

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 11-23376-CIV-Lenard

RUBEN CAMPA  
[FERNANDO GONZALEZ],  
Plaintiff,

v.

UNITED STATES,  
Defendant

**ATTACHMENT A**

September 8, 2006, *Miami Herald* newspaper article



1 of 1 DOCUMENT

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**The Miami Herald**

Found on Miami.com  
The Miami Herald

September 8, 2006 Friday

**SECTION:** A; Pg. 1

**LENGTH:** 1100 words

**HEADLINE:** 10 Miami journalists take U.S. pay;

At least 10 local journalists accepted U.S. government pay for programs on Radio Marti or TV Marti. El Nuevo Herald fired two of them Thursday for conflict of interest.

**BYLINE:** OSCAR CORRAL, ocorral@miamiherald.com

**BODY:**

At least 10 South Florida journalists, including three from El Nuevo Herald, received regular payments from the U.S. government for programs on Radio Marti and TV Marti, two broadcasters aimed at undermining the communist government of Fidel Castro. The payments totaled thousands of dollars over several years.

Those who were paid the most were veteran reporters and a freelance contributor for El Nuevo Herald, the Spanish-language newspaper published by the corporate parent of The Miami Herald. Pablo Alfonso, who reports on Cuba and writes an opinion column, was paid almost \$175,000 since 2001 to host shows on Radio Marti and TV Marti. El Nuevo Herald freelance reporter Olga Connor, who writes about Cuban culture, received about \$71,000, and staff reporter Wilfredo Cancio Isla, who covers the Cuban exile community and politics, was paid almost \$15,000 in the last five years.

Alfonso and Cancio were dismissed after The Miami Herald questioned editors at El Nuevo Herald about the payments. Connor's freelance relationship with the newspaper also was severed.

Alfonso and Cancio declined to comment. Connor was unavailable for comment.

Jesús Díaz Jr., president of the Miami Herald Media Co. and publisher of both newspapers, expressed disappointment, saying the payments violated a "sacred trust" between journalists and the public.

"Even the appearance that your objectivity or integrity might have been impaired is something we can't condone, not in our business," Díaz said. "I personally don't believe that integrity and objectivity can be assured if any of our reporters receive monetary compensation from any entity that he or she may cover or have covered, but particularly if it's a government agency."

Other journalists receiving payments from the U.S. Office of Cuba Broadcasting, which runs Radio and TV Marti, included: Diario Las Americas opinion page editor Helen Aguirre Ferre and reporter/columnist Ariel Remos; Channel 41 news director Miguel Cossio; and syndicated columnist Carlos Alberto Montaner, whose opinions appear in the pages of El Nuevo Herald and The Miami Herald.

#### GOVERNMENT PROJECT

Radio and TV Marti are U.S. government programs created to promote democracy and freedom in Cuba. Their programming cannot be broadcast within the United States because of anti-propaganda laws. Radio and TV Marti have received \$37 million this year.

The payments to journalists were discovered in documents recently obtained by The Miami Herald as a result of a federal Freedom of Information Request filed on Aug. 15.

#### OWN RESPONSIBILITY

Pedro Roig, the director of the Office of Cuba Broadcasting since 2003, said he has sought to improve the quality of news by, among other things, hiring more Cuban exile journalists as contractors. He said it's each journalist's responsibility to adhere to their own ethics and rules.

"We consider them to be good journalists, and people who were formed inside that system who got out [of Cuba] and adapted and made good," Roig said. "In reality, I feel very satisfied."

Journalism ethics experts called the payments a fundamental conflict of interest. Such violations undermine the credibility of reporters to objectively cover key issues affecting U.S. policy toward Cuba, they said.

Iván Román, executive director of the National Association of Hispanic Journalists, said the payments from TV and Radio Marti posed a clear conflict of interest.

"It's definitely a line that journalists shouldn't be crossing," said Román, a former El Nuevo Herald journalist. "It's clear the medium has a particular agenda. If they cover Cuban issues, it could be seen as a conflict."

El Nuevo Herald Executive Editor Humberto Castello said he hadn't been aware that the three writers were being paid by the federal government.

"I lament very much that I had not been informed before by them," Castello said. "We discussed the situation with them and they were both dismissed immediately."

#### POPULAR FIGURES

The journalists involved are among the most popular in South Florida, and many were reporting on issues involving Radio or TV Marti for their news organizations.

Channel 41 reporter Juan Manuel Cao, who received \$11,400 this year from TV Marti, made news in July when he confronted Castro during an appearance in Argentina by pressing the Cuban leader to explain why his government had not allowed a well-known doctor and dissident, Hilda Molina, to leave the island to visit her son in Argentina.

During the exchange, Castro openly questioned Cao if anyone was paying him to ask that question. The Cuban government has long contended that some South Florida Spanish-language journalists were on the federal payroll.

"There is nothing suspect in this," Cao said. "I would do it for free. But the regulations don't allow it. I charge symbolically, below market prices."

#### DEFENDS ROLE

Ferre, the opinion page editor for *Diario las Americas*, was paid \$4,325 from 2001 to 2005. She said the payments did not compromise her journalistic integrity. She was paid to be a guest on TV Marti shows and said her point of view was never suppressed.

"Guests are being paid for their time that they have to take in order to be able to accommodate the program," she said.

Ethicists say that it's common for journalists to be compensated by other media outlets but not by the government, built on principles that espouse an independent press.

"This is such an obvious textbook case," said University of Florida journalism professor Jon Roosenraad. "This is exactly like a business reporter during the day going out and moonlighting as a PR [public relations] person for a local company at night and then going back to the paper the next day and writing about 'his' company."

Total payouts since 2001 range from \$1,550 to Radio Mambi commentator Ninoska Perez-Castellón to \$174,753 for El Nuevo Herald's Alfonso, the government payment records show. The payments -- which range from \$75 to \$100 per appearance -- are to host or appear on the government-produced shows.

The Miami Herald's review of dozens of articles by the El Nuevo Herald journalists -- including several about TV Marti or Radio Marti -- found no instance in which the reporters or columnists disclosed that they had received payment.

Two ethics experts compared it to the case of Armstrong Williams in 2005, when it was revealed that the Bush administration had paid the prominent pundit to promote its education policy, No Child Left Behind, on his nationally syndicated television show.

Herald staff writers Jasmine Kripalani, Luisa Yanez, Casey Woods and Alfonso Chardy contributed to this report.

**LOAD-DATE:** September 8, 2006



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

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RUBEN CAMPA  
[FERNANDO GONZALEZ],  
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UNITED STATES,  
Defendant

ATTACHMENT B

Excerpts from Office of Cuba Broadcasting contracts and purchase orders

published at [www.pslweb.org/reporters-for-hire/documents-released/](http://www.pslweb.org/reporters-for-hire/documents-released/)

**ORDER FOR SUPPLIES OR SERVICES**

**IMPORTANT: Mark all purchases and prices with contract and/or order numbers**

1. DATE OF ORDER 05/11/2001		2. CONTRACT NO. (If any)		3. PAGE OF PAGES 1   3	
3. ORDER NO. P.10-8160		4. REQUIREMENT/REFERENCE NO. 00-2013		5. NAME OF CONSIGNEE Office of Cuba Broadcasting	
6. ISSUING OFFICE (Address corresponding to Office of Cuba Broadcasting) 4201 N.W. 77th Avenue Miami, FL 33166		7. STREET ADDRESS 4201 N.W. 77th Avenue Miami, FL 33166		8. ZIP CODE FL 33166	
9. CITY Miami		10. STATE FL		11. ZIP CODE 33166	
12. NAME OF CONTRACTOR HELEN FERRER		13. COMPANY NAME		14. TYPE OF ORDER <input checked="" type="checkbox"/> PURCHASE REFERENCE YOUR: <input type="checkbox"/> DELIVERY	
15. CITY [REDACTED]		16. STATE FL		17. ZIP CODE 33166	
18. ACCOUNTING AND APPROPRIATIONS DATA 9568-01-X0208-1085-1-448610-8051-2580		19. BUSINESS CLASSIFICATION (Check appropriate box(es)) <input checked="" type="checkbox"/> SMALL <input type="checkbox"/> OTHER THAN SMALL		20. DISCOUNT TERMS Net 30	
21. PROB. POINT Destination		22. GOVERNMENT BUDG. 13. PLACE OF ACCEPTANCE Destination		23. ORDER DATE POINT 05/08/2001	
24. ITEM NO. 0001		25. SUPPLIES OR SERVICES Tax ID Number: (b) (6) DUNS Number: Not Available Serve as guest for the recording of round table discussion program "Actualidad Mundial" on 5/8/01 Continued ...		26. QUANTITY ORDERED 2 EA	
27. UNIT PRICE 75.00		28. AMOUNT 150.00		29. QUANTITY ACCEPTED [REDACTED]	
30. SHIPPING POINT		31. GROSS SHIPPING WEIGHT		32. INVOICE NO.	
33. NAME Office of Cuba Broadcasting		34. MAIL INVOICE TO:		35. AMOUNT 90.00	
36. STREET ADDRESS (or P.O. Box) 4201 N.W. 77th Avenue		37. CITY Miami		38. STATE FL	
39. ZIP CODE 33166		40. NAME (Typed) Maly Ann Acpps		41. TITLE CONTRACTING/ORDERING OFFICER	
42. UNITED STATES OF AMERICA		43. SIGNATURE		44. PREVIOUS EDITION NOT USABLE	

NON TECHNICAL  
PREVIOUS EDITION NOT USABLE

OPTIONAL FORM NO. 347 (Rev. 8/88)  
Prescribed by GSA FPMR (41 CFR) 101-11.6





ORDER FOR SUPPLIES OR SERVICES SCHEDULE - CONTINUATION						PAGE OF PAGES	
IMPORTANT: Mark all packages and boxes with contract number and order numbers						3	
DATE OF ORDER 02/21/2001						3	
CONTRACT NO.						3	
ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY ORDERED (C)	UNIT PRICE (D)	AMOUNT (E)	QUANTITY ACCEPTED (F)	3	
	ORDER NO. P110-8038						
	Total amount of award: \$75.00. The obligation for this award is shown in box 17 (1).						

ORDER FOR SUPPLIES OR SERVICES						PAGE OF PAGES	
IMPORTANT: Mark all packages and boxes with contract number and order numbers						1	
DATE OF ORDER 03/17/2001						1	
CONTRACT NO.						3	
ORDER NO.	RECUREMENT/REFERENCE NO.	NAME OF CONTRACTOR	STREET ADDRESS	CITY	STATE	ZIP CODE	ET.
2110-8108	00-2013	Office of Cuba Broadcasting	4201 N.W. 77th Avenue	Miami	FL	33166	
1. ISSUING OFFICE (Address correspondence to) Office of Cuba Broadcasting 4201 N.W. 77th Avenue Miami, FL 33166							
7. TO: BELLEN ZENRE							
8. COMPANY NAME (b) (6)							
9. STREET ADDRESS (b) (6)							
10. CITY (b) (6)							
11. STATE FL							
12. ZIP CODE 33166							
13. ACCOUNTING AND APPLICATIONS DATA 9568-01-XC208-1085-1-446610-8051-2580							
14. BUSINESS CLASSIFICATION (Check appropriate boxes) (a) SMALL (b) OTHER THAN SMALL (c) DISADVANTAGED (d) WOMEN-OWNED							
15. GOVERNMENT BR/NO. 03/06/2001							
16. DISCOUNT TERMS REG 30							
17. SCHEDULE (See notes for frequency)							
ITEM NO. (A)	SUPPLIES OR SERVICES (B)	QUANTITY ORDERED (C)	UNIT PRICE (D)	AMOUNT (E)	QUANTITY ACCEPTED (F)	3	
0001	TAX ID Number: (b) (6) DUNS Number: Not Available Serve as guest for the recording of round table discussion program "Actualidad Mundial" on 3/6/01 Continued ...	2 EA	75.00	150.00			
18. SHIPPING POINT							
19. GROSS SHIPPING WEIGHT							
20. INVOICE NO.							
21. MAIL INVOICE TO:							
22. NAME Office of Cuba Broadcasting							
23. STREET ADDRESS 4201 N.W. 77th Avenue (if P.O. box)							
24. CITY Miami							
25. STATE FL							
26. ZIP CODE 33166							
27. UNITED STATES OF AMERICA BY Signature							
28. NAME (Print) Mary Ann Alspa							
TITLE CONTRACTING/ORDERING OFFICER							
NBI FORM 135-100 PREVIOUS EDITION NOT USABLE OPTIONAL FORM 349 (Rev. 10/1999) (Use for orders only)							









**AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT**

1. CONTRACT TO CODE: \_\_\_\_\_ PAGE OF PAGES: 1 2

2. AMENDMENT/MODIFICATION NO. 000001 3. EFFECTIVE DATE 01/24/2001 4. PROJECT NO. (if applicable) \_\_\_\_\_

5. ISSUED BY CODE OCB 7. AMENDMENT BY (if other than item 5) CODE OCB

Office of Cuba Broadcasting  
4201 N.W. 77th Avenue  
Miami, FL 33166

8. NAME AND ADDRESS OF CONTRACTOR (in, street, county, state and zip code)  
WILFREDO CANCIO ISLA  
(b) (6)

9. NAME AND ADDRESS OF SOLICITATION NO. \_\_\_\_\_

10. DATED (SEE ITEM 7) 10/23/2000

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

12. THIS ITEM ONLY APPLIES TO AMENDMENTS OF CONTRACTS

13. THIS ITEM ONLY APPLIES TO AMENDMENTS OF CONTRACTS

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Completed by CFP within heading, including amendment/modification number where feasible)

15. NAME AND TITLE OF ISSUING OFFICE (Type or print)

16. CONTRACT NUMBER

17. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)

18. DATE SIGNED

19. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)

20. DATE SIGNED

21. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)

22. DATE SIGNED

**CONTINUATION SHEET** REFERENCE NO. OF DOCUMENT BEING CONTINUED

NAME OF OFFICER OR CONTRACTOR  
WILFREDO CANCIO ISLA

PROJECT NO. (if applicable)  
000001

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT PRICE (E)	AMOUNT (F)
	From \$150.00 to \$1200.00 Obligated Amount for this modification: \$1050.00			
	CHANGES FOR DELIVERY LOCATION: OCB Quantity changed from 2 to 16 Amount changed from \$150.00 to \$1200.00			
	CHANGES FOR ACCOUNTING CODE: 9568-01-X0208-1080-1-91036-448420-8050-2580 Quantity changed from 2 to 16 Amount changed from \$150.00 to \$1200.00			
	Delivery: 10/01/2000 FOB: Destination Discount Terms: Net 30 Period of Performance: 10/01/2000 to 09/30/2001 Delivery Location Code: OCB Office of Cuba Broadcasting 4201 N.W. 77th Avenue MIAMI FL 33166			

OPTIONAL FORM NO. 348  
Approved by GSA  
Part of GPO's 5710



**AMENDMENT OF SOLICITATION/ MODIFICATION OF CONTRACT**

1. CONTRACT ID CODE: \_\_\_\_\_

2. AMENDMENT/ MODIFICATION NO.: 000002

3. EFFECTIVE DATE: 02/03/2001

4. REQUEST FOR PROPOSURE NO.: \_\_\_\_\_

5. PROJECT NO. (if applicable): \_\_\_\_\_

6. ADMINISTERED BY (if other than Item 4): CODE: OCB

Office of Cuba Broadcasting  
4201 N.W. 77th Avenue  
Miami, FL 33166

7. NAME AND ADDRESS OF CONTRACTOR (in, with, or for use of):  
MILFREDO CANCICO ISLA  
(b) (6)

8. NAME AND ADDRESS OF SOLICITATION:  
Net 30  
Period of Performance: 10/01/2000 to 09/30/2001  
Delivery Location Code: OCB  
Office of Cuba Broadcasting  
4201 N.W. 77th Avenue  
Miami FL 33166

9. DATED (SEE ITEM 11): X 10/25/2000

10. MODIFICATION OF CONTRACT/ORDER NO.: X 109-1036

11. DATE (SEE ITEM 11): 10/25/2000

12. FACILITY CODE: (b) (6)

13. THIS ITEM ONLY APPLIES TO AMENDMENTS OF MODIFICATIONS:  
 a. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify method) THE CHANGES SET FORTH IN ITEM 14 HAVE MADE IN THE CONTRACT ORDER NO. 109-1036.  
 b. THE ABOVE NAMED CONTRACTOR IS MERGED TO REFLECT THE ADMINISTRATIVE CHANGES (such as change in party office, incorporation only, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 48.105.  
 c. THIS SUPPLEMENTAL AGREEMENT IS ISSUED AND PURSUANT TO AUTHORITY OF:  
 d. OTHER (Specify type of modification and authority):  
 e. IMPORTANT: Contractor is not required to sign this document and return copies to the issuing office.  
 Task ID Number: (b) (6)  
 DONS Number: Not Available

14. THIS ITEM ONLY APPLIES TO MODIFICATION OF CONTRACTS:  
 a. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify method) THE CHANGES SET FORTH IN ITEM 14 HAVE MADE IN THE CONTRACT ORDER NO. 109-1036.  
 b. THE ABOVE NAMED CONTRACTOR IS MERGED TO REFLECT THE ADMINISTRATIVE CHANGES (such as change in party office, incorporation only, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 48.105.  
 c. THIS SUPPLEMENTAL AGREEMENT IS ISSUED AND PURSUANT TO AUTHORITY OF:  
 d. OTHER (Specify type of modification and authority):

15. THIS ORDER IS HEREBY AMENDED TO CHANGE QUANTITY FROM 16 TO 52

NEW TOTAL \$3,900.00  
 OLD TOTAL 1,200.00  
 INCREASE \$2,700.00

Continued ...  
 Except as provided herein, all terms and conditions of the document referenced in Item 14 of USA, as they have been amended, remain unchanged and in full force and effect.  
 15A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)  
 15B. CONTRACTING OFFICER  
 15C. DATE SIGNED  
 15D. UNITED STATES OF AMERICA  
 15E. DATE AWARDED  
 15F. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)  
 15G. UNITED STATES OF AMERICA  
 15H. DATE AWARDED  
 15I. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)  
 15J. UNITED STATES OF AMERICA  
 15K. DATE AWARDED

**CONTINUATION SHEET** REFERENCE NO. OF DOCUMENT BEING CONTINUED: 109-1036/000002

NAME OF OFFICER OR CONTRACTOR: MILFREDO CANCICO ISLA

ITEM NO. (A)	SUPPLEMENTARY (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
	Delivery: 09/30/2001 FOB: Destination Discount Terms: Net 30 Period of Performance: 10/01/2000 to 09/30/2001 Delivery Location Code: OCB Office of Cuba Broadcasting 4201 N.W. 77th Avenue Miami FL 33166				

FORM 754-01-100-0007  
 OPTIONAL FORM 754-01-100-0007  
 Provided by GSA  
 FAR 48 CFR 13.719

**ORDER FOR SUPPLIES OR SERVICES**

**IMPORTANT:** Mark all packages and items with contract number and order number.

1. DATE OF ORDER: 10/25/2000  
 2. CONTRACT NO. (if any):  
 3. ORDER NO.: FL09-1036  
 4. REQUISITION/REFERENCE NO.: 00-1928  
 5. SELLING OFFICE (Address complete to Office of Cuba Broadcasting):  
 4201 N.W. 77th Avenue  
 Miami, FL 33166

6. BUYER'S OFFICE (Address complete to Office of Cuba Broadcasting):  
 4201 N.W. 77th Avenue  
 Miami, FL 33166

7. TO: (b)(6)  
 8. COMPANY NAME: WILFREDO CANCITO ISLA  
 9. CITY: (b)(6)  
 10. STATE: FL  
 11. ZIP CODE: 33166

12. BUSINESS CLASSIFICATION (Check appropriate box(es)):  
 1. SMALL  
 2. DISADVANTAGED  
 3. OTHER THAN SMALL  
 4. WOMEN-OWNED

13. PLACE OF DESTINATION: 10/01/2000  
 14. DELIVERY DATE (ON OR BEFORE DATE):  
 15. ORDER TERMS: Net 30

16. SHIPPING POINT: 17. SCHEDULE (See reverse for details):  
 18. GROSS SHIPPING WEIGHT:  
 19. INVOICE NO.:  
 20. INVOICE TO: 21. BILL INVOICE TO:  
 Office of Cuba Broadcasting  
 4201 N.W. 77th Avenue  
 Miami, FL 33166

22. UNITED STATES OF AMERICA  
 23. NAME (Typed): Ted Bersell  
 TITLE: CONTRACTING/ORDERING OFFICER

OPTIONAL FORM NO. 348  
 PREVIOUS EDITIONS MAY OBSOLETE  
 (Use only when an offer is solicited)

**ORDER FOR SUPPLIES OR SERVICES**

**SCHEDULE - CONTINUATION**

DATE OF ORDER: 10/25/2000  
 CONTRACT NO.:  
 ORDER NO.: FL09-1036

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY ORDERED (C)	UNIT PRICE (D)	AMOUNT (E)	QUANTITY ACCEPTED (F)
0001	<p>IRS 1099 Apples SSN: (b)(6)</p> <p>Funds are not presently available for performance under this contract beyond October 25, 2000. The Government's obligation for performance of this contract beyond that date is contingent upon the availability of appropriated funds from which payment for contract purposes can be made. No legal liability on the part of the Government for any payment may arise for performance under this contract beyond October 25, 2000, until funds are made available to the Contracting Officer for performance and until the Contractor receives notice of availability, to be confirmed in writing by the Contracting Officer.</p> <p>REQUEST FOR PROGRAMS                      Vendor will participate in a program once a week at \$75.00. The name of the program is "A Debate"</p> <p>COST/QUANTITY:                      News VOA Rate Schedule for III.N.4. The rate is \$75.00 for participation in the program "A Debate". A total of fifty two (52) shows, one time a week is needed for the FY-2000, for a total of up to three thousand nine hundred dollars (\$3,900).</p> <p>The Office of Cuba Broadcasting (OCB) is not obligated to purchase any definite quantities or dollar amounts under this Agreement.</p> <p>Radio Marti reserves the right to edit in order to adhere to programming needs. Radio Marti reserves the right to periodically ask commentators to provide commentaries on specific issues of Continued ...</p>	2	EA	150.00	

TOTAL CARRIED FORWARD TO LIST PAGE (ITEM 17)(B)  
 \$150.00

OPTIONAL FORM NO. 348  
 PREVIOUS EDITIONS MAY OBSOLETE  
 (Use only when an offer is solicited)



ORDER FOR SUPPLIES OR SERVICES SCHEDULE - CONTINUATION					PAGE OF PAGES	
ITEM NO.	SUPPLIES/SERVICES	QUANTITY ORDERED (Q1)	UNIT PRICE (U1)	AMOUNT (P1)	QUANTITY ACCEPTED (Q2)	
10/25/2000	<p>IMPORT/MT. Use as package and sign with vendor and/or order numbers. CONTRACT NO.</p> <p>ORDER NO. P103-1035</p> <p>(A) Importance to Radio Marti listeners. Radio Marti will allow the use of its studios for recording of shows.</p> <p>Attachments: Purchase Agreement (please read, sign and return within 10 days of receipt) BBS Supplemental Terms and Conditions, 09-347 (3/10) Attached. Total amount of award: \$150.00. The obligation for this award is shown in box 17(i).</p>					3
<p>IMPORT/MT. Use as package and sign with vendor and/or order numbers. CONTRACT NO.</p> <p>ORDER NO. P103-1035</p>						3
<p>TOTAL CARRIED FORWARD TO USE PAGE ITEM 17(I)</p>						

PURCHASE ORDER VENDOR (Talent Vendor - Professional Services) Requisition - Award - Invoice				Page 1 of 2	
ISSUING OFFICE Vendor Form (POV 0400)	Organization	Purchase Order Number	Fiscal Year	Date	Check <input type="checkbox"/> MNC <input type="checkbox"/> FIC <input type="checkbox"/> RCNE
OFFICE OF Cuba Broadcasting 4201 N.W. 77th Avenue Miami, FL 33166	OFFICE OF Cuba Broadcasting 4201 N.W. 77th Avenue Miami, FL 33166	P003-1057 Regulation (Document) Number 00-2139	07	09/30/2000	
Contractor WILFREDO CAMCRO ISLA (b)(6)	Regulating Office Office of Cuba Broadcasting 4201 N.W. 77th Avenue Miami, FL 33166	Ship/Deliver to Office of Cuba Broadcasting 4201 N.W. 77th Avenue Miami, FL 33166			
(b)(6)	Signature:	Date:			
This Purchase Order is regulated under authority of P.L. 102-81 Cong. Section 502(C)(5) as amended.					
Item No.	Please Furnish the Following	Qty.	Unit	Unit Cost	Total Cost
0001	<p>Tax ID Number: (b)(6)</p> <p>URS Number: Not Available</p> <p>Delivery: 09/18/2000</p> <p>Period of Performance: 09/18/2000 to 09/30/2000</p> <p>Person to serve as a participant in the program called "Debate".</p> <p>Number of Programs: 1</p> <p>Continued ...</p>		1 EA	75.00	75.00
Contractor warrants that all work performed hereunder is original work and will not violate the rights of third parties. Contractor hereby assigns all rights in and to said work to the Government receiving no Invented Benefit.					
<p>Exceptions:</p> <p>Differences</p> <p>Account verified correct for</p> <p>By:</p>					
<b>APPROVALS</b>					
Administrative Officer:	Funds Available:	Devolving Officer:			
	9566-00-10208-1080-448420-8050-2580	Mary Ann Arpa			
Signature:	Date:	Signature:	Date:	Date:	
<b>CERTIFICATIONS</b>					
Regulating Office		Contractor		Date:	
The items were received in good order except as noted above:		I certify that the bill is correct and that payment has not been received			
Signature:		Signature:		Date:	
Received by:		Title:		Date:	

Item No.	Quantity	Unit	Unit Cost	Total Cost
<p align="center"><b>Purchase Order Vendor</b> (Talent Vendor - Professional Services) <b>Requisition - Award - Invoice</b></p>				
<p>Please Furnish the Following</p>				
<p>BBO Supplemental Terms and Conditions (Individual), OF-347 and TR-44 (3/00) Attached.</p>				
<p>Total amount of award: \$75.00</p>				

ORDER FOR SUPPLIES OR SERVICES		PAGE OF PAGES	
<p><b>IMPORTANT:</b> Merit of packages and papers with contract and/or order numbers</p>		1	3
1. DATE OF ORDER 08/16/2000	2. CONTRACT NO. (if any)	3. SHIP TO:	
3. ORDER NO. P010-0311	4. RESOLUTION/REFERENCE NO. 00-1012	5. NAME OF CONSIGNEE Office of Cuba Broadcasting	
<p>6. ORDER OFFICE (Address correspondence to) Office of Cuba Broadcasting Purchasing Department Magnavision Building 4201 N.W. 77th Avenue Miami FL 33166</p>			
7. TO:	8. CITY Miami	9. STATE FL	10. ZIP CODE 33166
<p>11. NAME OF CONTRACTOR PABLO ALFONSO</p>			
<p>12. COMPANY NAME (b) (6)</p>			
<p>13. STREET ADDRESS (b) (6)</p>			
<p>14. CITY (b) (6)</p>			
<p>15. STATE (b) (6)</p>			
<p>16. ACCOUNTING AND APPROPRIATING DATA 9568-00-X0208-1095-0-448610-8051-2580</p>			
<p>17. BUSINESS CLASSIFICATION (Check appropriate square) <input type="checkbox"/> 1. SMALL <input type="checkbox"/> 2. OTHER THAN SMALL <input checked="" type="checkbox"/> 3. DISADVANTAGED <input type="checkbox"/> 4. WOMEN-OWNED</p>			
<p>18. F.O.B. POINT DESTINATION 19. PLACE OF ACCEPTANCE Destination</p>			
<p>20. INSPECTION DESTINATION Destination</p>			
<p>21. RELEASE TO B. POINT ON OR BEFORE (Date) 08/09/2000</p>			
<p>22. DISCOUNT TERMS Net 30</p>			
<p>23. SCHEDULE (See notes for frequencies)</p>			
ITEM NO. 0001	SUPPLIES OR SERVICES (b) (6) Tax ID Number: (b) (6) DUNS Number: Not Available Period of Performance: 10/01/1999 to 09/30/2000 Serve as guest for the recording of sound Continued ...	QUANTITY ORDERED 1 BA	UNIT PRICE 75.00
18. SHIPPING POINT		19. GROSS SHIPPING WEIGHT	20. INVOICE NO.
21. MAIL INVOICE TO: OFFICE OF Cuba Broadcasting		22. AMOUNT \$0.00	23. QUANTITY ACCEPTED \$0.00
24. STREET ADDRESS (for P.O. box) 4201 N.W. 77th Avenue		25. STATE FL	26. ZIP CODE 33166
27. UNITED STATES OF AMERICA (Signature)		28. NAME (Typed) Mary Ann Jampa	29. TITLE TITLE COMMUNICATIONS OFFICER
<p>NET 12/06/11 13:00 PREVIOUS EDITION NOT VALID</p>			

9010 1/16/12  
 CONTRACT NO. (If any) \_\_\_\_\_ PAGE 2 OF 3

**SUPPLEMENTAL INVOICING INFORMATION**  
 If desired, this order (or a copy thereof) may be used by the Contractor as the Contractor's invoice, instead of a separate invoice, provided the following statement, (signed and dated) is on (or attached to) the order. Payment is requested in the amount of \$ \_\_\_\_\_. No other invoice will be submitted. However, if the Contractor wishes to submit an invoice, the following information must be provided: contract number (if any), order number, item number(s), description of supplies or services, sizes, quantities, unit prices, and extended totals. Prepaid shipping costs will be indicated as a separate item on the invoice. Where shipping costs exceed \$10 (except for parcel post), the billing must be supported by a bill of lading or receipt. When several orders are included on an ordering activity during the same billing period, consolidated periodic billings are encouraged.

**RECEIVING REPORT**  
 Quantity in the "Quantity Accepted" column on the face of this order has been:  
 by me and conforms to this contract. Items listed below have been rejected for the reasons indicated.  Inspected,  accepted,  received

SIGNATURE NUMBER	DATE RECEIVED		SIGNATURE OF AUTHORIZED U.S. GOVT. REP.	DATE
	PARTIAL	FULL		
TOTAL CONTAINERS	UNION WEIGHT	RECEIVED AT	TITLE	

**ORDER FOR SUPPLIES OR SERVICES SCHEDULE - CONTINUATION**

IMPORTANT: This schedule must appear with contract and/or order numbers.

DATE OF ORDER: 08/16/2000 CONTRACT NO.: \_\_\_\_\_ ORDER NO.: 1010-R311

ITEM NO.	SUPPLIES/SERVICES	QUANTITY ORDERED (Q)	UNIT PRICE (R)	AMOUNT (P)	QUANTITY ACCEPTED (Q)
(A)	Cable discussion program "Mesa Redonda" on 8/9/00				
Total amount of award: \$75.00. The obligation for this award is shown in box 17(1).					

TOTAL CARRIED FORWARD TO 131 PAGE (ITEM 17)(1)





**ORDER FOR SUPPLIES OR SERVICES**  
**SCHEDULE - CONTINUATION**

IMPORTANT: Mark all packages and figures with contract number and order numbers.

DATE OF ORDER: 07/28/2000 CONTRACT NO. PO10-8298

ITEM NO.	SUPPLIES OR SERVICES (B)	QUANTITY ORDERED (C)	UNIT PRICE (D)	AMOUNT (E)	QUANTITY ACCEPTED (F)
(A)	<p>able discussion program "Actualidad Mundial" on 7/25/00</p> <p>Total amount of award: \$150.00. The obligation for this award is shown in box 17(1).</p>				

TOTAL QUANTITY ORDERED TO SET PAGE (ITEM 17)(H)  
\$150.00

TOTAL QUANTITY ACCEPTED TO SET PAGE (ITEM 17)(I)  
\$150.00

**ORDER FOR SUPPLIES OR SERVICES**

IMPORTANT: Mark all packages and figures with contract number and order numbers.

DATE OF ORDER: 02/10/2000 CONTRACT NO. (b)(6)

NAME OF CONSIGNEE: Office of Cuba Broadcasting

STREET ADDRESS: Office of Cuba Broadcasting, Purchasing Department, Magnavision Building, 4201 N.W. 77th Avenue, Miami, FL 33156

STATE: FL ZIP CODE: 33156

NAME OF CONTRACTOR: PABLO ALFONSO

COMPANY NAME: (b)(6)

STREET ADDRESS: (b)(6)

CITY: (b)(6) STATE: FL ZIP CODE: (b)(6)

ACCOUNTING AND APPROPRIATIONS DATA: 9568-00-X0208-1085-0-448610-8031-2540

BUSINESS CLASSIFICATION: (Check appropriate box(es))  
 SMALL  OTHER THAN SMALL  DISADVANTAGED  WOMENOWNED

ORDER POINT: Destination

INSPECTION DESTINATION: (b)(6)

ITEM NO. (A) SUPPLIES OR SERVICES (B) QUANTITY ORDERED (C) UNIT PRICE (D) AMOUNT (E) QUANTITY ACCEPTED (F)

0001	Seave as guest for the recording of round Continued ...	2	EA	75.00	150.00
------	---	---	----	-------	--------

18. SHIPPING POINT: (b)(6)

19. MAIL INVOICE TO: Office of Cuba Broadcasting, 4201 N.W. 77th Avenue, Miami, FL 33156

20. UNITED STATES OF AMERICA BY (Signature)

21. NAME (Title): Mary Ann Amps

TITLE: CONTRACTING/ORDERING OFFICER

OPTIONAL FORM 347 (Rev. 5/84)  
PREVIOUS EDITIONS NOT USABLE





**ORDER FOR SUPPLIES OR SERVICES**

IMPORTANT: Mark all packages and papers with contract and/or order numbers.

1. DATE OF ORDER: 10/21/2000  
 2. CONTRACT NO. (if any): P109-8026  
 3. ORDER NO.: P109-8026  
 4. REQUANT/REFERENCE NO.: 00-2055

5. NAME OF CONTRACTOR: Pablo Alfonso  
 6. COMPANY NAME: Pablo Alfonso  
 7. STREET ADDRESS: 4201 N.W. 77th Avenue, Miami, FL 33166  
 8. CITY: Miami, FL  
 9. STATE: FL  
 10. ZIP CODE: 33166

11. BUSINESS INFORMATION (Check appropriate box(es))  
 (b) (6)  
 12. ACCOUNTING AND APPROPRIATIONS DATA: See Schedule

13. NAME OF CONTRACTOR: Pablo Alfonso  
 14. STREET ADDRESS: 4201 N.W. 77th Avenue, Miami, FL 33166  
 15. CITY: Miami, FL  
 16. STATE: FL  
 17. ZIP CODE: 33166

18. SHIPPING POINT: Office of Cuba Broadcasting  
 19. CROSS SHIPPING HEIGHT: Office of Cuba Broadcasting  
 20. MAIL INVOICE TO: Office of Cuba Broadcasting, 4201 N.W. 77th Avenue, Miami, FL 33166

21. NAME (Firm)  
 BY (Signature): Ted Barcell  
 TITLE CONTRACTING/ORDERING OFFICER

FORM 704-1-10-0000  
 PREVIOUS EDITION NOT VALID  
 OFFICIAL FORM NO. 100  
 MARCH 1967 EDITION  
 GSA GEN. REG. NO. 27

**ORDER FOR SUPPLIES OR SERVICES**

SCHEDULE - CONTINUATION

IMPORTANT: Mark all packages and papers with contract and/or order numbers.

DATE OF ORDER: 10/21/2000  
 CONTRACT NO.: P109-8026

ITEM NO. (IN)	SUPPLIES/SERVICES (B)	QUANTITY ORDERED (LB)	UNIT PRICE (B)	AMOUNT (F)	QUANTITY ACQUIRED (LB)
0001	<p>IRS 1099 Applies SSR: (b) (6)</p> <p>Funds are not presently available for performance under this contract beyond October 25, 2000. The Government's obligation for performance of this contract beyond that date is contingent upon the availability of appropriated funds from which payment for contract purposes can be made. No legal liability on the part of the Government for any payment may arise for performance under this contract beyond October 25, 2000, until funds are made available to the Contracting Officer for performance and until the Contractor receives notice of availability, to be confirmed in writing by the Contracting Officer.</p> <p>Vendor will be an expert guest on the show, "Sin Fedir Fernand", a one hour show to be broadcast once a week with re-broadcast rights, royalty free.</p> <p>Radio Marti reserves the right to edit in order to adhere to programming needs. Radio Marti reserves the right to periodically ask for programs on specific issues of importance to Radio Marti listeners. Radio Marti will allow the use of its studios for recording of shows.</p> <p>Attachments:                      Purchase Order (please read, sign and return within 10 days of receipt)                      DBG Supplemental Terms and Conditions, 09-347 (3/00) Attached.                      Total amount of award: \$400.00. The obligation for this award is shown in box 17(i).</p>	2	EA	200.00	400.00

FORM 704-1-10-0000  
 PREVIOUS EDITION NOT VALID  
 OFFICIAL FORM NO. 100  
 MARCH 1967 EDITION  
 GSA GEN. REG. NO. 27



**AMENDMENT OF SOLICITATION/ MODIFICATION OF CONTRACT**

1. CONTRACT CODE \_\_\_\_\_ 2. PROJECT NO. (if applicable) \_\_\_\_\_

3. EFFECTIVE DATE: 02/07/2001 CODE: OCB

4. REQUESTOR/PURCHASER REQ. NO. \_\_\_\_\_ 5. PROJECT NO. (if applicable) \_\_\_\_\_

6. ISSUED BY: OFFICE OF Cuba Broadcasting  
4201 N.W. 77th Avenue  
Miami, FL 33166

7. ADMINISTERED BY (if other than item 6): OFFICE OF Cuba Broadcasting  
4201 N.W. 77th Avenue  
Miami, FL 33166

8. NAME AND ADDRESS OF CONTRACTOR (Name, street, city, state and zip code):  
PABLO ALFONSO  
[REDACTED]

9. NAME AND ADDRESS OF SOLICITATION NO.:  
[REDACTED]

10. DATE (USE ITEM 11): 10/21/2009

11. MODIFICATION OF CONTRACT/ORDER NO.: 2109-8026

12. DATED (USE ITEM 11): 10/21/2009

13. FACILITY CODE: \_\_\_\_\_

14. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.  
 A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 14.  
 B. THE ABOVE NUMBERED CONTRACT/ORDER NO. IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as change in pricing offers, negotiation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 48.105.  
 C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:  
 D. OTHER (Specify type of modification and authority):

15. SUPPLEMENT: \_\_\_\_\_  
 A. in full. \_\_\_\_\_  
 B. in part. \_\_\_\_\_  
 C. in part. \_\_\_\_\_  
 D. in part. \_\_\_\_\_  
 E. in part. \_\_\_\_\_  
 F. in part. \_\_\_\_\_  
 G. in part. \_\_\_\_\_  
 H. in part. \_\_\_\_\_  
 I. in part. \_\_\_\_\_  
 J. in part. \_\_\_\_\_  
 K. in part. \_\_\_\_\_  
 L. in part. \_\_\_\_\_  
 M. in part. \_\_\_\_\_  
 N. in part. \_\_\_\_\_  
 O. in part. \_\_\_\_\_  
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 Q. in part. \_\_\_\_\_  
 R. in part. \_\_\_\_\_  
 S. in part. \_\_\_\_\_  
 T. in part. \_\_\_\_\_  
 U. in part. \_\_\_\_\_  
 V. in part. \_\_\_\_\_  
 W. in part. \_\_\_\_\_  
 X. in part. \_\_\_\_\_  
 Y. in part. \_\_\_\_\_  
 Z. in part. \_\_\_\_\_

Tax ID Number: (b) (6)  
 DUNS Number: Not Available

ABOVE ORDER IS HEREBY AMENDED TO CHANGE QUANTITY FROM 15 TO 52.

NEW TOTAL \$10,400.00  
 OLD TOTAL 3,000.00  
 INCREASE \$ 7,400.00

Continued ...

15A. NAME AND TITLE OF SENDER (Type or print):  
 15B. CONTRACTOR OFFICER:  
 15C. DATE SIGNED:  
 15D. NAME AND TITLE OF CONTRACTING OFFICER (Type or print):  
 15E. DATE SIGNED:  
 15F. NAME AND TITLE OF CONTRACTING OFFICER (Type or print):  
 15G. DATE SIGNED:

STANDARD FORM 32 (REV. 10-62)  
 Prescribed by GSA  
 FPMR (41 CFR) 101-11.6

CONTINUATION SHEET REFERENCE NO. OF DOCUMENT ISHNO CONTINUED  
 2109-8026/000005

NAME OF OFFEROR OR CONTRACTOR  
 PABLO ALFONSO

ITEM NO. (A)	SUPPLIERS/ SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
	Delivery: 09/30/2001 FOB: Destination Discount Terms: Net 30 Period of Performance: 10/01/2000 to 09/30/2001 Delivery Location Code: OCB Office of Cuba Broadcasting 4201 N.W. 77th Avenue Miami FL 33166				

OPTIONAL FORM NO. 344 (REV. 10-62)  
 Prescribed by GSA  
 FPMR (41 CFR) 101-11.6

ORDER FOR SUPPLIES OR SERVICES		PAGE OF PAGES	
IMPORTANT: Mark all packages and letters with contract and/or order numbers.		1 2	
1. DATE OF ORDER 12/22/1999	2. CONTRACT NO. (if any) PO09-8040	3. NAME OF CONSIGNEE Office of Cuba Broadcasting	
4. ORDER/REFERENCE NO. PO09-8040	5. STREET ADDRESS Office of Cuba Broadcasting 4201 N.W. 77th Avenue Miami, FL 33166	6. CITY Miami, FL	7. STATE FL
8. ZIP CODE 33166	9. CITY Miami, FL	10. STATE FL	11. ZIP CODE 33166
12. NAME OF CONTRACTOR PABLO ALFONSO	13. COMPANY NAME PABLO ALFONSO	14. TYPE OF ORDER <input checked="" type="checkbox"/> PURCHASE REFERENCE YOUR <input type="checkbox"/> DELIVERY	
15. STREET ADDRESS (b) (6)	16. CITY (b) (6)	17. STATE (b) (6)	18. ZIP CODE (b) (6)
19. BUSINESS CLASSIFICATION (check assembly required) 1. SMALL 2. OTHER THAN SMALL 3. EMPLOYMENTED 4. WOMEN-OWNED	20. DELIVER TO (if not point on or before date) Net 30	21. DISCOUNT TERMS	
22. NAME Office of Cuba Broadcasting	23. STREET ADDRESS 4201 N.W. 77th Avenue	24. CITY Miami, FL	25. STATE FL
26. ZIP CODE 33166	27. NAME (Typed) Mary Ann Aude	28. TITLE CONTRACTING/ORDERING OFFICER	
NON-NEGOTIABLE PLEASE PRINT FULL NAME			

ITEM NO. (A)	QUANTITY ORDERED (B)	UNIT PRICE (C)	AMOUNT (D)	QUANTITY RECEIVED (E)
0001	43 EA	200.00	8,600.00	

17. SCHEDULE (See reverse for Revision)

18. SHIPPING POINT

19. GROSS SHIPPING WEIGHT

20. INVOICE NO.

21. MAIL INVOICE TO:

22. UNITED STATES OF AMERICA

23. STREET ADDRESS (if P.O. Box)

24. CITY

25. STATE

26. ZIP CODE

27. NAME (Typed)

28. TITLE CONTRACTING/ORDERING OFFICER

17A. TOTAL /Doc paper

17B. TOTAL

ORDER FOR SUPPLIES OR SERVICES		PAGE OF PAGES	
IMPORTANT: Mark all packages and letters with contract and/or order numbers.		2 2	
1. DATE OF ORDER 12/22/1999	2. CONTRACT NO. PO09-8040	3. NAME OF CONSIGNEE Office of Cuba Broadcasting	
4. ORDER/REFERENCE NO. PO09-8040	5. STREET ADDRESS Office of Cuba Broadcasting 4201 N.W. 77th Avenue Miami, FL 33166	6. CITY Miami, FL	7. STATE FL
8. ZIP CODE 33166	9. CITY Miami, FL	10. STATE FL	11. ZIP CODE 33166
12. NAME OF CONTRACTOR PABLO ALFONSO	13. COMPANY NAME PABLO ALFONSO	14. TYPE OF ORDER <input checked="" type="checkbox"/> PURCHASE REFERENCE YOUR <input type="checkbox"/> DELIVERY	
15. STREET ADDRESS (b) (6)	16. CITY (b) (6)	17. STATE (b) (6)	18. ZIP CODE (b) (6)
19. BUSINESS CLASSIFICATION (check assembly required) 1. SMALL 2. OTHER THAN SMALL 3. EMPLOYMENTED 4. WOMEN-OWNED	20. DELIVER TO (if not point on or before date) Net 30	21. DISCOUNT TERMS	
22. NAME Office of Cuba Broadcasting	23. STREET ADDRESS 4201 N.W. 77th Avenue	24. CITY Miami, FL	25. STATE FL
26. ZIP CODE 33166	27. NAME (Typed) Mary Ann Aude	28. TITLE CONTRACTING/ORDERING OFFICER	
NON-NEGOTIABLE PLEASE PRINT FULL NAME			

ITEM NO. (A)	QUANTITY ORDERED (B)	UNIT PRICE (C)	AMOUNT (D)	QUANTITY RECEIVED (E)
0001	43 EA	200.00	8,600.00	

17. SCHEDULE (See reverse for Revision)

18. SHIPPING POINT

19. GROSS SHIPPING WEIGHT

20. INVOICE NO.

21. MAIL INVOICE TO:

22. UNITED STATES OF AMERICA

23. STREET ADDRESS (if P.O. Box)

24. CITY

25. STATE

26. ZIP CODE

27. NAME (Typed)

28. TITLE CONTRACTING/ORDERING OFFICER

17A. TOTAL /Doc paper

17B. TOTAL

Vendor will be co-hosting the weekend show of "Haciendo Casinos", a one hour show to be broadcast every Saturday. Rebroadcast, lighter, royalty free. This program will be recorded in Radio Marti studios. The rate per show will be \$200.00, a show a week. Radio Marti reserves the right to edit in order to adhere to programming needs. Radio Marti reserves the right to periodically ask programs on specific issues of importance to Radio Marti listeners. Scripts to be received at least 7 days prior to broadcast. All scripts must be turned in no later than 09-27/00, after this day scripts will be returned to the vendor.

BBG Supplemental Terms and Conditions, DP-347 (10/99). Attached.

Purchase Agreement (Please read, sign and return within 10 days of receipt)

Total amount of award: \$8,600.00. The obligation for this award is shown in box 17(d).



**ORDER FOR SUPPLIES OR SERVICES**

**IMPORTANT:** Mark all packages and papers with contract and/or order numbers.

1. DATE OF ORDER: 03/12/2001  
 2. CONTRACT NO. (if any): P110-8106  
 3. ORDER NO.: P110-8106  
 4. NAME OF CONTRACTOR: Pablo Alfonso  
 5. STREET ADDRESS: 4201 N.W. 77th Avenue, Miami, FL 33166  
 6. CITY: Miami, FL  
 7. STATE: FL  
 8. ZIP CODE: 33166  
 9. NAME OF SUPPLIER OR SERVICE: Office of Cuba Broadcasting  
 10. STREET ADDRESS: 4201 N.W. 77th Avenue, Miami, FL 33166  
 11. CITY: Miami, FL  
 12. STATE: FL  
 13. ZIP CODE: 33166  
 14. BUSINESS CLASSIFICATION: (Check appropriate box)  
 15. ACCOUNTING AND APPROPRIATIONS DATA: 9568-01-90208-1085-1-448610-8031-2580  
 16. DELIVERY TO F.O.B. POINT: DESTINATION  
 17. DATE OF ORDER: 03/30/2001  
 18. NET 30  
 19. TAX ID NUMBER: (b)(6)  
 20. ORDER NUMBER: (b)(6)  
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**ORDER FOR SUPPLIES OR SERVICES**

**SCHEDULE - CONTINUATION**

1. DATE OF ORDER: 03/12/2001  
 2. CONTRACT NO.: P110-8106  
 3. ORDER NO.: P110-8106  
 4. NAME OF CONTRACTOR: Pablo Alfonso  
 5. STREET ADDRESS: 4201 N.W. 77th Avenue, Miami, FL 33166  
 6. CITY: Miami, FL  
 7. STATE: FL  
 8. ZIP CODE: 33166  
 9. NAME OF SUPPLIER OR SERVICE: Office of Cuba Broadcasting  
 10. STREET ADDRESS: 4201 N.W. 77th Avenue, Miami, FL 33166  
 11. CITY: Miami, FL  
 12. STATE: FL  
 13. ZIP CODE: 33166  
 14. BUSINESS CLASSIFICATION: (Check appropriate box)  
 15. ACCOUNTING AND APPROPRIATIONS DATA: 9568-01-90208-1085-1-448610-8031-2580  
 16. DELIVERY TO F.O.B. POINT: DESTINATION  
 17. DATE OF ORDER: 03/30/2001  
 18. NET 30  
 19. TAX ID NUMBER: (b)(6)  
 20. ORDER NUMBER: (b)(6)  
 21. ORDER NUMBER: (b)(6)  
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 100. ORDER NUMBER: (b)(6)

**ORDER FOR SUPPLIES OR SERVICES**

**IMPORTANT: Mark all packages and papers with contract and/or order numbers**

1. DATE OF ORDER: 02/27/2001 2. CONTRACT NO. (if any): 3. ORDER NO.: P110-8101 4. REGISTRATION/REFERENCE NO.: 00-2013 5. ISSUING OFFICE (where correspondence is to be sent): Office of Cuba Broadcasting 4201 N.W. 77th Avenue Miami, FL 33166 6. NAME OF CONTRACTOR: PABLO ALFONSO 7. TO: 8. COMPANY NAME: 9. STREET ADDRESS: 10. CITY: MIAMI 11. STATE: FL 12. ZIP CODE: 33166 13. SHIP VIA: 14. TYPE OF ORDER: 15. PURCHASE REFERENCE YORK: 16. DELIVERY REFERENCE YORK: 17. BUSINESS CLASSIFICATION (check appropriate box):  **18**  **19**  **20**  **21**  **22**  **23**  **24**  **25**  **26**  **27**  **28**  **29**  **30**  **31**  **32**  **33**  **34**  **35**  **36**  **37**  **38**  **39**  **40**  **41**  **42**  **43**  **44**  **45**  **46**  **47**  **48**  **49**  **50**  **51**  **52**  **53**  **54**  **55**  **56**  **57**  **58**  **59**  **60**  **61**  **62**  **63**  **64**  **65**  **66**  **67**  **68**  **69**  **70**  **71**  **72**  **73**  **74**  **75**  **76**  **77**  **78**  **79**  **80**  **81**  **82**  **83**  **84**  **85**  **86**  **87**  **88**  **89**  **90**  **91**  **92**  **93**  **94**  **95**  **96**  **97**  **98**  **99**  **00**  **01**  **02**  **03**  **04**  **05**  **06**  **07**  **08**  **09**  **10**  **11**  **12**  **13**  **14**  **15**  **16**  **17**  **18**  **19**  **20**  **21**  **22**  **23**  **24**  **25**  **26**  **27**  **28**  **29**  **30**  **31**  **32**  **33**  **34**  **35**  **36** 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ORDER FOR SUPPLIES OR SERVICES SCHEDULE - CONTINUATION						PAGE OF PAGES	
ITEM NO.	QUANTITY ORDERED (QTY)	UNIT PRICE (U)	AMOUNT (F)	QUANTITY ACC'D (QTY)			
02/23/2001							3
<p>IMPORTANT: Mark all packages and pieces with contract and/or order numbers.</p> <p>ORDER NO. P110-8101</p> <p>DATE OF ORDER CONTRACT NO.</p> <p>SUPPLIES/SERVICES (B)</p> <p>Total amount of award: \$75,00. The obligation for this award is shown in box 17(1).</p>							

ORDER FOR SUPPLIES OR SERVICES						PAGE OF PAGES	
1. DATE OF ORDER	2. CONTRACT NO. (if any)	3. ORDER NO.	4. REQUEST/REFERENCE NO.	5. NAME OF CONTRACTOR	6. SHIP TO		
10/26/2000		P109-1038	90-2053	Office of Cuba Broadcasting		1	3
<p>7. CITY MIAMI FL 33166</p> <p>8. STATE FL 33166</p> <p>9. ZIP CODE FL 33166</p> <p>10. BUSINESS CLASSIFICATION (Check appropriate box(es))</p> <p>11. BUSINESS DESCRIPTION (Check appropriate box(es))</p> <p>12. F.O.B. POINT DESTINATION</p> <p>13. DELIVERY TO OUR POINT OR BEFORE (Date)</p> <p>14. DISCOUNT TERMS</p> <p>15. NET 30</p> <p>16. SUPPLIER'S ADDRESS</p> <p>17. SCHEDULE (Date range for delivery)</p> <p>18. SHIPPING POINT</p> <p>19. GROSS SHIPPING WEIGHT</p> <p>20. INVOICE NO.</p> <p>21. MAIL INVOICE TO:</p> <p>22. UNITED STATES OF AMERICA</p> <p>23. NAME (Print)</p> <p>24. TITLE CONTRACTING/ORDERING OFFICER</p>							



ORDER FOR SUPPLIES OR SERVICES SCHEDULE - CONTINUATION							PAGE OF PAGES		
IMPORTANT: Mark all packages and pieces with contract and/or order numbers.									
DATE OF ORDER	CONTRACT NO.	ORDER NO.	UNIT PRICE (E)	QUANTITY ORDERED (C)	UNIT PRICE (E)	AMOUNT (F)	QUANTITY ACCEPTED (D)		
ITEM NO. (A)	SUPPLIES/SERVICES (B)								
10/26/2000		P109-1038						3	
	IRS 1099 Applies SSN: (b)(6) Funds are not presently available for performance under this contract beyond October 26, 2000. The Government's obligation for performance of this contract beyond that date is contingent upon the availability of appropriated funds from which payment for contract purposes can be made. No legal liability on the part of the Government for any payment may arise for performance under this contract beyond October 26, 2000, until funds are made available to the Contracting Officer for performance and until the Contractor receives notice of availability, to be confirmed in writing by the Contracting Officer.								
0001	REQUEST FOR PROGRAMS: Vendor will participate in two (2) Programs per week. The name of the are the following: "En Vivo".  COST/QUANTITY: Meets VOA rate schedule for III.A.1. Participation is \$50.00 per show, two times a week (2), one hundred four (104) shows per year at a rate of up to \$5,200 per year.  The Office of Cuba Broadcasting (OCB) is not obligated to purchase any definite quantities or dollar amounts under this Agreement.  Radio Marti reserves the right to edit in order to adhere to programming needs and the right to periodically ad for programs on specific issues of importance to Radio Marti listeners.  Attachments: Continued ...	4 EA	50.00	200.00					
TOTAL CARRIED FORWARD TO LIST PAGE (ITEM 17) (H)									

ORDER FOR SUPPLIES OR SERVICES SCHEDULE - CONTINUATION							PAGE OF PAGES		
IMPORTANT: Mark all packages and pieces with contract and/or order numbers.									
DATE OF ORDER	CONTRACT NO.	ORDER NO.	UNIT PRICE (E)	QUANTITY ORDERED (C)	UNIT PRICE (E)	AMOUNT (F)	QUANTITY ACCEPTED (D)		
ITEM NO. (A)	SUPPLIES/SERVICES (B)								
10/26/2000		P109-1038						3	
	Purchase Agreement (please read, sign and return within 10 days of receipt). BBC Supplemental Terms and Conditions, OF-347 (3/00) Attached.  Total amount of award: \$200.00. The obligation for this award is shown in box 17(I).								
TOTAL CARRIED FORWARD TO LIST PAGE (ITEM 17) (H)									

**AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT**

1. CONTRACT ID CODE	2. AMENDMENT/MODIFICATION NO.	3. EFFECTIVE DATE	4. REQUEST FOR PURCHASE REG. NO.	5. PROJECT NO. (if applicable)
	000003	02/09/2001		
6. ISSUED BY	7. ADMINISTERED BY (if other than item 6)	8. NAME AND ADDRESS OF CONTRACTOR (See item 10)	9. NAME AND ADDRESS OF SOLICITATION NO.	
Office of Cuba Broadcasting 4201 N.W. 77th Avenue Miami, FL 33166	OCB	Office of Cuba Broadcasting 4201 N.W. 77th Avenue Miami, FL 33166		
10. NAME AND ADDRESS OF CONTRACTOR (See item 8)	11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS	12. ACCOUNTING AND APPROXIMATION DATE	13. DATE	14. THIS ITEM ONLY APPLIES TO MODIFICATION OF CONTRACTS
(b) (6)		Net Increase: \$4,300.00		

**ARTICLE REMARKS:**  
 Delivery: 09/30/2001  
 FOB: Destination  
 DISCOUNT PERCENT: Net 30  
 Period of performance: 10/01/2000 to 09/30/2001  
 Delivery Location Code: OCB  
 Office of Cuba Broadcasting  
 4201 N.W. 77th Avenue  
 Miami, FL 33166

7. The above numbered solicitation is approved as set forth in item 14. This item and date specified for receipt of offers is not intended to be the basis of the award. The contract shall be awarded to the lowest responsible bidder. (A) By the awarding of this contract, the contractor agrees to accept the terms and conditions of the contract as set forth in the above numbered solicitation and to perform the work under the contract in accordance with the specifications and drawings included in the solicitation. (B) The contractor shall be held liable for any delay in the work and for any damage caused by the contractor. (C) The contractor shall be held liable for any damage caused by the contractor's failure to complete the work by the date specified in the contract. (D) The contractor shall be held liable for any damage caused by the contractor's failure to complete the work by the date specified in the contract. (E) The contractor shall be held liable for any damage caused by the contractor's failure to complete the work by the date specified in the contract. (F) The contractor shall be held liable for any damage caused by the contractor's failure to complete the work by the date specified in the contract. (G) The contractor shall be held liable for any damage caused by the contractor's failure to complete the work by the date specified in the contract. (H) The contractor shall be held liable for any damage caused by the contractor's failure to complete the work by the date specified in the contract. (I) The contractor shall be held liable for any damage caused by the contractor's failure to complete the work by the date specified in the contract. (J) The contractor shall be held liable for any damage caused by the contractor's failure to complete the work by the date specified in the contract. (K) The contractor shall be held liable for any damage caused by the contractor's failure to complete the work by the date specified in the contract. (L) The contractor shall be held liable for any damage caused by the contractor's failure to complete the work by the date specified in the contract. (M) The contractor shall be held liable for any damage caused by the contractor's failure to complete the work by the date specified in the contract. (N) The contractor shall be held liable for any damage caused by the contractor's failure to complete the work by the date specified in the contract. (O) The contractor shall be held liable for any damage caused by the contractor's failure to complete the work by the date specified in the contract. (P) The contractor shall be held liable for any damage caused by the contractor's failure to complete the work by the date specified in the contract. (Q) The contractor shall be held liable for any damage caused by the contractor's failure to complete the work by the date specified in the contract. (R) The contractor shall be held liable for any damage caused by the contractor's failure to complete the work by the date specified in the contract. (S) The contractor shall be held liable for any damage caused by the contractor's failure to complete the work by the date specified in the contract. (T) The contractor shall be held liable for any damage caused by the contractor's failure to complete the work by the date specified in the contract. (U) The contractor shall be held liable for any damage caused by the contractor's failure to complete the work by the date specified in the contract. (V) The contractor shall be held liable for any damage caused by the contractor's failure to complete the work by the date specified in the contract. (W) The contractor shall be held liable for any damage caused by the contractor's failure to complete the work by the date specified in the contract. (X) The contractor shall be held liable for any damage caused by the contractor's failure to complete the work by the date specified in the contract. (Y) The contractor shall be held liable for any damage caused by the contractor's failure to complete the work by the date specified in the contract. (Z) The contractor shall be held liable for any damage caused by the contractor's failure to complete the work by the date specified in the contract.

**DESCRIPTION:** A. THIS CHANGE ORDER IS ISSUED PURSUANT TO (Specify amount) THE CHANGES SET FORTH IN ITEM 14 MADE IN THE CONTRACT ORDER NO. R (ITEM 14)  
 B. THE ABOVE NUMBERED CONTRACT ORDER IS MODIFIED TO REFLECT THE AMENDMENTS/CHANGES (State as changes in paragraph form)  
 C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO VOLUNTARY TO AUTHORITY OF:  
 D. OTHER (Specify type of modification and authority)

**IMPORTANT:** Contract . . . is required to sign the document and return . . . comes to the issuing office.  
 Task ID Number: (b) (6)  
 DUNS Number: Not Available

ABOVE ORDER IS HEREBY AMENDED TO  
 CHANGE QUANTITY FROM 18 TO 104  
 NEW TOTAL \$5,200.00  
 OLD TOTAL 900.00  
 INCREASE \$4,300.00  
 CONCLUDED . . .

**SIGNATURES:**  
 15A. NAME AND TITLE OF CONTRACTOR OFFICER (Type or print)  
 Ted B. Bregell  
 15B. CONTRACTOR OFFICE  
 THE UNITED STATES OF AMERICA  
 15C. DATE SIGNED  
 15D. DATE DISHED

16A. This Form is required when used for purposes of purchase orders.  
 16B. This Form is required when used for purposes of purchase orders.  
 16C. This Form is required when used for purposes of purchase orders.  
 16D. This Form is required when used for purposes of purchase orders.  
 16E. This Form is required when used for purposes of purchase orders.  
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 16G. This Form is required when used for purposes of purchase orders.  
 16H. This Form is required when used for purposes of purchase orders.  
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 16O. This Form is required when used for purposes of purchase orders.  
 16P. This Form is required when used for purposes of purchase orders.  
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 16V. This Form is required when used for purposes of purchase orders.  
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 16X. This Form is required when used for purposes of purchase orders.  
 16Y. This Form is required when used for purposes of purchase orders.  
 16Z. This Form is required when used for purposes of purchase orders.  
 STANDARD FORM 20 (REV. 10-89)  
 Prescribed by GSA  
 (41 CFR 101-11.6)

**CONTINUATION SHEET** REFERENCE NO. OF DOCUMENT BEING CONTINUED: P109-1038/000003

NAME OF OFFEROR OR CONTRACTOR: ARTTEL REMOS

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT PRICE (E)	AMOUNT (F)
	Delivery: 09/30/2001 FOB: Destination DISCOUNT PERCENT: Net 30 Period of performance: 10/01/2000 to 09/30/2001 Delivery Location Code: OCB Office of Cuba Broadcasting 4201 N.W. 77th Avenue Miami, FL 33166			

16A. This Form is required when used for purposes of purchase orders.  
 16B. This Form is required when used for purposes of purchase orders.  
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 16G. This Form is required when used for purposes of purchase orders.  
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 STANDARD FORM 20 (REV. 10-89)  
 Prescribed by GSA  
 (41 CFR 101-11.6)



ORDER FOR SUPPLIES OR SERVICES					
IMPORTANT: Mark all packages and papers with contract and/or order numbers.	1. DATE OF ORDER 11/01/1999		2. CONTRACT NO. (if any)		PAGE OF PAGES 1 3
3. ORDER NO. P009-1014	4. REQUEST/REFERENCE NO. Office of Cuba Broadcasting		5. NAME OF CONSIGNEE Office of Cuba Broadcasting		
6. ISSUING OFFICE (Address correspondence to) Office of Cuba Broadcasting 4201 N.W. 77th Avenue Miami FL 33166	7. CITY MIAMI	8. STATE FL	9. ZIP CODE 33166	10. TYPE OF ORDER a. PURCHASE RESIDENCE YEARS b. DELIVERY Except for taking instructions on the premises, this delivery center is subject to restrictions contained in the contract. This order and on the attached items, if any, including delivery or substitute contract.	
11. BUSINESS CLASSIFICATION (Other appropriate copy) 5568-40280-1050-0-91014-448420-8050-2580	12. F.O.B. POINT Destination	13. PLACE OF DESTINATION	14. GOVERNMENT BRAND	15. DELIVER TO F.O.B. POINT ON OR BEFORE (DAY)	16. DISCOUNT TERMS Net 30
17. SCHEDULE (See reverse for signature)	18. SHIPPING POINT	19. GROSS SHIPPING WEIGHT	20. INVOICE NO.	21. MAIL INVOICE TO	22. NAME (Print) Mary Ann Rapps TITLE CONTRACTING/ORDERING OFFICER
23. NAME Office of Cuba Broadcasting	24. STREET ADDRESS (P.O. Box) 4201 N.W. 77th Avenue	25. CITY MIAMI	26. STATE FL	27. ZIP CODE 33166	28. NAME (Print) Mary Ann Rapps TITLE CONTRACTING/ORDERING OFFICER

10/17/03/11/02/2003 PREVIOUS EDITIONS/REV. USABLE

ORDER FOR SUPPLIES OR SERVICES					
SCHEDULE - CONTINUATION					
IMPORTANT: Mark all packages and papers with contract and/or order numbers.	1. DATE OF ORDER 11/01/1999		2. CONTRACT NO. P009-1014		PAGE OF PAGES 2 3
3. ORDER NO. P009-1014	4. REQUEST/REFERENCE NO.		5. NAME OF CONSIGNEE		
6. ISSUING OFFICE (Address correspondence to) Office of Cuba Broadcasting 4201 N.W. 77th Avenue Miami FL 33166	7. CITY MIAMI	8. STATE FL	9. ZIP CODE 33166	10. TYPE OF ORDER a. PURCHASE RESIDENCE YEARS b. DELIVERY Except for taking instructions on the premises, this delivery center is subject to restrictions contained in the contract. This order and on the attached items, if any, including delivery or substitute contract.	
11. BUSINESS CLASSIFICATION (Other appropriate copy) 5568-40280-1050-0-91014-448420-8050-2580	12. F.O.B. POINT Destination	13. PLACE OF DESTINATION	14. GOVERNMENT BRAND	15. DELIVER TO F.O.B. POINT ON OR BEFORE (DAY)	16. DISCOUNT TERMS Net 30
17. SCHEDULE (See reverse for signature)	18. SHIPPING POINT	19. GROSS SHIPPING WEIGHT	20. INVOICE NO.	21. MAIL INVOICE TO	22. NAME (Print) Mary Ann Rapps TITLE CONTRACTING/ORDERING OFFICER
23. NAME Office of Cuba Broadcasting	24. STREET ADDRESS (P.O. Box) 4201 N.W. 77th Avenue	25. CITY MIAMI	26. STATE FL	27. ZIP CODE 33166	28. NAME (Print) Mary Ann Rapps TITLE CONTRACTING/ORDERING OFFICER

10/17/03/11/02/2003 PREVIOUS EDITIONS/REV. USABLE

TOTAL CARGOES FORWARDED TO NOT PAGE (ITEM ITEM)

ORDER FOR SUPPLIES OR SERVICES SCHEDULE - CONTINUATION				
DATE OF ORDER 11/01/1999	CONTRACT NO.	ORDER NO. P109-1014	UNIT PRICE (F)	QUANTITY ACCEPTED (D)
ITEM NO.	SUPPLIES/SERVICES (H)	QUANTITY ORDERED (C)	UNIT PRICE (E)	QUANTITY ACCEPTED (D)
(A) 17(1)				

IMPORTANT: Mark all packages and pages with contract and/or order number.

DATE OF ORDER: 11/01/1999 CONTRACT NO. ORDER NO. P109-1014

ITEM NO. SUPPLIES/SERVICES (H) QUANTITY ORDERED (C) UNIT PRICE (E) QUANTITY ACCEPTED (D)

(A) 17(1)

TOTAL QUANTITIES FORWARDED TO 1ST PAGE (ITEM 17(1))

OPTIONAL FORM NO. 346-108 (Rev. 10-6-77)

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. CONTRACT ID CODE

2. AMENDMENT/MODIFICATION NO. 000001

3. EFFECTIVE DATE 01/12/2000

4. REQUISITION/BUYER REF. NO.

5. PROJECT NO. (If applicable)

6. ISSUED BY DDCB

7. ADMINISTERED BY (Other than Item 4)

Office of Cuba Broadcasting  
4201 N.W. 77th Avenue  
Miami, FL 33166

8. NAME AND ADDRESS OF CONTRACTOR (In, state, county, town, city or only)

9. NAME AND ADDRESS OF SOLICITATION NO.

10. DATED (SEE ITEM 11)

11. MODIFICATION OF CONTRACTOR NO. 9009-1014

12. DATED (SEE ITEM 11) 11/01/1999

13. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

14. ACCOUNTING AND APPROPRIATION DATA (Required)

55-68-X0280-1980-0-3101-4-149470-8050-2580

15. THIS ITEM ONLY APPLIES TO MODIFICATION OF CONTRACTORS. IT MODIFIES THE CONTRACTOR NO. AS DESCRIBED IN ITEM 14.

16. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by CCF section headings, including predecessor contract number where feasible)

17. TAX ID NUMBER: (b) (6)

18. DUNS NUMBER: (b) (6)

19. LIST OF CHANGES:

Total Amount for this Modification: \$4,800.00

New Total Amount for this Award: \$5,200.00

Obligated Amount for this Modification: \$4,800.00

New Total Obligated Amount for this Award: \$5,200.00

CHANGES FOR THIS ITEM NUMBER: 1

Quantity changed from 8 to 104

Total Amount changed

Continued . . .

EXCEPT AS PROVIDED HEREIN, ALL TERMS AND CONDITIONS OF THE DOCUMENT REFERENCED IN ITEMS 6(A) OR 6(A), OR HIGHLIGHTED CONTRACT, REMAIN UNCHANGED AND TO BE KEPT AND USED.

18A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)

18B. CONTRACT OFFICER

18C. DATE SIGNED

18D. UNITED STATES OF AMERICA

18E. DATE BILLED

18F. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)

18G. DATE SIGNED

18H. UNITED STATES OF AMERICA

18I. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)

18J. DATE SIGNED

STANDARD FORM NO. 101 (REV. 10-83)

Prescribed by GSA

FAR (48 CFR) 101.24



CONTINUATION SHEET		REFERENCE NO. OF DOCUMENT BEING CONTINUED	PAGE OF	
NAME OF OFFEROR OR CONTRACTOR		0009-1011/000001	2 2	
ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY/LIMIT (C)	UNIT PRICE (E)	AMOUNT (F)
	<p>from \$400.00 to \$3200.00 Obligated Amount for this modification: \$4800.00</p> <p>CHANGES FOR DELIVERY LOCATION: OCB Quantity changed from 8 to 104 Amount changed from \$400.00 to \$5200.00</p> <p>CHANGES FOR ACCOUNTING CODE: 9568-X0280-1080-0-91014-448420-8050-2580 Quantity changed from 8 to 104 Amount changed from \$400.00 to \$5200.00</p> <p>FOB: Destination Discount Terms: Net 30 Period of Performance: 10/01/1999 to 09/30/2000 Delivery Location Code: OCB Office of Cuba Broadcasting 4201 N.W. 77th Avenue Miami FL 33166</p>			

OPTIONAL FORM NO. 336 (4-88)  
GSA FPMR (41 CFR) 101-11.6

ORDER FOR SUPPLIES OR SERVICES		DATE OF ORDER	DATE OF PHASE
12/07/2000		1	3
1. NAME OF CONTRACTOR		2. NAME OF CONTRACTOR	
Office of Cuba Broadcasting		Office of Cuba Broadcasting	
3. STREET ADDRESS (or P.O. Box)		4. STREET ADDRESS	
4201 N.W. 77th Avenue Miami FL 33166		4201 N.W. 77th Avenue Miami FL 33166	
5. CITY		6. STATE	
Miami		FL	
7. ZIP CODE		8. ZIP CODE	
33166		33166	
9. NAME OF CONTRACTOR		10. TYPE OF ORDER	
Enrique Encinosa		Purchase	
11. COMPANY NAME		12. PURCHASE REFERENCE YOUR	
[b] (6)		[b] (6)	
13. STATE		14. ZIP CODE	
[b] (6)		[b] (6)	
15. ACCOUNTING AND APPROPRIATIONS DATA		16. REQUIREMENTS OFFICE	
See Schedule		Office of Cuba Broadcasting	
17. BUSINESS CLASSIFICATION (check appropriate box)		18. DISCONTINUED	
[b] (6)		[b] (6)	
19. F.O.B. POINT		20. DELIVER TO F.O.B. POINT OR (IF BEFORE F.O.B.)	
Destination		10/01/2000	
21. INSPECTION		22. DISCOUNT TERMS	
Destination		Net 30	
23. ITEM NO.		24. SUPPLIES OR SERVICES	
[b] (6)		[b] (6)	
25. QUANTITY ORDERED		26. UNIT PRICE	
[b] (6)		[b] (6)	
27. AMOUNT		28. QUANTITY ACCURSED	
[b] (6)		[b] (6)	
29. SHIPPING POINT		30. INVOICE NO.	
Office of Cuba Broadcasting		[b] (6)	
31. MAIL INVOICE TO		32. NAME (Print)	
Office of Cuba Broadcasting		Ted Serebell	
33. STREET ADDRESS (or P.O. Box)		34. STREET ADDRESS	
4201 N.W. 77th Avenue		4201 N.W. 77th Avenue	
35. CITY		36. STATE	
Miami		FL	
37. ZIP CODE		38. ZIP CODE	
33166		33166	
39. UNITED STATES OF AMERICA		40. NAME (Print)	
[b] (6)		Ted Serebell	
41. TITLE CONTRACTING OFFICER		42. TITLE CONTRACTING OFFICER	
[b] (6)		[b] (6)	

OPTIONAL FORM NO. 336 (4-88)  
GSA FPMR (41 CFR) 101-11.6

ORDER FOR SUPPLIER OR SERVICES SCHEDULE - CONTINUATION							PAGE OF PAGES	
ITEM NO. (A)	QUANTITY ORDERED (C)	UNIT PRICE (D)	AMOUNT (F)	QUANTITY ACCORDED (H)	DATE OF ORDER CONTRACT NO.	ORDER NO.	3	3
12/07/2000					12/07/2000	P109-1071		
(A)	(C)	(D)	(F)	(H)	(E)	(G)		
0001	12 EA	100.00	1,200.00					
<p><b>IRS 1099 applies SSN: (b) (6)</b></p> <p>Funds are not presently available for performance under this contract beyond December 7, 2000. The Government's obligation for performance of this contract beyond that date is contingent upon the availability of appropriated funds from which payment for contract purposes can be made. No legal liability on the part of the Government for any payment may arise for performance under this contract beyond December 7, 2000, until funds are made available to the Contracting Officer for performance and until the Contractor receives notice of availability, to be confirmed in writing by the Contracting Officer.</p> <p><b>REQUEST FOR PROGRAM:</b> Vendor will participate in a weekly program once a week. The name of the program is for a Weekly Magazine in the program 60 minutes, "Weekend Magazine".</p> <p><b>COST/QUANTITY:</b> Meets VOA Rate Schedule for III.s.4. The rate is \$100.00 for participating in the program 60 minutes at \$100.00 for 7-10 minutes each.</p> <p>The Office of Cuba Broadcasting (OCB) is not obligated to purchase any definite quantities or dollar amounts under this Agreement.</p> <p>Radio Marti reserves the right to edit in order to adhere to programming needs. Radio Marti reserves the right to periodically ask commentators to provide commentaries on specific issues of importance to Radio Marti listeners. Radio Marti will allow the use of its' studios for recording of shows.</p> <p>Continued ...</p>								
TOTAL DOLLARS							TOTAL DOLLARS FORWARD TO LIST PAGE ITEM TOTAL	
OPTIONAL PAGE FOR THE CONTRACTING OFFICER'S USE							OPTIONAL PAGE FOR THE CONTRACTING OFFICER'S USE	

ORDER FOR SUPPLIER OR SERVICES SCHEDULE - CONTINUATION							PAGE OF PAGES	
ITEM NO. (A)	QUANTITY ORDERED (C)	UNIT PRICE (D)	AMOUNT (F)	QUANTITY ACCORDED (H)	DATE OF ORDER CONTRACT NO.	ORDER NO.	3	3
12/07/2000					12/07/2000	P109-1071		
(A)	(C)	(D)	(F)	(H)	(E)	(G)		
<p><b>Attachments:</b> Purchase Agreement (please read, sign and return within 10 days of receipt) BAG Supplemental Terms and Conditions, OP-347 (3/00) Attached. Total amount of award: \$1,200.00. The obligation for this award is shown in box 17(1).</p>								
TOTAL DOLLARS							TOTAL DOLLARS FORWARD TO LIST PAGE ITEM TOTAL	
OPTIONAL PAGE FOR THE CONTRACTING OFFICER'S USE							OPTIONAL PAGE FOR THE CONTRACTING OFFICER'S USE	

**AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT**

1. AMENDMENT/MODIFICATION NO. 000001  
 2. ISSUED BY  
 Office of Cuba Broadcasting  
 4201 N.W. 77th Avenue  
 Miami, FL 33166

3. EFFECTIVE DATE  
 CODE OCB

4. FACILITY CODE  
 02

5. CONTRACT TO CODE  
 1

6. PROJECT NO. (if applicable)  
 2

7. ADMINISTERED BY (if other than item #)  
 CODE OCB  
 Office of Cuba Broadcasting  
 4201 N.W. 77th Avenue  
 Miami, FL 33166

8. NAME AND ADDRESS OF CONTRACTOR (Alt. street, county, State and ZIP Code)  
 Enrique Encinosa  
 (b) (6)

9. USA AMENDMENT OF SOLICITATION NO.  
 2109-1071

10. DATED (SEE ITEM 11)  
 12/07/2000

11. USA MODIFICATION OF CONTRACT/ORDER NO.  
 2109-1071

12. DATED (SEE ITEM 11)  
 12/07/2000

13. THE ITEM ONLY APPLIES TO ADMINISTRATION OF SOLICITATIONS  
 YES  NO

14. ACCOUNTING AND APPROPRIATION DATA (if required)  
 9568-01-X0209-1000-91071-448420-8050-2530 R0C Increase: \$4,000.00

15. THIS ITEM ONLY APPLIES TO MODIFICATION OF CONTRACT/ORDERS. IT DOES NOT APPLY TO THE CONTRACTORS NO. AS DESCRIBED IN ITEM 14.

16. THE CHANGES ARE BEING PURSUANT TO (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT  
 DESCRIBED IN ITEM 14.

17. THE ABOVE MENTIONED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in pricing rates, appropriation data, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).

18. THE SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:  
 (b) (6)

19. OTHER (Specify type of collaboration and authority)

20. REPORTING: Contractor is to not be required to sign the document and return copies to the issuing office.  
 Tax ID Number: (b) (6)  
 DUNS Number: Not Available

ABOVE ORDER IS HEREBY AMENDED TO  
 CHANGE QUANTITY FROM 12 TO 52

NEW TOTAL \$5,200.00  
 OLD TOTAL 1,200.00  
 INCREASE \$4,000.00

Continued...

19. NAME AND TITLE OF ISSUER (Type or print)  
 Ted Barwell

20. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)  
 Ted Barwell

21. DATE SIGNED  
 12/07/2000

22. DATE SIGNED  
 12/07/2000

23. SIGNATURE OF ISSUER (Indicate to whom Previous authority is available)  
 Signature of Contracting Officer

24. SIGNATURE OF CONTRACTOR (Indicate to whom Previous authority is available)  
 Signature of Contractor (Other)

STANDARD FORM NO. (FORM) 10-83  
 Prescribed by GSA  
 FPMR (41 CFR) 101-11.6

**CONTINUATION SHEET** REFERENCE NO. OF DOCUMENT BEING CONTINUED  
 2109-1071/000001

NAME OF ORDER OR CONTRACTOR  
 Enrique Encinosa

ITEM NO. (A)	SUPPLEMENT NO. (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
	Delivery: 09/30/2001 FOB: Destination Discount Terms: Net 30 Period of Performance: 10/01/2000 to 09/30/2001 Delivery Location Code: OCB Office of Cuba Broadcasting 4201 N.W. 77th Avenue Miami, FL 33166				

OPTIONAL FORM NO. 348  
 MAY 1962 EDITION  
 GSA FPMR (41 CFR) 101-11.6



**Julio Armando Estorino**

(b) (6) SSN: (b) (6)

**Education**

**B.A. in Spanish** May 1978  
St. Thomas University (formerly Biscayne College), Miami, FL

**B.A. in Political Science** May 1978  
St. Thomas University (formerly Biscayne College), Miami, FL  
Total credits earned: 159

**Last High School attended**

Ramón Martíebau School, Matanzas, Cuba. Sep. 1961

**Radio & TV Experience**

**W.A.C.C. Radio Paz**, Miami, FL Nov. 1997 - present  
Aug. 2003-present: *Executive Director of Morning Show*: news and commentary magazine  
Nov. 1997-present: *Host*: "El Portal de Miami," daily evening drive-time interview show  
Nov. 1997-Jan. 2002: *Co-host*: "Al día," (formerly "Amanecer") news and opinion show  
*Employer*: Fax Caribbe Communications  
1779 N.W. 28 St.  
Miami, FL 33142

*Salary*: \$33,000.00 per year, one three-hour morning show and one one-hour evening show, 20 hours per week

*Supervisor*: (b) (6) (may be contacted)

*Duties*: Select guests and topics. Contact guests, produce the show and conduct interviews. Write and broadcast own news commentary.

*Accomplishments*: "El Portal de Miami" is one of the most listened-to programs in Radio Paz. Over the years I have been able to present a wide array of international experts on many different topics, especially on Cuba-related issues.

**W.W.F.E. La Poderosa**, Miami, FL Jan. 2002 - Aug. 2003  
*Co-host*: "La Revista de la Mañana," daily morning drive-time news and opinion show  
*Employer*: Fenix Broadcasting Corp.  
330 S.W. 27 Ave., Suite 207  
Miami, FL 33135

*Salary*: \$12,000.00 per year, 15 hours per week

*Supervisor*: (b) (6) (may be contacted)

*Duties*: Select and edit news and sound bites for newscast. Contact people in the news and/or commentators for interviews. Write and read on the air own daily commentary. Broadcast the news and introduce segments and guests. Interview guests and receive and respond on air listener's calls.  
*Accomplishments*: In the fifteen months that I have been on this show the audience has steadily increased according to Arbitron polls.

**T.Y. Martí**, Miami, FL Mar. 1998 - present  
*Host*: "Mesa Redonda," weekly interview show  
*Employer*: U. S. Government  
Office of Cuba Broadcasting  
4201 N.W. 77 Ave.  
Miami, FL, 33166

*Salary*: Independent contractor, \$175.00 per 30-min. show, one per week  
*Supervisor*: (b) (6) (may be contacted)

*Duties*: Together with the producer, select guests and topics. Introduce and interview guests.  
*Accomplishments*: I have been able to have on the show, over the years, people of different political backgrounds and thinking. Cubans and non-Cubans, freely expressing and debating their views. I have promoted serious, in-depth news analysis and I have covered all events relevant to the Cuban situation.

**Radio Martí**, Miami, FL Mar. 1998 - Aug. 2001  
*Co-host*: "Tempranito y de mañana," a daily news, interview, opinion, and variety show  
*Employer*: U. S. Government  
Office of Cuba Broadcasting  
4201 N.W. 77 Ave.  
Miami, FL 33166

*Salary*: Independent contractor, \$150.00 per three-hour daily show, plus one daily news commentary, 15 hours per week

*Supervisor*: (b) (6) (may be contacted)

*Duties*: Together with the producer and the co-host, select guests and topic for news-related interviews. Research, broadcast and comment on Cuban history, culture and current events for different segments of the show. Introduce guests and sections. Write and broadcast own daily news commentary.

*Accomplishments*: "Tempranito y de mañana" was, according to credible sources, one of the audience's favorite shows in Radio Martí. I have been told it was the most listened to by Cubans in the island. I always took pride in being part of that show, and felt very comfortable working with Oscar del Rio and the rest of the crew. I received many letters from listeners in Cuba with very interesting opinions about the show and my work in it. Copies will be available on request.

**W.Q.B.A., Miami, FL** Sep. 1992 - Nov. 1997  
*News director*: Morning and noon newscasts  
*Co-host*: "Detrás de la Noticia", daily news and opinion show  
*Co-host*: "Primera Plana", daily interview show  
*Host*: "Debate Semanal", weekly interview show  
*Writer and Reader*: "Cantaclaro," daily editorial news commentary  
*Writer*: "Candelaria," daily satirical news commentary  
*Employer*: Hefel Broadcasting  
 W.Q.B.A.  
 2828 Coral Way  
 Miami, FL 33145

*Salary*: \$68,000.00 per year, 40 hours per week  
*Supervisor*: [REDACTED]  
*Duties*: Select and edit the news and sound bites for the morning and noon newscasts. Check on content and readiness of segments. Select people to be interviewed on news-related issues. Comment on daily news with co-hosts and guests. Write and broadcast own daily news commentary. Write a daily satirical news-related poem for a fictional character of own creation.  
*Accomplishments*: During my time at WQBA, it regained its long lost competitive status in the local market. My morning show, with Agustín Acosta, reached first place in the Arbitron ratings in the 34 to 54 year-old audience several times; and, together with the rest of the programs and newscasts I was involved in, showed consistent growth.

**Diario Las Americas, Miami, FL** 1997 - present  
*Columnist*

**Revista Ideal, Miami, FL** 1985 - present  
*Columnist*

**El Nuevo Herald, Miami, FL** 1988 - 1996  
*Columnist*

*Patria y pasión*, poetry, Miami, FL, 1975.

Other works of poetry published in:

- *107 poetas cubanos del exilio*, Miami, FL, 1988.
- *El amor en la poesía hispanoamericana*, Buenos Aires, 1985.
- *Resumen literario El Puente*, Madrid, 1982.
- *Poesía en Exodo*, Miami, FL, 1970.

**Honors and Awards**

Honors and Awards received include:

- ACCA Trophy, Creativity in radio broadcasting, Cuban Critics Association in Exile, 1996.

- ACCA Trophy, Best Newscast, Cuban Critics Association in Exile, 1995.
- National Journalism Medal, Cuban Press Club in Exile, 1994.
- Sergio Carbó Award for Journalism, Cuban Rotary Club in Exile, 1982.
- Ramiro Collazo Award, Cuban Lions Club in Exile, 1979 and 1981.
- Ignacio Agramonte Award, newspaper article, Cuban Bar in Exile, 1972.

**Public Speaking**

Public speaking engagements include presentations at student's clubs of the School of International Relations of Northwestern University, Chicago, the First Cuban Dissidents International Congress (Paris, France, 1979), and different Cuban exile's associations in Costa Rica, the Dominican Republic, Venezuela, Puerto Rico and several cities all over the United States.

- Service Activities**
- Municipios de Cuba en el Exilio, 1967-1996
  - Dade County Fair Elections Practices Committee, 1980s
  - Comité del Centenario de la Instauración de la República (Republic of Cuba Centennial Committee), 2002-2003

**Military Service**

U. S. Army, Cuban Volunteer's Program, 1963-1964

- Special Skills**
- Fully bilingual (English-Spanish) and skilled translator
  - Experienced writer of editorial and news content as well as broadcast scripts press releases, advertising copy, and media alerts and announcements
  - Possess office and newroom management experience
  - Skilled at organizing events
  - Internet proficient
  - Extensive knowledge of word history and current affairs

**References**

References are available upon request.

**Other**

U.S. Citizen: Yes  
 Veteran's Preference: No  
 Federal Civilian Employee: No  
 Eligible for Reinstatement: No



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 11-23376-CIV-Lenard

RUBEN CAMPA  
[FERNANDO GONZALEZ],  
Plaintiff,

v.

UNITED STATES,  
Defendant

**ATTACHMENT C**

Appellate Joint Brief of defendants Hernandez, Guerrero, Medina and Gonzalez  
In *Campa I* (consolidated Case No. 03-110-87, appeal from denial of motion for  
new trial)

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

NO. 03-11087-B

UNITED STATES OF AMERICA,  
Plaintiff/appellee,

v.

GERARDO HERNANDEZ, et al.  
Defendants/appellants.

On Appeal from the United States District Court  
for the Southern District of Florida

BRIEF OF APPELLANTS GERARDO HERNANDEZ,  
ANTONIO GUERRERO, LUIS MEDINA, and RENE GONZALEZ

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Attorney for Gonzalez  
Two Dattran Center, Suite 1910  
9130 South Dadeland Blvd.  
Miami, Florida 33156  
Tel. No. (305) 232-1949

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U.S. COURTHOUSE  
SOUTHERN DISTRICT OF FLA.

Mark Miller  
10/8/2011  
MP

**CERTIFICATE OF INTERESTED PERSONS  
AND CORPORATE DISCLOSURE STATEMENT**

**United States v. Gerardo Hernandez, et al.**  
**Case No. 03-11087-B**

Appellants file this Certificate of Interested Persons and Corporate Disclosure Statement, listing the parties and entities interested in this appeal, as required by 11<sup>th</sup> Cir. R. 26.1.

Jack Blumenfeld	Former counsel for Guerrero
David M. Buckner	Assistant United States Attorney
Ruben Campa	Defendant
Orlando do Campo	Assistant Federal Public Defender
Hon. Robert L. Dubé	United States Magistrate Judge
Rene Gonzalez	Defendant
Antonio Guerrero	Defendant
Gerardo Hernandez	Defendant
Philip R. Horowitz	Counsel for Gonzalez
Marcos Daniel Jiménez	United States Attorney

John S. Kastrenakes	Assistant United States Attorney
Richard C. Klugh, Jr.	Assistant Federal Public Defender
Hon. Joan A. Lenard	United States District Judge
Guy A. Lewis	Former United States Attorney
Paul A. McKenna	Counsel for Hernandez
Luis Medina	Defendant
Joaquin Mendez	Assistant Federal Public Defender
Caroline Heck Miller	Assistant United States Attorney
William M. Norris	Counsel for Medina
Barry Sabin	Assistant United States Attorney
Anne R. Schultz	Assistant United States Attorney
Leonard I. Weinglass	Counsel for Guerrero
Kathleen M. Williams	Federal Public Defender



**STATEMENT REGARDING ORAL ARGUMENT**

The appellants respectfully submit that oral argument is necessary to the just resolution of this appeal and will significantly enhance the decision making process.

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**STATEMENT ADOPTING  
BRIEF OF CO-APPELLANT**

Appellants Gerardo Hernandez, Luis Medina, Antonio Guerrero, and Rene Gonzalez, pursuant to Fed. R. App. P. 28(i), hereby adopt the appellate brief filed in the instant appeal by co-appellant Ruben Campa, including the statement of the issue, statement of the case, standard of review, summary of the argument, argument and citations of authorities, and any reply argument.

**STATEMENT OF JURISDICTION**

The district court had jurisdiction of this case pursuant to 18 U.S.C. § 3231. The court of appeals has jurisdiction over this appeal under 28 U.S.C. § 1291. The appeal was timely filed on February 26, 2003, from the final order of the district court denying defendants' motion for new trial based on newly-discovered evidence, entered on February 11, 2003, that disposes of all claims between the parties to this cause.

### STATEMENT OF THE ISSUE

Whether the district court erred in summarily denying the defendants' motion for new trial based on newly-discovered evidence, where the district court: (1) failed to conduct an evidentiary hearing before reaching factual conclusions regarding whether the new evidence showed prosecutorial misconduct or otherwise warranted a new trial; (2) misconstrued Fed. R. Crim. P. 33 in failing to consider the interests of justice, evidentiary submissions in the motion for new trial, and surrounding evidence relevant to determination of the motion; and (3) failed to take into account the record as a whole, which established a series of improper prosecutorial actions designed to take advantage of community prejudice.

### STATEMENT OF THE CASE

#### Course of Proceedings and Disposition in the District Court

The defendants, Gerardo Hernandez, Luis Medina, Antonio Guerrero, Ruben Campa, and Rene Gonzalez, were charged in a multi-count indictment alleging: in Count 1, that all of the defendants conspired, in violation of 18 U.S.C. §371, to defraud the United States and to act as foreign agents without proper notification as required under 18 U.S.C. §951 and 28 C.F.R. §73.01, et seq.; in Count 2, that Hernandez, Medina, and Guerrero conspired to transmit national defense information to Cuba, in violation of 18 U.S.C. §794; in Count 3, that Hernandez conspired with the Cuban government to murder four members of the Miami-based Cuban exile organization, "Brothers to the Rescue," in the special maritime and territorial jurisdiction of the United States, in violation of 18 U.S.C. §1117; in Counts 4 and 6 (Hernandez), Count 7 (Campa), and Counts 9 and 11 (Medina), that Hernandez, Medina, and Campa possessed false passports, in violation of 18 U.S.C. §1546; in Count 10, that Medina made a false statement in a passport application, in violation of



18 U.S.C. § 1542; in Count 5 (Hernandez), Count 8 (Campa), and Count 12 (Medina), that Hernandez, Medina, and Campa possessed false identification documents, in violation of 18 U.S.C. § 1028; in Counts 13, 19, and 22-24 (Hernandez), Counts 14, 25, and 26 (Medina), Count 15 (Hernandez and Gonzalez), Count 16 (Hernandez, Medina, Guerrero, and Campa), and Count 17 (Campa), that the defendants acted and aided and abetted others in acting as foreign agents without notification to the Attorney General as required under 18 U.S.C. § 951 and 28 C.F.R. § 73.01, *et seq.*

Following denial of their motions for change of venue and for reconsideration of their venue and intra-district transfer requests, DE586; DE723, the defendants proceeded to a jury trial which began November 27, 2000 and concluded on June 8, 2001 with verdicts of guilty on all counts. DE1291; DE1293; DE1295; DE1297; DE1299. During the course of trial, the defendants renewed their venue change motions, by way of motions for mistrial, DE1527:7130; DE1540:8949; these motions were denied, as were the defendants' post-trial motions for new trial based on denial of a change of

venue. DE1579:13894-95; DE1392.

Sentencing hearings were conducted in December 2001, with Hernandez, Medina and Guerrero receiving life sentences; Campa received a sentence of 19 years, and Gonzalez received a 15-year sentence. DE1430; DE1435; DE1437; DE1439; DE1445. The defendants are incarcerated.

On November 13, 2002, Guerrero filed a motion for new trial pursuant to Fed. R. Crim. P. 33, based on newly-discovered evidence pertinent to the denial of the defendants' motions for change of venue and the defendants' motions for mistrial based on denial of a change of venue. DE1635. Guerrero also filed an appendix of submissions in support of the motion. DE1636. The district court thereafter granted motions by Hernandez, DE1644, Medina, 1650, Campa, DE1638, and Gonzalez, DE1651, to join in the motion for new trial. Amicus curiae briefs in support of the motion for new trial were submitted by the National Jury Project and the National Lawyers Guild. DE1641; DE1654. On February 10, 2003, the district court entered an order denying the motion for new trial and denying the defendants' request for an evidentiary hearing as to the motion. DE1678.

### Statement of Facts

The instant appeal is from the denial of the defendants' motion for new trial based on newly-discovered evidence. The facts relevant to this issue are:

- (1) evidence showing that a trial in Miami of these five admitted Cuban agents on charges of espionage and murder conspiracy – and related overt acts and charges concerning the defendants' infiltration of Miami Cuban exile organizations in order to expose illegal anti-Castro activities and terrorism against Cuba – was directed to such a politically-charged core concern of the predominant Cuban exile community in Miami that the impediments to jury impartiality were unresolvable absent a change of venue or intra-district transfer away from Miami;
- (2) record evidence, during the trial, of prosecutorial arguments, witness outbursts, intimidating and prejudicial occurrences outside the courtroom, the nature of the defenses and defense witnesses presented, and the types of evidence and submissions offered by the government, all of which heightened

the unfairness of trying the defendants in Miami; and

- (3) newly-discovered evidence of: (a) prosecutorial misconduct in unfairly making representations diametrically opposite to those the government made in civil proceedings as to the amenability of Miami to impartiality on issues of core concern to the Cuban exile community, i.e., issues such as the murder of anti-Castro activists by the Cuban government as well as espionage and infiltration of Cuban exile organizations by the Cuban government; and (b) facts relevant to the mishandling of expert survey evidence establishing overwhelming community prejudice against the defendants.

1. Pervasive community prejudice against Fidel Castro, the Cuban government, and its agents, and community hostility concerning the alleged crimes of murder, espionage, and infiltration of anti-Castro Cuban exile organizations.

The evidence and record in this case show pervasive anti-Cuban-government prejudice in Miami, unmatched in any other community in the world. The district court, in an order denying motions for judgment of



acquittal and for new trial, expressly acknowledged its awareness "of the impassioned Cuban exile community residing in this venue." DE1392:10. Perhaps the best description of the Cuban exile influence with respect to local attitudes on the issue of Fidel Castro and the Cuban government was provided as part of the motion for new trial based on newly-discovered evidence by one of the leading experts on the Cuban exile community in Miami, Dr. Lisandro Perez, whose affidavit stated:

**DECLARATION BY LISANDRO PÉREZ**

1. I am a Professor of Sociology and Anthropology and Director of the Cuban Research Institute at Florida International University, Miami's senior institution of public higher education.
2. I have lived in Miami for 27 years, first from 1960 to 1970, immediately after arriving from Cuba, and then from 1985 to the present. Most of my work during the past 15 years has involved applying my knowledge of Cuba and Cuban Americans to an understanding of the dynamics of this community. My entire academic career has been devoted almost exclusively to the study of Cuban society, Cuban migration, and the development of Cuban communities in the U.S., especially Miami. My first research project was my M.A. thesis, which focused on Cuban demographics, and was completed at the University of Florida in 1972. I received my Ph.D. in Sociology from that institution in 1974.

3. Since then, I have published numerous articles, chapters, edited books and other writings on Cuba and on Cuban Americans. I am co-author of a forthcoming (November 2002) book to be published by Allyn & Bacon entitled: The Legacy of Exile: Cubans in the United States. I am the Editor-in-Chief of a comprehensive encyclopedia on Cuba to be published by Macmillan Reference, and I have served since 1999 as the Editor of Cuban Studies, the oldest and most prestigious academic journal in the field. . . .

4. . . . I do not have a position on the guilt or innocence of the appellants.

5. Prior to . . . October of 2002, I had no involvement in this case. My knowledge of it was limited to newspaper and other media accounts. Since [then] I have also read transcript references provided to me of the selection process of the jury that originally convicted the appellants and of the questioning of prospective jurors. I used those references along with the leading sources on the dynamics of Miami and the Cuban American community, most of which are listed at the end of the statement.

6. Let me state at the outset my conclusion, which I will develop and substantiate in the rest of this statement: **the possibility of selecting twelve citizens of Miami-Dade County who can be impartial in a case involving acknowledged agents of the Cuban government is virtually zero.** I would reach that conclusion even if the jury were composed entirely of non-Cubans, as it was in this case.

7. To understand this conclusion, it is important to keep in



mind that the usual approaches for determining and countering the influence of community bias on the process of jury selection are of limited applicability in this case. In determining bias, extensive pre-trial media coverage unfavorable to defendants is usually the most common indicator and represents the foremost argument for changing the venue.

8. In this case, pre-trial media coverage is an insufficient indicator of the depth of the community's pre-trial bias against the defendants. And selecting a non-Cuban jury does not counter that bias. . . .

9. First, it is important to keep in mind that persons of Cuban birth or descent represent the largest single racial/ethnic/national origin group in Miami-Dade County. According to the 2000 U.S. Census of Population and Housing, in the county there are more persons of Cuban birth or descent (650,600) than there are white non-Hispanics (465,770), more than African-Americans (427,140), and more than all the other Hispanic nationality groups combined (641,130). Two [of] every seven people in Greater Miami is a Cuban. It is not just one more immigrant group in the city's race/ethnic mosaic. It is the largest group, period, among immigrants or nonimmigrants alike.

10. It was therefore to be expected that more than twenty percent of the jury pool be of Cuban birth or descent. Nor is it surprising that several non-Cubans in that pool had some personal ties with Cubans somehow involved in the case. In purely demographic terms, therefore, the Cuban presence in Miami-Dade is sizable and pervasive.

11. The importance of that presence, however, is based on much more than just demographics. In social, political, and economic terms Cubans exert an influence in Miami-Dade County that extends well beyond the Cuban community itself. Those who arrived from Cuba in the 1960s established the bases of that community. They were disproportionately drawn from the upper sectors of Cuban society. Many were professionals or entrepreneurs and had university degrees. A significant proportion had previous business experience, and more than a few had contacts with U.S. companies that had done business with Cuba before the revolution. Furthermore, their migration was facilitated by the U.S. government, which gave them entry as refugees and provided them with economic assistance.

12. Those earlier and privileged exiles eventually established in Miami what is regarded as the foremost example in the United States of a true ethnic enclave. An ethnic enclave is a strong ethnic community that is organized around a highly differentiated range of enterprises and institutions, which serve, and profit from, the community. At the core of the enclave is entrepreneurship. Already by the 1990s, 42 percent of all enterprises in Miami-Dade County were Hispanic-owned, and three-quarters of those were Cuban-owned, generating far more revenue than Hispanic-owned businesses elsewhere in the U.S. The range of that entrepreneurship is impressive. The variety of sales and services controlled by Cubans, as well as their penetration into the professions, is so extensive that it is argued that it is possible for Miami Cubans to live entirely within their



own community. One of the economic benefits of the enclave is the multiplication of social networks. The dense social networks of Cuban Miami provide a tremendous asset by which members of the community can advance their agenda of upward mobility for themselves and, especially, for their children. The enclave has provided the springboard, through experience and education, for the entry of many Cubans into the upper-management ranks of the largest institutions and organizations in Miami-Dade County, both private and public.

13. **The economic clout of Cubans in Miami has been matched by their political influence.** Few U.S. immigrant groups have attained electoral representation and political empowerment as rapidly as Cubans in Miami. During the 1980s Cubans in Miami established pivotal local power, exercised through the increasing number of elected officials and such organizations as the Cuban American National Foundation, the Latin Builders Association, the Hispanic Builders Association, and the Latin Chamber of Commerce. The size of the Cuban community in Greater Miami and its fairly high turnout rates during elections produced a boom in the number of Cubans in elected positions at all levels of government. By the late 1980s, the City of Miami had a Cuban-born mayor, and the city manager and the county manager were both Cubans. Cubans controlled the City Commission and constituted more than one-third of the Miami-Dade delegation to the State legislature. Ileana Ros-Lehtinen, a Cuban, won election to the U.S. House of Representatives in 1989. By the 1990s Cuban-Americans were mayors of the incorporated

areas of Miami, Hialeah, Sweetwater, West Miami, and Hialeah Gardens, all within Miami-Dade. Cubans comprise a majority in the commissions or councils of those cities. When the 1990s began there were already ten Cubans in the Florida Legislature, seven in the House and three in the Senate. Ros-Lehtinen was joined by another Cuban, Lincoln Diaz-Balart, in the U.S. Congress during the 1992 election cycle. By the beginning of the twenty-first century, six of the thirteen Miami-Dade County commissioners are Cuban, as is the mayor, Alex Penelas. Cubans head the two largest institutions of higher education in the county. Nowhere else in America, nor even in American history, have first generation immigrants so quickly, or so thoroughly, appropriated political power.

14. **The pervasiveness of the Cubans' political and economic influence means that their priorities and agenda also take center stage in Miami.** Cubans and their culture set the pace. David Rieff, a New Yorker who has written on Miami, has noted that Cubans have largely succeeded in taking "atmospheric control" of the city (Going to Miami, 1987, p. 143).

15. It was inevitable that Cubans would inject into the atmosphere of Miami their most overriding concern: the ongoing struggle for the recovery of their homeland. **An identity as exiles is a central theme of the ethos of Cuban Americans, contributing to a particularly "Cuban" way of looking at the social and political environment.** This vision is the "exile ideology" and it has three principal characteristics: 1) the primacy of the homeland; 2) **uncompromising hostility** towards the



Cuban government; and 3) a **passionate attachment** to their ideology and intolerance to contrary views.

16. In the exile ideology, the desire to recover the homeland is the focus of political discourse and the source of mobilization in the Cuban American community. During the past forty years there has been a protracted continuation of the intense conflict that occurred in the early 1960s, when the Cuban government was entrenching itself against the serious attempts by the U.S. government and some sectors of Cuban society to overthrow it. For many Cubans who "lost" that conflict and went into exile, the struggle has not ended, and they have tried, with amazing success, to keep the conflict alive.

17. The goal of the Cuban exile is the overthrow of Fidel Castro, and this is to be accomplished through hostility and isolation. Energizing that struggle is the highly emotional nature of the exile ideology.

18. The least favorable side of emotionalism and irrationality is **intolerance to views that do not conform to the predominant "exile" ideology of an uncompromising hostility towards the Cuban government**. Those inside or outside the community who voice views that are favorable or even "soft" or conciliatory with respect to Castro are usually subject to criticism and scorn, their position belittled and their motives questioned. Any dissent in Miami is especially difficult. The Cubans' pervasive influence in Miami means that **great pressures can be brought to bear on the dissenting individual or group**. Such pressures can be economic, political, or social, but they have also

involved the threat of violence. There is a **long history of threats, bomb scares, actual bombings, and even murders directed at persons who have dissented from the predominant anti-Castro positions** or have demonstrated a perceived "softness" toward the regime. . . .

19. Many Cubans and non-Cubans who have dissented from the headline stance of hostility to the Cuban government have felt such pressures. Even institutions outside of the Cuban community are wary of ... making statements or holding activities (such as inviting artists from Cuba) that would evoke the displeasure of the leadership of Cuban American leaders. Even the MIAMI HERALD, the only daily English-language newspaper, started moving, both editorially and in its coverage, in the direction of courting the support of the Cuban community. Despite its liberal tradition, the HERALD is now one of the very few of the major newspapers in the U.S. that favors a headline policy towards Cuba, including the embargo on the island. This is highly significant, for it means that **the exile agenda and discourse has found resonance and support in the principal print media of non-Cubans in Miami, serving to spread the exile message outside the community**.

20. By the 1990s it appeared that perhaps the stridency, militancy, and intolerance among Cuban Americans might be waning with the passage of time. But **two events served to reenergize the traditional exile ideology and create a climate in Miami that is of special relevance to the venue issue in this case**.



21. One of those events, on February 24, 1996, was the **downing by Cuban military jets of two civilian aircraft** piloted by Cuban Americans. It was an event that caused outrage in both the community and the local press and rekindled the strident anti-Castro sentiment and discourse in Miami. The reaction to the incident was uniform throughout Miami as both Cubans and non-Cubans stood united in their outrage and condemnation of the Cuban government. The prosecutors tied this important event to this case.

22. The other event started on Thanksgiving Day, 1999, when a six-year-old boy, **Elián Gonzalez**, was found floating on an inner tube off the coast of Florida, and ended with the return of the boy to his father less than a year before this trial opened.

23. The Elián affair energized most of the Cuban American community, even younger generations who had not been previously active in the exile agenda. From the beginning of the Elián saga, the predominant voices among Cuban Americans defined the situation as a battle with Fidel Castro over a trophy, a trophy they were determined not to lose. During forty years Fidel Castro may have triumphed over the exiles by retaining power in Cuba, but he was not, the exiles vowed, going to win this battle. The child was in their hands, in their city, a city where they had triumphed, a city they controlled. Even at the federal level, there was reason to be confident: the U.S. government had always proved willing to accommodate the exiles' agenda of combating Fidel Castro.

24. The 1996 shoot-down and the Elián saga served to

reassure many Cubans, and remind many non-Cubans, that the exile ideology, complete with its emotionalism, irrationality, and intolerance, was still alive in Miami.

25. After having laid out the context and climate to the process of jury selection in this case, I will restate my two basic points, now evident: 1) in this case, pre-trial media coverage is an insufficient indicator of the depth of the community's pre-trial bias against the defendants; 2) selecting a non-Cuban jury does not counter that bias.

26. It is evident from the foregoing discussion that an **overwhelming community bias against defendants who acknowledged being agents of the Cuban government is something that runs much deeper in Miami than unfavorable pre-trial publicity**. Any evidence presented of such publicity would only be the tip of the iceberg. Miami has lived with anti-Castroism for forty years; it is part of the "atmosphere" that Cuban Americans have created in the city. . . .

27. . . . The exiles' anti-Castro agenda is at the forefront of the political discourse in Miami. Even the most important English-language daily newspaper resonates with it. The style of that agenda is passionate and intolerant. If non-Cubans did not know that before the Elián case, they learned it then. Non-Cubans may publicly express such strong anti-Castro views because they sincerely hold them as a result of their local political climate, or because they may feel intimidated or pressured into voicing such views. They may also feel compelled to remain silent.

28. It is undoubtedly the case that all those in Miami who



disagree with the predominant exile views, Cubans or non-Cubans, do not feel compelled to publicly remain silent or conform. Indeed, some did express dissenting views on the fate of Elián and many more have expressed dissenting views on current U.S. policy. But this case is not about the appropriate U.S. policy towards Cuba. It is not even about the custody of a child. This case is about people accused by the U.S. government of spying for Fidel Castro and of helping to perpetrate a violent act that resulted in deaths and was widely condemned in the community. The 1996 shutdown was uniformly repudiated in Miami. If Cubans and non-Cubans in Miami have felt uncomfortable dissenting even in the Elián case, we can be sure that **dissenting in this case approaches a taboo, a position that no one would want to take, or even appear to take.**

29. Given the sociological forces unique to Miami-Dade, described above, I repeat my conclusion here: the possibility of selecting twelve citizens of Miami-Dade County who can be impartial in a case involving acknowledged agents of the Cuban government is virtually zero.

DE1636:Ex.5 (emphasis added).

A prominent, and ardently anti-Castro, Miami Cuban exile attorney, Victor Diaz, has explained the ferocity of the community's antipathy to persons such as the defendants; whether or not his allegations as to Fidel Castro and the Cuban government are true, Mr. Diaz's statement reflects prevailing local attitudes and beliefs regarding Cuba:

The reason that the issues related to Cuba are the hot-button issues in this town is that we can't escape the fact that in this town there are 700,000 Cuban Americans. There are 10,000 people in this town who had a relative murdered by Fidel Castro. There are 50,000 people in this town who've had a relative tortured by Fidel Castro. There are thousands of political prisoners in this town. For these people and for the 500,000 Cuban Americans who are old enough to remember having to leave their homeland, the **issues related to Fidel Castro are not a historical footnote; they are living, breathing wounds.**

DE1636:Ex.9 at 2 (emphasis added).

The first-hand knowledge of lawyers and academics was reinforced not only by a random survey commissioned to determine the level of prejudice faced by these defendants, but also by years of polling data that continually reflect the deference of the Miami community to the clear will of the Cuban exile community on matters relating to hostility to the Cuban government, as well as by journalistic investigations and studies conducted by the independent human rights organization, Americas Watch. See DE321 (Declaration of Gary Moran, Ph.D.); reporting scientific survey results showing 70% of the Miami-Dade population acknowledges prejudice against agents of the Cuban government engaged in activities in the United States); DE1636:Ex.4 (affidavit of Kendra Brennan, Ph.D.; explaining that results of



"The Cuba Poll" since 1991 "show a marked difference between the attitudes of citizens residing in Miami-Dade County and the rest of the country" with respect to intense community hostility to the Cuban government) (see Appendix A, attached); DE1636:Ex.10 (Jim Mullin, "The Burden of a Violent History," MIAMI NEW TIMES, April 20, 2000) (see Appendix B, attached); DE1636:Ex.8 (Human Rights Watch, "Dangerous Dialogue Revisited" (1994)) (see Appendix C, attached).

2. **Trial proceedings and events occurring during trial confirming the level of community prejudice and hostility toward Castro agents that would be anticipated in Miami and the heightened importance of such factors given the nature of the case as tried.**

As tried to the jury, the evidence and argument presented by the defendants – that Miami Cuban exile activists, beyond engaging in lobbying and fund-raising to fight Cuba, were also involved in terrorism and other illegal activity that justified Cuba's active investigation to protect itself from attack – was an affront to the core beliefs of the Cuban exile community. The district court acknowledged that the defendants adequately represented as part of their venue motions "the argument that the defense of necessity will

uniquely prejudice Defendants if tried before a Miami jury." DE723:2.

In combination with hostility to the defense offered by admitted Cuban agents infiltrating Miami Cuban exile groups, the method and means of prosecution employed by the government removed any doubt that the defendants would feel the full brunt of community prejudice. The government, from opening statements through rebuttal closing argument, effectively presented the case as "our community" against the "agents of the tyrant Castro." See DE1476:1573, 1576, 1592 (government opening statement, referring to spies "among us here," "spies here in our community," "their operations [in] this community," and "Cuban intelligence officer in this community"); DE1583:14474, 14480-82, 14520, 14535-36 (government closing argument; prosecutor compares 1996 Cuban shootdown to Nazi Germany's "final solution," i.e., the Holocaust of European Jewry; accusing Cuban government of "sponsor[ing] book bombs, ... threats, telephone threats of car bombs, [and] sabotage" in the Miami community; referring to one defendant, who was not charged with espionage, as a "Cuban spy sent to the United



States to destroy the United States"; arguing that failure to convict defendants would undermine internal opposition to the Cuban government; comparing the Cuban shutdown to Pearl Harbor; calling the defendants "spies, bent on the destruction of the United States of America" and "people bent on destroying the United States, [with counsel] paid for by the American taxpayer"; and arguing that defendants were "infiltrating exile groups").

Further, throughout the examination of defense witnesses (both those actually employed by the Cuban government and those who had spoken with the Cuban government to obtain relevant information), the prosecution made pointed attacks on the credibility of such persons due merely to their connection to Cuba. *See, e.g.*, DE1546:9958-60; DE1553:10917; DE1554:11061. Even in examination of government witnesses, the prosecution sought to bring out justifications for the community-accepted view of strident hostility to the Cuban regime. *See, e.g.*, DE1505:6007-18 (testimony regarding political persecution in Cuba).

Apart from direct actions by the government, key witness Jose Basulto,

who led the incursions into Cuban territory that precipitated the shutdown of Brothers to the Rescue planes and whose high-profile status in the Cuban exile community lent significance to his views, accused, as the district court acknowledged, one of the defense attorneys in this case of being "a spy for the Cuban government." DE1392:14. The defense contended that such an allegation by such a public figure, particularly in the middle of trial in front of the jury, was not the type of event that a juror or anyone else who heard it can be expected to erase from memory.<sup>1</sup>

Nor was Basulto constrained from engaging, during the course of trial, in public displays in connection with the case, including a major demonstration to commemorate the fifth anniversary of the shutdown,

<sup>1</sup> In renewing the venue issue following Basulto's in-court verbal attack, defense counsel noted, without dispute by the government, Basulto's "stature" in the community. *See* DE1540:8948 ("These jurors have to be concerned unless they convict these men of every count lodged against them, people like Mr. Basulto who hold positions of authority in this community, who have access to the media, are going to call them communists, accuse them of being Castro sympathizers, accuse them of being spies and this is not the kind of burden this jury can shoulder when it is asked to try and decide those issues based on the evidence at trial."). As a prospective juror noted in voir dire, Jose Basulto had, among other public activities, been a popular guest on Miami radio for years. DE1472:684 (statement of prospective juror Placencia, a south Florida media manager).



February 24, 2001. See Kirk Neilson, "Bird of Paradox," MIAMI NEW TIMES, April 26, 2001 at 1, 5, 26, 29 (cover story on Jose Basulto's claims of victimization, including at the trial of this case; Basulto "warns that the president risks losing Cuban-American votes if he refuses to endorse an indictment [of Fidel Castro for the Brothers to the Rescue shootdown] which has the backing of the Cuban American National Foundation and the Democracy Movement.") (see Appendix D, attached).

Events during jury selection and trial – unavoidable press attention, hostile prospective jurors, including a member of the Cuban American National Foundation, blistering editorials and news articles throughout trial, including attacks on the judge for ruling against the government on the phraseology of jury instructions, the dogged following of jurors by Spanish language media (including government-sponsored Radio Marti) just as deliberations were to begin, such that the jurors felt intimidated – served to corroborate Dr. Moran, Dr. Brennan, Dr. Perez, attorney Diaz, and the experienced defense attorneys who confessed their own fears of community reaction: Miami simply was not the place to force jurors to rise to such a

challenge of impartially evaluating witness credibility and the weight of the evidence in this case. See DE1636:Ex.12 (Americas Watch, Dangerous Dialogue) at 1 ("If one believes that the regime of Fidel Castro, however repressive, is the moral equivalent of the Nazi holocaust, then it is no great leap to view any position short of total intransigence as pernicious capitulation. In such a climate, moderation can be a dangerous position."); id at 20 (discussing assassination of exile who expressed willingness to work against Castro through electoral means, a position too moderate under prevailing exile views).

3. The government's action in strongly disputing in this case what it flatly admitted in other litigation – that a jury trial in Miami addressing hot-button, core Cuban exile issues presents unacceptably high risks of bias and lack of impartiality – and newly-disclosed evidence concerning improprieties in the handling of expert community surveys confirming overwhelming prejudice against the defendants in Miami.

The government well knew of the level of community prejudice in this case. Immediately following the return of the verdict on June 8, 2001, the United States Attorney announced in a press conference that by prosecuting the defendants, "his office protected the community from 'Castro's

tentacles.”<sup>2</sup> Thus, it was not surprising that less than six months after the final sentencing hearing was conducted in this case, the government, in civil damages litigation, moved for a change of venue out of Miami due to the very community prejudice that it had, with impunity, denied throughout the defendants’ case.

On June 25, 2002, the same government that had opposed a change of venue on the ground that Miami-Dade is an “urban center” that is “extremely heterogeneous,” “politically non-monolithic,” with “great diversity,” and therefore immune from “outside influences” that would preclude seating a fair jury, see DE:443; DE514:63, moved in Ramirez v. Ashcroft et al., Case No. 01-4835 Civ-HUCK, for a change of venue out of Miami-Dade, relying on precisely on the fact that such influences made a fair trial “virtually impossible ... if the trial [of an employment-related discrimination action against the U.S. Attorney General] is held in Miami-Dade County.” DE1636:Ex.2:15; see also id. at 14-15 (government acknowledges media bias

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<sup>2</sup> Gail Epstein Nieves, Alfonso Chardy, Cuban Spies Convicted, MIAMI HERALD, June 9, 2001, at 1A (emphasis added).

in favor of the position of the Cuban exile community); id. at 13 (“Where outside influences affecting the community’s climate of opinion as to a defendant are inherently suspect, the resulting probability of unfairness requires suitable procedural safeguards such as a change of venue, to ensure a fair trial. ... Evidence of pervasive community prejudice is sufficient even without a showing of a clear nexus between community feeling and jury feeling.”) (citing Pamplin v. Mason, 364 F.2d 1, 4 (5<sup>th</sup> Cir. 1966); United States v. Moody, 762 F.Supp. 1485, 1487 (N.D. Ga. 1991)) (emphasis in government’s pleading). The principal case cited and relied upon by the government in Ramirez - Pamplin v. Mason – was the same case relied upon by the defense in this case, and which the government vigorously opposed as having no application to a venue the size of Miami-Dade. See DE286:5; DE443:6-8; DE514:59-63.

The newly-discovered evidence presented by the defendants also included events regarding the handling of Dr. Gary Moran’s expert survey evidence on the prejudice held toward Cuban agents in Miami. On August



18, 1999, defendant Medina filed an ex parte motion for authorization of funds to conduct a survey as a predicate for change of venue. DE275. On October 18, 1999, the district court took the unusual step of seeking the government's advice on whether or not to grant the ex parte defense request. DE284. The government responded with an ad hominem attack on the proposed expert, accusing him of having "a career oriented toward defense practice." DE286:5; DE443:8 n.6. In addition, the United States Attorney denied the need for a survey expert, proffering that venue was not an issue worthy of exploration because Miami-Dade was an "extremely heterogeneous, diverse, and politically non-monolithic community." DE286:5.

In applying for funding for the expert, the defense specified that the survey sample would include 300 respondents from Miami-Dade, answering questions designed to probe attitudes relevant to this case. On November 15, 1999, the district court granted the defense request, specifically to fund that survey. DE303. Months later the district court discounted the survey, finding that "the size of the statistical sample in this case is too small to be

representative of the population of potential jurors in Miami-Dade County." DE586:15. However, at no time during the three months in which the district court was considering the defense application for a survey, or in the eight months that followed after it received the survey results and before announcing the decision, including during the hearing on the motion, did the district court indicate it entertained any doubt about the sample size.<sup>3</sup>

As Dr. Moran's affidavit explains, delays and the failure of payment forced him to effectively withdraw from the case, leaving the defense without an expert in response to the prosecution's attack on him, an attack which now appears disingenuous in light of the government's pleadings and assertions in Ramirez. DE1636:Ex.7. With Dr. Moran absent from the venue proceeding, the district court's criticism of his methodology – based on an affidavit prepared years earlier in an unrelated case by a government-retained psychologist with no experience in conducting venue surveys – went un rebutted. Id.

<sup>3</sup> Moreover, the court's criticism of the sample size was mistaken as a matter of mathematical and survey science. As confirmed by Dr. Kendra Brennan, the sample size was fully adequate for its intended purposes and produced a statistically valid survey. DE1636:Ex.4 at 6.



Dr. Moran's affidavit (and a letter that he provided to the district court) explained that if he had appeared and testified at the venue hearing, any questions regarding the drafting of the survey documents and his tallying of the survey results may have been resolved. After the district court denied a change of venue on July 27, 2000, Dr. Moran received a copy of the published order rejecting his survey findings. Because he no longer had a working relationship with the attorneys in this case (having, in the meantime, filed a Bar complaint against the lawyer retained him for non-payment of both his fees and expenses), he wrote a letter directly to the district court while the defense motion for reconsideration of the venue decision was pending, advising the court that it had made fundamental errors in its reasoning in questioning the survey's sample size. DE1636:Ex.7. The district court's clerk failed to bring this letter to the attention of counsel, and the defense did not become aware of its existence until after sentencing.

Likewise, not until long after trial did the defense learn of prior interactions between the district judge and Dr. Moran. According to Dr.

Moran's affidavit, DE1636:Ex.7 at 7, the district judge, while sitting as a state court judge in a civil matter, had summoned him to her chambers and sharply criticized him for interviewing jurors at the request and direction of trial counsel, following a civil trial. Dr. Moran's name was provided to the district court when the application was filed in August of 1999, and he remained a key figure in the venue litigation for 13 months. While no action was taken in the state court matter, it is clear that due to those undisclosed events, there may have existed a level of distrust and antagonism by the district court regarding this defense expert.<sup>4</sup>

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<sup>4</sup> During a status conference on August 25, 1999 the district court sought the active assistance of the government in obtaining a qualified survey expert, to act as a court's expert, to conduct the survey. See DE1636:Ex.11. Rather than advise the district court of allegedly negative information about community surveys which the government had in its possession for several years, it waited seven months and until after Dr. Moran's survey was filed to produce the affidavit of Dr. J. Daniel McKnight. The McKnight affidavit, DE443:Ex.2, prepared for the government nearly three years before the Elián events and more than three years before the trial in this case, related solely to a smaller survey conducted by Dr. Moran in a case involving the trade embargo with Cuba, an issue about which attitudes, even in the Cuban exile community, vary. The government has never offered an explanation for its failure to obtain any expert testimony or report directed to Dr. Moran's survey in the present case.



**4. District court's ruling.**

The district court, while denying the motion for new trial based on newly-discovered evidence, nevertheless acknowledged that under Fed. R. Crim. P. 33, a new trial may be granted based on newly-discovered evidence undermining reliance on the impartiality of the jury. See DE1678:8 (“Challenges to the fairness or impartiality of a jury may be raised in the context of a motion for new trial.”) (citing United States v. Williams, 613 F.2d 573, 575 (5th Cir. 1980); Rubinstein v. United States, 227 F.3d 638, 642 (10th Cir. 1995); Holmes v. United States, 284 F.2d 716 (4th Cir. 1960)).

The district court concluded, however, that due to factual differences between the Ramirez case and the instant prosecution, the government’s directly contrary representations in the two cases failed to “demonstrate prosecutorial misconduct.” DE1678:9. For that reason, the district court ruled that such evidence could not be viewed as newly-discovered evidence within the meaning of Rule 33. DE1678:6, 8-9. The district court further determined that because the main thrust of the new trial motion rested on

evidence relating to the government’s actions in the Ramirez case, which the court distinguished from the present case, none of the additional evidence submitted by the defense, which the court construed as relating solely to the “interests of justice,” would be considered. DE1678:6 n. 3 (“Here, since the Court finds that Defendants have not submitted any newly discovered evidence within the meaning of Rule 33, the Court need not consider the ‘interests of justice’ issue.”). Thus, the district court denied the newly-discovered evidence motion, without conducting a hearing. DE1678:9 (“Absent any ‘newly discovered evidence’ within the meaning of Rule 33, Defendants are not entitled to a new trial in this case.”).

**Standard of Review**

This Court’s “review of the district court’s denial of a motion for a new trial based on newly discovered evidence is subject to the abuse of discretion standard.” United States v. Fernandez, 136 F.3d 1434, 1438 (11<sup>th</sup> Cir. 1998) (citing United States v. Oregon, 893 F.2d 1307, 1312 (11<sup>th</sup> Cir. 1990)). The abuse of discretion standard also applies to the district court’s denial of an

evidentiary hearing. Id. (“Similarly, we review the district court’s denial of an evidentiary hearing for abuse of discretion.”) (citing United States v. Massey, 89 F.3d 1433, 1443 (11<sup>th</sup> Cir.1996)). Prosecutorial misconduct is reviewed de novo and requires reversal if there is a reasonable probability that the misconduct prejudiced the defendant’s substantial rights. United States v. Beasley, 72 F.3d 1518, 1525 (11<sup>th</sup> Cir. 1996).

#### SUMMARY OF THE ARGUMENT

The district court erred in denying without an evidentiary hearing, or a hearing of any kind, the defendants’ motion for new trial based on newly-discovered evidence. The motion for new trial was premised on the government’s contradictory representations and manipulation of the forum for trial in order to take advantage of community prejudices well known to exist in Miami. The fortuitous disclosure of the government’s contradictory position on Miami’s status as a site where emotional Cuba-related issues cannot fairly be tried provided insight into the government’s persistent trial tactic of poisoning the well against the defendants by trying not only them but

their country, whose face the defendants represented in Miami, and by using every available means to prejudice the defendants in the eyes of the Miami jury due to the defendants’ connections to and associations with Cuba. Knowing – as the Ramirez documents show – the incendiary effect in Miami of a barrage of politically prejudicial suggestions, innuendoes, and tangential evidence tarring the defendants by association with the worst possible views of the Cuban regime, the government clearly tried to maximize the benefit of the forum-shopping victory it had won by playing to local hostility to and fear of Cuba and Castro in order to overshadow the technical legal issues and narrow defenses in the case. The trial tactics and evidence showed an overriding focus on issues likely subject to the influence of local community passions and prejudices. Similarly, additional newly-discovered evidence concerning the handling of community surveys supporting defense assertions of intense community prejudice warranted the granting of the motion for new trial or, at a minimum, the conducting of hearing on the motion. Hence, the district court’s denial of the motion should be reversed.



#### ARGUMENT AND CITATIONS OF AUTHORITY

The district court erred in summarily denying the defendants' motion for new trial based on newly-discovered evidence.

The district court erred in denying the defendants' motion for new trial, where the district court: (1) failed to conduct an evidentiary hearing before reaching factual conclusions regarding whether the new evidence showed prosecutorial misconduct or otherwise warranted a new trial; (2) misconstrued Fed. R. Crim. P. 33 in failing to consider the interests of justice, evidentiary submissions in the motion for new trial, and surrounding evidence relevant to determination of the motion; and (3) failed to take into account the record as a whole, which established a series of improper prosecutorial actions designed to take advantage of community prejudice.

In essence, the motion for new trial raised two categories of information that were not within the discoverability of counsel: (1) that the government was taking a false position with respect to its representations as to the state of community prejudices and deep-seated convictions on issues closely tied to hostile actions by the Cuban government, and (2) that the defense's ability

to counter the government's submission of opinion evidence, now known to be contrary to the government's own knowledge of the facts, was undermined by events outside the defendants' knowledge or control, relating to the CJA expert hired to mathematically determine community attitudes. The motion also incorporated matters of public record, which the government did not factually contest, such as the naming of Miami's streets after anti-Castro Cuban exiles and the fact that for several years the Miami-Dade County government building (which also houses the central transportation hub, Metrorail) has displayed a monument to the victims of the Brothers to the Rescue shutdown with explanatory text accusing the Cuban government of murder.

A. The district court erred in determining, without an evidentiary hearing, that the government's contradictory positions on venue did not affect the fairness of the resolution of the venue motions.

In submitting numerous affidavits and record evidence showing that the venue motions were unfairly denied due to a series of improprieties, the defendants made it plain that such documents were proffered in support of an evidentiary hearing in accordance with the request made in the motion for

new trial. See, e.g., United States v. Espinosa-Hernandez, 918 F.2d 911, 913-14 (11<sup>th</sup> Cir. 1990) (explaining district court authority to conduct hearing on newly-discovered evidence new trial motion during pendency of appeal); Mayo v. Cockrell, 287 F.3d 336, 345 (5<sup>th</sup> Cir. 2002) (“While a motion for new trial is not a prerequisite to appeal in every case, for a meaningful appeal of some issues a defendant must prepare, file, present, and obtain a hearing on a proper motion for new trial in order to adduce facts not otherwise shown by the record.”).

The district court dismissed the importance of the government’s “recantation” as to venue, and premised its denial of the motion for new trial on the theory that the newly-discovered evidence of the government’s forum-shopping approach to venue representations in the district court did not constitute misconduct, because “[t]he situation in Ramirez differed from the facts of this case in numerous ways.” DE1678:8. See United States v. Gates, 10 F.3d 765, 768 (11<sup>th</sup> Cir. 1993) (error to dismiss out-of-hand a recantation on a critical issue).

Although there were of course distinctions between the two cases – the instant case and Ramirez – none made the government’s duplicity excusable. They include:

(1) **Relationship of defendants to hostile environment.**

In Ramirez, the factor that motivated popular demonstrations, anger and the resulting hostile publicity against the Attorney General was nothing other than the pervasive hostility against the Cuban government. The controversy around Elián Gonzalez was merely a dramatic manifestation of that sentiment, an exposed nerve which drew pain even from comments by the plaintiff and his counsel. In the instant criminal case, however, the **defendants were part of the very government that was at the core of the community’s animus.** In Ramirez, the Attorney General, in executing the laws of United States, simply stepped into the line of fire against anyone perceived as being helpful to these defendants’ principal. Whatever derivative prejudice the successor Attorney General (sued only in his official capacity) faced was substantially less than that directed at these defendants who were not just perceived as helping Cuba, but were actually a part of the



enemy in the "state of war" atmosphere that existed in Miami.

**(2) Intensity of prejudice directed at defendants.**

In Ramirez, the ultimate issue for the jury was whether a U.S. governmental agency had been motivated by ethnic or national-origin animus against Hispanics when it made an unfavorable employment decision as to a Mexican-American. The Elián case was merely partial backdrop against which certain INS employees may have created a hostile work environment. See DE1660 (attaching copy of Ramirez complaint alleging that INS agents referred to Cuban exile-dominated Miami as a "banana republic").<sup>5</sup> By contrast, in the criminal case, the ultimate issue for the jury was whether the defendant Cuban agents secretly conspired to violate espionage and other laws and conspired to murder four local Miami heroes. Anti-Cuban animus may have been tangentially relevant to the jury's decision in Ramirez, but the

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<sup>5</sup> The government's contention, in opposing to the new trial motion, that Ramirez was "about the Elián Gonzalez matter" is incorrect. DE1660:15 Plaintiff's counsel in Ramirez stated at oral argument: "This is not an issue about Elián Gonzalez. I would be prepared to say that to the jury during voir dire. It is not Elián Gonzalez, whether he went to Cuba." DE1636:Ex.8 at 21.

passions aroused by mild allegations of INS agency bias paled in comparison to those stirred by Brothers to the Rescue murder allegations and charges of espionage.

**(3) Perception of defendants by the jury.**

In Ramirez, the alleged target of potential prejudice was the chief law-enforcement officer of the United States – a figure inspiring respect and deference – as well as an agency of the U.S. government. Here, the defendants were members of a linguistic and national minority who, the prosecution argued, had come to the United States to "destroy" America. DE1583:14482.

The government, in its opposition to the motion for new trial, observed that the defendants necessarily chose not to exercise peremptory challenges on the jurors who served in this case. See DE1660:5 n. 2. The government's apparent argument – that the defendants thought the jurors it failed to strike would be more fair than those the defense struck – does not mitigate the level of community prejudice or its potential for influence on the jurors. Pamplin v. Mason, 364 F.2d 1, 8 (5<sup>th</sup> Cir. 1966) (transcript of voir dire will not reflect full



extent of community prejudice nor serve to eliminate influence of such pervasive prejudice). In fact, several of the jurors who served, including the foreperson made strong statements of opposition to the Cuban government. See DE1472:741 (juror who would become foreman states: "Castro is a communist dictator and ... I would like to see him gone"). That the defense felt compelled to accept such jurors, particularly given the government's exercise of peremptory challenges as to the total of three prospective jurors who failed to express negative views toward Cuba, in no way diminishes the level of community-wide prejudice. See e.g., DE1472:861; DE1474:1296-97 (anti-Cuba comments of jurors who served); DE1472:767,810; DE1473:939 (jurors who expressed neutrality to Cuba challenged by government).

**(4) Weight of pervasive community prejudice vs. pretrial publicity.**

In Ramirez, pretrial publicity included, according to the government, a damaging report of possible discrimination within the INS from an Administrative Law Judge. In this case there were, among other things, press reports of guilty pleas by co-defendants who publicly confessed to being part of the charged conspiracy. DE397:Ex. H & I-1. An editorial in the local paper

openly advocated punishment for those responsible for the shutdown and pointedly suggested that a conviction here could bring down the Castro government. DE397:Ex. K-1. Moreover, a damaging comment about this case by the former head of the local FBI office, appearing in an article in the local newspaper on the opening day of trial, was found open in the jury assembly room. DE1245:171. But the defense in Ramirez did not claim it could meet the stringent tests for unfair pretrial publicity (created for the protection of criminal defendants). Rather, it relied upon the concept of pervasive community prejudice, citing Pamplin v. Mason. In the criminal case, where the prejudice was clearly a more direct threat to defendants' rights, the prosecution disavowed Pamplin as having no relevance to a large, metropolitan, diverse jurisdiction such as Miami-Dade.

And the government's contention here that the post-Elián litigation that struck south Florida was not relevant to the underlying pressures on members of the community who might dare to take a position contrary to the accepted Cuban exile position on a core anti-Castro issue is not credible. The Ramirez litigation was just one manifestation of the damage that can befall an



individual – or, as in Ramirez, the entire U.S. government – by opposing the Cuban exile viewpoint regarding the evils of dealing with Fidel Castro.<sup>6</sup>

To say that the government's concession of pervasive community prejudice on issues dealing with Elián is somehow inapplicable to issues of murder by the Cuban government of four Miami Cuban exile members of Brothers to the Rescue or to an espionage conspiracy by Castro agents is linguistic distortion truly worthy of Lewis Carroll. The government can not maintain the excuse that the Elián controversy was about something other than the deeply-held belief in the Miami Cuban exile community that Castro's regime is a murderous, Nazi-like tyranny to which no child should be

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<sup>6</sup> The government's reliance on adverse pretrial publicity cases, such as United States v. Fuentes-Coba, 738 F.2d 1191, 1194-95 (11<sup>th</sup> Cir. 1984), to distinguish Ramirez from the instant case is therefore misplaced. The prejudice manifested in Ramirez points to an even more united community hostility to admitted pro-Castro agents than could possibly be true as to Attorney General John Ashcroft; and, as noted, the very fact of the publicity attendant to retaliatory lawsuits as a result of the government's neutral position toward Castro in the Elián matter would heighten any Miamian's expectation of consequences from any acquittal of Cuban government agents charged with espionage and murder conspiracies.

forcefully returned.<sup>7</sup> See DE1660:13-14 (government argument regarding prejudice to defendants from Ramirez's counsel's use of "Nazi reference" in relation to the sending of Elián back to Cuba).

**(5) Proximity in time.**

In Ramirez, the principal incident relied upon by the United States in its motion (the return of Elián Gonzalez to his father) occurred more than two years before the motion was filed. In contrast, judicial resolution of the Elián Gonzalez case preceded trial of the instant criminal case by just five months. Thus, the passions giving rise to community prejudice were much more intense at the time of this trial.

**(6) The pervasiveness of the community prejudice.**

In Ramirez, there was "divided sentiment in the community regarding the handling of the Elián Gonzalez case," according to government counsel

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<sup>7</sup> As defense counsel noted, without dispute by the government, at the district court hearing on the motions for change of venue, "I think we all agree in this community [that Castro] is considered by members of this community to be the personification of evil. ... You are taught this by the priest, by the teachers in these [Cuban American] communities" in Miami. DE514:29.



DE1636:Ex.11 at 24-25. Whereas, in the criminal case, the shutdown created a "reaction to the incident (that) was uniform throughout Miami as both Cubans and non-Cubans stood united in their outrage and condemnation of the Cuban government." DE1636:Ex.5 at 10 (affidavit of Dr. Lisandro Perez).

**(7) Relation to legal norms and procedures.**

In Ramirez, there was no civil equivalent to Fed. R. Crim. P. 21(a), which mandates transfer of the case whenever local prejudice threatens a fair trial. In the criminal case, Rule 21(a) incorporates due process protections afforded criminal defendants. Civil defendants, such as the Attorney General in Ramirez, not faced with the loss of liberty, are not similarly protected.

**(8) Consequences of decision resulting from community prejudice.**

In Ramirez the United States risked having to pay modest damages. In the criminal case, five individuals risked loss of liberty – three of them for the rest of their lives.

**(9) Role of the Office of the United States Attorney.**

In Ramirez, the United States Attorney was representing an institutional client and the Attorney General as an advocate in a civil suit. In the criminal

case, the United States Attorney was not free to act solely as an advocate, but under both professional canons and due process, owed a duty to the defendants and the court to safeguard their right to a fair trial. Thus, a prosecutor may not use "improper methods calculated to produce a wrongful conviction." Berger v. United States, 295 U.S. 78, 88 (1935).

The district court erred in failing to conduct any sort of a hearing on the motion, effectively presuming the innocence and good faith of the government without considering such relevant questions as: Has the government ever before sought a change of venue because it could not receive a fair trial? What do the files and records of the United States Attorney's office show as to the decision-making in acknowledging the government's inability to receive a fair trial in Miami?

The district court similarly left unanswered the many questions raised by the affidavit of Dr. Moran, the discounting of which seemingly was a crucial determinant of the venue ruling. If the improper handling of the expert's request for payment prejudiced the defense – by denying it crucial expert testimony on an issue of great significance to the defendants' due



process and fair trial rights, see Chambers v. Mississippi 410 U.S. 284 (1973) – then the district court’s failure to even address the issue by way of a hearing must be reversed. The district court failed to consider Moran’s evidence either before or after filing of the motion for new trial. The district court’s summary resolution, without testing any of the proffers made by the government in its response to the motion did not fairly resolve the substantial questions raised by the motion.

B. The district court misconstrued Fed. R. Crim. P. 33 in failing to consider the interests of justice, evidentiary submissions in the motion for new trial, and surrounding evidence relevant to determination of the motion.

The district court erroneously premised its exclusion of consideration of relevant submissions in support of the motion for new trial on a stylistic change to Fed. R. Crim. P. 33 made after the motion was filed. See DE1678:4-6 (relying on version of Rule 33 adopted after filing of motion for new trial).

The district court reasoned that the under the new rule, the district court could not consider “the interests of justice” in ruling on a motion for new trial based on newly-discovered evidence. Id. But the rule change did not alter the scope of the relevant factors for consideration by the district court in weighing

the significance of newly discovered evidence.

The express language of both the new and former versions of Rule 33, read in their common sense meaning and according to precedent, do not preclude considerations of fairness and justice in ruling on a motion for new trial based on newly-discovered evidence. See United States v. DiBernardo, 880 F.2d 1216, 1229 (11<sup>th</sup> Cir. 1989) (even where evidence was technically inappropriate for new trial motion, it was nevertheless given consideration by district court and court of appeals and found to support affirmance of district court’s granting of motion for new trial).

The theory that the interests of justice have no place in considering a newly-discovered evidence motion is internally contradicted by the government’s recognition that a multi-part analysis applies to resolution of such a motion. See DE1660:20 (Gov’t Response to Motion for New Trial). The key element in the determination of the motion – weighing the significance of newly-discovered evidence in relation to the venue error at issue – requires context-specific evaluation of all relevant factors, including matters of which judicial notice can be taken as well as evidence supporting the ultimate claim



for relief. See, e.g., United States v. Williams, 613 F.2d 573, 575 (5<sup>th</sup> Cir. 1980) (“Admittedly, there are major distinctions in the substance of the evidence proffered by the appellant and that proffered in the usual case, since appellant’s evidence goes to the fairness of the trial rather than to the question of guilt or innocence. ... However, for this case, a corollary to the third requirement stated above would be that the newly discovered evidence ‘would afford reasonable grounds to question the integrity of the verdict.’” (quoting United States v. Jones, 597 F.2d 485, 488 (5<sup>th</sup> Cir. 1979)).

Given the instant newly-discovered evidence, the context provided by the additional submissions adds not merely to the interests of justice favoring granting relief, but also to the likelihood that the newly-discovered evidence, considered in relation to the actual status of community attitudes and prejudices in this case, would rise to the level of a probability of an erroneous denial of the change of venue motions. See *id.* (recognizing that juror bias impugns integrity of verdict). As is true of other new trial motions based on newly-discovered evidence, the probabilities in this evaluation must be determined in light of other factors that may counter or support the newly-

discovered evidence. See, e.g., United States v. Devila, 216 F.3d 1009, 1017 (11<sup>th</sup> Cir. 2000) (court of appeals considered post-conviction certifications submitted by government in weighing significance of newly-discovered evidence as to maritime drug enforcement jurisdictional element; post-conviction affidavit offered by government “was obtained long before any retrial, and therefore would be sufficient evidence to establish United States jurisdiction”) (emphasis added).

These surrounding circumstances explain both the prejudice to the defense, resulting, for example, from the government’s failure to candidly admit – as it did in the Ramirez case – the deep-seated nature of the anti-Cuban government sentiment in Miami and its integral relation to local economic and political institutions, and the likelihood of an effect on the outcome of the case due to the withheld information, such as, for example, alternative and bolstering evidence that could have been offered with respect to the defense CJA expert. The significance of these matters to the Fifth and Sixth Amendment issues raised by the motion for new trial goes to more than merely the interests of justice; it concerns acknowledging the realities of



commonly-understood community experience and explain the government's attempt to selectively acknowledge such facts only in accordance with its choice of whether a given party should have the same fair trial rights that the government seeks for itself in civil litigation.

C. The district court failed to take into account the record as a whole, which established a series of improper prosecutorial actions designed to take advantage of community prejudice.

In *United States v. Williams*, 523 F.2d 1203 (5<sup>th</sup> Cir. 1975), the former Fifth Circuit explained that the prejudicial nature of trial in a venue susceptible to community bias is most pronounced when the manner of prosecution of the case stirs the same passions already present in the community. See *id.* at 1208-09 (holding that where constitutional fair trial issues arise, community prejudice and prosecutorial misconduct capitalizing on such prejudice must be considered in "tandem").

The clear premise of the government misconduct here—unfair attempts to thwart a meritorious venue motion combined with the intent to use community prejudices, from opening through trial and closing, warranted the district court's holding, at a minimum, of a hearing on the motion and an

opportunity to present evidence as the defense requested. See *Espinosa-Hernandez*, 918 F.2d at 913-14 (error to foreclose evidentiary development where defense claimed pattern of government misconduct designed to skew presentation of evidence, including suppression of informant). The most strident of the governmental arguments—the rebuttal references to the “final solution” of the Holocaust, the moral equivalency of Pearl Harbor, and taxpayer funding of defense counsel to help the defendants destroy America—was just the most visible part of the “iceberg” of underlying prejudice confronting these defendants. See DE1636:Ex.5 at 12 (affidavit of Dr. Lisandro Perez).

The government's rebuttal closing hit the core Cuba button in Miami when comparing Cuba and the actions of the defendant agents to Nazi Germany and the actions of the Nazis who ran the death camps of the Holocaust. The massive Holocaust memorial on Miami Beach symbolizes the extent to which the government sought to bring in every community prejudice that it knew existed against a regime that the government directly equated with the most vile, genocidal racists of the 20th century.



Apart from the government, outside forces sought to undermine the defense and poison the community atmosphere. Witness Jose Basulto, before testifying, engaged in public demonstrations to rally the community behind his claims as to the shutdown. See generally In re Jose Basulto, 11<sup>th</sup> Cir. No. 01-10949 (11<sup>th</sup> Cir. Feb. 22, 2001) (Appendix E, attached) (unpublished order finding that district court's gag order did not properly bar Basulto from engaging in memorial events and public statements concerning the Brothers to the Rescue shutdown). After testifying, and in disregard of the district court's gag order, Basulto (through his family) gave his rebuttal to the examination of him as a witness by way of a letter to the editor of the MIAMI HERALD. See Rita Basulto, Letter to the Editor, MIAMI HERALD, March 23, 2001, at 8B.

Similarly, while the government argued in attempting to distinguish the Ramirez case, that the plaintiff's attorney in Ramirez was a well-known media-friendly personality, the government failed to acknowledge that before, and after, he represented Mr. Ramirez, the same attorney represented witness Jose Basulto in Basulto's efforts to create press coverage during trial

of his claims regarding the shutdown (as to the location of the shutdown, Basulto's actions and intentions that day, Basulto's incursions earlier in January 1996 and the nature of his actions and intentions or those and earlier Cuba flights), see In re Jose Basulto, 11<sup>th</sup> Cir. No. 01-10949 (dismissed as moot following trial in defendants case), and Basulto's claims for civil damages from the Cuban government relating to the same events. See Basulto v. Republic of Cuba, Case No. 02-21500-Civ-MARRA (S.D. Fla.).

Miami media, including the MIAMI HERALD, successfully litigated at the outset of the trial to obtain a ruling by the district court providing for media inspection, on a daily basis, of all evidence entered into the record. United States v. Hernandez, 124 F.Supp.2d 698, 705 (S.D. Fla. 2000) (finding "Defendants' foreshadowing of a 'hostile, prejudicial environment' resulting from the media's access to the evidence too speculative, at this point"; allowing media examination of documentary evidence prior to its presentation to the jury; recognizing risks to fair trial of "widely publicized case"). The intense media coverage continued throughout the months-long trial. See, e.g., DE978; DE988.



Just prior to closing arguments, the MIAMI HERALD took the unprecedented step of publishing in its editorial opinion page a lengthy column attacking the district court for allowing the defense to present evidence in support of their claims as to the murder and espionage conspiracies. See Appendix F (Luis J. Botifol, "The Cuban Spies' Case vs. Credibility of the U.S. Judiciary," MIAMI HERALD, May 16, 2001 at 9B). The author of the article, Cuban exile Luis Botifol, was identified by the HERALD as "a Miami banking pioneer and a longtime community activist." *Id.* In the column, which jurors may have inadvertently seen even if they were trying to avoid news articles in the paper, Botifol ridiculed the district court for allowing the defendants to offer evidence "presenting Castro as the victim and the Cuban exile community as the guilty party." *Id.* Botifol argued that even by allowing the defendants to present their defense, the district court had "diminish[ed] the trust and credibility of the judiciary on which our democracy rests." See *also id.* ("Notwithstanding the silence imposed on those who participate in this case, the media's reports generate unfavorable comments in the community, which attributes the judge's permissiveness as

stemming from an association with prominent members of the past administration who don't sympathize with the exile community, especially after the Elián case."). This type of unmitigated venom directed at a judge for merely allowing the defense to put on a case had no rebuttal in the HERALD, which made its position clear by elevating Botifol's status as a "banking pioneer" and community activist.<sup>8</sup>

The pressure had reached such a level by the time the jury was sent out to deliberate that the jurors – hounded by local new media outside the courthouse – expressed fear to the district court of being identified before giving their verdict. DE1585:14644-46.

The government knew at the time of this trial what it later acknowledged in an attempt to minimize civil damages after the trial: Issues of such importance to the Cuban exile community as their right to engage in anti-Castro activities without interference from Cuban spies are not

<sup>8</sup> The pervasive understanding of the core community concern about this case was reflected in the United States Probation Office's presentence reports which explained that the events alleged in Count 3 of the indictment, the Brothers to the Rescue shutdown, created an "unspecified impact to the community in South Florida." See PSI for each of the five defendants. "Incalculable," rather than "unspecified," would be more precise.



susceptible to freedom from community pressure. The defendants, as the district court expressly observed in denying the motion for reconsideration as to venue, DE723:2, had made plain prior to trial that their defense – premised on evidence offered to support a necessity defense and a lack of intent to violate the law, but rather to protect Cuba from actions by Cuban exiles – would likely be viewed in terms of an attack on the prevailing beliefs underlying the community in Miami.<sup>9</sup>

“[T]he Due Process Clause requires conduct of a prosecutor that it does not require of any other participants in the criminal justice system, such as the

<sup>9</sup> See Nixon v. Shrink Missouri Government PAC, 528 U.S. 377, 424 (2000) (Thomas, J., dissenting) (“The Framers, of course, thought ... that faction would infest the political process. As to controlling faction, James Madison explained, ‘There are again two methods of removing the causes of faction: the one, by destroying the liberty which is essential to its existence; the other, by giving to every citizen the same opinions, the same passions, and the same interests.’ The Federalist No. 10, p. 78 (C. Rossiter ed.1961).”); Gutierrez de Martinez v. Lamagno, 515 U.S. 417, 428 (1995) (“‘No man is allowed to be a judge in his own cause, because his interest would certainly bias his judgment, and, not improbably, corrupt his integrity. With equal, nay with greater reason, a body of men are unfit to be both judges and parties at the same time ...’ The Federalist No. 10, p. 79 ... See In re Murchison, 349 U.S. 133, 136 ... (1955) ([O]ur system of law has always endeavored to prevent even the probability of unfairness. To this end no man can be a judge in his own case and no man is permitted to try cases where he has an interest in the outcome.’”).

duty to disclose evidence favorable to the accused.” Smith v. Groose, 205 F.3d 1045, 1049 (8<sup>th</sup> Cir. 2000) (granting habeas corpus relief based on state’s use of factually inconsistent theories to convict defendants in two criminal cases, in violation of due process); see ABA Standards for Criminal Justice: The Prosecutorial Function, 1993, Section 3-2.8(a) (“A prosecutor should not intentionally misrepresent matters of fact or law to the court.”).

This Court has consistently admonished every attorney representing the United States to “remember that he is the representative of a government dedicated to fairness and equal justice for all and, in this respect, he owes a heavy obligation to the accused. Such representation imposes an overriding obligation of fairness so important that Anglo-American criminal law rests on the foundation: better the guilty escape than the innocent suffer.” United States v. Wilson, 149 F.3d 1298, 1303 (11<sup>th</sup> Cir. 1998). See also United States v. Crutchfield, 26 F.3d 1103 (11<sup>th</sup> Cir. 1994) (emphasizing that a United States Attorney has a duty to refrain from using improper methods to secure a conviction). See also Wilson, 149 F.3d at 1303 (“We recall the duties in a criminal prosecution of a lawyer for the United States: ‘A United States



district attorney carries a double burden. He owes an obligation to the government, just as any attorney owes an obligation to his client, to conduct his case zealously. But he must remember also that he is the representative of a government dedicated to fairness and equal justice to all ...” (quoting Dunn v. United States, 307 F.2d 883, 885 (5<sup>th</sup> Cir.1962)).

“[J]ustice must satisfy the appearance of justice.” Offutt v. United States, 348 U.S. 11, 14 (1954). Related to that premise is the doctrine of judicial estoppel. See New Hampshire v. Maine, 532 U.S. 742, 750 (2001) (“Courts have observed that the circumstances under which judicial estoppel may appropriately be invoked are probably not reducible to any general formulation of principle ... Nevertheless, several factors typically inform the decision whether to apply the doctrine in a particular case: First, a party’s later position must be ‘clearly inconsistent’ with its earlier position. ... Second, courts regularly inquire whether the party has succeeded in persuading a court to accept that party’s earlier position, so that judicial acceptance of an inconsistent position in a later proceeding would create the perception that either the first or the second court was misled ...”) (internal quotations,

citations, and alterations omitted). The government’s use of the contradictory representations in this case meets the judicial estoppel standard and represents a serious shortfall in the appearance of justice, even absent a judicial finding of intentional misconduct.

From the indictment to opening statements to closing arguments, it is clear that the prosecution proceeded in this case to take maximum advantage of the “impassioned,” DE1392:10, location of the trial. The very fact that the government drafted the indictment’s allegations of murder conspiracy to assert that conspiracy resulting in murders on February 24, 1996 began “in or about January, 1996, and **continued**] until on or about September 12, 1998,” more than two and one-half years after the shutdown, showed the extent to which the government sought to portray Cuba and its agents as bloodthirsty and bent on destroying the United States. The government’s closing arguments, see DE1583:14474-14520, continued this theme and went even further to discredit the defense lawyers, portraying them as being used by the Cuban agents to destroy the country (presumably by infiltrating Miami Cuban exile organizations such as Basulto’s Brothers to the Rescue).



The trial reveals a laundry list of attempts by the government to make the case one of proving how bad Cuba is – tarnishing in that way the character of the defendants who personified Cuba in Miami as much as Martians would personify Mars anywhere on earth.<sup>10</sup> Here, the government went on and on about Cuba, when the defendants had admitted from the start that they were Cuban agents, doing the work of the Cuban government in the United States. The government thus knowingly used the “give a dog an ill name and hang him” approach in a community that already hated dogs. See United States v. Boyd, 446 F.2d 1267, 1273 (5<sup>th</sup> Cir. 1971) (reversing conviction

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<sup>10</sup> See, e.g., DE1491:3699 (“Q. Tell the ladies and gentlemen of the jury who is at the top of the Cuban intelligence pyramid? A. The top of the Cuban intelligence pyramid is Fidel Castro.”); DE1505:6007-18 (government witness – a Miami Cuban exile – testifies to political persecution in Cuba and repression of independent political organizations with ties to Miami; characterizing Basulto as leader of support for political dissent in Cuba); DE1537:8748, 8754 (government cross-examination of former White House official to show that Cuba is politically “repressive” and a “dictatorship”); DE1542:9214-17 (government questioning of Basulto directed to showing Cuba’s violation of human rights and efforts by Miami Cuban exiles in support of human rights); DE1583:14475 (government rebuttal closing: “We are not operating under the rules of Cuba. Thank God.”); id. at 14530 (disparaging credibility of Cuban government witnesses in defense case by invoking name of Adlai Stevenson, who revealed Soviet misstatements in the Cuban missile crisis of 1962).

due to government’s “improper use of other crime evidence”); United States v. Rodriguez, 765 F.2d 1546, 1560 (11<sup>th</sup> Cir. 1985) (prosecutor “may not appeal to the jury’s passion or prejudice”); cf. United States v. Masters, 118 F.3d 1524, 1525 & n. 4 (11<sup>th</sup> Cir. 1997) (government’s conduct in taking legal position “knowing full well” it was wrong was “reprehensible” and violated “oath of office”).

Particularly where the matters at issue touch the rawest of community nerves – such as here in Miami where admitted pro-Castro agents were accused by the prosecutor of being sent by Castro to destroy the Miami Cuban exile community – the prosecution’s denial of facts it later admits, in a civil case in which fundamental liberty interests and due process rights were not in jeopardy, and its use of the prejudice as a component of its trial strategy, compel reversal in the interest of justice. See Williams, 523 F.2d at 1207.

In Williams, the former Fifth Circuit explained that where such misconduct is present, review is not limited to the district court’s discretion in considering a motion to change venue, but rather “we widen the breadth of our consideration to the tandem effect created by the intense pretrial



publicity and the closing argument offered by the United States.” Id.; see also id. (“[T]hese two factors operating together deprived appellant of a fair trial.”).

The government and the district court in the Ramirez case correctly determined that pretrial publicity ancillary to the Elián events—in which the government was portrayed in the Cuban exile community as the handmaiden of the Castro regime’s demand for Elián’s return to Cuba — fostered such prejudice and hostility against the government that a change of venue was necessary. But if so, it can hardly be denied that forty years of widespread, virulent anti-Castro publicity and events in Miami even more clearly contributed to pervasive local prejudice against actual agents of Fidel Castro, such as the defendants. They were acknowledged Cuban agents who proudly admitted working on behalf of the Cuban government against local exile groups and individuals (whom they characterized as extremist), yet they disputed the highly-sensitive allegations of murder and espionage conspiracy among other charges in the indictment, including charges that the government conceded would be “insurmountable” for the government to

meet if the jury followed the district court’s jury instructions.<sup>11</sup>

The conceded logical difficulty of the government’s case surely encouraged the government to exceed reasonable limits in closing — calling on the very community prejudices, the existence of which it later conceded — in order to obtain the convictions in this case. The district court’s summary denial of the motion for new trial and failure to consider the entire record and the interests of justice should be reversed.

#### CONCLUSION

Based upon the foregoing, the Court should reverse the district court’s denial of the motion for new trial based on newly-discovered evidence, and direct the district court to grant the defendants a new trial. Alternatively, the Court should remand to the district court for an evidentiary hearing on the motion.

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<sup>11</sup> See Emergency Petition for Writ of Prohibition (11<sup>th</sup> Cir. No. 01-12887) at 4, 6, 21 (government represented to this Court that the district court’s jury instructions created “insurmountable barriers for a prosecution involving foreign agents;” instruction rendered “prosecution of such offenses a virtual impossibility;” instruction on count three “presents an insurmountable hurdle for the United States in this case”) (emphasis added).

Respectfully submitted,

  
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**CERTIFICATE OF COMPLIANCE**

I CERTIFY that this brief complies with the type-volume limitation of  
FED. R. APP. P. 32(a)(7). According to the WordPerfect program on which it  
is written, the numbered pages of this brief contain 13,059 words.

  
LEONARD I. WEINGLASS, ESQ.

**APPENDIX A**



AFFIDAVIT OF DR. KENDRA H. BRENNAN, PHD

UNITED STATES OF AMERICA

v

98-0721-CR-LENARD/DUBE

GERADO HERNANDEZ a/k/a

MANUEL VIRAMONTEZ, et al

Defendants.

KENDRA H. BRENNAN, PHD, being duly sworn, deposes and states under penalty of perjury as follows:

1. My name is Kendra H. Brennan and I am the President of the firm of KHB Consulting, Inc., a statistical research and legal consulting firm.
2. I hold a Ph.D. in Legal Psychology from Florida International University, Miami. My other degrees are a MS degree in Psychology from Florida International University, Miami, and a BS degree from Florida State, Tallahassee.
3. Some of the professional work I have done is as follows:
  - a. Research and data consultant to Miami-Dade Police Department Juvenile Assessment Center.
  - b. Survey design and analysis consultant to Florida International University Metropolitan Center and Institute for Public Opinion Research.
4. A full accounting of my experience and education is in my Vita attached hereto as Appendix A.
5. I was retained by counsel for the defendant Antonio Guerrero to examine a body of studies

surveying attitudes in the exile Cuban community in Miami-Dade County as well as a sample of non-Cuban residents of Miami-Dade and across the United States. I was also asked to comment on the methodology with respect to sample size for a survey done specifically for this case.

- This affidavit will summarize the findings of key questions from two separate polls, both administered over a number of years: The Cuba Poll and the F.I.U. Florida Poll.
6. The Cuba Poll, has been conducted by the Florida International University Institute of Public Opinion Research on six separate occasions since March of 1991. The samples for the Cuba Polls are derived using standard random-digit-dialing procedures. Bilingual (Spanish/English) interviewers conduct the interviews. Depending on the survey, the margin of error for the full sample ranges from +/- .3% to +/- .5% at the 95% confidence level. The following analysis will focus on the 2000 survey conducted from September 20 to October 17, 2000 (jury selection began in this case in November of 2000) and included a random sample of 909 Miami-Dade County residents of Cuban descent, 400 non-Cuban residents from Miami-Dade County, and a national sample of 400 U.S. residents. The full methodology protocol used by the Institute of Public Opinion Research is hereto attached as Appendix B.
  7. Answers to two key questions in the Cuba Poll show a marked difference between the attitudes of citizens residing in Miami-Dade County and the rest of the country. The responses also illustrate how the strongly held views of the Cuban community have influenced the non-Cuban population in Miami-Dade County. Because the questions asked are of personal interest primarily to those of Cuban ancestry, one would expect that the responses from non-Cubans would more closely mirror the National sample rather than the Cuban sample. As you will see this has not happened. This phenomenon would indicate that the attitudes and beliefs of the

Cuban community have permeated the rest of the population in Miami-Dade County. The table in Appendix B shows that the 2000 U.S. Census reports that almost 30% of the population of Miami-Dade County is comprised of people with Cuban Ancestry. This is a substantial block of people with a common history, derived from their exile status from Cuba.

a. Percentages of each sample *strongly in favor* of 'supporting direct U.S. military action to overthrow the Cuban government.'

1. Local Cuban sample	49.7%
2. Local non-Cuban sample	26.0%
3. National sample	08.1%

b. Percentages of each sample *strongly in favor* of 'supporting military action by the exile community to overthrow the Cuban Government.'

1. Local Cuban sample	55.8%
2. Local non-Cuban sample	27.6%
3. National sample	05.8%

8. There are several conclusions that can be drawn from studying the responses in the Cuba Poll.

- a. There is an attitude of a state of war between the local Cuban community against Cuba
- b. They endorse increased action and sanctions against Cuba.
- c. Their attitudes are substantially different from the rest of the nation. Outside of Miami-Dade County, attitudes have softened towards Cuba over the years.
- d. Most importantly, their attitudes have spilled over to the rest of the community. The Cuba Poll clearly illustrates that the attitudes of the local Cuban community have had a substantial impact on the rest of the Miami-Dade community

9. The Florida Poll is a statewide survey conducted yearly by the Institute for Public Opinion Research since 1987. Approximately 1200 individuals complete the survey each year. The sample for the yearly Florida Poll is derived from a stratified random-digit-dialing probability element sample of 67 counties in Florida. The margin of error for the full sample is +/- .3%. Each region of Florida has a higher margin of error because they reflect a portion of the total. The margin of error for each region is on average: South Florida +/- .4.9%, North Florida +/- .6.1%, West coast +/- .5.7%, and Central and Treasure Coast 6.0%. The full methodology protocol used by the Institute of Public Opinion Research is hereto attached as Appendix B.

10. One important question in the Florida Poll asks whether 'U.S. policy toward Cuba should promote better relations, intensify U.S. opposition to Cuba, or keep things the same.' There is a significant difference between Broward and Miami-Dade Counties

a. Percentages of each sample responding that, 'U.S. policy should *intensify opposition to Cuba*.'

1. Broward County	26.5%
2. Miami-Dade County	74.5%

b. The difference between the two counties further illustrates the influence that the Cuban community has had over the entire population of Miami-Dade County

11. The response from the Florida Poll supports the contention that anti-Cuban attitudes are pervasive among the Cuban community, especially in Miami-Dade County, which holds the largest concentration of people with Cuban ancestry. These attitudes have remained steady over the years, and have permeated the non-Cuban community. Broward County which has a much smaller concentration of Cuban exiles (as seen in the table in Appendix B) does not hold the same bias.



12 The responses across all the studies clearly show that the environment of the local Miami-Dade Cuban community endorses a war like mode against Cuba. The Cuba Poll and the Florida Poll have shown that these attitudes have permeated the minds and opinions of the non-Cuban community in Miami-Dade County. Such an environment would make the local community susceptible to patriotic statements and anti-Cuban government sentiments. Because of existing community attitudes a low threshold for the impact of pre-trial publicity would also exist. However, the core of the issue is the existing attitudes of the community developed from the strength and persistence of bias against the Cuban government promoted by the exiled Cuban community. It is my opinion that the evidence in the studies demonstrates that a Cuban national functioning as an agent of the Cuban government would not get a fair trial in Miami-Dade County.

13 As shown in Appendix B, comparison of the composition of the population of Broward County with the population of Florida and the U.S. indicates that Broward resembles the rest of the country more than it does Miami-Dade County. In the 2000 U.S. Census, citizens of Cuban ancestry living in Broward contributed to only 3.1% of the population. Presumably, the much smaller size of the Cuban community would not have had the impact on community opinion as has been experienced in Miami-Dade over the years. The relatively low percentage of Broward County residents who thought that the U.S. policy should 'intensity opposition' towards Cuba supports this assumption.

14 I was also asked to comment on the sample size as it impacts the validity of the survey submitted

15 I was not involved in the original survey so I cannot speak as to the development and

implementation of the survey. However, I do feel comfortable commenting on the overall conclusions and the size of the sample

16 I is a widely held misconception that a large sample size is necessary before drawing conclusions about a population. There is also a misconception that there must be a relationship between sample size and the size of the total population. The aspect of data collection that is ignored in these arguments is that a large sample size will often give significant results but statistical significance is not enough when drawing conclusions about a population. You must also be able to demonstrate practical significance. For instance, a large sample may show a statistically significant difference of 2%, yet such a small percentage would have no practical effect on behavior. What is more important than the size of the study is careful design,

following a rigorous protocol for sampling the population, and consistent implementation of the survey. Margin of error will help to control for sampling error and assist in determining how large a sample you need based on the population you intend to sample

17 A sample size of 300 should be more than adequate to tap community attitudes, even in such a large community as Miami-Dade County. In fact, the results of that survey are consistent with the findings of the Cuba Poll and the Florida Poll. Dr. Moran concluded from his survey that there was a prevailing atmosphere of bias against someone allegedly involved with the Cuban government. The Cuba Poll and the Florida Poll also showed that there exists a strong and undeniable bias against the Cuban government in the Miami-Dade Cuban community, especially among Cuban exiles. Clearly, such attitudes would influence a jury and are pervasive in the community if studies of different sizes, administered at different times, all come to the same conclusion

CONCLUSION

18 When addressing the question of bias there are two basic types we are dealing with when determining whether a juror fulfills the requirement of being unbiased. The first is existing bias. Existing bias refers to an established opinion on a subject and can refer to individuals or communities at large. These are long standing attitudes that are so entrenched as to often not be consciously held. The usual remedies for correcting bias will not work under this circumstance. A person cannot be rehabilitated if there is no conscious knowledge that a bias has been created. The second type of bias is created due to specific circumstances such as extensive and emotional pre-trial publicity. This is a clearer problem to deal with when deciding if a community is able to produce a body of jurors that can participate in a trial with an open mind. Newly created prejudice due to a specific circumstance is obvious in the mind or minds of the community. The mountain of news reports assembled and reported, as well as community reaction, illustrate how the event has changed the opinions in the community. Existing bias is more insidious to deal with when determining if a community is capable of hearing a particular case. The case at hand deals with existing bias. The existing bias is documented with a history of results from community surveys that clearly show a deeply entrenched body of opinions that would hinder any jury in Miami-Dade County from reaching a fair and impartial decision in this case.

19 It is therefore my opinion that:

- a. The Moran survey did not suffer from an inadequate sample size.
- b. Its results are consistent with the Florida and Cuba Polls carried out over a period of six years.

- c. The Moran survey accurately reflects profound existing bias against those associated with the Cuban government in Miami-Dade County.
- d. Potential jurors in Miami-Dade County would be impervious to traditional methods of detecting and curing bias through voir dire and court instruction.
- e. Jury venires in Ft. Lauderdale, or other parts of the state outside Miami-Dade County, would not be similarly affected by the influence of such bias.

Respectfully submitted,

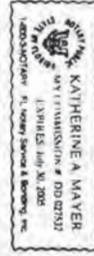
*Kendra H. Brennan*

Kendra H. Brennan, Ph.D

Signed and sworn before me on the fifth day of October in the Year 2002, Miami-Dade County, State of Florida, United States of America

*Katherine A. Mayer*

NOTARY





Appendix A

Dr. Kendra H. Brennan, Ph.D. Vita

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**Educational Background:**

Florida International University, Doctor of Philosophy in Psychology, 2000  
Florida International University, Master of Science in Psychology, 1996  
Florida State University, Bachelor of Science, 1973

**Professional Experience:**

KHB Consulting, Inc., 2000-Present  
Major Projects  
Institute for Public Opinion Research  
Research Associate  
Florida Department of Transportation Turnpike Study  
Miami-Dade COPS Evaluation  
FIU Cuba Policy Study VI  
FIU Metropolitan Center  
Research Associate  
Miami-Dade County Recidivism (DCRP) Evaluation Study  
St. Agatha's Catholic School  
Survey Consultant  
Parent, student, and teacher survey analysis and report  
St. Peter and Paul Catholic School  
Survey Design and Analysis Consultant  
Parent, student, and teacher survey analysis and report  
Miami-Dade Police Department Juvenile Assessment Center  
Research Administrator  
National Demonstration Project  
The Thurston Group  
Data Analysis Consultant  
Graduate Assistantship, Florida International University, Institute for Public Opinion Research, 1999-2000  
Research Assistant  
Constructed questions, supervised administration, entered, and analyzed data using SPSS  
Example of projects:  
The FTU/Florida Polls  
Florida Not-for-Profit Survey

**Publications:**  
Latin American Caribbean Center Export Services Survey  
North Miami Service Satisfaction Study

Brennan, K.H., & Moran, G. (In preparation). *Crafting an acceptable voir dire questionnaire for civil circuit court.*  
Fisher, R.P., Brennan, K.H., & McCauley, M. (2000). *The Cognitive Interview*. In M. Eisen, G. Goodman, and J. Quas (Eds.), *Memory and suggestibility in the forensic interview*. Mahway, New Jersey: Erlbaum.

**Conference Presentation:**

Brennan, K.H., & Fisher, R.P. (1998, March). *Drawing as a technique to facilitate children's memory*. Poster presented at the meeting of the Florida Cognition Conference, Miami, FL

**Professional Service:**

**Editorial and Reviewer Responsibilities**

Program Reviewer  
American Psychology-Law Society Conference, 1998

**Committee Responsibilities**

Research Committee  
American Society of Trial Consultants, 2001-2002

**Memberships in Professional Organizations:**

American Psychological Association  
American Psychology-Law Society  
American Society of Trial Consultants

**Teaching Experience:**

Florida International University  
Undergraduate Courses  
Introduction to Psychology

**Prior Employment:**

1/75 - 8/94 Restaurant/Hospitality Industry: pastry chef, caterer, restaurant management, culinary instructor, and consultant  
6/73 - 12/74 Commercial Interior Designer

## Appendix B

### Questionnaire Design

All questionnaires are designed as part of a collaborative effort of Institute for Public Opinion Research staff, faculty of Florida International University, and other subject matter experts as needed. Questionnaires are translated into Spanish to facilitate full participation of the Spanish speaking population.

### Sample Design and Interviewing

All surveys follow established protocols for drawing a representative sample from the appropriate population obtained from Survey Sampling, Inc. The samples for the Cuba Polls are developed from telephone exchanges using standard random-digit-dialing procedures that ensure that each residential phone has an equal chance of being chosen for the sample. Bilingual (Spanish/English) interviewers conduct the interviews from IPOR's telephone lab at the North Campus of Florida International University. Depending on the survey the margin of error for the full sample ranges from +/- 3% to +/- 5% at the 95% confidence level.

The sample for the yearly Florida Poll is derived from a stratified random-digit-dialing probability element sample of 67 counties in Florida. The person in the household to be interviewed is also selected randomly from four possibilities: oldest male, oldest female, youngest male, or youngest female. This method provides the best procedure to match age and gender demographics of a population. If the person to be interviewed is not available an appointment is made for a future interview. IPOR has experienced a completed rate of approximately 54%. A sample of refusals was compared to completed interviews and no

systematic differences were found. The margin of error for the full sample is +/- 3%. Each region of Florida has a higher margin of error because they reflect a portion of the total. The margin of error for each region is on average South Florida +/- 4.9%, North Florida +/- 6.1%, West coast +/- 5.7%, and Central and Treasure Coast 6.0%.

### Supervision

Interviewers are monitored continually at IPOR's 24-station phone lab located at Florida International University Bayside Campus, to ensure compliance with interviewing policies and procedures.

### Pretest

All questionnaires are carefully tested and revised as necessary to improve clarity.

### Other Sources of Error

Potential sources of error include the wording and sequence of questions as well as margin of error.

### Comparison of 2000 Florida Poll Results with 2000 Census Information

Comparison of key demographic information is a good way to check how well a sample represents a population.

The Cuba Poll was not included in the comparison because it was a screened sample targeting a specific population.

The table below shows how the 2000 Florida Poll compares with the 2000 U.S. Census figures. As can be clearly seen, Miami-Dade County contains the largest concentration of those with Cuban ancestry.



	Florida Poll		U.S. Census				
	Counties	Percent	Counties	Percent			
	Miami-Dade	Broward	Florida	Miami-Dade	Broward	Florida	U.S.
	Percent	Percent	Percent	Percent	Percent	Percent	Percent
Gender							
Male	40.9	37.5	41.6	48.3	48.3	48.8	49.1
Female	59.1	62.5	58.4	51.7	51.7	51.2	50.9
Age							
18-24	07.6	07.3	09.2	06.4	05.1	05.8	06.7
25-44	39.3	37.3	30.8	31.1	31.4	28.5	30.2
45-64	33.1	27.3	30.6	21.6	21.7	22.6	22.0
65 and over	20.0	28.2	27.4	13.3	16.1	17.6	12.4
Race							
White	69.5	81.1	80.2	69.7	70.6	78.0	75.1
Black	14.2	12.6	10.2	20.3	20.5	14.6	12.3
Hispanic Origin							
Hispanic	64.9	22.9	18.7	57.3	16.7	16.8	12.5
Cuban Ancestry	37.2	2.7	1.9	28.9	03.1	05.2	00.4

## APPENDIX B

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Mullin  
The Burden of a Violent History  
By Jim Mullin

As the Elijan Gonzalez media juggernaut began approaching warp speed over the past few weeks, some in Miami's Cuban-American community expressed displeasure with the portrait of them being painted by the press. The muffled grumbling became explicit on April 7 during Ted Koppel's *Nightline* "town meeting," beamed to the nation from Florida International University.

A panelist on that program, the University of Miami's Juan Carlos Espinosa, took off the gloves: "I think we really need to be careful that we don't continue to engage in Cuban-exile bashing, which is something I've been hearing a lot in the media coverage about Miami."

Similar sentiments have been voiced by countless others, from exile leaders to local politicians to Cuban-American celebrities. And it's true that *The Elijan Show* isn't playing so well in Peoria, or Pinecrest for that matter. You know you've got image problems when the said *New York Times* editorializes with evident concern that it appears "as if South Florida's Cuban Americans believe in mob rule."

Phrases like "mob rule" evoke frightening images of violence, which in turn sends Miami's damage-control specialists rushing to the microphones and insisting to the world that the Cuban-exile community is peace-loving, law-abiding, and (with emphasis now) *nonviolent*. Miami Mayor Joe Carollo in particular has been tireless in promoting that message. "Miami has been a peaceful, nonviolent community," he stressed to CNN last week. The historical record, however, clearly contradicts those assertions.

Lawless violence and intimidation have been hallmarks of *el exilio* for more than 30 years. Given that fact, it's not only understandable many people would be deeply worried, it's prudent to be worried. Of course it goes without saying that the majority of Cuban Americans in Miami do not sanction violence, but its long tradition within the exile community cannot be ignored and cannot simply be wished away.

The following list of violent incidents I compiled from a variety of databases and news sources (a few come from personal experience). It is incomplete, especially in Miami's trademark category of bomb threats. Nor does it include dozens of acts of violence and murder committed by Cuban exiles in other U.S. cities and at least sixteen foreign countries. But completeness isn't the point. The point is to face the truth, no matter how difficult that may be. If Miami's Cuban exiles confront this shameful past — and resolutely disavow it — they will go a long way toward easing their neighbors' anxiety about a peaceful future.

1968 From MacArthur Causeway, pediatrician Orlando Bosch fires bazooka at a Polish freighter. (City of Miami later declares "Orlando Bosch Day." Federal agents will jail him in 1988.)

1972 Julio Iglesias, performing at a local nightclub, says he wouldn't mind "singing in front of Cubans." Audience erupts in anger. Singer requires police escort. Most radio stations drop Iglesias from playlists. One that doesn't, Radio Alegre, receives bomb threats.

1974 Exile leader José Elias de la Torre murdered in his Coral Gables home after failing to carry out a planned invasion of Cuba.

1974 Bomb blast guts the office of Spanish-language magazine *Replica*.

1974 Several small Cuban businesses, citing threats, stop selling *Replica*.

1974 Three bombs explode near a Spanish-language radio station.

1974 Hector Diaz Limonta and Arturo Rodriguez Vives murdered in intermecine exile power struggles.

1975 Luciano Nieves murdered after advocating peaceful coexistence with Cuba.

1975 Another bomb damages *Replica*'s office.

1976 Rolando Masferrer and Ramon Domestevéz murdered in intermecine exile power struggles.

1976 Car bomb blows off legs of WQBA-AM news director Emilio Milián after he publicly condemns exile violence.

1977 Juan José Peruyero murdered in intermecine exile power struggles.

1979 Cuban film *Memories of Underdevelopment* interrupted by gunfire and physical violence instigated by two exile groups.

1979 Bomb discovered at Padron Cigars, whose owner helped negotiate release of 3600 Cuban political prisoners.

1979 Bomb explodes at Padron Cigars.

1980 Another bomb explodes at Padron Cigars.

1980 Powerful anti-personnel bomb discovered at American Airways Charter, which arranges flights to Cuba.

1981 Bomb explodes at Mexican Consulate on Brickell Avenue in protest of relations with Cuba.

1981 *Replica*'s office again damaged by a bomb.

1982 Two outlets of Hispania Interamericana, which ships medicine to Cuba, attacked by gunfire.

1982 Bomb explodes at Venezuelan Consulate in downtown Miami in protest of relations with Cuba.

1982 Bomb discovered at Nicaraguan Consulate.

1982 Miami Mayor Maurice Ferre defends \$10,000 grant to exile commando group Alpha 66 by noting that the organization "has never been accused of terrorist activities inside the United States."

1983 Another bomb discovered at *Replica*.



- 1983 Another bomb explodes at Padron Cigars.
- 1983 Bomb explodes at Paradise International, which arranges travel to Cuba.
- 1983 Bomb explodes at Little Havana office of Continental National Bank, one of whose executives, Bernardo Benes, helped negotiate release of 3600 Cuban political prisoners.
- 1983 Miami City Commissioner Demetrio Perez seeks to honor exile terrorist Juan Felipe de la Cruz, accidentally killed while assembling a bomb. (Perez is now a member of the Miami-Dade County Public School Board and owner of the Lincoln-Marrí private school where Elian Gonzalez is enrolled.)
- 1983 Gunfire shatters windows of three Little Havana businesses linked to Cuba.
- 1986 South Florida Peace Coalition members physically attacked in downtown Miami while demonstrating against Nicaraguan contra war.
- 1987 Bomb explodes at Cuba Envios, which ships packages to Cuba.
- 1987 Bomb explodes at Almacén El Español, which ships packages to Cuba.
- 1987 Bomb explodes at Cubanacan, which ships packages to Cuba.
- 1987 Car belonging to Bay of Pigs veteran is firebombed.
- 1987 Bomb explodes at Machi Viajes a Cuba, which arranges travel to Cuba.
- 1987 Bomb explodes outside Va Cuba, which ships packages to Cuba.
- 1988 Bomb explodes at Miami Cuba, which ships medical supplies to Cuba.
- 1988 Bomb threat against Iberia Airlines in protest of Spain's relations with Cuba.
- 1988 Bomb explodes outside Cuban Museum of Art and Culture after auction of paintings by Cuban artists.
- 1988 Bomb explodes outside home of Maria Cristina Herrera, organizer of a conference on U.S.-Cuba relations.
- 1988 Bomb threat against WQBA-AM after commentator denounces Herrera bombing.
- 1988 Bomb threat at local office of Immigration and Naturalization Service in protest of terrorist Orlando Bosch being jailed.
- 1988 Bomb explodes near home of Griselda Hidalgo, advocate of unrestricted travel to Cuba.
- 1988 Bomb damages Bele Cuba Express, which ships packages to Cuba.
- 1989 Another bomb discovered at Almacén El Español, which ships packages to Cuba.

- 1989 Two bombs explode at Marazul Charters, which arranges travel to Cuba.
- 1990 Another, more powerful, bomb explodes outside the Cuban Museum of Art and Culture.
- 1991 Using crowbars and hammers, exile crowd rips out and urinates on Calle Ocho "Walk of Fame" star of Mexican actress Veronica Castro, who had visited Cuba.
- 1992 Union Radio employee beaten and station vandalized by exiles looking for Francisco Aruca, who advocates an end to U.S. embargo.
- 1992 Cuban American National Foundation mounts campaign against the *Miami Herald*, whose executives then receive death threats and whose newstracks are defaced and smeared with feces.
- 1992 Americas Watch releases report stating that hard-line Miami exiles have created an environment in which "moderation can be a dangerous position."
- 1993 Inflamed by Radio Mambi commentator Armando Perez-Roura, Cuban exiles physically assault demonstrators lawfully protesting against U.S. embargo. Two police officers injured, sixteen arrests made. Miami City Commissioner Miriam Alonso then seeks to silence anti-embargo demonstrators: "We have to look at the legalities of whether the City of Miami can prevent them from expressing themselves."
- 1994 Human Rights Watch/Americas Group issues report stating that Miami exiles do not tolerate dissident opinions, that Spanish-language radio promotes aggression, and that local government leaders refuse to denounce acts of intimidation.
- 1994 Two firebombs explode at *Replica* magazine's office.
- 1994 Bomb threat to law office of Magda Montiel Davis following her videotaped exchange with Fidel Castro.
- 1996 Music promoter receives threatening calls, cancels local appearance of Cuba's La Orquesta Aragon.
- 1996 Patrons attending concert by Cuban jazz pianist Gonzalo Rubalcaba physically assaulted by 200 exile protesters. Transportation for exiles arranged by Dade County Commissioner Javier Souto.
- 1996 Firebomb explodes at Little Havana's Centro Vasco restaurant preceding concert by Cuban singer Rosita Fomes.
- 1996 Firebomb explodes at Marazul Charters, which arranges travel to Cuba.
- 1996 Arson committed at Tu Familia Shipping, which ships packages to Cuba.
- 1997 Bomb threats, death threats received by radio station WRTO-FM following its short-lived decision to include in its playlist songs by Cuban musicians.
- 1998 Bomb threat empties concert hall at MIDEEM music conference during performance by 91-year-old Cuban musician Compay Segundo.

1998 Bomb threat received by Amnesia nightclub in Miami Beach preceding performance by Cuban musician Orlando "Maraca" Valle.

1998 Firebomb explodes at Amnesia nightclub preceding performance by Cuban singer Manolin.

1999 Violent protest at Miami Arena performance of Cuban band Los Van Van leaves one person injured, eleven arrested.

1999 Bomb threat received by Seville Hotel in Miami Beach preceding performance by Cuban singer Rosita Fomes. Hotel cancels concert.

January 26, 2000 Outside Miami Beach home of Sister Jeanne O'Laughlin, protester displays sign reading, "Stop the deaths at sea. Repeat the Cuban Adjustment Act," then is physically assaulted by nearby exile crowd before police come to rescue.

April 11, 2000 Outside home of Elian Gonzalez's Miami relatives, radio talk show host Scot Piasant of Portland, Oregon, displays T-shirt reading, "Send the boy home" and "A father's rights," then is physically assaulted by nearby exile crowd before police come to rescue.

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## APPENDIX C



# HUMAN RIGHTS WATCH / AMERICAS HUMAN RIGHTS WATCH FREE EXPRESSION PROJECT

November 1994

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## UNITED STATES

### DANGEROUS DIALOGUE REVISITED

Threats to Freedom of Expression Continue  
in Miami's Cuban Exile Community

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#### INTRODUCTION

In 1992, Human Rights Watch released a report documenting instances of harassment and intimidation against members of the Miami Cuban exile community who expressed moderate political views regarding the government of Fidel Castro or relations with Cuba. Titled "Dangerous Dialogue: Attacks on Freedom of Expression in Miami's Cuban Exile Community," the report found the community to be "dominated by fiercely anti-Communist forces who are strongly opposed to contrary viewpoints," and linked these forces with acts of repression ranging from shunning to violence. In addition to intimidation by private actors, the report found significant responsibility by the government at all levels, including direct harassment by the government, government support of groups linked to anti-free speech behavior, and a persistent failure to arrest or prosecute those responsible for violent attacks on unpopular speakers.

Release of this report sparked considerable controversy within the Miami exile community. Victims of harassment were gratified to see documentation of the repression against them, while hard-line anti-Castro forces accused Human Rights Watch of political bias.<sup>1</sup>

Human Rights Watch has continued to monitor free expression in Miami and has noted some improvements, particularly in the apparent diminution of direct government involvement or complicity in repressive activities. Overall, however, the atmosphere for unpopular political speech remains marked by fear and danger, while government officials maintain a conspicuous silence in the face of threats to free expression.

This danger became manifest in late April 1994, following Havana's "The Nation and Emigration" conference. As detailed below, Miami residents who attended the conference returned home to find themselves besieged by death threats, bomb threats, verbal assault, acts of violence, and economic retaliation. Human Rights Watch decided to revisit Miami.

#### "THE NATION AND EMIGRATION" CONFERENCE

This conference, held the weekend of April 22-24, 1994, in Havana, was the first meeting of Cubans-in-exile and the Cuban government since 1978. It was sponsored by the Cuban government, which selected and invited the more than 200 Cuban exiles who attended. Exiles from twenty-nine countries were present at the conference, although the majority of participants were from the Miami area. Those who attended represented a wide range of political and economic interests, some sympathetic to the Castro regime, others strongly opposed.<sup>2</sup>

The conference was preceded by a great deal of publicity in south Florida, including news stories, editorials, and interviews. By most accounts, the atmosphere prior to the conference was relatively calm and open. There were some exceptions, including a pre-conference death threat sent to numerous people, participants and nonparticipants alike, in February 1994. Sent in the name of the paramilitary organization Alpha 66, the communiqué declared that anyone who visited Cuba, engaged in dialogue with Cuban authorities, or offered direct or indirect support to the government of Cuba would be considered "a military target and will suffer the consequences inside or outside of Cuba." Several recipients turned these letters over to the Department of Justice for appropriate law enforcement

<sup>1</sup> In regard to this charge, we note that Human Rights Watch has reported extensively on human rights abuses in Cuba, issuing eleven reports on the subject since 1986 and sending numerous letters of protest to the Castro government in regard to human rights concerns. Our most recent report on Cuba, "Cuba's Repression, the Escobar of August 1993, and the U.S. Response," was released in October 1994.

<sup>2</sup> For example, while some participants overtly support the Castro regime, several others had previously participated in paramilitary operations against Castro's regime, been imprisoned under Castro, or had family members who were imprisoned under Castro.



action, and the Federal Bureau of Investigation (FBI) may be investigating these threats. In addition, there was at least one bomb threat targeting the planes that flew participants from Miami to Havana. Airport security was heightened and the planes were checked for bombs.

The conference was closed to the press. A Sunday evening reception with Castro, however, was filmed and later sold to Miami broadcasters by members of the Cuban government. By all accounts, it was the release and obsession with this film that sparked the wave of hostility against the participants. The film shows people greeting Castro, shaking his hand or kissing his cheek, and exchanging a few words. Magda Montiel Davis, a prominent Miami immigration lawyer who two years ago ran for Congress, was one of many who appeared on what quickly became known simply as "the video." Her appearance, in which she kissed Castro's cheek and said "thank-you for what you have done for my people, you have been a great teacher for me," became a focal point for the post-conference backlash against participants.

**AFTER THE CONFERENCE: HARASSMENT AND INTIMIDATION**

Returning participants were met by police and FBI agents at the Miami airport and escorted out a back way to avoid the angry crowd awaiting them. One member of the crowd, an alleged paramilitary member, said to a broadcast journalist, "I want them to look at death in the face."<sup>4</sup> Two others, discovered with big bags full of eggs, were detained.

Once at their homes, many participants found their answering machines full of hate messages — including the epithets "communist," "traitor," "whore" — and continued to receive threatening calls throughout the night, including "Communist bitch we hate you" and "Get your ass back to Cuba." Several received death threats. Threats and insults by phone, letter and fax continued to be received over the next few days. Weeks and even months later, occasional threats continued to arrive. In September, a full four months after the conference, the office of participant Max Lesnick was bombed with two molotov cocktails (see below).

Harassment and punishment of participants has taken a variety of forms in addition to threats of death and bodily injury. Participants have been vilified repeatedly on local Spanish radio stations, yelled at while walking down the street or shopping, had their personal property vandalized and, in one recent case, been subjected to organized assault. Many live in fear and have greatly curtailed their activities, staying within the confines of home and workplace and venturing into public areas only when necessary. A few have invested in expensive security devices, including remote-control automobile starters, electronic surveillance, and security guards. Several carry weapons, including mace, guns, and razors.

An example of the public nature and scope of the censure is the following declaration by a local restaurant.

**The Management and Employees of the Kawama Restaurant Declare that Participants in the Recent Conference in Havana are not Welcome in Our Establishment.<sup>5</sup>**

<sup>4</sup> During official policy, the FBI has declined to confirm or deny the existence of an investigation into these threats. Human Rights Watch/Americas telephone interview with Miami-based FBI Agent Paul Miller, July 29, 1994. Because letters were mailed to persons residing outside of Florida, the threats violate both state and federal laws.

<sup>5</sup> Human Rights Watch/Americas interview with conference participant Vivan Manieruel, June 2, 1994.

<sup>6</sup> This advertisement was placed in a local newspaper; a similar declaration appears on a highly-visible sign at the restaurant itself.

In fact, conference participants are made to believe they are not welcome in south Florida generally, as the following examples of intimidation make clear.

**Death and Bomb Threats**

Magda Montiel has borne the brunt of the post-conference agitation. In addition to numerous calls insulting her — "dog," "whore," "Castro agent" — she has received several direct death threats. One caller described her funeral. Another told her to be sure to use a strong soap in the bath, one that "would wash off the blood." Death threats received by mail have included graphic pictures portraying her death. Two bomb threats were called in to her office. One day, as she left her office with her husband, Ira Kurzban, a small crowd attacked their car; police quickly intervened.

Many other participants also received death threats. Some, fearful for their security, have requested that their names be withheld.

Francisco Aruca, a prominent Miami businessperson and radio personality (he purchases several hours of airtime a week from a local station) received a fax that read: "Communist, vendedpatria [homeland-seller], son of a bitch, pig, traitor and shit. Be very careful, as I think there are many who would like to see you dead."<sup>6</sup>

Eddie Levy and Xiomara Almaguer-Levy, who are known for their active involvement in civic and philanthropic activities,<sup>7</sup> were shown greeting Castro in both the video and the Miami press. They also received several threats. One telephone caller said, to Eddie, "We're going to take care of you; you'll be floating in the Miami River with flies in your mouth." Another telephone death threat was directed to one of their adult children, who had nothing to do with the conference or with local politics. He was told that they were going to kill his mother, and that "the blind man [Eddie is blind] won't be able to save her." The son was told that he would be killed as well.<sup>8</sup>

Another participant, a member of *Profesionales y Empresarios Cubano-Americanos* (PECA),<sup>9</sup> received numerous threatening and insulting calls, including one from a man named "Octavio," who called her a whore and said, "you're going to pay, you're going to pay a very high price... you'll see what will happen to you and your family... we're going to take care of you."<sup>10</sup>

In addition to this threat, two bomb threats were called in to this woman's office. In one, the caller claimed to be a member of the 2506 Brigade, the exile force that participated in the 1961 Bay of Pigs invasion. In the other, the caller claimed to be a member of Alpha 66, the paramilitary organization formed in 1961 with

<sup>6</sup> Copy of facsimile sent to Francisco Aruca, dated May 31, 1994.

<sup>7</sup> In 1992, they founded the Cuban American Defense League, intended as an alternative to the hard-line sector of the exile community. In September 1993, they founded Jewish Solidarity, a humanitarian group that gathers and delivers food and medicine to Cuban Jews. After their participation in the April conference and the subsequent publicity, contributions to and involvement with Jewish Solidarity dropped sharply and their accountant resigned, saying the work was "too controversial."

<sup>8</sup> Human Rights Watch/Americas interview, June 1, 1994.

<sup>9</sup> PECA, formed in 1993, is a professional association of businesspeople who favor an end to the U.S. trade embargo against Cuba. It has frequently come under attack by anti-Castro forces, particularly on some of the local Spanish radio stations (see "The Role of Radio," below).

<sup>10</sup> Human Rights Watch/Americas interview, June 3, 1994. The victim of this threat requested anonymity.



the purpose of topping Fidel Castro. The bomb threats, one of which was investigated by the police, prompted the resignation of the office secretary, as well as the secretary subsequently hired to replace her. This participant has already suffered a significant loss of clients, and prefers to remain unnamed in order to avoid further harassment or loss of business.

Fifty-eight-year-old Emelia Fernández and her thirty-one-year-old daughter Irene, both of Key West, are well-known in their community for their humanitarian work on behalf of Cuban rafters who are stranded in the United States.<sup>11</sup> Both mother and daughter appeared on the conference video and were interviewed by Miami and national media. They have been subjected to a variety of harassment since returning from the conference, including death threats. Threats against Irene were called in to her workplace and intercepted by her supervisors. The threat against Emelia occurred during an act of public censure (described below), when a member of the group pointed a finger in her face and said he was going to kill her and Castro too.<sup>12</sup>

Another participant, who asks to remain unnamed, received a call telling her she would be blown up.<sup>13</sup>

**The Bombing of *República* Magazine**

Early on the morning of September 6, 1994, unknown assailants bombed the offices of *República* magazine with two molotov cocktails. One of the homemade bombs ignited on the doorstep; the other landed on the roof of the building and did not ignite. Police officers arrived and extinguished the flames, and the police bomb squad deactivated the unexploded bomb.<sup>14</sup>

Max Lesnick, who has published *República* since 1967, attributed the bombing to his participation in the "Nation and Emigration" conference in April. Mr. Lesnick does not consider himself to be a political activist, and *República* does not address the issue of U.S.-Cuban relations. Nonetheless, he is well-known in the exile community as an independent voice and has publicly stated his support for opening a dialogue with Cuba. Mr. Lesnick appeared on the video tape of the conference that was aired on Miami television, and after returning from Havana he was vilified by local radio personalities several times. Although it came several months later, the bombing did not surprise him. "The purpose of the bombing was to strike fear in others, to intimidate them," he told Human Rights Watch. "They know it will not make any difference to me." This was the first physical attack against *República* since 1980, when it was bombed twice, and the first bombing in Miami since 1990, when a bombing of the Cuban Museum of Arts and Culture caused \$20,000 worth of damages.<sup>15</sup>

**Verbal Assault**

Numerous participants have been verbally assaulted when recognized in public spaces. One woman, an African-Cuban who travelled to the conference with her son, reported being accosted by strangers three times since returning from Havana. Once she was warned, menacingly, that she should only go out *con protección* (presumably a bodyguard or a gun). Another time she was told, in the supermarket, that everyone who went to Cuba should be

<sup>11</sup> See Sarah Hollander, "Havana conference trip has led to threats, women say," *The Citizen (Key West)*, May 10, 1994.

<sup>12</sup> Human Rights Watch/Americas interview, June 4, 1994.

<sup>13</sup> Human Rights Watch/Americas interview, June 2, 1994.

<sup>14</sup> Human Rights Watch/Americas interview with Max Lesnick, October 2, 1994, and Oscar Muallabay, "Arrojan bombas a la revista *República*," *El Nuevo Herald*, Sept. 5, 1994.

<sup>15</sup> See Human Rights Watch, "Dangerous Dialogue," (New York: Human Rights Watch, 1992), p. 11.

shot; the third incident also occurred in the market, when she was told she was a traitor and should die. Many others reported similar incidents.

One month after the conference, Emelia and Irene Fernández of Key West were subjected to an apparently premeditated group assault, when a crowd of about 15 Cuban exiles from Miami stopped by Emelia's coffee shop, the Cuban Coffee Queen, and began assaulting them with profanity and insults — "communist," "torillera" [derogatory term for lesbian], "chamaletera" [derogatory term for poor person] and so on. They were accused of "whoring for Castro." This action was carried out in the restaurant at lunch hour, causing several customers to walk out. They have also received extremely derogatory letters.<sup>16</sup>

According to the *Miami Herald*, another participant said she was beaten by three men in a laundromat, who shouted "traitor" as they hit her.<sup>17</sup>

**Act of Repudiation**

The most extreme incident of public censure occurred more than two months after the conference. Ironically, it took the form of an "act of repudiation" (*acto de repudio*), a concept borrowed from Castro's Cuba, where it refers to officially-sponsored protests in which a mob assembles around the home or person of a suspected "counterrevolutionary" and demonstrates its loyalty to the government by shouting insults and revolutionary slogans.

On June 24, 1994, conference participant Emilia González went to have her hair done at the Caudris Hair Design salon in Miami. She was accompanied by two grandchildren, ages eight and six. Everything seemed normal, and Ms. Gonzalez sat for her hair cut. Toward the end of her appointment, however, several women came in to the salon, shut and locked the door and, together with the salon employees, proceeded to shout and hurl insults at Ms. González—"Communist, traitor; get out of Miami!" Several held signs: "If you like Fidel so much, go live in Cuba," and "Only vermin like Fidel will kiss Fidel." She was struck by at least two people, hit on the arms and face. All of this occurred in the presence of her grandchildren. Eventually, Ms. González escaped with the children through a back entrance. Extremely distraught and worried about her high blood pressure, the elderly Ms. González sought medical attention.

The employees claimed to have recognized Ms. Gonzalez from the video, where she is seen kissing Castro at the final reception.<sup>18</sup> Those and others aggressors in the incident, including clients of the salon, displayed no remorse to journalists. "It gave her a good scare and an act of repudiation," said one. "How could she come get her hair done where everybody spurns her," said another. "We all condemn her."<sup>19</sup>

**Vandalism**

In addition to the bombing of *República* magazine, numerous acts of vandalism may be directly attributed to participants' involvement in the conference. Emelia Fernández's restaurant, the Cuban Coffee Queen, was spray-painted across the front with the word "communist" in tall red letters. A Miami participant had her car windows smashed in, as did the son of another participant. Another participant's eighty-six-year-old mother was terrified by the sudden siege of her house one night, as it was pelted with eggs from all sides.

<sup>16</sup> Human Rights Watch/Americas interview, June 4, 1994.

<sup>17</sup> Alfonso Clardy, "Esaba ostracida: Conferencia participativa experimentando linces, ataques," *The Miami Herald*, May 14, 1994.

<sup>18</sup> See Cynthia Corzo, "Customer humiliated in beauty salon for kissing Castro at April conference," *The Miami Herald*, June 25, 1994.

<sup>19</sup> *Ibid.*



**Economic Reprisals and Blacklisting**

Several participants reported economic damage to their business, as clients have left due to disapproval of their politics, fear of association with them, or pressure from outside forces. One entrepreneur lost 95% of his business within two weeks of his return. Desperately worried about how he will support his family of five, he asked to remain unnamed in this report, for fear of losing his remaining few accounts. Another businessperson is facing imminent bankruptcy, after ten years of a successful business.

Other economic reprisals were reported by the *Miami Herald*, including:

- A bank executive who claimed that some of his exile clients closed or threatened to close accounts in protest;
- An office employee who claimed that her bosses fired her for fear that her presence could invite terrorist attacks.<sup>30</sup>

Many people interviewed by Human Rights Watch cited blacklisting as a bigger concern than personal violence. They mean this to refer not only to loss of business as described above but also, more systematically, to a denial of access to broad sectors of employment, particularly public sector work. They allege that government positions and contracts at all levels, but especially at the state, county, and local level, are awarded and denied on the basis of political viewpoint and activity. Moderate voices and others who publicly favor dialogue with Cuba are likely to be blacklisted for public sector work, according to these sources. Human Rights Watch has not yet investigated these allegations.

**THE ROLE OF RADIO**

The hatred against those who favor dialogue with Cuba is fed by a few powerful local Spanish radio stations, in particular "Radio Mambi," "La Cubanísima," and "Radio CMQ." Radio-sponsored intolerance is seen in the following examples, reported to Human Rights Watch by numerous Miami residents.

- The identification of conference participants by name and reference to them as "communists," "agents of Fidel," "mercenaries," or "spies for Cuba";
- listener-participation programs in which callers are permitted to defame participants as "dogs," "whores," "faggots," or "traitors";
- a program in which both the broadcaster and callers recommended that participants be denied business services and evicted from their business premises; and
- an invitation to listeners to call in and vote as to which participants deserved to have an act of repudiation carried out against them.

Vituperative radio broadcasts are not isolated events. In the days after the Havana conference, for instance, Eddie Levy and Xiomara Almaguer-Levy were vilified by name on the radio at the rate of four or five editorials a day, while the attacks against Magda Montiel were essentially non-stop.

In our 1992 report, Human Rights Watch noted that the most powerful Spanish-language radio stations "unquestionably contribute to a more repressive climate for freedom of expression." That this remains unchanged

<sup>30</sup> Clarity, note 17.

was confirmed not only by the above examples but also by the comments of sources representing a variety of political views, whose only point of agreement with each other is perhaps in regard to local radio, which they described as "living hatred," "a cave of vipers," and "radio terrorism."

**THE RESPONSE OF THE GOVERNMENT**

**Law Enforcement**

Participants who have been victims of attack are generally satisfied with the response of local and federal law enforcement agents. Surveillance has been increased around victims' houses and investigations into some of the death and bomb threats are under way.

At the same time, and despite the apparently positive response of law enforcement, the complete lack of arrests in connection with these violent incidents has led many victims to question the seriousness with which these crimes are being investigated. This frustration is particularly acute in regard to the Alpha 66 death threat, which was received by dozens of people (see page 2). Federal agents refuse to divulge information as to the prior or current existence of an investigation, leaving threat recipients to rely on rumor and occasional bits of unofficial information. Some say they have reason to believe that the federal inquiry ended after only a cursory investigation. Despite repeated calls to the FBI and the U.S. Attorney's offices in Miami and Washington, D.C., Human Rights Watch has been unable to confirm either the existence or status of a federal investigation.

**Government Leaders**

Government involvement has been less overt than in recent years, but troubling nonetheless. Two elected officials made potentially inflammatory statements in the wake of the conference. Miami City Commissioner Pedro Reboledo described as "heroes" five people who quit working for Magda Montiel after a bomb threat was called in to her office. He also offered them jobs and encouraged them to apply for government positions. Representative Lincoln Diaz-Balart, meanwhile, sent a letter to Janet Reno asserting that some conference participants should be registered as foreign agents; this assertion was disseminated widely to the media.<sup>31</sup> These responses demonstrate a profound insensitivity to the rights of conference participants and others to freedom of expression and political belief. Such insensitivity is particularly inappropriate when originating with government officials, given their duty to uphold First Amendment rights.

Of broader concern than these troubling statements, however, is the complete failure of all government officials to speak out in defense of free speech. To our knowledge, not a single leader at the local, state or national level has spoken out on behalf of the besieged conference participants, nor urged a concerted investigation into this wave of threats and intimidation. This apparent indifference may explain, to some measure, law enforcement's failure to arrest and prosecute anyone in connection with these crimes.

The right to hold political views of one's choice, the right to free expression, the right to disagree with the powerful anti-Castro forces of Miami — these are basic constitutional rights in the United States, yet no civic or governmental leader seems eager to support them. This silence contributes substantially to the climate that allows these abuses to pass unchallenged, feeding the aggressors' sense of impunity and the targets' sense of fear and isolation.

<sup>31</sup> Letter from Representative Lincoln Diaz-Balart to Attorney General Janet Reno, date April 26, 1994.



CONCLUSION

The overall climate for free expression remains essentially unchanged in Miami: only a narrow range of speech is acceptable, and views that go beyond these boundaries may be dangerous to the speaker. Government officials and civic leaders have taken no steps to correct this state of affairs.

The lack of evidence of direct government involvement in suppressing certain viewpoints is a significant improvement since the 1992 Human Rights Watch report, but it is far from adequate. It is not enough that the government refrain from violating the First Amendment — it must take affirmative action to actually protect the First Amendment and those who exercise their First Amendment rights. In this respect, local, state, and national leaders have failed. We urge them to end their silence, and to begin to protect the rights of all south Florida residents.

\*\*\*

This report was researched and written by Lee Tucker, staff attorney with the Human Rights Watch Free Expression Project.

*Human Rights Watch/Americas (formerly Americas Watch)*

Human Rights Watch is a nongovernmental organization established in 1978 to monitor and promote the observance of internationally recognized human rights in Africa, the Americas, Asia, the Middle East and among the signatories of the Helsinki accords. It is supported by contributions from private individuals and foundations worldwide. It accepts no government funds, directly or indirectly. Kenneth Roth is the executive director; Cynthia Brown is the program director; Holly J. Burkhalter is the advocacy director; Gara LaMare is the associate director; Juan E. Méndez is general counsel; Susan Osnos is the communications director; and Derrick Wong is the finance and administration director. Robert L. Bernstein is the chair of the board and Adrian W. DeWind is vice chair. Its Americas division was established in 1981 to monitor human rights in Latin America and the Caribbean. José Miguel Vivanco is executive director; Anne Manual is deputy director; Raphael de la Hesa, Sebastian Brett, Robin Kirk, and Gretta Tovar Siebenrit are research associates; Joanne Mariner is the Orville Schell Fellow; Stephen Crandall, Vanessa Jiménez, and Tuhin Roy are associates. Peter D. Bell is the chair of the advisory committee and Stephen L. Kass and Marina Pinto Kaufman are vice chairs.

*Human Rights Watch Free Expression Project (formerly the Fund for Free Expression)*

The Free Expression Project was established in 1975 to explore the relationship between censorship and global social problems and to document and oppose curbs on freedom of expression. Gara LaMarche is the director; Lee Tucker is the staff attorney; Marcella Allina is the program associate; Lydda Ragasa is the associate. Roland Algrant is the chair of the advisory committee and Peter Osnos is the vice chair.

APPENDIX D

**Eusebio Pedroso had nothing whatsoever to do with the Friday massacre at the MDCFC Foundation.**

**Rahid our reporter to county manager: Show us your drug test!**

**PEN-award winner Alberto Sarrain is at it again, bringing Cuban artists to perform in a monologue (and dialogue) festival**

**BY**

**Attention chefs: Cooking for the firm is a great gig.**

**BIRD OF PARADOX**  
 JOSE BASULLO IS (A) A PACIFIST (B) A WARRIOR (C) AN ENIGMA (D) ALL OF THE ABOVE  
 BY KIRK NIELSEN

March 20, May 7, 2008  
 KIRK NIELSEN  
 Photos by M. Rodriguez  
 Illustration by J. L. Smith

# BIRD OF PARADOX

**JOSE BASULLO, PRESIDENT OF BROTHERS TO THE RESCUE, IS A CIA-TRAINED WARRIOR WHO INSISTS HE SUPPORTS NONVIOLENT RESISTANCE. COMPLICATED? SI, SENOR.**

**BY KIRK NIELSEN**

The facts come in waves as you get lost in the thick, dark, and often confusing world of Basulto's life at the desk in RTTC's office above Makani Street in Coral Gables one recent afternoon. Frankly, wearing both arms and suffering a series of "epileptic" seizures, he was trying to sign a line from Julio Padron to shut up the press in the wake of the Friday massacre at the MDCFC Foundation. He was up to his neck in the world of CIA and the world of a former soldier of the Cuban people. What we wanted to do: "I've never struggled to say in English," says Basulto. "I've never had to translate."

"Level," Basulto is barely translated. "His office is still in Cuba," says Basulto. "I've never had to translate."

One day, Basulto had to explain his decision to nonviolence. "It was about" asked the reporter. "Let's bring a bomb to" Basulto replied softly, taking the hint and subjecting himself to the indignities of being for brothers in the Rescue and its mission of nonviolence. "It was about" he said. "Right now the United States is a target of terrorism, and a very, very big one. How would this new administration see Cubans in the United States? How would they see us? How would they see us?"

Basulto's message was a nonviolent one. Though for the past decade the former CIA trained explosives and sabotage expert has preached nonviolent resistance in the battle against Castro, he speaks from considering others' emotions and the safety of his own. And as far as the Cuban government is concerned, he remains a terrorist.

"There has been enough bloodshed, enough hatred, enough vengeance on the island," said Basulto in one breath, while citing an exception with the next. "If the Cuban people were ever — and listen to this very clearly — if the people of Cuba were ever going to choose violence as a part out of the situation, we would support them."

*continued on page 29*



Parade continues from page 10

# Cold War With Cuba - A Castro Blackout



By Joe Zeff  
Fidel Castro's 89th birthday was celebrated in Havana on July 2. The Cuban leader's 89th birthday was celebrated in Havana on July 2. The Cuban leader's 89th birthday was celebrated in Havana on July 2.

## Exile Describes Cuba Shelling: 'We Used Up All Ammunition'

By Joe Zeff  
A former Cuban exile leader described the shelling of the Florida Keys by Cuba on Oct. 4, 1962, as a "blackout" of the Cuban Revolution.

## U.S. Expects Castro to Announce 'New Line'

By Joe Zeff  
The United States government expects Fidel Castro to announce a "new line" in his foreign policy during his visit to Washington, D.C., in the next few days.

## Castro's 'New Line' May Be 'New Line'

By Joe Zeff  
Castro's "new line" may be a "new line" in his foreign policy, but it is not clear what it will be.

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## APPENDIX E

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

No. 01-10949-G

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

GERARDO HERNANDEZ, a.k.a. Giro, etc.,  
et al.,

Defendants,

JOSE BASULTO,

Appellant.

On Appeal from the United States District Court for the  
Southern District of Florida

BEFORE: BIRCH, CARNES, and MARCUS, Circuit Judges.

BY THE COURT:

The emergency motion for stay of the district court's February 16, 2001 order, as clarified by the court in its February 22, 2001 order is GRANTED IN PART.



Jose Basulto, a potential witness in this case, has filed an emergency motion for a stay pending appeal of the district court's order of February 16, 2001, as clarified by its order of February 27, 2001.

These kinds of orders ought to be clear enough that those bound by them can ascertain whether specific statements and actions are prohibited. Where there is doubt, it ought to be resolved by motions for clarification or guidance which specifically describe the statements and actions sought to be undertaken and seek the guidance of the court as to whether they are prohibited. Basulto sought in an appropriate manner to obtain clarification from the district court about whether the actions he proposes to undertake on February 23-24 were prohibited by the court's February 16th order. The district court's response in its February 22nd order does not offer sufficient guidance. We find significant the position that the government took in the district court, which was that the statements and actions proposed by Basulto would not violate the February 16th Order. Given the need for clarity and specificity in these kinds of orders, the fact that at least one party (the government) took the position that the original order did not cover the conduct and statements proposed by Basulto, and our review of the limited materials now before us, we think it would be inappropriate to apply the district court's orders of February 16th and 22nd to his proposed activities.

Accordingly, we GRANT the motion only to this extent: the enforcement of the orders are STAYED during the pendency of this appeal TO THE EXTENT AND ONLY TO THE EXTENT that they might be construed to prohibit the particular statements and activities that Basulto described to the district court and again to this court in his emergency motion for stay pending appeal.

GRANTED IN PART.

# APPENDIX F

The screenshot shows the top portion of a web browser displaying the Miami Herald website. At the top left, there is a navigation bar with links for 'Home', 'Shopping', 'Miami Herald', 'Sports', 'Entertainment', 'Local', 'Class', and 'Real Estate'. Below this is a banner for '2001 Florida Marlins Season'. The main content area features a large headline: 'The Cuban spies' case vs. credibility of the U.S. judiciary'. The byline reads 'By Kim Philby' and the date is 'Published Wednesday, May 16, 2001'. The author's name, 'LUIS J. BOTIFOL', is prominently displayed. The article text begins with 'The defense follows spy Kim Philby's plan: Divert the jury's attention, create confusion and delay the trial.' Below the article text, there is a sidebar with a 'Related Features' section containing links for 'E-mail the Editor', 'Seven-Day Archive', and 'Feedback'. At the bottom of the page, there is a 'Site Tools' section with links for 'E-MAIL TO A FRIEND', 'PRINT THIS STORY', and 'Join our Discussion Board'. A vertical navigation menu on the right side of the page lists various categories such as 'Local/State', 'Business', 'Sports', 'Autos & Driving', and 'Health'.



- ▶ Hobbies & Pets
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- ▶ Real Estate & Home
- ▶ Shopping & Classifieds
- ▶ Sites en español
- ▶ Sports & Recreation
- ▶ Travel & Visitors

As for the former, the judge has allowed, despite strong opposition by the prosecution, discussions and evidence that Cuba poses no threat to the security of the United States; that Cuba already has classified information about U.S. military installations and does not need more; that were the U.S. military to attack, Cuba would be able to know when and where by watching CNN television news; that offices of the U.S. Southern Command and military bases in Florida are secure enough to prevent espionage; that the sole objective was to spy on Cuban exile organizations financing terrorist acts in Cuba. The defense argues that, for these reasons, Castro was justified in ordering premeditated murder.

The defense also alleges that Brothers to the Rescue planes were shot down over Cuban jurisdictional waters, not in international waters. The judge has admitted evidence and testimony supplied by the Castro regime to prove that claim. In some cases, the judge's tolerance has gone to the extreme. On three different occasions, the parties have traveled to Cuba to take statements from members of the Cuban government who, if authorized by the Cuban government to travel to Miami, would be subject to perjury charges.

Regarding the two downed Brothers planes, it is important to note that the official U.S. position is supported by the International Civil Aviation Organization, an international organization that is part of the investigative branch of the United Nations.

Nonetheless, the judge has permitted the defense a broad investigation, carried out mainly in Cuba, questioning the ICAO's decision. One of the expert witnesses sent to Cuba claims to have worked for 522 hours and submitted a bill for \$82,500.

Now we only need the press to tell us what instructions are given to the jury and what expenses are incurred in this case, one that will make legal history.

The importance of these events does not stem from the possibility that the accused may be found innocent. After all, five agents more or less out of more than 1,500 that Castro has sent, to infiltrate the United States do not make a difference.

Nor am I concerned about the repercussions of the baseless accusations made against Cuban exiles and heads of organizations, such as José Basulto, who have been called to testify and whom the defense has tried to portray as the guilty party, or about the irony of spending more than \$1 million on the trial.

What's important is that trials like this one diminish the trust and credibility of the judiciary upon which our democracy rests.

Luis J. Bofill is a Miami banking pioneer and a longtime community activist.



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### CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing was served by mail this 13th day of May, 2003, upon Anne Schultz, Assistant United States Attorney, Chief of Appellate Division, 99 N.E. 4th Street, Miami, Florida 33132-2111; and Joaquin Mendez, Assistant Federal Public Defender, 150 West Flagler Street, Suite 1700, Miami, Florida 33130-1555.