensus is to resist the pressures and proceed with repatriation. We would brief Torricelli, Menendez, et al. on the need to do so to avoid sparking a mass exodus during this prime rafter season.

We need a signal from you if you think otherwise.

PROSECUTION: Another possible wrinkle is Coast Guard's preliminary judgment that this might be a prosecutable alien-smuggling case. DOJ will decide today whether to pursue it and may request that the rafters be taken to GTMO so they can serve as witnesses. As you well know, DOD would not be enthusiastic; moreover, not returning any migrants could send a wrong migration policy signal. If DOJ wants to go forward with a case, we will explore other alternatives with them, such as securing a GOC commitment to grant us the necessary access to the witnesses (there is precedent for this). We will not make any big decisions without checking with you.

M S M a i l

DATE-TIME 14 August 96 14:28
FROM Cicio, Kristen K.
CLASSIFICATION ~~CONFIDENTIAL~~
SUBJECT FW: Cuba Migrants Update [~~CONFIDENTIAL~~]
TO Armstrong, Fulton T.
CARBON_COPY Danvers, William C.
Dobbins, James F.
Malley, Robert
Natoli, Kim M.
Schwartz, Eric P.

TEXT_BODY

Fulton,

SRB notes..."I agree"...

From: Armstrong, Fulton T.

To: @NSA - Natl Security Advisor

CC: /R, Record at A1; Danvers, William C.; Schwartz, Eric P.; @CUBA - Cuban

Affairs

Subject: Cuba Migrants Update [~~CONFIDENTIAL~~]

Date: Wednesday, August 14, 1996 12:23 PM

For SANDY from Eric Schwartz and Fulton Armstrong

STATUS: The five relatives of the two deceased rafters were paroled into the United States last night and released to family in Miami. Miami reaction has been positive.

INS has reviewed the cases of the 20 rafters remaining on the Coast Guard cutter. Only three were found to be potential protection cases, and INS has requested additional information on two of them from USINT on their past applications for the refugee program. We expect closure today, and then can finalize a repatriation plan for the non-credible claimants.

PRESSURE TO PAROLE: There is a little pressure to parole in all 20. Per Bill Danvers' e-mail to you last night, Torricelli and Menendez have expressed interest in granting them parole (although a Torricelli staffer this morning did not react strongly when we told her that a claim to being Jehovah's Witnesses is not, in itself, adequate reason to do so). Miami press says that Jorge Mas Canosa is pressing the White House for full paroles as well. Nevertheless, Coast Guard officials in Miami, Suzanna

DECLASSIFIED

E.O. 13526

White House Guidelines, September 11, 2006

By ML NARA, Date 3/28/16

211-1034-E

Valdez, and others say that the pressures down there are limited.

At the working level, all agencies agree that bringing in all 20 could do significant harm to our Cuba migration policy. The agencies are correct -- parole for all of them would suggest a brand new policy, sending the wrong signal to the GOC and Cuban people about our commitment to deal with illegal migration. The current consensus is to resist the pressures and proceed with repatriation. We would brief Torricelli, Menendez, et al. on the need to do so to avoid sparking a mass exodus during this prime rafter season. Bill Danvers agrees.

We need a signal from you if you think otherwise.

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Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
003. email	Fulton Armstrong to Schwartz re: Cuba Developments (3 pages)	08/19/1996	P1/b(1)

COLLECTION:

Clinton Presidential Records
NSC Emails
MSMail-Record (Sept 94-Sept 97) ([Schwartz and Cuba...])
OA/Box Number: 590000

FOLDER TITLE:

[03/13/1996-08/26/1996]

2011-1039-F
rs1855

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

M S M a i l

DATE-TIME 24 August 96 08:32
FROM Malley, Robert
CLASSIFICATION UNCLASSIFIED
SUBJECT FW: Cuban migrants [UNCLASSIFIED]
TO Boynton, Peter J.
CARBON_COPY Armstrong, Fulton T.
TEXT_BODY

Peter --

Kelly will call you on Monday about a GTMO-Migration meeting I am trying to hold on Wednesday.

As the attached notes, we need to discuss the issue of CG assets in the South Florida region -- and your help on this issue will be invaluable. We also would like to raise two other CG issues:

1. Criteria for deciding medevac issues, and in particular whether in some instances inter-agency coordination is required (I am referring in particular to the decision last week to medevac one of the hijackers for what appears to be a broken nose, without prior discussion with the inter-agency. Such decisions can have far-reaching policy implications)

2. Cuban alien smuggling. There appears to be a growing trend, and Anne Paterson and Phyllis Coven would like to address it.

We will be inviting Mike Farrel from CG, but if you think someone else would be appropriate given the issues to be discussed, please let us know.

Thanks

From: Malley, Robert
To: Berger, Samuel
CC: /R, Record at A1; @NSA - Natl Security Advisor; @CUBA - Cuban Affairs;

Boynton, Peter J.; Schwartz, Eric P.
Subject: Cuban migrants [UNCLASSIFIED]
Date: Saturday, August 24, 1996 08:27 AM

Please pass to SB from Rob and Fulton

Sandy,

A group of seven Cubans migrants reached Florida yesterday on a 15-foot boat. They had not been detected by the Coast Guard. They were taken into custody by INS but, due to lack of space at the detention center in Krome, were released to their families. They will be placed in exclusion proceedings.

As you know, since May 94 Cubans who actually make it into the US are placed in exclusion proceedings. However, because Cuba so far has refused to take back its nationals who enter the US (whether by air or by sea), we typically release them from detention after a short period of time and adjust their status pursuant to the Cuban Adjustment Act after a year. In short, and with the exception of some Marielitos with criminal records, we have not yet returned to Cuba a migrant who touched US soil. In other words, the ultimate outcome of this incident basically is consistent with current policy.

Nevertheless, the case is disturbing for a number of reasons which we shall try to address:

1. Coast Guard resources: Pursuant to your earlier requests, we had asked CG whether they should shift resources to South Florida. This event reinforces the urgency of that request, and we have set up a meeting with CG this week to discuss this issue.
2. INS decision: The INS decision to release the Cubans for lack of space, rather than send them to a detention facility in another state, was made without consultation with DOJ, State, or the NSC -- and reported on Radio Marti before the inter-agency was briefed. The decision obviously sends the wrong message to Cubans, especially if they believe that for lack of space we will be immediately releasing all who make it here. We have made it clear that in future cases interagency consultation on the policy issues involved will be required.
3. Radio Marti: The Marti reporting -- again without prior consultation -- is part of a troubling trend of statements and interviews (in particular with Mas) that run the risk of undermining our policy. As always, we (and State) will have to find ways to impress upon USIA the risks presented by Marti's actions -- higher level intervention may be necessary if this trend continues.

M S M a i l

DATE-TIME 24 August 96 18:07
FROM Cicio, Kristen K.
CLASSIFICATION UNCLASSIFIED
SUBJECT FW: Cuban migrants [UNCLASSIFIED]
TO Armstrong, Fulton T.
Malley, Robert

CARBON_COPY Bass, Peter E.
Cicio, Kristen K.
Dobbins, James F.
Hall, Wilma G.
Natoli, Kim M.
Schwartz, Eric P.
Veit, Katherine M.
Wiley, Mary C.

TEXT_BODY

Rob/Fulton,

SRB notes.. "I am concerned about this too, particularly #1. How long is the good weather migration season? We MUST have adquate CG resources to avoid escalating problem. If you have difficulty, let me know Mon-Tues."

From: Malley, Robert
To: Berger, Samuel
CC: /R, Record at A1; Boynton, Peter J.; Schwartz, Eric P.; @NSA - Natl Security Advisor; @CUBA - Cuban Affairs
Subject: Cuban migrants [UNCLASSIFIED]
Date: Saturday, August 24, 1996 08:27 AM

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M S M a i l

DATE-TIME 26 August 96 07:37
FROM Malley, Robert
CLASSIFICATION UNCLASSIFIED
SUBJECT RE: Cuban migrants [UNCLASSIFIED]

TO Bass, Peter E.
Biernacki, Eileen V.
Cicio, Kristen K.
Dohse, Fred J.
Friedrich, M. K.
Hall, Wilma G.
Harmon, Joyce A.
Joshi, M. Kay
Kessinger, Jodi
Millison, Cathy L.
Sens, Andrew D.
Veit, Katherine M.
Wetzel, M. Jeanne
Wiley, Mary C.

CARBON_COPY Armstrong, Fulton T.
Boynton, Peter J.
Dobbins, James F.
Malley, Robert
Natoli, Kim M.

TEXT_BODY

For SRB:

I have spoken to CG and will get a response by tomorrow on the following:

1. What are assets in the area?
2. Does CG feel they are sufficient for the duration of the rafter season?
3. What potential trade-offs would be involved if assets were to be moved?

From: Cicio, Kristen K.

To: Armstrong, Fulton T.; Malley, Robert

CC: /R, Record at A1; Schwartz, Eric P.; @CUBA - Cuban Affairs; @NSA - Natl

Security Advisor

Subject: FW: Cuban migrants [UNCLASSIFIED]

Date: Saturday, August 24, 1996 06:07 PM

Rob/Fulton,

SRB notes.. "I am concerned about this too, particularly #1. How long is the good weather migration season? We MUST have adequate CG resources to avoid escalating problem. If you have difficulty, let me know Mon-Tues."

From: Malley, Robert

To: Berger, Samuel

CC: /R, Record at A1; Boynton, Peter J.; Schwartz, Eric P.; @NSA - Natl Security Advisor; @CUBA - Cuban Affairs

Subject: Cuban migrants [UNCLASSIFIED]

Date: Saturday, August 24, 1996 08:27 AM

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