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Staff Office-Individual:

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. report	re: Castro Has Few Options on Elian (3 pages)	01/10/2000	P1/b(1)
001b. report	re: Cuban Reaction to 1 January Overflight (1 page)	01/10/2000	P1/b(1)
002. email	Scott Busby to Arturo Valenzuela and Mary DeRosa re: FW: Briefer for JS on Cuban Boy (2 pages)	12/06/1999	P1/b(1)
003. email	Valenzuela to Mona Sutphen re: Cuban Child (1 page)	12/02/1999	P1/b(1)

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Cuba-Elian Gonzalez [1]

2012-0371-F

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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]

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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]

WHA Press Guidance
May 3, 2000

To: Carolyn Hollis
Fr: Nancy Torres

Cuba: Updates on Elián

Background: Elián's González and his family moved from Andrews Air Force Base to the Wye Farm facility on April 25. On April 27 Elián's former kindergarten teacher and 11 year-old cousin arrived, followed on April 28 by Elián's four playmates, their accompanying parents and a pediatrician. At the airport, INS admitted the three accompanied children, their parents, and the pediatrician for two weeks. The fourth child was permitted to adjust status for a two-week stay once the parent arrived. The Washington Times reported yesterday that the pediatrician had attempted to enter the United States with various controlled substances and that they were seized.

Question: Can the Elián case lead to changes in U.S.-Cuba relations?



Answer: THE SECRETARY OF STATE AND THE PRESIDENT HAVE BEEN VERY CLEAR- OUR POLICY TOWARDS CUBA WILL CHANGE WHEN CUBA UNDERTAKES FUNDAMENTAL, SYSTEMIC, DEMOCRATIC CHANGES. IN THE MEANTIME, WE CONTINUE TO REACH OUT TO THE CUBAN PEOPLE THROUGH PEOPLE-TO-PEOPLE PROGRAMS SUCH AS THE RE-ESTABLISHMENT OF REMITTANCES AND DIRECT FLIGHTS AND FURTHERING EXCHANGES BETWEEN OUR TWO PEOPLES.

U.S. Department of Justice
IMMIGRATION AND NATURALIZATION SERVICE

STATEMENT

1/5/00

Embargoed for 12 noon
January 5, 2000

INS Decision in the Elian Gonzalez Case

Doris Meissner
Commissioner
Immigration and Naturalization Service

The case of Elian Gonzalez has been a difficult one for several reasons. Elian Gonzalez is a six-year-old boy, too young to make legal decisions for himself. In this circumstance, the U.S. Immigration and Naturalization Service (INS) had to decide who could legally speak for him on immigration issues. This task was complicated by the fact that several people other than Elian's father—a great uncle as well as three lawyers—claimed to represent him. As a result, INS met with the father in Cuba, and separately, with the great uncle and the lawyers in Miami. After careful evaluation of the relevant facts, INS has determined that Mr. Juan Gonzalez of Cuba has the sole legal authority to speak on behalf of his son, Elian, regarding Elian's immigration status in the United States.

There is no question that Mr. Gonzalez is Elian's father. Moreover, Mr. Gonzalez has had a close and continuous parental relationship with his son. During INS' interviews with Elian's father, he provided vivid details about his parental relationship with his son and about the nature of the bond they share as father and son. He provided extensive documentation about Elian's schooling and his medical and health histories, as well as photographs depicting the activities in which he and his other family members frequently participated with Elian. This scope of information and level of detail Mr. Gonzalez provided helped inform INS as to the nature and closeness of the relationship Mr. Gonzalez shared with his son Elian. INS has not uncovered any information that might call into question Mr. Gonzalez's parental and legal rights with regard to Elian's immigration status.

During INS' two meetings with Mr. Gonzalez, his wishes for Elian were discussed at some length. He made it very clear during both of these meetings that he wants Elian returned to him as soon as possible. Based on these meetings, INS believes that he is expressing his true wishes, and therefore we have determined that Elian should be reunited with his father, Mr. Gonzalez.

INS has advised both Mr. Gonzalez and Elian's great uncle in Miami of this decision, and is prepared to work with all the parties involved to make the appropriate arrangements for Elian's return to his father by January 14, 2000.

INS Decision in the Elian Gonzalez Case
Page 2

Having reached a decision, INS believes there are several ways this decision can be implemented. The United States has discussed with the Government of Cuba their consideration of allowing Mr. Gonzalez, Elian's father, to travel to the United States to accompany Elian home. INS also has offered Elian's great uncle in Miami and any member of his Miami family an opportunity to escort Elian back to Cuba. In addition, third parties have offered to assist in facilitating Elian's return to his father. INS is ready to work with the family and others to make appropriate arrangement for Elian to be reunited with his father. We believe this decision can be carried out without INS' taking charge of Elian.

This decision has been based on the facts and the law. Both U.S. and international law recognize the unique relationship between parent and child, and family reunification has long been a cornerstone of both American immigration law and INS practice.

It is our hope that with the knowledge of today's decision, the Miami relatives will agree to cooperate and work together, with either Elian's father or a third party, to facilitate Elian's return to his father. This little boy, who has been through so much, belongs with his father. We urge everyone involved to understand, respect and uphold the bond between parent and child and the laws of the United States.

- INS -

U.S. Department of Justice
IMMIGRATION AND NATURALIZATION SERVICE

QUESTIONS AND ANSWERS (Internal Use Only)

1/5/00

INS Decision on Elian Gonzalez

1. Is INS returning Elian Gonzalez to Cuba?

This is a six-year old child who is not old enough to make legal decisions for himself. INS has determined that Elian's father, Juan Gonzalez, has sole authority to speak on Elian's behalf regarding the immigration issues involved in this case. Mr. Gonzalez has asked that his son be returned to Cuba.

2. What about Elian's request for asylum?

The only person with legal standing to file an asylum request on Elian's behalf is Elian's father. He has not filed any asylum request for Elian and in fact has stated that he doesn't want such an application made. Applications filed by any other persons will not be accepted since those persons have no legal standing to represent Elian or to speak on his behalf regarding immigration issues.

3. What facts and what law led to this decision?

This case involves a child of such a tender age that he does not have the capacity to make decisions about his immigration interests on his own behalf. A number of parties have claimed to have the lawful authority to represent Elian in immigration matters, and have purported to advance a variety of different claims and requests on the child's behalf. The key issue in this case was to determine who has the authority to make decisions about Elian's immigration interests. After meeting with Elian's father, and, separately, with his great uncle and lawyers who claim to represent Elian, and after carefully considering all relevant facts, the INS determined that Elian's father has the sole legal authority to speak on behalf of his son in immigration matters.

4. Who had the final word on this decision? Was the White House involved? Was the Justice Department involved? The Attorney General? The State Department?

This was an INS decision made in consultation with the Justice Department, including the Attorney General. The White House and the State Department were advised of the decision but were not involved in the decision-making process.

5. Will you release the reports of your meetings with Elian's father or other documents from this case?

To ensure we receive the fullest information possible, interviews of this nature are conducted in confidence. It is generally not our practice to release such documents when we announce our decision.

6. Didn't INS initially say the issue of custody would be decided in state court?

The INS decision was not a custody decision. It was a decision on who has the legal authority to speak on Elian's behalf in immigration matters. Any custody issue is separate from the decision INS had to make about who could legally speak on Elian's behalf regarding the immigration issues involved in his case.

INS Decision on Elian GonzalezPage 2

- 7. Doesn't this decision deny Elian the right to due process and a hearing? Why don't you let an immigration judge decide?**

There is no issue to take before an immigration judge. Mr. Gonzalez, who has been determined to speak for the child, has asked that he be returned to Cuba. Mr. Gonzalez is not asking for a hearing; he is withdrawing his son's application for admission to the United States.

- 8. Why are you denying Elian the chance to apply for permanent residency under the Cuban Adjustment Act?**

We are talking about a six-year old child who is not old enough to make legal decisions on his own. INS has determined that Mr. Juan Gonzalez has the sole authority to speak for Elian regarding immigration issues. Only he can apply for immigration benefits for Elian. He has not filed any such applications and in fact has stated that he doesn't want such an application made. In addition, the Cuban Adjustment Act of 1966 allows Cubans to apply for permanent residency one year after being inspected and admitted or paroled. Since Elian has not been in the U.S. for one year, he is not eligible to apply for adjustment in any case.

- 9. Isn't it wrong to send a child back to live in a country that is a communist dictatorship?**

INS has tried very hard throughout this process not to politicize the issue. We are aware that it is a very emotional one for many people, but INS' decision is based on the facts and the law. This is about a father who has a legal right to speak for his six year old child regarding the immigration issues in this case, and who has said he would like his child returned to him.

- 10. Why didn't INS insist Juan Gonzalez come to the U.S. to be interviewed?**

It is not appropriate to require a parent to travel to another country in order to express his wish that his child be returned. However, we have informed Mr. Gonzalez, that should he wish to travel to the U.S., the State Department would be amenable to issuing him a non-immigrant visa so he can come to see his son.

- 11. How do you know Juan Gonzalez was speaking for himself and not for Castro?**

INS took steps to ensure that Mr. Gonzalez was expressing his true wishes with respect to Elian. Our personnel who conduct these kinds of interviews are trained and experienced professionals. INS is confident that Mr. Gonzalez was expressing his true wishes and was doing so of his own accord. INS personnel initially spoke to Mr. Gonzalez in his own home, and then in a neutral location.

- 12. What about the allegations that Juan Gonzalez previously applied to come to the U.S.?**

The State Department has no indication that Mr. Gonzalez ever applied for a visa or for immigrant status in the U.S.

INS Decision on Elian GonzalezPage 3

13. Did the INS and the U.S. bow to pressure from Cuba?

Absolutely not. This decision was made based solely on the facts and the law as it would have been made had the child been from any other country.

14. When and how will the child be returned?

Those details are still being worked out. INS hopes Elian's relatives, including the father and the great uncle, will work out between themselves, or with a possible third party, a way to facilitate Elian's return to his father.

15. Have Elian's relatives in Florida and his father in Cuba been told of the decision?

Yes. They were notified at the same time.

16. What will you do if the family in Florida refuses to surrender Elian?

We believe that in this case, everyone's concerns are for the well being of Elian. We have seen, by the way they have embraced Elian, that the Miami relatives understand the importance of family unity. We are confident that everyone will respect the legal decisions made in this matter.

17. The family in Florida says it will seek relief in the courts. Will that stop INS from returning Elian to Cuba? Will INS forcefully

INS' decision is regarding who can legally speak for Elian on the immigration issues surrounding his case. Whatever relief the Miami family seeks in the courts has no bearing on INS' decision. INS' decision is solely linked to the immigration matters in this case -- it is not a custody decision. INS cannot speculate on what additional actions may be taken by the courts.

18. Except for criminals, INS never returns Cubans to Cuba. Why is Elian being treated like a criminal?

The INS is not removing Elian from the United States and returning him to Cuba. Rather we are honoring Elian's request, as asserted by his father who has authority to speak on his behalf, to allow him to be reunited with his father and his immediate family in Cuba.

19. Was sending Elian back part of the deal in which Castro took back the Cuban criminals holding hostages in Louisiana?

Absolutely not. The two situations are totally unrelated.

20. Does this decision signal a change in U.S. policy toward Cuba?

Absolutely not. This is a decision based on INS proceedings in a specific case and is not related to U.S. policy towards Cuba.

INS Decision on Elian GonzalezPage 4

21. Are you concerned about the negative reactions by the Cuban-American community in Miami because of this decision?

We understand that for many this is an emotional issue, but we are confident that the Miami community will understand and allow the legal process to work its course in this matter.

22. Why has this decision taken so long?

This was a complex and unusual case involving a six year old child who is too young to make legal decisions on his own. As a result, INS had to determine amongst several different parties who were voicing their opinions regarding Elian, who had the legal authority to speak on his behalf regarding the immigration issues. INS held meetings with Elian's father in Cuba, and separately with Elian's great uncle. After carefully evaluating the facts in this case, INS made its determination as quickly as possible

23. Were you pressured by Congress to put off a decision until they can introduce a private bill offering Elian US citizenship? Would you support such a bill?

Congress' statements had no bearing on the INS decision. We do not comment on private bills introduced by members of Congress.

24. Why was the letter signed by Mr. Pearson and not the Commissioner?

Although this was a decision made strictly by the facts and law, and was made by INS officials at INS headquarters, including Commissioner Meissner, the implementation of the decision is an operational matter. Mr. Pearson is the Executive Associate Commissioner for INS Field Operations and as such has responsibility and jurisdiction for operational matters.

25. Why wasn't this decision made by the District office in Miami as is the norm?

It is not unusual in complex cases for cases to be reviewed and decided by INS headquarters. This was a case that involved many issues, including legal decisions and others that needed to be looked at by INS officials at the Headquarters level.

26. Did you delay the decision until after the holidays to minimize the anger in the Cuban-American community?

No. We have tried throughout this process to shield this case from political pressures from all sides. The decision was based on the facts and the law and INS made its decision as quickly as it could after carefully evaluating all the facts in this case.

INFORMATION

MEMORANDUM FOR THE PRESIDENT

FROM: SAMUEL BERGER

SUBJECT: Case of Elian Gonzalez

Background: On Thanksgiving morning, six-year-old Elian Gonzalez was rescued from an inner tube by fishermen off the coast of Florida. Elian was one of three survivors of a boat holding 14 Cuban migrants that capsized at sea; Elian's mother and ~~her~~^{his} mother's boyfriend were among those who perished. He was turned over to the Coast Guard, who, after conducting a medical evaluation, decided to bring him into the United States for emergency treatment. He was held in a hospital for several hours and then released by local Immigration and Naturalization Service (INS) into the custody of extended relatives in Miami. He currently resides with one of his father's uncles.

Immigration Status: As with other aliens who arrive on U.S. soil, INS considers Elian an applicant for admission to the U.S. Any such applicant must be "inspected" before the applicant can legally "enter" the United States. In this case, INS has deferred Elian's inspection until December 23. This inspection could be deferred indefinitely.

In the meantime, like almost all other Cubans who arrive here illegally, Elian has been granted immigration parole. This permits him to reside on U.S. territory even though he has not been formally admitted. Such status also brings him within the scope of the Cuban Adjustment Act of 1966, which means that he will be eligible to become a lawful permanent resident alien (LPR) a year and a day after his parole.

Procedures in the Case: The key issue in this case at present is Elian's immigration intent. Because he is a minor, it is generally assumed that Elian is not competent to represent his own wishes. The question is who can speak for Elian. Ordinarily, it is presumed that a parent with lawful custody over a minor may speak for that minor.

cc: Vice President
Chief of Staff

Request from Father: The Cuban government has forwarded to us a request from Elian's ~~putative~~ father that Elian be returned to him. In response to that letter, INS is seeking to deliver a letter to the father that describes the information and documents he needs to provide to establish (1) paternity and (2) his parental rights over the child. INS is also seeking to interview the father in our Interests Section in Havana on these same issues. Should the father prove both paternity and his custodial rights, INS believes that there would be a strong presumption in favor of allowing the father to speak on Elian's behalf. Should the father continue to wish for Elian's return to Cuba, INS would deem Elian's application for admission to be withdrawn and he would then be returnable to Cuba.

Intervention by Others: At the same time, it is clear that others, including the great uncle with whom Elian currently resides, also intend to intervene on Elian's behalf. We have received reports that Elan's relatives in Miami are preparing an asylum application on Elian's behalf, a state court action aimed at establishing custody over Elian, and a federal lawsuit to enjoin any federal action to remove Elian from the U.S. However, unless it can be shown that Elian's father is unfit, the Departments of State and Justice think it unlikely that any of these actions would ultimately be effective.

Timing: INS believes that it should be able to make a decision on Elian's immigration intent soon after receiving the necessary information from the father. However, it is unclear how long it would take to resolve any litigation that may be undertaken to thwart the father's claim (should he be successful in establishing paternity and custody). The issues in this case are unusual and will be decided in a politically charged atmosphere. Thus, we imagine that there could be significant delay in resolving the case.

Snowden, Deniz (INTERAM)

From: Busby, Scott W. (MULTI)
Sent: Thursday, December 09, 1999 18:15
To: Valenzuela, Arturo A. (INTERAM); DeRosa, Mary B. (LEGAL)
Cc: @INTERAM - Inter-American; @LEGAL - Legal Advisor; @MULTILAT - Multilateral and Humanitarian Affairs
Subject: Clearance ASAP: POTUS memo on Cuban boy [UNCLASSIFIED]



8934 POTUS
memo.doc

SRB would like this to him by tonight.

THE WHITE HOUSE
WASHINGTON

MEMORANDUM

To: Ms. Karen Hollace
6-9130

From: Woyneab Wondwossen
Presidential Letters and Messages
Voice 202/456-5492 Fax 202/456-5426

☐ Please see comments below	☐ Please advise on how to respond	☐ Please call me regarding the attached
☐ For your information	☒ For your approval	☐ Per your request
☐ No response necessary for attached letter, unless response otherwise recommended	☐ For your agency's response	☒ Please respond by: cob tomorrow.

Comments:

The President will personally sign this, and if possible, we
would like to have it to him by wed. Please Thank you.

DRAFT OF BC LETTER

INITIALS: BC /wmw	DOCUMENT NAME: \\s_who00010\dos\public\letter\slr\p\wmw \sheinbaum stanley wmw.doc
DRAFT / LETTER DATE: January 3, 2000	CORRESPONDENCE #: 7076639
	CC:
CORRESPONDENCE ADDRESSED TO: Mr. Stanley K. Sheinbaum Giglio Porto 58013 (Grosseto) ITALY	Based on press interviews w/ Potus and Lockhardt dated 12/22 and 12/8.

Dear Stanley:

Thank you for expressing your concerns about the immigration case involving Elian Gonzalez. I am always glad to have your insights.

As I'm sure you will agree, the top priority in this matter must be to determine what is best for the child. According to our laws, the Immigration and Naturalization Services is responsible for making that decision. Officials there are currently reviewing the case based on their regulations and the relevant facts. Cases like this one are often difficult, particularly when involving international issues. However, INS officials are moving forward properly in their decision-making process, and I am confident they will do their best within the parameters of the law to reach the right conclusion.

I am disappointed that many people have tried to use the tragic circumstances surrounding this case to advance their political agenda. I will ^{do}~~try~~ everything within my power to take as much political steam out of this as possible, so that the best interests of the young boy are carefully considered. ✓

Again, I am glad to have your input on this critical issue and wish you all the best in the coming year.



Stanley K. Sheinbaum

12/22

20 December, 1999

THE PRESIDENT HAS SEEN
12-21-99

President Bill Clinton
The White House—West Wing
Via Fax

Dear Bill,

I think I could provide both an infinity of reasons as to why the US should return Elian Gonzalez, the six-year old Cuban kid, to his father in Havana and a similar inventory on why we should not. I come down strongly on the side of doing it and doing it soon. My major reason is you. You have developed a reputation that so much of your foreign policy thinking and instinct is based on your own humanitarian tendencies. Not to send the boy back to his father will put a dent in that reputation, and I hate to see that happen especially now.

Furthermore leaving it in the hands of the bureaucratic negotiators and those like the Florida Cubans who would like to politicize the issue would only slow down the process.

I urge that you take quick action and get it done or else the aforesaid groups will mount campaigns that will make a quick decision by you all the more difficult.

I am told, although I have not seen it myself, that an NBC poll has about 65% of Americans favoring sending him home. I know the figure will not be as high for political people partially because there is a lot of Miami Cuban money being tossed around.

12-21-99

Do it. You'll feel better, and I'll feel better.

Warmly,

Stanley K. Sheinbaum
SKS/kc

cc: First Lady Hillary Rodham Clinton
Samuel Berger
Morton Halperin

Send to Burkhardt?

Yes ☒
No ☐



12/27
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IN THE CIRCUIT COURT FOR THE
11TH JUDICIAL CIRCUIT IN AND
FOR MIAMI-DADE COUNTY, FLORIDA

FAMILY DIVISION

CASE NO: 00-00479 FC 28

LAZARO GONZALEZ, as Custodian of
ELIAN GONZALEZ, a Minor,

Petitioner,

vs.

JUAN MIGUEL GONZALEZ-
QUINTANA,

Respondent.

TEMPORARY PROTECTIVE ORDER

This cause having come before the Court upon Petitioner's Verified Emergency Ex-Parte Petition for Interim Order ("Petition for Interim Order"), and the Court having reviewed said Petition, and having carefully studied this matter, makes the following findings of facts and conclusions of law:

FACTS

Petitioner has filed a Verified Petition for Temporary Custody and Other Relief ("Petition for Temporary Custody") under Fla. Stat. §§ 751.01, et seq.¹ seeking

¹ That statute was enacted to "[p]rovide for the welfare of minor children who are living with extended family. . . . At present, such family members are unable to give complete care to the child in their custody because they lack a legal document that explains and defines their relationship to the child, and they are unable effectively to consent to the care of the children by third parties." Fla. Stat. § 751.01(2).

temporary custody of the minor child, Elian Gonzalez ("Elian") and invoking the jurisdiction of this Court under Fla. Stat. §§ 61.1308(1)(c) and (d). Through this Petition for Interim Order, Petitioner seeks interim custody of Elian pending a full evidentiary hearing on the Petition for Temporary Custody.

Elian is a six year-old child, born December 6, 1993, who is a citizen of the Republic of Cuba ("Cuba"). Elian lived in Cuba his entire life before coming to Florida in November, 1999. There is no other "state"², other than Florida, in which Elian or his parents have significant connections.

Elian and his mother, along with twelve others, fled Cuba in November, 1999, on a small boat, apparently intending to reach the state of Florida. Elian's mother and the twelve others tragically were lost at sea, but Elian miraculously survived the journey. He was rescued by two fishermen who found him alone, clinging to a tire inner tube off the coast of Florida. Following a brief stay in a local hospital, Elian was placed in the physical custody of Petitioner, his great-uncle, by the Immigration and Naturalization Service ("INS").

Thereafter, an application for admission to the United States, along with two petitions for asylum were filed on Elian's behalf with the INS. One petition was signed

² The Republic of Cuba is not a state within the meaning of the Uniform Child Custody Jurisdiction Act "UCCJA," which defines state as "any state, territory, or possession of the United States; the Commonwealth of Puerto Rico; or the District of Columbia." Fla. Stat. 61.1306(10). However, Fla. Stat. 61.1348, which must be read in conjunction with Fla. Stat. 61.1308(1)(d), applies the general policies of the UCCJA to the international area and provides that a decree of a foreign nation may be recognized by Florida courts if the foreign tribunal accorded minimum due process to all affected persons prior to entering the decree. See Kallman v. Kallman, 623 So. 2d 1213 (Fla. 3rd DCA 1993).

by Petitioner, and one was "signed" by Elian.

Following the filing of the application and petitions, INS interviewed Respondent and determined that he is Elian's biological father, and that as such, he has the right to represent Elian in all legal transactions. INS then withdrew Elian's application for admission to the United States at Respondent's request. INS did so based upon its determination that the request made by Respondent during interviews with INS representatives were in fact his "true wishes."

Additionally, INS determined that Petitioner did not have authority to act on behalf of Elian in immigration matters or to authorize representation in "direct opposition to the express wishes of the child's custodial parent." Based upon that determination, INS rejected the asylum petitions filed on Elian's behalf. Petitioner's counsel was advised by INS of its decisions in a letter dated January 5, 2000. INS then announced its intention to return Elian to Cuba by January 14, 2000.

Thereafter, on January 7, 2000, Petitioner filed a Verified Petition for Temporary Custody and Other Relief, along with a Verified Emergency Ex-Parte Petition for Interim Order, alleging that if Elian is returned to Cuba he faces the threat of mistreatment or abuse, including the loss of any due process rights he may have under United States immigration law, as well as harm to his physical and mental health and emotional well-being. Respondent was given telephonic notice of the filing of the Verified Emergency Ex-Parte Petition for Interim Order.

CONCLUSIONS OF LAW

The threshold question before the Court is whether this Court has jurisdiction

over this matter. Petitioner attempts to invoke the Court's jurisdiction pursuant to Fla. Stat. §§ 61.1308(c) and (d). In support of his invocation of jurisdiction, Petitioner alleges that the threatened return of Elian to Cuba, and the ensuing harm if he is returned, creates an emergency which requires the Court to exercise its jurisdiction for Elian's protection. Additionally, Petitioner alleges that no other state would have jurisdiction under prerequisites substantially in accordance with Fla. Stat. §§ 61.1308(1)(a), (b), or (c) and that it is in Elian's best interest that this Court assume jurisdiction. The Court finds that the facts alleged by Petitioner establish a *prima facie* basis for this Court's assumption of jurisdiction of this matter under Fla. Stat. §§ 61.1308(1)(c) and (d).³ Independent of the jurisdiction conferred under Fla. Stat. §§ 61.1308(1)(c) and (d), this Court clearly has limited jurisdiction to address the Petition for Interim Order. This Court is not powerless to act when confronted with a Petition, as the one pending before this Court, alleging that the minor child may be subject to serious and unnecessary emotional harm in returning the child to the custodial parent. Under compelling circumstances, recognized by Florida law, this Court may grant such temporary judicial relief as is necessary to protect the best interest of the child - this Court's primary concern. Based upon its independent review of Florida law, this Court is persuaded that it has the authority to grant emergency, ex-parte relief and that the relief requested by Petitioner should be granted.

³ A final determination regarding this Court's jurisdiction to address the Verified Petition for Temporary Custody and Other Relief will be made following service of process and a full evidentiary hearing.

Under Florida law, where a Florida Court, even one which may otherwise lack jurisdiction over a visiting child, is presented with allegations of imminent harm or physical or emotional danger to a child, it is empowered, under the doctrine of *parens patriae*, to issue a temporary protective order which will preserve the status quo pending a full hearing on a petition to alter temporary or permanent custody. See Rohlfs v. Rohlfs, 666 So.2d 588 (Fla. 3d DCA 1996); Kennedy v. Kennedy, 559 So.2d 713 (Fla. 5th DCA 1990); Nelson v. Nelson, 433 So. 2d 1015, 1019 (Fla. 3rd DCA 1983); Sommer v. Sommer, 508 So. 2d 773 (Fla. 5th DCA 1987).

Here, the Petition for Interim Order, as well as in the Petition for Temporary Custody, contains sufficient verified allegations that, if emergency relief is not granted and Elian is returned to Cuba, he would be subjected to imminent and irreparable harm, including loss of due process rights and harm to his physical and mental health and emotional well-being. Those verified allegations and the limited factual record presented clearly confer upon this Court, at a minimum, limited jurisdiction to grant emergency temporary relief to preserve the status quo pending a full hearing on the Petition for Temporary Custody. Id. The Court finds that Petitioner has established a *prima facie* case that Elian may be subject to imminent harm if emergency relief is not granted. Accordingly, it is hereby

ORDERED and ADJUDGED as follows:

⁴ "Parens patriae" refers traditionally to the role of the state as sovereign and guardian of persons under legal disability, such as juveniles or the insane, and in child custody determinations, when acting on behalf of the state to protect the interests of the child.

1. The Court finds that Petitioner has established a *prima facie* case that Elian may be subject to imminent harm if temporary relief is not granted.

2. The status quo shall be preserved until such time as a full hearing on the Verified Petition for Temporary Custody and Other Relief is held.

3. The minor child, Elian Gonzalez, shall not be removed from this jurisdiction pending a full hearing on the Verified Petition for Temporary Custody and Other Relief.

4. In furtherance of this Court's exercise of emergency authority and in order to effectuate the requirements of this Court's Order, Petitioner is granted such limited legal authority as is necessary to preserve the status quo and prevent the child's removal from this jurisdiction, including, but not limited to, the authority to assert and protect such rights as the child may have under United States immigration law and to retain counsel to assert and protect such rights.

5. Pursuant to Fla. Stat. § 61.403, a guardian ad litem for the minor child shall be appointed by separate order, to act as next friend of the child, evaluator and investigator, with such powers, privileges and responsibilities as are necessary to advance the best interest of the child.

DONE and ORDERED in open Court at Miami, Miami-Dade County, Florida, this
10th day of January, 2000.


ROSAL. RODRIGUEZ
CIRCUIT JUDGE

Jan-10-00 05:57P

01/10/00 17:29 FAX SUB 315 1335

CHIEF JUDGE FARRA

P. 04

NO. 874 P. 179

JAN. 11. 2000 6:27AM

IN THE CIRCUIT COURT FOR THE
11TH JUDICIAL CIRCUIT IN AND
FOR MIAMI-DADE COUNTY, FLORIDA

FAMILY DIVISION

CASE NO: 00-00479 FC 29

LAZARO GONZALEZ, as Custodian of
ELIAN GONZALEZ, a Minor,

Petitioner,

vs.

JUAN MIGUEL GONZALEZ-
QUINTANA,

Respondent.

**ORDER SETTING HEARING ON VERIFIED
PETITION FOR TEMPORARY CUSTODY**

This cause having come before the Court upon Petitioner's Verified Petition for Temporary Custody and Other Relief, and the Court having reviewed said Petition, and being otherwise advised in the premisses, it is hereupon

ORDERED and ADJUDGED as follows:

1. An evidentiary hearing on Petitioner's Verified Petition for Temporary Custody and Other Relief shall be held March 6, 2000. In selecting this date, the Court has taken into consideration, and allowed for, the time required to provide proper and sufficient notice to Respondent, the time allowed under the Rules of Civil Procedure for Respondent to file an answer, and the time required for Respondent to make travel arrangements for himself and any witnesses to appear at said hearing. It is

Jan-10-00 05:58P

01/10/00 17:00 FAX 402 514 1000

CHIEF JUSTICE FARRIS

P-05

JAN. 11. 2000 6:27AM

NO. 874 P. 2/3

the intention of this Court to ensure that Respondent be properly served and notified of these proceedings and be afford a meaningful opportunity to appear and present evidence before this Court. To that end, the Court will consider expediting or delaying the evidentiary hearing upon written application by either party.

2. Petitioner shall immediately serve Respondent with copies of all Orders of this Court and all pleadings filed herein, including but not limited to (i) a Notice of Hearing of the evidentiary hearing on the Verified Petition for Temporary Custody and Other Relief, which notice shall include a statement, pursuant to Fla. Stat. § 61.1324(2), directing that Respondent appear personally and that his failure to appear may result in a decision adverse to his interest, (ii) Petitioner's Verified Emergency Ex-Parte Petition for Interim Order, (iii) Petitioner's Verified Petition for Temporary Custody and Other Relief, (iv) the Court's January 10, 2000 Temporary Protective Order, and (v) this Order Setting Hearing on Verified Petition for Temporary Custody. Said service shall be made by the means set forth in Fla. Stat. § 61.1312, Fla. Stat. § 751, or in any international convention addressing service of process on individuals in foreign countries, or by private courier service. Additionally, Petitioner may seek the assistance of the Immigration and Naturalization Service which, as indicated by its January 5, 2000 letter, has the ability to communicate and meet with Respondent.

3. Petitioner shall provide proof of said service to the Court. If service has not been completed by January 24, 2000, Petitioner shall on that date provided the Court with a report on the status of his efforts to serve Respondent.

4. The parties shall advise the Court in writing, within 10 days following

01/10/00 21:15 202 514 6897
Jan-10-00 05:58P
JAN-10-00 17:20 PM JUD 373 1333

DAG

CHIEF JUDGE FARTINA

010

P.06

009

NO.074

P.3-3

JAN-11-2000 6:28AM

service on Respondent, of their respective positions regarding whether a social investigation, pursuant to Fla. Stat. § 61.20, should be ordered in this matter.

DONE and ORDERED in open Court at Miami, Miami-Dade County, Florida, this 10th day of January, 2000.


ROSA L. RODRIGUEZ
CIRCUIT JUDGE



Office of the Deputy Attorney General
U. S. Department of Justice

Washington, D.C. 20530

FAX COVER SHEET

DATE: 1/10/00

TO:

Mary De Rosa

PHONE NO.

456-9111

FAX NO.

456-9110

FROM:

JAMES CASTELLO

Associate Deputy Attorney General

PHONE NO.

514-3392

FAX NO.

514-6897

NO. OF PAGES: 9 (EXCLUDING COVER)

COMMENTS:

As you requested

DRAFT OF BC LETTER

INITIALS: BC /wmw	DOCUMENT NAME: \\s_who00010\dos\public\letter\slr\p\wmw \sheinbaum stanley wmw.doc
DRAFT / LETTER DATE: January 3, 2000	CORRESPONDENCE #: 7076639
	CC: J. Wertman, 97. DWB/SPM, 94.
CORRESPONDENCE ADDRESSED TO: Mr. Stanley K. Sheinbaum Giglio Porto 58013 (Grosseto) ITALY	Based on press interviews w/ Potus and Lockhardt dated 12/22 and 12/8. Revised based on INS decision and statement released 1/5.

Dear Stanley:

Thank you for expressing your concerns about the immigration case involving Elian Gonzalez.

As you may know, the INS has determined that Mr. Juan Gonzalez of Cuba has the sole legal authority to speak on behalf of his son, *Elian Gonzalez* regarding Elian's immigration status. During INS' two meetings with Mr. Gonzalez, he made it very clear that he wants Elian returned to him as soon as possible. After careful evaluation of the law and the relevant facts of this case, ^{the}INS has determined that Elian should be reunited with his father.

Both U.S. and international law recognize the unique relationship between parent and child, and family reunification has long been a cornerstone of both American immigration law and INS practice. It is our hope that Elian's relatives in Miami will agree to cooperate with either Elian's father or a third party to facilitate Elian's return to his father, by January 14, 2000.

As always, I am glad to have your insights and send my best wishes.



Stanley K. Sheinbaum

12/22

THE PRESIDENT HAS SEEN
12-21-99

20 December, 1999

President Bill Clinton
The White House—West Wing
Via Fax

Dear Bill,

I think I could provide both an infinity of reasons as to why the US should return Elian Gonzalez, the six-year old Cuban kid, to his father in Havana and a similar inventory on why we should not. I come down strongly on the side of doing it and doing it soon. My major reason is you. You have developed a reputation that so much of your foreign policy thinking and instinct is based on your own humanitarian tendencies. Not to send the boy back to his father will put a dent in that reputation, and I hate to see that happen especially now.

Furthermore leaving it in the hands of the bureaucratic negotiators and those like the Florida Cubans who would like to politicize the issue would only slow down the process.

I urge that you take quick action and get it done or else the aforesaid groups will mount campaigns that will make a quick decision by you all the more difficult.

I am told, although I have not seen it myself, that an NBC poll has about 65% of Americans favoring sending him home. I know the figure will not be as high for political people partially because there is a lot of Miami Cuban money being tossed around.

12-21-99

Do it. You'll feel better, and I'll feel better.

Warmly,

Stanley K. Sheinbaum
SKS/kc

cc: First Lady Hillary Rodham Clinton
Samuel Berger
Morton Halperin

Send to Burkhardt?

Yes ☒
No ☐



12/27
Den -
Be 5/3
T4
R

THE WHITE HOUSE
WASHINGTON

MEMORANDUM

To: Ms. Karen Hollace
6-9130

From: Woyneab Wondwossen
Presidential Letters and Messages
Voice 202/456-5492 Fax 202/456-5426

☐ Please see comments below ☐ Please advise on how to respond ☐ Please call me regarding the attached

☐ For your information ☒ For your approval ☐ Per your request

☐ No response necessary for attached letter, unless response otherwise recommended ☐ For your agency's response ☒ Please respond by:
cob tomorrow.
asap

Comments:

~~The President will personally sign this, and if possible, we would like to have it to him by wed. Please Thank you~~
Revised draft follows. Thanks again, for all your help.

ATTORNEYS AT LAW

888 Seventeenth Street NW, Washington, DC 20006-3309
Telephone [202] 298-8660 Fax [202] 342-0683 or [202] 342-1316

FACSIMILE COVER SHEETFrom: LONNIE A. PERANumber of Pages, INCLUDING Cover: 8

Direct

Dial#: 202-973-7913Ref #: 1943Date: January 5, 2000

To:

- | | | | | |
|----|----------|--|--------------|---------------------|
| 1. | Name: | <u>CHARLES BISHOP</u> | Fax Number: | <u>305-810-5148</u> |
| | Company: | <u>Office of Foreign Assets Control</u> | Phone Number | <u>305-810-5140</u> |
| 2. | Name: | <u>R. RICHARD NEWCOMB</u> | Fax Number: | <u>202-622-1657</u> |
| | Company: | <u>Office of Foreign Assets Control</u> | Phone Number | <u>202-622-2510</u> |
| 3. | Name: | <u>CLARA Y. DAVID</u> | Fax Number: | <u>202-622-0447</u> |
| | Company: | <u>Office of Foreign Assets Control</u> | Phone Number | <u>202-622-2480</u> |
| 4. | Name: | <u>FULTON ARMSTRONG</u> | Fax Number: | <u>202-456-9130</u> |
| | Company: | <u>National Security Council</u> | Phone Number | |
| 5. | Name: | <u>CHARLES SHAPIRO</u>
<u>JAMES WOLFE</u> | Fax Number: | <u>202-736-4476</u> |
| | Company: | <u>Office of Cuban Affairs</u> | Phone Number | <u>202-647-9273</u> |
| 6. | Name: | <u>CHARLES WINWOOD</u> | Fax Number: | <u>202-927-0837</u> |
| | Company: | <u>U.S. Customs Service (D.C.)</u> | Phone Number | <u>202-927-0100</u> |
| 7. | Name: | <u>JAYSON AHERN</u> | Fax Number: | <u>310-215-2013</u> |
| | Company: | <u>U.S. Customs Service (LA)</u> | Phone Number | <u>310-215-2618</u> |

MESSAGE:

The information contained on the accompanying pages is CONFIDENTIAL AND PRIVILEGED and is intended only for the use of the individual to whom it is addressed. In no event shall inadvertent transmission constitute a waiver of confidentiality or privilege. If the reader of this message is not the intended recipient, you are hereby notified that any direct or indirect dissemination, distribution or copying of the accompanying pages is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone (collect) at 202-298-8660, and return the entire original communication to us at the above address by mail. Failure of the person(s) receiving such an inadvertent transmission to abide by these conditions will constitute acceptance of the accompanying pages on a continuing confidential and privileged basis. Thank you.

Please notify us immediately if there has been any problem receiving this telecopy.

HACKLEY, BERNSTEIN & OSBERG-BRAUN, P.L.

ATTORNEYS AT LAW

Turnberry Plaza
2875 NE 191st Street - Penthouse 1B - Aventura, FL 33180
Miami-Dade (305) 692-8888 • Broward (954) 349-4994
Facsimile (305) 692-8838 • www.vlsattorneys.com

M. Keil Hackley*
Roger A. Bernstein**
Linda Osberg-Braun***

*Md. & D.C. Bars
**Florida Bar
***Florida & Pa. Bars

The Honorable Janet Reno
Attorney General of the United States
10th and Constitution Avenue, N.W.
Washington, D.C. 20530

January 5, 2000

Dear Attorney General Reno:

We write to you on Elian Gonzalez' behalf, to ask you to review and reverse the decision announced today by INS Commissioner Doris Meissner. That decision strips Elian of legal representation, and denies him a hearing on his request for political asylum. It is unfair and unconstitutional, and was reached without according Elian any due process of law. This leaves him alone and unprotected by the laws of our nation.

Elian Gonzalez has a constitutionally protected right to apply for political asylum regardless of his age or his father's statements. The decision appears to be an arbitrary one, based largely on secret interviews conducted with Juan Miguel Gonzalez in Cuba. It seems to be predicated on the untested view that Gonzalez is free from duress in Fidel Castro's Cuba, and addresses only Elian's father's best interests, not Elian's. It also contradicts the Commissioner's own policy, directives and regular practices.¹

A decision of this importance should be reached by the highest officials of this country, not by a lower official, even one as distinguished as Commissioner Meissner, and in accordance with due process of law. We ask that you review the process and merits of this decision, and that you consult with the President of the United States.

We look forward to working with you to assure Elian due process of law.

Sincerely,



LINDA OSBERG-BRAUN

Hackley, Bernstein & Osberg-Braun, P.L.



ROGER A. BERNSTEIN



SPENCER EIG
Attorney-at-Law

cc: The Counsel to the President of the United States

¹ HQINS 50/5.12 96 Act054 of August 21, 1997 states: "When deciding whether to permit the minor to withdraw his or her application for admission, officers must also make every effort to determine whether the minor has a fear of persecution or return to his or her country. If the minor indicates a fear of persecution or intention to apply for asylum, or if there is any doubt, especially in the case of countries with known human rights abuses or where turmoil exists, the minor should be placed in removal proceedings under section 240 of the Act...."

Mary DeRosa

69110

Hackley, Bernstein & Osberg-Braun
Immigration & Consular Law

Fax

To: White House Counsel

From: Linda Osberg-Braun, Roger A. Bernstein,
& Spencer Elg

Fax: (202) 458-1647 66279

Pages: 2 Inclusive

Phone

Date: 01/05/00

Re:

CC: N/A

Urgent

For Review

Please Reply

• Comments:

Linda Osberg-Braun, Roger A. Bernstein &
Spencer Elg
2875 NE 191st St - Penthouse 1B
Aventura, FL 33180
(305) 692-8888 TEL (305) 692-8838 FAX
www.visagathomeys.com and www.immigrationfranchise.com

JUNTA PATRIOTICA CUBANA

P.O. Box 350-492
José Martí Station
Miami, Florida 33135



4800 N.W. 7th Street
Miami, Florida 33126
Tele.: (305) 448-9898
(305) 448-9821
Fax: (305) 587-9548

Miami, in Exile, January 5, 2000

Honorable Al Gore
Vice-President of the United States of America
Washington DC

Honorable Mr. Vice-President:

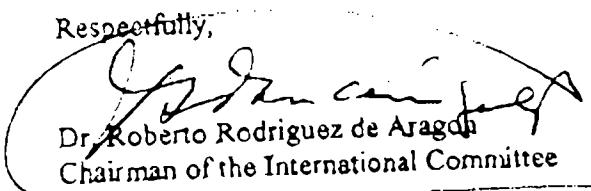
In the name of Junta Patriótica Cubana, a coordinator of Cuban Exile Organizations, we respectfully address you to request from you, with the urgency that the matter requires, the following:

That you give us an audience to review with you the serious situation created with the possible deportation of the child Elian Gonzalez.

To this audience would attend the regional chairmen of New York, Mr. Gerardo Gonzalez, of South New Jersey, Dr. Camilo Fernandez, of North New Jersey, Mr. Ricardo Fernandez Llosa, of Maryland, Dr. Luis Queral, of Illinois, Eng. Luis F. Era, of Washington, D.C., Dr. Claudio F. Benedi and yours truly, Chairman of the International Committee.

We should attend this audience at the time and place that you would determine.

Respectfully,


Dr. Roberto Rodriguez de Aragon
Chairman of the International Committee

www.juntapatriotica.org
E-Mail: JuntaPatrioticaCubana@email.msn.com

01/12/00 10:51 202 514 9077

DOJ

002



Office of the Attorney General
Washington, D. C. 20530

January 12, 2000

Linda Osberg-Braun, Esq.
Roger A. Bernstein, Esq.
Hackley, Bernstein & Osberg-Braun, P.L.
Turnberry Plaza
2875 NE 191st Street
Penthouse 1B
Aventura, Florida 33180

Spencer Eig, Esq.
420 Lincoln Road
Suite 379
Miami Beach, Florida 33139

Dear Messrs. Eig and Bernstein and Ms. Osberg-Braun:

I have reviewed your letter of January 5 concerning the case of Elian Gonzalez, as well as the issues that Mr. Bernstein raised when he and others met with me on the evening of January 7, including the fact that you have filed a custody action on behalf of Lazaro Gonzalez in the Miami-Dade County Circuit Court. I understand that court has granted a temporary protective order to Lazaro Gonzalez. While I am always open to considering new information that might arise, I am not currently aware of any basis for reversing Commissioner Meissner's decision that Juan Gonzalez--Elian's father--has the sole authority to speak for his son on immigration matters.

As you know, the United States is not a party to the action you have filed in Florida court, nor is it named in the temporary protective order that the Florida Circuit Judge issued January 10. Indeed, the question of who may speak for a six-year-old child in applying for admission or asylum is a matter of federal immigration law. Nothing in the temporary protective order changes the government's determination that Juan Gonzalez can withdraw applications for admission and asylum relating to Elian and that he has done so. In the Department's judgment, the Florida court's order has no force or effect insofar as INS's administration of the immigration laws is concerned.

In our meeting last Friday evening, Mr. Bernstein said that the INS itself had originally announced that state courts could resolve Elian's status in the United States. I think it is important to clarify, therefore, this Department's views about

Letter to Spencer Big, Esq., et al.

Page 2

the possible role of state courts in a case such as this. In the first few days after Elian's arrival in the United States, when it was suggested that INS's placement of Elian in the care of his great-uncle amounted to a grant of custody, INS indicated that it could not grant custody and that such a request would have to be put before the state courts. As the case evolved, it became clear that Elian's father, who was still in Cuba, was asserting a parental relationship with Elian and had adequately expressed his wish, under the immigration laws, for Elian's petition for admission to this country to be withdrawn. In these circumstances, INS was obliged to determine whether the father was the appropriate person to speak for Elian on immigration issues. That question, as I have said, remains one of federal, not state, law. The Commissioner's resolution of that question--as well as of other immigration matters--may be challenged, if at all, only in federal court. We are prepared to litigate in that forum. Accordingly, Commissioner Meissner has determined that the January 14 date should be extended to accommodate any federal court proceedings. This little boy has been through so much, and it is therefore imperative that all of us do what we can to resolve his case as soon as possible.

With respect to the issues raised in your January 5 letter, I would make the following observations. Elian Gonzalez is a six-year-old child who has lost his mother. As a general matter, when dealing with a child this young, the immigration law, like other areas of law, looks to the wishes of the surviving parent. One circuit court case indicated that a twelve-year-old child may apply for asylum over the wishes of his parents in some circumstances. See *Polovchak v. Meese*, 774 F.2d 731, 736 (7th Cir. 1985). That case also makes it clear, however, that a twelve-year-old child is "near the lower end of an age range in which a minor may be mature enough to assert certain individual rights that equal or override those of his parents." Commissioner Meissner has determined that, under applicable law, Elian is too young to make legal decisions for himself, and that his father has the legal authority to speak for him in immigration matters.

Commissioner Meissner reached her decision through a careful and thorough process. All of the available information was considered, including the reports from two lengthy and private interviews with Elian's father, Juan Gonzalez, and the report from the December 20 meeting with Elian's great uncle and cousin and each of you. Commissioner Meissner also carefully considered the allegation that Juan Gonzalez was under some form of coercion, and is confident, based on her representative's direct contact with Juan Gonzalez, the father's very close relationship

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Letter to Spencer Eig, Esq., et al.

Page 3

with Elian, and the other evidence provided, that the father has expressed his true wishes in asking that his son be returned to him.

The INS does not rule out the possibility of a case in which an asylum application would be accepted from a young child against the wishes of a parent. In that regard, the INS Guidelines for Children's Asylum Claims provide a useful framework. In particular, they provide for a review of the objective circumstances relating to possible torture or persecution in the child's home country in cases where a child is too young to express a competent view on these matters. The INS reviewed the asylum application you sought to file on Elian's behalf, considered all other relevant available information, and found no objective basis for overriding the father's wishes for his son. In particular, the INS found no credible information indicating that the child would be at risk of torture or persecution if returned to his father, and thus concluded that it had no reason to question the father's decision not to assert an asylum claim.

The specific language you cite from the INS Inspector's Field Manual is not applicable here. It is designed to protect an unaccompanied minor who arrives here illegally, has no parent to speak for him, and is also capable of speaking for himself. In those circumstances, if the child indicates a wish to return voluntarily to his country of origin, he would normally be allowed to withdraw the application for admission and be sent home, rather than being placed into removal proceedings. If the child expresses a fear of persecution, however, the Field Manual provides that the child should be placed not in expedited removal proceedings, but rather in conventional removal proceedings before an immigration judge.

Nothing in the field guidance suggests that a father's wishes regarding his six-year-old child should be overridden. On the contrary, in a related provision you do not cite, the Field Manual makes it clear that the first responsibility of the INS when confronted with an unaccompanied minor is to attempt to remedy the situation by finding the child's parent or legal guardian, even if that person is outside the United States. It is only when that effort is unsuccessful that the Field Manual provisions you cite even come into play.

Even if it were applicable in this situation, the provision you cite would not answer the basic question presented by this case: Who speaks for the child? If Elian is not competent to "indicate[] a fear of persecution or intention to apply for

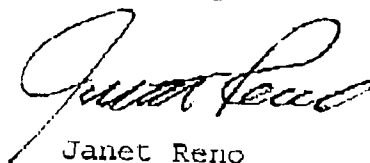
Letter to Spencer Eig, Esq., et al.

Page 4

asylum," then someone would have to decide in his behalf whether to do so. That someone, under universally accepted legal norms, is his father. And his father has stated, in no uncertain terms, that he does not wish for Elian to make an asylum claim. As noted above, the INS considered relevant information, including the statements of Elian's Miami relatives and information in the asylum application, and determined that there is no objective basis for a valid asylum claim. Consequently, it found no conflict between Elian and his father. Under these circumstances, the appropriate course of action was to honor the desires of the father regarding Elian's applications for admission and asylum. It is not appropriate to commence removal proceedings against this six-year-old boy. The Field Manual does not suggest otherwise.

Once again, it is my strong hope that we can work together to resolve this child's status as soon as possible.

Sincerely,



Janet Reno

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. report	re: Castro Has Few Options on Elian (3 pages)	01/10/2000	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Interamerican Affairs (Caryn Hollis)
OA/Box Number: 2925

FOLDER TITLE:

Cuba-Elian Gonzalez [1]

2012-0371-F

rs2158

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]

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001b. report	re: Cuban Reaction to 1 January Overflight (1 page)	01/10/2000	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Interamerican Affairs (Caryn Hollis)
OA/Box Number: 2925

FOLDER TITLE:

Cuba-Elian Gonzalez [1]

2012-0371-F
rs2158

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]

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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]

IN THE CIRCUIT COURT FOR THE
11TH JUDICIAL CIRCUIT IN AND
FOR MIAMI-DADE COUNTY, FLORIDA

FAMILY DIVISION

CASE NO: 00-00479 FC 28

LAZARO GONZALEZ, as Custodian of
ELIAN GONZALEZ, a Minor,

Petitioner,

vs.

JUAN MIGUEL GONZALEZ-
QUINTANA,

Respondent.

TEMPORARY PROTECTIVE ORDER

This cause having come before the Court upon Petitioner's Verified Emergency Ex-Parte Petition for Interim Order ("Petition for Interim Order"), and the Court having reviewed said Petition, and having carefully studied this matter, makes the following findings of facts and conclusions of law:

FACTS

Petitioner has filed a Verified Petition for Temporary Custody and Other Relief ("Petition for Temporary Custody") under Fla. Stat. §§ 751.01, et seq.¹ seeking

¹ That statute was enacted to "[p]rovide for the welfare of minor children who are living with extended family. . . . At present, such family members are unable to give complete care to the child in their custody because they lack a legal document that explains and defines their relationship to the child, and they are unable effectively to consent to the care of the children by third parties." Fla. Stat. § 751.01(2).

temporary custody of the minor child, Elian Gonzalez ("Elian") and invoking the jurisdiction of this Court under Fla. Stat. §§ 61.1308(1)(c) and (d). Through this Petition for Interim Order, Petitioner seeks interim custody of Elian pending a full evidentiary hearing on the Petition for Temporary Custody.

Elian is a six year-old child, born December 6, 1993, who is a citizen of the Republic of Cuba ("Cuba"). Elian lived in Cuba his entire life before coming to Florida in November, 1998. There is no other "state"², other than Florida, in which Elian or his parents have significant connections.

Elian and his mother, along with twelve others, fled Cuba in November, 1998, on a small boat, apparently intending to reach the state of Florida. Elian's mother and the twelve others tragically were lost at sea, but Elian miraculously survived the journey. He was rescued by two fishermen who found him alone, clinging to a tire inner tube off the coast of Florida. Following a brief stay in a local hospital, Elian was placed in the physical custody of Petitioner, his great-uncle, by the Immigration and Naturalization Service ("INS").

Thereafter, an application for admission to the United States, along with two petitions for asylum were filed on Elian's behalf with the INS. One petition was signed

² The Republic of Cuba is not a state within the meaning of the Uniform Child Custody Jurisdiction Act "UCCJA," which defines state as "any state, territory, or possession of the United States; the Commonwealth of Puerto Rico; or the District of Columbia." Fla. Stat. 61.1308(10). However, Fla. Stat. 61.1348, which must be read in conjunction with Fla. Stat. 61.1308(1)(d), applies the general policies of the UCCJA to the international area and provides that a decree of a foreign nation may be recognized by Florida courts if the foreign tribunal accorded minimum due process to all affected persons prior to entering the decree. See Kallman v. Kallman, 623 So. 2d 1213 (Fla. 3rd DCA 1993).

by Petitioner, and one was "signed" by Elian.

Following the filing of the application and petitions, INS interviewed Respondent and determined that he is Elian's biological father, and that as such, he has the right to represent Elian in all legal transactions. INS then withdrew Elian's application for admission to the United States at Respondent's request. INS did so based upon its determination that the request made by Respondent during interviews with INS representatives were in fact his "true wishes."

Additionally, INS determined that Petitioner did not have authority to act on behalf of Elian in immigration matters or to authorize representation in "direct opposition to the express wishes of the child's custodial parent." Based upon that determination, INS rejected the asylum petitions filed on Elian's behalf. Petitioner's counsel was advised by INS of its decisions in a letter dated January 5, 2000. INS then announced its intention to return Elian to Cuba by January 14, 2000.

Thereafter, on January 7, 2000, Petitioner filed a Verified Petition for Temporary Custody and Other Relief, along with a Verified Emergency Ex-Parte Petition for Interim Order, alleging that if Elian is returned to Cuba he faces the threat of mistreatment or abuse, including the loss of any due process rights he may have under United States immigration law, as well as harm to his physical and mental health and emotional well-being. Respondent was given telephonic notice of the filing of the Verified Emergency Ex-Parte Petition for Interim Order.

CONCLUSIONS OF LAW

The threshold question before the Court is whether this Court has jurisdiction

over this matter. Petitioner attempts to invoke the Court's jurisdiction pursuant to Fla. Stat. §§ 61.1308(c) and (d). In support of his invocation of jurisdiction, Petitioner alleges that the threatened return of Elian to Cuba, and the ensuing harm if he is returned, creates an emergency which requires the Court to exercise its jurisdiction for Elian's protection. Additionally, Petitioner alleges that no other state would have jurisdiction under prerequisites substantially in accordance with Fla. Stat. §§ 61.1308(1)(a), (b), or (c) and that it is in Elian's best interest that this Court assume jurisdiction. The Court finds that the facts alleged by Petitioner establish a *prima facie* basis for this Court's assumption of jurisdiction of this matter under Fla. Stat. §§ 61.1308(1)(c) and (d).³ Independent of the jurisdiction conferred under Fla. Stat. §§ 61.1308(1)(c) and (d), this Court clearly has limited jurisdiction to address the Petition for Interim Order. This Court is not powerless to act when confronted with a Petition, as the one pending before this Court, alleging that the minor child may be subject to serious and unnecessary emotional harm in returning the child to the custodial parent. Under compelling circumstances, recognized by Florida law, this Court may grant such temporary judicial relief as is necessary to protect the best interest of the child - this Court's primary concern. Based upon its independent review of Florida law, this Court is persuaded that it has the authority to grant emergency, ex-parte relief and that the relief requested by Petitioner should be granted.

³ A final determination regarding this Court's jurisdiction to address the Verified Petition for Temporary Custody and Other Relief will be made following service of process and a full evidentiary hearing.

Under Florida law, where a Florida Court, even one which may otherwise lack jurisdiction over a visiting child, is presented with allegations of imminent harm or physical or emotional danger to a child, it is empowered, under the doctrine of *parens patriae*, to issue a temporary protective order which will preserve the status quo pending a full hearing on a petition to alter temporary or permanent custody. See Rohlf v. Rohlf, 666 So.2d 588 (Fla. 3d DCA 1996); Kennedy v. Kennedy, 559 So.2d 713 (Fla. 5th DCA 1990); Nelson v. Nelson, 433 So. 2d 1016, 1019 (Fla. 3rd DCA 1983); Sommer v. Sommer, 508 So. 2d 773 (Fla. 5th DCA 1987).

Here, the Petition for Interim Order, as well as in the Petition for Temporary Custody, contains sufficient verified allegations that, if emergency relief is not granted and Elian is returned to Cuba, he would be subjected to imminent and irreparable harm, including loss of due process rights and harm to his physical and mental health and emotional well-being. Those verified allegations and the limited factual record presented clearly confer upon this Court, at a minimum, limited jurisdiction to grant emergency temporary relief to preserve the status quo pending a full hearing on the Petition for Temporary Custody. Id. The Court finds that Petitioner has established a *prima facie* case that Elian may be subject to imminent harm if emergency relief is not granted. Accordingly, it is hereby

ORDERED and ADJUDGED as follows:

⁴ "Parens patriae" refers traditionally to the role of the state as sovereign and guardian of persons under legal disability, such as juveniles or the insane, and in child custody determinations, when acting on behalf of the state to protect the interests of the child.

1. The Court finds that Petitioner has established a *prima facie* case that Elian may be subject to imminent harm if temporary relief is not granted.
2. The *status quo* shall be preserved until such time as a full hearing on the Verified Petition for Temporary Custody and Other Relief is held.
3. The minor child, Elian Gonzalez, shall not be removed from this jurisdiction pending a full hearing on the Verified Petition for Temporary Custody and Other Relief.
4. In furtherance of this Court's exercise of emergency authority and in order to effectuate the requirements of this Court's Order, Petitioner is granted such limited legal authority as is necessary to preserve the *status quo* and prevent the child's removal from this jurisdiction, including, but not limited to, the authority to assert and protect such rights as the child may have under United States immigration law and to retain counsel to assert and protect such rights.
5. Pursuant to Fla. Stat. § 61.403, a guardian ad litem for the minor child shall be appointed by separate order, to act as next friend of the child, evaluator and investigator, with such powers, privileges and responsibilities as are necessary to advance the best interest of the child.

DONE and ORDERED in open Court at Miami, Miami-Dade County, Florida, this
10th day of January, 2000.


ROSA J. RODRIGUEZ
CIRCUIT JUDGE

Jan-10-00 05:57P

01/10/00 17:29 FAX SUS 3/5 1355

CHIEF JUDGE PARRA

P. 04

NO. 874 P. 179

JAN. 11. 2000 6:27AM

IN THE CIRCUIT COURT FOR THE
11TH JUDICIAL CIRCUIT IN AND
FOR MIAMI-DADE COUNTY, FLORIDA

FAMILY DIVISION

CASE NO: 00-00479 FC 29

LAZARO GONZALEZ, as Custodian of
ELIAN GONZALEZ, a Minor,

Petitioner,

vs.

JUAN MIGUEL GONZALEZ-
QUINTANA,

Respondent.

**ORDER SETTING HEARING ON VERIFIED
PETITION FOR TEMPORARY CUSTODY**

This cause having come before the Court upon Petitioner's Verified Petition for Temporary Custody and Other Relief, and the Court having reviewed said Petition, and being otherwise advised in the premises, it is hereupon

ORDERED and ADJUDGED as follows:

1. An evidentiary hearing on Petitioner's Verified Petition for Temporary Custody and Other Relief shall be held March 6, 2000. In selecting this date, the Court has taken into consideration, and allowed for, the time required to provide proper and sufficient notice to Respondent, the time allowed under the Rules of Civil Procedure for Respondent to file an answer, and the time required for Respondent to make travel arrangements for himself and any witnesses to appear at said hearing. It is

Jan-10-00 05:58P

JAN 10 2000 17:58 FAX 405 615 1333

CHIEF JUSTICE MARTIN

P-05

JAN. 11. 2000 6:27AM

NO. 874 P. 2/3

the intention of this Court to ensure that Respondent be properly served and notified of these proceedings and be afford a meaningful opportunity to appear and present evidence before this Court. To that end, the Court will consider expediting or delaying the evidentiary hearing upon written application by either party.

2. Petitioner shall immediately serve Respondent with copies of all Orders of this Court and all pleadings filed herein, including but not limited to (i) a Notice of Hearing of the evidentiary hearing on the Verified Petition for Temporary Custody and Other Relief, which notice shall include a statement, pursuant to Fla. Stat. § 61.1324(2), directing that Respondent appear personally and that his failure to appear may result in a decision adverse to his interest, (ii) Petitioner's Verified Emergency Ex-Parte Petition for Interim Order, (iii) Petitioner's Verified Petition for Temporary Custody and Other Relief, (iv) the Court's January 10, 2000 Temporary Protective Order, and (v) this Order Setting Hearing on Verified Petition for Temporary Custody. Said service shall be made by the means set forth in Fla. Stat. § 61.1312, Fla. Stat. § 751, or in any international convention addressing service of process on individuals in foreign countries, or by private courier service. Additionally, Petitioner may seek the assistance of the Immigration and Naturalization Service which, as indicated by its January 5, 2000 letter, has the ability to communicate and meet with Respondent.

3. Petitioner shall provide proof of said service to the Court. If service has not been completed by January 24, 2000, Petitioner shall on that date provided the Court with a report on the status of his efforts to serve Respondent.

4. The parties shall advise the Court in writing, within 10 days following

01/10/00 21:15 202 514 6897
Jan-10-00 05:58P
JAN-10-00 17:00 FRI JUN 3/3 1355

DAG

CHIEF JUDGE FARTNA

010

P.06

009

NO. 874

P. 3/3

JAN-11-2000 6:28AM

service on Respondent, of their respective positions regarding whether a social investigation, pursuant to Fla. Stat. § 61.20, should be ordered in this matter.

DONE and ORDERED in open Court at Miami, Miami-Dade County, Florida, this 10th day of January, 2000.


ROSA I. RODRIGUEZ
CIRCUIT JUDGE



Office of the Deputy Attorney General
U. S. Department of Justice

Washington, D.C. 20530

FAX COVER SHEET

DATE: 1/10/00

TO:

Mary De Rosa

PHONE NO.

456-9111

FAX NO.

456-9110

FROM:

JAMES CASTELLO

Associate Deputy Attorney General

PHONE NO.

514-3392

FAX NO.

514-6897

NO. OF PAGES: 9 (EXCLUDING COVER)

COMMENTS:

As you requested

DEC 22 '99 18:45 FR

2023071918 TO 94569140

P.02/02

U.S. Department of Justice
IMMIGRATION AND NATURALIZATION SERVICE

STATEMENT

12/22/99

Karen - Here's the INS statement as released.

INS Postpones Deferred Inspection for Elian Gonzalez

The Immigration and Naturalization Service (INS) has postponed tomorrow's deferred inspection of Elian Gonzalez to January 21, 2000. INS officials communicated this information to the attorneys representing Elian Gonzalez earlier this afternoon.

INS is still gathering information needed to complete Elian's inspection. Therefore, it was not necessary for Elian to meet with INS inspectors at this time.

The postponement of the deferred inspection has no bearing on the timing of the decision INS will make on who can speak on the child's behalf regarding the immigration issues involved in this case. INS' decision in this regard can be made before, during or after the inspection is completed. INS continues to gather and evaluate information that may be relevant to that decision. INS officials share the concern for the well-being of Elian Gonzalez and are working as quickly and carefully as possible to resolve the immigration issues surrounding this case. However, a decision will not be forthcoming this week. There are no plans in the interim to make any alteration in the care and living arrangements of Elian Gonzalez.

-INS-

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NEWS

Published Tuesday, January 4, 2000, in the Miami Herald

U.S. asks Havana to let Elian's dad attend hearing

BY JUAN O. TAMAYO AND JAY WEAVER
jtamayo@herald.com

U.S. diplomats in Havana have asked the Cuban government if it would be willing to give the father of Elian Gonzalez an exit permit so he can attend the child's upcoming INS hearing, U.S. officials said.

The request made Monday by the U.S. Interests Section in Havana gave the Cubans no indication on how the INS would rule on who should speak for the 6-year-old boy or the ultimate determination of his case, the officials said.

But a trip to Miami would give Juan Miguel Gonzalez a strong role in his son's INS hearing, now set for Jan. 21, and perhaps quell the calls by many Cuban exiles that he prove he's not under Cuban government control in demanding Elian's return to Cuba.

The Cuban government did not immediately answer the U.S. request, U.S. officials said.

Repeated Cuban government statements that Gonzalez would not come to Miami have fueled exile suspicions that President Fidel Castro fears that the 31-year-old national park employee would defect once here.

Gonzalez himself has said he sees no reason to come, and that U.S. officials should simply return Elian to Cuba since he is the child's custodian. The boy's mother, stepfather and nine others drowned when their boat sank last month as they sought to flee to the United States.

The U.S. request came three days after a U.S. immigration officer met for a second time with Gonzalez in the Havana home of a "neutral" foreign diplomat to determine whether the father really wants his 6-year-old son back in Cuba.

The New Year's Eve meeting drew objection from lawyers for Elian's relatives in



MEETS ELIAN'S DAD: The Rev. Joan Brown Campbell, right, of the National Council of Churches, with Juan Miguel Gonzalez and a grandmother of the boy.



SENT LETTER TO JANET RENO: Attorney Spencer Eig, left, and Elian's uncle Lazaro Gonzalez, right.

SEE ALSO
▪ Church group promises to fight for Elian's return to Cuba

Monday, Eig released the text of a letter to Attorney General Janet Reno and INS Commissioner Doris Meissner pleading that the boy be allowed to stay in Miami.

In its letter to Reno, the boy's legal team urged INS to extend his parole into the United States indefinitely -- knowing that would enable Elian to apply for permanent residency under the Cuban Adjustment Act.

HEARING SOUGHT

His five attorneys also lobbied Reno to hold Elian's asylum hearing soon after his inspection.

"This country must ensure that Elian is not forcibly returned to a country where his freedom will be threatened," the letter read.

Meanwhile, the National Council of Churches, comprising Protestant and Orthodox denominations, met with Elian's father in his Cardenas home to put pressure on U.S. officials to release him.

The Rev. Joan Campbell and the Rev. Oscar Bolioli told him over lunch that they are trying to work with the Cuban Council of Churches toward that goal.

"The whole point is to keep him from being used as a back-and-forth chip for competing political claims," said Roy Lloyd, a spokesman for the National Council of Churches.

Campbell and Bolioli also plan to meet with the president of Cuban National Assembly, Ricardo Alarcon, to talk about the boy's release before they return to the United States on Thursday.



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OFFICE OF CUBAN AFFAIRS

U.S. Department of State
WHA/CCA, Room 3234
2201 C Street, N.W.
Washington, D.C. 20520-6263

Phone: (202) 647-9273
FAX: (202) 736-4476

FAX: HELMS-BURTON UNIT: (202) 647-7095

FAX COVER SHEET

DATE: 1/4/00

TO: Caryn Hollis

FROM: Bob

SUBJECT: Press Guidance for
clearance ASAP

URGENT

ACTION

REPLY

FYI

REMARKS:

INS: Jannelle Jones
Jim Costello

305-2757

(202)

NUMBER OF PAGES (INCLUDING COVER PAGE):

(IF THIS TRANSMISSION WAS NOT RECEIVED IN ITS ENTIRETY, PLEASE CALL 202 647-9272)

January 4, 2000
WHA Press Guidance

CUBA: January 1 Overflight by Vietnamese-American Pilot

Background: On the morning of January 1, 2000, a naturalized American citizen from Vietnam, Mr. Ly Tong, overflew parts of Havana for about a half hour in a private, rented Cessna aircraft. The FAA is now considering whether or not to issue an emergency revocation of Mr. Tong's pilot's license for this apparent violation of FAA regulations. The Miami Herald (English and Spanish editions) quotes a State Department official as characterizing Mr. Tong as "crazy Vietnamese...."

Question: Do we know why the Cuban Government did not shoot down Mr. Tong during his unauthorized presence in Cuban territorial airspace on January 1? Was he "crazy" to do this?

ANSWER: AS WE HAVE STATED, MR. TONG'S UNAUTHORIZED ENTRY INTO CUBAN AIRSPACE AND HIS OVERFLIGHT OF HAVANA ON JANUARY 1 WAS RECKLESS AND PROVOCATIVE.

SEARACCA/2000/press guidance: Jan 4 – was Vietnamese crazy

Drafted: WHACCA: RMW

Clear:	cca:	cshapiro
	Wha	wbrownfield
	C:	ssnyder
	PA:	lrodriguez (OK)
	Nsc:	chollis
	FAA:	carmstrong

Bruce D 482-9705

- 15 in BH
- not scheduled to
be sent back
- UNACR will review in
- DC in normal channels

Check if Joe Lockhart
ad - decision

TO: PRESIDENT

FROM: ROBINSON, SVEND

DOC DATE: 09 DEC 99
SOURCE REF: 5054117

KEYWORDS: HUMAN RIGHTS
CANADA

CUBA
PRESIDENTIAL CORRESPONDENCE

PERSONS:

SUBJECT: CONCERNS RE ELIAN GONZALEZ / US POLICY

ACTION: PREPARE MEMO FOR BERGER

DUE DATE: 14 JAN 00 STATUS: S

STAFF OFFICER: NAPLAN

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

NAPLAN

FOR CONCURRENCE

HOLLIS

NORLAND

PATTEN

FOR INFO

BAKER

BLINKEN

SCHWARTZ

VALENZUELA

COMMENTS:

DISPATCHED BY _____ DATE _____ BY HAND W/ATTCH

OPENED BY: NSTCG

CLOSED BY:

DOC 1 OF 1



HOUSE OF COMMONS
CANADA

OTTAWA

PLEASE QUOTE FILE G99-6042

December 9th, 1999

President William J. Clinton
1600 Pennsylvania Avenue, NW
Washington, DC 20500

By fax: 202-456-2883

Dear President Clinton:

I am writing as a member of the national House of Commons in Canada since 1979, and a senior member of the House Foreign Affairs Committee. I am absolutely appalled at the position your government has taken concerning six year old Elian Gonzalez Brotons of Cardenas, Cuba. As you know, Gonzalez survived the sinking of a boat that led to the death of his mother and several other people seeking to travel illegally from Cuba to Florida. The boy is now in Florida with distant relatives, and his presence there is being blatantly exploited by reactionary elements in the Cuban ex-patriate community there, particularly the Cuban American National Foundation. His father, Juan Miguel Gonzalez, and both sets of grandparents are all very close to the boy, and all of course seek his immediate return to the father's home in Cuba.

I am writing on behalf of my colleagues in the federal New Democratic Party to demand that you immediately authorize the return of this Cuban boy to his family in Cuba. The actions of your government in these circumstances are both inhumane and in clear breach of international law. This innocent young child must not be used as a pawn in your destructive policies attacking the people of Cuba. Finally, I would once again urge you to heed the overwhelming call of the community of nations, including my own country of Canada, to end your illegal and immoral blockade of Cuba.

Sincerely yours,

Svend J Robinson, MP
Burnaby-Douglas

cc. US Ambassador to Canada, His Excellency Gordon D. Giffin, By fax: 613-688-3088

SJR: gve

PASS

OTTAWA
366 West Block
House of Commons
Ottawa, Ontario
K1A 0A8
(613) 996-5597
fax 992-5501
svend.robinson@parl.gc.ca

Svend Robinson, MP
Burnaby - Douglas

BURNABY
4453 Hastings St
Burnaby, BC
V5C 2K1
(604) 299-4022
fax 666-0727

JAN 31 17:43



HOUSE OF COMMONS

FACSIMILE TRANSMISSION COVER SHEET

Svend Robinson, MP for Burnaby-Douglas
366 West Block
House of Commons
Ottawa, Ontario
K1A 0A6

Phone: (613) 996-5597

Fax: (613) 992-5501

Date: Dec 9 '99 Hard Copy to Follow: Yes ☐ No ☒
From: Gary Pages (including cover): (2)

To: ① President Clinton
② Ambassador Griffin

Message: Letter from Svend Robinson, MP

Re: CUBA

- ☐ For your information
- ☐ As per your request
- ☐ Reply requested
- ☐ Urgent reply requested
- ☐ Return requested



HARRISON RELEASED FROM HOSP

PAGE 3



CARDINAL HEADS BACK TO WORK

PAGE 3

CITY FOOD VENDORS PROBED

PAGE 7

DAILY @ NEWS

50¢ (\$1 in Florida) www.nydailynews.com

NEW YORK'S HOMETOWN NEWSPAPER

Monday, January 3, 2000

Send Elian back to his dad

By REP. CHARLES B. RANGEL

IMAGINE yourself a father whose 6-year-old son was found floating in the open sea, his mother drowned. You yearn to embrace and comfort your first-born. But you cannot until officials of a foreign government decide your rights and suitability as a father. You wait for your son, fearing you may never see him again.

Juan Miguel Gonzalez, the father, and his son Elian are real people trapped in just such a nightmare, victims of the endless Cold War between the U.S. and Cuba.

Since the death of his mother, who was fleeing Cuba, and his rescue at sea on Nov. 25, Elian has become the poster boy for the Cuban American National Foundation's latest campaign to overthrow Cuban President Fidel Castro.

In Cuba, Elian has been elevated to national symbol, proof of the heartlessness of U.S. policy.

In Washington, officials have delayed their decision on whether Gonzalez speaks on behalf of his son, whatever that means.

The people using Elian for their political ends have made him a TV celebrity — touring Walt Disney World and playing with toys he would never have had in Cuba. Even Mayor Giuliani considered getting into the act, weighing an invitation to Elian for last week's Times Square millennium celebration.

It is unbelievable that the sanctity of a bereaved family means so little and politics so much. But there is a deeper problem here: the nation's refusal to give up on a failed 40-year-old policy that brands Cuba a dangerous Communist enemy.

We're trading with Communist

China. We've opened diplomatic relations with Communist Vietnam. We are reaching out to Communist North Korea. Clearly, our policy toward Cuba is based on a double standard that makes no sense.

The president of the U.S. Chamber of Commerce visited Cuba last year, and when he returned, he urged a change in policy for the benefit of American business. In November, 70 senators from both parties voted to lift the embargo on food and medicines; unfortunately, the measure was rejected by the leadership in the House.

In conversations with lawyers at the Justice Department last week, I was unable to elicit a single reason for the refusal so far to reunite Elian with his father. In the absence of legal explanations, it is increasingly difficult to deny we are playing politics with a boy's tragedy.

Our own laws, as well as a bilateral accord with Cuba, require that migrants picked up at sea be returned. The accord grew out of the 1994 migration of tens of thousands of illegal Cuban boat people, which alarmed Floridians and forced the administration to act.

Castro has indicated he would not repeat his policy of opening the floodgates to would-be migrants. But our handling of the Elian case may offer encouragement to another wave of poor Cubans. Elian's lavish reception and the belief that we would flout our laws on their behalf could encourage desperate people to risk their lives.

President Clinton has said the right things on this issue: The mat-



Elian enjoys one of his many new toys

ter must be resolved under the rule of law, not politics. Also, that we should be guided by what is best for the child. Every day of delay makes that harder to accomplish.

Procrastination draws us closer to a moral low point in our dealings with Cuba and jeopardizes our international reputation for fairness and compassion.

Whatever you think of Cuba's government, imagine yourself in Juan Miguel Gonzalez's shoes as he worries whether his Elian is sleeping with nightmares. If Elian's nightmare is allowed to continue, it could become our own.

Rangel (D-Harlem) is ranking member of the House Ways and Means Committee.

Questions for the Government of Cuba on Elián González
January 3, 2000

1. The INS has not yet reached a decision on the Elian Gonzalez case, but hopes to as soon as possible.
2. In advance of that decision, the INS would like to know if the Cuban government is aware of Mr. Gonzalez's wish to come to the U.S. and pick up his child should the INS decide in his favor?
3. If the decision were in favor of the father would the Cuban government be willing to quickly facilitate a passport and exit permit for the father to travel to the United States and pick up Elian?
4. If GOC asks again about effect of father's presence on potential court litigation, it is our understanding that whatever the outcome of the INS decision, the father's presence in the United States would substantially ease the likelihood of litigation, and allow the child to return to Cuba much more quickly.

WHA Press Guidance

Tuesday, January 4, 2000

CUBA: Elian Gonzalez

Background: The Washington Post ran a front page story today quoting a government official as saying that Elian Gonzalez will be returned to his father and that the U.S. Government has asked the Cuban Government to help arrange for the boy's father to travel to Miami to pick him up.

Question: Can you confirm today's Washington Post story that the United States going to return Elian Gonzalez to Cuba?

Answer: WE PREFER NOT TO COMMENT ON UNATTRIBUTED PRESS SPECULATION. THE IMMIGRATION AND NATURALIZATION SERVICE HAS YET TO MAKE ITS FINAL DECISION IN THIS CASE. HOWEVER, AS THE SECRETARY OF STATE SAID ON SUNDAY, WE EXPECT A DECISION IN THE NEAR FUTURE.

Question: Is the State Department going to issue the boy's father an emergency visa?

Answer: [THE PRESENCE OF THE FATHER IN THE UNITED STATES WOULD HELP RESOLVE A NUMBER OF ISSUES IN THIS CASE.] THE STATE DEPARTMENT IS PREPARED TO EXPEDITE A NON-IMMIGRANT VISA FOR MR. GONZALEZ IF HE [NEEDS] TO TRAVEL TO THE UNITED STATES WITH REGARD TO RESOLUTION OF HIS SON'S CASE. THE CUBAN GOVERNMENT WOULD HAVE TO ISSUE HIM THE NECESSARY TRAVEL DOCUMENTS TO MAKE SUCH A TRIP.

Question: Are U.S. officials afraid of the reaction of the Cuban American community as stated in the Post article?

Answer: THE U.S. GOVERNMENT IS TRYING TO SHIELD THIS CASE FROM POLITICAL PRESSURE FROM ALL SIDES SO THAT INS MAY PROCEED WITH ITS PROCESS OF MAKING A DECISION IN A DELIBERATE AND CONSIDERED MANNER. WE ARE FULLY AWARE THAT, WHATEVER THE DECISION, SOME PEOPLE WILL BE EXTREMELY UNHAPPY AND ATTRIBUTE POLITICAL MOTIVES TO A PROCESS GENUINELY COMMITTED TO SEEKING THE BEST SOLUTION TO A HUMAN TRAGEDY.



HERE'S AN INTERESTING FAX...

... From the Office of Public Affairs
U.S. IMMIGRATION & NATURALIZATION SERVICE

425 I Street, NW, Washington, DC 20536



(202) 514-2648



(202) 514-1776

ate:

1/4/00

ax to:

James Costello

ax Number:

x 43392

rom:

Maria Cardone

ages (Including Cover):

5

omments:

Q's + A's ^{attached!} ~~for the morning~~
within 5 or 6 minutes!

FINAL INS DRAFT STATEMENT (Cleared by all at INS—Tuesday, Jan. 4)

The case of Elian Gonzalez has been a difficult one for several reasons. Elian Gonzalez is a six-year-old boy, too young to make legal decisions for himself. In this circumstance, the U.S. Immigration and Naturalization Service (INS) had to decide who could legally speak for him on immigration issues. This task was complicated by the fact that several people, other than Elian's father – a great uncle as well as three lawyers – claimed to represent him. As a result, the INS met with the father, and separately, with the great uncle and the lawyers. After careful evaluation and deliberation of the relevant facts, the INS has determined that Mr. Juan Gonzalez of Cuba has the sole legal authority to speak on behalf of his son, Elian, regarding Elian's immigration status in the United States.

There is no question that Mr. Gonzalez is indeed Elian's father. Moreover, Mr. Gonzalez has had a close and continuous parental relationship with Elian. INS has not uncovered any information that might call into question Mr. Gonzalez's parental and legal rights with regards to Elian's immigration status.

During INS' two meetings with Mr. Gonzalez, his wishes for Elian were discussed at some length. He made it very clear during both of these meetings that he wants Elian returned to him as soon as possible. Based on these meetings, INS believes that he is expressing his true wishes, and therefore we have determined that Elian should be reunited with his father, Mr. Gonzalez.

INS has advised both Mr. Gonzalez and Elian's great uncle in Miami of this decision, and is prepared to work with all the parties involved to make the appropriate arrangements for Elian's return to his father in Cuba by January 14, 2000.

After reaching a decision, INS believes there are several ways this decision can be implemented. The United States has discussed with the Government of Cuba their consideration of allowing Mr. Gonzalez, Elian's father, to travel to the United States to bring Elian home. INS also has offered Elian's great uncle in Miami and any member of his Miami family an opportunity to escort Elian back to Cuba. In addition, INS is aware of neutral third parties that have offered to assist in facilitating Elian's return to his father. INS is ready to work with them to assist as an appropriate arrangement is sought for Elian to be reunited with his father. We believe this decision can be carried out without INS' having to take physical responsibility of Elian. If necessary

During INS' interviews with Elian's father, he provided vivid details about his parental relationship with Elian and about the nature of the bond they share as father and son. He provided extensive information about Elian's schooling, his medical and health histories as well as photographs depicting the activities in which he and his other family members frequently participated with Elian. This scope of information and level of detail Mr. Gonzalez provided

helped inform INS as to the nature and closeness of the relationship Mr. Gonzalez shared with his son Elian.

This decision has been based on the facts and the law. Both U.S. and Cuban law recognize and honor the special relationship between parent and child, and family reunification has long been a cornerstone of both American immigration law as well as INS practice. The INS has established that Juan Gonzalez is Elian's father, that they share a deep bond, and that he has the legal authority to speak on Elian's behalf. We have also determined that Mr. Gonzalez' wishes are that Elian be returned to him as soon as possible.

It is our hope that with the knowledge of today's decision, the Miami relatives will agree to cooperate and work together, with either Elian's father or a third party, to facilitate Elian's return to his father. This little boy, who has been through so much, belongs with his father. We urge everyone involved in this case to understand, respect and uphold the bond between parent and child

-INS-

OFFICE OF CUBAN AFFAIRS

U.S. Department of State
WHA/CCA, Room 3234
2201 C Street, N.W.
Washington, D.C. 20520-6263

Phone: (202) 647-9273
FAX: (202) 736-4476

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FAX COVER SHEET

DATE:

1/5/00

TO:

Wendy Patton

FROM:

Bob

SUBJECT:

Final version for
your use

URGENT

ACTION

REPLY

FYI

REMARKS:

NUMBER OF PAGES (INCLUDING COVER PAGE):

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**U.S. Department of State
Office of the Spokesman**

For Immediate Release

January 5, 2000

STATEMENT

The United States this morning communicated to the Cuban Government that the Immigration and Naturalization Service (INS) has determined that Mr. Juan Gonzalez Quintana is the natural father of Elian Gonzalez Brotons, has sole authority to speak on his son's behalf on immigration issues, and that as the father has requested Elian Gonzalez should be reunited with his father in the most expedient time and manner possible.

This same information was previously communicated to Mr. Gonzalez by the INS Officer-in-Charge at the U.S. Interests Section in Havana.

The Department is prepared to expedite the application for a non-immigrant visa for Mr. Gonzalez if he decides that he wants to travel to the United States to be reunited with his son.

From the beginning, the U.S. Government has been concerned with the well-being of Elian Gonzales and has sought to ensure that the process of reaching a decision in this case was done in a deliberate and considered manner.

INS Commissioner Doris Meissner is holding a press conference today to answer whatever questions you might have about the INS' decision and next steps.

SEARACCA/2000: Jan 5 - elian statement

Drafted: CCA: RMW

Clear: CCA: Cshapiro (OK)
WHA: wbrownfield
C: ssnyder (OK)
P: larreaga (OK)
NSC: wpatton(OK)
INS: jjones (OK)
PA: Lrodriguez (OK)

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NEWS RELEASE

CONGRESSMAN CHARLES B. RANGEL

U.S. House of Representatives
Washington, DC 20515

CONTACT—Emile Milne
202-225-4365

FOR IMMEDIATE RELEASE
January 5, 2000

CONG. RANGEL PRAISES ADMINISTRATION DECISION TO RETURN CUBAN BOY TO FATHER'S CUSTODY

Lawmaker Says Elian Gonzalez Should be Escorted Back to Cuba as Soon as Possible

New York—Cong. Charles Rangel today praised the Clinton Administration for allowing humanitarian concerns and the rule of law to prevail in its recently announced decision to send six-year-old Elian Gonzalez back to his father in Cuba by January 14th.

“The INS’ decision is clearly in the best interests of the child, and it came not a moment too soon. We should all be thankful that this little boy’s nightmare is coming to an end,” Cong. Rangel said.

The 6-year-old Cuban boy has been trapped in a political battle of wills between the U.S. and Cuba since losing his mother and being rescued at sea on November 25th.

Cong. Rangel also expressed his hope that all parties involved work together to return Elian to his country as soon as possible.

“We should not waste another day in getting Elian back to where he belongs, and if needed, I am prepared to escort the child to his father and family myself.”

###

01/05/00 15:46 FAX
CHARLES B. MANOEL
15TH CONGRESSIONAL DISTRICT
NEW YORK
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WAYS AND MEANS
RANKING MEMBER
SUBCOMMITTEE ON TRADE
JOINT COMMITTEE ON TAXATION

Congress of the United States
House of Representatives
Washington, DC 20515-3215

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TELEPHONE (212) 663-3900
2110 FIRST AVENUE
NEW YORK, NY 10029
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FAX TRANSMITTAL

DATE: 1/5/00

FROM: Dan Kaufman

TO: Karen Hollis

FAX: 456-9130

NUMBER OF PAGES (INCLUDING COVER): 2

SUBJECT/MESSAGE: Elian Gonzalez decision

"VICTOPIA EN CUBA", (faxnews (305) 368-4765).



"NOS ENSEÑA A PENSAR" ... ¿QUÉ PENSANDO? ¿CÓMO? ¿DÓNDE? ... ¿POR QUÉ? ... NOS ENSEÑA A PENSAR.



WALTER MICHÓY / The Miami Herald



Elián González

WHY?

(TO BE CONTINUED)

NATIONAL SECURITY COUNCIL

FAX COVER SHEET

**NATIONAL
SECURITY
COUNCIL**

17th & Penn, N.W.
Washington, D.C.
20504

Did you get a complete,
clear transmission? If not,
please call:

(202) 456-9137

From: Caryn Hollis

To: Woyneab W.

Agency: Pres Ltrs & MSG

Fax Number: 65426

Date/Time: 5Jan 00

No. of pages to follow: 2

Message:

Context: On Saturday night, Fidel Castro said that the U.S. has 72 hours to return the 5-year-old Cuban boy or else the Cuban people would take to the streets to insist on his return.

What is the USG reaction to Castro's latest statements about return on the boy?

- As in the case of any unaccompanied minor who arrives on U.S. shores, the U.S. government is committed to seeing a decision in this case consistent with the best interests of the child.
- We would hope that the family of the boy could reach agreement on who should have custody of the boy. If they cannot, this a matter for the Florida State Courts to resolve.
- We are do not approve of the ultimatum issued by Fidel Castro on Saturday night. This is not conducive to resolving this case in the appropriate way.
- We would hold the Cuban government responsible for any harm to U.S. citizens or to our Interests Section that may come from the public protests the Cuban government has called for.
- We are committed to working with the family of the boy, including the father, the Cuban government and Florida state officials to achieve a solution to this case.

Hollis, Caryn C. (INTERAM)

From: WHSR
Sent: Friday, December 10, 1999 4:10 PM
To: Busby, Scott W. (MULTI); Clarke, Richard A. (TNT); Hollis, Caryn C. (INTERAM); McCarthy, Mary O. (INTEL); Naplan, Steven J. (MULTI); Valenzuela, Arturo A. (INTERAM)
Subject: CUBA:LettertoParliaments

CLASS: INTERNATIONAL
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PREC: RUSH
TOR: 991210160933 F516bad0

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CUBA: Letter to Parliaments on Child's Case
PA1012155399 Havana Cuba's Web WWW in English 10 Dec 99
[Letter by Dr. Ricardo Alarcon de Quesada, Speaker of the
National Assembly of People's Power of the Republic of Cuba,
to
all members of Parliament in the world; from Cuba's Web "Latest
News" section].

[FBIS Transcribed Text] Dear Members of Parliament, Cuba has repeatedly denounced the double standard policy that the United States government pursues towards Cuba with regards to immigration.

While the nationals of other countries are quickly deported when they illegally enter that country, the Cubans are immediately granted permission of residence in compliance with the so-called Cuban Adjustment Act thus undermining the migratory agreements signed by both countries while encouraging illegal migration. This has lately given rise to a new phenomenon: the illegal smuggling of aliens when unscrupulous individuals wanting to profit from others and despising human life have come from the United States and surreptitiously enter our territory on speed boats to fetch Cuban citizens that they take to that country on payments of 8,000 to 10,000 US dollars per person. Most often, the traveling takes place on overcrowded boats and not few people, women and children included, have perished during such trafficking in humans.

In addition to this, over two thousand weekly hours of radio stations programming invade our radio-electronic space as part of a campaign that repeatedly incites to ignore the established procedures for a legal and safe migration in accordance with aforementioned agreements signed by the United States and Cuba. The trafficking in humans is conducted on rudimentary and unsafe vessels, either built or stolen in our country by people who receive money from and act in complicity with others living in the United States of America.

Last November 22, ancillary troops of our Coast Guard Forces detected, within our jurisdictional waters, a vessel carrying a group of people to Florida. As the efforts to persuade them to abandon their undertaking failed --and in compliance with the well-known conduct observed in such cases to avoid the use of force and intimidation to prevent accidents-- it was decided to escort them up to the international waters.

Additionally, an immediate communication was forwarded through the established channels, that is, fax and telex to the US Coast Guard Service patrolling the seas adjacent to Cuba about the presence and characteristics of such vessel navigating towards Florida "with a group of about 13 people, including children, on the northern coast of Matanzas province with the intent to illegally enter the territory of the United States of America.

A few days later, on November 25, we learned that the US Coast Guard Service had rescued, near the coast of Florida, three survivors of a shipwreck and that five-year-old Elian Gonzalez Brotons was one of them.

That child was being illegally carried aboard that vessel by a man named Lazaro Munero Garcia who had close personal relations with the child's mother already divorced from the boy's father, Juan Miguel Gonzalez Quintana, a resident in the city of Cardenas, Matanzas province, Cuba. The father had a very close relationship with his son whom he constantly visited as he properly discharged his obligations as a parent.

The child's grandparents, on both sides of the family, had also a very close and loving relationship with him as they live in the same city.

They, too, have been deprived of the boy's presence.

Neither the father nor any other relative was consulted about the child's departure. The father's permission was not requested to take his small son to the United States of America, least of all to carry him there illegally and by irresponsible and risky means. The two persons responsible for illegally taking the child, that is, the mother and her friend, perished in the shipwreck.

Once again the United States government has violated the basic principles of law and respect for human dignity thus insulting the child's father, a modest Cuban worker, and his grandparents when it has used the Immigration and Naturalization Service to illegally retain the child in their territory despite the father's insistent claim to recover his son in compliance with his full right to custody.

Far from acting with the urgency that the case demands and returning the child to his father through the expedite procedures provided for such cases, the United States government, in connivance with the Cuban-American extreme right mob in Miami avoids a fair, legal and human action and chooses to keep him in their territory thus becoming a de facto and de jure kidnapper of the child illegally snatched from Cuba.

From the moment a person is born until he becomes of age and is then considered in full capacity to act on his own, it falls on the parents the right and the duty to provide care, education and to keep him under custody and attention. Until becoming of age and for his benefit, every minor is legally subjected to the custody exercised by his parents, that is, to depend from others; he cannot act of his own free will. Such dependency shows in his capacity to act and the full exercise of his rights, which in principle are determined by both parents or by one of them when the other has died.

Such a transcendental action as it is the separation from his country, because it uproots the child from his daily life, his family, his classmates and friends, his culture and nationality, demands the previous consent of both parents when one of them intends to leave the national territory.

It is for these reasons that Elian's father and his grandparents' right to demand his immediate return to the home and family from which he was illegally snatched is not negotiable. This claim is decidedly supported by all the Cuban people as a perfectly just defense of the infringed rights of this child and his father.

The behavior of the government of the United States of America which violates Elian's right to enjoy his father's love and understanding to fully and harmoniously develop his personality and to grow in the loving family from which he was unfairly separated and where he has his dearest and deepest affections, is thus denounced by the National Assembly of People's Power that on behalf of the Cuban people exposes this vandalistic action and appeals to the most determined support of all Members of

Parliament in the world.

Sincerely,

Dr. Ricardo Alarcon de Quesada
Speaker of the National Assembly Of the Republic of Cuba

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CUBAN FIVE YEAR-OLD SURVIVOR

November 29, 1999

BACKGROUND: Cuba has requested that the United States return a five-year old who survived when the boat he and 12 others were in capsized last Thursday just off the coast of Florida. The five-year old, Elian Gonzalez, was found clinging to an inner tube and was taken to the hospital to be treated for exposure. The child was later released into the custody of his relatives in Miami. On Sunday the Cuban Foreign Ministry delivered a diplomatic to USINT requesting that Elian be returned to Cuba and to his father's custody. The child's mother and step-father were on the boat and are believed to have drowned. In their public statement the Cubans criticized U.S. policy toward migrants saying that the U.S. is entirely responsible for these new and painful deaths of Cuban citizens because of the insensitive way in which illegal migration is promoted, encouraged, and rewarded from that country."

Is the US going to honor the request by the Cuban Foreign Ministry to return Elian Gonzales to Cuba?

- The child has been paroled into the custody of his relative in Miami by INS. The child situation raises a variety of issues that will need to be addressed and resolved as soon as possible.

Do you have a response to the allegations by the Cuban Foreign Ministry that the U.S. is responsible for the tragic death of these individuals?

- The U.S. does not in any way condone, promote or encourage illegal migration. It is reprehensible that anyone would suggest that the U.S. is in any way responsible for these tragic deaths. We stand strong in our commitment to encouraging safe, legal, and orderly migration and urge individuals in Cuba to refrain from attempting to migrate illegally. Finally, our condolences go out to the families that have been affected by this tragedy.

CUBA: Democracy Movement Flotilla December 10, 1999

Context: *Ramon Sanchez of the Democracy Movement, a Cuban exile group, plans a one ship flotilla to conduct a pro-democracy demonstration in the international waters off Cuba for 11 December. The ship will depart Marathon Key tonight and reach Cuba's twelve mile limit sometime Saturday morning. Two light planes are acting as escorts. The Coast Guard has spoken with Mr. Sanchez who has assured them that he will not violate Cuban territorial waters. USCG is monitoring event closely; with two ships in the vicinity and a medevac aircraft on standby.*

What can you tell us about the flotilla and the USG preparation for it?

- I understand that the Democracy Movement, a Cuban exile group, intends to conduct a pro-democracy demonstration in international waters off the Cuban coast on Saturday.
- We support their right to hold peaceful demonstrations as well as the goal they promote –the peaceful transition to democracy in Cuba.
- As on past occasions, the USG will monitor the event to ensure to the extent possible the safety of all participants.

Will the USG intervene to protect the participants from possible GOC actions against them?

- We have urged the event organizer to avoid unnecessary risks and warned them of the danger of entering Cuban territory without Cuban government authorization. They have assured us that they have no intention of violating Cuban territorial sea or airspace.
- U.S. Coast Guard ships will be positioned in international waters and will be prepared to perform search and rescues and other emergency operations.

Elian Gonzalez Case

December 10, 1999

How do you intend to resolve the Elian Gonzalez case?

- This case will be processed by the INS in a deliberate way according to the rules and procedures applicable to these types of claims.
- As I have said before, the decision here is a legal one, not a political one, and I intend to do as much as I can to keep it that way.
- The key issue is determining who speaks for the child. INS is making every effort to collect the necessary information from Elian's father and will consider all other information relevant to this issue.
- We have made clear to the Cuban government what this process entails and hope they will help us facilitate the gathering of the necessary information.

Don't you think it would be better if the boy grew up in the United States?

Of course, we would like everyone to grow up in a free country, but there are other issues present in this case. The case must be resolved in the appropriate legal manner.

Last week, the State Department said that the USG would defer to the courts on this case. Now, you are saying that INS must make a decision of its own. Are you caving into the pressure applied by the Castro government?

- No. This case is a complex one, involving issues of both children's law and immigration law. Our approach to the case has evolved as more facts have come to light.
- The courts may end up playing a role in this case, but for now, we know that INS must make an important legal decision of its own, and that is, who speaks for the child's immigration wishes.

It appears that an asylum claim will/has been filed on Elian's behalf. Will this change your view of the case?

- No. The central issue remains the same: who should speak for this child. That is the decision INS must make. And that is a decision that INS will make without involvement of the White House or any other political actor.

How quickly will INS make its decision?

- This is a question better directed at the Department of Justice and INS. It is important that we respect the integrity of their decision-making process.

How can you be sure that the father is speaking of his own free will, and not responding to pressure from the Castro regime? Why don't you grant the father a visa to come to the U.S.?

- INS is doing everything possible to ensure that the father can represent his wishes freely.
- We are also prepared to consider any request the father may make to come to the United States to pursue his case.

Do you think the resolution of this case will set back the U.S. relationship with Cuba on other matters?

- This is certainly not our intention or hope.
- This is a difficult legal matter that should be resolved in the appropriate legal way; it should not be a political issue between our two governments.
- We intend to continue our cooperation with the Government of Cuba on migration and other law enforcement issues.

We can assure you that we are committed at the highest levels to moving in an expedited manner to resolve the case of minor Elian Gonzalez in accordance with our laws and procedures. We wish to insulate the process from political pressures of any sort.

The paramount consideration is the best interest of the child. Our laws put great weight on the wishes of the surviving parent in cases such as this.

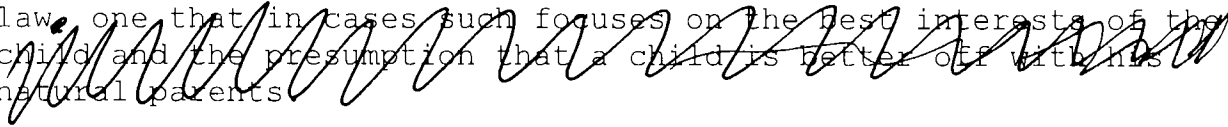
The first step is for Mr. Gonzalez to certify officially that he is the father so that his wishes can be ascertained.

It is essential that we deliver the letter INS has sent to Mr. Gonzalez. To that end he should contact the USINT.

Be assured that USINT will treat Mr. Gonzalez in a professional and dignified manner and whatever information he provides will be part of the case file and will be kept in the strictest confidence.

IF ASKED: Will the U.S. government return Elian?

I want to reiterate our assurances that we intend to follow the law, one that in cases such focuses on the best interests of the child and the presumption that a child is better off with his natural parents.



WHA Press Guidance
Friday, December 10, 1999

CUBA: Elian Gonzalez

Background: We continue to work with Cuban Government officials on the case of Elian Gonzalez, the six-year-old boy rescued at sea on Thanksgiving in a migration attempt that resulted in the death of his mother. The child currently resides with relatives in Miami. His father in Cuba has asked for his return to the island.

Question: Can you give us an update on the Elian Gonzalez case?

Answer: ON WEDNESDAY WE DELIVERED TO THE CUBAN GOVERNMENT A DIPLOMATIC NOTE OUTLINING THE PROCEDURES THAT THE IMMIGRATION AND NATURALIZATION SERVICE (INS) MUST FOLLOW IN THIS CASE, INCLUDING THE NEED FOR INS TO INTERVIEW THE BOY'S FATHER AND THE TYPE OF DOCUMENTATION HE SHOULD PRESENT. WE ALSO ASKED THEM TO FACILITATE THE DELIVERY OF A LETTER TO THE BOY'S FATHER FROM THE INS DISTRICT DIRECTOR IN MIAMI DETAILING THESE PROCEDURES. [Note: Travel restrictions do not permit travel outside the City of Havana for U.S. officials without approval from the GOC. The same is true for Cuban diplomats in Washington.]

Question: Has the Cuban Government responded to the diplomatic note or the request to facilitate the delivery of the letter?

Answer: THE CUBAN GOVERNMENT HAS NOT RESPONDED TO OUR DIPLOMATIC NOTE, BUT CUBAN DIPLOMATS IN BOTH WASHINGTON AND HAVANA MET TWICE YESTERDAY WITH U.S. OFFICIALS TO CLARIFY THE PROCESS AND REGULATIONS THAT WILL BE FOLLOWED IN THIS CASE. THE CUBAN GOVERNMENT HAS NOT AGREED TO ALLOW U.S. INS AND STATE DEPARTMENT CONSULAR OFFICIALS TO DELIVER THE LETTER TO THE BOY'S FATHER.

Question: If the Cuban Government won't even allow U.S. officials to deliver the letter to the boy's father, how can you trust them to allow the process to proceed free of political pressure?

Answer: THESE ARE QUESTIONS WE CONTINUE TO PURSUE WITH OUR CUBAN GOVERNMENT INTERLOCUTORS HERE AND IN HAVANA. AS PRESIDENT CLINTON SAID ON WEDNESDAY, WE SHOULD TRY TO "TAKE AS MUCH POLITICAL STEAM OUT OF THIS AS POSSIBLE" SO THAT THE PROPER AUTHORITIES CAN FOLLOW THEIR ESTABLISHED PROCEDURES FREE FROM OUTSIDE PRESSURES.

Question: What about reports that the boy's father does not want to be interviewed by INS?

Answer: WE DON'T WANT TO SPECULATE ON THE ACTION OF THE FATHER BUT WILL AWAIT HIS RESPONSE TO OUR COMMUNICATION SO THAT WE CAN PROCEED ACCORDING TO ESTABLISHED GUIDELINES AND REGULATIONS.

Question: Will the United States grant Elian political asylum as his family in Miami is apparently planning to request?

Answer: WE PREFER NOT TO SPECULATE ON HYPOTHETICAL SCENARIOS. WE WILL HANDLE THIS CASE IN A VERY DELIBERATE MANNER IN ACCORDANCE WITH ESTABLISHED RULES AND PROCEDURES AND THE FIRST STEP IS TO EVALUATE THE INTERESTS OF THE FATHER.

Question: When will INS make its decision?

Answer: THE INS MUST MAKE A DECISION IN ACCORDANCE WITH U.S IMMIGRATION LAW AND ITS OWN PROCEDURES. I DO NOT WANT TO SAY ANYTHING THAT MIGHT INFLUENCE THE INTEGRITY OF THAT PROCESS.

Question: Why doesn't the U.S. Government just let the boy's father immigrate to the United States to be with his son?

Answer: THE UNITED STATES HAS LAWS THAT GOVERN ISSUANCE OF IMMIGRANT VISAS. SHOULD HE QUALIFY FOR AN IMMIGRANT VISA PETITION, SOMEONE COULD FILE ONE ON HIS BEHALF AND IT WOULD BE ADJUDICATED ACCORDING TO STANDARD REGULATIONS AND PROCEDURES. THE FATHER HAS NOT APPLIED FOR ANY TYPE OF VISA.

Question: Why are you subjecting the father to this bureaucratic nightmare? Aren't his wishes pretty clear?

Answer: PLEASE UNDERSTAND THAT INS OFFICIALS CANNOT MAKE DECISION BASED ON PRESS REPORTS OF THE FATHER'S WISHES OR CUBAN GOVERNMENT ASSERTION OF THE FATHER'S WISHES. JUST AS YOU HAVE TO SHOW SOME PROOF BEFORE YOU ARE ISSUED A PASSPORT, THE FATHER MUST DEMONSTRATE THAT HE IS THE FATHER OF THE CHILD AND HAS EXERCISED PARENTAL AUTHORITY AND THEN TELL US DIRECTLY WHAT HIS DESIRES ARE.

Question: Don't you think it would be better if the boy grew up in the United States?

Answer: OF COURSE WE WOULD LIKE EVERYONE TO HAVE THE ADVANTAGES OF GROWING UP IN A FREE COUNTRY, BUT THERE ARE MANY EQUITIES INVOLVED IN DETERMINING THE BEST ^{FATE} INTERESTS OF A CHILD, AND I THINK THAT IS A QUESTION FOR THE APPROPRIATE LEGAL AUTHORITIES TO DECIDE.

THIS CASE IS LEGALLY COMPLEX

AND

Question: Is the State Department giving in to political pressure to return the boy? Haven't you flip-flopped on the case, first saying it's a matter for the Florida courts and now asserting an INS role?

Answer: NO. OUR VIEWS ON ~~THIS CASE~~ ^{IT} HAVE EVOLVED AS MORE ~~FACTS~~ ^{HAVE} COME TO LIGHT. THE COURTS MAY BECOME INVOLVED, BUT INS MUST FIRST MAKE A DECISION, FOR THE PURPOSES OF DETERMINING THE BOY'S IMMIGRATION STATUS, ON WHO LEGALLY SPEAKS FOR THE BOY. THE DOCUMENTS WE SEEK FROM THE FATHER ARE NECESSARY TO HELP INS ANSWER THIS QUESTION.

Question: Why is this process so complicated?

Answer: INS HAS TOLD US THAT ITS REGULATIONS AND PROCEDURES ARE SECOND ONLY TO THE U.S. TAX CODE IN THEIR COMPLEXITY.

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Answer: WE DON'T WANT TO SPECULATE ON THE ACTION OF THE FATHER BUT WILL AWAIT HIS RESPONSE TO OUR COMMUNICATION SO THAT WE CAN PROCEED ACCORDING TO ESTABLISHED GUIDELINES AND REGULATIONS.

Question: Will the United States grant Elian political asylum as his family in Miami is apparently planning to request?

Answer: WE PREFER NOT TO SPECULATE ON HYPOTHETICAL SCENARIOS. WE WILL HANDLE THIS CASE IN A VERY DELIBERATE MANNER IN ACCORDANCE WITH ESTABLISHED RULES AND PROCEDURES AND THE FIRST STEP IS TO EVALUATE THE INTERESTS OF THE FATHER.

Question: When will INS make its decision?

Answer: THE INS MUST MAKE A DECISION IN ACCORDANCE WITH U.S. IMMIGRATION LAW AND ITS OWN PROCEDURES. I DO NOT WANT TO SAY ANYTHING THAT MIGHT INFLUENCE THE INTEGRITY OF THAT PROCESS.

Question: Why doesn't the U.S. Government just let the boy's father immigrate to the United States to be with his son?

Answer: THE UNITED STATES HAS LAWS THAT GOVERN ISSUANCE OF IMMIGRANT VISAS. SHOULD HE QUALIFY FOR AN IMMIGRANT VISA PETITION, SOMEONE COULD FILE ONE ON HIS BEHALF AND IT WOULD BE ADJUDICATED ACCORDING TO STANDARD REGULATIONS AND PROCEDURES. THE FATHER HAS NOT APPLIED FOR ANY TYPE OF VISA.

Question: Why are you subjecting the father to this bureaucratic nightmare? Aren't his wishes pretty clear?

Answer: PLEASE UNDERSTAND THAT INS OFFICIALS CANNOT MAKE DECISION BASED ON PRESS REPORTS OF THE FATHER'S WISHES OR CUBAN GOVERNMENT ASSERTION OF THE FATHER'S WISHES. JUST AS YOU HAVE TO SHOW SOME PROOF BEFORE YOU ARE ISSUED A PASSPORT, THE FATHER MUST DEMONSTRATE THAT HE IS THE FATHER OF THE CHILD AND HAS EXERCISED PARENTAL AUTHORITY AND THEN TELL US DIRECTLY WHAT HIS DESIRES ARE.

Question: Don't you think it would be better if the boy grew up in the United States?

Answer: OF COURSE WE WOULD LIKE EVERYONE TO HAVE THE ADVANTAGES OF GROWING UP IN A FREE COUNTRY, BUT THERE ARE MANY EQUITIES INVOLVED IN DETERMINING THE BEST ^{FATE} INTERESTS OF A CHILD, AND I THINK THAT IS A QUESTION FOR THE APPROPRIATE LEGAL AUTHORITIES TO DECIDE.

NATIONAL SECURITY COUNCIL

MULTILATERAL AND HUMANITARIAN
AFFAIRS

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to verify your number w/ the
sender. thx Dora*

**Message to be Delivered to Ricardo Alarcon
President of the Cuban Assembly of Popular Power**

- The United States Government cannot give an ironclad guarantee that Elián will be returned. You will appreciate that we wish to insulate the process from political pressures of any sort.
- We can assure you that we are committed at the highest levels to moving in an expedited manner to resolve this case.
- The laws put great weight on the wishes of the surviving parent in cases such as this.
- The first step is for Mr. González to document that he is the father so that his wishes can be heard.
- It is essential that we deliver the letter from INS to Mr. González and that he initiate contact with USINT.
- Be assured that USINT will treat him in a professional and dignified manner and that whatever information he provides us will be considered part of the case file and will not be made public.

OPTIONAL FORM 99 (7-89)

FAX TRANSMITTAL		# of pages 2
To Alarcon	From Shapiro	
Dept./Agency	Phone #	
Fax #	Fax #	

NSN 7540-01-317-7308 5089-101 GENERAL SERVICES ADMINISTRATION

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20504

December 9, 1999

ACTION

MEMORANDUM FOR SAMUEL R. BERGER

THROUGH: ERIC SCHWARTZ SB *fw*

FROM: SCOTT BUSBY SB

SUBJECT: Case of Elian Gonzalez

Attached is the memorandum to the President you requested on the above subject.

Concurrence by: Mary DeRosa, Arturo Valenzuela) *via e-mail*

RECOMMENDATION

That you sign the attached memorandum.

Attachment

Tab I Memorandum to the President

THE WHITE HOUSE

WASHINGTON

INFORMATION

MEMORANDUM FOR THE PRESIDENT

FROM: SAMUEL BERGER

SUBJECT: Case of Elian Gonzalez

Background: On Thanksgiving morning, six-year-old Elian Gonzalez was rescued from an inner tube by fishermen off the coast of Florida. Elian was one of three survivors of a boat holding 14 Cuban migrants that capsized at sea; Elian's mother and her mother's boyfriend were among those who perished. Elian was turned over to the Coast Guard, which, after conducting a medical evaluation, decided to bring him into the United States for emergency treatment. He was held in a hospital for several hours and then released by local Immigration and Naturalization Service (INS) officials into the custody of extended relatives in Miami. He currently resides with his father's uncle and aunt.

Immigration Status: As with other aliens who arrive on U.S. soil, INS considers Elian an applicant for admission to the U.S. Any such applicant must be "inspected" before the applicant can be legally "admitted" to the U.S. In this case, INS has deferred Elian's inspection until December 23. (This inspection may be deferred further.)

In the meantime, like almost all other Cubans who arrive here illegally, Elian has been granted immigration parole. This permits him to reside on U.S. territory even though he has not been formally admitted. Such status also brings him within the scope of the Cuban Adjustment Act of 1966, which means that he will be eligible to become a lawful permanent resident (LPR) a year and a day after his parole.

Procedures in the Case: The key issue in this case at present is whether Elian wishes to be an applicant for admission. Because he is a minor, it is generally assumed that Elian is not competent to represent his own wishes. The question then becomes who can speak for him. Ordinarily, it is presumed that

cc: Vice President
Chief of Staff

a parent with lawful custody over a minor may speak for him or her. However, this proposition has been successfully challenged several times in the immigration context.

Request from Father: The Cuban government has forwarded to us a request from Elian's father that Elian be returned to him. In response to that letter, INS is seeking to deliver a letter to the father that describes the information and documents he needs to provide to establish (1) paternity and (2) his parental rights over Elian. INS is also seeking to interview the father in our Interests Section in Havana on these issues and to ascertain his wishes for his son. Should the father prove both paternity and his custodial rights under Cuban law, INS believes he would have a powerful claim to speak on behalf of his child.

Intervention by Others: At the same time, it is clear that others, including the great uncle and great aunt with whom Elian currently resides, also intend to intervene on Elian's behalf. For instance, we have received reports that Elian's relatives in Miami are preparing an asylum application for him and may file both state and federal court actions to prevent his removal from the U.S. In the context of the immigration process, INS is prepared to consider all claims made by other relatives on Elian's behalf. INS is still exploring the standards to apply in considering these claims against any interests asserted by the father.

Timing: INS believes that it should be able to make a decision about who speaks for Elian soon after receiving the necessary information from the father and any claims made by other relatives. However, it is unclear how long it would take to resolve litigation that may be undertaken to thwart the father's claim (should he be successful in establishing paternity and custody). The issues in this case are unusual in the immigration context and will be decided in a politically charged atmosphere. Thus, we imagine there could be significant delay in bringing closure to this case.

Drafted: WHA/CCA:CSShapiro

Cleared: WHA:WRBrownfiled
S/P:JO'Brien
C:SSnyder
P:Larreaga
NSC:AValeenzuela

Revised

11dec99; 12:15 pm

Points to Respond to Cuban Aide Memoire of 10 DEC 99
Concerning the Case of Elián González

immediate

- We understand your frustration that we cannot assure the rapid return of the minor Elián González. ~~Our first concern is for the boy. We must follow our laws and procedures, which~~
- As we told Assembly President Alarcon yesterday, we are committed at the highest levels to moving in an expedited manner to resolve this case, in accordance with our laws and procedures. ~~Those procedures are fair and transparent.~~ *will be fair and transparent.*
- This process ~~must~~ be administered with regard to Elián just as it would to any child from any other country.
- ~~If we do not follow those laws and procedures, we increase the possibility of a successful counter-claim.~~
- There is no "political" solution.
- If Mr. González has given power of attorney to his mother, INS ~~would~~ look at the documents she might provide on his behalf and INS ~~would~~ interview her and her statements will become part of the record.
- Those documents and her statements must come directly from her, not through the intermediary of the government of Cuba.
- We feel obligated to point out that the father is the best person to express his own wishes. Those wishes ~~will~~ *will* be more credible coming directly from him.
- It is not unusual for people involved in cases like this to be very emotional and distressed. Please rest assured that the INS official will deal with him in a professional, courteous, and empathetic manner.
- We will, of course, discuss with the father the way in which Elián would be returned to Cuba at the appropriate time.
- One last point. In your aide memoire you express concern that anyone can purport to speak for the child. While anyone can file the document seeking to speak for a person involved in an immigration procedure, that application may well be denied. In the case of a minor child it would be likely for the immigration official to give the greatest weight to the wishes of the parent.
- We again urge you to ~~allow~~ Mr. González to talk directly to the INS.

encourage

[Signature]

We can assure you that we are committed at the highest levels to moving in an expedited manner to resolve the case of minor Elian Gonzalez in accordance with our laws and procedures. We wish to insulate the process from political pressures of any sort.

The paramount consideration is the best interest of the child. Our laws put great weight on the wishes of the surviving parent in cases such as this.

The first step is for Mr. Gonzalez to certify officially that he is the father so that his wishes can be ascertained.

It is essential that we deliver the letter INS has sent to Mr. Gonzalez. To that end he should contact the USINT.

Be assured that USINT will treat Mr. Gonzalez in a professional and dignified manner and whatever information he provides will be part of the case file and will be kept in the strictest confidence.

IF ASKED: Will the U.S. government return Elian?

I want to reiterate our assurances that we intend to follow our laws and procedures and not politicize this case.

MOVIMIENTO DEMOCRACIA

8150 SW 8th Street - Miami, Florida 33144
Phone (305) 264-7200 Fax: (305) 264-7377
E-mail: movidem@netnet.com Web Page: Democracia.org

**BROTHERS TO THE RESCUE AND THE
DEMOCRACY MOVEMENT CALL ON THE CUBAN
EXILE COMMUNITY AND ITS ORGANIZATION, AS
WELL AS THE LATIN AMERICAN COMMUNITY
FOR A VIGIL TO BE HELD THIS FRIDAY,
DECEMBER 17 AT 6:00 P.M. IN FRONT OF ELIAN'S
GONZALEZ' HOUSE, LOCATED AT 2319 SW 2ND
STREET, IN THE CITY OF MIAMI**

This activity is a preamble, in case it becomes necessary to form a Human Chain in Solidarity, around the block where the house of Elian Gonzalez is located, in case that federal authorities arbitrarily try to send the child back to Cuba, without allowing the courts to decide his case.

It is asked from whoever can, to bring a candle to the vigil this Friday, so we can pray to God that justice is bestowed in the case of Elian, and to send a message to the administration, that the case of this child, can not be settle politically, but should be settle by the courts.

Luis Felipe Rojas
Press Secretary

Ramon Saul Sanchez
National Delegate

FOR ADDITIONAL INFORMATION PLEASE CALL RAMON SAUL SANCHEZ, PHONE (305) 785-1000 OR
FELIPE ROJAS, PRESS SECRETARY AT (305) 264-7200

WHY...? (THE BATTLE FOR ELIAN)
WHY THIS "ENABLER LAINE POLICY"
OF THE WHITE HOUSE WITH TYRANNY?
J.P.

WHA Press Guidance
Monday, December 13, 1999

CUBA: Elian Gonzalez

Background: We continue to work with Cuban Government officials on the case of Elian Gonzalez, the six-year-old boy rescued at sea on Thanksgiving in a migration attempt that resulted in the death of his mother. The child currently resides with relatives in Miami. His father, Juan Miguel Gonzalez Quintana, lives in Cuba and has asked for his return to the island.

The Immigration and Naturalization Service asked Mr. Gonzalez Quintana to provide documents certifying that he is the father of the boy and that he has exercised parental authority. In addition INS requested that Mr. Gonzalez meet personally with the INS Officer in Charge in Havana to make his desires for the boy known.

The process of resolving the case had been delayed by Mr. Gonzalez Quintana's refusal to meet personally with the INS Officer in Charge. Over the weekend U.S. and Cuban officials agreed on the circumstances for the INS interview of Mr. Gonzalez Quintana and the interview took place this morning in Cardenas where he resides.

Question: Can you give us an update on the Elian Gonzalez case?

Answer: THIS MORNING AROUND 7:00 THE INS OFFICER IN CHARGE IN HAVANA AND A STATE DEPARTMENT POLITICAL/ECONOMIC COUNSELOR INTERVIEW MR. JUAN MIGUEL GONZALEZ QUINTANA, ELIAN'S FATHER, IN CARDENAS WHERE HE RESIDES. THE PURPOSE OF THE INTERVIEW WAS TO RECEIVE FROM HIM DOCUMENTATION CERTIFYING THAT HE IS THE BOY'S FATHER, THAT HE HAS EXERCIZED PARENTAL AUTHORITY, AND TO FIND OUT DIRECTLY FROM HIM HIS WISHES FOR THE CHILD.

Question: Can you provide us details from the interview?

Answer: THE CONTENTS OF THE INTERVIEW ARE NOW PART OF AN INS CASE FILE AND ARE, THEREFORE, CONFIDENTIAL.

Question: What's the next step in the process?

Answer: THE INS OFFICER'S REPORT WILL BE SENT TO INS HEADQUARTERS IN WASHINGTON. I REFER YOU TO INS FOR MORE DETAILS ON THE PROCEDURES.

Question: Are you giving in to political pressure from Fidel Castro as has charged in the press?

Answer: ABSOLUTELY NOT. THE U.S. GOVERNMENT IS TRYING TO SHIELD THIS CASE FROM POLITICAL PRESSURE FROM ALL SIDES SO THAT INS MAY PROCEED WITH ITS PROCESS OF MAKING A DECISION IN A DELIBERATE AND CONSIDERED MANNER. THIS CHILD SHOULD NOT BE TREATED LIKE A POLITICAL FOOTBALL.

Question: What is the status of the semi-annual migration talks with Cuba?

Answer: THE TALKS BEGAN AT 10:00 A.M. AND EXPECTED TO CONTINUE UNTIL LATE AFTERNOON.

Question: What is the agenda for the talks?

Answer: WE WILL BE HOLDING GENERAL DISCUSSIONS TO REVIEW
THE IMPLEMENTATION OF THE EXISTING ACCORDS.

Question: Will you discuss the Elian Gonzalez case?

Answer: WE ARE FAIRLY CONFIDENT THAT THIS CASE WILL BE
RAISED BY THE CUBANS.

O F F I C E O F C U B A N A F F A I R S

U.S. Department of State
WHA/CCA, Room 3234
2201 C Street, N.W.
Washington, D.C. 20520-6263

Phone: (202) 647-9273
FAX: (202) 736-4476

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F A X C O V E R S H E E T

DATE: 13 Dec 99

TO: Scott Busby Maria Cardona
 Karen Hollis

FROM: Lynn Whitlock (647-9274)

SUBJECT: Press Guidance for Clearance

☐ URGENT

☐ ACTION

☐ REPLY

☐ FYI

REMARKS:

NUMBER OF PAGES (INCLUDING COVER PAGE): 4

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Avery, Dale R. (INTERAM)

From: WHSR
Sent: Tuesday, December 07, 1999 4:12 PM
To: Armstrong, Fulton T. (INTERAM); Avery, Dale R. (INTERAM); Orfini, Michael H. (VP); Shannon, Thomas A. (INTERAM); Valenzuela, Arturo A. (INTERAM)
Subject: DEC 6 ELIAN EVENT AT USINT UNEVENTFUL

CLASS: UNCLASSIFIED
DTG: 071825Z DEC 99
MSGTO: RUEHC/SECSTATE WASHDC IMMEDIATE 7732
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E.O. 12958: N/A
TAGS: PREL, ASEC, CJAN, CU
SUBJECT: DEC 6 ELIAN EVENT AT USINT UNEVENTFUL

REF: HAVANA 6514

1. (U) SUMMARY: THE 6 DEC ELIAN HERNANDEZ EVENT POSED NO THREAT TO USINT. A CROWD OF UP TO 1500 PEOPLE DWINDLED TO SEVERAL HUNDRED THROUGHOUT THE TWO-PLUS HOUR STAGE SHOW WHICH FEATURED KIOS IN COSTUME, A LOT OF SONGS, AND SEVERAL SPEECHES AIMED AT USINT AND DEMANDING THAT THE USG RETURN ELIAN TO HIS FATHER AND TO THE CUBAN PEOPLE. THE CONSIDERABLE INFRASTRUCTURE READIED FOR MONDAYS EVENT LEADS US TO CONCLUDE THAT EITHER THE TURN OUT WAS LOW OR GREATER CROWDS ARE EXPECTED IN THE FUTURE, OR BOTH. END SUMMARY.

2. (U) MONDAY EVENINGS DEMONSTRATION TO DEMAND THE RETURN OF ELIAN HERNANDEZ, WHICH WAS STAGED IN FRONT OF USINT, RESEMBLED A COUNTY FAIR MORE THAN A HARD-EDGED POLITICAL DEMONSTRATION. THE BIRTHDAY EVENT (ELIANS SIXTH BIRTHDAY WAS 6 DEC.) GOT UNDERWAY AT ABOUT 1700 AND INITIALLY FEATURED A POPULAR CHILDRENS GROUP DRESSED AS CLOWNS, FAIRIES, PRINCES, AND OTHER PLAYFUL CHARACTERS. THE TWO AND A HALF-HOUR EVENT FEATURED MORE MUSIC THAN SPEECHES. EMBOFFS PRESENT ESTIMATE THAT MOST OF THE CROWD OF UP TO 1500 PEOPLE FRITTERED AWAY BY THE END, LEAVING SEVERAL HUNDRED HARD CORE ADOLESCENTS AND ADULT PARTICIPANTS. MONDAYS CROWD WAVED CUBAN FLAGS, SCIENCE BOOKS, AND PLACARDS AND CLEARLY LACKED THE VIGOR AND DISCIPLINE OF SUNDAYS EVENT.

3. (U) FEW OF THE SPEECHES OR SONGS APPEARED TO INSPIRE ANY REAL PASSION AMONG THE AUDIENCE. EMBOFFS DID NOT HEAR OR SENSE ANYTHING MENACING OR SERIOUSLY AGITATING. MOSTLY DECLAMATIONS INSISTING THAT THE USG REPATRIATE ELIAN HERNANDEZ. HASSAN PEREZ, LEADER OF THE FEDERACION DE ESTUDIANTES UNIVERSITARIOS (FEU), CLOSED THE EVENING EVENT AT 7:15 P.M. WITH 5-10 MINUTE SPEECH. HASSAN ADDRESSED HIMSELF TO THE "DIPLOMATS AND CIA AGENTS OF THE U.S. INTERESTS SECTION" AND, AS EXPECTED, DENOUNCED US "IMPERIALISM" AND EXTOLLING THE "VIRTUES" AND "ACCOMPLISHMENTS" OF THE CUBAN "REVOLUTION" WHILE CITING ALL THE SOCIAL ILLS OF US SOCIETY. HE ENDED THE SPEECH BY DEMANDING THE RELEASE OF ELIAN.

4. (U) AS THE CROWD WAS LEAVING IT BECAME APPARENT THAT THE OVERWHELMING NUMBER OF PERSONS IN FRONT OF THE

PODIUM WERE MEMBERS OF THE "YOUNG TECHNICAL BRIGADES" (BRIGADES TECNICAS JUVENILES (BTJ)), MANY OF WHOM ARE IN HAVANA TO ATTEND THE BTJS 8TH NATIONAL CONGRESS. EMBOFFS COUNTED ABOUT 30 TRUNCATED BUSES THAT BROUGHT THESE BTJ PARTICIPANTS FROM THE CONVENTION CENTER. THE REST OF THE CROWD WERE MOSTLY HIGH SCHOOL KIDS ENJOYING THE MUSIC AND A COOL BREEZE FROM THE OCEAN.

5. (U) THE STAGE WAS SET UP IN THE PARK ABOUT 100 METERS BEYOND THE ROAD WHICH RUNS IN FRONT OF THE USINT PARKING LOT. THE PARKING LOT LIES BETWEEN USINT AND THE AFOREMENTIONED ROAD. MINISTRY OF INTERIOR PERSONNEL RINGED THE PARKING LOT AND THE USINT BUILDING. FENCES WERE SET UP TO KEEP THE CROWD ARRAYED AWAY FROM THE BUILDING. SECURITY WAS TIGHT AND NONE IN THE CROWD ATTEMPTED TO ENTER THE AREA CONTROLLED BY THE MILITARY. AT NO TIME DID EMBOFFS IN THE CROWD OR AT USINT FEEL ANY HOSTILITY.

6. (U) COMMENT: AS REPORTED SEPTTEL, THE GOC MADE CONSIDERABLE SITE PREPARATIONS CONCERNING YANKEE IMPERIALISM WHICH HAD FACED USINT FOR YEARS. MONDAY NIGHTS CROWD WAS CLEARLY LARGER THAN SUNDAYS BUT NOWHERE NEAR WHAT THE SPACE COULD HOLD. ON TUESDAY WORKERS ARE INSTALLING BETWEEN THE USINT PARKING LOT AND THE PARK WHAT APPEAR TO BE TWO NEW BILLBOARDS. IT STANDS TO REASON THAT MONDAYS TURNOUT WAS EITHER LOWER THAN EXPECTED OR THE SPACE WAS READIED FOR A LARGER CROWD IN THE FUTURE, OR BOTH. END COMMENT.

HUDDLESTON



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Boy turns 6 amid Cuban-U.S. custody battle

December 6, 1999

Web posted at: 6:01 a.m. EST (1101 GMT)

HAVANA (CNN) -- The young boy at the center of the latest U.S.-Cuban immigration dispute turns 6 on Monday as U.S. officials prepared for new demonstrations outside their compound in Havana.

Members of Cuba's Communist Youth group demonstrated outside the U.S. Interests Section in Havana on Sunday to protest the decision to keep Elian Gonzalez with relatives in the United States despite his Cuban father's request that the boy be returned to him. Earlier Sunday, Cuban President Fidel Castro has demanded that U.S. officials turn over the boy by Wednesday or face massive protests.

Castro compared the case to a kidnapping and told Cuban state television, "That is not to be negotiated. The right of a father to his son is not for negotiation."



Elian, who turned 6 on Monday, has been placed with relatives in Florida after his rescue



Elian's father, Juan Gonzalez, wants the boy returned to him

U.S. officials ignored Castro's demands Sunday.

"We do not respond to press reports of alleged threats being made by Fidel Castro," said a State Department official. But one administration official, who declined to be identified, told CNN the United States has beefed up security around the Interests Section, Washington's unofficial embassy in Cuba.

The dispute comes as the United States and Cuba prepare for a December 13 meeting to discuss migration between the two nations.

Elian was found clinging to an inner tube in the waters off Fort Lauderdale, Florida on Thanksgiving. He was one of three survivors

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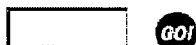
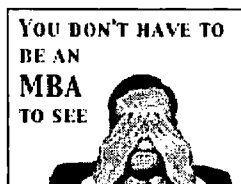
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WEB SERVICES:



when a boat smuggling Cubans to Florida sank, leaving 10 aboard -- including his mother and stepfather -- to drown.

His father, Juan Miguel Gonzalez, wants the boy returned to him. But Elian's relatives in Miami, backed by anti-Castro groups, insist he should stay and enjoy the freedom they say he would not have at home.

"All they've done is use the boy as a political weapon against Cuba," his father said.



Castro demanded U.S. officials return the boy to Cuba by Wednesday

In Havana, speakers at a fiercely anti-American rally denounced "Yankee imperialism" and proclaimed that Cuba's 11 million people were prepared to shed blood to see the boy returned. The hour-long event was closely controlled by Cuban security agents, and there was no attempt to enter the fortified U.S. mission.

Correspondent Marina Kolbe and Reuters contributed to this report.

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OFFICE OF CUBAN AFFAIRS

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FAX COVER SHEET

DATE: Nov 29, 1999

TO: NSC - Karen Hollis
Commerce - BXA - John Bolsteins

FROM: Sanchez-Wolfe - Econ Officer

SUBJECT: Memo to OFAC

☐ URGENT

☒ ACTION

☐ REPLY

☐ FYI

REMARKS:

For your clearance. We hope to resolve this by the end of the week. Thank you!

NOTE: L and E8/KIP have cleared on a first draft of this memo.

NUMBER OF PAGES (INCLUDING COVER PAGE): 5

(IF THIS TRANSMISSION WAS NOT RECEIVED IN ITS ENTIRETY, PLEASE CALL 202 647-9272)

UNCLASSIFIED
MEMORANDUM

TO: R. Richard Newcomb
Director
Office of Foreign Assets Control
Department of the Treasury

FROM: Brian J. Mohler
Director
Office of Economic Sanctions Policy
Bureau of Economic and Business Affairs

SUBJECT: License Requests for Laying Fiber Optic Cable
between U.S. and Cuba

Approval of Travel License

The Department of State has no objection to OFAC issuing licenses for telecommunications companies generally to visit Cuba to negotiate with ETECSA (the Cuban telephone company) concerning the possibility of laying a fiber optic cable between the U.S. and Cuba to replace or augment the existing "hybrid" cable. This approval is subject to the applicants' understanding of the conditions and arguments spelled out below. This travel license approval does not constitute a guarantee of approval of any future license application that companies may submit to lay the cable to Cuba. Such approval will be subject to evaluation of the specific terms of any agreement reached by any U.S. company or group of companies with ETECSA. Several U.S. companies, including ITT - which operates a wholly owned subsidiary in Havana - have discussed entering into a consortium that would negotiate and install any new cable on this route.

Furthering People-to-People Contact

The Department of State has concluded that upgrading or replacing the existing telephone cable linking the U.S. and Cuba can play an important role in the Administration's people-to-people policy. A fiber optics cable would

increase capacity for, and reliability of, voice communication between American citizens and the Cuban people.

More significantly, such a cable would make possible improved data communications, potentially leading to unprecedented access to the Internet and electronic mail for the Cuban people. Although few Cubans currently own or have access to computers, over time the number may grow, which in turn will enable an exponential improvement in the availability of information to the Cuban people beyond that provided by Cuban government propagandists. China provides a powerful example of a government's inability to control Internet uses once more than a few people have access to computers. Further, the availability of information through modern media sources played a key role in the peaceful revolutions in Eastern Europe -- providing a clear example of how undermining Fidel Castro's monopoly on information can help build a civil society in Cuba. The fiber optic cable is a precondition for any significant growth in Internet access for the Cuban people and a vital component of preparing Cubans for the transition that should come with the end of the Castro era.

Executive branch guidelines on implementing relevant laws note that the laws allow upgrades for "efficient and adequate telecommunications," with upgrades to new modes to be assessed on a case by case basis. A December 1998 GAO report (GAO/NSIAD-99-10 Cuban Embargo) notes the 1989 upgrade of the current, outdated cable and the expected possible future upgrade to a fiber optic cable. The existing current hybrid cable is augmented by satellite-based transmissions to the authorized international telecommunications gateway in Cuba. While Section 1705(e)(5) of the Cuban Democracy Act, P.L. 102-484, as amended, does not specifically authorize investment by U.S. persons in the domestic telecommunications system in Cuba, the statute does permit the upgrade of the external telecommunications links. When the Department last considered upgrading the telecommunications link between the U.S. and Cuba, fiber optics was a new and sensitive technology that was subject to Commerce Control List restrictions. Because of Cuba's status as a terrorism list country, export of fiber optics to Cuba would have required notification to Congress pursuant to Section 6(j) of the Export Administration Act. However, today, many types of fiber optic cable have been reclassified as EAR 99. Thus, while such materials would still require a Commerce Department license (and would be subject to a general policy of denial) it would be within the licensing authority of the

agency to approve such exports. While some applicants have suggested they might use European technology to avoid export of U.S. technology, this action no longer appears necessary. This is especially true considering that European firms are actively upgrading significant parts of the Cuban internal network with state of the art fiber optic equipment.

U.S. Action Now or European Action Soon

European firms are not only upgrading the Cuban domestic network with fiber optic equipment, but are also involved in emerging plans to provide an external fiber optic cable linking Cuba to Mexico, or to another Caribbean nation. Our failure to allow U.S. companies to install the U.S.-Cuba cable at this juncture would do more than cost those firms a business opportunity; it would place any cable installed on this route (by European or other non-U.S. firms) completely outside U.S. control, hampering law enforcement agencies' ability to intercept calls when necessary.

Conditions of Approval

Any companies engaging Cuban officials in negotiations about installing a fiber optic cable should be aware that certain conditions would apply when considering approval for a license to actually install the cable. Such conditions would include, but not be limited to:

- The Cuban government, as half owner of the cable, would pay costs for material and installation at the gateway in Cuba.
- The cable would be installed only as far as the gateway; U.S. companies would undertake no effort to upgrade or invest in the Cuban domestic network.
- The companies will abide by all relevant U.S. laws and regulations regarding telecommunications and Cuba.
- The cable would be subject to normal export licensing procedures through the Department of Commerce.

4

OFAC: License Requests for laying fiber optic cable from
U.S. to Cuba

Drafted: WHA/CCA:JWolfe x7-9272 11/18/99
e:SEARACCA/1999 DOCUMENTS/jw-ofac-fiber optics

Cleared: WHA/CCA:CShapira(OK)
WHA/FO:WBrownfield
EB/ESP:DElliott
P:LArreaga(OK)
C:SSnyder
E:DNorland(OK)
NSC:KHollis
EB/CIP:DWells
Commerce/BXA:JBolsteins
L/WHA:IDiaz
L/EB:HSchildge
PA: L Rodriguez



U.S. Department of State Office of the Spokesman Press Statement

Press Statement by James B. Foley, Deputy Spokesman
December 7, 1999

Cuba: Elian Gonzalez/U.S. Interests Section

As in the case of any unaccompanied minor who arrives on U.S. shores, our primary concern is for the child. We are committed to working with the family of Elian Gonzalez, including the father, and all relevant officials to achieve an appropriate resolution to this case.

The regulations of the Immigration and Naturalization Service (INS) recognize the right of a parent to assert parental interests in an immigration proceeding. The INS will be in contact with Mr. Gonzalez in the near future to explain the process by which it will evaluate his rights in this case.

The United States will follow a deliberate process consistent with our rules and procedures. The United States will not be intimidated or pressured into taking actions that are inconsistent with these principles. We reject any ultimatum or deadline imposed by the Government of Cuba for resolution of this case.

We would hold the Cuban government responsible for any harm to U.S. citizens or damage to our Interests Section that may come from the public protests called for by the Cuban government. The Government of Cuba has assured us that it will fulfill its obligation to protect international diplomatic missions and their personnel.

As evidenced by our interdiction of a Cuban vessel yesterday, the United States remains committed to the full implementation of the migration accords and to facilitating migration to the United States in a safe, legal, and orderly manner.

[end of document]

[Press Statements Index](#) | [State Department](#)

Avery, Dale R. (INTERAM)

From: WHSR
Sent: Friday, December 03, 1999 9:54 PM
To: Allen, Charles A. (LEGAL); Armstrong, Fulton T. (INTERAM); Avery, Dale R. (INTERAM); Baker, James E. (LEGAL); DeRosa, Mary B. (LEGAL); Krass, Caroline D. (LEGAL); Orfini, Michael H. (VP); Shannon, Thomas A. (INTERAM); Sigler, Ralph H. (WHSR); Valenzuela, Arturo A. (INTERAM)
Subject: PRESIDENT OF CUBAN LEGISLATURE SAYS BOY'S CASE VIOLATES US-CUBA
CLASS: INTERNATIONAL
ORIG: AP/East
PREC: RUSH
TOR: 991203214416 A487f9e1

a0835

^AM-Cuba-Boy-Immigration,0410

^President of Cuban legislature says boy's case violates US-Cuba accords

^By ANITA SNOW= ^Associated Press Writer=

HAVANA (AP) Failure by the United States to return a 5-year-old Cuban boy who was rescued off the coast of Florida would violate U.S.-Cuba migration accords, the president of the National Assembly said Friday.

"There is nothing to negotiate, there is nothing to discuss in any court or any other forum," Ricardo Alarcon said in an interview on government-controlled television. "No one can question that a father is the person who has the right to his minor children."

The boy, Elian Gonzalez, was found on Thanksgiving Day, clinging to an inner tube in the waters off Fort Lauderdale. Two other people also were rescued, but 10 people died including Elian's mother and stepfather in the deadly boating accident that U.S. authorities called a case of illegal immigrant smuggling.

The child's father, Juan Miguel Gonzalez, 31, has demanded that his son be returned to Cuba and has asked the Cuban Foreign Ministry to help. U.S. authorities have turned the child over to his paternal great-aunt and great-uncle in Miami and have said that the case is for the Florida state courts.

Cuban authorities say they do not trust the judges to be impartial in Florida, home to a large anti-communist Cuban exile community.

Alarcon called the boy's case "a crime of kidnapping."

A little more than a week before scheduled migration talks between American and Cuban officials in Havana, "what is lacking is the fulfillment of the pact" that the countries past reached on the issue, Alarcon said.

Alarcon, who has represented Cuba at past migration talks with the United States, is to head his country's delegation at negotiations here on Dec. 13.

Signed in 1994 and 1995 to end a flood of thousands of Cubans leaving the island on rickety rafts and inner tubes, the migration agreements call for Cuba to try to stop illegal departures from the island and for the United States to repatriate illegal migrants picked up at sea.

Alarcon said the agreements called for "an end to the practice of admitting all who arrive illegally in the United States and to take effective measures to impede illicit trafficking of people to the United States."

The case's growing politicization underscores the ideological differences that separate Cubans on both sides of the Florida Straits.

APE- 12/03/99 21:42:38

Avery, Dale R. (INTERAM)

From: WHSR
Sent: Monday, December 06, 1999 12:21 PM
To: Armstrong, Fulton T. (INTERAM); Avery, Dale R. (INTERAM); Babbitt, James F. (VP); Busby, Scott W. (MULTI); Clarke, Richard A. (TNT); Feldman, Daniel F. (MULTI); Guarnieri, Valerie N. (MULTI); McCarthy, Mary O. (INTEL); Naplan, Steven J. (MULTI); Orfini, Michael H. (VP); Schwartz, Eric P. (MULTI); Shannon, Thomas A. (INTERAM); Stromseth, Jane E. (MULTI); Vaccaro, Jonathan M. (Matt) (MULTI); Valenzuela, Arturo A. (INTERAM)
Subject: WHITE HOUSE SHIES AWAY FROM STORM OVER CUBAN BOY
CLASS: INTERNATIONAL
ORIG: Reuters
PREC: RUSH
TOR: 991206115557 R4bea4b0

a2224

^BC-CUBA-USA-BOY-CLINTON

^White House shies away from storm over Cuban boy

By Randall Mikkelsen

WASHINGTON, Dec 6 (Reuters) - The White House on Monday sought shelter from a brewing tempest over custody of a Cuban boy rescued at sea after his mother and stepfather vanished in an illegal attempt to cross to Florida.

White House spokesman Joe Lockhart said the United States had no view on Cuba's reaction to the dispute, which has included emotional anti-U.S. demonstrations demanding the boy's return and vehement accusations of U.S. "kidnapping" by Cuban President Fidel Castro.

Lockhart said the United States hoped to proceed with a new round in talks with communist-ruled Cuba aimed at ensuring an orderly flow of migrants between the two countries. The round is scheduled to begin December 13 in Havana.

"We don't take a particular view on what statements they want to make or demonstrations they want to hold," Lockhart told reporters. "We believe that the migration talks ... are beneficial to both countries. We have a process now that is orderly, safe and legal, and that should continue," he said.

Lockhart reiterated the U.S. position that the issue is a custody matter, for state courts to decide.

The boy, Elian Gonzalez, turned six on Monday. He was found clinging to an inner tube off Ft. Lauderdale, Florida on November 25.

He was one of three survivors from a group of Cubans whose small aluminum boat sunk in rough weather two days earlier. The boy's mother and stepfather were among the 10 people who disappeared and were presumed drowned in the incident.

Since the boy's rescue, his relatives in Miami, backed by anti-Castro groups in the region's large Cuban exile community, have insisted that he stay in the United States.

In Havana, grass-roots communist youth groups and others held a noisy rally on Sunday outside the U.S. Interests' Section -- Washington's unofficial embassy -- and said they planned daily demonstrations until the boy is returned.

Castro on Sunday called the case a "flagrant crime of kidnapping" and demanded the boy's return within 72 hours.

RB-- 12/06/99 11:54:35

Avery, Dale R. (INTERAM)

From: WHSR
Sent: Monday, December 06, 1999 3:59 PM
To: Armstrong, Fulton T. (INTERAM); Avery, Dale R. (INTERAM); Orfini, Michael H. (VP); Shannon, Thomas A. (INTERAM); Valenzuela, Arturo A. (INTERAM)
Subject: CASTRO BOOSTS PRESSURE ON U.S. WITH PROTESTS FOR BOY'S RETURN

CLASS: INTERNATIONAL
ORIG: AP/East
PREC: RUSH
TOR: 991206153127 A4c1ccd0

d8265

^BC-FL--Cuba-Boy, 4th Ld-Writethru,0773

^Castro boosts pressure on U.S. with protests for boy's return

^AP Photos HAV101, FLMIH101-102, NY111

^d492aaapr

^By ANITA SNOW= ^Associated Press Writer=

HAVANA (AP) Fidel Castro's government stepped up pressure on the United States on Monday, appealing for international support and organizing street protests in its battle to have a boy who was rescued off the Florida coast returned to his father in Cuba.

About 1,000 grandmothers marched Monday through the streets of Elian Gonzalez's hometown of Cardenas, a two-hour drive east of Havana.

"We want Elian back home!" said a huge mural painted on a wall that passers-by signed.

Elian's classmates planned a 6th birthday party for him at their elementary school in Cardenas as Cubans on both sides of the Florida Straits increasingly embraced him as their own political poster child.

President Castro over the weekend demanded that the United States return Elian to his father by Tuesday night, and warned that the Cuban people were losing patience.

Workers set up bleachers outside the U.S. Interests Section Monday, apparently preparing for another protest outside the American mission. Waving Cuban flags and chanting political slogans, 500 members of the Communist Youth held the first protest there Sunday night.

In Washington, White House Spokesman Joe Lockhart called on Cuban officials to guarantee the safety of Americans on the island.

"We take the safety of American personnel very seriously and take quite a dim view of any threat," Lockhart said. "We expect the Cubans to ... deal in a responsible way with American citizens there."

National Assembly President Ricardo Alarcon appealed in a letter to governments around the world for their support in bringing Elian home.

"Once again the United States government has violated the basic principles of law and respect for human dignity thus insulting the child's father, a modest Cuban worker, and his grandparents," Alarcon wrote.

"Elian's father and his grandparents' right to demand his immediate return to the home and family from which he was illegally snatched is not negotiable," the letter said.

Castro accused the U.S. government of kidnapping Elian, who was found Nov. 25 clinging to an inner tube off the coast of Fort Lauderdale, Fla.

Elian's mother and stepfather were among those who died when an overloaded powerboat sank Thanksgiving week during the 90-mile crossing to Florida in what American authorities said was a case of illegal alien smuggling.

The U.S. Coast Guard has said 13 people were aboard the boat and 10 died, while Cuban officials said 14 people were in the boat.

The boy's father, Juan Miguel Gonzalez, 31, says the child was taken out of the country without his knowledge. He and the boy's four grandparents have asked the Cuban government to help get him back.

The U.S. government has released the boy to his great-aunt and great-uncle in Miami, and they have petitioned the Florida state

courts for permanent custody.

"The people involved should take their claims to court and they shall receive a fair hearing," said the White House's Lockhart.

"We don't take a particular view on what statements they want to make or what demonstrations they want to hold."

State Department spokesman James P. Rubin said last week that Cuba had asked the U.S. mission in Havana on Nov. 27 for the child's return, but the case was referred to Florida state courts.

Cuban authorities say they do not trust the "corrupt judges" in a state where anti-Castro exiles hold political sway.

U.S. legal experts said what may have to be resolved are two conflicting principles: the child's custody, which in most cases is granted to the surviving biological parent, and his immigration status. A 1966 law grants any Cuban who reaches American soil the right to stay.

The conflict comes one week before U.S.-Cuba migration talks in Havana. Under current agreements, the U.S. government is to stop accepting Cubans picked up at sea. In turn, Cuba is to prevent illegal departures, following the 1994 summer exodus of tens of thousands of Florida-bound rafters.

Alarcon has indicated that Cuba would raise the dispute over Elian during the Dec. 13 meeting.

"There are going to be inevitable consequences in the already complicated existing relations between Cuba and the United States," Alarcon said over the weekend.

Lockhart said the United States hoped the talks would continue as scheduled.

"We have a process now that is orderly, safe and legal, and that should continue," he said.

APE- 12/06/99 15:30:05

Avery, Dale R. (INTERAM)

From: WHSR
Sent: Monday, December 06, 1999 4:22 PM
To: Armstrong, Fulton T. (INTERAM); Avery, Dale R. (INTERAM); Orfini, Michael H. (VP); Shannon, Thomas A. (INTERAM); Valenzuela, Arturo A. (INTERAM)
Subject: FOCUS-CUBA STAGES ANTI-U.S. PROTESTS IN CUSTODY ROW

CLASS: INTERNATIONAL
ORIG: Reuters
PREC: RUSH
TOR: 991206160228 R4c24080

a3346

^BC-CUBA-USA-BOY 3RDLD (PICTURE)

^FOCUS-Cuba stages anti-U.S. protests in custody row
(Wraps reaction from Miami, Washington; adds Castro in Cardenas, U.S. mission head's comments)

By Andrew Cawthorne

HAVANA, Dec 6 (Reuters) - Escalating a custody row into a major political squall with the United States, Cuba staged a second day of protests on Monday to demand the return of a boy miraculously rescued at sea after a failed immigration bid.

Joining mass demonstrations across the communist island, hundreds of mothers and grandmothers marched in the boy's provincial hometown of Cardenas, while workmen cut trees and erected a stage in preparation for a second raucous evening rally outside the U.S. mission in Havana.

In Washington, the United States warned Cuba it had a responsibility to ensure the safety of American diplomats in Havana. No incidents of violence were reported as Cuban police helped U.S. Marines protect the facility.

And in Miami, the boy at the centre of the tug-of-war, Elian Gonzalez, turned six as adults around him waged a war of words with President Fidel Castro's communist government.

"Elian has told me that he misses me, that he wants to return. He cannot be happy there," the boy's father, Juan Miguel Gonzalez, told Reuters in Cardenas, after telephone conversations with his son.

The highly politicized case has pitted Castro's four-decade-old government against his arch enemies in the large Cuban exile community in Florida.

Seizing the issue as a nationalist rallying cry and denouncing the United States for "a flagrant crime of kidnapping," Castro is leading the campaign to have Elian returned. The boy was found clinging to an inner tube in waters off Florida after a small craft full of boat people capsized.

Havana has warned the squabble may jeopardise existing migration accords with Washington intended to stem the flow of illegal immigrants across the sea to the United States.

For their part, the boy's relatives in Miami, backed by anti-Castro groups, insist he should stay and enjoy the freedom they say he would not have under Castro's system.

Elian's mother and stepfather were among 11 of the boat's 14 passengers presumed drowned after it capsized during the perilous 90-mile (145 km) crossing.

In the rundown coastal town of Cardenas, hundreds of mothers and grandmothers rallied in a square to back Castro's weekend ultimatum for Elian to be returned within 72 hours. "He belongs here in Cuba. Here, he lacks nothing," said one of the grandmothers, Zenaida Castillo.

Schoolmates held a birthday party in absentia for Elian at his school in Cardenas, east of Havana.

In the capital, workmen put up banners and prepared an area outside the U.S. compound for an evening demonstration officials said would draw tens of thousands.

At one point, Castro himself drove by the U.S. mission to check proceedings before leaving for Cardenas with his Foreign Minister

Felipe Perez Roque to join the birthday party.

Inside the U.S. Interests' Section, Washington's unofficial embassy here, the 50 U.S. and 250 Cuban staff were working normally, but most planned to leave before the next protest started. The fortified compound was guarded by Cuban security guards and police, in addition to the Marines.

"Our desire is just to keep going with things as normal, get our business done," Vicki Huddleston, Washington's most senior diplomat in Cuba, told reporters outside.

"It's too bad, I mean, the tragedy of the kid, it's all politicized. It would be much better if we could all just sit down and discuss quietly," she added, saying she believed Sunday night's protest outside the U.S. mission was the first such demonstration in about 12 years.

At that rally, fiercely anti-American speakers offered vitriolic denunciations of U.S. "imperialism" as the crowd chanted "Long live Fidel!" and "Down with the Yankees!"

Some analysts here said the row seems a political win-win affair for Castro, perceived by most Cubans to be defending a just cause, albeit in melodramatic style. "He's doing this, because it's such an exploitable matter. As long as it doesn't get violent, he can't lose," said a Western diplomat.

Amid the growing tension, Cuba received a warning from Washington, where White House spokesman Joe Lockhart said: "We take the security of American personnel very seriously and we take quite a dim view of any threat to Americans. ... We will respond appropriately and deal with any serious threat."

In a reminder of the wider human drama behind this case, U.S. authorities reported that three boats carrying at least a dozen Cubans -- one of whom died on the trip -- made the harrowing sea-crossing to reach the Miami area on Monday.

Elían has lived with his Florida relatives since fishermen rescued him on Nov. 25, Thanksgiving Day, after hours clinging to an inner tube. The little boy had seen his mother slip into the sea to her death, possibly the victim of immigrant smugglers who charge exorbitant rates for unsafe passage.

RB-- 12/06/99 16:00:56

Avery, Dale R. (INTERAM)

From: WHSR
Sent: Monday, December 06, 1999 4:21 PM
To: Armstrong, Fulton T. (INTERAM); Avery, Dale R. (INTERAM); Orfini, Michael H. (VP); Shannon, Thomas A. (INTERAM); Valenzuela, Arturo A. (INTERAM)
Subject: U.S. REJECTS CASTRO DEMAND FOR RETURN OF BOY

CLASS: INTERNATIONAL
ORIG: Reuters
PREC: RUSH
TOR: 991206160629 R4c25060

a3365

^BC-CUBA-USA-WARNING 1STLD

^U.S. rejects Castro demand for return of boy
(updates with state department comments, recasts)
By Steve Holland

WASHINGTON, Dec 6 (Reuters) - The United States on Monday rejected Cuba's demand for the return of a 6-year-old boy rescued at sea and told Havana it was obligated to protect American diplomatic personnel there from protesters.

Cubans staged a second day of protests outside the U.S. mission in Havana on Monday to demand the return of Elian Gonzalez, who was found clinging to an inner tube in waters between Cuba and Florida on Nov. 25 after a craft full of boat people capsized trying to reach the U.S. shore.

Among 11 people who died were his mother and stepmother. He turned 6 on Monday with his relatives in the large Cuban exile community in Miami while a custody battle took shape. His father and grandparents in Cuba are demanding his return.

Cuban President Fidel Castro on Sunday demanded the United States return the boy in three days, which the State Department dismissed.

"We do not accept the ultimatum issued by Fidel Castro," said State Department spokesman James Foley. "This is not conducive to resolving this case in the appropriate humanitarian way."

"We are committed to working with the family of the boy, including the father, and all appropriate officials to achieve an appropriate resolution to this case," Foley said.

The dispute threatens to disrupt talks between the United States and Cuba scheduled on Dec. 13 aimed at ensuring an orderly flow of migrants between the two countries. Castro has threatened to cut them off.

"It's not conducive to resolving this case appropriately to make threats about ending talks," said Mike Hammer, spokesman for the White House National Security Council.

But of more immediate concern to Washington is the safety of American diplomats at the U.S. mission in Havana, where loud anti-American protests have erupted.

The United States warned Cuba that it had an international obligation to protect the 50 Americans at the mission.

"We hold the Cuban government responsible for any harm to U.S. citizens or to our interest section that may come from the public protests called for by the Cuban government," said Foley. "This is a cardinal principle of international diplomatic law. It is the responsibility of the host government to ensure the sanctity and the safety of diplomatic premises and personnel."

Added White House spokesman Joe Lockhart: "We will respond appropriately and deal with any serious threat because of the seriousness of our concern for Americans' safety."

Washington made clear the Immigration and Naturalisation Service was playing a lead role in determining the fate of the child, and that if a challenge arises to any INS decision in the case, it would be up to a Florida state court to decide.

RB-- 12/06/99 16:05:10

Avery, Dale R. (INTERAM)

From: WHSR
Sent: Monday, December 06, 1999 4:02 PM
To: Armstrong, Fulton T. (INTERAM); Avery, Dale R. (INTERAM); Babbitt, James F. (VP); Busby, Scott W. (MULTI); Feldman, Daniel F. (MULTI); Guarnieri, Valerie N. (MULTI); Naplan, Steven J. (MULTI); Orfini, Michael H. (VP); Schwartz, Eric P. (MULTI); Shannon, Thomas A. (INTERAM); Stromseth, Jane E. (MULTI); Vaccaro, Jonathan M. (Matt) (MULTI); Valenzuela, Arturo A. (INTERAM)
Subject: CUBA-USA-WARNING
CLASS: INTERNATIONAL
ORIG: Reuters
PREC: RUSH
TOR: 991206152957 R4c1c670

a3183

^BC-CUBA-USA-WARNING -2 WASHINGTON

U.S. warns Cuba -2

Cubans staged a second day of protests in Havana on Monday to demand the return of Elian Gonzalez, who was found clinging to an inner tube in waters between Cuba and Florida after a craft full of boat people capsized.

Havana is accusing Washington of kidnapping the boy, whose relatives in Miami insist he should stay in the United States.

A fiercely anti-American rally raged on Sunday night outside the U.S. mission.

"We will respond appropriately and deal with any serious threat because of the seriousness of our concern for Americans' safety, but we do expect Cubans to undertake the responsibility and deal in a responsible way with American citizens there," Lockhart said.

RB-- 12/06/99 15:28:23



... FYI

The Wall Street Journal, December 13, 1999

DADDY DEAREST

Fidel Castro—Family Man

Look who's discovered family values. Ever since 6-year-old Elian Gonzalez washed up on the Florida coast on Thanksgiving Day, Fidel Castro has been leading mass demonstrations in Havana thumping for the boy's return on the grounds that a child should be with his father. Of course, Fidel knows firsthand the pain of family separation. His own daughter, Alina Fernandez, escaped from Cuba in 1983 and has been a thorn in her father's revolution ever since.

"I know what this is like, because I had to make an international incident to get my own daughter out of Cuba," Ms. Fernandez told us by phone from Spain, where she has now resettled. "This is the man who has done more than any other man to divide Cuban families, who sends Cuban fathers to places like Nicaragua and El Salvador and Angola to make war and revolution. To say he cares about family? It's pathetic."

Pathetic, yes. But effective. When little Elian was first fished out of the waters off Fort Lauderdale clinging to a rubber tube he'd held onto even after watching his mother and stepfather drown, the Immigration and Naturalization Service released him to uncles of his father in Miami. The family and their lawyer say the INS told them Elian would be paroled, which under U.S. law would make him eligible for permanent U.S. residence in a year. And an INS press release earlier this month agreed the case would be decided by a family court in Florida.

But on Thursday, Deputy Attorney General Eric Holder held a press conference saying that the INS had made a "mistake." The Justice Department would decide Elian's fate. In our book these days, that's automatically a red flag. The boy's lawyers have responded by filing for political asylum.

The problem with an administrative decision by the Justice Department is that it means the boy's father, Juan Miguel Gonzalez, might not even have to come to America to testify -- something Fidel vehemently opposes. All he would have to do is prove he's the boy's dad and is a fit father, and Elian would be back on a flight to Havana. "Technically," a Justice Department spokeswoman told *The Washington Times*, Elian had never even been paroled.

Our own view is that the louder Mr. Castro hollers the less presumption the INS, Justice Department and Clinton administration ought to give to Cuban claims. This is not a case that should be decided in the streets of Havana. If this were, say, Belgium, the boy would have been on a plane the day he got out of the hospital. But this is not Belgium, it's Cuba. Clearly, letting the Justice Department decide the case by fiat would make it easier for the White House during this week's previously scheduled talks with Cuba. But it's hard not to see that the boy's

own interests would be better served by a Florida family court, which would also take into account Elian's family in Miami, the clear wishes of his now-dead mother, the situation in Cuba, etc.

Yet it is precisely a reluctance to face up to these conditions in Cuba that is the problem. In some quarters of the American establishment, Fidel continues to be regarded less as a communist thug than a romantic Latin poster boy from the 1960s. We well recall how he was feted around Manhattan at dinner parties as some sort of A-list celebrity. Our guess is that those clanking their chains in Cuban prisons tend to think Castro's fitness as a dinner guest is still lacking.

"Clearly, letting the Justice Department decide the case by fiat would make it easier for the White House during this week's previously scheduled talks with Cuba. But it's hard not to see that the boy's own interests would be better served by a Florida family court...."

You will too if you read the latest State Department report on human rights in Cuba. And where, we wonder, was Papa Fidel's love of children in July 1994, when his goons rammed the "13th of July," a tugboat filled with 68 people trying to escape, until it broke up and sank? As one survivor later told *The Washington Post*, Cuban officials turned the water cannons on them as desperate mothers tried to keep the heads of their children above water. "We all started screaming. 'Please mother of God! We're all Cubans. At least save our children.'" But Fidel's crews sank the boat, and 38 people went to their death, including infants and children.

Let's be clear: Elian's dad is not the enemy. Fathers have rights, and Mr. Gonzalez, with a family of his own in Cuba to consider, today finds himself caught in a situation no father could wish for. But his is not the only point, as another Cuban who left her father behind well knows. "What about the mother?" asks Alina Fernandez. "She risked everything so that her son could be free. How come no one is talking about her?"

Good question. The freedom young Elian today enjoys has not come cheap: It was purchased with the life of his mother, Elizabeth Broton Rodriguez, whose body now rests at the bottom of the sea. Her vote is clear, and all Elian's family is asking for is some due process. So here's our question to Mr. Clinton and his Justice Department: Doesn't the life of a Cuban mother at least merit a day in family court for the son for whom she gave it?

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Hollis, Caryn C. (INTERAM)

From: WHSR
Sent: Saturday, December 11, 1999 12:55 PM
To: Busby, Scott W. (MULTI); Clarke, Richard A. (TNT); Fallin, James (PRESS); Hammer, Michael A. (PRESS); Hollis, Caryn C. (INTERAM); Leavy, David C. (PRESS); McCarthy, Mary O. (INTEL); Naplan, Steven J. (MULTI); Roberts, Michael W. (VP); Saunders, Richard M. (VP); Sigler, Ralph H. (WHSR); Valenzuela, Arturo A. (INTERAM)
Subject: MILLIONS DEMAND BOY'S RETURN IN LARGEST PROTEST EVER IN COMMUNIS

CLASS: INTERNATIONAL
ORIG: AP/East
PREC: RUSH
TOR: 991211121524 A52865e0

D0140

^BC-Carib-Cuba-Boy
,0676

^Millions demand boy's return in largest protest ever in communist Cuba

^AP Photos HAV101-104; MH104-105

^By ANITA SNOW= ^Associated Press Writer=

HAVANA (AP) Waving Cuban flags and posters with the image of a 6-year-old boy rescued at sea, more than 2 million people marched to demand the child's return home in the largest protests on the communist island since Fidel Castro came to power 41 years ago.

"Liberty for Elian! Liberty for Elian!" citizens chanted in a chain of demonstrations that began Friday morning in easternmost Santiago and continued west across the island.

While hundreds of thousands thronged outside the U.S. Interests Section in Havana, American officials inside waited to hear back on a U.S. government proposal that the boy's father, who is in Cuba, make his claim for his child with American immigration agents stationed in Havana.

While the U.S. Immigration and Naturalization Service officials were trying to meet with the father in Cuba, back in Miami, lawyers for Elian Gonzalez's great-aunt and great-uncle filed a request for political asylum for the boy with the immigration agency.

The granting of political asylum requires proof of a well-founded fear of political persecution. Such requests are generally filed by adults for themselves.

Roger Bernstein, one of the five lawyers for the child's Miami relatives, said the U.S. immigration agency has 60 days to respond and hold a hearing. "We are very confident he will be given a full opportunity to explain why he fears returning to Cuba," Bernstein said.

The protests are the largest seen on the island since the triumph of the Cuban Revolution on Jan. 1, 1959.

In 1980, Castro called for similar demonstrations during a political crisis that began when several thousand Cubans stormed the Peruvian Embassy seeking political asylum. An estimated 1 million people marched past the embassy on April 19, 1980, in support of Castro's government.

Despite nearly a decade of economic crisis following the collapse of the Soviet Union, the demonstrations show that Castro and his communist government are still capable of mobilizing hundreds of thousands of people when Cuba is pitted against its old political nemesis, the United States.

Although the government has organized the demonstrations and transported many of the marchers to the events, most Cubans have found it hard not to sympathize with a little boy who lost his mother at sea and is now stuck in the middle of an international custody battle with grownups spouting political rhetoric on both sides of the Florida Straits.

Elian was found clinging to an inner tube off the coast of Fort Lauderdale, Florida, two weeks ago, having survived a boating accident that took the life of his mother during an apparent attempt to illegal emigrate to the United States.

U.S. authorities placed him with his great-aunt and great-uncle living in Miami, who said they could provide him with a better life in the United States. They do not have legal guardianship, however.

Elian's father, Juan Miguel Gonzalez, has demanded that his son be returned to Cuba and has refused to go to the United States or a neutral country to petition for his son. In such disputes, legal custody almost always is granted to a biological parent unless it can be proved that he or she is not a fit parent.

The custody dispute had threatened U.S.-Cuban migration talks scheduled Monday in Havana, but both American and Cuban officials said the meeting is expected to continue as planned.

The dispute comes amid Cuba's growing anger over what it says is the U.S. government's failure to abide by 1994 and 1995 migration accords signed to stop a flood of people leaving the island on rickety rafts and inner tubes.

Under the agreements, U.S. officials are to send Cubans rescued at sea back to Cuba and allow those who make it the United States to stay. Cuban officials are to prevent people from leaving the communist island illegally.

APE- 12/11/99 12:14:06

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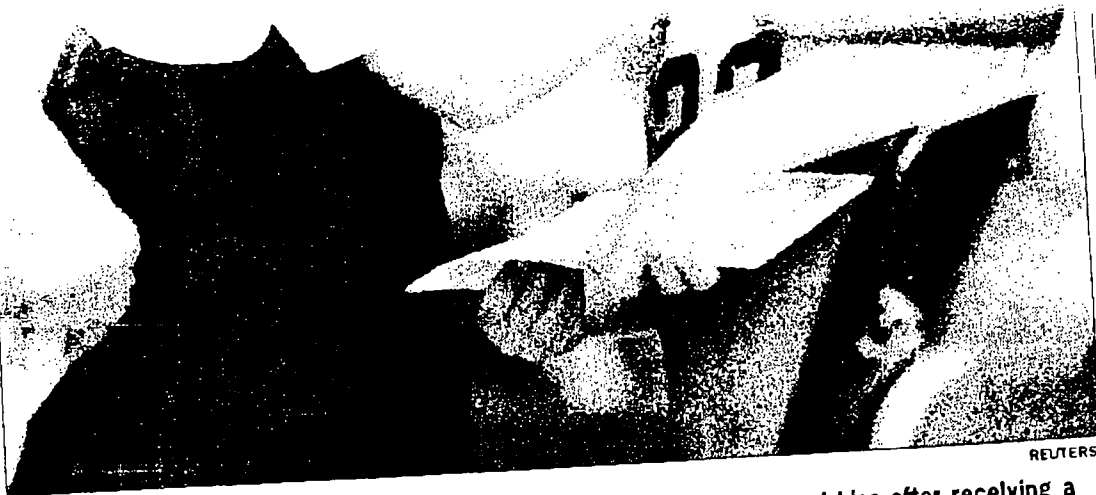
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REUTERS

AMIGOS Six-year-old Cuban refugee Elian Gonzalez (r.) gets a hug and kiss after receiving a gift from an unidentified neighborhood friend at a Miami home yesterday.

Cuba boy may ring in 2000

Rudy eying millennium invite

By MICHAEL R. BLOOD
DAILY NEWS CITY HALL BUREAU CHIEF

New Yorkers might ring in the new year with a surprise guest at the Times Square millennium bash — little Cuban refugee Elian Gonzalez.

The Giuliani administration is thinking about trying to bring the 6-year-old to the city for the nationally televised gala, holding him up as a symbol of America's promise.

He could even help Mayor Giuliani drop the crystal ball that will mark the start of the new century.

The boy represents "what America means — freedom, the right to choose," said one aide who attended a closed-door meeting at City Hall where the idea was discussed with the mayor.

Squirring Elian around the city could bring the mayor a burst of publicity beneficial to his budding Senate campaign.

Last month, the boy was found clinging to an inner tube off the South Florida coast after his mother and stepfather died trying to flee Cuba. He has become the focus of an international tug of war that has strained relations with Cuba, which wants him returned to his father.

Elian's lawyer, Spencer Eig, called the city's idea "interesting" but said he hadn't received an invitation.

"We are always looking to protect Elian from anything outside of his ordinary, daily activities, but we would take such suggestions under consideration," Eig said.

Meanwhile, a cousin of the boy in Miami yesterday sent a letter to Hillary Rodham Clinton, plead-

ing, "Don't send Elian to be the puppet of his mother's murderer."

"We beg you now as a mother, to be the First Lady that truly crosses all ethnic barriers and speaks out for the children. Please, please help," wrote Marisleysis Gonzalez, who is among several family members caring for Elian.

Giuliani has said the boy should be granted asylum and could make the dispute an issue in his emerging Senate race against the First Lady.

Clinton yesterday appeared to give some encouragement to Elian's Miami relatives.

"Certainly the legal procedures currently underway should take into account Elian's wishes, the benefits of growing up in a democracy and the sacrifice his mother made to bring him to freedom," her campaign spokesman, Howard Wolfson, said.

Meanwhile, Cuban President Fidel Castro yesterday accused the boy's American relatives of trying to brainwash him.

"Time matters here. How long can a child's mind be changed?" Castro said in a taped interview on NBC's "Today" show. "Why do they want to delay this return of the child, to be able to change the child's mentality, to destroy his identity?"

Earlier this week, Elian's father said he was convinced after a meeting with U.S. immigration officials in Havana that they will send his son home. But the U.S. Immigration and Naturalization Service has made no decision, officials said yesterday.

In a message to President Clinton, Castro said, "I have confidence in the common sense and talents of your people."

As for the boy staying in America, Castro said, "I don't think you will make that mistake."

DEC. 16, 1996

TERROR IN THE SKIES

airliners collide over New York City. One of the planes, a United A DC-8 falls in Park Slope, killing passengers. Nine people on the ground were also killed and the ensuing fires threatened 11 buildings. The other plane, a TWA Super Constellation, crashed on Staten Island, killing 25 passengers. The accident was caused by a combination of snow, fog, inadequate equipment and human error.

Q What do you want most for your life in the new century?



Martin Kranzbaum
65, business owner, Queens

"Retirement. I want to sail my boat and have horses. I have a farm in Long Island."



Handwritten signature: M. D. ...

WHA Press Guidance
Tuesday, December 14, 1999

CUBA: Migration Talks and Elian Gonzalez

Background: Yesterday U.S. and Cuban officials held the latest round of semi-annual migration talks in Havana.

The case of Elian Gonzalez is working its way through the proper INS process.

Question: Can you give us a readout from the U.S.-Cuba migration talks held yesterday?

Answer: YESTERDAY WE MET WITH THE CUBAN GOVERNMENT DELEGATION, AS WE DO PERIODICALLY, TO REVIEW THE IMPLEMENTATION OF EXISTING MIGRATION ACCORDS. THESE TALKS ARE TECHNICAL IN NATURE AND DEAL EXCLUSIVELY WITH MIGRATION MATTERS.

THE MIGRATION ACCORDS ARE IMPORTANT TO SAFE, LEGAL, AND ORDERLY MIGRATION. THE DEGREE OF SUCCESS OF THE BI-ANNUAL TALKS SUPPORTS OUR MUTUAL EFFORTS TO DISSUADE ILLEGAL EXIT AND CONTRIBUTE TO THE CONTINUING COMMITMENT BY THE PARTIES TO THE ACCORDS TO CARRYING OUT ITS PROVISIONS.

WE REITERATED OUR COMMITMENT TO FULL IMPLEMENTATION OF THE MIGRATION ACCORDS. WE BELIEVE THE ACCORDS ARE ACHIEVING

THEIR CENTRAL PURPOSE OF ENCOURAGING SAFE, LEGAL, AND ORDERLY MIGRATION BETWEEN OUR TWO COUNTRIES.

AS IN OUR PREVIOUS TALKS, WE DISCUSSED THE RECENT PHENOMENA OF A MARKED SHIFT TOWARDS ORGANIZED ALIEN SMUGGLING OF CUBANS INTO THE UNITED STATES. WE REVIEWED OUR LAW ENFORCEMENT EFFORTS TO PUT A STOP TO THIS FORM OF CRIMINAL ACTIVITY FOR PROFIT WHICH NEEDLESSLY EXPOSES MEN, WOMEN, AND CHILDREN TO LOSS OF LIFE OR SERIOUS INJURY. BOTH SIDES EXPRESSED COMMITMENT TO ENFORCE THEIR LAWS TO PUT A STOP TO THIS DANGEROUS AND TOTALLY UNNECESSARY PRACTICE.

IN ADDITION, THE TWO SIDES DISCUSSED THE ELIAN GONZALEZ CASE. WE EMPHASIZED THE POSITION OF THE UNITED STATES THAT WE SHOULD NOT POLITICIZE THE LIFE OF THIS 6-YEAR-OLD CHILD.

Question: Are press reports claiming that there will be a special session of the talks in January focused exclusively on the Cuban Adjustment Act accurate?

Answer: THE CUBAN DELEGATION PROPOSED MEETING AGAIN IN JANUARY, BUT NO AGREEMENT WAS REACHED ON EITHER AN AGENDA OR A FIRM DATE.

FOCUS ON THE CUBAN ADJUSTMENT ACT WOULD NOT BE PRODUCTIVE SINCE THE ACT IS U.S. LAW AND IT WILL BE ENFORCED UNTIL CHANGED BY CONGRESS.

Question: What about press reports quoting Elian Gonzalez's father after his meeting with U.S. officials yesterday saying that INS agrees with him on the matter and that the boy should be returned to Cuba?

Answer: YESTERDAY'S INS INTERVIEW OF MR. GONZALEZ QUINTANA WAS AN IMPORTANT FIRST STEP IN THE PROCESS OF DETERMINING WHO LEGALLY SPEAKS FOR THE CHILD. THE MEETING WITH MR. GONZALEZ QUINTANA WAS ESSENTIAL TO MOVING THE INS PROCESS FORWARD, BUT NO DECISION HAS BEEN MADE AS TO THE FINAL OUTCOME OF THAT PROCESS. THE INS OFFICER INDICATED THAT WHILE WE, JUST AS MR. GONZALEZ QUINTANA, WOULD LIKE THE PROCESS TO MOVE FORWARD AS QUICKLY AS POSSIBLE, IT IS IMPOSSIBLE TO PREDICT THE TIMEFRAME OR THE FINAL OUTCOME.

Question: Can you provide us details OF the interview?

Answer: THE CONTENTS OF THE INTERVIEW ARE NOW PART OF AN INS CASE FILE AND ARE CONFIDENTIAL.

Question: What's the next step in the process?

Answer: THE INS OFFICER'S REPORT WILL BE SENT TO INS HEADQUARTERS IN WASHINGTON. I REFER YOU TO INS FOR MORE DETAILS ON THE PROCEDURES.

Question: What about the four Cuban prisoners who are currently holding hostages in a Louisiana prison?

Answer: WE HAVE RAISED THE ISSUE OF THE RETURN OF CRIMINAL EXCLUDABLES WITH THE CUBANS DURING EACH ROUND OF THE MIGRATION TALKS SINCE 1984, INCLUDING YESTERDAY. THE CUBAN GOVERNMENT REFUSES TO ACCEPT THE RETURN OF SUCH INDIVIDUALS, CONTRARY TO INTERNATIONAL PRACTICE.

Avery, Dale R. (INTERAM)

From: Manning, Michael T. (WHSR)
Sent: Sunday, November 28, 1999 11:03 AM
To: @INTERAM - Inter-American; @DEFENSE - Defense Policy
Cc: @WHSR - WH Situation Room
Subject: Coast Guard Vessels Chase Go-Fast 26 November [UNCLASSIFIED]

Coast Guard Command Center informed that, on 26 November, the Coast Guard Cutters Northland, Harriot Lane, Mohawk, and the USS Curts were in hot pursuit of a 40-foot, white and blue go-fast boat 140 miles south of Ile-a-Vache, Haiti. The vessel headed south. The Lane and Mohawk maneuvered to force the go-fast to intercept the Curts. The Curts fired 100 rounds from its 50 caliber gun. The go-fast did not stop, and the Curts reissued warnings and fired 25 rounds from its 25mm gun. The go-fast then entered Colombian territorial waters, and the chase was terminated. Cutter personnel also observed the go-fast jettison cargo/contraband but were unable to locate any of it. The go-fast crew beached the vessel and escaped inland. Colombian forces later found, searched, and destroyed the go-fast but did not locate the contraband. Subsequent searches for the jettisoned packages yielded negative results.

Avery, Dale R. (INTERAM)

From: Busby, Scott W. (MULTI)
Sent: Monday, December 06, 1999 6:55 PM
To: @PRESS - Public Affairs
Cc: @MULTILAT - Multilateral and Humanitarian Affairs; @LEGAL - Legal Advisor; @INTERAM - Inter-American
Subject: FW: Coast Guard Interdiction Today [UNCLASSIFIED]

Press -- Here are a few points on this incident.

- We are handling this incident as we would any incident involving irregular migration to the United States.
- This incident demonstrates our commitment to continued collaboration with the Government of Cuba in addressing forcefully the problem of irregular migration to the United States and other law enforcement issues surrounding such migration.
- The law enforcement action we took is consistent with our policy of combatting unsafe and illegal migration activities and with our obligations under the migration accords with Cuba.

-----Original Message-----

From: Busby, Scott W. (MULTI)
Sent: Monday, December 06, 1999 6:46 PM
To: @NSA - Natl Security Advisor
Cc: @INTERAM - Inter-American; @LEGAL - Legal Advisor; @MULTILAT - Multilateral and Humanitarian Affairs; @PRESS - Public Affairs
Subject: Coast Guard Interdiction Today [UNCLASSIFIED]

Please pass to Sandy/Jim.

Sandy/Jim --

Here are the facts on the Cuban migrant interdiction that took place today. Our apologies for failing to get info to you sooner about this.

It appears that a private vessel with two Cubans aboard was hijacked by six other Cubans in Cuban waters. Two of the individuals aboard were Cuban border guards; unclear whether they were hijackers or victims. The vessel was tailed by a Cuban border guard vessel as it left Cuban waters. The Cuban border guard relayed info about the incident to the U.S. Coast Guard and the USCG then tailed the vessel in international waters.

The USCG interdicted the vessel without incident as it entered our territorial waters. All migrants are now aboard a Coast Guard cutter where, consistent with SOP, they are being interviewed to determine whether we should undertake a law enforcement action against any of them and whether any of them have protection concerns. Two of the migrants have minor injuries, which were treated aboard the cutter.

We expect the final disposition of this case will be determined in the next couple of days.

We will relay points to Press emphasizing that we have handled this incident in a collaborative way with the GOC, consistent with our current policy and our obligations under the migration accords.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002. email	Scott Busby to Arturo Valenzuela and Mary DeRosa re: FW: Briefer for JS on Cuban Boy (2 pages)	12/06/1999	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Interamerican Affairs (Caryn Hollis)
OA/Box Number: 2925

FOLDER TITLE:

Cuba-Elian Gonzalez [1]

2012-0371-F

rs2158

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]
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- 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]

Context: On Saturday night, Fidel Castro said that the U.S. has 72 hours to return the 5-year-old Cuban boy or else the Cuban people would take to the streets to insist on his return.

What is the USG reaction to Castro's latest statements about return on the boy?

- As in the case of any unaccompanied minor who arrives on U.S. shores, the U.S. government is committed to seeing a decision in this case consistent with the best interests of the child.
- ~~□ We would hope that the family of the boy could reach agreement on who should have custody of the boy. If they cannot, this a matter for the Florida State Courts to resolve.~~
- We do not approve of the ultimatum issued by Fidel Castro on Saturday night. This is not conducive to resolving this case in the appropriate way.
- We would hold the Cuban government responsible for any harm to U.S. citizens or to our Interests Section that may come from the public protests the Cuban government has called for.
- We are committed to working with the family of the boy, including the father, and all appropriate ~~the Cuban government and Florida state officials~~ to achieve a solution to this case.

Context: On Saturday night, Fidel Castro said that the U.S. has 72 hours to return the 5-year-old Cuban boy or else the Cuban people would take to the streets to insist on his return.

What is the USG reaction to Castro's latest statements about return on the boy?

- As in the case of any unaccompanied minor who arrives on U.S. shores, the U.S. government is committed to seeing a decision in this case consistent with the best interests of the child.
- We would hope that the family of the boy could reach agreement on who should have custody of the boy. If they cannot, this a matter for the Florida State Courts to resolve.
- We ~~are~~ do not approve of the ultimatum issued by Fidel Castro on Saturday night. This is not conducive to resolving this case in the appropriate way.
- We would hold the Cuban government responsible for any harm to U.S. citizens or to our Interests Section that may come from the public protests the Cuban government has called for.
- We are committed to working with the family of the boy, including the father, the Cuban government and Florida state officials to achieve a solution to this case.

Avery, Dale R. (INTERAM)

From: Valenzuela, Arturo A. (INTERAM)
Sent: Sunday, December 05, 1999 7:04 PM
To: @NSA - ~~Natl Security Advisor~~
Cc: @MULTILAT - Multilateral and Humanitarian Affairs; @LEGAL - Legal Advisor; @INTERAM
- Inter-American
Subject: Cuban Child Incident [UNCLASSIFIED]

FYI

Had conference call (5:00-6:00 p.m. Sunday) with Wendy Sherman and half-dozen other State officials including lawyers on Cuban child case. Rhetoric escalating in Cuba and Miami. Migration talks in jeopardy. Will chair SVTS at 11:00 a.m. Monday 6th to develop options to help defuse tension and address problem. Need careful, nuanced, approach to issue and to dealing with Cubans. Coordinating with Scott Busby. Will call Jamie Monday am before SVTS.

Arturo

Avery, Dale R. (INTERAM)

From: Valenzuela, Arturo A. (INTERAM)
Sent: Saturday, December 04, 1999 12:33 PM
To: Schwartz, Eric P. (MULTI); Busby, Scott W. (MULTI)
Cc: @INTERAM - Inter-American; @MULTILAT - Multilateral and Humanitarian Affairs
Subject: RE: Case of Cuban child [UNCLASSIFIED]

Eric, this is my concern. Pending decision of courts is there a Federal role? Does INS have nothing to do with this anymore? Would this require asking for Court order? Need to explore all legal angles.

-----Original Message-----

From: Schwartz, Eric P. (MULTI)
Sent: Saturday, December 04, 1999 6:13 AM
To: Valenzuela, Arturo A. (INTERAM); Busby, Scott W. (MULTI)
Cc: @INTERAM - Inter-American; @MULTILAT - Multilateral and Humanitarian Affairs
Subject: RE: Case of Cuban child [UNCLASSIFIED]

I suspect there may be a risk of effort to hide the child -- especially if the lawyers are correct about the probable outcome of the custody issue; is there anything the federal government can do in that respect?

-----Original Message-----

From: Valenzuela, Arturo A. (INTERAM)
Sent: Friday, December 03, 1999 6:17 PM
To: Busby, Scott W. (MULTI)
Cc: @INTERAM - Inter-American; @MULTILAT - Multilateral and Humanitarian Affairs
Subject: RE: Case of Cuban child [UNCLASSIFIED]

Scott, I clear, with the provisos we discussed on the phone.

-----Original Message-----

From: Busby, Scott W. (MULTI)
Sent: Friday, December 03, 1999 5:47 PM
To: Valenzuela, Arturo A. (INTERAM)
Cc: @INTERAM - Inter-American; @MULTILAT - Multilateral and Humanitarian Affairs
Subject: Case of Cuban child [UNCLASSIFIED]

Arturo -- As discussed, please clear.

Sandy/Jim --

The political temperature around the case of the 5-year-old Cuban boy, Elian Gonzalez, continues to rise. A Cuban Foreign Ministry spokesperson yesterday again demanded that the boy be returned to Cuba immediately or else the "U.S. government will be responsible for the way in which relations between the two countries could worsen." The Cubans have also issued a veiled threat that they might cancel the upcoming migration talks scheduled in Havana for December 13.

Background: Both Elian's mother and stepfather perished at sea along with five other Cubans in an alien smuggling venture early on Thanksgiving day. When Elian was rescued by the Coast Guard, some thought him to be a U.S. citizen so he was immediately brought into the U.S. to a medical facility. His physical condition was found satisfactory and INS soon thereafter authorized his release to his extended family members in Miami. He was also granted "parolee" status, which occurs with most illegal Cubans who are released from INS custody. (Under the Cuban Adjustment Act, this means that he will eligible for permanent status within a year.)

Although his immediate release to his extended family members was

inconsistent with INS' SOP in such cases (unaccompanied minors are supposed to be taken to a child welfare agency which then determines a placement that would be in the "best interests" of the child), INS believes that had its local office followed those procedures, the result would have been the same. A welfare agency has made a visit to Elian's current home and deemed it acceptable.

Custody decision: The key decision in Elian's case will be who has custody. Elian's biological father (who was separated from Elian's mother at the time of their departure from Cuba) and grandparents in Cuba have asserted that they wish to have custody. The family members in Miami have asserted the same. We are told that a lawyer representing Elian's interests is seeking to negotiate a deal between these competing family members. If that fails, the matter will have to be resolved in the Florida state courts. The father can file a petition there even though he is not in the U.S. If it comes to that, DoJ and State experts think it likely that the father would prevail, unless he is found unfit.

Federal role: The federal government has little role in the custody determination process. Thus, our public posture is that this is a matter for the state courts to decide. Nevertheless, if the state courts decide that Elian should be returned to his father, we may have to play a role in facilitating his return to Cuba. It is also possible that if Elian disagreed with the outcome in the state courts, he could request immigration relief, which obviously would require decisions by DoJ officials and would further delay his return.

GOC reaction: Of course, a lengthy judicial process on this case in the U.S. is unlikely to satisfy the GOC. However, we have little choice but to explain to the Cubans that there are no other options for federal government action on this matter at this time. We will be sure to facilitate any efforts the father may wish to to represent his interests in the state proceedings.

Scott

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
003. email	Valenzuela to Mona Sutphen re: Cuban Child (1 page)	12/02/1999	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Interamerican Affairs (Caryn Hollis)
OA/Box Number: 2925

FOLDER TITLE:

Cuba-Elian Gonzalez [1]

2012-0371-F

rs2158

RESTRICTION CODES

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

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Cuban Boy and Migration Incident
December 7, 1999

Context: On Saturday night, Fidel Castro demanded that the U.S. return to Cuba within 72 hours the 5-year-old Cuban boy, Elian Hernandez, who was rescued at sea last week or else the Cuban people would take to the streets to insist on his return. Castro has also beefed up Cuban security outside the U.S. Interests Section in Havana. The boy currently resides in Miami with his great uncle and aunt. It appears that the boy's biological father is in Cuba.

There have been ongoing demonstrations outside the U.S. Interests Section relating to this case. The Cuban government has called for another massive demonstration there at 5 p.m. this evening.

Separately, the U.S. Coast Guard ~~yesterday~~ interdicted a private Cuban vessel yesterday holding 8 Cuban nationals as it entered U.S. waters. The U.S. Coast Guard was notified of the incident by the Cuban border guard. Two of the Cubans aboard the vessel are members of the Cuban navy. It appears that six of the individuals took the two Cuban officials hostage and took control of the boat. The Cuban individuals are currently aboard a Coast Guard cutter and the vessel is in tow. The disposition of the individuals and the vessel will be determined in accordance with standard operating procedures and should be finalized in the very near future. The incident is an indication of the virtue of the migration accords and our commitment to continue our compliance with those accords.

*with Navy
on private
fishing
vessel!*

What will happen to the Cuban vessel and the eight Cuban nationals interdicted yesterday?

- The eight individuals are currently aboard a Coast Guard cutter. The vessel is in tow.
- The individuals will be handled according to standard operating procedures. INS is interviewing the individuals to get a fuller understanding of what happened aboard the vessel and to ensure that any person who might have a fear of persecution is able to have their claim heard.
- Final disposition of the individuals and the vessel will be determined in the next few days.

- We are strongly committed to ensuring that any violations of law are dealt with appropriately.
- This case illustrates the virtue of our collaboration with the Government of Cuba on such cases and our continued commitment to implementation of the migration accords.

What is the USG reaction to Castro's latest statements about return of the 5-year-old Cuban boy?

- As in the case of any unaccompanied minor who arrives on U.S. shores, our primary concern is for the child.
- We do not accept the ultimatum issued through the press by Fidel Castro on Saturday night. This is not conducive to resolving this case in the appropriate way.
- We expect the Government of Cuba to fulfill its obligation to protect international diplomatic missions and their personnel. We would hold the Cuban government responsible for any harm to U.S. citizens or to our Interests Section that may come from the public protests called for by the Cuban government.
- We are committed to working with the family of the boy, including the father, and all relevant officials to achieve an appropriate resolution to this case.

Avery, Dale R. (INTERAM)

From: Hammer, Michael A. (PRESS)
Sent: Tuesday, December 07, 1999 11:41 AM
To: Busby, Scott W. (MULTI); Rosa, Frederick M. (TNT)
Cc: @LEGAL - Legal Advisor; @INTERAM - Inter-American; @PRESS - Public Affairs
Subject: RE: New guidance on migration incident [UNCLASSIFIED]

Scott - there is no mention in the guidance that the boy's case will be resolved "in accordance with our laws," which was the guidance we got from Steinberg last night. Shouldn't that be included. Can anything be said about this being examined by INS and if necessary could end up in Florida courts. Need clarification by 12:15.

-----Original Message-----

From: Busby, Scott W. (MULTI)
Sent: Tuesday, December 07, 1999 10:50 AM
To: @PRESS - Public Affairs
Subject: FW: New guidance on migration incident [UNCLASSIFIED]

Mike et al. -- Here's updated guidance on the Cuban migration incident yesterday and the boy (almost nothing new on that for now).

Cleared by DoJ. Mary, Arturo -- Provide any changes directly to Press.

-----Original Message-----

From: Busby, Scott W. (MULTI)
Sent: Tuesday, December 07, 1999 10:17 AM
To: Valenzuela, Arturo A. (INTERAM); DeRosa, Mary B. (LEGAL)
Cc: @INTERAM - Inter-American; @LEGAL - Legal Advisor; @MULTILAT - Multilateral and Humanitarian Affairs
Subject: New guidance on migration incident [UNCLASSIFIED]

<< File: Cuban boy guidance___.doc >>

Arturo, Mary -- Please clear ASAP.

Statement by the Press Spokesperson

As in the case of any unaccompanied minor who arrives on U.S. shores, our primary concern is for the child. We are committed to working with his family of Elian Gonzalez, including the father, and all relevant officials to achieve an appropriate resolution to this case.

The regulations of the Immigration and Naturalization Service (INS) recognize the right of a parent to assert parental interests in an immigration proceeding. The INS will be in contact with Mr. Gonzalez in the near future to explain the process by which it will evaluate his rights in this case.

The United States will follow a deliberate process consistent with our rules and procedures. The United States will not be intimidated or pressured into taking actions that are inconsistent with these principles. We reject any ultimatums or deadlines imposed by the Government of Cuba for resolution of this case.

The Government of Cuba has assured us that it will fulfill its obligation to protect international diplomatic missions and their personnel. We would hold the Cuban government responsible for any harm to U.S. citizens or to our Interests Section that may come from the public protests called for by the Cuban government.

As evidenced by our interdiction of a Cuban vessel yesterday, the United States remains committed to the full implementation of the migration accords and to facilitating migration to the United States in a safe, legal and orderly manner.

Avery, Dale R. (INTERAM)

From: Busby, Scott W. (MULTI)
Sent: Tuesday, December 07, 1999 6:40 PM
To: @NSA - Natl Security Advisor
Cc: @INTERAM - Inter-American; @LEGAL - Legal Advisor; @MULTILAT - Multilateral and Humanitarian Affairs; @PRESS - Public Affairs
Subject: Update on Cuban Case [CONFIDENTIAL]

Please pass to Jim.

Cleared by Mary DeRosa

Jim --

Here's what we learned/agreed upon at today's SVTS on the case of the Cuban child:

1. INS is prepared to initiate the process of verifying the father's relationship to the child. It intends to do so by sending a letter to the father to request relevant information and documentation (proof of paternity, documents relating to marital status, etc.). It was agreed that it would be ideal if such a letter could be sent out by COB today, although Justice reserved as to whether that would be possible. (Right now, it looks like the letter will not go until tomorrow.)

Justice/INS also believes that an interview with the father is necessary. Justice is going to consider where and how it would be best to carry out this interview.

2. Once Justice has the necessary information, it will make a decision as to whether it will continue the child on parole status, allow the child to withdraw his request for admission, or refer the case to an immigration judge. Justice suggested that it had relatively broad discretion in making this decision. However, it indicated that should the father's status be verified, there would be a strong presumption in favor of returning the child to Cuba.

3. It was agreed that we would seek to issue a statement before COB today that, among other things, would clarify in general terms the DoJ process for resolving the child's fate. (You have seen.)

4. It was also agreed that once Justice has the final text of a letter to the father, we would demarche the GOC to let them know how we intend to proceed with a determination in the case.

5. The GOC demarched us this morning to request immediate return of the hijacked vessel interdicted yesterday and the migrants aboard it. After interviews with all those migrants who requested them, the INS has determined that all 8 migrants should be returned to Cuba. We will be informing the GOC of this result this evening and arrangements for the return of the migrants and vessel will be made. This will occur in the next couple of days. This should help to rebut any claim by the GOC that we are not complying with the terms of the migration accords and to defuse some of the tension around the child's case.

DECLASSIFIED E.O. 13526

White House Guidelines,

September 11, 2006

By MI NARA, Date 7/16/11
2012-0371-4

6. The Castro government has called for a major demonstration outside the U.S. Interests Section this evening.

Scott

Avery, Dale R. (INTERAM)

From: Busby, Scott W. (MULTI)
Sent: Wednesday, December 08, 1999 7:43 AM
To: @NSA - Natl Security Advisor
Cc: @LEGAL - Legal Advisor; @MULTILAT - Multilateral and Humanitarian Affairs; @INTERAM - Inter-American
Subject: FW: Hijacked Boat Return Delayed; Four More Cubans Found at Sea [UNCLASSIFIED]
Importance: High
Follow Up Flag: Follow up
Due By: Monday, December 06, 1999 5:00 PM
Flag Status: Flagged

Please pass to Jim.

Jim --

Please note the attached update on the fate of the eight migrants involved in the boat that was hijacked. We will get more details this a.m.

Scott

-----Original Message-----

From: Ehrendreich, Joel (WHSR)
Sent: Tuesday, December 07, 1999 11:38 PM
To: @INTERAM - Inter-American; @PRESS - Public Affairs; Busby, Scott W. (MULTI)
Cc: @WHSR - WH Situation Room
Subject: Hijacked Boat Return Delayed; Four More Cubans Found at Sea [UNCLASSIFIED]
Importance: High

The Coast Guard Command Center (Ensign Phillips) called to report two separate, but related, Cuban migrant incidents:

1) In an update of yesterday's hijacked boat case: while originally the eight Cubans were to be repatriated along with the vessel to Cuba, this afternoon the U.S. attorney in Miami decided he would like more time to review the case so it has been put on hold for the time being. Tomorrow at 1500 a PPD 27 will be held to determine the disposition of the vessel and Cubans. The CG ship Thetis is transferring the eight Cubans on board to the cutter Sapelo (no specific time available).

2) While at sea with the eight Cubans, at 2100 EST Tuesday the Thetis came upon another 20-foot vessel found dead in the water approximately 40 miles south of Key West. The boat carried four people: a husband and wife, their infant child, and another male adult. The child is an Amcit; the other three were already in the process of applying for U.S. citizenship. The three adults are also documented Alpha-66 (a Cuban-American group that supports the overthrow of the Cuban government) members. Since the Thetis was out there already, it had an APSO on board so he began a preliminary questionnaire; however, the FBI requested that it not be conducted until counter-terrorist agents could be brought on board. The Thetis is scheduled to pull into Key West around 1100 EST Wednesday, when it will transfer the four to FBI and INS officials.

Avery, Dale R. (INTERAM)

From: Benjamin, Daniel (TNT)
Sent: Wednesday, December 08, 1999 9:59 AM
To: Sargeant, Stephen T. (EXSEC); @LEGAL - Legal Advisor; @LEGISLAT - Legislative Affairs; Cressey, Roger W. (TNT); @INTERAM - Inter-American
Subject: FW: Letter to Cuban American National Foundation [UNCLASSIFIED]
Importance: High

I guess this is not going to get done before I depart on Friday. I think it makes the most sense for Legal -- per Chuck's suggestion to me -- to take the action at this point. Below are the drafts I did with the fixes of the also-departed Fulton Armstrong.

-----Original Message-----

From: Allen, Charles A. (LEGAL)
Sent: Saturday, November 06, 1999 2:22 PM
To: Benjamin, Daniel (TNT)
Cc: Armstrong, Fulton T. (INTERAM); @LEGAL - Legal Advisor; Sargeant, Stephen T. (EXSEC)
Subject: FW: Letter to Cuban American National Foundation [UNCLASSIFIED]
Importance: High

Dan, could you fax me a copy of the Jack Lew letter to which you refer below? I have a copy of the Senate SAP dated July 1, but not the letter to the conference committee.

Also, Stu Eizenstat testified on the Lautenberg/Mack bill on October 27 in the Senate Judiciary Committee. I'll review the letter in the light of that testimony as well, and should be able to clear soon. Thanks.

-----Original Message-----

From: Armstrong, Fulton T. (INTERAM)
Sent: Wednesday, November 03, 1999 3:33 PM
To: Benjamin, Daniel (TNT); Allen, Charles A. (LEGAL)
Subject: FW: Letter to Cuban American National Foundation [UNCLASSIFIED]
Importance: High

Dan, Chuck: Defer to Chuck on legal parts. Suggest a couple changes to Cuba part, including mention of the ex gratia payments. --Fulton

-----Original Message-----

From: Benjamin, Daniel (TNT)
Sent: Wednesday, November 03, 1999 2:50 PM
To: @LEGISLAT - Legislative Affairs; @INTERAM - Inter-American; @LEGAL - Legal Advisor
Subject: Letter to Cuban American National Foundation [UNCLASSIFIED]
Importance: High

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srb del valle.doc

Beg your assistance and hope you can chop quickly on this. This was an inheritance from Prof. Simon, and Podesta's office is eager for a reply. The language closely tracks the Jack Lew letter to the conference comm. on the proposed legislation.

Interam: Any more Cuba verbiage you wish to add will be most welcome.

Avery, Dale R. (INTERAM)

From: Busby, Scott W. (MULTI)
Sent: Wednesday, December 08, 1999 6:15 PM
To: @NSA - Natl Security Advisor
Cc: @LEGAL - Legal Advisor; @MULTILAT - Multilateral and Humanitarian Affairs; @INTERAM - Inter-American
Subject: Cuban update [~~CONFIDENTIAL~~]

Please pass to Jim.

Jim --

1. Per our discussion, I stressed to DoJ the importance of clarifying its procedures for the consideration of interests other than those of the father. DoJ has not developed this part of the process yet but will be doing so very soon. I emphasized the urgency of doing so.
2. DoJ is still deliberating on what it would like to do with the 8 Cuban migrants who were aboard the hijacked vessel. NSC Legal has relayed our views on the importance of making a decision as quickly as possible and the significant foreign policy consequences of a decision not to return these individuals to Cuba. We expect that DoJ will make a decision tonight.
3. DoJ has finalized the letter that will be sent to the father. It will go this evening. A demarche to the Government of Cuba will follow soon thereafter.

Scott

DECLASSIFIED E.O. 13526

White House Guidelines,

September 11, 2006

By *mt* NARA, Date *9/16/11*

2012-03246

Avery, Dale R. (INTERAM)

From: Busby, Scott W. (MULTI)
Sent: Thursday, December 09, 1999 10:49 AM
To: @PRESS - Public Affairs
Cc: @LEGAL - Legal Advisor; @MULTILAT - Multilateral and Humanitarian Affairs; @INTERAM - Inter-American
Subject: Modified Cuban boy guidance [UNCLASSIFIED]



CUBAN BOY AND
MIGRATION INCIDE...

Arturo/Mary -- Please relay any changes directly to Press. Changes have been blessed by DoJ and State.