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HEADLINE: PREPARED TESTIMONY OF
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ST. THOMAS UNIVERSITY
HUMAN RIGHTS INSTITUTE
BEFORE THE HOUSE COMMITTEE ON INTERNATIONAL RELATIONS
SUBCOMMITTEE ON WESTERN HEMISPHERE

BODY:

St. Thomas University Human Rights Institute has always been a very active participant in community affairs, and as the only academic human rights institution of higher learning associated with a law school in Florida, we are deeply committed to analyzing emerging issues of vital importance to all teens residing in the State, and offering solutions based on thorough interdisciplinary research and discussion.

As a result of our direct involvement with Cubans in Guantanamo in 1994, when I was asked by a senior official from President Clinton's Administration to inform Cuban rafters of the US immigration policy change, the Institute later initiated a myriad of activities related to the Cubans' eventual integration into the American system. It is through these activities that I, and my fellow colleagues, have learned of many difficulties and certain irregularities during processing at the US Interest Section ("USINT") in Havana. I will try to summarize the reported problems and inconsistencies below:

1. Inability to receive or provide adequate confidential information from/to USINT in Havana.

- It has been reported that on several occasions Cuban citizens attempting to reach USINT have been prevented from doing so by Cuban government forces. This appears to be most common when the citizen is trying to ask for information relating to political asylum or attempting to report human rights violations.

Many complain that it is impossible for them to apply for asylum at the USINT. When asked to do so in writing, the Cubans allege that Cuba's mail system does not protect the right to privacy necessary to prevent government reprisals. Cubans also fear losing their jobs if their application for in-country refugee processing is known to Cuban authorities. Telephone contact with USINT appears to be equally difficult and Cubans are unsure of the level of privacy related to these calls.

Those who are able to obtain an appointment to see a US official complain of the brevity of such encounters. In many occasions those seeking asylum are unprepared for the interview of therefore their claims are often rejected.

2. Special Cuban Migration Program.

-(a) The announcement by the US government to issue 5,000 visas through a lottery created havoc through the island. Given the aforementioned problem with Cuba's mail system and their innate distrust of government officials, most Cubans preferred to take their lottery applications to the USINT personally. As a result, the Cuban government closed several adjacent streets to USINT; the Cubans did not trust the established process to deposit their applications in government boxes that were eventually taken inside. Consequently, this situation created a tense situation, fueled by frustration in the capital.

-(b) Concurrently, those seeking information about their pending immigration cases have been turned away by Cuban police because the Cuban police believe those civilians were simply seeking an opportunity to turn in their lottery request. Infuriating those Cubans the point is the fact that lottery winners are being processed sooner than those seeking in-country refugee processing. This apparent inequity has fueled rumors in Havana that some of the visas are being sold and officials from both governments are deriving an economic profit from this process.

3. Discriminatory process applied in Cuba to family members of asylees in the USA.

-Our sources reveal that this group, mainly women and children, lose their jobs and some of their homes, once the Cuban government learns that their immediate relative has been granted asylum in the United States. The claimed or petitioned family members in Cuba have gone to the USINT seeking assistance; these family members are only allowed to go as far as the information center, but the reported response from officials at USINT is to "go home and wait". The family members believe the USINT without adequate information as to what to expect, what to do, what to wait for. They leave discouraged.

4. Inconsistent decisions on who qualifies as a member of the economic unit, qualification as a parolee, qualification under family reunification visa program.

The reported inconsistencies are many. I have numerous files on these herb shoes, ranging from reports stating that consular officials have denied admission based on age (the consular official is reported to have barred persons 60 years old and over from being admitted weeks ago, in spite of the fact that their relatives in the United States have provided USINT with sufficient affidavits of support) to reports that state that some individuals are denied admission but without an explanation of how to proceed.

5. Guantanamo Cuban cases.

-The Clinton Administration changed its policy on Cuban immigration again on May 2, 1995. As a result, and according to United States Department of State's reports issued since then, 372 Cubans have been interdicted at sea, and 83 entered the Guantanamo Bay Naval Base; 342 have been returned to Cuba.

The State Department has also stated that "all returned (Cubans) are informed of the Cuban government's commitment under the May 2 Joint Statement not to take action against them for their attempt to immigrate illegally. All returned (Cubans) are also provided detailed information about legal migration opportunities..."

The Same report states that the Cuban government has "generally" complied with its commitment not to take action against returned Cubans. The word "generally" indicates that there are cases, (or a number of returned individuals) who fall out of this "generality". This group is our main concern. For example,

(1) On May 29, Yuri Delgado Ramirez, brother of Elier Orosa Ramirez, phoned from Cuba to inform the following:

"Elier came to the United States on January 2, 1993, and lived in the US until March 1994; he was later picked up near Cuban waters and sentenced to 4 1/2 years for illegal exit and entry by the Cuban government. He managed to escape from jail and fled to GTMO on September 8, 1995. He was later repatriated involuntarily from GTMO to Cuba last month."

"Since his arrival in Cuba, he has been continuously harassed by the Cuban authorities, and he has been denied employment. On May 28, Elier was picked up at his home in Caibarien and taken to the local jail. His family members were told by the Technical Department of Investigations ("DTI") that Havana had sent an order to arrest Elier; the family members were also told that Elier MUST finish his 4 1/2 year prison. The family members then told the Cuban authorities that before leaving GTMO, the US had promised Elier that Cuba had assured the US that no reprisals would be taken against him when returned. Cuban officials denied such understanding exists.

Elier was initially held by the National Revolutionary Police ("PNR") at a local jail, under terrible conditions, and his family was denied permission to bring him medication and food. He was later transferred Prison Provincial de Santa Clara to.

We received a phone call (his third since Elier's arrest) from his brother, Yuri Delgado Ramirez, on June 4. He updated us on the latest developments regarding his brother's arrest:

Although Yuri had gone to the USINT in Havana to report the incarceration of his brother by the Cuban government, Yuri had not received any news from the USINT in Havana as of June 4th.

Yuri went to visit Elier at Prison Provincial de Santa Clara on June 3rd. Elier has been taken to AREA SIETE (7).

Area 7 is designated to hold "Fugitives from Justice." Yuri informed us that the matter had gone to the "Tribunal Provincial de Remedios" (Provincial Tribunal of Remedios) and it recommended that Elier had to complete the prison sentence: When he left for GTMO, he was serving time for "illegal entry and exit" for a term of 4 1/2 years; the Tribunal's recommendation decided he had 2 1/2 more years to go from that original sentence, and it also decided that the sentence was to be strictly completed ("sentencia de estricto cumplimiento").

Yuri was able to obtain the names of the assigned officers to his brother's case in jail: a) Guillermo Perez Perez, the Chief of the Re-Educators from the PNR in Santa Clara, and b) Chief Jimenez, Chief of the Re-Educators at the prison where he is being held. Both of the Cuban officials have stated that there will be no response while Elier maintains his present conduct.

Elier's present conduct:

- Elier is maintaining a PLANTADO position. He initiated a hunger strike, drinking only water.

The nurse stated to Yuri on June 3rd that Elier was not to be provided any medical assistance, such as an IV, until he became unconscious.

On June 7, Yuri (Elier's brother, and also a repatriated Cuban rafter) phoned from Cuba to report he visited the USINT in Havana on June 6. He stated his purpose in visiting USINT again was to obtain information on his brother's case, and USINT's efforts to secure compliance with the "protected status" Agreement from the Cuban government. Yuri informed us that USINT has to wait many hours to receive a response from "MINRE" (Cuba's Ministerio de Relaciones Exteriores=Foreign Ministry). Cuba's reply was that "there was a misunderstanding in the signing of the Agreement between the United States and Cuba regarding repatriated rafters, since Elier had a pending sentence for 'illegal entry' to Cuba which he still had to serve." Yuri added that the problem derived from the Prosecutor's irascible and unyielding position to make Elier serve a pending sentence for having entered Cuba illegally.

On June 22nd, we were able to establish telephonic contact with Yuri in Caibarien, his hometown. He reported that he and his two sisters had visited Elier at the Prison on June 18. They are allowed to do so every 21 days. They found Elier extremely depressed; his mental condition is noticeably deteriorating. And they were able to convince him to stop the hunger strike. According to Yuri, Major Jimenez, one of the prison's re-educators, said that Elier's file is in Havana. Elier was told by his family that they, and USINT, are working very hard to secure his release. Yuri further explained to us that "Steve Reis" from USINT had visited the family in Caibarien on June 19, a day after Yuri and his sisters visited Elier in Prison. Yuri was asked by "Steve" to go around the town with him; although the purpose of this visit was not clear to us, Yuri said it had been made to let neighbors know that USINT is keeping a close watch on developing events regarding this particular family.

(2) Mario Cordova. - Visiting Elier's family at home on June 22, were Amalia Garcia Rodriguez and Manuel Cordova Berjel (sp?). These are the parents of Mario Cordova, another repatriated rafter from the Guantanamo "group of 18." Mario is also at the same Prison as Elier. Mario and his elderly parents are fishermen. Mario was forcibly returned to

Cuba from Guantanamo Naval Base, along with Elier. I talked extensively with Mario's parents on June 22nd. I learned that all of them are in the fishing "industry". Both Amalia and Manuel confirmed that his son Mario had been taken to jail on May 29, after his return from Guantanamo. They have not been able to see him since, because they cannot afford to travel to Santa Clara and because they are elderly. They did tell me that Mario had been jailed on recently fabricated false charges: They categorically denied that his son was ever in trouble for anything other than leaving and entering Cuba illegally. However, now the Cuban authorities are accusing him of committing "robbery using force." Amalia and Manuel stated that Mario had been serving a 4-year sentence for illegal exit and entry, when he escaped to Guantanamo. When he was involuntarily returned to Cuba along with Elier, the Cuban authorities picked him up two days after jailing Elier. Both parents believe that since news of Elier's capture by the Cuban authorities made a solid case under human rights violations perpetrated by the Cuban government, and did not comply with the US-Cuba Agreement, the Cuban government had to come up with trump up charges filed against Mario to be able to "get away" with such action (to justify his imprisonment). Mario is also at the Prision Provincial in Santa Clara, in Area 7 (the same Area as Elier). As Elier, Mario lived in the United States. He arrived at Stock Island (Florida Keys) in 1991, and lived there until April 23, 1993.

I was informed that "Steve" from USINT had questioned Mario's sister on these false charges. I was told that she had clarified for USINT that Mario was never in any trouble with the "law", except for illegal exit and entry.

I asked both parents if they had a copy of the charges filed against Mario. They responded that the Cuban authorities had refused to give them any information.

We have received separate reports from other recently returned Cubans:

(3) Eutimio Guzman Marrero. - On May 24, Eutimio Guzman Marrero called from Santiago de Cuba. He reported the following:

Upon his arrive value in Cuba from Guantanamo, State Security officials were involved; two of them were new officers, two were "old hats" at it. They denied he was being interrogated, although they entered into a "contrapunteo" with him. When I pressed him to describe for me what this "contrapunteo" consisted of, he said Cuban officials, although not extremely confrontational, were definitely coercing him to accept procedures to re-integrate him into the system, using coercive ways to pressure him to talk, i.e., they offered to facilitate and expedite for him obtaining the "carnet," in exchange for information on how he was able to believe Cuba, enter the Base, etc. He was told in no uncertain terms that the "Americans (give) order(s) there, but we do here."

Out of five people who were returned to Cuba with hem, three were able to obtain the "carnet". The other two (including himself) have yet to receive it. In addition, he was told that an officer from the State Security had been assigned specifically to him to "control" him individually. His name is Abel Pavon. When he was finally released, Eutimio decided that he could not stay home, and left his house around 4:00 a.m. He lives with his mother. He returned home on Sunday only to bathe and connect with his mother. As if on a clue, Abel Pavon paid him a visit and offered to facilitate obtaining the "carnet" for him, if Eutimio would go to see Pavon's boss at the station. Eutimio refused and said that if they wanted to talk to him they should issue a citation. Pavon responded that the Cuban government will not issue "official" citations at this point.

Desperate, Eutimio then sought out assistance from human rights groups in Cuba. He also continued to stay out, returning home unannounced from time to time. On Sunday, May 19, as he was crossing the Parque Ferreiro on his way home, he was approached by an officer from the department "Busqueda Y Captura" (Search and Seizure Unit), and two from the State Security. He was surrounded by these officers and verbally assaulted. He was told he was being taken in. He was transported to a dungeon in the Cuarta Unidad de Santiago de Cuba (Fourth Unit). Eight more people were detained in what he described as a very small space. He spent the night there. He went on a hunger strike, to demanding to know what charges were being filed against him. Eighteen hours later, he was visited by two Cuban officials who ordered him to get dressed. He again demanded to know what was going on. He was told he had been detained on "alteracion del orden" (disorderly conduct) charges. Eutimio maintained these are trump up charges. When he was released, he again decided not to go home. At that point, he realized how alone dissidents are in Cuba, with no support system. He expressed to me his frustrations on how people outside Cuba repeatedly fail to comprehend how deceitful the Cuban government is. He reiterated that there is much tense between the Cuban government and groups of dissidents, and that no one has any type of "garantias", especially "garantias de libertad" (liberty).

At that juncture, he determined to go to the USINT, seeking protection. However, he said the trip itself is dangerous because he lacks documentation from Cuban officials. He clarified that he had heard that USINT officers had gone to visit him at his house on May 14th, but he was unable to meet with USINT officials since he was on the run.

I asked him to name those who may be in similarly situated circumstances; he stated he knows there are about 20 in El Combinado del Este Prison. In general, he mentioned:

1. Fabian Varela Canizaves 2. Eduardo Oscar Varela 3. Eldy Corrales Beranes 4. Dorman Jorge Rodriguez Cabrera 5. Angel Adolfo Armeinac 6. Angel Miguel Bisc Beires

Eutimio also related other matters of concern:

a) He said that the Cuban government has changed tactics, some of which have been implemented gradually; they no longer appear dressed in uniform when conducting interrogations. But rather, they approach people dressed in civilian clothes.

b) He referred to "descomisos" since 1991, causing people to become transients, outcast, and homeless.

c) The "carnet" is used to "persuade" (coerce) people into conditions that people would not otherwise accept. Without the carnet, people cannot work (unless they work for the state security). People without the carnet are classified not be trustworthy ("no confiables").

Eutimio reported that Samir, another one of the returned Guantanamo Cubans, was detained for 2-3 days in prison when he tried to obtain the carnet.

Eutimio concluded by denouncing vigorously this whole process as a farce by the Cuban government. Imploringly, he asked that we do something to support those of them who must confront the Cuban government. They feel isolated, left to fin for themselves living off agricultural products found in desolate fields.

He is convinced that these acts need to be denounced to the international community and specifically dealt with by human rights groups outside Cuba. On June 4th, Eutimio Guzman Marrero phoned again. He had just completed a visit to USINT in Havana; he was accompanied by:

1. Ulises Gonzalez Machado 2. Lisardo Garcia Sanchez 3. Osmani Marquez Cobao 4. Gilberto Rodriguez Treach and his wife 5. Lizbet Lorente Rivera

Eutimio recorded very distressing news. He was extremely upset at the information he received from "Steven" at the USINT in Havana. Steven stated that he was very sorry about what was happening to the repatriated Cubans, but he was only a functionary of the US government who could help in explaining the agreement between the US government and Cuba.

He explained it the following way:

Under "protected status," only the last illegal exit would be covered. In other words, Cubans who escaped prison for serving a sentence for trying to flee Cuba prior to arriving in GTMO had to serve the sentence regardless.

Once they returned to Cuba from GTMO, interdiction on the high seas, etc., is only the last illegal exit to GTMO that is exempted from being punished.

He also reported that everything points out to a determined effort on the part of the Cuban government to serve and capture immediately any repatriated Cuban who had lived in the United States. He specifically mentioned two names:

1. Dormin Jorge Rodriguez Cabrera. His father belongs to a human rights group. His father has been advised to drop membership in a human rights group if he wants his son released from prison.

2. Mario Cordova was repatriated from Camp 11 by the original 18 returned in April. He is at the Prision Provincial de Santa Clara. He's been there for the last five days. This person has a son in Miami and lived in Miami for 18 months. Continual reports that no information was given to them on refugee status on how to apply for it, etc., by the USINT.

He also stated that the six individuals that appeared before Steven are really scared, gravely depressed, and running for their lives; they realized today that the US is impotent (or unwilling) to do anything about their situation in Cuba. They feel double-crossed.

On June 10th, Eutimio called again to inform us that the Cuban state security has issued a citation for him to appear on Thursday, June 6th; however the phone line went down as soon as he started to relate to us what had transpired.

He was able to call back on June 12th. He reported that all phone lines he had previously used to call us from had been cut off. He was able to tell us that he had been having problems with the PNR (National Revolutionary Police), and was cited to appear before them on Thursday, June 6th and Saturday, June 8th; the PNR withheld his ID "carnet" and his documentation; he was told he was being placed in prison.

The electric power went off, and the PNR decided to process him on the 17th to transfer him to prison. Eutimio also reported that:

Reinaldo Roblejo Martin, yet another of the 18 recently repatriated rafters from Guantanamo, is also reported to be in prison. Reinaldo was forced to go back to Cuba with his and 4-year-old daughter, Geisi Rodriguez, and Milena Roblejo Rodriguez. The child is emotionally traumatized. His wife is encountering extreme difficulties in taking a "jaba" (package with medicine and food) to Reinaldo as she is experiencing inordinate delay (caused by the Cuban authorities) in visiting him at the prison.

This family appeared photographed next to task force Commander Col. John McKay at a JTF closing ceremony in Guantanamo in January 1996. The photo appeared in the Miami Herald on January 19, 1996. The Miami Herald's caption states that Geisi had rafted for six hours to eventually join her husband, Reinaldo, in Guantanamo.

Since we have not heard from Eutimio after the June 17th deadline given to him by the Cuban authorities, we started to call different sources in Cuba to inquire about his whereabouts. On June 22nd, we were able to communicate with: Dessy Mendoza Rivero -- Dr. Mendez Rivero is a physician who was in Guantanamo Naval Base for approximately eight months. He was one of the few Cuban rafters who originally believed US authorities when it was stated that Cubans must return to their homeland to be properly processed by the USINT and INS.

Dr. Mendoza Rivero wanted to comply with the announced rules at the time. He decided to take his chances believing that Cuban rafters in Guantanamo would not be admitted to the United States. He was sent on a direct flight from Guantanamo US Naval Base to Havana (Boyeros Airport) on April 25, 1995.

Upon his arrival, he was detained for four days and transported to Versailles Jail in Santiago de Cuba under the watchful eye of the state's security. There, Teniente Cuque defiantly told him that he had no better chance than the rest of the Cuban population to leave. Upon his release from detention, he filled out an immigration application, which Cubans call "preliminar", and mailed it from a mailbox at the Infanta Street in Havana to the USINT. He never received an answer.

In January 1996, he went to USINT in his capacity as president of a human rights group called "Movimiento Pacifista Pro Derechos Humanos", to report on human rights violations committed by the Cuban government. It was then that he found out that his "preliminar" (preliminary) application had never been received by the USINT. He filled out yet another one and was told at USINT that he should wait six to nine months to receive a reply. He was dismayed to hear that he had to wait that long, especially because he had already waited that long from the first "preliminar" that never made it to the USINT. I asked Dr. Mendoza Rivero if he was aware that there was a special section at USINT designed to process only refugee claims in Havana. He answered negatively. I described for him the building behind the USINT, but he affirmed he had no knowledge of this section. I further questioned him on the type of information that he, as the president of a human rights organization in Cuba, had received from consular officials; he was very clear in his response: USINT had only informed him that he needed to wait six to nine months for an answer. He told me he was wondering how he is going to survive. He sounded desperate. He also sounded bitter when he related that he had listened to the US government in Guantanamo and had tried to comply with the "orderly process" requirement that INS when he agreed to return to Havana to file for refugee status. He finds it ironic and humiliating that winners of the visa lottery have been processed sooner.

Dr. Mendoza Rivero is a member of Concilio Cubano and reported losing his documentation in a raid called Pijama Operation conducted by the Cuban government against Concilio members on February 17, 1996.

Dr. Mendoza Rivero stated that rafters, whether pre-May 2nd or post May 2nd Agreement, suffer from at least several of the following abuses:

a) No employment. He conceded that even though there is a general crisis regarding jobs in Cuba, it is precisely more acute and more discriminatory towards Cuban rafters. He posed to me the following question: Do you really think that the Cuban government will hire a dissident or Cuban rafter over someone who has not yet exhibited any signs of political disaffection?

He continued to explain that this is also an ideological war since the Cuban authorities want to keep rafters unemployed and force them to commit "delinquent" acts. He related that the Cuban authorities have actually filmed photographed rafters dealing in the "black market", and later used these to discredit rafters with the political prisoners in the Boniato Jail.

The Cuban government uses these videos and pictures to prove that these rafters are "lucrando" (making a profit) with goods and general population does not excess to or "malversando" with these goods,

b) Continued harassment: They are followed, phone calls monitored, etc.,

c) Threats: To their personal safety and their family members,

d) Search and seizure acts at their houses,

e) Reprisals in overt and covert actions, such as control of their carnet, withholding of their identity papers and documents, etc., resulting in total and complete immobilization for the rafters,

f) They are segregated from the general population and not allowed to fully integrate into the society at large, g) They are considered "dangerous" (elemento de peligrosidad),

h) Traveling movement within Cuba has become even more restricted through the control of the carnet and by controlling identified rafters when accessing transportation facilities anywhere. This makes it extremely difficult to access USINT in Havana,

i) Imposing outrageous fines on minor deficiencies to "cuentapropistas": The government has focused on rafters who have initiated private businesses. Dr. Mendoza Rivero told of being fined 1,500 pesos for a minor infraction. He had started a small "paladar" (cafeteria) in his garage, but next month he will have to close down because the government will charge 300 pesos monthly to permit him to keep it open.

He concluded by revealing two very surprising bits of news:

1) Eutimio Guzman Marrero left for Guantanamo Bay Naval Base again. Eutimio expressed to Dr. Mendoza Rivero that he could not continue living in Cuba under so much pressure and persecution. We have not heard from Eutimio. We do not know if he was able to cross the border from Cuba to the base.

2) Dr. Mendoza Rivero was disheartened and expressed absolute disappointment and disillusionment with the US State Department's declarations that Cuba is complying with the May 2 Agreement.

The State Department cites the May 1995 agreement which "obliges the Cuban government not to take action against returned... (Cubans) as a result of their attempt to enter the United States illegally; it does not confer any immunity from punishment for other offenses -- including other migration-related offenses -- committed either before or after the attempt which resulted in their return.

However, because the United States government considers Cuba's "illegal exit" and "illegal entry" laws inconsistent with Article 13 of the Universal Declaration of Human Rights, (the US government) did not return these (Cubans) to Cuba until the US authorities were confident that they would not be punished for their offenses."

In a particular reference Elier Orosa's case, the State Department also stated that, "Mr. Orosa's imprisonment on an illegal entry conviction... directly contradicts assurances provided by the Cuban government that he would not be punished upon return." We can only surmise Elier that is being coerced by the Cuban government into "adjusting" to its totalitarian society mainly because the purpose and justification of his sentence is to insure that upon his return to freedom, Elier will conform to totalitarian values. This coercion is unacceptable.

It is a mockery of the "protected status" guarantee secured by the US government from the Cuban government.

Given that recent confirmed experiences demonstrate that the Cuban government is taking action against returning Cubans, it is imperative that the interdiction policy and involuntary repatriation be immediately revised or abrogated altogether. The US government had knowledge now that Cuba is violating the May 1995 agreement; Cuba will try to justify the reason for taking such action by claiming any number of trumped-up charges against the returned Cubans. There are several issues that need to be addressed at once:

- a) Can the US government really rely on information provided by the Cuban government regarding prior behavior of the returned Cubans?
- b) Did the United States know before the return of the Cubans that the individuals in question had pending charges against them?
- c) What can the US do to protect returned Cubans from trumped-up charges developed by the Cuban government after their return?
- d) What independent system is there to document whether these charges are indeed true?

It is well known that the Cuban judicial system is subordinated to the National Assembly ("ANPP") and the Council of State, which is headed by Fidel Castro. The US Department of State in its "Cuba human rights practices 1995", released in March 1996 states, "The rubber stamp ANPP and its lower level counterparts elect all judges. The subordination of the courts of the communist party further promises the judiciary's independence."

It goes on to say, "Criteria for presenting evidence, especially in the cases of human rights advocates, are arbitrary and discriminatory." The US government report acknowledges the absence of fair trial procedures and due process. It also portrays due ban law and trial practices are not meeting international standards for fair public trials.

In addition, the Cuban government has routinely utilized psychological intimidation to coerce individuals into agreeing to cooperate with the government. Therefore, how the US government count on reports issued by a government which is notorious for falsifying claims and having such dismal record of respect of human rights?

We, at the institute, are not involved in the intricacies of political issues, but we do uncompromisingly adhere to the principles articulated in many international instruments on human rights and in the administration of justice. As time continues to run, we become increasingly troubled about the fate of people like Elier who may not have been carefully screened before they were repatriated to their homeland.

We question how many more may face the same fate and how many are facing the same prospect, but do not have a family member that can call Miami to report on these abuses. We question the soundness of a policy that relies on the premise that the Cuban government will observe and respect the rights of the repatriated Cubans; a government notorious for disdainful disregard of basic human rights.

Therefore, we're concerned that enforcing immigration laws, some offices may go beyond specified duties and regulation and individually and arbitrarily determine and seal an individual's fate not having appropriately, objectively, and humanely determined the facts of the case. We are troubled that individuals like Dr. Mendoza Rivero, who attempted to comply with immigration regulations on a voluntarily repatriated to Cuba from Guantanamo in April 1995, are still struggling to access the system or are very confused about the orderly procedures.

We, at the institute, are indeed very concerned about these reports. We take them very seriously, and we strongly believe that these issues must be addressed diligently and thoughtfully. Not only are we dealing with significant violations of human rights, but these actions by the Cuban government also breach the protection status understanding between the US government and Cuba regarding returned GTMO rafters.

Also at stake is the issue of credibility in the refugee in-country system and accessing regular immigration procedures established, among many other things, to stop massive immigration. If we return rafters based on a conviction that these people are not going to suffer any reprisals, that they will be able to access a process that may entitle them to regular and orderly immigration procedures, then it behooves us to make that system work by making sure that everyone is in compliance.

We are also very concerned that Cubans' perception of USINT's effectiveness is becoming alarmingly poor. Losing faith in the system that would certainly give rise to a new impetus for believing Cuba through any mechanism, including by raft. We still have time to be proactive and avoid being reactive. Most people agree that the Camarioca, Mariel, and Guantanamo experiences were a result of not responding quickly to telling signs weeks, if not months, ahead of time before they actually happened. As an attorney that specializes in immigration law and as executive director of an academic human rights institution, I would like to stress the importance of not being complacent about these new developments. I urge you to take whatever steps are necessary to remedy this situation. We recognize the unfortunate dilemma that the US government is facing in enforcing its sovereign rights and implementing its immigration laws while also trying to comply with international human rights.

We bear in mind our immigration issues and foreign policy decisions are interrelated, especially in matters concerning national security. We are cognizant that procedures need to be efficiently implemented to determine the nature of the refugee's claim. We encourage a "coordinated and system-wide response" in dealing with emergencies and agree in continuing to look for solutions to prevent acts that produce mass exoduses.

We recall that a central element of international protection includes the right not to be expelled to a situation which could threaten one's life or freedom. Under this principle, the "competent authorities shall take into account all relevant considerations, including where applicable, the existence in the state concerned of a consistent pattern of gross, flagrant, or mass violations of human rights."

Recommendations

In view of the aforementioned, and since the institute has worked many years with people from all sorts of backgrounds and its experience has been that the great majority of people when frustrated tend not to listen correctly or they may misquote or misinterpret the information provided to them, we propose that to minimize the degree of frustration, we increase the communications level and therefore strongly recommend that the US:

- 1) Revise and reconsider to present policy regarding Cubans who attempt to flee the island.
- 2) Designate a representative from a non-governmental organization (NGO) to be allowed to interview potential repatriates and/or interdicted Cubans at the initial point of contact: Whether a GTMO, US Coast Guard, or the USINT in Havana and that the NGO representative be allowed to explain the procedure for refugee status or any other immigration benefit.
- 3) Allow NGO representatives to advise the INS officer in charge of interviewing potential repatriates and that the INS officers take the NGO representative's advice into account when making the final determination.
- 4) Establishes a more direct approach to create cooperative partnerships with NGO representatives to gain objective and legitimate criteria on refugee treatment by Cuban authorities and assist in identifying potential conflicts.
- 5) Grant refugee status to the identified and specific cases described hereto. It is necessary that the US act swiftly and firmly in protecting those that are legitimate refugees. Otherwise, the in-country refugee process will not be considered a viable alternative under international human rights standards.

We further recommend that:

- 6) St. Thomas University Human Rights Institute offers a program; develop and edit a video tape that will describe in detail the different immigration procedures available to refugees, applicants under the "special Cuban migration program", parolees, potential beneficiaries under the Family Reunification Program, etc.

The intent is to disseminate as much objective information as possible from culturally sensitive Cuban American attorneys to people who historically have lacked a mechanism to receive proper and accurate information. The tapes would run separately, but continuously at the first point of information at USINT in Havana.

- 7) We also propose to observe the USINT processing center in Havana to be able to address and perhaps dispel some of the most common "myths" referenced above. By providing factual and objective information, we will diminish the anxiety and frustration experienced by providers and beneficiaries alike. The system will run smoother and more efficiently.

- 8) It is also strongly recommended that the above described procedure be provided to Cubans in Guantanamo. The institute worked with the Office of Democracy -- the National Security Council in September 1994 to inform the Cuban rafters in Guantanamo about the new US policy. We are ready to travel to Guantanamo again to accomplish this purpose.

- 9) In addition, the above-described procedure could very well be implemented onboard Coast Guard vessels conducting repatriation missions, but the video tape would obviously only address refugee criteria and processing.

- 10) We also believe that cassettes with this objective and factual information could easily be distributed if deemed appropriate to the Cubans in the island. Cubans could be encouraged to reproduce the cassette.