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NSC/RMO PROFILE

RECORD ID: 0002923
RECEIVED: 28 APR 00 17

TO: PRESIDENT

FROM: SPECTER, ARLEN

DOC DATE: 21 APR 00
SOURCE REF:

KEYWORDS: CUBA MIGRATION

CO

PERSONS: GONZALES, ELIAN

SUBJECT: REQUESTS JUSTICE DEPT USE CARE IN RETURNING CUBAN BOY TO FATHER

ACTION: NO FURTHER ACTION REQUIRED

DUE DATE: 10 MAY 00 STATUS: C

STAFF OFFICER: PATTEN

LOGREF:

FILES: PA

NSCP:

CODES:

D O C U M E N T D I S T R I B U T I O N

FOR ACTION

FOR CONCURRENCE

FOR INFO

COMMENTS: IF FINAL REPLY CANNOT BE PREPARED BY DUE DATE, AN INTERIM RESPONSE
MUST BE PREPARED FOR MILES LACKEY'S SIGNATURE.

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DOC 1 OF 1

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ACTION DATA SUMMARY REPORT

RECORD ID: 0002923

DOC ACTION OFFICER

CAO ASSIGNED ACTION REQUIRED

001 PATTEN
001

Z 00042817 PREPARE MEMO FOR BERGER
X 00060616 NO FURTHER ACTION REQUIRED

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return to
records

PRESIDENTIAL/NSA CORRESPONDENCE

IMMEDIATE ACTION REQUIRED

ACTION OFFICER: PATTEN

LOG NUMBER: 2923

DUE DATE: 10 MAY

DATE STAFFED: 28 APR

CORRESPONDENCE ADDRESSED TO:



PRESIDENT



NATIONAL SECURITY ADVISOR

FROM: SEN. SPEER

PREPARE A RESPONSE FOR THE PRESIDENT'S OR NATIONAL SECURITY ADVISOR'S SIGNATURE WITHIN 10 DAYS. IF A LETTER DOES NOT REQUIRE A RESPONSE, PLEASE RETURN IT TO RECORDS MANAGEMENT (RM 379) WITH THIS FORM, ANNOTATED ACCORDINGLY.

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FOR ACTION
PATTEN

FOR CONCURRENCE
LACKEY

FOR INFO
SCHWARTZ

NFAR

COMMENTS: IF FINAL REPLY CANNOT BE PREPARED BY DUE DATE, AN INTERIM RESPONSE
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(Justice is responding)

DISPATCHED BY W. Patten DATE 6-5-00 BY HAND W/ATTCH

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DOC 1 OF 1

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UNCLASSIFIED

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BRUCE A. COHEN, *Minority Chief Counsel*

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

April 21, 2000

The Honorable Janet Reno
Attorney General
U.S. Department of Justice
10th & Constitution Avenue, N.W.
Washington, D.C. 20530

Dear Attorney General Reno:

I am deeply concerned about reports in today's media that you may initiate action through Federal law enforcement agencies to take Elian Gonzales from the residence of his relatives in Miami and return him to his father. My concern arises from the experience at Ruby Ridge, a subject on which I chaired Judiciary Subcommittee hearings and also on the Waco incident, on which I am now chairing a Judiciary Subcommittee on Department of Justice oversight.

In advance of any such action there are a number of alternatives which could be pursued. For example, the Court of Appeals for the 11th Circuit could be asked to expedite the appeals process. There are many precedents for prompt, expedited Circuit Court action such as that taken by the Court of Appeals for the 2nd Circuit on the Million Man March case in 1998. There, the District Court, by order dated August 26, 1998, allowed the March for September 5 and the Circuit Court heard argument on September 1, 1998 and issued a written opinion the same day.

Another option would be to ask the Court of Appeals for the 11th Circuit to hear the case *en banc* which could be accomplished very promptly.

Yet another option is to ask the Supreme Court of the United States to take the case and hear it on an expedited basis which that Court has the authority to do at any time. The Pentagon Papers were published on June 12, 1971. The District Court issued a decision on June 19, the 2nd Circuit heard the case on June 22 and decided the case on June 23. The Supreme Court heard argument on June 26 and decided the case on June 30, 1971.

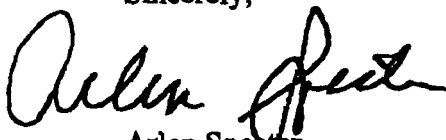
In a case involving the Iranian hostages, the Solicitor General asked the Supreme Court for the United States for certification before judgment on June 10, 1981. The Supreme Court granted the request on June 11, ordered briefs within one week, heard argument on June 24 and decided the case on July 2, 1981.

There is good reason to believe that the order of the 11th Circuit three-judge panel will be reversed for a number of reasons. One glaring error is that there is no basis for asylum for Elian Gonzales since that relief is granted when the individual faces persecution or some prospective ill treatment upon his return, which is certainly not the case with young Elian. If returned to Cuba, he will be the subject of adulation, not mistreatment.

Before resorting to action to take Elian from his Miami relatives, I urge you to seek a judicial order from the United States District Court authorizing such action by the Department of Justice. While perhaps not technically necessary, such an order might well be persuasive enough for the Miami relatives to turn Elian over voluntarily. Such an order may also be persuasive so that others would not impede Department of Justice action to take Elian from his Miami relatives.

I am sending a copy of this letter to the President, and I am sending you a copy of a letter I am writing to him.

Sincerely,



Arlen Specter

AS/ds
Enclosure

By Telefax

ORRIN G. HATCH, UTAH, CHAIRMAN

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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

April 21, 2000

The Honorable William Jefferson Clinton
President
The White House
Washington, DC 20500

Dear Mr. President:

With this letter, I am enclosing a copy of a letter which I am sending to Attorney General Reno suggesting a number of judicial remedies before any action is taken to return Elian Gonzales to his father other than through a voluntary turning over of the boy by his Miami relatives.

I am writing to you and the Attorney General without being privy to any of the on-going negotiations, but only because of my concern about what happened at Ruby Ridge and Waco which involved incidents where I have been extensively involved in oversight of the Department of Justice by Senate Judiciary Subcommittees.

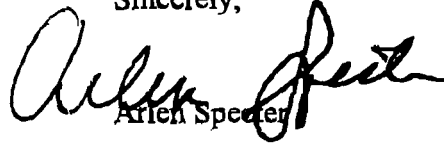
If there is to be any action taken by Federal law enforcement officials other than a voluntary turning over by the Miami relatives of Elian Gonzales, then I urge you to be personally involved and to consult with experts in the field, in addition to officials at the Department of Justice because of the deeply flawed actions taken by the Department of Justice at Ruby Ridge and Waco and in other law enforcement judgments of the Attorney general.

As noted in my letter to the Attorney General, the hand of the Federal Government can be considerably strengthened by a District Court order authorizing the Department of Justice to take Elian Gonzales from his Miami relatives and returned to his father.

11/00 FAX 11:51 FAX

It may well be that taking the potential use of force off the table would materially damage the Government's bargaining position with the Miami Gonzales family; but if force is to be used, it must be used with mature, measured judgment contrary to what was done at Ruby Ridge and Waco.

Sincerely,


Arlen Specter

AS/ds
Enclosure

By Telefax

U.S. SENATOR ARLEN SPECTER

711 HART SENATE OFFICE BUILDING
WASHINGTON, DC 20510-3802



TO: The President

FAX: (202) 456-6221

FROM: Senator Arlen Specter

PHONE: (202) 224-9014

DATE: April 21, 2000

PAGES (including cover):5

NOTES:

THE WHITE HOUSE

WASHINGTON

April 28, 2000

MEMORANDUM FOR ROBERT A. BRADTKE
NSC Executive Secretariat

FROM: CHARLES M. BRAIN
Legislative Affairs

SUBJECT: PRESIDENTIAL CORRESPONDENCE

Attached are copies of letters sent to the President by various Members of Congress. Since these letters address national security issues, we would appreciate your assistance in drafting the responses.

Thank you very much for your assistance. If you have any questions, please call Courtney Crouch at x67500.

The following is a brief description of the letters:

- 1) Sen. John Ashcroft (R-MO), recommending the President to consult with the Congress regarding the Israeli-Syrian peace negotiations;
- 2) Sen. Thad Cochran (R-MS), Sen. Trent Lott (R-MS) and twenty-three other Members of Congress, expressing concern over discussions with Russia to modify the 1972 Anti-Ballistic Missile (ABM) Treaty to allow for a National Missile Defense (NMD) program;
- 3) Sen. Gordon H. Smith (R-OR), concerning the disposal of U.S. chemical weapons stockpiles;
- 4) Sen. Arlen Specter (R-PA), concerning the return of Elian Gonzales to his father;
- 5) Rep. Michael Bilirakis (R-FL) and twenty-eight other Members of Congress, urging the President to deny an export license for Turkey to purchase 145 attack helicopters from U.S. manufacturers;
- 6) Rep. Barney Frank (D-MA), regarding the pending Iraqi contracts under the United Nation's oil for food program;

- 7) Rep. Dennis J. Kucinich (D-OH), expressing concern over discussions with Russia to modify the 1972 Anti-Ballistic Missile (ABM) Treaty to allow for a National Missile Defense (NMD) program;
- 8) Rep. James P. McGovern (D-MA) and John Joseph Moakley (D-MA), concerning the current and future relationship of the United States with Cuba;
- 9) Rep. Cynthia A. McKinney (D-GA) and twenty-two other Members of Congress, urging the President to share relevant U.S. intelligence with the panel of experts established by the U.N. Security Council concerning the situation in Angola;
- 10) Rep. James H. Maloney (D-CT), requesting the President to de-link the humanitarian commodity restrictions from the military sanctions currently in place against Iraq;
- 11) Rep. Edward J. Markey (D-MA) and twenty-five other Members of Congress, concerning the state of nonproliferation and disarmament efforts undertaken by the United States on the eve of the upcoming Review Conference of the Parties to the Nonproliferation Treaty (NPT);
- 12) Rep. Donald M. Payne (D-NJ), concerning the ongoing conflict between Ethiopia and Eritrea;
- 13) Rep. Jim Ramstad (R-MN), recommending the creation of an imagery task force to review all archived satellite and spy plane imagery for signs of possible American POW/MIAs;
- 14) Rep. Debbie Stabenow (D-MI), concerning the thirteen Iranian Jews currently facing trial and prosecution in Iran on questionable charges of espionage;
- 15) Rep. Curt Weldon (R-PA) and Rep. David Vitter (R-LA), concerning discussions with Russia to modify the 1972 Anti-Ballistic Missile (ABM) Treaty; and,
- 16) Rep. Frank R. Wolf (R-VA), recommending the President to seek from the Egyptian government payment of certain costs of the Egypt Air 990 investigation.

Enclosures