



Statement before the House Committee on Oversight and Government Reform
Subcommittee on National Security
On Holding Cuban Leaders Accountable

Time to Confront Cuba's International Crime Spree

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Chairman DeSantis, Ranking Member Lynch, and Members of the Subcommittee:

Thank you very much for convening this hearing to remind us all of the February 24, 1996, attack by the Castro regime on two unarmed U.S. civilian aircraft, which took the lives of four innocent people—Armando Alejandro, Jr., Carlos Costa, Mario de la Pena, and Pablo Morales—who were patrolling international waters to locate and rescue their Cuban brothers and sisters in peril on the sea.ⁱ

Although 14 individuals were indicted for their role in this barbaric attack and one Cuban spy was convicted of murder, Fidel and Raul Castro were not indictedⁱⁱ—despite the late dictator’s public admission that the two brothers orchestrated this ambush and use of lethal force.ⁱⁱⁱ In short, Mr. Chairman, the Castros and their coconspirators have never faced justice for this public execution of four innocent and courageous men.

Indeed, this hearing is a timely opportunity to recognize that the regime in Havana has never been confronted for its international crime spree—which began six decades ago and *continues to this very day*. Until the United States and the international community recognize and confront this criminal enterprise, the gangsters in Havana will continue to act with impunity.

From urging a preemptive nuclear strike against the United States in 1962,^{iv} to organizing a terror campaign against Central American nations,^v to sharing anti-American intelligence with our enemies from Baghdad to Belgrade;^{vi}—the Castro regime (which remains the true source of power in Cuba despite a recent presidential transition to a hand-picked successor, Miguel Díaz-Canel) is an implacable and tireless foe of the United States.

Its ongoing criminal conspiracy on our doorstep—which has converted Venezuela into a platform for narcotics trafficking, money laundering, embezzlement, extortion, and political destabilization—demands an urgent and effective response from the U.S. national security establishment.^{vii} As the Trump administration and the bipartisan leadership in Congress confront the regime of Nicolás Maduro in Caracas, we must, at long last, deal with his handlers in Havana who are micromanaging Venezuela’s destabilizing behavior.

In retrospect, Mr. Chairman, perhaps the international community should have recognized the 1996 attack was more than an act of aggression by a hostile government. It was an act of terror perpetrated by gangsters who have tormented well over 11 million Cubans since 1959.

An Act of Terror

Mr. Chairman, one of the most straightforward yet compelling accounts of the events in question was prepared by the Inter-American Commission on Human Rights, the international body which shares its headquarters with the Organization of American States in Washington, D.C.^{viii} The following excerpt contains several key facts, including that the Brothers to the Rescue pilots notified Havana air traffic controllers of their flight plan before departing Miami, the Cuban regime launched its attack while the two Cessnas were

over international waters, and the MiG pilots violated international norms by not warning the Cessna pilots, trying accepted interception methods, or giving them an opportunity to land:

THE INCIDENT. Alejandro, Costa, De la Peña, and Morales were members of the “Brothers to the Rescue” organization, based in the city of Miami, Florida, United States of America. On the morning of 24 February 1996, two of the Brothers to the Rescue Cessna 337 airplanes departed Opa Locka airport in south Florida. Costa was flying one airplane, and he was accompanied by Pablo Morales, a Cuban citizen who had fled the country on a raft. De la Peña was at the controls of the second plane, with Alejandro as his passenger. Before departing, *the two aircraft notified air traffic controllers in both Miami and Havana of their flight plans, which were to take them south of the 24th parallel.*

6. *Parallel 24 is located a good distance to the north of Cuba’s 12-mile territorial waters and it serves as the northernmost limit of the Havana Flight Information Region. Commercial and civilian aircraft routinely fly in this area, and aviation practice requires that they notify Havana air traffic control when they move south of parallel 24. Both Brothers to the Rescue airplanes complied with this custom by communicating with Havana, identifying themselves, and giving their position and altitude.*

7. *While the two aircraft were still north of the 24th parallel, the Cuban Air Force ordered the scrambling of two military aircraft, a MiG-29 and a MiG-23, operating under the control of a military station on Cuban soil. The MiGs were carrying artillery, short-range missiles, bombs, and rockets, and they were flown by members of the FAC. Extracts from the radio communications between the MiG-29 and the military control tower in Havana detail what transpired next:*

8. *The MiG-29’s air-to-air missiles disintegrated the Brothers to the Rescue airplanes, killing their occupants instantaneously and leaving almost no recoverable remains. Only a broad slick of oil marked the place where the planes were downed. At no time did the FAC notify or warn the civilian airplanes, try to use other interception methods, or give them an opportunity to land. The MiGs’ first and only response was the intentional destruction of the civilian airplanes and their four occupants. These actions were a clear violation of established international rules, which require all measures to be exhausted before resorting to aggression against any airplanes and utterly forbid the use of force against civilian craft. In addition, agents of the Cuban State violated several basic human rights set forth in the American Declaration of the Rights and Duties of Man. [Emphasis added]*

Mr. Chairman, the fact that these gangsters deployed aircraft with the markings of an organized military that is affiliated with the Cuban regime and that the orders were given by Cuba’s command structure have been used to characterize this attack as an act of state, which must be dealt with in accordance with international norms that govern relations among nation-states.

However, the facts show that this was not an episode where a country’s national defense services overreacted, used disproportionate force, or made an egregious error. This was instead a premeditated *terror attack*, conceived by the Castro brothers, hatched

by agents of the Cuban intelligence services operating illegally on U.S. soil, and perpetrated by the regime's security forces following the personal orders of Raul Castro.^{ix}

Dr. William LeoGrande co-authored a 2014 article that offers the most convincing set of facts that this attack was ordered by Fidel Castro personally, because he felt "humiliated" by alleged intrusions into Cuban territory. There is no suggestion in Dr. LeoGrande's account that Castro thought that these small aircraft represented any threat to Cuba—merely that they hurt the dictator's feelings. Furthermore, Dr. LeoGrande's article exposes Castro's malice aforethought—his intent to murder in cold blood. He recounts how Cuban officials asked several Americans on separate occasions how the United States would react if Cuba were to *shoot down* these aircraft—*not to intercept* them, *not to warn* them, and *not to escort* them out of Cuban airspace, *but to shoot them down*.^x

What is truly condemnable is that no one—from Fidel, to Raul, to any of their military subordinates—resorted to the option of abiding by the international rules adhered to by bona fide militaries in intercepting intruding civilian aircraft. Of course, the Castro gang has never played by the rules.

Over a period of many months, these Cuban conspirators selected, stalked, ambushed, and destroyed small unarmed civilian aviation aircraft that they knew to be harmless. Their aim was to terrorize anyone who challenges their regime. Since that day, it is fair to ask why the United States and every decent government on Earth continued to treat the regime in Havana as a legitimate nation-state.

The Lawless, Illegitimate Gang in Havana

The gang of rebels that set up operations in Havana in 1959 have hijacked the concepts of the nation-state, international law, and the "rules of war." When it is convenient, they cite their revolutionary project as a pretext for violating these norms. And when they are caught, they wrap themselves in the cloak of statehood to shield themselves from accountability and justice.

During the nearly 60 years since seizing power by force in Cuba, the Castro revolutionaries have failed to take any credible steps—such as a genuine, competitive election, referendum, or plebiscite—to earn the right to govern Cuba or to be treated as a legitimate sovereign state. On the contrary, they have executed, exiled, or coerced political opponents at home and behaved like bandits abroad. Why don't we treat them accordingly?

Relentlessly and implacably hostile to the United States, our citizens, and our interests, for nearly 60 years this regime has oppressed its own people, attacked U.S. interests, and promoted terrorist groups to destabilize U.S. allies.

"Going all the way back to the consolidation of Castro's authoritarian regime in Cuba in the early 1960s, Fidel's dream was to export his dictatorial model to the rest of Latin America (and beyond as in the Congo and Angola) with his *foco* theory of attempting to

generate insurgencies in Bolivia and elsewhere,” Dr. Craig E. Deare of the National Defense University explains in a recent article. “Virtually every country in the region with a left-of-center and authoritarian style of government was aided and abetted by Cuba’s military and intelligence services: El Salvador, Nicaragua, Bolivia and now Venezuela.”^{xi}

Cuba’s ‘Occupation Army’ in Venezuela: They Broke It; They Own It

Dr. Deare explains the Cuban role in Venezuela: “Maduro has been under the influence—if not outright control—of Cuban political advisors, intelligence services, and military since Chavez’s departure from the scene.... As the descent into chaos has accelerated, *Cuba now has ‘an occupation army’ in Venezuela*, according to Luis Almagro, the secretary general of the Organization of American States. De-facto ownership of Venezuela’s oil riches would be a lifeline to Cuba’s dismal economic model.” [Emphasis Added]

Mr. Chairman, since Hugo Chávez was elected president of Venezuela in 1998, Fidel Castro and his regime claimed a unique role in advising his protégé dictator. The regime gradually assumed an expanding role in virtually every Venezuelan ministerial function, the most important of which was maintaining an airtight internal security network that monitored Chávez’s own inner circle and military for ideological loyalty.

When Chávez was diagnosed with cancer, Cuban physicians managed his medical care. As it became clear that Chávez would not recover, the Castro brothers maneuvered to ensure that Nicolás Maduro—known for slavish devotion to the Cuban revolution—would be designated by Chávez as his successor. Rather than counsel the ailing president to preserve his health, Cuban physicians encouraged him to use his remaining weeks on the campaign trail, seeking reelection.^{xii} A video taken days before his last election shows Chávez collapsing at a rally that marked the end of his campaign—literally collapsing at the finish line.

But the Cubans needed an even bigger sacrifice. In a macabre episode, the Castro brothers actually sequestered Chávez from his family and concealed his death, *which occurred in Cuba around December 30, 2012*, so that Maduro could be sworn in as vice president and stake his claim to the presidency.^{xiii} A little-known but momentous fact, confirmed by Venezuelan defector Leamsy Salazar and other unimpeachable sources, is that *by the time Hugo Chávez was sworn into his fourth term in office on January 10, 2013, he had already died in Cuba*. And, “interim vice president” Maduro was sworn in on March 8, 2013, three days after Chávez’s death was made public. Maduro won the presidency in a disputed election—despite the constitutional rules prohibiting him from standing for election while serving as vice president.^{xiv}

To summarize, this transition of power to a Castro acolyte was micromanaged by Cuba. And what has become of Venezuela under Maduro—the perfection of a dictatorship and the destruction of an oil-rich economy—is Cuba’s handiwork. They broke it; they own it. So, today, Venezuela is a platform for Cuba’s continuing crime spree.

According to a colleague of mine who monitors activities in Venezuela, an active-duty Venezuelan military officer informed U.S. law enforcement in May of this year that Cuban military personnel—*coordinated directly by Cuban army Gen. Luis Alberto Rodriguez Lopez Callejas, Raul Castro's son-in-law*—are directly involved in smuggling cocaine through the port of La Guaira, with most of the drug shipments bound for Europe and west Africa. Another Venezuelan officer described the presence of Colombian narcoguerrilla camps deep into Venezuelan territory, which are responsible for transiting cocaine bound for the United States and other markets to Caribbean ports. The Venezuelan source explained to a U.S. law enforcement official that Cuban military officers stationed in Venezuela have instructed the national security forces not to approach these guerrilla camps or to interfere with their narcotics smuggling operations.

In a recent essay, Christopher Dickey describes the process by which the Cuban regime made itself indispensable to Chávez and to his successor Maduro. Initially employing its expert counterintelligence expertise to ferret out challenges to the regime, Cuba's role expanded to every aspect of Venezuela's internal security apparatus.^{xv} "Cuban counterintelligence is said to have tutored the Venezuelan spies, domestic and foreign, and helped to organize them to root out opposition to the regime of Hugo Chávez," Dickey explains. "Indeed, the Cubans taught them to do whatever might be necessary to survive."

Dickey describes the evolution of the Cartel of the Sun, named for the sunburst insignia on the uniform of Venezuelan general officers. He also cites the role the Cubans played in brokering an alliance between the Chávez government and Colombian guerrilla organizations—the FARC (*Fuerzas Armadas Revolucionarias de Colombia*) and the ELN (*Ejercito de Liberacion Nacional*)—which have become principal cocaine smugglers and have generated fortunes to sustain their political project even as they pretend to end their armed struggle.

Cuban agents who have taken an unparalleled role in Venezuela's internal security apparatus are naturally involved in the drug smuggling activities of the Maduro family and regime henchmen, Vice President Tareck El-Aissami and Diosdado Cabello—both of whom have been sanctioned by the U.S. Treasury for their involvement in narcotics trafficking.

Time to Treat Cuba as a Criminal Regime

Mr. Chairman, the U.S. government never accorded legal recognition of the Taliban in Afghanistan or ISIS in Syria. Castro agents continue their criminal behavior, including narcotrafficking; engage in systematic abuse of international norms, such as political destabilization of democratic governments; and lack political legitimacy to govern Cuba. So why do we continue to recognize them as a nation-state?

In my opinion, we should treat Castro regime officials as the international criminals they are. We should break diplomatic relations with the regime in Havana. We should gather the evidence to identify Cubans who are involved in narcotrafficking, human rights violations, and other crimes and indict them in U.S. courts for violations of U.S. law. We should enlist the support of the international community to join us in applying financial

sanctions against these individual criminals—blocking their access to the global financial network.

The United States Congress and President Bill Clinton reacted to the 1996 attack by passing legislation—which I helped draft, working for then-Congressman Ben Gilman—that denied the regime the proceeds of its “firesale” of confiscated property, offered renewed economic and political ties to incentivize a democratic transition, and codified most of the embargo pending real political reform in Cuba.

Three-fourth majorities in both houses of Congress approved the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, which codified the economic embargo on Cuba. However, it also authorizes the president to suspend economic sanctions provided that a post-Castro government begins to respect the economic and political rights of the Cuban people. For example, the law expects that a transitional government in Cuba would free all political prisoners, respect political freedoms, dismantle the police state, and commit to holding fair elections within 18 months. In addition, it expects a new government to at least make public commitments to establishing independent courts and honoring internationally-recognized human and labor rights.

The ugly reality is that Cuba remains the only country in the Western Hemisphere that cannot meet any of these foregoing conditions.

Every U.S. President since Lyndon Johnson has made changes to U.S. policy toward Cuba. But none of them, until President Barack Obama, made sweeping unilateral concessions to the Castro regime without asking or receiving anything in return. Predictably, the regime made no meaningful political or economic reforms. On the contrary, the brutal crackdown on human rights activists and independent journalists continued, while, according to dissidents, the new U.S. Embassy and other diplomats abandoned these pro-democratic conditions.

President Trump has taken steps to reverse the unilateral concessions to Cuba made by the Obama administration. In announcing this partial rollback in June 2017, the president said, “The previous administration’s easing of restrictions on travel and trade does not help the Cuban people—they only enrich the Cuban regime.... The outcome of the last administration’s executive action has been only more repression and a move to crush the peaceful, democratic movement....” In November 2017, the Trump administration unveiled new regulations that began rolling back Obama-era regulations that made it easier to do business with entities associated with the regime and to travel to the island.

In my view, U.S. policymakers should base future policy initiatives—either reversing or adjusting the Obama measures or launching creative new programs—on whether they increase the economic and political freedom of the Cuban people to take control of their own future. The following are ideas for reshaping a more purposeful U.S. policy towards Cuba.

Political and Security Initiatives

- Target abusive Cuban officials with Magnitsky-like sanctions up-and-down the chain of command. In its first year, the Trump administration sanctioned more than two dozen Venezuelan officials for narco-trafficking, assaults against democracy, and human rights abuses. They should extend those sanctions to Cuban officials and those operating in Venezuela as well. While none may have assets in the U.S. to be frozen, or visas to be withdrawn, some may be impacted for their dealings with other entities that come into contact with the U.S. financial system. Secondly, the stigma of a U.S. sanction is a powerful psychological tool, especially when the culprit is named-and-shamed before the international community. Lower-echelon officials should know anonymity no longer offers them protection.
- Re-establish high-profile solidarity with Cuban dissidents, opponents, and human rights activists; rally like-minded governments, such as former communist countries in Europe, to support dissidents and the Cuban people more generally. Robustly fund the Cuba Democracy Program to previous levels.
- Reassess the Obama administration's controversial decision to upgrade the Castro regime's ranking in the State Department's annual Trafficking in Persons (TIP) report. Contemporaneous media reports indicated Obama officials exerted undue pressure on career professionals to improve the rankings of several countries.
- Return Cuba to the list of State Sponsors of Terrorism. The Castro regime's recent attempt to help North Korea smuggle weapons through the Panama Canal and its support for violent repression in Venezuela demonstrate that it has undergone no change of heart regarding its destructive, anti-American foreign alliances.
- Break diplomatic relations with the Cuban government headed by Castro's hand-picked successor Miguel Díaz-Canel, and encourage international support for pro-democracy activists.
- Cancel Obama's U.S.-Cuba "Working Groups," especially the so-called "Law Enforcement Dialogue", which involves intelligence-sharing on counterterrorism, counternarcotics, and other criminal activity.
- Establish a public diplomacy capability specifically focused on identifying and countering the main lines of disinformation and propaganda disseminated by the Cuban government.
- Refuse to return a full complement of U.S. diplomats to Havana until the Castro regime offers a full explanation of what it knows about what occurred to the two-dozen injured diplomats and embassy staff and it makes reparations to those employees if it is established that it was Cuban government involvement, complicity, or neglect that caused the injuries.

- Expand U.S. narcotics investigations in Venezuela to Cuban officials based there. Venezuela is a full-blown narco-state, with numerous high-ranking officials implicated in facilitating drug shipments from Colombia through Venezuela and on to the United States and Europe.

Economic Initiatives

- Order a top-to-bottom review of Department of Treasury and Commerce licensing procedures for commerce with Cuba to ensure they are consistent with objectives of U.S. policy towards Cuba as laid out in the 1996 Cuban Liberty and Democratic Solidarity (LIBERTAD) Act.
- Direct OFAC to order money-wiring services to have their clients sending money to Cuba to certify it's not going directly or indirectly to any of the categories of banned individuals. Task the Treasury Department to investigate banking arrangements to ensure the Castro regime is not using loopholes to gain access to the U.S. financial system.
- Further restrict the tourism abuses of Obama's policies by ending licenses for cruise ship travel to Cuba which violate the spirit of the rules by organizing passengers into "affinity groups" after they are already on board, and thus by no measure meet the expected standards of true "people-to-people" contact.
- Fulfill President Trump's mandate to enforce existing U.S. laws by applying Title IV of the LIBERTAD Act, which denies U.S. visas to foreign persons profiting from confiscated property in Cuba claimed by U.S. nationals. Reintroducing this threat will have a chilling effect on the Castro regime's effort to lure foreign investment in its tourism industry, the Cuban military's cash cow.
- Issue a public statement discouraging U.S. businesses from trafficking in stolen U.S. properties. Warn US companies operating in Cuba by issuing a Statement of Policy pointing out that American businesses are not immune from lawsuits under Title III of the LIBERTAD law.

Thank you very much, Mr. Chairman.

ⁱ "According to the four-member ICAO [International Civil Aviation Organization] team, three Cessnas operated by 'Brothers to the Rescue' deviated from their flight plans on the date in question and flew within danger areas (sic) designated by Cuba. Two of them were shot down, while approximately 10 nautical miles outside Cuban territorial airspace; the third returned safely to the United States. Cuba did not attempt to use other means available to it, such as radio communication, contrary to the principle that interception of civil aircraft should be a last resort." United Nations News Release, "Security Council Condemns Use Of Weapons Against Civil Aircraft; Calls On Cuba To Comply With International Law," United Nations News Release, July 26, 1996, <https://www.un.org/press/en/1996/19960727.sc6247.html>.

ii On May 7, 1999, a U.S. Federal indictment was emitted by the Southern District of Florida charging 14 individuals, including Cuban spies, with a conspiracy called, "Operation Scorpion," that resulted in the February 24, 1996, attack.

iii "Cuban President Fidel Castro said he gave orders to his military to shoot down planes violating his country's airspace, *weeks before* Cuban fighters downed two civilian airplanes.... [Emphasis added]" "Castro takes responsibility for downing civilian planes," CNN, March 2, 1996, www.cnn.com/US/9603/cuba_shootdown/02_castro/.

iv "Khrushchev Memoir Tells of Castro Plea For Attack on U.S.," by ROBERT PEAR, New York Times Archives, <https://www.nytimes.com/1990/09/24/world/khrushchev-memoir-tells-of-castro-plea-for-attack-on-us.html>.

v *Castro's Americas Department*, by Rex A. Hudson, The Cuban American National Foundation, 1988, www.latinamericanstudies.org/rex-hudson.htm.

vi "Cuba Spies Sell to U.S. Foes," The Washington Times, October 26, 2007 <https://www.washingtontimes.com/news/2007/oct/26/cuba-spies-sell-to-us-foes/>.

vii "Nicolas Maduro Doesn't Really Control Venezuela," by Moises Naim, *The Atlantic*, May 25, 2017, <https://www.theatlantic.com/international/archive/2017/05/maduro-venezuela/528003/>.

viii "Report N^o 86/99, Case 11.589, Armando Alejandro Jr., Carlos Costa, Mario de la Peña, and Pablo Morales, Cuba," Inter-American Commission on Human Rights, Organization of American States, September 29, 1999, https://www.cidh.oas.org/annualrep/99eng/Merits/Cuba11.589.htm#_ftn1.

ix "We know that various U.S. Agencies knew the flight was compromised because one Pablo Roque, a Cuban agent who had worked for the FBI, had returned to Cuba on the day before and had provided detailed information to the regime concerning the February 24 Brothers to the Rescue mission." Statements of Representative Ileana Ros-Lehtinen and of Representative Lincoln Diaz-Balart, Hearing of the Subcommittee on Crime, Committee on the Judiciary, U.S. House of Representatives, July 15, 1999.

x "What would be the reaction of your military if we shot down one of those planes?" [Cuban Air Force Brigadier General Arnaldo Tamayo Méndez] asked a delegation of retired U.S. military officers during a visit to Cuba. Quoting from, "The Real Reason It's Nearly Impossible to End the Cuba Embargo," by Peter Kornbluh and William M. LeoGrande, *The Atlantic*, October 5, 2014, <https://www.theatlantic.com/international/archive/2014/10/the-1996-incident-that-made-it-nearly-impossible-to-repeal-the-cuba-embargo/381107/>.

xi "The Solution to Venezuela Runs Through Cuba," by Craig A. Deare, *Americas Quarterly*, May 30, 2018, www.americasquarterly.org/content/solution-venezuela-runs-through-cuba.

xii "Cuban Medicine Killed Hugo Chavez," by Joel Hirst, Fox News, March 6, 2013, www.foxnews.com/opinion/2013/02/28/cuban-medicine-killed-hugo-chavez.html

xiii "Hugo Chavez 'died two months before his death was announced,'" The Telegraph, February 2, 2015, <https://www.telegraph.co.uk/news/worldnews/southamerica/venezuela/11385437/Hugo-Chavez-died-two-months-before-his-death-was-announced.html>.

xiv "Venezuela's vice president sworn in as interim president," by Tom Watkins, CNN, March 8, 2013, <https://www.cnn.com/2013/03/08/world/americas/venezuela-maduro-capriles/index.html>.

xv "How Cuba Helped Make Venezuela a Mafia State," by Christopher Dickey, *The Daily Beast*, June 2, 2018, <https://www.thedailybeast.com/how-cuba-helped-make-venezuela-a-mafia-state?source=email&via=mobile>.