

FOIA MARKER

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Folder Title:

Cuba-Elian Gonzalez [1]

Staff Office-Individual:

Inter-American Affairs-Hollis, Caryn

Original OA/ID Number:

2925

Row:	Section:	Shelf:	Position:	Stack:
37	2	11	3	V

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. cable	re: Vicki Meets with Alarcon about Elian (3 pages)	01/06/2000	P1/b(1)
002. report	re: Cuba (1 page)	12/22/1999	P1/b(1)
003. cable	re: Cuban Strategy (4 pages)	02/14/2000	P1/b(1)
004. cable	re: Cuban Interests Section Chief (2 pages)	02/14/2000	P1/b(1)
005. report	re: Cuban Government Influence (2 pages)	04/28/2000	P1/b(1)
006. cable	re: Cuban Diplomats Focus on Breaking Deadlock (2 pages)	01/21/2000	P1/b(1)
007. cable	re: Cuban President Monitors Elian Gonzalez Case (3 pages)	01/11/2000	P1/b(1)
008. cable	re: Cuban President Plans (2 pages)	12/22/1999	P1/b(1)
009. cable	re: National Assembly President Alarcon's Role (4 pages)	04/21/2000	P1/b(1)
010. cable	re: Cuban Party Official (2 pages)	03/29/2000	P1/b(1)
011. cable	re: Cuban National Assembly President (2 pages)	01/28/2000	P1/b(1)
012. cable	re: Cuban Diplomat Will Bring New Letter (1 page)	02/14/2000	P1/b(1)
013. cable	re: Cuban President Sees Elian Gonzalez Issue (3 pages)	02/15/2000	P1/b(1)

COLLECTION:

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

FOLDER TITLE:

Cuba-Elian Gonzalez [2]

2012-0371-F

rs2159

RESTRICTION CODES

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

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

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

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]

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.

CUBAN BOY AND MIGRATION INCIDENT

December 9, 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.

Separately, the U.S. Coast Guard on Monday interdicted a private Cuban vessel 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 Department of Justice has evaluated the case and determined that all 8 migrants should be returned to Cuba. Consistent with standard operating procedures, Coast Guard will effect that return today.

How does the USG intend to resolve the case of Elian Gonzalez?

- As in the case of any unaccompanied minor who arrives on U.S. shores, our primary concern is for the child.
- As the President indicated yesterday, we will not act on the basis of ultimatums or politics. A decision on the child's case will be made consistent with our laws and procedures.
- INS is attempting to contact by letter the putative father of the boy to explain the process by which it will evaluate his rights in this case.
- A key issue will be determining the child's immigration wishes, including the right of the father to speak on behalf of the child. INS will consider all relevant evidence in making this determination.
- 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 damages to our Interests Section that may come from the public protests called for by the Cuban government.

Is it true that U.S. has decided to send the boy back to Cuba?

- No. There is a legal process here. The INS is in the throes of collecting the necessary information to make a decision in this case consistent with our laws and procedures. No decision has been made.

Can you confirm that an asylum claim has been filed on the child's behalf as reported in today's New York Times?

- No. Refer you to INS.

Did the U.S. violate the migration accords with Cuba by bringing the child into the U.S.?

- No. This boy was in serious physical distress when he was turned over to the U.S. Coast Guard just off the Florida coast. The Coast Guard determined that he was in need of urgent medical treatment. As in similar cases, he was brought into the U.S. for that purpose.

What does the U.S. intend to do with the hijacked vessel and the eight migrants aboard it currently in the custody of the Coast Guard?

- The Department of Justice has investigated the matter and a decision was made that the individuals and the vessel should be returned to Cuba. The Coast Guard effected that return this morning.
- This incident shows the virtue of our cooperation with Cuba in the context of the migration accords.
- We continue to be committed to the migration accords and the goal of facilitating migration from Cuba that is safe, legal and orderly.

NATIONAL SECURITY COUNCIL

THE WHITE HOUSE

FAX COVER SHEET

To: Scott Busby

Fax Number: 69140

From: Matt Gobush
National Security Council
Office of Public Affairs and Communications
202-456-9379

Date: December 17, 1999

Pages: 3 (including fax cover sheet)

Message:

Draft Gonzalez guidance from INS, as discussed.

1. What is the purpose of the letter INS sent to the family?

INS has sent a letter to Mr. and Mrs. Lazaro Gonzalez and Mr. Eig inviting them to meet with INS officials. This is an opportunity for the family to share any information with INS that may be relevant to INS' consideration of the immigration issues involved in Elian's case. This is a step which is both an effort to gather as much information as possible as well as an effort to give the Elian's family members an opportunity to share with us any information they may have that may be relevant.

2. Does Elian need to be present at this interview?

No. We have said to the family that there is no need for Elian to be present at the interview.

3. Does this mean you are close to making a decision?

We are still in the process of evaluating information.. As we have said from the beginning, our process will include a means by which other relatives who have an interest in the immigration issues surrounding this case can make their interests known to us. While we would like to get this resolved as soon as possible we also want to ensure that we are as fully informed as we can be, and we are not yet ready to speculate on a timeframe for a decision.

4. What if the family refuses to meet with you?

We are making ourselves available so that the family can share any information with us they may think is relevant in our decision. It is our hope that they meet with us so we can move forward towards a timely resolution on this matter.

4. Do you see this issue ending up in court?

While this may be an issue that may ultimately have to be decided by the courts, INS is currently evaluating the immigration matters surrounding this issue. We are in the process of gathering information relevant to a decision on who can speak on Elian's behalf regarding the immigration issues surrounding his case so that these issues can be resolved.

5. Can we have a copy of the letter?

The letter is a private communication from INS to the family.

6. Will you make the results of the interview public? Will you make the results of the Havana interview public?

Once INS makes its decision, it will explain the basis of the decision and the law and facts that support the decision. We will share as much information as we can without violating anyone's privacy rights.

8. Who and how many people will be allowed in the interview? Who will conduct the interview?

We have invited Mr. and Mrs. Lazaro Gonzalez and Mr. Eig to the interview. The interview will be conducted by an INS official from the Miami District.

9. Will this interview concern Elian's asylum claim?

This interview is an opportunity for the family to share any information they may have that may be relevant to an INS decision on the immigration matters surrounding Elian's case.

10. Why are you rushing to do this over the weekend? Are you anxious to have this done as soon as possible?

We are dealing with a six-year-old boy and we believe this is an urgent humanitarian matter that should be decided as soon as possible and as carefully as possible. It is our hope that the family feels the same way and will accept this opportunity to meet with us.

The Office of Congressman José E. Serrano



The 16th Congressional District -- New York
---- Fax Cover Sheet ----

DATE: 12/8/99

SENT TO: President William J. Clinton

ORGANIZATION: White House

Fax Number: (202) 456-2604

FROM: Congressman José E. Serrano

Fax Number: (718) 588-3652

Office Number: (718) 538-5400

Number of Pages: 2

MESSAGE: If the President has any questions or would like to speak to Congressman Serrano, please call (718) 538-5400 or (202) 225-4361.

THE WHITE HOUSE
WASHINGTON

December 13, 1999

MEMORANDUM FOR ROBERT A. BRADTKE
NSC Executive Secretariat

FROM: CHARLES M. BRAIN
Legislative Affairs

SUBJECT: PRESIDENTIAL CORRESPONDENCE

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

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

The following is a brief description of the letters:

- 1) Sen. Patty Murray (D-WA), concerning the protection of women's health around the world and the overdue U.S. dues to the United Nations;
- 2) Rep. Silvestre Reyes (D-TX), concerning the President's December 9 meeting with Mexican President Ernesto Zedillo and Mexico's proposal to collect deposits on U.S.-registered vehicles traveling into Mexico; and,
- 3) Rep. Jose E. Serrano (D-NY), concerning the case of Elian Gonzalez, the Cuban child recently rescued off the coast of Florida.

Enclosures

DEC 14 12:15

TO: PRESIDENT

FROM: SERRANO, JOSE E

DOC DATE: 08 DEC 99
SOURCE REF:

KEYWORDS: CUBA MIGRATION
CO

LEGAL ISSUES

PERSONS: GONZALEZ, ELIAN

SUBJECT: CASE OF GONZALEZ & CUSTODY DISPUTE

MO

ACTION: PREPARE MEMO FOR BERGER

DUE DATE: 25 DEC 99 STATUS: S

STAFF OFFICER: BUSBY

LOGREF:

FILES: PA

NSCP:

CODES:

DOCUMENT DISTRIBUTION

FOR ACTION
BUSBY

FOR CONCURRENCE
LACKEY

FOR INFO
SCHWARTZ

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

DISPATCHED BY _____ DATE _____ BY HAND W/ATTCH

OPENED BY: NSTSM

CLOSED BY:

DOC 1 OF 1

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

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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...."

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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: 1/6/00

TO: Karen Hollis

FROM: Bob Witajewski

SUBJECT:

URGENT ACTION REPLY FYI

REMARKS:

NUMBER OF PAGES (INCLUDING COVER PAGE): 4

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

WHA Press Guidance
January 6, 2000

CUBA: INS Decision to Return Elian Gonzalez

Background (for briefer only): INS announced January 5, 2000, that it had determined that Juan Gonzalez is the father of Elian, has the sole authority to speak on his son's behalf on immigration issues, and that the child and his father should be reunited as expeditiously as possible. Needless to say, this decision has been opposed by relatives in Miami who currently have custody of Elian, large segments of the Cuban-American community, and many political figures, including Sen. John McCain. Those opposed to the decision in the Miami area are trying to organize civil protests. It is impossible to predict at this point how successful legal efforts to overturn the decision will be - and how long they will drag on.

Question: What has been the Cuban government's reaction to yesterday's INS announcement on the case of Elian Gonzalez?

ANSWER: WE BRIEFED CUBAN GOVERNMENT OFFICIALS BOTH IN WASHINGTON AND IN HAVANA ON INS' DECISION. THE CUBAN GOVERNMENT, IN GENERAL, WAS PLEASED WITH INS' DECISION THAT THE CHILD SHOULD BE REUNITED WITH HIS FATHER.

Question: What were Cuban officials told of the decision-making process reaching to this conclusion?

ANSWER: WE STRESSED THAT THIS WAS AN INS DECISION MADE ACCORDING TO INS RULES AND PROCEDURES IN CONSULTATION WITH THE JUSTICE DEPARTMENT, INCLUDING THE ATTORNEY GENERAL. THE STATE DEPARTMENT WAS NOT INVOLVED IN THE DECISION-MAKING PROCESS

QUESTION: WILL JUAN GONZALEZ TRAVEL TO MIAMI TO BE REUNITED WITH HIS SON?

Question: When is Mr. Gonzalez coming to the United States?

ANSWER: CLEARLY THIS IS A DECISION FOR MR. GONZALEZ TO MAKE. HE HAS NOT YET APPLIED FOR A VISA TO ENTER THE UNITED STATES. SHOULD HE MAKE A NON-IMMIGRANT VISA APPLICATION, WE ARE PREPARED TO EXPEDITE CONSIDERATION OF IT IN ACCORDANCE WITH U.S. IMMIGRATION LAW. THE CUBAN GOVERNMENT WOULD BE RESPONSIBLE FOR THE ISSUANCE OF PASSPORTS, EXIT VISAS, AND ANY OTHER DOCUMENTS THAT MR. GONZALEZ MIGHT NEED TO DEPART CUBA.

Question: What's going to happen next?

ANSWER: YESTERDAY'S INS DECISION ADDRESSED THE ISSUE OF WHO CAN LEGALLY SPEAK FOR ELIAN ON IMMIGRATION ISSUES INVOLVING THE CHILD. INS' DECISION WAS NOT A CUSTODY DECISION. WHAT HAPPENS NEXT WILL DEPEND ON THE LEGAL STEPS THAT RELATIVES OF ELIAN IN MIAMI MIGHT DECIDE TO TAKE. I CANNOT SPECULATE ON WHAT THESE MIGHT BE, THEIR IMPACT, OR HOW LONG OTHER LEGAL ISSUES MIGHT TAKE TO BE DEFINITELY RESOLVED. THE DEPARTMENT WILL KEEP MR. GONZALEZ AND THE CUBAN GOVERNMENT ADVISED OF DEVELOPMENTS.

SEARACCA/2000/Press: Jan 6 - elian custody decision

Drafted: CCA: RMW

Clear: CCA: cshapiro
WHA: wbrownfield
C: ssnyder
P: larreaga
L/CA:cbrown
NSC: wpatton
PA: lrodriguez

Washfax Receipt

Department Of State

48
7 JUN 80 175500 JUN -7 18:00
024437**UNCLASSIFIED**

Message No. _____

Classification _____

No. Pages 8From: Steve Mull
(Officer Name)S/S
(Office symbol)647-5302
(Extension)7224
(Room number)Message Description: Cable to HAVANA: Diplomatic Note Responding to MinRexNote on Elian Gonzalez

To (Agency):	Deliver To:	Extension	Room No.
NSCS	Robert A. Bradtke Executive Secretariat	456-9461	WHSITRM
	VALENZUELA		
	HOLLIS		

MUST GO ☐NON-MUST GO ☒Remarks: Please Clear by 1/10

NSC POC: _____

S/S Officer: MM

Steve Mull

CROSSHATCH

ORIGINAL
1/7

INITIALS		
APPR:	CSS	...
DRAFT:	VME	...
CLR 1:	CSS	...
CLR 2:	SSY	...
CLR 3:	CHO	...
CLR 4:	WPA	...
CLR 5:	JJO	...
CLR 6:	BHO	...

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WHA/CCA:VMEYER:RLJ (MAYER 1-04)
01/07/00 X79273
WHA:WBROWNFIELD

WHA/CCA:CSSHAPIRO C:SSYNDER NSC:CHOLLIS NSC:WPATTON
DOJ:JJONES S/S-CR:BHORTON S/S: S/O:

IMMEDIATE HAVANA

IMMEDIATE ALDAC

SENSITIVE

E.O. 12958: N/A

TAGS: CJAN, PREL, KLIB, KJUS, ODIP

SUBJECT: DIPLOMATIC NOTE RESPONDING TO MINREX NOTE ON ELIAN
GONZALEZ

SENSITIVE BUT UNCLASSIFIED, PROTECT ACCORDINGLY.

THIS IS AN ACTION MESSAGE.

1. (SBU) USINT HAVANA IS INSTRUCTED TO DELIVER THE FOLLOWING DIPLOMATIC NOTE TO THE FOREIGN MINISTRY 5 TO RESPOND TO THE MINREX NOTE OF NOVEMBER 27, 1999.
2. (U) IN VIEW OF THE CUBAN GOVERNMENT'S WORLDWIDE CAMPAIGN ACCUSING THE USG OF KIDNAPPING IN THE ELIAN GONZALEZ CASE, INFO POSTS MAY RELAY SUBSTANCE OF THE NOTE WHEN ENGAGING HOST GOVERNMENT INTERLOCUTORS AND SHOULD DRAW UPON FOLLOWING INS Q'S AND A'S WHEN DEALING WITH THE PRESS.
3. (SBU) BEGIN TEXT OF DIPLOMATIC NOTE:

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THE UNITED STATES INTERESTS SECTION OF THE EMBASSY OF SWITZERLAND PRESENTS ITS COMPLIMENTS TO THE MINISTRY OF FOREIGN RELATIONS OF THE REPUBLIC OF CUBA AND HAS THE HONOR TO REPLY TO THE MINISTRY'S DIPLOMATIC NOTE OF NOVEMBER 27, 1999, WHICH REFERS TO THE CASE OF ELIAN GONZALEZ BROTONS. IN THE DIPLOMATIC NOTE, THE MINISTRY REQUESTED THE RETURN OF ELIAN GONZALEZ BROTONS TO HIS FATHER, JUAN MANUEL GONZALEZ QUINTANA, WHO RESIDES IN CUBA.

THE U.S. INTERESTS SECTION WISHES TO INFORM THE MINISTRY OF FOREIGN RELATIONS THAT AFTER CAREFUL AND DELIBERATE REVIEW, THE U.S. IMMIGRATION AND NATURALIZATION SERVICE HAS DETERMINED THAT JUAN GONZALEZ HAS SOLE AUTHORITY TO SPEAK ON HIS SON'S BEHALF ON IMMIGRATION ISSUES. THE U.S. IMMIGRATION AND NATURALIZATION SERVICE HAS FURTHER DETERMINED THAT ELIAN GONZALEZ BROTONS SHOULD BE RETURNED TO HIS FATHER JUAN MANUEL GONZALEZ QUINTANA IN THE MOST EXPEDIENT TIME AND MANNER POSSIBLE. SINCE THIS IS A MATTER INVOLVING THE RIGHT OF A PARENT ASSERTING HIS INTEREST IN A U.S. IMMIGRATION ~~PROCEEDING~~, U.S. OFFICIALS HAVE INFORMED JUAN MANUEL GONZALEZ OF THE RESULTS OF THE DECISION. *MATTER*

THE U.S. IMMIGRATION AND NATURALIZATION SERVICE'S DECISION REGARDING THE RETURN OF ELIAN GONZALEZ BROTONS INVOLVES ONLY THE IMMIGRATION MATTERS IN HIS CASE AND DOES NOT FORECLOSE OTHER LEGAL ACTION BY INTERESTED PARTIES OPPOSED TO THIS DETERMINATION. ~~SUCH MATTERS ARE UNRELATED TO, AND OUTSIDE THE CONTROL OF, THE U. S. IMMIGRATION AND NATURALIZATION SERVICE.~~ *HAS NO CONTROL OVER SUCH MATTERS.*

THE U.S. INTERESTS SECTION TAKES THE OPPORTUNITY TO REITERATE TO THE MINISTRY OF FOREIGN RELATIONS THE ASSURANCES OF ITS CONSIDERATION.

(SBU) END OF TEXT OF DIPLOMATIC NOTE

4. (U) BACKGROUND MATERIAL: Q'S AND A'S

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 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.

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2. WHAT ABOUT ELIAN'S REQUEST FOR ASYLUM?

THE ONLY PERSON WITH LEGAL STANDING TO FILE AN ASYLUM REQUEST FOR ELIAN IS ELIAN'S FATHER. HE HAS NOT FILED ANY REQUEST FOR ELIAN AND IN FACT HAS STATED THAT HE DOES NOT WANT SUCH AN APPLICATION MADE. APPLICATIONS FILED BY ANY OTHER 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 HIS 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?

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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.

7. DOESN'T THIS DECISION DENY ELIAN THE RIGHT TO DUE PROCESS AND A HEARING? WHY DON'T YOU LET A 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 APPLICATION AND IN FACT HAS STATED THAT HE DOES NOT 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.

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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?

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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 NONIMMIGRANT VISA SO HE CAN COME TO SEE HIS SON.

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THE STATE DEPARTMENT HAS NO INDICATION THAT MR. GONZALEZ EVER APPLIED FOR A VISA OR FOR IMMIGRANT STATUS IN THE U.S.

13. DID THE INS AND 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?

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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 AND 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?

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 LINKED SOLELY 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.

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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?

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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.

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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 THE 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 THEM 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 LAWS AND INS MADE ITS

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DECISION AS QUICKLY AS IT COULD AFTER CAREFULLY EVALUATING
ALL THE FACTS IN THIS CASE.

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WASHFAX RECEIPT
DEPARTMENT OF STATE**B**

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SENSITIVE

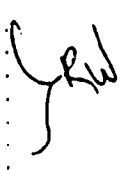
MESSAGE NO. _____ CLASSIFICATION BUT UNCLASSIFIED No. Pages 9FROM: VINCENT MAYER WHA/CCA 647-5506 3234 N.S.
(Officer name) (Office symbol) (Extension) (Room number)MESSAGE DESCRIPTION DIPLOMATIC NOTE RESPONDING TO MINREX NOTE ON ELIAN GONZALEZ

<u>TO: (Agency)</u>	<u>DELIVER TO:</u>	<u>Extension</u>	<u>Room No.</u>
NSC	WENDY PATTON	456-9141	365 OEOB
NSC	CARYN HOLLIS	456-9137	361 OEOB

FOR: CLEARANCE ☒ INFORMATION ☐ PER REQUEST ☐ COMMENT ☐REMARKS: URGENTS/S Officer: R. C. Allen

INITIALS

APPR:	CSS	...
DRAFT:	VME	...
CLR 1:	CSS	...
CLR 2:	SSY	...
CLR 3:	CHO	...
CLR 4:	WPA	...
CLR 5:	JJO	...



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WHA/CCA:VMEYER:RLJ (MAYER 1-04)
01/07/00 X79273
WHA:WBROWNFIELD

WHA/CCA:CSSHAPIRO C:SSYNDER NSC:CHOLLIS
NSC:WPATTON DOJ:JJONES

IMMEDIATE HAVANA

IMMEDIATE ALDAC

SENSITIVE

E.O. 12958: N/A

TAGS: CJAN, PREL, KLIB, KJUS, ODIP

SUBJECT: DIPLOMATIC NOTE RESPONDING TO MINREX NOTE ON ELIAN
GONZALEZ

SENSITIVE BUT UNCLASSIFIED, PROTECT ACCORDINGLY.

THIS IS AN ACTION MESSAGE.

1. (SBU) USINT HAVANA IS INSTRUCTED TO DELIVER THE
FOLLOWING DIPLOMATIC NOTE TO THE FOREIGN MINISTRY TO
RESPOND TO THE MINREX NOTE OF NOVEMBER 27, 1999.

2. (U) IN VIEW OF THE CUBAN GOVERNMENT'S WORLDWIDE
CAMPAIGN ACCUSING THE USG OF KIDNAPPING IN THE ELIAN
GONZALEZ CASE, INFO POSTS MAY RELAY SUBSTANCE OF THE NOTE
WHEN ENGAGING HOST GOVERNMENT INTERLOCUTORS AND SHOULD DRAW
UPON FOLLOWING INS Q'S AND A'S WHEN DEALING WITH THE PRESS.

3. (SBU) BEGIN TEXT OF DIPLOMATIC NOTE:

THE UNITED STATES INTERESTS SECTION OF THE EMBASSY OF
SWITZERLAND PRESENTS ITS COMPLIMENTS TO THE MINISTRY OF
FOREIGN RELATIONS OF THE REPUBLIC OF CUBA AND HAS THE HONOR

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TO REPLY TO THE MINISTRY'S DIPLOMATIC NOTE OF NOVEMBER 27, 1999, WHICH REFERS TO THE CASE OF ELIAN GONZALEZ BROTONS. IN THE DIPLOMATIC NOTE, THE MINISTRY REQUESTED THE RETURN OF ELIAN GONZALEZ BROTONS TO HIS FATHER, JUAN MANUEL GONZALEZ QUINTANA, WHO RESIDES IN CUBA.

THE U.S. INTERESTS SECTION WISHES TO INFORM THE MINISTRY OF FOREIGN RELATIONS THAT AFTER CAREFUL AND DELIBERATE REVIEW, THE U.S. IMMIGRATION AND NATURALIZATION SERVICE HAS DETERMINED THAT JUAN GONZALEZ HAS SOLE AUTHORITY TO SPEAK ON HIS SON'S BEHALF ON IMMIGRATION ISSUES. THE U. S. IMMIGRATION AND NATURALIZATION SERVICE HAS FURTHER DETERMINED THAT ELIAN GONZALEZ BROTONS SHOULD BE RETURNED TO HIS FATHER JUAN MANUEL GONZALEZ QUINTANA IN THE MOST EXPEDIENT TIME AND MANNER POSSIBLE. SINCE THIS IS A MATTER INVOLVING THE RIGHT OF A PARENT ASSERTING HIS INTEREST IN A U.S. IMMIGRATION ~~PROCEEDING~~, U.S. OFFICIALS HAVE INFORMED JUAN MANUEL GONZALEZ ~~OF THE RESULTS OF THE DECISION.~~ ✓
MATTER

THE U.S. IMMIGRATION AND NATURALIZATION SERVICE'S DECISION REGARDING THE RETURN OF ELIAN GONZALEZ BROTONS INVOLVES ONLY THE IMMIGRATION MATTERS IN HIS CASE AND DOES NOT FORECLOSE OTHER LEGAL ACTION BY INTERESTED PARTIES OPPOSED TO THIS DETERMINATION. [SUCH MATTERS ARE UNRELATED TO, AND OUTSIDE THE CONTROL OF] THE U. S. IMMIGRATION AND NATURALIZATION SERVICE. *HAS NO CONTROL OVER*

THE U.S. INTERESTS SECTION TAKES THE OPPORTUNITY TO REITERATE TO THE MINISTRY OF FOREIGN RELATIONS THE ASSURANCES OF ITS CONSIDERATION.

4. (SBU) END TEXT DIPLOMATIC NOTE.

5. (U) BEGIN BACKGROUND MATERIAL: INS Q'S AND A'S

6. (U) BACKGROUND MATERIAL: Q'S AND A'S

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 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.

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2. WHAT ABOUT ELIAN'S REQUEST FOR ASYLUM?

THE ONLY PERSON WITH LEGAL STANDING TO FILE AN ASYLUM REQUEST FOR ELIAN IS ELIAN'S FATHER. HE HAS NOT FILED ANY REQUEST FOR ELIAN AND IN FACT HAS STATED THAT HE DOES NOT WANT SUCH AN APPLICATION MADE. APPLICATIONS FILED BY ANY OTHER 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 ^{INS ? or STATE} 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~~ DECISIONS

6. DIDN'T INS INITIALLY SAY THE ISSUE OF CUSTODY WOULD BE DECIDED IN STATE COURT?

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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.

7. DOESN'T THIS DECISION DENY ELIAN THE RIGHT TO DUE PROCESS AND A HEARING? WHY DON'T YOU LET A 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.

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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.

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DECISION AS QUICKLY AS IT COULD AFTER CAREFULLY EVALUATING
ALL THE FACTS IN THIS CASE.

7. (U) END TEXT OF BACKGROUND MATERIAL: INS Q'S AND A'S.

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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 Office-in-Charge at the U.S. Interests Section in Havana.

[The Cuban Government prevented us from conveying this same information this morning directly to Mr. Juan Gonzalez so that he could learn of this decision directly rather than from the media.]

The Department is prepared to expedite 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 and has repeatedly conveyed this position to the Cuban Government.

INS Commissioner Doris Meissner will hold a press conference at 2:00 p.m. to answer whatever questions you might have about the INS' process and next steps.

Hollis, Caryn C. (INTERAM)

From: WHSR
Sent: Monday, December 20, 1999 5:51 PM
To: Avery, Dale R. (INTERAM); Hollis, Caryn C. (INTERAM); Orfini, Michael H. (VP); Shannon, Thomas A. (INTERAM); Valenzuela, Arturo A. (INTERAM)
Subject: MAKE CUBAN BOY A U.S. CITIZEN, SENATORS URGE

Classification: UNCLASSIFIED
Distribution: SIT: AVERY HOLLIS ORFINI SHANNON VALENZUELA
Originator: Reuters
Precedence: DAILY/DEFERRED
TimeOfReceipt: 12/20/1999 17:50:33 ET

a3438

^BC-CUBA-USA-BOY 1STLD (PICTURE)

^Make Cuban boy a U.S. citizen, senators urge

(Updates with citizenship plan, INS meeting)

By Jane Sutton

MIAMI, Dec 20 (Reuters) - U.S. Senate Republican leaders proposed on Monday that Congress grant American citizenship to a 6-year-old Cuban boy at the centre of a politically charged custody dispute.

U.S. citizenship would allow the boy, Elian Gonzalez, to return to the United States some day if he goes home to his father in Cuba. It would also bar the U.S. Immigration and Naturalisation Service (INS) from forcibly returning him to Cuba, five Republican senators said in a letter to President Clinton.

"At this point, Elian's future should be decided by his family and the courts. But later in life as an American citizen, he will have the freedom to choose where he wishes to live," the letter said.

Elian was picked up by fishermen off the Florida coast on Nov. 25 after spending two days clinging to an inner tube. He was one of 14 Cubans on a boat that capsized during an attempt to enter the United States illegally. Eleven passengers drowned, including Elian's mother, and the boy has been staying with paternal relatives in Miami.

His father, Juan-Miguel Gonzalez, who lives in Cuba and was divorced from his mother, has demanded his son's return. U.S. immigration officials had talks with him a week ago at his hometown of Cardenas in provincial Cuba.

"By confirming citizenship, we will be preserving the father's rights to see and be with his son. But most importantly, we will be preserving the boy's rights to live in freedom," the Republican senators said in their letter.

It was signed by Senate Majority Leader Trent Lott of Mississippi, Assistant Majority Leader Don Nickles of Oklahoma, and Sens. Connie Mack of Florida, Paul Coverdell of Georgia and Larry Craig of Idaho.

They asked Clinton to bar INS from returning Elian to Cuba before Congress considers the plan when it convenes in January. Mack's press aide, Nancy Segerdahl, said Congress frequently conveys citizenship through such private relief measures, which are subject to the same rules as any other bill.

Elian's attorneys and Miami relatives met INS officials in Miami on Monday to press their case for him to stay in the United States. They told the INS it would be "horrible and damaging" to ignore the dying wish of Elian's mother and send him back to Cuba, attorney Spencer Eig said.

"He wouldn't go into his father's custody. He'd go into the custody of Fidel Castro and the Cuban government to be used as a puppet at political rallies and parades all around Cuba, for Fidel Castro to demonstrate his victory over the United States," Eig said.

INS inspectors planned to visit the family's Miami home on Thursday, and have been given a report by a psychiatrist who interviewed the boy, Eig said.

The attorneys filed a political asylum claim on Elian's behalf on Dec. 10, alleging he has a reasonable fear of persecution if he is returned to Communist-ruled Cuba.

Elian has become a poster child for both sides in the bitter ideological divide across the Florida Strait.

RB-- 12/20/99 17:43:05

Hollis, Caryn C. (INTERAM)

From: WHSR
Sent: Thursday, December 16, 1999 12:34 PM
To: Avery, Dale R. (INTERAM); Hollis, Caryn C. (INTERAM); Orfini, Michael H. (VP); Shannon, Thomas A. (INTERAM); Sigler, Ralph H. (WHSR); Valenzuela, Arturo A. (INTERAM)
Subject: CASTRO RULES OUT ALLOWING NEW SEA EXODUS TO U.S.

CLASS: INTERNATIONAL
ORIG: Reuters
PREC: RUSH
TOR: 991216123320 R59220f0

a2379

^BC-CUBA-USA

^Castro rules out allowing new sea exodus to U.S.

HAVANA, Dec 16 (Reuters) - Cuban leader Fidel Castro ruled out, in comments published on Thursday, opening the island's sea borders to allow a mass exodus of would-be U.S. immigrants in response to the custody dispute over a 6-year-old shipwrecked boy.

"I don't think that's an option, because we are handling this matter with a lot of seriousness," he said, when asked about U.S. fears he may resort to such tactics again in the latest flare-up in bilateral relations.

The comment came in an interview with U.S. network NBC earlier this week, an extract of which was published by ruling Communist Party daily Granma's Thursday edition.

The custody dispute over the Cuban boy, Elian Gonzalez, brought from the outset speculation that Castro might use dramatic tactics to pressure Washington like allowing any Cubans who want to set sail for the United States.

The two previous times Cuba took such action provoked the so-called 1994 "Rafters' Crisis" when more than 30,000 Cubans took to sea, and the 1980 "Mariel boatlift" when at least 125,000 people left from the port of Mariel.

In the interview, Castro insisted, however, that Havana had separated the case of Elian from the wider issue of illegal migration from Cuba to the United States.

He cited as an example of that Cuba's decision to go ahead last Monday with scheduled biannual migration talks with the United States. "We would have had plenty of reasons to suspend that meeting, however, that didn't seem constructive, starting to mix the migration accords with the concrete problem of the kidnapped boy," he said.

Elian was rescued Nov. 25 by U.S. fishermen off Florida after he spent two days clinging to an inner-tube following the capsizing of a boat full of illegal Cuban migrants. Elian's mother was among the 11 Cubans who died after the boat sank.

His father, Juan-Miguel Gonzalez, is demanding his immediate return from Miami, in a campaign backed by Castro, who orchestrated a wave of anti-American "Free Elian!" street protests across Cuba last week.

Havana says the Elian case illustrates how the United States is failing to comply with migration accords signed in the wake of the 1994 exodus, by encouraging illegal immigration with its policy of allowing Cubans who touch U.S. soil to stay.

U.S. Attorney General Janet Reno said on Thursday that she hoped for a decision soon in the case of a 6-year-old Cuban boy who has been at the centre of an international tug of war.

"I think everybody wants to see it resolved as quickly as possible. Christmas is coming," she said at the weekly Justice Department

news briefing in Washington.

Elian's relatives in Miami, backed by anti-Castro Cuban-American groups, say the case demonstrates the desperation of the island's people under communism, and insist the boy should not be sent home to live under such a system.

Castro, in the interview extract published by Granma, said he was concerned the boy's brain was being washed by his current guardians in the United States, and that he was being made to forget his roots and closest family in Cuba.

"A boy is being spiritually and mentally murdered," he said. "After this, I don't know how any U.S. leader can talk of human rights ... It's not easy for our people to resign themselves to the manipulation they have carried out."

Castro said there was currently a "pause" in the mass protests, which drew millions into the streets last week, but the battle would be continued in the sphere of world opinion. "That battle won't stop until the boy returns," he added.

If Elian's return was delayed much longer, that would, however, have the effect of "a bomb" among the Cuban population, he warned, without elaborating that remark.

"I ask the U.S. people not to consider me an adversary of their country. I have to call them by some name, and I call them the United States when I blame the country where this crime is taking place," Castro added. "But at least we are fighting together with many in the United States who want to see justice done and the boy freed, and after that we will have to tend our wounds."

RB-- 12/16/99 12:31:59

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

FAX COVER SHEET

DATE: 12/20/99

TO: Caryn Hollis
Chris Watney 305-2372
Maria Cardona 514-9833

FROM:

SUBJECT: Press Guidance

☒ URGENT ☐ ACTION ☐ REPLY ☐ FYI

REMARKS: Please call me ASAP w/
any changes.

NUMBER OF PAGES (INCLUDING COVER PAGE):

3

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

**WHA Press Guidance
December 20, 1999**

Resolution of Louisiana Stand-Off

Background: The stand-off between prison officials and 8 inmates ended peacefully Saturday evening. The INS detainees involved in the incident, 7 of which are Cuban and the other is Bahamian, in Louisiana released all of their hostages and surrendered. The 7 Cubans are being returned to Cuba at their request. The government of Cuba has agreed to accept them. They will remain in INS custody until the details of their repatriation can be arranged.

Question: Why isn't the Justice Department prosecuting these individuals?

Answer: **WE BELIEVE THAT THIS RESOLUTION IS IN THE BEST INTEREST OF THE UNITED STATES. IT IS CONSISTENT WITH OUR LONGSTANDING POLICY OF REMOVING DEPORTABLE ALIENS TO THEIR COUNTRY OF ORIGIN.**

Question: Is this deal somehow related to the case of Elian Gonzalez?

Answer: **ABSOLUTELY NOT. THERE IS NO LINKAGE BETWEEN THE TWO CASES. WE HAVE PERIODICALLY SOUGHT AGREEMENT FROM THE CUBAN GOVERNMENT FOR THE RETURN OF CUBANS WHO HAVE BEEN CONVICTED OF SERIOUS CRIMES AND ORDERED "EXCLUDED" FROM THE UNITED STATES. WE ARE GRATIFIED THAT THIS MATTER HAS BEEN BROUGHT TO A PEACEFUL RESOLUTION.**

Question: What will happen to the Cubans upon their return to Cuba?

Answer: **THAT IS A QUESTION THAT WOULD HAVE TO BE ADDRESSED BY THE CUBAN GOVERNMENT.**

Question: What is happening with the 8th individual who is a Bahamian national?

Answer: I REFER YOU TO THE DEPARTMENT OF JUSTICE FOR THE DETAILS OF THAT CASE.

Question: When will they be returned?

Answer: THE STATE DEPARTMENT AND INS ARE IN THE PROCESS OF FINALIZING THE DETAILS FOR THE RETURN OF THE INDIVIDUALS.

Question: Are you concerned that this deal will create similar situations with other Cuban detainees around the country?

Answer: THE RESOLUTION OF THIS INCIDENT WAS BASED ON THE FACTS AND CIRCUMSTANCES OF THIS CASE, AND WAS IN THE BEST INTEREST OF THE UNITED STATES. WE WOULD NOT SPECULATE ABOUT OTHER HYPOTHETICAL SITUATIONS.

Question: We hear that Castro was personally involved in this. How did the deal happen?

Answer: THIS HAS BEEN HANDLED THROUGH APPROPRIATE OFFICIAL CHANNELS THROUGH OUR INTERESTS SECTION IN HAVANA AND THE CUBAN FOREIGN MINISTRY.

WASHINGTON OFFICE:
2342 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-3216
(202) 225-4381
FAX (202) 225-8001

DISTRICT OFFICE:
890 GRAND CONCOURSE
BRONX, NY 10461-2828
(718) 538-8400
FAX (718) 586-3852

Congress of the United States
House of Representatives
Washington, DC 20515-3216

December 8, 1999

9045
COMMITTEE: APPROPRIATIONS

SUBCOMMITTEES:
RANKING DEMOCRAT
COMMERCE, JUSTICE, STATE, THE JUDICIARY
AND RELATED AGENCIES
TRANSPORTATION
AND RELATED AGENCIES

MEMBER, CONGRESSIONAL
HISPANIC CAUCUS

MEMBER, CONGRESSIONAL
BLACK CAUCUS

VICE CHAIR
DEMOCRATIC STEERING
COMMITTEE

The Honorable William J. Clinton
President of the United States
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500-0005

Dear Mr. President:

It is my understanding that an inter-agency task force, led by the National Security Agency, is trying to determine what procedures should be followed with respect to the case of Elián González, the Cuban child rescued off the coast of Florida. I am at a loss to understand what would justify deviating from established procedures governing the rights of children found outside the protection of their own governments, which were designed and negotiated to protect not only the rights of nationals of other countries but also those of our own citizens.

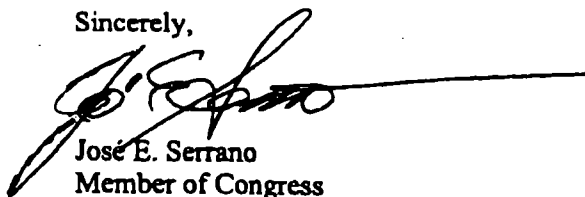
Although I can appreciate the sensitivity of this case, I believe that the United States government, immediately upon finding this child, should have returned him to Cuba to his natural father, who is his only surviving parent. Unfortunately, the Immigration and Naturalization Service placed Elián in the temporary custody of relatives in Miami. Elián's father has now stated clearly and on numerous occasions that he wants his son returned to his care, and I believe that the parental rights of the father should take precedence over all political considerations.

You should quickly and personally intervene to facilitate the return of this small child to his father, his grandparents, and the place of his birth. In this particular case, a state court is not the appropriate forum. Moreover, a judicial process will only further delay the return of this child to Cuba, and will exacerbate already strained relations between the United States and Cuba.

Could there be a more poignant example of the irrationality governing our policy towards Cuba than the plight of this child, who has now become an international poster child for competing national interests? Time honored international procedures are being ignored in favor of political interests. This is a travesty.

With thanks for your attention to my views and best wishes, I am

Sincerely,


José E. Serrano
Member of Congress

JES:nab

The Office of Congressman José E. Serrano



The 16th Congressional District -- New York
---- Fax Cover Sheet ----

DATE: 12/8/99

SENT TO: President William J. Clinton

ORGANIZATION: White House

Fax Number: (202) 456-2604

FROM: Congressman José E. Serrano

Fax Number: (718) 588-3652

Office Number: (718) 538-5400

Number of Pages: 2

MESSAGE: If the President has any questions or would like to speak to Congressman Serrano, please call (718) 538-5400 or (202) 225-4361.

TO: PRESIDENT

FROM: SERRANO, JOSE E

DOC DATE: 08 DEC 99
SOURCE REF:

KEYWORDS: CUBA MIGRATION
CO

LEGAL ISSUES

PERSONS: GONZALEZ, ELIAN

SUBJECT: CASE OF GONZALEZ & CUSTODY DISPUTE

MO

ACTION: PREPARE MEMO FOR BERGER

DUE DATE: 25 DEC 99 STATUS: S

STAFF OFFICER: BUSBY

LOGREF:

FILES: PA

NSCP:

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OPENED BY: NSTSM

CLOSED BY:

DOC 1 OF 1

THE WHITE HOUSE

WASHINGTON

December 13, 1999

MEMORANDUM FOR ROBERT A. BRADTKE
NSC Executive Secretariat

FROM: CHARLES M. BRAIN
Legislative Affairs

SUBJECT: PRESIDENTIAL CORRESPONDENCE

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

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

The following is a brief description of the letters:

- 1) Sen. Patty Murray (D-WA), concerning the protection of women's health around the world and the overdue U.S. dues to the United Nations;
- 2) Rep. Silvestre Reyes (D-TX), concerning the President's December 9 meeting with Mexican President Ernesto Zedillo and Mexico's proposal to collect deposits on U.S.-registered vehicles traveling into Mexico; and,
- 3) Rep. Jose E. Serrano (D-NY), concerning the case of Elian Gonzalez, the Cuban child recently rescued off the coast of Florida.

Enclosures

DEC 14 12:15

WHA Press Guidance
December 21, 1999

Elian Gonzalez: INS Talks with Miami Relatives

Background: The INS met with the family of Elian Gonzalez yesterday afternoon. The purpose is to allow the family to provide any information that may be relevant to the INS decision.

Question: What happened at the meeting yesterday between INS and the family of Elian Gonzalez?

Answer: WE UNDERSTAND THAT INS MET YESTERDAY WITH THE GREAT UNCLE AND GREAT AUNT OF ELIAN GONZALEZ, TO WHOM INS RELEASED ELIAN PENDING HIS FORMAL IMMIGRATION INSPECTION. THE MEETING WAS SIMPLY AN OPPORTUNITY FOR THE MIAMI RELATIVES TO SHARE ANY INFORMATION WITH INS THAT MAY BE RELEVANT TO CONSIDERATION OF THE IMMIGRATION ISSUES IN THIS CASE. I REFER YOU TO INS FOR ADDITIONAL INFORMATION REGARDING THIS MATTER.

Question: Is INS doing a follow-up meeting later this week with the family as reported by the press?

Answer: AGAIN, I REFER YOU TO INS FOR THIS INFORMATION.

Question: Any comments on the bill being considered by 5 GOP senators giving the boy citizenship?

Answer: WE HAVE NO COMMENT ON ANY ACTIONS THAT MAY BE TAKEN BY CONGRESS.

**WHA Press Guidance
December 21, 1999**

Prison Stand-off: 6 of 7 Cubans Returned

Background: After some delay, six of the seven Cubans involved in the Louisiana prison hostage stand-off were returned to Cuba. The seventh prisoner – whose mother had led the campaign to have the Cuban prisoners repatriated – was not on the flight because of allegations that he raped a female inmate during the hostage situation. The investigation into these charges may indefinitely delay his repatriation. The GOC agreed to accept six vice seven.

Question: Were the Cuban hostage takers in Louisiana repatriated to Cuba?

Answer: YES, SIX OF THE SEVEN CUBAN HOSTAGE TAKERS ARRIVED IN CUBA YESTERDAY EVENING.

Question: Why were only six repatriated?

Answer: I WILL HAVE TO REFER YOU TO THE DEPARTMENT OF JUSTICE. THE ROLE OF THE DEPARTMENT OF STATE IN THIS WAS TO BE AN INTERMEDIARY BETWEEN THE CUBAN GOVERNMENT AND THE DEPARTMENT OF JUSTICE, NOT TO MAKE DECISIONS REGARDING THE PRISONERS.

Question: What about the public criticism that these individuals should not have been deported and instead prosecuted in the United States?

Answer: AGAIN, I REFER YOU TO THE DEPARTMENT OF JUSTICE. WE NOTE HOWEVER, THAT THE SIX WERE INCARCERATED BY THE GOVERNMENT OF CUBA UPON THEIR ARRIVAL.

Question: How many "excludables" or long-term detainees are in INS detention and how many of those are Cubans?

Answer: ACCORDING TO INS DATA, THERE ARE APPROXIMATELY 3,000 "EXCLUDABLES" IN INS DETENTION THAT CANNOT BE DEPORTED AT THIS TIME. THIS INCLUDES CAMBODIANS, LAOTIANS, VIETNAMESE AND CUBANS. OF THAT 3,000, APPROXIMATELY 2,400 ARE CUBANS.

Question: In the US-Cuba Migration talks, did the topic of the Mariel Boatlift people come up?

Answer: YES, WE DID RAISE THE QUESTION OF CRIMINAL EXCLUDABLES BEYOND THOSE LISTED IN THE 1984 US-CUBA AGREEMENT. WE HAVE PERIODICALLY SOUGHT AGREEMENT FROM THE CUBAN GOVERNMENT FOR THE RETURN OF CUBANS WHO HAVE BEEN CONVICTED OF SERIOUS CRIMES AND ORDERED "EXCLUDED" FROM THE UNITED STATES. HOWEVER, WE HAVE NOT COME TO ANY NEW AGREEMENTS ON THIS MATTER.

Question: Any comments on Fidel Castro's announcement that the protest in front of the Interests Section in Havana will resume?

Answer: IN THE PAST WHEN THE CUBANS PROTESTED NEAR THE U.S. INTERESTS SECTION IN HAVANA THEY HAVE BEEN PEACEFUL AND HAVE NOT DISRUPTED THE MISSION'S OPERATIONS. THE CUBAN GOVERNMENT ASSURED US THAT IT WILL FULFILL ITS OBLIGATION TO PROTECT INTERNATIONAL DIPLOMATIC MISSIONS AND THEIR PERSONNEL. WHILE WE PREFER TO DE-POLITICIZE THIS ISSUE, WE UNDERSTAND THAT IT IS THEIR RIGHT TO PROTEST.

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
ARA/CCA, Room 3234
2201 C Street, N.W.
Washington, D.C. 20520-6263

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FAX: (202) 736-4476
FAX: HELMS-BURTON UNIT: (202) 647-7095

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

DATE: 12/21/99

TO: Maria Cardona 514-9833
Chris Watney 305-2372
Caryn Hollis

FROM: Naty Tones

SUBJECT: Press Guidance - Prisoners

REMARKS:

Please clear by 11:30 Thanks!

NUMBER OF PAGES, INCLUDING COVER PAGE: (3)

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Interamerican Affairs (Caryn Hollis)
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RR. Document will be reviewed upon request.

U.S. Department of Justice
IMMIGRATION AND NATURALIZATION SERVICE

6-9130

STATEMENT

12/22/99

DRAFT**Deferred Inspection for Elian Gonzalez Postponed**

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 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-

Barbara Franklin Enterprises

2600 Virginia Avenue, N.W.

Suite 506

Washington, D.C. 20037

BARBARA HACKMAN FRANKLIN
PRESIDENTTELEPHONE 202-337-9100
FACSIMILE 202-337-8104

MEMORANDUM TO: Honorable Beryl F. Anthony, Jr.
Honorable Rod Chandler
Honorable Dennis DeConcini
Albert A. Fox, Jr.
J. Paul McNamara
Ed Rabel
Honorable Richard T. Schulze
Honorable Alexander Trowbridge

FROM: Barbara Hackman Franklin

DATE: January 14, 2000

I write to tender my resignation from the board of the Alliance for Responsible Cuba Policy effective immediately and request that my name be removed from its letterhead immediately.

The major reason for my resignation is this: it has come to my attention today that a memorandum dated January 2 was sent to the President of the United States regarding Elian Gonzalez. This memorandum is inappropriate on two counts.

First, the mission of the Alliance, as I understand it, is to work toward a normalization of trade relations between the U.S. and Cuba. Thus, taking a position on a complex and sensitive issue such as the Elian Gonzalez situation – clearly not a trade issue – is, quite simply, out of bounds. Secondly, I knew nothing of the existence of this memorandum until today, January 14, nearly two weeks after it was sent, and had no knowledge of its contents or the position it espouses. No memorandum regarding an issue of such importance should be sent without complete and full discussion and concurrence by the board. This was not done, and I cannot acquiesce to this method of operation. Therefore, I must resign at once.

I expect that a copy of my resignation memorandum will be sent to anyone who has received the January 2 memorandum to the President.

January 2, 2000
Page 2

the official on the flight to Havana, with the possible exception of one of the boy's father's relatives with whom young Elian is presently residing.

Every single day, individuals from countries around the world seek to illegally enter the United States. Why? Because we are the world's greatest democracy with the greatest opportunities. For example, just last Wednesday, 30 illegal immigrants from China crossed the Pacific Ocean hidden in cargo containers and were arrested when they were found hiding after the boxes were unloaded. Among the 30 were seven women and two young boys, only a few years older than Elian. They presently are being detained to be processed and returned to China. Smugglers who are paid money orchestrated the trip from China to Long Beach, California - just as in Elian's case, smugglers orchestrated the trip from Cuba to Miami, Florida. What is the difference between the young boys from China and the young boy from Cuba?

Last Saturday 406 Haitians attempted the 600-mile voyage from their impoverished Caribbean homeland to Miami. Their unsafe and overcrowded 60-foot wooden vessel ran aground off Miami's Key Biscayne after trying to outrun a U.S. Coast Guard patrol boat. The vessel nearly capsized, which would have trapped a majority of the occupants below deck. They are being detained for processing to be sent back to Haiti. Among the group are several six-year-old boys. What is the difference between the young boys from Haiti and the young boy from Cuba?

The return of the young Gonzalez boy is the legal thing to do and the moral thing to do.

Finally, Mr. President, Friday night you said, during the Millennium celebration, that "we Americans do not fear change . . ." Clearly, the United States must change its outdated, failed policy toward a small Caribbean island that, whether we like it or not, should be treated as the sovereign nation it is. We cannot overstate the significance your personal involvement and leadership would have in making certain young Elian Gonzalez is returned to where he rightfully belongs.

Your sage counsel is urgently needed before the situation worsens. As former Secretary of State Henry Kissinger said, "Competing pressures tempt one to believe that an issue deferred is a problem avoided: more often it is a crisis invited."

**ALLIANCE FOR
RESPONSIBLE
CUBA POLICY**

ONE MASSACHUSETTS AVENUE, N.W., SUITE 800
WASHINGTON, D.C. 20001
TELEPHONE: 202-289-5493
FACSIMILE: 202-408-7763

COPY

MEMORANDUM

Board of Directors:
Honorable Beryl F. Anthony, Jr.
United States House of Representatives
(1978-1982)
Honorable Rod Chaudler
United States House of Representatives
(1983-1992)
Honorable Dennis DeConcini
United States Senate (1977-1995)
Albert A. Fox, Jr.
Alliance for Responsible Cuba Policy
Honorable Barbara Mackman Franklin
Secretary of Commerce (1991-1993)
J. Paul McNamara
President, Sequoia Bank
Washington, DC
Ed Rabel
Veteran NBC and CBS Journalist
Honorable Richard T. Schulz
United States House of Representatives
(1974-1992)
Honorable Alexander B. Trowbridge
Secretary of Commerce (1966-1968)
President NAM (1980-1990)

Counsel:
Michael R. McLeod
McLeod, Watkinson & Miller

President:
Albert A. Fox, Jr.

To: The President of the United States
From: The Alliance for Responsible Cuba Policy
Subject: Elian Gonzalez/Cuba
Date: January 2, 2000

Mr. President, allow the bipartisan Board of the Alliance for Responsible Cuba Policy (ARCP) the liberty to address you in a memorandum rather than a formal letter. We chose this form of communicate because some of us know you and the urgency of the subject is better addressed informally.

ARCP was formed a little over one year ago to reestablish diplomatic relations with Cuba. We believed the time was long overdue for a "responsible debate" regarding United States/Cuba relations.

Mr. President, the facts in young Elian Gonzalez's case are clear. By holding on to this young boy, the United States is allowing the very foundation of our constitutional form of government to be shaken to its core. The United States is in violation of the bilateral agreements we have with Cuba regarding illegal immigration. In addition, all family experts agree, the relationship between a parent and a child supersedes the positions of governments and/or the political agenda of individuals. The longer the young boy remains in the United States while his father demands his return, the worse the situation will become.

One wonders how damaged young Elian's psyche will be since being wrapped in the American flag and used as a photo op. Those who shower him with lavish presents do not have his best interests at heart.

Accordingly, we respectfully recommend you arrange for a United States official to fly to Miami, pick up young Elian Gonzalez and return him to his father and extended family in his home town of Cardenas. You should return the little boy not necessarily discreetly, but without fanfare. In other words, no interest groups, no politicians, no media should accompany

Barbara Franklin Enterprises

2600 Virginia Avenue, N.W.

Suite 508

Washington, D.C. 20037

BARBARA HACKMAN FRANKLIN
PRESIDENTTELEPHONE 202-337-9100
FACSIMILE 202-337-8104

January 18, 2000

The Honorable William J. Clinton
President of the United States of America
1600 Pennsylvania Avenue
Washington, DC 20500

Dear Mr. President:

You have received from the Alliance for Responsible Cuba Policy a memorandum, on behalf of the board, dated January 2, regarding Elian Gonzalez. I have just days ago learned about the existence of this memorandum and therefore, think it is only proper to inform you of my resignation from the Alliance's board. My reasoning is clearly explained in the attachment.

With good wishes,
Sincerely,Barbara Hackman Franklin
President and CEO
(Former United States Secretary of Commerce)

Enclosure

**Barbara Franklin
Enterprises**

2600 Virginia Avenue, NW
Suite 606
Washington, DC 20037
Phone: 202/337-9100
Facsimile: 202/337-9104

Fax

To: Ms. Caryen Hollis**From:** Liz Denny**Fax:** 202/456-9130**Pages:** 3**Phone:****Date:** 01/19/00**Re:****CC:** Mr. Arturo Valenzuela☐ **Urgent**☐ **For Review**☐ **Please Comment**☐ **Please Reply**☐ **Please Recycle**

Dear Ms. Hollis:

Thanks for your call today. I am enclosing the correspondence we discussed in order of their occurrence.

If you have any questions or concerns, please feel free to contact me at 202/337-9100.

Sincerely,
Elizabeth A. Denny
Assistant to the President

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:

2/8

TO:

Wendy Sherman - NSC
Caryn Hollis - NSC
Tahell Jones - INS

FROM:

Bob

SUBJECT:

Questions on Elian from
Ricardo Alarcon

URGENT**ACTION****REPLY****FYI**

REMARKS:

NUMBER OF PAGES (INCLUDING COVER PAGE):

3

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

AYUDA MEMORIA

- I) ¿Qué respuesta darán a la carta de Juan Miguel González a Reno y Meissner?
- II) ¿Qué harán cuando se produzca el fallo del Juez Federal?
 - Si es a favor del Gobierno. ¿devolverán a Elián a su padre inmediatamente, o lo dejarán en poder de los secuestradores?
 - Si es en contra del Gobierno, ¿apelarán inmediatamente?
 - ¿Cuál es la estrategia del Gobierno?
 - ¿Por qué en su alegato el Gobierno no incluyó solicitud al Juez que emitiera orden de entrega del niño? ¿Por qué no participó el Solicitor General?
 - Desde el principio advertimos las consecuencias que tendría seguir el camino judicial. ¿Cómo piensan salir de este enredo?
- III) El caso de Elián y la emigración legal, ordenada y segura.
 - Llega el verano con Ley de Ajuste enmendada y ampliada, con INS manteniendo posición de no ejecutar su decisión sobre Elián, con E.U. plegándose a presiones y amenazas de los enemigos del Acuerdo Migratorio, con bloqueo y hostilidad, con propaganda subversiva Radio Martí, con ausencia de medidas eficaces para enfrentar el contrabando de inmigrantes.
 - Consecuencia previsible: Debemos esperar un incremento sustancial de intentos de emigración ilegal.
 - Adicionalmente el caso de Elián crea un grave precedente al estimular a quienes no pueden emigrar legalmente por motivos de patria potestad. ¿Qué harían ellos y qué podemos hacer nosotros si se repiten ahora casos semejantes?
 - Mantenemos nuestro compromiso con los Acuerdos que incluyen no uso de la fuerza y empleo de métodos persuasivos para desalentar la emigración ilegal. Pero conducta de E.U. prácticamente anula nuestra capacidad de persuasión, y tiende a neutralizar el gran esfuerzo que estamos realizando para prevenir, advertir y confiscar materiales y medios de construir embarcaciones que venimos llevando a cabo con el apoyo del pueblo.

- Seguiremos expresando voluntad de cumplir los Acuerdos, pero estamos obligados a denunciar que E.U. los está violando con el caso de Elián y con Ley de Ajuste, y su ampliación desde abril de 1999.
- La opinión pública cubana no acepta ni aceptaría que diésemos una visión positiva sobre la ejecución de los acuerdos.
- Por seriedad de nuestro compromiso con los Acuerdos queremos advertirles por esta vía -y esperamos que consideren el asunto con toda la seriedad y responsabilidad que requiere- que todo indica que de no enmendarse la actual situación nos acercaremos a un incremento sustancial y preocupante de los intentos de emigración ilegal, insegura y desordenada. Nuestra capacidad para evitarla se verá limitada como consecuencia de la conducta de E.U.
- Hemos aceptado celebrar en marzo la próxima ronda migratoria. Es lamentable que no hubiesen aceptado reunirnos en enero, como propusimos, y que el Vocero del Departamento de Estado despachase con tal ligereza esa propuesta.

Nos reuniremos en marzo. Iremos a Nueva York en la fecha que ustedes digan. Pero ¿qué señal saldrá de esa reunión? ¿Creen que a estas alturas pueden referirse a ella como una reunión técnica, de rutina? ¿Piensan liquidarla en una jornada de trabajo? ¿Están dispuestos a discutir en serio los problemas importantes, la Ley de Ajuste y el secuestro de Elián, que hoy amenazan gravemente la emigración legal?

Ciudad de La Habana, 8 de febrero de 2000

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FAX COVER SHEET

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TO: Wendy Sherman - NSC
Coryn Hollis - NSC
Tenele Jones - INS

FROM: Bob

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Ricardo Alarcon

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Ciudad de La Habana, 8 de febrero de 2000

02/09/00 16:17 FAX 53 7 33 4728

U.S. Interests Section - Havana
Washington DC 20521-3200
Tel. (53-7) 33-3551
Fax (53-7) 33-4728; 66-2095

facsimile transmittal

To: Narly Torres Fax: 1-202-736-4476
From: Stephen Schwartz Date: 02/09/00
Re: Aide Memoire Pages: 3 total
cc: Translation

I made one small change on Jeff's last version (nulls to nullifies). I've also sent this by unclassified email.

Best,

TO: Caryn Hollis
Susan Snyder
Lula Rodriguez
Janelle Jones

AIDE MEMOIRE

- I) What answer will be given to Juan Miguel González's letter to Reno and Meissner?
- II) What will happen when the Federal Judge will pronounce his verdict?
- If it (the verdict) favors the Government, will Elian be returned to his father immediately, or will he be left under the power of the kidnappers?
 - If the verdict is against the Government, will an appeal be filed immediately?
 - What is the Government's strategy?
 - Why in its filing the (U.S.) Government did not include a request to the Judge to issue an order to deliver the child? Why did the Attorney not participate?
 - Since the beginning we warned about the consequences of following the judicial process. What is the exit strategy from this muddle?
- III) Elian's case and legal, orderly and safe emigration.
- Summer will arrive with the (Cuban) Adjustment Act amended and expanded, with the INS maintaining the attitude of not executing its own decision on Elian, with the United States submitting to pressures and threats from the Migration Accords' enemies, with the blockade and ongoing hostility, with Radio Marti's subversive propaganda, and with the lack of efficient measures to face alien smugglers.
 - Foreseeable consequence: We should expect a substantial increase in attempts of illegal emigration.
 - Additionally Elian's case establishes a serious precedent in encouraging those who can not legally emigrate because of "patria potestas." What would they do and what could we do if similar cases are repeated now?
 - We are keeping our commitments with the Accords which include no use of force and the use of persuasive methods to discourage illegal emigration. But in practice the behavior of the U.S. nullifies our methods and tends to neutralize the extensive effort we are undertaking to prevent, identify and confiscate materials and means for the construction of vessels which we have been carrying out with the people's assistance.
 - We will continue expressing the will to fulfill the Accords, but we are obligated to denounce that the U.S. is violating them in Elian's case, and with the (Cuban) Adjustment Act, and its extension since April 1999.

- Cuban public opinion does not accept nor it would accept that we give a positive view regarding the execution of the agreements.
- Because of the seriousness of our commitment to the Accords we wish to warn you through this (note) – and we expect that you will consider the matter with the seriousness and responsibility that it demands – that everything indicates that if the present situation is not rectified, we are close to a substantial and preoccupying increase in the attempts of illegal, unsafe and disorderly emigration. Our capacity to prevent it will be limited as a consequence of the U.S. behavior.
- We have accepted to hold the next migration round in March. It is deplorable that the meeting we proposed to be held last January was not accepted, and that the State Department's Speaker dismissed that proposal with such superficiality.
- We will meet in March. We will go to New York on the date you say. But, what message will come out of that meeting? Do you think that at this point it could be referred to as a technical, routine meeting? Do you plan to settle these issues in just one working day? Are you ready to discuss seriously the important problems, the Adjustment Act and Elian's kidnapping, which today represent serious threats to legal emigration?

City of Havana, February 8, 2000

Patten, Wendy L. (MULTI)

From: Patten, Wendy L. (MULTI)
Sent: Tuesday, February 08, 2000 1:17 PM
To: @NSA - Natl Security Advisor
Cc: @LEGAL - Legal Advisor; @MULTILAT - Multilateral and Humanitarian Affairs
Subject: Background for 2:30 Elian meeting [UNCLASSIFIED]

Please pass to Jim. cc: Mara. Thank you.

Cleared by Legal.

Background for 2:30 Meeting on Elian Gonzalez Case

I. Status of Litigation

Federal Litigation: The schedule is as follows:

On the issue of whether the child has a constitutional right to have his asylum application adjudicated:

Feb. 14 -- plaintiff's reply brief due
Feb. 18 -- Justice reply brief due
Feb. 22 -- hearing

On all other issues, except Justice's request for summary judgment to dismiss the plaintiff's case:

Feb. 24 -- plaintiff's reply brief due
Mar. 2 -- Justice reply brief due
week of Mar. 6 -- hearing

There is at least some question, however, as to whether this schedule remains firm. Justice argued at a status conference that all the issues should be tried based on the existing record, and submitted a filing to buttress its argument that no discovery is needed. The plaintiff then filed his counterargument, contending that the court should allow additional evidence. The parties were expecting a clarifying order from the judge, but no such order has issued to date.

State Court Litigation: A hearing on the great uncle's petition for temporary custody is scheduled for March 6. To recall, a Miami-Dade County family court granted emergency temporary custody to the great uncle on an ex parte basis. Questions regarding service of the petition on the father in Cuba remain.

II. Pending Requests

1. Letter from Father: Elian's father sent a letter to Justice, asking them to transfer custody of the child to a different uncle in Miami (Manolo Gonzalez) while awaiting implementation of the INS decision to return the child to Cuba. The letter also requests an immediate end to manipulation and harassment of the child. In addition, the father

requests that INS provide him detailed information on all persons visiting the house where the child now resides, and on any psychologists who are treating the child.

2. Consular Access: The GOC requested consular access to the child prior to the grandmothers' trip, and have raised the issue again this week.

3. Telephonic Communication between Elian and His Father: State received a diplomatic note yesterday from the Cuban Interests Section, registering their concern over the father's inability to make contact with Elian via telephone for the previous two days. The line is either busy or there is no answer.

III. Issues for Discussion at Today's Meeting

1. need for USG commitment to take the actions that will be required to enforce the INS decision if upheld, remove the child from his great uncle's home, and return him to his father

2. need for detailed development of scenarios to accomplish the child's return

State feels strongly that it cannot persuade the GOC to allow the father to come to the U.S. without detailed answers to specific questions from the Cubans. The GOC must be persuaded that we are committed to delivering the child, and be provided with concrete information regarding logistical issues such as:

- *where the father will stay while awaiting outcome of the federal court litigation (a Cuban-American has approached State to offer a home in New Hope, PA)*
- *must the father travel to Florida, or can the child be delivered to the father in another state, given the state court order that bars his removal from the jurisdiction*
- *who will pay the father's expenses*
- *will the father be provided with an attorney*
- *what is the timing of the various scenarios*

3. international consequences of persuading father to come and then failing to deliver child

State has very serious concerns about GOC action at the U.N., and in particular the U.N. Human Rights Commission.

4. consequences of a decision on the father's request to transfer the child to a different uncle

5. how to respond to the consular access request

This question becomes much less pressing if the father comes, but we will have to address it if plans for the father to travel here do not take shape soon.

6. how to handle the issue of the father's telephonic access to Elian?

Wendy

Snyder, Susan L.

From: Brown, Catherine W
Sent: Wednesday, February 09, 2000 12:43 PM
To: Snyder, Susan L.
Subject: INS letter about service

Susan, to make the discussion this afternoon easier, here is what the proposal would look like, written out more precisely:

Dear Mr. Rasco:

We have received your request for assistance in serving Juan Miguel Gonzalez-Quintana with several documents in connection with litigation filed with the Family Division of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida. We understand that the Family Division court order directing that you attempt to serve Mr. Gonzalez-Quintana noted several ways in which you might proceed, and in addition suggested that you could request the assistance of the Immigration and Naturalization Service. In fact, however, the INS has no authority to serve documents on foreign nationals in foreign countries. Accordingly, I am returning the documents to you with this letter.

Sincerely,
Bo Cooper
General Counsel

Catherine

*Catherine W. Brown
Assistant Legal Adviser, Consular Affairs
L/CA, Room 5527A
tel 202-647-0688
fax 202-736-7559*

Withdrawal/Redaction Marker

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
003. cable	re: Cuban Strategy (4 pages)	02/14/2000	P1/b(1)

COLLECTION:

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

FOLDER TITLE:

Cuba-Elian Gonzalez [2]

2012-0371-F

rs2159

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

- P1 National Security Classified Information [(a)(1) of the PRA]
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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.

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

La Habana, 14 de febrero de 2000

S.E. Janet Reno, Secretaria de Justicia
S.E. Doris Meissner, Comisionada del INS

Distinguidas señoras:

El 3 de febrero del 2000 me dirigí a ustedes para trasladarles mis preocupaciones respecto a la lentitud y aplazamiento del proceso de devolución de mi hijo Elián González Brotóns, y al daño psíquico que se le está ocasionando; hacerles varias preguntas sobre el ambiente que rodea al niño; y presentarles solicitudes muy concretas sobre su actual régimen de vida.

Lamentablemente, diez días después, aún no he recibido respuesta a ninguna de mis preocupaciones, interrogantes y solicitudes.

Este período de tiempo puede parecer breve en circunstancias normales, pero cuando lo que está en peligro es la salud mental y la estabilidad emocional de un niño de apenas 6 años, es demasiado tiempo.

Es por esa razón que he decidido escribirles nuevamente. El propósito de esta carta no es sólo reclamar la debida respuesta a mis anteriores planteamientos, sino además, analizar nuevos elementos que incuestionablemente agravan la situación.

Las evidencias que han salido a la luz pública de los problemas que Lázaro y Delfín González han afrontado con la ley debido a la ingestión de bebidas alcohólicas, y la revelación de que uno de los primos -José Cid- se encuentra cumpliendo una condena de 13 años de prisión y su hermano Luis Cid está a la espera de un juicio por asalto con violencia, son elementos de mucho peso en todo este asunto que no hacen más que confirmar mis preocupaciones y conceder mayor fuerza a mi solicitud de que el niño me sea devuelto de inmediato.

A lo anterior se suman las recientes maniobras dilatorias orquestadas por los secuestradores, que después de acudir hasta lo impensable, ahora pretenden designarle a Elián un "*guardián independiente*", con la clara y cínica intención de entorpecer y complicar el proceso de aplicación de la ley por el I.N.S.

Desafortunadamente, ha sido por los medios de prensa que he podido conocer de estas cuestiones que afectan tan directamente la seguridad y estabilidad emocional de mi hijo Elián.

Es inconcebible que el INS, que se mostró tan incisivo para determinar mi condición de padre, investigando hasta el último detalle, no haya hecho ningún tipo de indagación sobre los antecedentes de la familia de Miami, de la cual sin duda estos antecedentes

hubieran salido a relucir.

Es inconcebible también que, de contar con esa información, el INS no me la haya dado a conocer, especialmente después de reconocer el 5 de enero mi condición de padre y mis derechos como tal, incluyendo que soy yo quien sólo puede hablar y decidir en nombre de mi hijo.

Precisamente, invocando esos mismos derechos de padre que ustedes me han reconocido y que me reconocen también las leyes de su país, las de Cuba y el derecho internacional, debo reiterar cada una de las preocupaciones que he planteado respecto al proceso de devolución de Elián y el daño psíquico a que está sometido, y en particular las interrogantes contenidas en mi carta del 3 de febrero y sobre las cuales no he recibido respuesta alguna.

Una vez más solicito formalmente:

1. Me entreguen a mi hijo conforme a la decisión anunciada el pasado 5 de enero.
2. Que mientras no se ejecute esa decisión, mi hijo sea trasladado de inmediato al domicilio del señor Manolo González, mi tío, quien reside también en la ciudad de Miami, no lejos del sitio donde Elián permanece secuestrado.
3. Que inmediatamente se ponga fin al acoso, la manipulación, las presiones psicológicas y las violaciones de la privacidad de mi hijo Elián González.
4. Que me informen con la mayor precisión posible los nombres, ocupación y antecedentes de todas las personas que están permanentemente cerca de mi hijo o lo visitan regular o frecuentemente, incluidos los del psicólogo o psicólogos y/o psiquiatras, el tratamiento que le dan, y dentro del mismo, cualquier suministro de fármacos. Asimismo, les solicito información precisa sobre el régimen actual de vida de Elián —horarios, rutina diaria, empleo del tiempo— y sobre la escuela a la que asiste, el programa de estudios y su aprovechamiento escolar, incluyendo quiénes son los profesores y cuáles sus antecedentes personales y su experiencia profesional.

Igualmente, quiero hacer constar que rechazo categóricamente cualquier intento de designar para Elián un supuesto "*guardián independiente*", y cualquier otra maniobra que pretenda realizarse ante tribunales o por cualquier otro medio y cuyo efecto sería prolongar el secuestro de mi hijo, el daño que se le está ocasionando y el sufrimiento de él y de su familia. Este caso no es una disputa familiar relacionada con la custodia de un niño. La mamá de Elián, desgraciadamente murió, víctima ella también de la ilegal operación de contrabando que condujo a la arbitraria retención de mi hijo en Estados Unidos. Me

3

corresponde a mi, única y exclusivamente, el ejercicio de la patria potestad incluyendo la guarda y custodia de mi hijo. Quienes hoy lo mantienen secuestrado carecen de todo derecho sobre él. Su inadmisibile pretensión de imponerle al niño un supuesto "*guardián independiente*" no es sino una cínica maniobra para prolongar el secuestro, que debe ser rechazada absolutamente, ya que, si se la aceptase de cualquier forma, se les estaría haciendo una concesión absurda e intolerable a los secuestradores. Con los secuestradores no se puede negociar. Basta ya de inexplicable tolerancia con el crimen que cometen contra un niño de seis años. Oblígueles a acatar la decisión del I.N.S. del 5 de enero.

La gravedad de esta situación hace que una pronta acción se torne cada día que pasa más imperiosa para que esta agonía no se prolongue por más tiempo.

En esas circunstancias, espero su rápida respuesta.



Juan Miguel González

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
004. cable	re: Cuban Interests Section Chief (2 pages)	02/14/2000	P1/b(1)

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Interamerican Affairs (Caryn Hollis)
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REPÚBLICA DE CUBA

Ministerio de Relaciones Exteriores

Nro. 269

El Ministerio de Relaciones Exteriores saluda atentamente a la Honorable Embajada de Suiza, Sección de Intereses de los Estados Unidos de América, en ocasión de referirse a la Nota Nro. 001/2000, de fecha 10 de enero del año 2000, de la Sección de Intereses de Cuba en Washington, D.C., de la Embajada de Suiza, para reiterar la solicitud de acceso consular de las funcionarias de esa Sección de Intereses, Señoras Josefina Vidal Ferreiro y Johana Tablada de la Torre, al menor Elián González Brotons.

Ante la incomprensible falta de respuesta de las autoridades norteamericanas a este pedido, presentado por el interés expreso del padre del niño, Sr. Juan Miguel González Quintana, este Ministerio exige dicho acceso consular sobre la base de lo establecido por la Convención de Viena sobre Relaciones Consulares del 24 de abril de 1963, derecho que también ha sido reconocido por los propios representantes del Gobierno norteamericano.

A la Honorable Embajada de Suiza
Sección de Intereses de los
Estados Unidos de América
La Habana



REPÚBLICA DE CUBA

Ministerio de Relaciones Exteriores

El Ministerio de Relaciones Exteriores aprovecha la ocasión para reiterar a la Honorable Embajada de Suiza, Sección de Intereses de los Estados Unidos de América el testimonio de su consideración.

La Habana, 16 de febrero del 2000

Ciudad de La Habana, 14 de febrero de 2000
"Año del 40 aniversario de la decisión de Patria o Muerte"

Co. Felipe Pérez Roque
Ministro
Ministerio de Relaciones Exteriores

Estimado compañero:

Como usted conoce he expresado en diversas oportunidades mi honda preocupación por la situación en que se encuentra mi hijo Elián González. No sólo nos preocupa su prolongado secuestro sino el hecho de que carecemos de información directa sobre las condiciones concretas en que se desenvuelve su vida cotidiana sujeto, como está, a numerosas y constantes presiones de todo tipo.

Recordará usted que en los primeros días de este año, solicité al MINREX que por los canales diplomáticos se lograra que nuestra representación en Washington pudiera visitar a Elián y reunirse con él. Tengo entendido que el MINREX hizo la gestión pero hasta ahora esa visita no se ha producido.

Por ello, en vista del tiempo transcurrido y la preocupación creciente mía y del resto de la familia, le ruego que insista con las autoridades de Estados Unidos para que accedan a esa visita.

Atentamente,


Juan Miguel González

Ciudad de La Habana, 14 de febrero de 2000

S.E. Janet Reno, Secretaria de Justicia
S.E. Doris Meissner, Comisionada del INS

Distinguidas señoras:

Hace ya más de dos meses y medio que mi hijo, Elián González, permanece retenido en el territorio de Estados Unidos en contra de mi voluntad y a pesar de que solicité el 27 de noviembre su inmediata devolución.

Transcurrieron más de diez días después que mi petición fue transmitida por los canales diplomáticos hasta que recibí la primera reacción de las autoridades norteamericanas y ésta fue realmente decepcionante. No me entregaron al niño ni siquiera me comunicaron cuándo lo harían, sólo pidieron que me reuniese con representantes del INS y del Departamento de Estado para acreditar mi paternidad y mis vínculos con Elián. Me reuní con ellos el 13 de diciembre completamente a solas y en compañía de mi padre y de mi madre, no llevé abogados ni asesores. En esa reunión les entregué todos los documentos necesarios y muchos más y respondí todas las preguntas que quisieron hacerme. Les demostré ampliamente que Elián es mi hijo con el que siempre he mantenido una relación sistemática, constante, con todo el amor y el cuidado que un padre puede dar y que Elián, además, cuenta con una familia en la que se ha criado rodeado de cariño y atención y que reclama su regreso.

Pasaron más de dos semanas sin que se me diese respuesta alguna hasta que el 31 de diciembre, a petición suya, volví a reunirme con los mismos funcionarios de Estados Unidos. Otra vez lo hice sólo y sin más compañía que la de mis padres. Tampoco esa vez me entregaron al niño ni me dijeron cuándo se proponían hacerlo. Sus funcionarios se limitaron a hacerme preguntas, todas las cuales respondí, y a escuchar mis reclamos que apenas pudieron responder.

He podido comprobar después, que esta nueva entrevista conmigo se derivaba de una reunión que el INS había tenido el 20 de diciembre en Miami con el señor Lázaro González quien estuvo asesorado por otras personas, incluyendo varios abogados que participaron activamente en ese encuentro.

El 5 de enero de este año, finalmente, el INS anunció su determinación por la cual reconocía mis derechos como padre, incluyendo el de ser la única persona que puede representar a Elián y hablar por él.

Desgraciadamente a esa determinación no ha seguido acción alguna para llevarla a la práctica. Cuarenta días después de haberla anunciado, Elián continúa retenido arbitrariamente por las mismas personas y en el mismo lugar donde se encontraba el 5 de enero.

Ese día y en respuesta a la comunicación recibida del INS, les propuse varias fórmulas para resolver la situación todas ellas conformes a la propia decisión anunciada por ustedes.

Les propuse que, aplicando los procedimientos normales que el INS aplica todos los días en incontables casos, el propio Servicio Migratorio se encargase de la devolución del niño. Les propuse como alternativa que entregase a Elián al Consejo Nacional de Iglesias de Cristo en Nueva York para que desde allí ese Consejo lo trasladase a Cuba o nos lo entregase a sus familiares.

El 22 de enero mi madre, Mariela Quintana, debidamente autorizada por mí mediante documento legalizado ante la oficina diplomática de Estados Unidos en La Habana, solicitó directamente a ustedes la entrega del niño.

Todas estas propuestas han sido expresión de nuestra voluntad y disposición de hacer lo necesario para poner fin al secuestro de mi hijo, un niño de seis años y devolverlo cuanto antes a su hogar.

Hemos dado a las autoridades norteamericanas la cooperación que nos han solicitado para ayudarlas a resolver un problema cuya solución ha estado y continúa estando enteramente al alcance de esas autoridades.

Me permito recordarles, a este respecto, la declaración jurada del 24 de enero de la secretaria asistente de Estado para asuntos consulares, embajadora Mary A. Ryan quien, entre otras cosas, afirmó:

"Cuando un niño es encontrado en un país extranjero, la práctica internacional aceptada es intentar identificar al padre o los padres, y devolver al niño a esa persona en cuanto sea posible, frecuentemente a través de la asistencia de funcionarios consulares representando el país de origen. De ser encontrado un niño pequeño, ciudadano norteamericano, en un país extranjero en las circunstancias de Elián González Bratóns, nosotros esperaríamos que el gobierno de ese país inmediatamente buscara al padre sobreviviente, si hay alguno, y contactara a los funcionarios consulares norteamericanos para brindar asistencia si fuese necesaria. Nosotros esperaríamos entonces que el gobierno devolviera el niño a sus padres rápidamente, a menos que el padre

expresamente pidiera que fueran hechos otros arreglos. Nos aseguraríamos que el gobierno extranjero estuviera al tanto de los deseos del padre y no esperaríamos que nuestras declaraciones en este caso sean cuestionadas. De esta forma, nosotros esperaríamos que la participación directa del padre en los procedimientos en el país extranjero no sería requerida. No esperaríamos que el padre sobreviviente necesariamente tenga que viajar al país extranjero a recuperar a su hijo. Tampoco esperaríamos que el padre sobreviviente tenga que participar en un proceso de custodia en un tribunal extranjero para establecer su derecho de asumir la responsabilidad por el niño. No estaríamos de acuerdo que estemos en presencia de un asunto de custodia a ser resuelto; más bien la custodia claramente pertenecería al padre sobreviviente. Objetaríamos fuertemente si un gobierno extranjero declinara devolver un niño norteamericano a su único padre sobreviviente, a causa de que otros parientes buscaran la custodia del niño, o a causa de un criterio de que el niño estaría mejor en el país en el cual fue encontrado. También objetaríamos vigorosamente a un gobierno o a un tribunal extranjero que intente sustituir con su punto de vista sobre los "mejores intereses del niño", aquello expresado por un padre, a menos que exista una decisión previa que el padre no sea apto. Aun más, esperaríamos que cualquier decisión sobre la capacidad o custodia sea hecha no por un tribunal en el país donde el niño fue encontrado, sino por un tribunal del país de residencia habitual del niño. La no devolución de Elián González Brotóns a su padre sería fundamentalmente inconsistente con estos principios y con lo que nosotros defenderíamos en el caso de un niño norteamericano".

Hasta ahora, sin embargo, Estados Unidos no ha dado los pasos a los que está obligado conforme al derecho internacional, a la práctica universalmente aceptada y a la propia legislación norteamericana.

Entretanto, quienes mantienen secuestrado a mi hijo llevan a cabo diversas maniobras ante tribunales de Estados Unidos —que carecen de competencia para juzgar la aptitud de un padre o la custodia de un niño, ambos cubanos, ciudadanos y residentes de la República de Cuba— con el evidente propósito de perpetuar el secuestro de Elián y poner obstáculos a la ejecución de la decisión del INS que éste, sin embargo, basado en sus propias leyes, sigue teniendo la obligación de ejecutar.

Dichas maniobras han llegado a mi conocimiento sólo por lo que acerca de ellas han divulgado algunos medios de prensa. De acuerdo con tales versiones una jueza estatal de la Florida, de dudosa moralidad ya que, entre otras cosas, tiene vínculos comprometedores con los secuestradores y sus agentes, pretende arrogarse facultades para determinar acerca de la custodia de mi hijo. La secretaria de Justicia, Janet Reno, determinó, por su parte, que el caso de Elián corresponde enteramente a la instancia federal y que sólo a mi corresponde hablar en nombre de mi hijo. No reconozco jurisdicción alguna a

esa corte estadual y objeto formalmente las gestiones que ante ella hayan realizado o realicen quienes retienen a Elián arbitrariamente, contra mi expresa voluntad y a contrapelo de la decisión tomada por el INS el 5 de enero. Mi objeción a la actuación de ese tribunal no constituye ni puede interpretarse, en modo alguno, como renuncia a ninguno de mis derechos.

Igualmente, quiero hacer constar que rechazo categóricamente cualquier intento de designar para Elián un supuesto *"guardián independiente"*, y cualquier otra maniobra que pretenda realizarse ante tribunales o por cualquier otro medio y cuyo efecto sería prolongar el secuestro de mi hijo, el daño que se le está ocasionando y el sufrimiento de él y de su familia. Este caso no es una disputa familiar relacionada con la custodia de un niño. La mamá de Elián, desgraciadamente murió, víctima ella también de la ilegal operación de contrabando que condujo a la arbitraria retención de mi hijo en Estados Unidos. Me corresponde a mí, única y exclusivamente, el ejercicio de la patria potestad incluyendo la guarda y custodia de mi hijo. Quienes hoy lo mantienen secuestrado carecen de todo derecho sobre él. Su inadmisibles pretensión de imponerle al niño un supuesto *"guardián independiente"*, no es sino una cínica maniobra para prolongar el secuestro que debe ser rechazada absolutamente, ya que si se la aceptase de cualquier forma se les estaría haciendo una concesión absurda o intolerable a los secuestradores.

Es inadmisibles y contrario al derecho internacional, cualquier intento por conferir a los secuestradores la posibilidad de valerse de procedimientos judiciales y convertir a las víctimas del secuestro en víctimas también de interminables maniobras ante tribunales que, por muy respetables que puedan ser, carecen de jurisdicción sobre un niño cubano que no ha sido admitido legalmente en los Estados Unidos, ni podría serlo contra mi expresa y reiterada voluntad.

La solución corresponde por completo a la Administración de Estados Unidos que debe proceder inmediatamente, a poner fin al secuestro y devolverme a mi hijo sin más dilación.

Las saluda atentamente,



Juan Manuel González

**U.S. Department of State
Office of Language Services
Translating Division**

**LS No. 0200131
JF/JPM
Spanish**

Havana, February 14, 2000

Her Excellency Janet Reno, Attorney General
Her Excellency Doris Meissner, Commissioner of the INS

Dear Ms. Reno and Ms. Meissner:

For more than two and a half months, my son, Elián González, has been held in United States territory against my wishes and despite my request on November 27 for his immediate return.

It took more than 10 days, once my request was transmitted through diplomatic channels, for me to receive the initial reaction from the U.S. authorities, and this was truly disappointing. They did not return the child to me, nor did they even indicate to me when they would do so; they simply asked me to meet with representatives of the INS and the State Department to prove my paternity and my ties with Elián. I met with them on December 13 both alone and together with my father and my mother, and I brought neither lawyers nor advisers with me. At the meeting, I handed over to them all the necessary documents and many more, and I answered all of the questions they wanted to ask me. I fully demonstrated to them that Elián is my son and that I have always maintained a regular and ongoing relationship with them, with all the love and care that a father can give, and that Elián, too, has a family in which he was raised surrounded by affection and attention, and which wants him back.

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More than two weeks went by without my receiving any response at all, until December 31, when, at your request, I returned for another meeting with the same U.S. officials. Once again, I went alone, with no one else other than my parents. Again, they did not return the child to me, nor did they tell me when they planned to do so. Your officials merely asked me questions, all of which I answered, and listened to my demands, to which they could barely respond.

I have since confirmed that this second interview with me was the result of a meeting that the INS had held on December 20 in Miami with Mr. Lázaro González, who was advised by other persons, including a number of lawyers who participated actively in the meeting.

On January 5 of this year, finally, the INS announced the determination it had reached, recognizing my rights as father, including my right to be the only person who can represent Elián and speak for him.

Unfortunately, this determination was not followed by any action at all to implement it. Forty days after the announcement, Elián continues to be held arbitrarily by the same persons and in the same place where he was on January 5.

That day, and in response to the communication received from the INS, I proposed various formulas for resolving the situation, all in accordance with that very same decision that you had announced.

I proposed that, in application of the normal procedures that the INS applies every day in countless cases, the Immigration Service itself take charge of returning the child. As an alternative, I proposed that Elián be returned to the National Council of Churches of Christ in New York, which would then take him to Cuba or turn him over to us, his family members.

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On January 22, my mother, Mariela Quintana, duly authorized by me by means of an authenticated document executed before the U.S. diplomatic mission in Havana, asked both of you directly to turn over the child.

All these proposals reflected our willingness and readiness to do whatever was necessary to end the abduction of my son, a six-year-old child, and to send him back home as soon as possible.

We provided the U.S. authorities the cooperation requested of us in order to help them resolve a problem, the solution to which has been and continues to be fully within the power of those authorities.

May I remind you, in this regard, of the sworn statement made on January 24 by Ambassador Mary A. Ryan, Assistant Secretary of State for Consular Affairs, who, among other things, affirmed the following:

Quote:

When a young child is found in a foreign country, the accepted international practice is to attempt to identify the child's parent or parents, and to return the child to that person whenever possible, often through the assistance of consular officials representing the child's country of origin. Were a U.S. citizen minor child found in a foreign country in the circumstances of Elián González Brotóns, we would expect the government of that country immediately to seek the surviving parent, if any, and contact U.S. consular officials for assistance in doing so if necessary. We would then expect the government promptly to return the child to the parent, unless the parent expressly asked that other arrangements be made. We would ensure that the foreign government was aware of the parent's wishes, and would not expect our representations in that regard to be questioned. Thus, we would expect that the parent's direct participation in

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proceedings in the foreign country would not be required. We would not expect that the surviving parent would necessarily have to travel to the foreign country to recover the child. Nor would we expect the surviving parent to have to participate in a foreign court's custody proceedings to establish his or her right to assume responsibility for the child. We would not agree that there was any custody issue to be resolved; rather, custody would clearly belong to the surviving parent. We would object strongly if a foreign government declined to return an American child to its only surviving parent because other relatives sought custody of the child or because of a judgment that the child would be better off in the country in which the child was found. We also would take vigorous exception to a foreign government or court that sought to substitute its view of the "best interests of the child" for those expressed by a parent, absent a previous finding that the parent was unfit. Moreover, we would expect any decision about fitness or custody to be made not by a court in the country where the child was found, but by a court in the country of the child's habitual residence. A failure to return Elián González Brotóns to his father would be fundamentally inconsistent with these principles and with what we would advocate in the case of an American child.

Unquote.

Thus far, however, the United States has not taken the steps required of it in accordance with international law, universally accepted practice, and its own laws.

Meanwhile, those who are keeping my son captive are engaging in various maneuvers with the U.S. courts, which do not have jurisdiction to rule on the capacity of a parent or the custody of a child, both Cuban citizens and residents of the Republic of Cuba, with the clear intent of continuing Elián's abduction and hindering execution of the INS decision, which the INS is still, on the basis of its own laws, required to carry out.

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I have learned about such maneuvers only because of what some of the media have disclosed about them. According to some of the stories, a Florida judge of doubtful ethics, given that, among other things, she has compromising ties with the kidnappers and their representatives, is attempting to arrogate herself powers to rule on the custody of my son. Attorney General Janet Reno herself determined that Elián's case was fully a matter for the federal courts and that I was the only one who could speak for my son. I do not recognize any jurisdiction whatsoever for this state court, and I categorically object to the actions that have been or are being taken before it by those would keep Elián arbitrarily against my express wishes and in violation of the INS decision of January 5. My objection to the actions of the court in no way constitutes nor can it be construed as a waiver of any of my rights.

I also wish to state for the record that I categorically reject any intent to appoint a so-called "independent guardian" for Elián, and any other attempted maneuver in the courts or any other means the effect of which would be to prolong the kidnapping of my son, the harm that has been done to him, and the suffering he and his family have undergone. This case is not a family dispute related to the custody of a child. Elián's mother, who unfortunately died, was also the victim of the illegal smuggling operation that led to the arbitrary retention of my son in the United States. Parental authority, including the care and custody of my son, belongs to me solely and exclusively. Those who today are keeping him captive have no rights over him. Their unacceptable attempt to impose a so-called "independent guardian" on him is nothing more than a shameless maneuver to prolong the abduction, and should be rejected out of hand, for if it were accepted in any way, this would be making an absurd and intolerable concession to the abductors.

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It is inadmissible and in violation of international law to make any attempt to grant the abductors the possibility of availing themselves of judicial proceedings and to turn the victims of the abduction into victims as well of interminable legal maneuvers in courts which, no matter how respectable they may be, lack jurisdiction over a Cuban child who was not admitted legally into the United States. Such an attempt could not be serious in the face of my express and reiterated wishes.

The solution is entirely up to the United States Government, which should act immediately to end the abduction and to return my son to me without further delay.

Sincerely yours,

[Signature]

Juan Miguel González

Press Guidance
February 15, 2000

CUBA: Letters from Elian Gonzalez' Father

Background: On February 14, 2000, the Cuban Interests Section delivered two new letters to the Department of State signed by Juan Gonzalez, father of six-year-old Elian Gonzalez. The letters were addressed to INS Commissioner Doris Meissner and Attorney General Janet Reno. In both letters Juan Gonzalez expresses frustration about the delays in returning Elian to him. The second letter quotes extensively from Consular Affairs A/S Mary Ryan's declaration which was included as an annex to the government's brief filed in federal court supporting INS' decision to reunite Elian with his father. The second letter, four pages long, was published in the official newspaper of the Cuban Communist Party's Central Committee, Granma, on February 15.

Question: Did Juan Gonzalez again write to U.S. officials about his son?

ANSWER: YES. LATE YESTERDAY, FEBRUARY 14, THE DEPARTMENT RECEIVED FROM OFFICIALS OF THE CUBAN INTERESTS SECTION TWO LETTERS SIGNED BY JUAN GONZALEZ AND ADDRESSED TO ATTORNEY GENERAL JANET RENO AND INS COMMISSIONER DORIS MEISSNER. THE LETTERS HAVE BEEN FORWARDED TO ATTORNEY GENERAL'S AND COMMISSIONER'S OFFICES.

Question: What is your reaction to the letters?

ANSWER: THE DEPARTMENT OF JUSTICE AND INS ARE CAREFULLY
REVIEWING THE LETTERS. THEY WILL PREPARE A RESPONSE.

DEFEDE**NEWS & GULL**

02/24/2000

DeFede

The Flighty Nun
By Jim DeFede

I should admit at the outset that I, like most estranged Catholics, have nun issues. Still visible on my knuckles, though only faintly, are the scars left by Sister Rene, who used to whack me with a wooden ruler whenever I acted up during my days at St. Patrick's Elementary School in Brooklyn. Normally my parents would not tolerate anyone hitting their children (they never raised a hand against me or my sister), but to them Sister Rene and the other nuns at the school were different. If coming home with bloody knuckles provoked any outrage, it was always directed at me. The nuns carried the authority of the church; anything they did was accepted as the will of God. You simply did not question a nun's actions or motives.

Yet more than 25 years later I sit here doing just that: pondering the actions and motives of a nun. In this



Jennie Zeiner

Sister Jeanne: A sideshow with major credibility problems

Recent Columns by Jim DeFede:

Leave the Driving to CANF

Their fates now inextricably intertwined, Jorge Mas Santos and Ellan will brave the future together

(February 17)

The Real Micky Arison

Here's a novel idea: Hold Micky Arison personally responsible for crimes committed aboard his ships (February 3)

SEARCH

This section only

More Metro from
February 24, 2000

Creative Nepotism

How did Miami commission candidates spend their excess campaign funds? On family and friends, of course.

By Jose Luis Jiménez

Tale of the Ticket

The Gold Cup was a lot of fun, if you like riots

By Robert Andrew Powell

Letters to the Editor

Letters from the issue of February 24, 2000

Recently in Metro

case it's Sister Jeanne O'Laughlin, the 70-year-old president of Barry University and the newest center of controversy in the Elian Gonzalez case.

In an interview last week with the *Miami Herald*, Sister Jeanne told reporter Meg Laughlin she had come to the conclusion that Elian should remain in the United States after speaking briefly with the grandmothers privately and discovering, among other things, that one of them wanted to defect. Sister Jeanne also told Laughlin she'd learned from the grandmothers that Elian's father knew in advance his ex-wife was going to take Elian to the United States, and that during their marriage he was physically abusive to her.

Brothers to the Rescue

Miguel, Alex, and Renier Diaz de la Portilla have gone from boys to men to political dynasty (January 13)

A look at the future

Starring Elian and Gloria (December 30)

Used, Abused, and Alone

Who's representing Elian? (December 23)

The Insider

Scouting Elian's team (December 16)

At least that is what the *Herald* claims Sister Jeanne said.

On Sunday, February 20, the same day the story was published, Sister Jeanne issued a statement declaring, "I never met with the grandmothers alone. While some of the specifics noted in the *Herald* contributed to my decision, it is untrue that I heard any of that from the grandmothers. Any information attributed to them came from other sources."

The *Herald* countered by issuing its own statement defending the story and reiterating that Sister Jeanne did indeed say she learned these things directly from the grandmothers.

On Monday a spokeswoman for Barry University ratcheted the imbroglio up a notch by claiming the *Herald* tricked Sister Jeanne into agreeing to an interview by telling her the resulting story would be a straightforward profile and would not dwell on Elian. "That's what we were told ahead of time," says Michele Morris, an assistant vice president at the school, "and that's why we agreed to do it." Morris further contends that the portion of the interview regarding Elian and the grandmothers was supposed to be an "off-

the-record conversation" and that Sister Jeanne never imagined she would see it in print.

Meg Laughlin, a respected *Herald* staffer who for many years wrote for *Tropic* magazine, acknowledges that when she initially approached Sister Jeanne for an interview, she said she was working on a general profile of the nun. The two women first met on February 15 for an interview that lasted approximately three hours and covered myriad aspects of Sister Jeanne's life, past and present. Then several days later, on Friday, February 18, Sister Jeanne called Laughlin and told her why she believed Elian should stay in the United States, citing the desire of one of the grandmothers to defect, the allegations of abuse against Elian's father, and her belief the father knew all along that the boy was being taken to America.

She told Laughlin she was going to provide an affidavit to one of the attorneys for Elian's Miami relatives, Roger Bernstein, detailing what she'd heard. Laughlin says Sister Jeanne even confided to her that she hadn't told Bernstein the grandmothers themselves were the source of her information.

Laughlin also acknowledges that Sister Jeanne at first said their conversation regarding the grandmothers and Elian was off the record, but she soon persuaded the nun to go on the record with those comments. Because Sister Jeanne's revelations were so timely, Laughlin explains, her editors made the decision to highlight them as a straight news story rather than incorporate them into a broader profile. Laughlin says she called Sister Jeanne on Saturday, one day before the story was published, to warn her it wasn't going to be a profile but rather a news story about Elian and the grandmothers.

After the story ran, Laughlin recalls, she received on her answering machine a friendly message from Sister Jeanne, who expressed confusion over who was responsible for getting things wrong in the story: she or Laughlin. "Several times she said, 'I have to say that I was never alone with the grandmothers,'" Laughlin recounts. "She didn't just say, 'I was never alone with the grandmothers.' She always said, 'I have to say that I was never alone with the grandmothers.'" The inference, of course, is that Sister Jeanne *did* hear these things from at least one of the grandmothers but now was denying it for some reason, perhaps in an effort to protect them.

Despite the perverse pleasure I take in seeing the *Herald's*

reportorial accuracy questioned in the national press, I find it nearly impossible to believe that a writer as good as Meg Laughlin could have gotten this wrong. Instead I find it far more likely that Sister Jeanne is -- to put it charitably -- a flake. (Let us not forget that this is the nun who professed she had the psychic power to discern fear in the eyes of complete strangers.)

Sister Jeanne claims the sources of the information regarding Elian will be revealed in the affidavit she will provide to attorney Bernstein. At this point, however, we're forced to wonder: Does the good Sister have any credibility left? Tuesday's *Herald* has Sister Jeanne once again saying she was alone with the grandmothers, but only for a few moments to bid them farewell.

Unless the "sources" of the information leaked to Sister Jeanne come forward and file their own sworn affidavits, I'm afraid the nun's statement is useless. For my part I don't know who whispered what into her ear, nor do I care anymore.

Not only has Sister Jeanne become an irrelevant sideshow in the never-ending Elian circus, she has squandered a singular opportunity to make a difference. As the "neutral person" both sides could agree upon to host a meeting between Elian and his grandmothers, she could have played a uniquely valuable role in efforts to mediate this dispute and bring it to a peaceful and speedy resolution. Instead she abandoned that neutrality and joined ranks with Elian's Miami relatives.

As any savvy politician knows, it is the party at the center who holds the key to successful compromise, never the partisans at the extremes. For someone who was supposed to be politically astute, Sister Jeanne played this one like a novice.

jim.defede@miaminewtimes.com

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FEB. 24. 2000

5:12PM

ABC NEWS MIAMI

NO. 764

P. 2

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO.: 00-0206-CIV-HOEVELER

ELIAN GONZALES, a minor, by and
through, LAZARO GONZALEZ, as next
friend, or, alternatively as temporary legal
custodian of ELIAN GONZALEZ, a minor.

Petitioners/Plaintiffs,

v.

JANET RENO, Attorney General of the
United States; DORIS MEISSNER,
Commissioner, Immigration and
Naturalization Service; ROBERT WALLIS,
District Director, Immigration and
Naturalization Service; UNITED STATES
IMMIGRATION AND
NATURALIZATION SERVICE; and
UNITED STATES DEPARTMENT OF
JUSTICE,

Respondents/Defendants

AFFIDAVIT OF JEANNE O'LAUGHLIN

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

}
}
} SS.:
}

BEFORE ME, the undersigned authority personally appeared, Jeanne O'Laughlin,
who being first duly sworn, deposes and states the following facts are true and correct
and given on personal knowledge:

1. I, Jeanne O'Laughlin, am a Dominican nun of 54 years, have been president of
Barry University since 1981. I hold a Ph.D. in Education Administration, and am

FEB. 24. 2000

6:12PM

ABC NEWS MIAMI

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P. 3

involved in a multitude of leadership positions in this community. Please see resume attached.

2. On Tuesday January 25, 2000 at the request of INS Commissioner Doris Meissner, I agreed to host at my home a meeting for Elian Gonzalez, his Miami relatives, and Elian's grandmothers. This was done to ensure a safe and secure environment for both families.
3. Prior to the meeting my view on Elian's case was that he should be returned to his father. Somewhat naively I felt this was a straightforward custody issue, and that Elian should be returned to his surviving parent. My position changed after witnessing the fear which existed in the eyes of Elian's grandmothers, and absorbing the events which unfolded at my home.
4. Just before the meeting I was with INS personnel in the kitchen during which time frantic phone calls were being made between INS and Cuban officials seeking to solve "problems" that were said to be issues that would cause the meeting to be called off. The Cuban officials demanded to see plans of the home, repeatedly demanded that the Miami relatives avoid any contact with the grandmothers, and complained about lack of sufficient security, etc. The INS diligently tried to have the meeting succeed, while it appeared that the Cuban officials were doing anything to avoid having the meeting take place.

5. An incident occurred with a cellular telephone, which we were told were prohibited in order to prevent outside communication, and to give the grandmothers time to meet with Elian uninterrupted. In my presence, Joan Cambell of the National Council of Churches asked the grandmothers if they had telephones. They said no. Shortly thereafter, while the grandmothers were meeting with Elian, a phone rang in their room. It was a call from Cuba. Major Robbins, of the Miami Beach Police, asked politely for the phone. Unfortunately, I believe the grandmothers felt they had to lie about the phone.
6. The two grandmothers visited with Elian in an upstairs room. After their meeting with Elian, the grandmothers spoke upstairs privately with Odel Marichal, a member of the Cuban National Assembly and of the Cuban National Council of Churches and Joan Cambell. The grandmothers left the meeting looking frightened and different from their previous appearance. I believe that something was said to them by Mr. Marical that intimidated and frightened them.
7. It was clear from my observations, that the Cuban government was exerting control over Elian's grandmothers and the National Council of Churches. My belief was confirmed in a conversation with Bob Edgar, the NCC president, wherein he stated that the National Council of Churches was no longer in charge, but he felt rather Castro himself was calling the shots. He recognized this on the pervious Monday evening when a Cuban official ordered the plane to depart Miami and return to Washington without the grandmothers seeing Elian. Cuban

officials, he said, dissuaded and frightened the grandmothers from visiting the Miami relatives' home. Reverend Edgar in protest refused to board the return flight to Washington, DC. He stated to me that the day after our conversation he intended to withdraw the National Council of Churches from the situation and that the Cuban Interest Section would take control. He stated that he did not want the NCC to be involved if they were no longer in charge.

8. Most disturbing was the Cuban official's insistence that the family members not meet or even be permitted to see one another. Although the American family asked to see and to talk to the grandmothers, the grandmothers I believe were under strict instruction not to see or speak to anyone other than Elian. What I found to be particularly poignant was that Doris, the sister of Raquel, asked if she could give her sister condolences for the loss of her daughter or simply embrace her. The answer to both requests was cold rejection. This seemed unnatural and reinforced my belief that the grandmothers could not act under their own free will.
9. As a result of the above, I am convinced that the grandmothers were not free to respond or act as they would towards their family, and that the situation was controlled by the Cuban officials. It seems apparent that if the Cuban government utilizes these types of pressure tactics and exerts complete influence over Elian's grandmothers, that Elian's father too is acting under the Cuban government's strict instructions. Consequently, his true feelings for the future of his child cannot be freely expressed. Therefore, he should be permitted to come to the

United States, along with his parents, his infant child and common-law wife, in order to participate in the judicial process, and be permitted to speak free of fear from retribution and harm to his family.

10. My concern and my involvement in this case stem from my concern for Elian's best interest. After the meeting I noticed how Elian reacted with joy when he was reunited with his cousin. I witnessed a strong bond between Marisleysis Gonzalez and Elian. He clung to her as a child does with his mother. The courts must also take this into any future plans for Elian.
11. Other factors that have contributed to my decision to support judicial intervention include: a) I was told of evidence of Juan Miguel Gonzalez' spousal abuse; b) I was told that one of the grandmothers wished to defect to the United States; c) I was told of Juan Miguel's awareness that Elian was coming to the U.S. prior to his departure. I would like to emphasize that the above factors are not based on private conversations with Elian's grandmothers, but rather independent sources including INS officials, American family members, and persons present at the university president's home prior to the grandmothers' meeting. At this time I am even more convinced that only a court can sort out the truths surrounding this case. I also believe that Elian will not remain with his father but will become a ward of the state if he is returned to Cuba.

FEB. 24. 2000

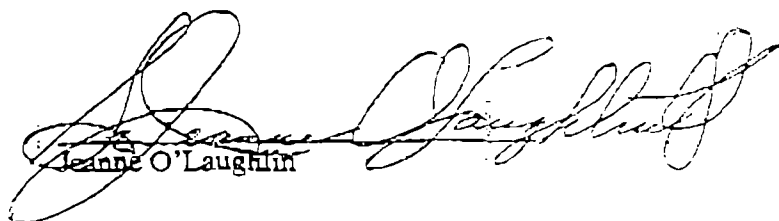
5:13PM

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NO. 754

P. 7

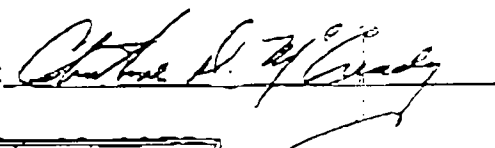
12. Additionally, given the many unknowns regarding his environment in Cuba, with many pressures and expectations placed upon his return, weighed against his potential life in the United States made me seriously question the decision to return this child without a court's assistance. A family court would be in the best position to evaluate both environments, before making the irreversible decision to return Elian to Cuba. At a minimum I would hope an asylum hearing would be held to evaluate the evidence and determine what harm, psychological or otherwise, might occur to Elian if he is returned to Cuba. I ask this Court to provide Elian with an opportunity to be heard. There must be a process to assure that the truth surrounding this case is fully examined and that the boy be given the justice he deserves, as well as to reverence the last wish of a dying mother.


Jeanne O'Laughlin

The foregoing instrument was executed before me on this 24th day of February, 2000 by Jeanne O'Laughlin who is personally known to me ☒ or who has produced _____ as identification and who did take an oath.

(notary stamp)

NOTARY PUBLIC

Print: 

My commission expires:



EMBASSY OF SWITZERLAND
CUBAN INTERESTS SECTION

WASHINGTON, D.C.

025/00

The Republic of Cuba Interests Section of the Embassy of Switzerland presents its compliments to the Department of State of the United States of America, and wishes to inform that Juan Miguel Gonzalez, father of Elián Gonzalez, has been able to speak to his son by phone neither on Monday 21 nor Wednesday 23 of this week despite of all the attempts he has made.

The Republic of Cuba Interests Section requests the Department of State of the United States of America to inform the Department of Justice and the Immigration and Naturalization Service about this fact.

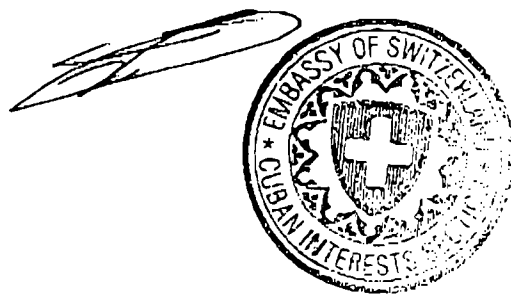
The Republic of Cuba Interests Section of the Embassy of Switzerland avails itself of this opportunity to renew to the Department of State of the United States of America the assurances of its consideration.

Washington D.C., February 24, 2000

To the

Department of State

Washington D.C.



Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
005. report	re: Cuban Government Influence (2 pages)	04/28/2000	P1/b(1)

COLLECTION:

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

FOLDER TITLE:

Cuba-Elian Gonzalez [2]

2012-0371-F

rs2159

RESTRICTION CODES

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

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

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.

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]
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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
006. cable	re: Cuban Diplomats Focus on Breaking Deadlock (2 pages)	01/21/2000	P1/b(1)

COLLECTION:

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

FOLDER TITLE:

Cuba-Elian Gonzalez [2]

2012-0371-F

rs2159

RESTRICTION CODES

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

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
007. cable	re: Cuban President Monitors Elian Gonzalez Case (3 pages)	01/11/2000	P1/b(1)

COLLECTION:

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

FOLDER TITLE:

Cuba-Elian Gonzalez [2]

2012-0371-F

rs2159

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

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Withdrawal/Redaction Marker

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
008. cable	re: Cuban President Plans (2 pages)	12/22/1999	P1/b(1)

COLLECTION:

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

FOLDER TITLE:

Cuba-Elian Gonzalez [2]

2012-0371-F

rs2159

RESTRICTION CODES

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

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

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
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009. cable	re: National Assembly President Alarcon's Role (4 pages)	04/21/2000	P1/b(1)
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COLLECTION:

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

FOLDER TITLE:

Cuba-Elian Gonzalez [2]

2012-0371-F

rs2159

RESTRICTION CODES

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
010. cable	re: Cuban Party Official (2 pages)	03/29/2000	P1/b(1)

COLLECTION:

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

FOLDER TITLE:

Cuba-Elian Gonzalez [2]

2012-0371-F

rs2159

RESTRICTION CODES

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

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
011. cable	re: Cuban National Assembly President (2 pages)	01/28/2000	P1/b(1)

COLLECTION:

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

FOLDER TITLE:

Cuba-Elian Gonzalez [2]

2012-0371-F

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RR. Document will be reviewed upon request.

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Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
012. cable	re: Cuban Diplomat Will Bring New Letter (1 page)	02/14/2000	P1/b(1)

COLLECTION:

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

FOLDER TITLE:

Cuba-Elian Gonzalez [2]

2012-0371-F

rs2159

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Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
013. cable	re: Cuban President Sees Elian Gonzalez Issue (3 pages)	02/15/2000	P1/b(1)

COLLECTION:

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

FOLDER TITLE:

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PLEASE CLEAR BY 12:NOON x 7-9273

109/13

The Department of State calls to the attention of the Cuban Interests Section of the Embassy of Switzerland the serious misbehavior of Mr. Gustavo Machin and Ms. Claudia Joffre of the Interests Section who, on April 26-27, 2000, undertook travel beyond prescribed limits to the State of Maryland in clear violation of established travel procedures and without any authorization from the Department of State.

The Department of State reminds the Cuban Interests Section of the clear requirements of travel exemption and notification procedures, and the responsibility of the Principal Officer of the Interests Section to insure compliance by his employees with these requirements.

In light of Mr. Machin and Ms. Joffre's flagrant disregard of established procedures, the Department of State informs the Interests Section that Mr. Machin and Ms. Joffre are henceforth prohibited from travel to the Wye Farm facility and its environs until further notice.

Department of State
April 28, 2000

SEARACCA/2000/dipnote: april 28 - unauthorized travel to wye
X7-9273

Drafted: RWitajewski 04/28/00 x7-9273

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) 456-9141

From: Wendy Patten

To: PJ Crowley, Dan Shapiro, Caryn Hollis, Mary DeRosa

Fax Number: 6-9270, 6-9170, 6-9130, 6-9110

Date/Time: 4-15-00

No. of pages to follow: 6

Message: State guidance on Elian from yesterday and today. See
esp. starred Q & A from each day.

*To: Wendy Katten
6 pages (guidance for today + yesterday)*

**WHA Press Guidance
April 24, 2000**

Natley

Cuba: Elián

Background: On Saturday, April 22 INS reunited Elián with his father.

Question: Has there been any movement on the 22 pending visa applications?

Answer: WE HAVE ISSUED SIX VISAS, THREE OF WHICH HAVE NOT BEEN USED. MR. GONZÁLEZ, HIS WIFE AND ELIÁN'S BROTHER USED THEIRS AND ARRIVED ON APRIL 6 IN WASHINGTON; THE OTHER 3 INDIVIDUALS WHO RECEIVED VISAS MAY TRAVEL WHENEVER THEY WISH TO DO SO. THE REMAINING 22 VISA APPLICATIONS REMAIN UNDER REVIEW.

Question: Are Cuban officials staying with Juan Miguel González and his family at Andrews Air Force Base? If so, why is the USG allowing Cuban agents on an air force base where the Presidents plane is kept?

Answer: MR. GONZÁLEZ IS STAYING ALONE WITH HIS FAMILY AT ANDREWS AIR FORCE BASE IN MARYLAND. AT HIS REQUEST GOC OFFICIALS HAVE BEEN PERMITTED TO VISIT, BUT HAVE ALWAYS BEEN ESCORTED EITHER BY U.S. MARSHALS SERVICE OR AIR FORCE OFFICIALS.

 **Question:** Senator Graham said he asked DOS to reach an agreement with the GOC on how Elián will be treated upon his return to Cuba. Has DOS seen this request? If so, what steps, if any, will be taken in that direction?

Answer: THIS IS A PREMATURE QUESTION BECAUSE ELIÁN WILL NOT BE GOING BACK TO CUBA UNTIL ALL LITIGATION HAS BEEN EXHAUSTED.

*the 11th circuit rules + the
injunction is lifted.*

WE HAVE TRIED TO DE-POLITICIZE THIS CASE AND HAVE SPOKEN TO
CUBAN OFFICIALS IN GENEVA, HAVANA AND WASHINGTON ABOUT THE
NEED TO DO SO. AT THE REQUEST OF SENATOR GRAHAM, HOWEVER,
WE ^{met} ~~WILL MEET~~ WITH CUBINT OFFICIALS ^{today} ~~AGAIN TOMORROW~~ ON THIS
MATTER.

(4-25)

Question: Is there any possibility that this crisis will be used to establish better relations with Cuba?

Answer: NO. WHAT WE ARE DEALING WITH IS A SIX-YEAR-OLD AND
THE REQUEST OF HIS ONLY SURVIVING PARENT TO BE REUNITED
WITH HIS SON. WITH REGARD TO RELATIONS BETWEEN CUBA AND
THE U.S., WE HAVE LONG SAID THAT IF THE GOVERNMENT OF CUBA
MAKES FUNDAMENTAL, DEMOCRATIC CHANGES, OUR RELATIONS
WILL IMPROVE; IF IT DOES NOT, RELATIONS WILL NOT IMPROVE.

Question: Did the Department of State have anything to do with selecting the location for Elian and his family to be reunited?

Answer: NO. IT IS OUR UNDERSTANDING THAT THIS MATTER WAS
DISCUSSED BETWEEN THE FATHER'S ATTORNEY AND THE
DEPARTMENT OF JUSTICE.

If asked:

Question: Did the White House hold a special briefing because of the Elian case?

04/25/00 TUE 14:11 FAX 202 456 9140
04/25/00 TUE 13:26 FAX 202 736 4476

NSC DEMOCRACY
CUBAN AFFAIRS

→→→ SCOTT BUSBY

004
003

Answer: I UNDERSTAND THAT WHITE HOUSE OFFICIALS BRIEFED
EARLIER THAN USUAL BECAUSE THE PRESIDENT WILL BE TRAVELING
TO NEW YORK.

**WHA Press Guidance
April 25, 2000**

Cuba: Elián

Background: Elián and his family are still at Andrew Air Force Base this morning but are expected to move to Wye Plantation. The Department has received a request to expedite consideration for visas for four playmates and an accompanying family member for each.

Questions: What about the visas?

Answer: JUAN MIGUEL GONZÁLEZ HAS REQUESTED, THROUGH HIS ATTORNEY, THAT WE EXPEDITE THE REVIEW OF VISAS FOR A SMALL NUMBER OF ELIAN'S PLAYMATES, EACH TO BE ACCOMPANIED BY AN ADULT FAMILY MEMBER, SO THAT THEY MAY VISIT WITH ELIÁN FOR A BRIEF PERIOD TIME. WE HAVE AGREED TO EXPEDITE CONSIDERATION OF THESE VISA APPLICATIONS ONCE THE APPLICATIONS HAVE BEEN SUBMITTED TO THE U.S. INTERESTS SECTION IN HAVANA.

Question: How long will they stay and where?

Answer: WE HAVE NOT YET REVIEWED THE VISA REQUESTS, BUT THOSE INDIVIDUALS TO WHOM WE MAY ISSUE NON-IMMIGRANT VISAS FOR THE PURPOSE OF VISITING ELIÁN ARE EXPECTED TO BE HERE NO MORE THAN TWO WEEKS. I REFER YOU TO MR. GONZALEZ'S ATTORNEY FOR THE DETAILS ON LODGING AND TRAVEL.

Question: Will a school be set up?

Answer: WE ARE UNAWARE OF THE PLANS MR. GONZÁLEZ HAS FOR SCHOOLING ELIAN WHILE THEY ARE AWAITING THE CONCLUSION OF THE LEGAL PROCESS. A VISA WAS ISSUED TO ELIÁN'S FORMER KINDERGARTEN TEACHER. SHE HAS NOT YET TRAVELED TO THE UNITED STATES.

 Question: Has the Department met with CUBINT officials today?

Answer: WE MET WITH CUBINT OFFICIALS TODAY TO DISCUSS VARIOUS ISSUES. THE ELIÁN GONZÁLEZ CASE WAS AMONG THEM.

If pressed only:

Question: What other subjects were discussed?

Answer: VARIOUS ISSUES INCLUDING THE INVESTIGATION INTO THE APRIL 14 ALTERCATION OUTSIDE THE CUBAN INTERESTS SECTION AND SENATOR GRAHAM'S REQUEST FOR INFORMATION ON ELIÁN'S TREATMENT ONCE IN CUBA WERE DISCUSSED. WE HAVE NOTHING TO NEW TO REPORT ON THOSE ISSUES.

Question: Did the Department of State have anything to do with selecting Wye Plantation as the new site for Elián and his family to be housed?

Answer: NO. IT IS OUR UNDERSTANDING THAT THIS MATTER WAS DISCUSSED BETWEEN THE FATHER'S ATTORNEY AND THE DEPARTMENT OF JUSTICE AND THE OWNERS OF WYE.

IF ASKED ONLY

Question: What about the other visa requests?

Answer: WE UNDERSTAND THE INTEREST MR. GONZALEZ HAS IN ELIAN'S FRIENDS' AND FAMILY'S VISITING WITH HIM. VISA APPLICATIONS SUBMITTED BY, OR ON BEHALF OF, SUCH INDIVIDUALS WILL BE GIVEN EXPEDITED CONSIDERATION. WE WILL BE HAPPY TO CONSIDER ANY VISA APPLICATIONS FOR FAMILY AND FRIENDS AS REQUESTED BY JUAN MIGUEL GONZALEZ. THE REST REMAIN UNDER REVIEW.

@INTERAM D. STOCKWELL

SUBJECT: IMMIGRATION : EDIT

QUESTION:

Will the reunification of Elian Gonzalez with his father affect U.S. relations with Cuba positively or negatively?

ANSWER:

From the very beginning of this issue, the President has consistently maintained that politics should play no role in determining what should be done with Elian Gonzalez. Instead, the President believes the primary focus of this matter should be the determination of what is in the best interest of this young child, not what is in the best interest of those with political agendas and motives.

President Clinton is hopeful that if we can keep the best interest of the child at the forefront of our discussions, all parties involved can find ways to work together in addressing this matter.

OPTIONAL FORM 89 (7-90)

FAX TRANSMITTAL# of pages **2**

To Karen Hollis	From Lula
Dept./Agency	Phone #
Fax # 436-9130	Fax #
NSN 7540-01-317-7388	5099-101
GENERAL SERVICES ADMINISTRATION	

WHA Press Guidance
April 28, 2000

CUBA: Meeting with Cubint Officials

Background: Cuban Interests Section Head Fernando Remirez and Cubint official Eugenio Martinez met with the Director and Deputy Director of the Office of Cuban Affairs at 3 p.m. on Friday, April 28.

Question: What was discussed in the April 28 meeting between Department (Office of Cuban Affairs) and Cuban Government officials?

ANSWER: WE ASKED THE CUBANS TO COME IN TO DISCUSS THE GUIDELINES AND REGULATIONS FOR TRAVEL BY CUBINT AND USINT PERSONNEL RECIPROCITY. WE MET FOR OVER AN HOUR.

WE URGED THEM TO MINIMIZE BOTH THE NUMBER OF PERSONNEL GOING TO THE WYE FACILITY AND THE TIME THAT THEY SPEND THERE. THEY AGREED WITH US THAT THE GONZALIEZ FAMILY NEEDED SOME TIME ALONE.

THEY TOLD US THEY WOULD NOTIFY US ON MONDAY OF THEIR TRAVEL NEEDS FOR THE NEXT WEEK. IN THE MEANTIME, WE HAVE APPROVED TRAVEL FOR A FEW CHILDREN FROM THE CUBAN INTERESTS SECTION AND THREE PARENTS TO VISIT DURING THE DAY ON SATURDAY. FOR SUNDAY WE HAVE APPROVED A VISIT TO WYE BY

A FAMILY AND THREE CHILDREN DURING THE DAY. THESE ARE
STRICTLY SOCIAL VISITS.

Snyder, Susan L.

From: Brown, Catherine W
Sent: Monday, April 24, 2000 3:30 PM
To: Shapiro, Charles S; Snyder, Susan L.; Rodriguez, Lula; Ryan, Mary A; Betancourt, Edward; Brownfield, William R; Sherman, Wendy R.
Cc: Jacobson, Linda; Brancato, Gilda M
Subject: Elian and consular access

Importance: High

I have had a number of conversations today with folks at DOJ focusing on how DOJ should respond to the letter from the Miami relatives asking that Cuban consular officials not be permitted to meet with Elian; that no Cuban psychologists be allowed to meet with him; that he not be taken into the Cuban Interests Section; and that the Miami relatives be given access to Elian.

Some at DOJ are inclined to note that consular officials generally have a right to communicate with their nationals under Article 36 of the VCCR and that it is for Juan the father to decide who meets with Elian. Others think that for litigation reasons there should be some monitoring of any consular visits -- given that the Miami relatives will use consular access against DOJ. They are suggesting asking Juan to agree to it. **Justice wants to know if we would object if they establish as a condition of parole that any meetings of Cuban consular officials with Elian during the pendency of the appeal include USG officials.**

There is also a possible need to restrict Elian's ability to enter any Cuban diplomatic/inviolable premises. I have asked them to check on the terms/conditions included in the parole documents signed by Juan on Saturday - e.g., do they require INS permission before Elian can be taken anywhere? **It is possible that we will need to prohibit Elian going to any diplomatic premise unless we first obtain a waiver w/r/t to him.**

Thoughts? Reactions? What consular access has already occurred?

Catherine

*Catherine W. Brown
Assistant Legal Adviser, Consular Affairs
L/CA, Room 5527A
tel 202-647-0688
fax 202-736-7559*

COFFEY, DIAZ & O'NAGHTEN, L.L.P.

SUITE 200 GRAND BAY PLAZA
2665 SOUTH BAYSHORE DRIVE
MIAMI, FLORIDA 33133

TELEPHONE (305) 285-0800, EXT.: 101
TELECOPIER (305) 285-0257
E-MAIL: KC@abogadosfla.com

KENDALL COFFEY

April 22, 2000

VIA TELEFAX - (202) 514-4317

The Honorable Janet Reno
Attorney General of the United States
United States Department of Justice
Tenth and Constitution Avenue
Washington, D.C.

David J. Kline
Deputy Director
Office of Immigration Litigation
U.S. Department of Justice
P.O. Box 878, Ben Franklin Station
Washington, D.C. 20044

Dear General Reno and Mr. Kline:

This letter is not the medium to express our shock and disgust at the enormity of this morning's events. Those circumstances are being addressed separately. This letter is written to address the clear pronouncement by the Eleventh Circuit Court of Appeals that Elian Gonzalez is not to be removed from the United States until further order of the Court, and the specific directive that the federal defendants take such reasonable and lawful measures as are necessary to prevent his removal from the United States.

We are obviously concerned about the possibility that you may be in the process of placing Elian physically into the mission maintained by the Cuban Interests Section in Washington, D.C., or into any premises of the government of Cuba. Similarly, we have reason to believe that you are submitting the child to the effective control of the Cuban government. We strongly object to any such surrender of Elian. By handing over the child to be placed into any situation in which Cuban government personnel have control or supervision over Juan Gonzalez and Elian, you would be placing him in the hands of the government from which he is presently protected.

As a result, we believe that delivering the child to the control of the Cuban government is wrongful and illegal for at least three reasons. First, it would be functionally tantamount to allowing his removal from the United States, in violation of the Court's Order. Secondly, such removal would violate your duty to take "such reasonable and lawful measures as are necessary" to prevent Elian's removal because, once entrusted to the Cuban government, there is no realistic ability to ensure that he will not be taken to Cuba. Third, it is apparent that your surrender of the child to the control of Cuba's government will likely initiate precisely the harm of indoctrination and "therapies" that Elian's asylum rights are needed to prevent.

COFFEY, DIAZ & O'NAGHTEN, L.L.P.

The Honorable Janet Reno and David J. Kline
April 22, 2000
Page 2

Both the Cuban Interests Section building and the premises of its diplomats are controlled by the government of Cuba. They are legally inviolable, and beyond the reach of any assistance that any court of the United States may be able to render to this child. Therefore, if Elian Gonzalez is allowed to enter what is, in substance, Cuban territory, he will not only have been effectively removed from the United States, but also from the effective jurisdiction of the courts of the United States.

Under international agreements to which the United States is a party, including the Vienna Convention, the property of a foreign state is immune from the jurisdiction of United States courts except under certain circumscribed conditions. None of these conditions applies in this case because, despite the various press reports about the promise of a waiver of immunity by the Cuban government, that promise was a falsehood and no waiver was ever delivered. Significantly, mission premises covered by the Convention include both owned property and leased property, such as the house of the head of the Cuban Interests Section in Bethesda, Maryland.

The realities that follow this result are well-settled in the law. No officer, agent, or employee of the United States, or of any State, can enter the mission without the consent of the senior diplomat. In fact, the police and the courts are powerless to prevent any abusive conduct or "therapies" that might go on inside. In a well-publicized case, fire fighters had to stand helplessly outside the mission of the former Soviet Union while a fire raged, placing surrounding structures at risk, until the Soviet government could be prevailed upon to allow entry. In short, we fear that the Administration which you serve is about to render futile the power of any court to intervene on behalf of Elian Gonzalez.¹

Just as critically, there is no basis to believe that the Cuban government will respect the Court's Order. For forty-one years, Castro's government has expressed nothing but contempt for U.S. law, its institutions and its people. To suggest that obedience to U.S. law and authority here is a likelihood would be absurd. Only a few years ago defenseless U.S. citizens were murdered over international waters by Cuban MIG jets firing heat-seeking missiles. Not surprisingly, nothing in this case shows any new-found respect by Cuba for U.S. laws or individual rights. To the contrary, Castro has proclaimed many times his obsession with getting Elian back to Cuba as quickly as possible. Correspondingly, the Cuban diplomats have already conducted themselves in a lawless

¹Diplomatic immunity, whether that of a diplomat or of his residence, may not be waived by the diplomat himself, but must be waived by the diplomat's State in an express writing transmitted to the State Department. See 4 Am. Jur. 2d at 19 (1995); United States of America v. Michael K. Deaver, 1987 WL 13365 (D.C. App. 1987); Ali Fatemi v. United States, 192 A.2d 525 (D.C. App. 1963); United States v. Arizti, 229 F.Supp. 53 (S.D. N.Y. 1964) (stating that "the immunity [of a diplomat] is that of his government and is not personal to him and the government's waiver of diplomatic immunity, if any existed, does not require his consent"); The People v. Juan Vallejo Corona, 211 Cal.App.3d 529 (Cal. Ct. App. 5th Div. 1989).

COFFEY, DIAZ & O'NAGHTEN, L.L.P.

The Honorable Janet Reno and David J. Kline
April 22, 2000
Page 3

manner by attacking and beating peaceful protesters outside the Cuban Interests Section with impunity. If you allow Elian Gonzalez to cross the threshold of any property of the government of Cuba, you will have allowed him, in effect, to be placed outside the United States, because you will have rendered this great nation powerless to aid this child. Moreover, if the Cuban government chooses to remove him in the dark of night, apparently the preferred method for destroying Elian's rights and well-being, there is nothing in your power to provide safeguards that are certain to prevent that removal.

In addition, you will be negating this six-year-old's asylum claim by handing him over to the same government that is about to persecute and manipulate Elian. Especially in light of the Eleventh Circuit's ruling four days ago, it would be deplorable if Elian's asylum claim could be circumvented by letting the Cuban government work its will on this child in advance of his receiving his day in court. There is little doubt now that, with every passing hour, increasing pressure will be imposed on Elian to repudiate his American family and his rights under our asylum laws.

In addition, there are a number of questions which must be answered – first to preserve the Court's jurisdiction over the appeal, and most importantly, to preserve Elian's well-being:

1. Do you intend to transfer Elian to any premises owned or leased by the Cuban government? If so, please tell us when the transfer is planned.
2. Do you intend to permit agents of the Cuban government, including any individuals associated with the Cuban Interests Section, to meet with or otherwise observe Elian? If so, please inform us of the contemplated timing.
3. Has Elian met with any psychiatrists or psychologists?
4. Do you intend to permit any doctors, therapists, or other medical professionals in any way affiliated with or selected by the Cuban government to meet or observe Elian? If so, please state when that will occur.
5. Elian's treating physician remains willing and able to continue Elian's treatment. When will she be allowed to see Elian?
6. As you know, Elian's Miami relatives are in Washington. The government has denied them any access to Elian. How soon do you intend to permit them to meet with Elian?
7. Is it your belief that the Castro government and its agents can be trusted concerning U.S. laws and human rights of individuals, including Elian Gonzalez?

COFFEY, DIAZ & O'NAGHTEN, L.L.P.

The Honorable Janet Reno and David J. Kline
April 22, 2000
Page 4

We demand that these questions be answered immediately. In light of the Department's indifference toward religious holidays and observances, we see no reason why these basic questions cannot be answered by 3:00 p.m. tomorrow. In view of the foregoing, we demand that no action be taken that would place Elian Gonzalez on premises owned or leased by the Cuban government or its personnel, or otherwise delivered into the control of agents of the Cuban government, prior to the determination of Elian's appellate rights.

Very truly yours,



Kendall Coffey

cc: William J. Howard, Esq.
Dexter A. Lee, Esq.

COFFEY DIAZ & O'NAGHTEN, L.L.P.
200 Grand Bay Plaza
2665 South Bayshore Drive
Miami, Florida 33133
Telephone: 305-285-0800
Facsimile: 305-285-0257

FACSIMILE COVER SHEET

DATE: April 22, 2000

TO: The Honorable Janet Reno (202) 514-4317
David J. Kline, Esquire (202) 616-4948
Dexter A. Lee, Esq. (305) 530-7139
William J. Howard, Esquire (202) 616-4948

FACSIMILE: See above

FROM: Kendall Coffey, Esq.

RE: Elian Gonzalez (0340.001)

PAGES: (including cover sheet): 5

COMMENTS: Please see attached letter.

The information contained in this facsimile message is information protected by attorney-client and/or the attorney-work product privilege. It is intended only for the use of the individual named above and the privileges are not waived by virtue of this having been sent by facsimile. If the person actually receiving this facsimile or any other reader of the facsimile is not the named recipient or the employee or agent responsible to deliver it to the named recipient, any use, dissemination, distribution, or copying of the communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and return the original message to us at the above address via U.S. Postal Service.

**IF YOU DO NOT RECEIVE THIS FAX IN ITS ENTIRETY, PLEASE CALL
285-0800 AS SOON AS POSSIBLE. THANK YOU.**

Hollis, Caryn C. (INTERAM)

From: WHSR
Sent: Thursday, April 13, 2000 3:16 AM
To: Clarke, Richard A. (TNT); Crowley, Philip J. (PRESS); DeRosa, Mary B. (LEGAL); Hammer, Michael A. (PRESS); Hollis, Caryn C. (INTERAM); McCarthy, Mary O. (INTEL); Patten, Wendy L. (MULTI); Rosshirt, Thomas M. (SPCHW); Schwartz, Eric P. (MULTI); Stockwell, David B. (PRESS); Valenzuela, Arturo A. (INTERAM)
Subject: TEXT OF A LETTER WEDNESDAY TO LAZARO GONZALEZ FROM MICHAEL A.

Classification: UNCLASSIFIED
Distribution: SIT: CLARKER CROWLEY Derosa HAMMER HOLLIS MCCARTHY PATTEN ROSSHIRT
Schwartz STOCKWELL VALENZUELA
PRT: PRINT{P\SOCKS\WHSR4-TN,C2}
Identifier: Af55ebf1
Originator: AP/East
Precedence: RUSH
TimeOfReceipt: 04/13/2000 02:17:55 ET

a0446

^BC-Cuban Boy-Justice-Text,470

^By The Associated Press=

Text of a letter Wednesday to Lazaro Gonzalez from Michael

A. Pearson, executive associate commissioner for field operations, Immigration and Naturalization Service.

Dear Mr. Gonzalez,

The goal of the Department of Justice and the Immigration and Naturalization Service is to ensure that Elian's transition to his father's care is as peaceful as possible. We must all do everything in our power to see that the transfer is accomplished in a thoughtful, constructive manner.

We understand from your attorneys and various other representatives that you would like an opportunity to meet with Juan Miguel Gonzalez. We are prepared to accommodate that request as part of an orderly transfer of the care of Elian to his father.

To that end, please present Elian at Opa-Locka Airport, 1500 N.W. 42nd Ave., Opa-Locka, Fla., where you should proceed to the Main Coast Guard Gate at 10 a.m. Thursday, April 13. Rosa R. Urquiola, a bilingual INS official experienced in immigration matters involving children, will be there to accompany you, Elian, your daughter Marisleysis, and an agreed number of other members of your family to Washington, D.C., for this meeting. Before the meeting, Juan Miguel Gonzalez will have an opportunity to meet privately with his son. During the meeting, Elian will remain with Ms. Urquiola, and INS will have custody and care of Elian during that time. After the meeting, care and parole of Elian will be transferred to Juan Miguel Gonzalez. These successive transfers of parole and care are being ordered pursuant to 8 C.F.R. 212.5,235.2,236.3 (1999).

If you do not wish to meet with Juan Miguel Gonzalez as described above, District Director Bob Wallis and I hereby instruct you to present Elian at the same time and place, i.e., the Main Coast Guard Gate at Opa-Locka Airport, at 10 a.m. on Thursday, April 13. At that time, the parole of Elian into your care will be revoked, and care of Elian will be temporarily transferred to Ms. Urquiola, who will bring Elian to Washington, D.C. Once Elian has arrived in Washington, D.C., he will be paroled into the care of his father. These successive transfers of parole and care are being ordered pursuant to 8 C.F.R. 212.5,235.2,236.3 (1999).

You and your representatives have frequently stated in the last several weeks that while you did not agree with the Department

of Justice's determination in this case or the federal judge's ruling upholding it, you would nevertheless abide by the law. The time has now come to carry through on that commitment, above all for the sake of a boy who deserves to have his reunion with his father take place without any further conflict or stress.

Please contact Mr. Wallis ... with your response to this letter.

APE- 04/13/00 01:44:31

WHA Press Guidance
April 12, 2000

To: Janelle Jones
Caryn Hollis
Wendy Patten

fr: Naim
* Please clear
by 11:30.
Thanks.

Cuba: Elián

Background ONLY: Last night, April 11, it was announced that Lázaro González would bring Elian to Washington to reunite the child with his father. The chosen site for the meeting is the Vatican Embassy (officially, the Embassy of the Holy See. At about midnight Lázaro Gonzalez announced that he would not be coming to Washington after all. The situation in Miami now is fluid, with Sister Jeanne having just escorted Elian and Lararo to her residence, reportedly picking Marileysis up en route.

Question: Situation update on Elián González and visas?

Answer: **SIX VISAS HAVE BEEN ISSUED, THE REMAINING 22 VISA**

APPLICATIONS REMAIN UNDER REVIEW.

IF PRESSED ONLY

Question: Is it true that the Vatican Embassy might be the locale used to reunite Elian and his father?

Answer: **THE PAPAL NUNCIO'S OFFICE AGREED AT THE REQUEST OF BOTH PARTIES TO MAKE THE NUNCIATURE AVAILABLE TO FACILITATE THE PROCESS**

Question: What role did the Department play in setting up this meeting?

Answer: **THE DEPARTMENT'S ROLE IN THIS MATTER HAS BEEN TO COMMUNICATE WITH THE PAPAL NUNCIO'S OFFICE AS REQUESTED BY THE DEPARTMENT OF JUSTICE.**

ELIÁN GONZÁLEZ: EFFORTS TO KEEP HIM IN THE U.S.**Background:**

The situation in Miami now is fluid, but INS expects Elián to be reunited with his father this week. Dan Burton (R-IN) subpoenaed Elián to testify before a Congressional committee on February 10 but it did not take place. Connie Mack (R-FL) has introduced a bill, co-sponsored by Lott, Helms, and Torricelli, granting Elián citizenship. Republicans Chuck Hagel and Peter Fitzgerald (IL) oppose the bill. On April 11 Lott stated that he has been unable to win agreement on legislation to grant Elián and his family citizenship or residency. Senators Dodd and Boxer have co-sponsored a bill calling on the Immigration and Naturalization Service to return Elián to his father immediately. Senator Hatch held a hearing on March 1 at which time U.S. family members and other interested parties were interviewed. On March 21, Federal district court judge Moore dismissed the request by Elián's Miami relatives to force INS to grant Elián an asylum hearing.

Question:

What is the Department's role in this case?

Answer:

- From the beginning, we have been concerned for Elián's well-being and have sought to ensure that the process of reaching a decision in this case was undertaken in a deliberate and considered manner.
- The Department's primary role has been to communicate with the Government of Cuba, to facilitate contact between the Immigration and Naturalization Service (INS) and Elián González's father and to issue visas for Elián's immediate family members and others as necessary in conjunction with this case.

- On January 5 the INS made public its decision that only Elián father can speak for Elián on immigration issues and the father has asked that his child be returned to him. We support that decision.
- The rights of the parents are recognized internationally and have been a central tenet of our work on behalf of Americans.
- The USG has determined that this case is not about custody. When his mother died there was a surviving parent who was exercising parental rights.
- Were there a similar case to that of Elián involving an American child abroad, the Department of State would expect the foreign government to return the child to the surviving parent, wherever that parent may be.
- To that end, we offered to expedite consideration of visa requests by Elián's family to travel to the United States, should they wish to do so.
- On April 4 we issued visas to Elián's father, step-mother, half-brother, his 11 year-old cousin, a teacher and a pediatrician.

- On April 6, Elián's father, step-mother and half-brother arrived in Washington.
- We are optimistic that Elián will be reunited with his father very soon.

Torres, Natly

From: Torres, Natly
Sent: Wednesday, April 12, 2000 1:29 PM
To: Shapiro, Charles S; Rodriguez, Lula; Snyder, Susan L.; Arreaga-Rodas, Luis E.; Doherty, Kathleen A.; Abramson, Karin J.; Brown, Catherine W; Harty, Maura A; Miele, Wayne; Trejo, Maria A.
Cc: O'Brien, James C.
Subject: Q and A for S for SAFCO (Please clear)



Apr 12- Elian Q & A for
SAFCO....

It's more on ELIAN! Attached is guidance to be cleared no later than 3pm for the Secretary's appearance before SAFCO on Thursday. Most of the language is pre-cleared and has been used by S on previous hill appearances. The background is too lengthy but I suppose H will decide what info they need on congressional tactics in this case. Also, the last three Q and A have changed to reflect the latest information.

I thank you in advance for helping me get this to the staffers in a timely fashion.

-Natly

To: Carolyn Hollis
Brendy Patten
Janell Jones

Fr: Natly

4 pages

Shanks!