

104

THE SHUTDOWN OF BROTHERS TO THE  
RESCUE: WHAT HAPPENED?

Y4. IN 8/16: B79

HEARING  
BEFORE THE  
SUBCOMMITTEE ON  
THE WESTERN HEMISPHERE  
OF THE  
COMMITTEE ON  
INTERNATIONAL RELATIONS  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED FOURTH CONGRESS

SECOND SESSION

SEPTEMBER 18, 1996

Printed for the use of the Committee on International Relations



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## THE SHOOTDOWN OF BROTHERS TO THE RESCUE: WHAT HAPPENED?

WEDNESDAY, SEPTEMBER 18, 1996

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON THE WESTERN HEMISPHERE,  
COMMITTEE ON INTERNATIONAL RELATIONS,  
*Washington, DC.*

The subcommittee met, pursuant to notice, at 2:08 p.m. in room 2172, Rayburn House Office Building, Washington, DC, Hon. Dan Burton (chairman of the subcommittee) presiding.

Mr. BURTON. The hearing will come to order. This meeting today is to obtain testimony about a very serious matter. This past February 24th, almost 7 months ago, Cuban Air Force MiGs shot down two unarmed civilian planes belonging to "Brothers to the Rescue", a non-profit humanitarian group on a mission of mercy.

Four brave pilots who were on board those planes were murdered that day. Our thoughts and our prayers continue to be very much with the families of the poor pilots who were cut down so tragically in the prime of their lives.

We continue in our determination to see to it that freedom comes to the people of Cuba and that the losses suffered by the families will not have been in vain. The brutal murder of these brave men on the high seas and in international air space graphically demonstrated the true nature of the Fidel Castro regime. It also gave added momentum to the Cuban Liberty and Democratic Solidarity Act, the Burton-Helms Act which is commonly known as the Libertad Act.

Many believe that it was the shutdown that convinced President Clinton to finally agree to the signing of our bill which is now happily the law of the land.

Since the tragic shutdown some questions have emerged regarding the circumstances surrounding the events of that day. These are the questions we wish to raise today. Let me make two points very clear. First, we are not here to point an accusing finger at anyone. We are only here to gather the facts. We have the highest confidence in our military, and by no means should this hearing be misconstrued as impugning the integrity of the military in any way.

Second, the blame and the responsibility for the February 24th crime rests squarely in one corner, that of the Castro dictatorship. Bearing that in mind, I look forward to hearing from our witnesses today.

Before I conclude my remarks, let me also say that we have asked Mr. Jeffrey Houlihan, the gentleman from the U.S. Customs

Service in California to come and testify today. For national security purposes, the subcommittee will meet with him privately at the conclusion of this hearing to find out some additional information regarding the transmission of information from him to the Tyndall Air Force Base in Florida and what exactly transpired. For all those concerned on the subcommittee, I hope that you will be able to stay with us for this private closed-door meeting with him at the conclusion of this hearing.

Now, if I could have the witnesses stand.

[Witnesses sworn.]

Mr. BURTON. Before I recognize you for your opening statements, Ms. Fernandez, Colonel McMahan, I will yield to the ranking Democrat, Bob Menendez, for an opening statement.

Mr. MENENDEZ. Thank you, Mr. Chairman. I want to thank you for holding this informative hearing today. I am, as you know, anxious to determine whether the tragic course of events which resulted in the death of four Americans on February 24th of this year could have been averted.

On that Saturday, Fidel Castro expanded his reign of terror to the United States when he shot down two unarmed civilian aircraft and murdered four American citizens over international waters. Nothing, nothing can replace the lives of Mario de la Pena, Armando Alejandro, Carlos Costa or Pablo Morales. Their unwavering commitment to the lives of their brothers and sisters fleeing Cuba will clearly not be forgotten.

I would also like to take this opportunity to recognize the extraordinary efforts of Brothers to the Rescue and its President Jose Basulto. Brothers to the Rescue has saved more than 6,000 people from the Straits of Florida. Without their vigilance and dedication, many more Cubans might have died in their quest for freedom.

The Straits are rough, the rafts flimsy, and dehydration, starvation, the scorching sun and shark-infested waters plague those who seek the embrace of democracy. Brothers to the Rescue is a beacon and light of life for those individuals.

In the days following the shootdown, it became clear that Fidel Castro himself had carefully orchestrated and ordered the shooting down of the planes over international waters. Since then the world has spoken. The European Union, the Security Council of the United Nations and the International Civil Aviation Organization strongly deplored the shootdown.

It was because of this tragic event that the President asked me to travel to Geneva as part of the U.S. delegation to the U.N. Commission on Human Rights and to present the resolution condemning the Castro regime on human rights violations in Cuba. With the support of most of our allies, the resolution was adopted. The world sent a message to Castro.

Indeed it would be yet another tragedy if we as a nation did not respond to the aggression of the Castro regime as we should have. In this regard, I look forward to hearing the testimony of Colonel McMahan, Deputy Assistant Secretary Fernandez and Mr. Basulto.

In closing, I would like to point out that although we have come here today to understand the events of February 24th, we must also remember that it was, and not lose sight of I would add, the unlawful act of our common enemy, Fidel Castro. It is he who



bears the responsibility and the burden for the deaths of our fellow Americans. I look forward to the testimony, Mr. Chairman. Thank you for the opportunity.

Mr. BURTON. Thank you, Congressman Menendez. Now my good friend, Congresswoman Ileana Ros-Lehtinen.

Ms. ROS-LEHTINEN. Thank you so much, Mr. Chairman. Close to 7 months ago the entire world was witness to the brutal means by which the Castro regime is willing to take in order to destroy any opposition to its totalitarian regime.

On February 24th of that year, three American citizens and one resident of this country were executed by Cuban fighter MiGs, which following orders from the top hierarchy of the dictatorship, perhaps Fidel Castro himself, shot down their two Cessna aircraft which they utilize as vehicles to fulfill their unarmed humanitarian mission of helping Cuban refugees in the Caribbean.

The four young men represented the best that America has to offer. Armando Alejandro, a father of a teenage girl just starting college fought in the Vietnam War for the country which gave him a second chance at freedom. Mario de la Pena and Carlos Costa were students who unselfishly gave of their free time to help the Cuban refugees. Padre Morales had just begun to taste freedom after being rescued himself by Brothers to the Rescue.

Many questions about this massacre remain unanswered despite the many months that have transpired. But none of us expected the questions raised by the recent hearings of the National Transportation Safety Board which suggest or at least raise the specter that the lives of these four young men could have been spared.

During these appeal hearings on the unjust revocation of the pilot license of Jose Basulto, the president of Brothers to the Rescue, we learned that a U.S. Customs official in California around 3 p.m. observed on his radar screen and subsequently notified the Air Force of Cuban MiG fighter jets in international air space.

Upon calling Tyndall Air Force base in our home state in Florida to inform them of what he observed which is the equivalent of a 911 call, the California Customs official was told that we are handling it. Do not worry.

This calm response was apparently given, we now know, because evidence suggests that U.S. officials knew since 1:15 p.m. that Cuban MiGs were already flying. However, unlike in previous occasions when Brothers pilots were informed of the presence of the Cuban MiGs, no warning was given on this occasion.

It was only a short time later after the call from California at approximately 3:21 p.m. that the first Brothers aircraft carrying Carlos Costa and Pablo Morales was shot down in cold blood.

Seven minutes later at 3:28 p.m., the aircraft of Mario de la Pena and Armando Alejandro suffered the same fate. But the Cuban MiGs were not done yet. Two MiGs followed the aircraft piloted by Mr. Basulto to within 3 minutes of U.S. territory until they were recalled back by Cuban authorities.

Mr. Chairman, despite the hearings held in this chamber regarding the shutdown, none of this information was made available to us. It was only made public because FAA and other agencies were forced to do so during Mr. Basulto's appeals hearing. The unwillingness of these agencies to cooperate on this matter further com-

plicates the already tightly webbed cloud of secrecy which seems to hover over this tragic incident.

Why did the Air Force dismiss the call from the Customs official in California of the presence of the Cuban MiGs? Why did the Air Force not inform Brothers to the Rescue of the presence of Cuban MiGs even after they knew that the Brothers flight plan would take them close to them? Why was no action taken to intercept Cuban MiGs pursuing the Brothers to the aircraft before two of the planes were shot down? Why was no interception taken to intercept the MiGs who pursued Mr. Basulto's aircraft to within 3 minutes of U.S. shores?

Mr. Chairman, these are just a few of the questions which are yet to be answered concerning this tragedy and we hope to have the answers today. It saddens us to think that U.S. officials might have been observing the murder of American citizens on their radar screen and not take this as a life and death situation.

We can never bring back the brave young men whose lives were ended at the prime of their lives. However, we owe it to them and to their families to pursue the truth of what happened that day.

More importantly, we can prevent a similar incident from occurring once again. Our mission today is not to place blame on U.S. Government officials. We all know that there is only one man responsible for the murders that occurred that day and that man is Fidel Castro.

Neither should this hearing sway us from concentrating on the real solution to prevent similar incidents from repeating in the future. The elimination of Castro and his murderous regime is what we are after.

However, we have a responsibility as members of the U.S. Congress to exercise our oversight responsibility over U.S. Government agencies, especially when evidence suggests that these agencies did not fulfill their mission to the best of their abilities.

The mission of the Armed Forces is to protect the United States and its citizens. If on that day of February 24th, U.S. military officials did not fulfill their duty, then we must step in and examine why their mission was not fulfilled.

We hope that this day will yield some answers to those worrisome questions and I am especially anxious to get to the question and answer part of our testimony where I am going to refer to an August 30th letter that I received from Mr. Howard DeWolf, the director of InterAmerican Region, who states that certain things—that the testimony of Mr. Basulto, hearing it, contradicts specifically about they knew that the Brothers to the Rescue were in that area even though it says here neither party knew that the slow-moving aircraft were Brothers to the Rescue aircraft. This goes against the testimony presented here today and it says that the aircraft were operating in the well-defined Cuban air defense identification zone which also goes against the testimony of Mr. Houlihan during Mr. Basulto's hearing. So we hope, and I would like to make the motion now if I could make the testimony of Mr. Houlihan part of our public record.

Mr. BURTON. Without objection.

[The prepared testimony of Mr. Houlihan appears in the appendix.]

Ms. ROS-LEHTINEN. And I could refer to the letter that I received from the Officer of Assistant Secretary of Defense, also as part of the record. Thank you so much, Mr. Chairman.

Mr. BURTON. Thank you, Representative Ros-Lehtinen. Before Representative Lincoln Diaz-Balart makes his opening statement, I have to run to another committee hearing for 5 minutes. The Honorable Chris Smith said he will take the Chair. I will be right back.

Mr. DIAZ-BALART. Thank you, Mr. Chairman. I want to commend you also, Mr. Chairman, for holding this critically important hearing. I believe we cannot really concentrate or focus in on anything more important than an incident or a series of incidents that led to the assassination of American citizens.

I wish to commend Congresswoman Ros-Lehtinen for what I believe was an extraordinarily well thought through and delivered opening statement that touched upon many of the key questions that I certainly would have. Why were no U.S. aircraft sent to protect the planes on February 24th? Could the murders have been prevented, any of them? What is U.S. policy with regard to Cuban MiGs approaching U.S. air space? Did anyone in the U.S. military seek authorization at any time on February 24th to launch planes to defend the Brothers to the Rescue? Did anyone in the Air Force seek authorization to take off and defend the American citizens and intercept the Cuban planes? What is U.S. policy with regard to Cuban planes who are approaching our air space in the future? Does the Department of Defense have a plan to respond to threats from Cuban aircraft approaching our air space? These are just some of the questions that I have and I look forward to the testimony of our witnesses today. I also wish to welcome Mr. Basulto and of course look forward to the executive session that we will have after this. Thank you, very much.

Mr. SMITH. I would like to thank my good friend, Mr. Diaz-Balart for that fine statement, but also for posing some of the fundamental, basic questions that really have to be answered. To begin hopefully providing those answers, I would like to welcome our two distinguished witnesses, Secretary Maria Fernandez who is the Deputy Assistant Secretary for InterAmerican Affairs for the Department of Defense, and Colonel Michael McMahan, the Deputy J-3 for the Atlantic Command. Now, I would invite you in whatever order you would like to proceed and until such time as you may think is appropriate.

Mr. MENENDEZ. Mr. Chairman, do we have written testimony from the witnesses? We do not.

Mr. MCMAHAN. Not from me.

Ms. FERNANDEZ. Not from me, sir.

Mr. SMITH. Thank you. Please proceed.

Ms. FERNANDEZ. I do have some opening remarks.

**STATEMENT OF SECRETARY MARIA FERNANDEZ, DEPUTY ASSISTANT SECRETARY FOR INTERAMERICAN AFFAIRS, DEPARTMENT OF DEFENSE**

Ms. FERNANDEZ. Good afternoon, Mr. Chairman, members of the committee. As a Cuban American, I fully agree with the committee's position that this was truly a reprehensible act on the part

of the Cuban Government. And I am pleased to appear before you today with Colonel Michael McMahan and he is the Deputy Director of Operations for Atlantic Command and is here to assist the committee in this fact finding hearing and to address your concerns surrounding the shootdown of the two Brothers to the Rescue aircraft by Cuban fighters on February 24th, 1996.

There have been several investigations which have been conducted by the U.S. Government and international organizations as to what took place on that afternoon. They contain all the pertinent facts concerning this unfortunate incident. I believe that these reports have already been made available to the committee.

The shooting down by Cuba of two unarmed civilian aircraft over international waters which resulted in the deaths of four persons is a heinous and reprehensible act under international law and international aviation standards. There is no justification for the Cuban Government's unlawful use of deadly force against civil aircraft as occurred on February 24th.

Such use of force is incompatible with the elementary considerations of humanity and the norms governing international behavior. The international norms recognize that states must refrain from the use of deadly force against civil aircraft in flight and must not endanger the lives of persons on board and the safety of the aircraft.

The Cuban authorities acted in total disregard to these standards. And we were not in a position to anticipate the unwarranted downing of the Brothers to the Rescue aircraft.

Having said all of this, it is time to find what happened on that terrible day and for Colonel McMahan to answer your questions on the facts surrounding the incident. Thank you.

#### **STATEMENT OF COLONEL MICHAEL MCMAHAN, DEPUTY J-3 FOR THE ATLANTIC COMMAND**

Mr. MCMAHAN. I do not have a prepared statement to read. I would just say that as the U.S. Atlantic Command representative I am glad to be here. I appreciate the opportunity and I welcome your questions. And if you would like to proceed ahead, sir, I will be more than happy to try and address the issues.

Mr. BURTON. Thank you, Colonel. We are going to try to proceed under the 5-minute rule. There will probably be a couple of rounds of questions for you. Did you make a statement? Chris, did you have a statement?

I think my major concern is that Mr. Houlihan contacted your air base at 3:15 and the MiGs shot down the first aircraft at 3:21 and that is 6 minutes. And it was my understanding that on the runway there were one or two F-16s already fired up at that time.

And my question is: if those F-16s were launched and came up on Cuban radar during that 6-minute period, is it reasonable to assume that they would have picked up on that and might have retreated rather than going ahead to attack those aircraft? And if that is the case, why weren't those F-16s launched?

Mr. MCMAHAN. All right, sir. The F-16s I believe that you are referring to were under North American Aerospace Defense Command (NORAD) and control at the time rather than USACOM, but I will still try and address the issue in general terms and the spe-

cifics we may need to go back to NORAD in order to get the answer. There is a difference. I see a puzzled look. So maybe I should explain.

Mr. BURTON. Well, I am puzzled from the standpoint that when Cuba is only a matter of minutes by MiG to the United States, to have a chain of command that goes from one to the other does not make much sense to me. If you have a commanding officer on the ground and he gets a notification from somebody at Customs in California that there are MiGs coming up and you have unarmed aircraft in that vicinity that might be in danger to have it go back to NORAD for approval and then back to you takes more precious time. That needs to be explained as well. So if you could go ahead and proceed.

Mr. MCMAHAN. Oh, yes sir. In fact, I could not agree with you more and in fact the facts are that they do not go between the two. My point was that the U.S. Atlantic Command is not responsible for the air defense of the Continental United States; but is responsible for the Caribbean, and therefore, Cuba.

NORAD has responsibility, along with Canada, for the defense of the Continental United States. Those F-16s that you are referring to, sir, were in fact available but their mission is the air defense of the Continental United States and Canada, in other words North America.

So your point is very well taken and that is the position of the Department of Defense that we should not have a long cumbersome chain of command. So that is exactly right. I was just trying to make sure that there was no confusion on that issue. And instead I probably added confusion. For that I apologize.

Mr. BURTON. OK.

Mr. MCMAHAN. But I would like to address the question in general, if I could. There is no way, of course, in knowing exactly how the Cubans would react to that situation. One can speculate as to reaction. It is a course of action the Cubans could take. We do not know whether they would have or not.

Mr. BURTON. Well, let me interrupt.

Mr. MCMAHAN. Yes, sir.

Mr. BURTON. Let us go on the assumption that if they saw F-16s coming up, they would be possibly engaged within a 10-minute time period. I imagine that is fairly close, is it not?

Mr. MCMAHAN. Sir, I would like to not get into specific reaction times in an open session.

Mr. BURTON. We will do it privately.

Mr. MCMAHAN. I would like to proceed down this line. Go ahead.

Mr. BURTON. But let us just make the assumption that within 10 minutes they could be engaged and there was a 6-minute time period from the time that you were notified by Customs. Were there F-16s already fired up on the runway?

Mr. MCMAHAN. Sir, to my knowledge they were not "fired up" on the runway.

Mr. BURTON. Were they on the runway?

Mr. MCMAHAN. Sir, they were sitting to my knowledge in their normal alert status. They are a 24-hour-a-day, 7-day-a-week operation.

Mr. BURTON. How long does it take them if they are called up?



Mr. MCMAHAN. I would answer that for the record or in closed session.

Mr. BURTON. You have to tell me that.

Mr. MCMAHAN. It is sensitive information that I think we would prefer not to give out in open session.

Mr. BURTON. Well, it seems like some of the questions will have to be answered in closed session. I think you see the point I am trying to make. The point is if those planes were scrambled, if they went up within that 6-minute period, and if the Cubans picked that up on radar, then some of us think that might have caused the Cubans a little consternation and they might have been reluctant to start shooting down unarmed American aircraft because they might have been engaged and a real confrontation might have started with the United States which I do not think Castro wants. So that is something that I do want to pursue in closed session.

Mr. MCMAHAN. Sir, I understand the question very well.

Mr. BURTON. I think this timer is off. I do not think that was 5 minutes. Let me ask one more question, then I will yield to my colleague. I know I am the chairman, but I try to be fair. Were you aware that Brothers to the Rescue had those planes up and out over the Caribbean in that area?

Mr. MCMAHAN. Sir, in the U.S. Atlantic Command, we were not tracking them as an event. We do not track them on a normal basis.

Mr. BURTON. In other words, you were not aware that those planes were going up or were down around Cuba.

Mr. MCMAHAN. Not in Atlantic Command, sir. We were not.

Mr. BURTON. Who would have been aware of that?

Mr. MCMAHAN. From what I have read since then it appears that Customs had that information available to them, but that is only from reading what they have said, sir.

Mr. BURTON. OK. Well, Customs had that information available. A Customs official in California contacted Tyndall AFB and said, and I have not read his testimony, but I presume he said there are MiGs coming up. There are unarmed American aircraft in the area. You should be aware of it and something should be done. Is that about the gist of it?

Mr. MCMAHAN. Sir, I do not have information except for the exact information you do also. I do not have any—

Mr. BURTON. Well, who was contacted by the Customs people at Tyndall? Who was the person who got the 911 call, so to speak?

Mr. MCMAHAN. Sir, I do not know. We can answer that for the record, please, but I do not know that information on who received the phone. I have read the same information you have. It is someone at a command center it appears, based on what I have read. I do not know the individual if you are asking for a specific person.

Mr. BURTON. Well, who is the CO down there?

Mr. MCMAHAN. Sir, I do not know who the CO is. That is an organization that I am not associated with directly.

Mr. BURTON. Well, did we not invite somebody from that air base who was notified about this? Did we not ask them to come up?

Mr. MCMAHAN. Sir, we will be more than happy to get that information for you.

Mr. BURTON. I know, but that was the one of the main purposes of the hearing. We asked the Defense Department to have appropriate people come up here who could give us the information. And you are telling me that you do not know who got the call from the Customs official?

Mr. MCMAHAN. Sir, I do not know that detailed information. I will be more than happy to—

Mr. BURTON. But that is the crux of the whole hearing. What we wanted to find out today was why they did not put planes in the air, who was notified, and what the chain of events were; and you do not know that.

Mr. MCMAHAN. No, sir. I will be more than happy to share with you the information that I do have, but I do not know that detailed information, no sir.

Mr. BURTON. Well, tell me what you know.

Mr. MCMAHAN. All right, sir. I know that the U.S. Atlantic Command was notified of the possible downing of two civilian aircraft. And we immediately took action, called up the U.S. Coast Guard who is the lead element for a search and rescue at that time. We dispatched ships and then we called NORAD to ask them, and that was the first time and only time that I am aware of where we were in direct contact and we had to ask permission and we received it, of course, immediately to launch aircraft for a CAP as soon as possible for the search and rescue. We then continued an air-based search and rescue for over 27 hours, sir. The Coast Guard again was lead in that element. We were in support. And the Department of Defense put all available resources against that.

Mr. BURTON. I understand that. What I am getting from your testimony is that you really do not have much information until after the fact—until after the shutdown took place.

Mr. MCMAHAN. That would be unique information that I would have? That is correct, sir. And we have tried to share all information with everyone as I think the whole Department of Defense has. We are not holding back information, sir.

Mr. BURTON. I will be happy to yield to my colleague from New Jersey, but this mystifies me. In the testimony, Mr. Houlihan called the air base.

Mr. MCMAHAN. Yes, sir.

Mr. BURTON. You do not know who he talked to.

Mr. MCMAHAN. No, sir. I do not.

Mr. BURTON. And nobody at the Defense Department knows who he talked to.

Mr. MCMAHAN. No, sir. I am not saying that. I do not know—

Mr. BURTON. Well, before you came to testify today, did not anybody suggest to you that this might be one of the main questions we would ask?

Ms. ROS-LEHTINEN. Mr. Chairman, if I could.

Mr. BURTON. Sure. I would be happy to yield.

Ms. ROS-LEHTINEN. Mr. Houlihan, and I am going to read a lot of his testimony into the record to make sure that everyone understands it. He spoke to the senior director technician at the Air Defense facility. Since this hearing will go on for a little bit longer, if you could perhaps tell someone who is in your staff to find out for us what is the name of the individual who has the title senior

director technician at the Air Defense facility at Tyndall. I do not know that would be too difficult and who was working that day at that time, February 24th around 3 p.m.

Mr. MCMAHAN. 3:15 to be exact.

Ms. ROS-LEHTINEN. Is it possible that you could tell someone right now?

Mr. MCMAHAN. I did not bring anybody with me, but there may be—

Ms. ROS-LEHTINEN. I know you had no opening statement. You have nothing to say. We asked you questions and you say you are not the right person to answer. So if I could make a direct request for you to have someone find out in the span of this hour or so of this hearing who the person was who was the senior director technician at the Air Defense facility at Tyndall Air Force base in Florida?

Mr. BURTON. At that particular date and time, is that correct? Because it is a 24-hour-a-day operation. So you are asking for the—

Ms. ROS-LEHTINEN. February 24th, 3 p.m. to 3:30 p.m.

Mr. DIAZ-BALART. 1996.

Mr. MCMAHAN. Yes, sir.

Ms. ROS-LEHTINEN. That is the reason that we are having this hearing. That is the date and that is the time.

Mr. BURTON. Pardon me. I reclaim my time. You have a colonel who is with you today. Would it be possible for him to make that kind of a phone call to see if you could get that information?

Mr. MCMAHAN. I would be more than happy to try.

Mr. BURTON. Thank you. I appreciate that. My good colleague from New Jersey who is very patient, Bob Menendez.

Mr. MENENDEZ. Thank you, Mr. Chairman. Secretary Fernandez, Colonel, when were you told that you were going to testify here today?

Mr. MCMAHAN. I was told late day before yesterday, sir.

Mr. MENENDEZ. Late the day before yesterday.

Mr. MCMAHAN. Yes, sir. About 18.

Mr. MENENDEZ. 18 is 6 in the evening?

Mr. MCMAHAN. Yes, sir.

Mr. MENENDEZ. Did you have an opportunity to prepare for this hearing?

Mr. MCMAHAN. Yes, sir. What I tried to do was review all the information that we had at U.S. Atlantic Command and also all of the information that is available throughout the Department of Defense. But I did not get into the details of specific people that were at a location, sir. I thought this would be more along the line of what actions and reactions were taken rather than asking for a name. I apologize for not knowing that, sir.

Mr. MENENDEZ. No, I am not concerned about that. I am worried that the name is one thing, and not knowing more things is another. I was concerned you did not even have a sense of other answers that we might be asking.

Mr. MCMAHAN. Sir, I will give you the best answers I have.

Mr. MENENDEZ. I am sure you will.

Mr. MCMAHAN. I promise you that.



Mr. MENENDEZ. The question is whether you are in the capacity to be able to do so. Let me ask you have you seen Mr. Basulto's testimony that he is going to give before this committee?

Mr. MCMAHAN. Sir, I have not had an opportunity.

Mr. MENENDEZ. I am going to show you a copy of his testimony because my questions are elicited directly from his statement. And I think since he is going to appear after you, I would like to have him appear before you so that you can then respond. But I will ask you the questions that he is going to be presenting to this committee and I hope that you can run down them with me and give me some answers.

Mr. MCMAHAN. I will try.

Mr. MENENDEZ. As it is being presented to you, it is on page two of four of the testimony he is going to provide before the committee.

The page begins we are convinced that if you review all of the growing evidence which he describes as evidence received by U.S. sworn court testimony, audio recordings of conversation between MiG pilots and the Cuban controller's report by the International Civil Aviation organization and others, it comes to the following conclusions. And he says the U.S. Government authorities were aware of the especially dangerous conditions which threatened our humanitarian mission on February 24 and that MiGs were in the air that morning. He also says, contrary to previous instances, this information was not shared with Brothers to the Rescue. And that comes from an ICAO report. Are you aware of information as it relates to that statement?

Mr. MCMAHAN. I will be more than happy to share with you the information I have. I think I have some that I might be able to help you with.

With regard to the U.S. Government authorities, we are aware of an especially dangerous situation. I am unaware that it was considered an unusual day or that there was an increase in tension but there was no change in military posture. We had normal concerns that we have day in and day out about Cuba, the military and their readiness posture. I am unaware of any unusual factors.

Mr. MENENDEZ. Were you aware of any unusual factors on February 24th?

Mr. MCMAHAN. No, not prior to the shutdown obviously.

Mr. MENENDEZ. Is it customary to provide information that might be considered unusual with Brothers to the Rescue and their flight?

Mr. MCMAHAN. Sir, I am unaware of the details on how information was transmitted to the Brothers to the Rescue. So I am unable to answer that question. Although we share information within the intelligence community, there is always a large sharing of information throughout all levels of the intelligence community.

Mr. MENENDEZ. But the Air Force directly would not normally share information with Brothers to the Rescue or would they?

Mr. MCMAHAN. Not that I am aware of.

Mr. BURTON. All right. So maybe we will hear from the person who has this information.

Mr. MCMAHAN. Yes, sir.

Mr. MENENDEZ. Second point. The U.S. Government authorities prepared an unusually elaborate plan to follow, monitor and docu-

ment Brothers to the Rescue's February 24 flight. And if you read the page there in front of you, it goes on to list several things, including alerting several radar reporters from the U.S. Air Force and Customs and listening to all the communications of the aircraft involved. Can you respond to those statements? Is that true to your knowledge?

Mr. MCMAHAN. I would not have characterized it quite the same if I could use my words to maybe characterize what the normal process is as I know it. And that is that there are several radars, U.S. Department of Defense radars and custom radars, that all feed into a central facility and I believe that during the closed hearing later, you are going to be with an individual that can even give you better information about that facility and how they fuse that information. At that facility they are concerned about not only military flights, but also civilian flights because of the nature of what their business is which is Customs.

Therefore, they pay very close attention and sort and that is a term that I will try and explain. It is taking a look at a radar return and identify it as to who it is so that they can track it. At Customs they sort those in a different way than we do in the Department of Defense.

At the Department of Defense, we are concerned about military aircraft and in particular NORAD and our facilities are concerned about military aircraft that would be coming from the south and toward the southern part of the United States from the Caribbean.

So in that way on a day-to-day basis, we take a look at many, many returns, identify who they are, sort out those that have special interest either because we think that they are military or counterdrug which is another area the Department of Defense is very active in, all in support of law enforcement. We feed that information on a regular basis.

So we would be interested to know about a flight that is going down or coming back from that area. Who they are at least to the extent that we would always want to know: is it likely that it is a drug flight or is it a military flight or does it appear that they would approach the continent of North America without proper clearance and permission?

Mr. MENENDEZ. Colonel, let me just fine point my question. I have listened to your answer. Mr. Basulto's testimony was that an elaborate plan was contrived including a learning radar facility from the U.S. Air Force which you are here representing. Limited to the U.S. Air Force was such an elaborate plan devised to follow the tracking of the Brothers to the Rescue plane on this day?

Mr. MCMAHAN. Not that I am aware of, sir.

Mr. MENENDEZ. And let me ask you this. The third point of Mr. Basulto's—there is a lot more and I obviously will not get it from this period. Maybe some of my colleagues will follow up on it. If not I will come back to it. U.S. Government authorities proceeded passively to watch and listen in silence for 53 minutes while Cuban MiGs hunted two Brothers to the Rescue planes, killed their four occupants and chased the third plane to within 3 minutes of the United States.

Can you respond to that? Did the U.S. Government, did the U.S. Air Force sit back, watch, listen for 53 minutes doing absolutely

nothing in response and permit a third plane to be chased within 3 minutes of the United States?

Mr. MCMAHAN. Sir, 53 minutes does not ring a bell with me. I will refer to information you already have available to you which is a transcript of the sequence of events as we know it and let me see if I can come up with a time.

Mr. MENENDEZ. You know, we did not get that. The transcript you are referring to is a confidential transcript, is it not?

Mr. MCMAHAN. No, sir.

Mr. MENENDEZ. Is it a released transcript?

Mr. MCMAHAN. Sir, it is a minute-by-minute, second-by-second, list of the radio calls that were made and I believe that is public information, sir.

Mr. MENENDEZ. Oh, this is not the pilot transcript that you are talking about. What transcript are you talking about? Maybe that is the easiest way to do it. What transcript are you referring to?

Mr. MCMAHAN. It indicates that this is a listing of radio calls that were made.

Mr. MENENDEZ. I am sorry, phone calls? What type of calls are you referring to?

Mr. MCMAHAN. Radio transmission, sir. It starts off with, the version I have starts at 1955 Zulu and I think there is a 5-hour difference. So that is 14 or 2:55 which is almost 3 o'clock and it starts off with Havana talking to Cessna No. 1 which I believe is referred to as Mr. Basulto's aircraft. And the first indication that we have going back in time is somewhere around on the hour at 04. So 04 I believe the tragic occurrence occurred about 20 after if I remember correctly. So that would be more like 16 minutes total is my knowledge, sir. Not 53 minutes.

Mr. MENENDEZ. Let me just finish. How about the part about chasing a third plane, which I believe is Mr. Basulto's actual plane, to within 3 minutes of the United States?

Mr. MCMAHAN. Sir, depending on the speed of a MiG, let us assume it is Mach 1 which is going very fast, Mach 1 probably faster than they would go, that is 10 miles a minute. So that is 30 miles. To my knowledge they did not go north of the 24th parallel.

Mr. MENENDEZ. To your knowledge they did not go north of the 24th parallel.

Mr. MCMAHAN. Yes, sir.

Mr. MENENDEZ. And what is that in context of time to the United States, into the U.S. air space?

Mr. MCMAHAN. I do not know off the top of my head, sir, but it is probably less than 10 minutes would be my guess. If you are already airborne and traveling at max going directly at the United States. So even under your scenario, what you are saying is that, and correct me if I am wrong, that MiGs pursued Mr. Basulto within 10 minutes of the United States?

Mr. MCMAHAN. Sir, I know that they did not penetrate the 24th, both in looking back over my notes and what I have read. So I think your statement is correct only if they went max speed. But I would not put a time on it because it depends on how direct flight, what their speed was. It varies. But I would say that if they went max speed, you are probably correct. Knowing that you could take—

Mr. ROTH. Mr. Chairman, I know we will have a second round.  
Mr. BURTON. We will have another round. The gentlelady from Florida.

Ms. ROS-LEHTINEN. Thank you so much, Mr. Chairman. Thank you, very much for appearing before us. I wanted to read some of the statements of Mr. Houlihan into the record. I refer to the letter that I received August 30th from the Department of Defense and ask you why they contradict what Mr. Houlihan says, and these are court documents.

Through that entire area, the Southeast Air Defense has made it very clear to me in briefings of the Southeast Air Defense, that anything that pops up inside that area they will launch their interceptor aircraft immediately. Their assumption being that anything that pops up in that area heading toward the United States is coming out of Cuba.

Judge POPE: Would it be fair to say that the MiGs you saw were in that area?

The WITNESS: Yes.

And the witness is Mr. Houlihan under oath.

And that is why you made the phone call.

Yes.

And as far as you determined, Judge Pope continues, from what you saw interceptors were launched.

That is correct, Your Honor.

And Major Houlihan goes on to say, I spoke to the senior director technician at the Air Defense facility.

And what did you tell him?

I told him that I saw a high speed primary only aircraft coming out of the Cuban ADIZ, that I suspected that it was a Cuban MiG and that it was going directly over Brothers to the Rescue. I can recall almost specifically the words I used.

This is Major Houlihan under oath being quizzed by the Judge. What I told him was do you see the Brothers to the Rescue aircraft? The senior director technician replied, yes, that he did. I said do you know what is going on with them today? And he said, yes. We have been briefed. And then said do you see that primary aircraft, 500 knot primary? And he said, yes, we see it. I said, well, it looks like a MiG-23 to me heading directly toward the United States. I think that is important. And he responded, yes, we are handling it. Do not worry.

He goes on to say, and being quizzed, why did you take this picture? I took the picture because of the Cuban MiGs. I was concerned. I had never seen Cuban MiGs out there flying before and to see this it struck my attention. I was worried about what was going on. I had certainly never seen them come out, outside their ADIZ.

In fact, I had flat never seen them flying out before. They generally have a lot of problems providing fuel from what I have been told. And I have never in the 2 years we have been watching that area seen them fly at all. To see two up at the same time, to see them coming directly at the Brothers to the Rescue aircraft and by that northbound toward the United States concerned me. He goes on to say it was the one that was directly over the Brothers to the

Rescue that was inside international air space heading for the United States. He was on a northwest bound also.

He goes on to say, you have called the Brothers to the Rescue hangar, is that correct?

Yes, I have.

And you have dialed the number?

Yes.

Do you know the number?

No, not by heart.

Do you have it handy at your console?

It is in our data base.

So you could call it up pretty quickly then?

Yes.

How long would it take you to call it up?

A matter of a minute to a minute and a half.

A minute and a half?

Depending on what route I took to get into the data base to get it. A minute and a half.

And then we have this letter. I am extremely disturbed by this letter because it seems to contradict this testimony and it says our air defense personnel were informed by a custom radar operator of the MiGs closing on slower aircraft and reply that they also had the aircraft on their radars. However, neither party knew that the slow-moving aircraft were Brothers to the Rescue aircraft or were aware of the Cuban Government's intentions.

Now, that seems to flat out contradict the testimony that has come out under oath given by Mr. Houlihan in a Federal court in Southern Florida. How do you account for that contradiction?

Also, the aircraft were operating in well-defined Cuban air defense identification zone. Under those circumstances, it would have not been improper for the Cuban MiGs to carry out a legitimate aircraft identification mission. That is what we thought the Cuban MiGs were doing. However, our personnel were not in a position to have anticipated the unwarranted shooting of Brothers to the Rescue aircraft.

We understand that no one could have seen that, but I think the evidence clearly points to the fact that the aircraft were identified, both by Mr. Houlihan as well as this secret individual who we still do not know who he is and that is the gentleman who talked to Major Jeffrey Houlihan, the Southeast Air Defense at Tyndall Air Force base, clearly identified, and this was under oath, clearly identified as Brothers to the Rescue aircraft. And yet, this letter says neither party knew about the slow-moving aircraft being Brothers to the Rescue aircraft.

And Mr. Houlihan says almost specifically he can recall word by word of what he said and that troubles me. And this part about being the well-defined Cuban air defense identification zone, that seems to contradict a lot of this testimony. If you could clear up for us what accounts for these two different versions of what went on. And we would really be interested how this letter could have been written after the fact when this hearing took place when the testimonies clearly contradict. Can you clear up some of those contradictions for us?



Mr. McMAHAN. I am unaware of the contents of the testimony. I have not had an opportunity to read it. I do not know if the Department of Defense has a copy of that testimony. I suspect somewhere someone does, but I do not know that for a fact. I will be more than happy to answer a couple of the questions and maybe it will satisfy the basic points that you are looking for. I hope it does.

There is a 12-mile limit around Cuba that is considered the territorial limit of Cuba. Then there is an Air Defense Identification Zone (ADIZ) and most nations of the world have what they call an ADIZ, Air Defense Identification Zone. That zone is well-defined on maps. And it goes up to the 24th parallel in one area, in the area that is closest to the United States, and then curves away depending on how the island of Cuba is versus the United States. So in that way there is a well-defined zone.

I believe you also asked the question of Mr. Houlihan—could you repeat that part of it? I am sorry. I may have lost the question.

Ms. ROS-LEHTINEN. The Office of the Assistant Secretary of Defense has sent me a letter dated August 30th. Mr. Howard G. DeWolf, director, InterAmerican Region. Now, either Mr. DeWolf is lying or Major Houlihan is lying. Major Houlihan swore under oath in a Federal court in the southern district of Florida the following:

That he clearly identified the presence of Cuban MiGs, that he clearly identified Brothers to the Rescue aircraft. That he clearly notified an official at Tyndall Air Force Base in our home state of Florida.

Yet, this letter says neither party knew that the slow-moving aircraft were Brothers to the Rescue aircraft. Now, both cannot be correct. Either Major Houlihan under oath is not telling the truth in which case we, of course, will be talking to Mr. Houlihan.

It was the committee's intention to have him here. He is only not here because it was the specific request of the Administration not to have him in this open hearing. I do not know why because his statements are there under oath for the record. And that is why we keep harping on his statement to make sure that it is in the record.

So whatever you wanted to avoid by not having him here, we are going out of our way to make sure that is on the record. And I do not know why you say and how it helps you in any way to say that Brothers to the Rescue aircraft were not identified when it seems very clear that they were identified.

And then you talk about this international air space when Mr. Houlihan has testified once again under oath in a Federal court that it was the one that was directly over Brothers to the Rescue aircraft that was inside international air space heading for the United States.

I do not know why you can conclude that this was in any way a "legitimate aircraft identification mission" unless what you want is to go out of your way to avoid a direct confrontation with Fidel Castro, not put yourself in a position that you would have to take action as Mr. Houlihan pointed out in his many briefings.

The Southeast Air Defense has made it very clear to me in briefings that anything that pops up inside that area they will launch their interceptor aircraft on immediately.

It seems to me that all of these things are contradicting and that is what I was trying to get at. And in my second round of questioning I will be glad to get to some other contradictory evidence. But do you have anything to state to us about that? I am sorry I have run out of time. But if you could conclude.

Mr. MCMAHAN. I do not know whether General DeWolf had access to that information. There is yet a third explanation and that was that General DeWolf was unaware that Mr. Houlihan had said that. But, I do not know. Could we take that one for the record and research it so that we give you a really proper answer on that? I think that would probably be best.

Ms. ROS-LEHTINEN. And we want to know if you have contracted Brothers to the Rescue before why they were not contacted in this incident?

Mr. MCMAHAN. I will be more than happy to research that. I am personally unaware of it. I wish I could give you the answer.

Mr. BURTON. Before I yield to my colleague, Mr. Lincoln Diaz-Balart, let me ask you to convey a message from me to the Joint Chiefs of Staff and the Secretary of Defense. They have asked you to come and testify here today and I am sure you are doing your best, but you are not the right person to be talking to us today and I think they know that.

Now, even after we adjourn *sine die* as chairman of this Subcommittee I have the ability to hold hearings. And I want you to know and I want you to convey to the Defense Department that we are going to get to the bottom of this. And for the Defense Department to send you up here instead of the people who have the answers and are well prepared to give us the answers is an obfuscation of the whole issue, as far as I am concerned.

And I do not think you have anything to do with it. I think you are the one they just sent up here and it really ticks me off. This is just ridiculous. We have all kinds of testimony that my colleagues, both Democrats and Republicans, have been alluding to, and we are not getting any answers. It really bothers me.

So we will have another hearing on this and the next time we will have the specific names of who we ought to be questioning. If we have to, we will subpoena the appropriate witnesses and they will be here and they will testify. So tell the people over at the Pentagon to not do this anymore. We want to get the answers. We want to find out a number of things.

I am looking at a map here and it shows that when the Cuban MiGs shot down those unarmed aircraft they were right off the tip of the keys. They were not that far from the keys. They were almost parallel with the tip of the keys of the United States of America in international air space. It is unbelievable that we did not have scrambled F-16 fighter planes down there. And it is also inconceivable to me that the Cubans, if they saw those U.S. MiGs coming up would not have taken some evasive action, especially in view of the fact that this guy said they are going right over Brothers to the Rescue MiGs before any of this took place. So I want that message conveyed and I hope the State Department will also get this message. We are going to have more hearings on this and we are going to get to the bottom of it. I do not care how long it takes. I would now yield to my colleague.

Mr. DIAZ-BALART. Thank you, Mr. Chairman. I want to thank you for your commitment, in your words, to get to the bottom of this which I think we do need to do as a Congress.

Colonel, I know that you are not a policymaker and that you do not even decide to bring yourself down here. You are under oath, however.

Mr. MCMAHAN. Yes, sir.

Mr. DIAZ-BALART. You were told according to your testimony then at 6 p.m. on September 16th that you would be the one testifying here?

Mr. MCMAHAN. Yes, sir. It is my recollection that that is correct.

Mr. DIAZ-BALART. Now, can you brief us specifically as to how then you proceeded to prepare for this meeting?

Mr. MCMAHAN. I will be more than happy to, sir. What I did was I went back through all of our Atlantic Command records. I was not positive of the exact nature of the hearing, whether it was what happened before, during or after. But I went ahead and researched all three of those areas.

Mr. DIAZ-BALART. How?

Mr. MCMAHAN. I went through the records and talked to individuals that were on the duty desk at the U.S. Atlantic Command. I received information—excuse me.

Mr. DIAZ-BALART. Yes, could you tell me who you spoke to with regard to that research?

Mr. MCMAHAN. A specific name, sir?

Mr. DIAZ-BALART. Yes, sir.

Mr. MCMAHAN. Yes, sir. I talked to Lieutenant Colonel John Lewis.

Mr. DIAZ-BALART. John Lewis?

Mr. MCMAHAN. Yes, sir.

Mr. DIAZ-BALART. And what is his title, sir? I mean, where is he located?

Mr. MCMAHAN. He is in the U.S. Atlantic Command.

Mr. DIAZ-BALART. And what did you speak to Lieutenant Colonel Lewis about?

Mr. MCMAHAN. About the events of that day, sir. He was the command duty officer at the time of the unfortunate loss of the two aircraft. And we discussed mainly the search and rescue efforts. That is the thrust of our involvement there in the Command Center. It revolved around the search and rescue effort. So we discussed that. I went back and talked to people from the intelligence, the J-2 office, variety of action officers, one or two, that are our Cuba experts.

Mr. DIAZ-BALART. Could you give me their names, please?

Mr. MCMAHAN. Sir, I do not recall their names off the top of my head, but I will be more than happy to give them to you for the record.

Mr. DIAZ-BALART. So though this was night before last, you do not know who you spoke to, their names?

Mr. MCMAHAN. Sir, what I did was I put a request for information out to the J-2 office.

Mr. DIAZ-BALART. J-2, that is initial J?

Mr. MCMAHAN. Yes, sir. That is intelligence. I am sorry to use acronyms. It is a DoD habit I am afraid. It is the intelligence folks.



I wanted to review the information that they had with regards to what was the best information that was available. I put emphasis on what was unclassified, which by the way most of it is now because it has been brought out in various testimony on the sequence of events. So I gleaned that information. I would know in case this was an open testimony, which it is, what the classification limits were. And also just to get through the sequence of events because it has been several long months since then and I needed to refresh my memory as far as the sequence.

I also spoke to Mrs. Fernandez a couple of times very late yesterday so that we would know what our background was before we came over here and so that we would have an opportunity to get to know each other since I have not had the opportunity to work directly with Mrs. Fernandez in the past.

And I did a great deal of personal reading going back through the documents, the press release that the White House gave, the sequence of events that I referred to earlier, the radio calls and the timing. I went back and tried to reconstruct those pieces of information so that I would be able to address the larger issues of what the sequence was and the real bottom line of, is it preventable?

And I tried to come up to a conclusion of that and my conclusion is, it is not preventable. It was not at the time with the information that we had.

Mr. DIAZ-BALART. So your answer with regard to who you spoke to in preparation for this hearing was Lieutenant Colonel John Lewis, two individuals at Defense intelligence?

Mr. MCMAHAN. Yes, sir. I would say a couple of individuals there at U.S. Atlantic Command, our intelligence office that we have there.

Mr. DIAZ-BALART. Defense intelligence at Atlantic Command.

Mr. MCMAHAN. Sir, they are defense intelligence, but they are not the Defense Intelligence Agency. I am sorry to pick words, but I just wanted to make sure that it was not misconstrued. They are part of the same command that I belong to.

Mr. DIAZ-BALART. Atlantic Command, right?

Mr. MCMAHAN. Yes, sir.

Mr. DIAZ-BALART. So two people who work on intelligence issues for the Atlantic Command. Would that be a correct way to describe it?

Mr. MCMAHAN. Yes, sir.

Mr. DIAZ-BALART. But you do not recall that.

Mr. MCMAHAN. And there may be more. I do not know who all worked on—I put out a request for information.

Mr. DIAZ-BALART. Just who you spoke to.

Mr. MCMAHAN. Yes, sir.

Mr. DIAZ-BALART. Two individuals then who worked on intelligence matters for the Atlantic Command?

Mr. MCMAHAN. Yes, sir. There might have been three. It was at least two. I do not remember. These are people that I see in the hallways a great deal. I was not trying to determine who I talked to. I was after the information rather than the faces behind them, sir. And I apologize for not knowing their names.

Mr. DIAZ-BALART. So you worked with them, but you do not recall any of their names, is that correct?

Mr. MCMAHAN. Sir, I do not remember at this point in time.

Mr. DIAZ-BALART. You do not.

Mr. MCMAHAN. I apologize. I probably should remember them. I do see them, but—

Mr. DIAZ-BALART. Not even one name. You do not recall even one name of those people?

Mr. MCMAHAN. Sir, I do not. I am sorry.

Mr. DIAZ-BALART. OK. And then you spoke to Ms. Fernandez and then you did reading during this process. I know it is a very intense process because you have had a very little amount of time. Now, who informed you, Colonel, that you would be coming here today?

Mr. MCMAHAN. General Gile who is the J-3.

Mr. DIAZ-BALART. Gile?

Mr. MCMAHAN. Yes, sir. He is my immediate boss who has just arrived at U.S. Atlantic Command about a month and a half ago, I guess.

Mr. DIAZ-BALART. I am correct to assume that he was the officer then who spoke to you informing you would be coming here at approximately 6 p.m. the night before last.

Mr. MCMAHAN. Yes, sir. And I am not sure of the exact time. I will be honest with you. I did not keep a log on it. I knew that it was late in the day and what I did was I gathered initial information.

Mr. DIAZ-BALART. Jeffrey Gile.

Mr. MCMAHAN. No, sir. General Gile.

Mr. DIAZ-BALART. Oh, general. First name, sir?

Mr. MCMAHAN. He is Greg Gile.

Mr. DIAZ-BALART. Greg.

Mr. MCMAHAN. Yes, sir.

Mr. DIAZ-BALART. And there is no one else then that you spoke to in preparation for this hearing?

Mr. MCMAHAN. I spoke to the individual that you sent out of the room. He is back now, Dennis Balkham, who is from the Joint Staff Legislative Assistant's office. For the administrative arrangements of when I would need to be where, when was the hearing.

Mr. DIAZ-BALART. I did not get that last name, sorry.

Mr. MCMAHAN. Balkham, sir.

Mr. DIAZ-BALART. Balkham?

Mr. MCMAHAN. Balkham. With the Joint Staff.

Mr. MCMAHAN. Yes, sir. The Legislative Assistant's office.

Mr. DIAZ-BALART. That is it then, sir? To the best of your recollection. We are going to follow up and it is important to know who spoke to you.

Mr. MCMAHAN. Yes, sir. I may have spoken to other people, but I do not recall anybody—

Mr. DIAZ-BALART. Is it possible you spoke to someone from the National Security Council?

Mr. MCMAHAN. Oh, no sir.

Mr. DIAZ-BALART. Is it possible that you spoke to General Sheehan? Did he speak to you about this?

Mr. MCMAHAN. Sir, I had spoken to him on that day. He asked me what I knew about a hearing. He asked if I had heard that one

was going to occur today. And all I did was say, sir, all I have heard is the rumor that there will be a hearing on—

Mr. DIAZ-BALART. When was that conversation with General Sheehan?

Mr. MCMAHAN. Oh, sir. I would guess it was earlier that same day. I do not know what time it was.

Mr. DIAZ-BALART. So that is another person that you spoke to concerning this hearing.

Mr. MCMAHAN. I would not characterize it as speaking about the hearing. He asked me if I had heard if there was going to be a hearing and I responded to him, "Sir, I have heard that there may be a hearing." And that was the extent of the conversation, sir.

Mr. DIAZ-BALART. Someone just handed a note to you. Maybe they can clarify this issue.

Mr. MCMAHAN. No, sir. It does not add any information.

Mr. DIAZ-BALART. Did you speak to General Sheehan after you spoke to General Gile or before?

Mr. MCMAHAN. No, sir. I did not.

Mr. DIAZ-BALART. No, no. After or before I am asking.

Mr. MCMAHAN. Oh. General Sheehan asked the question and I speak to General Gile several times a day, sir.

Mr. DIAZ-BALART. Sir, sir. You were informed by General Gile that you would testify here today, is that correct?

Mr. MCMAHAN. That is correct, sir.

Mr. DIAZ-BALART. Did you speak to General Sheehan with regard to what you have described after that conversation or prior to that conversation?

Mr. MCMAHAN. It was prior to the knowledge that I was going to be the witness here. I spoke to General Sheehan prior to the fact that I was going to be a witness here. General Gile later informed me that not only was there going to be a hearing, but that I would be the representative that would attend from U.S. Atlantic Command.

Mr. DIAZ-BALART. So you were informed, let me see if I understand it correctly, that you would be testifying here today after your last conversation with General Sheehan.

Mr. MCMAHAN. Yes. Sir, there was only one conversation that even mentioned this. And the extent of the conversation was his question to me of, "Did I know if there was going to be a hearing or not." It was not "discussed".

Mr. DIAZ-BALART. So he asked you about this hearing despite the fact that you say that you did not know that you were going to be here that day about that hearing.

Mr. MCMAHAN. Yes, sir. When he calls to the office, someone answers the phone. General Gile was not present. I am the next ranking and therefore I answered the phone. It was a simple courtesy of answering the phone and I was the person at the other end, sir.

Mr. BURTON. Do you know a Major Robert DeAngelo?

Mr. MCMAHAN. No, sir. I do not, not that I am aware of.

Mr. BURTON. Are you aware of Lieutenant Colonel Key, USA Command?

Mr. MCMAHAN. No, sir. K-E-Y?

Mr. BURTON. K-E-Y. Or Brigadier General James Turner?

Mr. MCMAHAN. No, sir.

Mr. BURTON. Well, right after the shutdown, I called down there and talked to Major Robert DeAngelo. I believe he was the fellow I talked to. And when I started questioning him about this, he said, "Yeah, we knew about these things." And then he referred me to Lieutenant Colonel Key who was really abrupt and whom we thought should have been taken to task because of the way he was responding to us. But the response I got from him was entirely different than that of Major Robert DeAngelo. But you do not know either one of those people.

Mr. MCMAHAN. Sir, was that the U.S. Atlantic Command or was it possible—

Mr. BURTON. U.S. Atlantic Command, Lieutenant Colonel Key, right. And I think Major Robert DeAngelo was his subordinate who was in charge that day.

Mr. MCMAHAN. Sir, I apologize.

Mr. BURTON. OK. Let me ask one more question. Ms. Fernandez, you just got a note. Did you find the information that we were referring to?

Ms. FERNANDEZ. Yes, sir. The information that has just been provided to us refers to the following individual. That on February 24, Senior Southeast District watch officer was Colonel Frank Willy, W-I-L-L-Y, U.S. Air Force, and he is now retired.

Mr. BURTON. W?

Ms. FERNANDEZ. If I may, W-I-L-L-Y.

Mr. BURTON. Willy?

Ms. FERNANDEZ. I believe that that is the way it would be pronounced, Willy.

Mr. BURTON. Frank Willy. And he is now retired?

Ms. FERNANDEZ. And the information that has been provided here is it indicates that he is now retired.

Mr. BURTON. OK. But he was the one who was on duty and received that transmission at that time?

Ms. FERNANDEZ. Based on the information I have, sir, it says here on the paper, on February 24, Senior Southeast District watch officer was the individual whose name I just provided you.

Mr. BURTON. OK. Now, did you have any information on how we could get hold of him if we need to?

Ms. FERNANDEZ. We can certainly try, sir.

Mr. BURTON. Could you do that for us because we probably want to ask him to come and testify, and hopefully he will do that voluntarily. My good friend from New Jersey, Mr. Smith.

Mr. SMITH. Thank you, very much, Mr. Chairman. Secretary Fernandez, I would just like to ask you first of all: the background of this hearing and much of what has gone on during the last 3 years vis-a-vis Cuban policy has been a continued overture toward the Castro dictatorship by the Clinton administration. The Cuban/American agreement on immigration is an example. My subcommittee oversees refugee policy, and I consider it to be an absolute shame. We will rue the day when we made Fidel Castro part of our immigration apparatus, with the proviso that he use mainly persuasive means, which is absurd. And when his thugs beat people whom we have sent back to the island of Cuba, there is really no response.

So this Administration has a tremendous credibility gap when it comes to Cuba.

I would like to ask a number of questions. What has the Clinton administration's attitude been, both before February 24th and today, concerning the rescue flights that are undertaken by the Brothers to the Rescue? Do they support them? Do they oppose them? Are they somewhere in between? Do they discourage them?

Ms. FERNANDEZ. I guess the best way of answering the question is that we recognize the ability of individuals to be able to freely express themselves in various different forms. The concern that we have is that at times such expression may take the position where it is a violation of rules and regulations. And it is unfortunately, but that is true. And there are certain limitations that must be imposed in certain conduct when in fact it could hamper national security, No. 1. And No. 2, it is a violation of the law. The activities of entering into the sovereign air space of another country is in fact a violation and that is seen as a law enforcement issue now. And the issues involving Brothers to the Rescue or similar activities now come under the auspices of the Coast Guard and the Customs, under the Department of Transportation.

Mr. SMITH. But as a general policy, does the Administration support or oppose Brothers to the Rescue?

Ms. FERNANDEZ. I cannot speak for the Administration.

Mr. SMITH. Having been asked, would you provide that to us?

Ms. FERNANDEZ. I will, certainly.

Mr. SMITH. Perhaps the State Department Cuban Affairs Director who is here could come to the microphone and respond to that. Please identify yourself.

Mr. RANNEBERGER. Yes, Congressman, Mike Ranneberger, Coordinator for Cuban Affairs. Certainly we regard the activities of Brothers to the Rescue in searching for migrants who may be at sea as a legitimate activity. It is a humanitarian activity and, of course, as such is inherently non-political.

Where our concerns do come into play, and I think we have made these a matter of record, is in more recent times there have been several alleged incursions of Brothers to the Rescue into the Cuban territorial air space which does in our view raise law enforcement issues and potential issues of danger with respect to the Cuban Government.

Mr. SMITH. If I could ask you an additional question. In our dialog with Fidel Castro or any Cuban official, has the work of Brothers to the Rescue ever come up in that dialog in any meeting at any time?

Mr. RANNEBERGER. The work of Brothers to the Rescue in searching for migrants has never come up. The possible alleged violations of Brothers to the Rescue into Cuban air space has come up.

Mr. SMITH. And what has been their side and their representation? And what has been our response?

Mr. RANNEBERGER. Well, they have claimed, and I do not have the specific dates in from of me, but I believe on three separate occasions in 1995 and earlier this year prior to the shutdown that Brothers to the Rescue had made incursions into Cuban territorial airspace.



We had told the Cubans that if they had information to substantiate such allegations, they should provide it if they wanted to. That we were looking into whether such alleged incursions were a violation of U.S. law or regulations. And that if it did turn out to be a violation of U.S. law and regulations, we would take appropriate action.

Mr. SMITH. Were there any changes in U.S. Government response to Brothers to the Rescue aircraft or any of their endeavors after those conversations as it relates to policy, military or otherwise?

Mr. RANNEBERGER. Not as such. There was certainly no change in terms of our attitude toward their searching for migrants at sea. Nor were there any efforts made to discourage them from doing it.

Mr. SMITH. What about within air space or the territorial limits?

Mr. RANNEBERGER. Right. Well, in that respect obviously after the first allegation occurred which was some time I believe in the middle of 1975, and I would have to get back to you on the specifics of that. Our concern about possible violations of Cuban air space obviously heightened if you will say eye on Brothers to the Rescue activities. With respect to the possibility of such activities occurring in the future. And investigations were launched by other agencies I think, appropriate law enforcement agencies, into whether there had been these alleged incursions. And I think separately different agencies have talked about those. So that was what our policy was.

Mr. SMITH. I would ask you if you could provide the details of those conversations, the dates and times with the Cuban officials for the record of this hearing. Let me ask you about what has been said previously, and Mr. Jose Basulto makes this comment in his testimony which will follow, namely that the U.S. Air Force ignored the equivalent of a 911 call made to them by Major Jeffrey Houlihan for March Air Force Base in an attempt to save the life of the BTTR pilots.

U.S. Air Force abandons its standard operating procedure to dispatch the interceptors upon the MiGs crossing the 12-mile territorial limit of the island of Cuba. Major Houlihan gave sworn testimony as to the existence of this standard operating procedure and trigger line. Was that standard operating procedure at any time prior to February 24th and was that altered in any way, shape or form as a result of any of our dialog with the Cuban officials?

Mr. RANNEBERGER. Well, obviously I will let DoD address what our military posture was. I can say from the state side that I am not aware that there was any alteration in our military posture as a reaction to those discussions with the Cubans.

Mr. SMITH. Could I ask you if you could, again for the record, ask other officials with whom you would have contact so that we can have the absolute, definitive bottom line on that issue as to whether there was any change, any alteration in the policy vis-a-vis whether or not we scramble jets if such an incident is occurring?

Mr. BURTON. Would the gentleman yield on that?

Mr. SMITH. I would be happy to yield on that point.

Mr. BURTON. I sense a little equivocation on that and I agree that we would like to have some specificity in that answer, but I hope the gentleman will also address that question to the military as well, because we may get a more conclusive answer.

Mr. SMITH. Secretary Fernandez.

Ms. FERNANDEZ. I do not have an answer for you right now on that, but I would certainly take that for the record and provide you with that information.

Mr. SMITH. I would appreciate that. Let me ask two final questions if I may, Mr. Chairman. Has the United States ever agreed or given any signal to the officials of the Cuban Government that we would not intervene in the event of an attack on a Brothers to the Rescue aircraft?

Mr. RANNEBERGER. Again, and I am sure I would be aware of this, absolutely not would be my answer to that. In fact, in our discussions with the Cuban Government which are a matter of record, diplomatic notes went back and forth. The Cubans had warned, of course, on a number of occasions, months before, that if aircraft entered their territorial air space they would use any means necessary to respond to that and we had said quite categorically that any use of force, inappropriate force, against aircraft would be unacceptable and would have serious repercussions.

Mr. SMITH. Did the U.S. officials meet with Cuban officials on March 2nd, 1996 in New York or at any other time or place to discuss or possibly mutually agree upon, convenient positions that both sides would take vis-a-vis this incident, especially as it relates to the crossing of the 24th parallel? And let me again ask, is it the view of the Administration, both the military and the State Department that the MiGs never crossed?

Mr. RANNEBERGER. I think you are referring, Congressman, I believe the date is March 2nd. Although I would want to double check my notes to a so-called secret meeting in New York between Cuban and U.S. officials. Such a meeting did take place between officials of both sides. That was, of course, a fully coordinated step within the Administration. I was not at that meeting. My understanding in obtaining readouts of that meeting after the fact was that we presented information about the facts of what we knew had happened on February 24th. But the purpose of this was to make clear to the Cuban Government that no purpose would be served in their attempt to falsify what had happened. It was an effort in effect to get them to accept responsibility for the reprehensible action and to admit that it had occurred in international air space. Again, I certainly have no reason to believe and no knowledge that any—there was no discussion of an accommodation with respect to our postures. We were not there to negotiate. We were there simply to lay out the facts. And I also would say that as far as I am aware, again all the information that I have ever seen on this indicates that no MiG aircraft ever came north of the 24th parallel.

Mr. SMITH. I yield back and I thank you, Mr. Chairman. I thank you.

Mr. BURTON. You are absolutely certain that no MiGs came north of the 24th parallel.

Mr. RANNEBERGER. Congressman, of course, I cannot say that because I was not watching the radar screens. Again, nothing that I have ever seen, and I have seen quite a bit of information as a result of the shutdown. None of it—I certainly came to this hearing having followed this in great detail with the clear understanding that no MiGs had ever come north of the 24th parallel.

Mr. BURTON. I am going to be yielding really quickly to Chairman Ben Gilman, the chairman of the full committee.

Chairman GILMAN. Thank you, Mr. Chairman.

Mr. BURTON. But before I do, let me just say one more thing. We want a definitive answer to that question. No baloney. A definitive answer. You know and the military knows if those MiGs came north of the 24th parallel and we want to know the answer. No "I do not think so." I want to know.

And if they did, why were our planes not scrambled? Why were we not up there defending this country? Because according to the map I have before me, they were almost even with the keys. So I would like to have an answer to that as quickly as possible. Mr. Chairman.

Chairman GILMAN. Thank you, Mr. Chairman. Again, I want to commend you for conducting this hearing. If our panelists could tell me, I have it in my notes that Retired Admiral Eugene Carroll, Center for Defense Information, informed the State Department and DIA that, during his visit to Cuba, the Cuban authorities had asked him and others in his group how our government would react if Cuba shot down exiled planes that violated Cuban air space. But I do not see anywhere in the notes of what his response was or what our government's response is. Can anyone tell me that?

Mr. RANNEBERGER. Yes, sir. Admiral Carroll met with me at the State Department and I know he has said in the press that he conveyed this "message" to the U.S. Government. That was not my understanding of it and I was the person with whom he spoke. Here is exactly what happened. He and a group from the Center for International Policy, Wayne Smith's group, had been in Cuba. They had been down there and had had meetings with military officials.

At my initiative, I asked him and the group to come in to debrief me because I thought there might be some useful information out of it. It had nothing to do with Brothers or any other threats. During the course of an hour and a half meeting, Admiral Carroll in the 30-second comment said, and when I was talking to those military officials, they said darn it. They are determined to stop these violations of the air space and they will take any steps that they have to. And I said, well, we are aware of that position. They have repeatedly said they will use force in responding to violations of the territory. It was in no sense conveyed to me as a message from the Cuban Government or any kind of specific threat against an upcoming flight.

Chairman GILMAN. So we did not respond in any manner to that particular conversation.

Mr. RANNEBERGER. Well, in the sense that that information we already had because the Cubans had come into us—

Chairman GILMAN. I am talking about the information that Admiral Carroll gave to you of this conversation with the Cuban military inquiring how we would react if exile planes crossed over into their area. And did we respond to that at all?

Mr. RANNEBERGER. Well, Congressman, we did. We had already, again, before that conversation, we had already told the Cubans—



Chairman GILMAN. But with regard to this conversation, did we do anything formally in writing or any other expression?

Mr. RANNEBERGER. Not in response to that conversation. I did have subsequent discussions with Cuban officials and we did send them diplomatic notes subsequently.

Chairman GILMAN. Was that before this air strike?

Mr. RANNEBERGER. I would have to check the record. I believe so.

Chairman GILMAN. Could you check that and inform this committee of whether or not we did respond to this warning, an apparent warning by the Cubans of that kind of strike and what the reaction would be? So that I am clear in my mind, I would ask the panelists, what is our strategy when any MiGs start approaching our air space? Is there a standard operating procedure, a trigger line as to how close Cuban MiGs can approach our nation before interceptors are launched?

Mr. MCMAHAN. Sir, if that question—

Chairman GILMAN. Colonel, go ahead.

Mr. MCMAHAN. Yes, sir. I believe that that answer should be given in a closed session because of sensitivity and the fact that it has to do with our national defense.

Chairman GILMAN. I do not understand the sensitivity of it. You apparently did not scramble in this instance, which is an indication that apparently being a couple of minutes away from our nation did not warrant a scramble. Why is that this is sensitive information that you cannot divulge here?

Mr. MCMAHAN. Sir, I think it is always wise in the military, to not show a hand before we have to. We do not want to give definitive information to people in an open session that might use it against us.

Chairman GILMAN. Are the Cubans aware of any of our standard operating procedures?

Mr. MCMAHAN. To my knowledge, sir, that is classified information. Therefore, we have tried to keep it from them. And to my knowledge, they do not know what that standard procedure is or what the operations are.

Chairman GILMAN. Well, Mr. Chairman, I hope that you will find it within your province to obtain this kind of information for us.

Mr. MCMAHAN. Yes, sir. I will be more than happy to supply it for the record. We certainly will make that request.

Chairman GILMAN. Is it customary to see Cuban MiGs flying north outside the 12-mile territorial limit of Cuba?

Mr. MCMAHAN. I would say that it is not unusual and I would say that it has occurred over the years. It occurs—

Chairman GILMAN. Have we scrambled our plans when they have done that?

Mr. MCMAHAN. Sir, that is for NORAD to answer. I do not have the answer on how many times. Obviously, sometimes we have. I would have to guess, and NORAD would be able to answer that. Probably for the record, again, would be an excellent way to do that so we can give you better and more accurate information.

Chairman GILMAN. And let me ask both of our military panelists and Mr. Ranneberger, the chairman scheduled this hearing to try to get the facts with regard to this intercept by the Cubans. And you both come here without full information with regard to this in-

cident. Were you aware that you were going to be questioned with regard to how this occurred?

Mr. MCMAHAN. Sir, I was informed about 6 o'clock a day and a half ago.

Chairman GILMAN. 6 o'clock when?

Mr. MCMAHAN. Day before yesterday, sir, that I would be here.

Chairman GILMAN. And did you review the topic of this hearing?

Mr. MCMAHAN. Yes, sir. I reviewed everything that was available that I could get my hands on in U.S. Atlantic Command.

Chairman GILMAN. And did you recognize that you did not have the information that would be needed?

Mr. MCMAHAN. Sir, I was not sure of the exact line of questions that would come our direction and so I obviously failed to get the information that you needed. And I think that it might be better answered by someone that is more of an expert in that field than I am.

Chairman GILMAN. Well, did you state that to your commander?

Mr. MCMAHAN. No, sir. I was here as a representative, I am here as a representative of the U.S. Atlantic Command which is a different structure than NORAD is.

Chairman GILMAN. Well, when you reviewed what the topic of the hearing was and recognized that this would come under NORAD, did you then point that out to any of your superiors?

Mr. MCMAHAN. Sir, it also comes under the responsibility of the U.S. Atlantic Command because the occurrence of the incident was within our area of responsibility.

Chairman GILMAN. Well, then how is it that you do not have full information if it comes within your command?

Mr. MCMAHAN. Because you are asking questions, sir, with regard to NORAD's response which is a response for the defense of North America. And so I am unable to answer those specific questions. I will be more than happy to take them back to the Department of Defense for you and get the—

Chairman GILMAN. Who in the Department of Defense would be able to respond to those questions?

Mr. MCMAHAN. Sir, I do not have a specific name of someone, but we will search out that individual or the offices so that we can get a proper response for you.

Chairman GILMAN. And when will you get a proper response for us?

Mr. MCMAHAN. Sir, as soon as we can get the right answer for you.

Chairman GILMAN. And how long will that take?

Mr. MCMAHAN. Sir, I do not know off the top of my head how long that will take.

Chairman GILMAN. Well, we are very much concerned about the timeliness. This session of Congress winds up within about a 10-day period.

Mr. BURTON. Mr. Chairman.

Chairman GILMAN. And we would like to know the answers before the congressional session winds up. I know the Chairman is indicating he may go over beyond that period, but I for one would like to know before we wind up just what information our defense people have with regard to the operating procedures and why we

did not respond here with MiGs coming within a few minutes of our coast line.

Mr. McMAHAN. Sir, we will do our very best to get it to you as soon as possible.

Chairman GILMAN. Thank you. And thank you, Mr. Chairman.

Mr. BURTON. Mr. Chairman, before you came to the meeting, I talked to my colleagues on the subcommittee, and even though we will be adjourning *sine die* within a couple of weeks, we were going to make a request of the subcommittee to get subpoena power that would go on to the end of the elective year so that we can subpoena people who have relevant information on this issue.

Chairman GILMAN. Thank you, Mr. Chairman.

Mr. BURTON. So we appreciate your help in that regard. Let me just say before I yield to my colleagues again because I do not have a great deal more in the way of questioning for this panel that I, too, am very disappointed, and I have this visceral feeling that there is a deliberate attempt on the part of the State Department and the Defense Department to not give us the answers.

I just cannot believe that the people whom they sent here today are so ill-prepared. And I am not saying that you are not bright people, but you are just not prepared. You do not have the answers. And this has to be more than just an oversight and that bothers me a great deal. And that is why I want you to take this message back: we will have additional hearings on this issue.

I also want to pose this question to the military and to the State Department: we want to know exactly how far north those MiGs went. I have heard on several occasions today any one of you say, "Well, we do not believe they went above the 24th parallel." With all of the technology we have, there has got to be an absolute definitive answer to that question. And if they went north of the 24th parallel, we want to know how far north they went and why that happened.

In addition to that, the sworn testimony from the Court records indicates that Mr. Houlihan, who we are going to be talking to in a few moments, was told, or there was indications there were F-16s on the runway ready to go up and they were shut down. I want to know and this committee wants to know if there were F-16s on the runway! Were they fired up and ready to go? If not, in what position were they as far as launching?

Now, we have seen in some of this testimony, not your testimony, but other testimony we have before us, that you can launch these planes in a matter of 2 minutes, they can be well on their way to their target in about 5 minutes, and they can intercept in no more than 10 minutes. I know you said you cannot divulge that. However, I am saying that because it is in testimony in court records that we have before us here today.

Now, if that is the case, and I am not asking you to say that because you have to be careful of what is said because of national security, but if that is the case, I want to know where those planes were on the runway. If MiGs came up, what was the policy. And if there was a policy that they were to be launched the minute they crossed out of their territorial waters, why were they not launched? We just want a complete answer to that question.

Mr. McMAHAN. Yes, sir. We will research that out and try and get it as soon as possible for you.

Mr. BURTON. And as Chairman Gilman said before he left, we would like to have that as quickly as possible because it is going to have a bearing on the additional hearings that we will have on this matter.

The other thing that I would like for you to do (and I do not want just conjecture), when you are researching this with other people who have more knowledge, I would like to know what the previous reaction was, if there was any, of Fidel Castro's MiGs when F-16s did come up.

There must have been other occasions when they were flying, as you said, outside their territorial air space when our planes scrambled because they thought there might be a move toward the United States because it was common policy. I want to know what the reaction was in those previous cases, if any. Did the F-16s turn around and high-tail it back to Cuba? Did they get back in their own territorial air space? And if so, did they mess around out there for a long period of time or did they just turn around and go right back?

The reason I am asking these questions is because their answers have a direct bearing on whether or not the Cuban MIGs would have shot down those unarmed aircraft. Because if there is a history of Cuban F-16s turn-tailing and going back into their air space because they did not want a confrontation with U.S. fighter planes, then it is logical to assume that they may have done that again if we had scrambled the planes in a timely manner and gotten them up there.

So we are looking at two issues here today as far as I am concerned. One: did we properly protect those American aircraft that we believe the U.S. military knew were up there? And second: are we taking adequate precautions to protect the southern flank of the United States from a crazy Fidel Castro at some point in the future?

You know, we put a lot of pressure on Castro with the Helms-Burton bill and his economy is foundering and he needs hard currency to survive. And we must watch him with a jaundiced eye because this guy is liable to do anything.

That being the case, are we and were we taking proper precautions to protect the southern part of the United States, Florida, from an attack? It appears to me that if Cuban F-16s did come, as depicted on this map, almost parallel, with the keys that they could have been in Miami, a major population center in this country in just a matter of a few minutes. And if they had been able to do that, we could have had big problems. With that, I will yield to my colleague, Mr Menendez.

Mr. MENENDEZ. Thank you, Mr. Chairman. Ms. Fernandez, can you tell me when you knew you were going to come here today?

Ms. FERNANDEZ. Yes, sir. I was advised that I would probably be coming here last Friday.

Mr. MENENDEZ. Last Friday.

Ms. FERNANDEZ. That is correct.

Mr. MENENDEZ. And did you have any say in determining who came before the committee on behalf of the Department of Defense to answer these questions?

Ms. FERNANDEZ. No, I did not.

Mr. MENENDEZ. May I ask what is the purpose of your visitation here today?

Ms. FERNANDEZ. I was asked to be here because Cuba is in my portfolio. I do not have any information. I am not an operations person. So I would have no information to provide within the operations area or the factual information asked, the minute-by-minute, the time line as to what occurred here.

Mr. MENENDEZ. Were you involved in discussions as to what testimony would be presented today? Who told you, you were going to be here today?

Ms. FERNANDEZ. This was a matter that was discussed with my supervisor who advised me that I would be probably the appropriate person to be here on behalf of the Assistant Secretary's Office.

Mr. MENENDEZ. I do not mean any disrespect, but let me just say, and Colonel, I do not want you to misinterpret anything I am going to say. I respect what you have tried to do here. Any hearings that are held in this time period can often be characterized as having political overtones.

I came here with an open mind. Let me just say that the Defense Department has done themselves a disservice as they have this committee in the context of who they sent, not because you both do not have intellect and capacity. You obviously do. But you do not have knowledge of these facts.

This is something that the National Security Council knows all about. This is something that the State Department knows all about. This is something I would assume the Defense Department knows all about and it would take a juvenile mind to think about what questions would be asked here today.

Mr. Basulto has made his allegations in public several times. He has not hidden what his views of the circumstances are and what our government should have done and did not do. Now, whether you agree with his facts or not or his position, it is out there. We know what the issues are.

So I am going to do what the Chairman has asked me to. I do not know how long I can stay, but I am going to agree to what is a very unusual procedure with two caveats, and I would like to put them on the record, Mr. Chairman. The Chairman has asked me whether I would agree to go along with subpoenas subsequent to the *sine die* of this session for the purpose of this issue and these hearings. And I would normally not, in a blanket way I would normally say no to that.

But you have really in my mind, not you personally, the Department mind you, has affronted our intelligence, whether by design, deception or just incompetence, I am going to agree to that request with two caveats. One is that anybody who the committee seeks to have before it, I would hope that they would be asked first. And if they agree to come, there is no need to subpoena them.

However, if they do not agree to come, then I will be joining in the vote for the subpoena. As well as I would hope that the Chair-



man, as he has indicated he would, will confer with me as to the individuals. I hope we have based upon your testimony, Colonel, someone here from NORAD who can testify to standard operating procedure, someone who can testify as to radar and what radar prints we do and do not have and what they show. Someone from customs who can testify in open session as well as the individual we are going to hear from later.

And really your testimony here leaves me no choice but to concur. We are in search of the truth here, whatever that might be. And it is impossible to determine it from the answers to the questions posed.

I just want to add since I am the only Democrat on this side, Mr. Chairman, that I hope you will give me some flexibility as I believe we have given others in time. I just want to add one or two questions to my list and see if you do have answers to these.

I hope you will tell, Madam Secretary, of the Department that speaking from my side of the aisle, I think it is a disservice to the members of the committee what has happened here. It is not a partisan comment obviously. I just came here with the hope of listening to answers that would dissuade my concerns about the defense of citizens of the United States. And I leave here more concerned than when I walked in.

Two questions. No. 1 is, Colonel, the testimony of Mr. Basulto goes on to say the following: and actually maybe this is an answer for Mr. Ranneberger, a combined answer, not just you. It says Brigadier General Howard G. DeWolf, director of the InterAmerican region of the U.S. Air Force stated in his letter to Congressman Dan Burton, that the Department of Defense does not regularly monitor the flights of civilian aircraft.

Yet, on the 24th of February, the State Department specifically requested four U.S. radar tracking stations from Customs and the U.S. Air Force to monitor the actions of Brothers to the Rescue. First, Mr. Ranneberger, can you tell me is that the case? Did the State Department specifically request four U.S. tracking stations from Customs and the U.S. Air Force to monitor the actions of Brothers to the Rescue?

Mr. RANNEBERGER. No, Congressman, except indirectly. What happened is that the night before February 24th, the afternoon before, we had obviously had a site. We counted earlier. A number of exchanges over preceding months with the Cubans. The Cubans had put on the record months and months before that they would use up to and including deadly force in responding to violations of their territory. We were also concerned as I had laid out for the record about possible alleged infringement by Brothers to the Rescue of Cuban territorial air space.

In light of that, this had been the first flight in some time. I talked to the FAA and I told the FAA that we should ensure that all appropriate radar tracking was in place to be able to determine with certainty whether the Cuban air space was violated or not. Because I was increasingly frustrated with the Cuban attempts to claim violation of their air space and I wanted to know, I wanted our side to have definitive information.

Mr. MENENDEZ. How did you know about their flights? Do you regularly monitor how many flights Brothers to the Rescue take every day?

Mr. RANNEBERGER. After these alleged violations had started in 1995 after they had been alleged by the Cubans, we did start to monitor in the sense of FAA was alerted about the sensitivity of it and FAA would in turn alert us when Brothers to the Rescue were planning to fly.

Mr. BURTON. Would the gentlemen yield really briefly?

Mr. MENENDEZ. Sure.

Mr. BURTON. Now, you are telling us that you knew that the Brothers to the Rescue were flying in there on a fairly regular basis and that you had been warned, there had been warnings from the Cuban Government, that they would use up to and including deadly force if their air space was violated and you wanted to find out if Brothers to the Rescue were in fact violating their space.

That being the case, why, when you knew they were up there did the U.S. military not have F-16s sitting out on those runways watching for the Cubans to do something? Because American citizens were going down there and you knew it and the Air Force must have known it. And, according to the Customs officials, they knew it. And yet, they were not even warmed up and they did not take off. And I was told that they were warmed up and then shut down. Why?

Mr. RANNEBERGER. Congressman, if I could just say, I also have put on the record earlier and I want to emphasize this, that we had talked to the Cubans in extremely strong terms in the months ahead as soon as they used that first threat of what would happen if plans entered their territorial air space. We said we do not care whether you have the right to do that or not. You do not have the right under international law even if they do go into your air space.

Mr. BURTON. I do not want to prolong this because it is his time, but the fact of the matter is you knew Brothers to the Rescue was up there. You knew the warning had been given by Fidel Castro and you told him do not do that or we will smack you in the nose. But the fact is there were not any precautions taken to protect those guys. Why is that?

Mr. RANNEBERGER. Congressman, of course, I am not going to speak for DoD here, but I do want to say that we had made very clear after the first warning-like threat. I would use threat, not warning. Warning implies there is a legitimacy. The first threat was used. We had talked to the Brothers and we had kept them apprised as well and I want to emphasize this about the kinds of threats that were coming in from the Cubans. We had no indication that Brothers would fly into Cuban air space on that day because they had emphasized to us that they would be staying in international air space and I want to stress that too for the record.

Mr. MENENDEZ. But as a precaution, would it not have been prudent to have those F-16s down there?

Mr. RANNEBERGER. Well, I cannot speak for the military, the posture that they would be in.

Mr. MENENDEZ. Let me get back to my line of questioning. I understand what the Chairman is asking. Let me get back to my line of questioning. Was there a time in which, based upon your state-

ments, Mr. Ranneberger, that you wanted to ensure that you could say that the Brothers were not violating air space and that is why you told the FAA?

And, does that mean that you called the FAA each and every time Brothers to the Rescue flew, called you up, or filed a flight plan to fly? Yes or no.

Mr. RANNEBERGER. Generally, they would inform us. I am not sure they did it every single time. I mean, if it was a flight. Sometimes the brothers do training flights which is from Opa Locka and they just do a quick round robin and come back. But any time they were going south of the 24th parallel certainly we were informed.

Mr. MENENDEZ. So you received information every time that they were flying south of the 24th parallel and you specifically on the night before this incident called the FAA?

Mr. RANNEBERGER. Yes.

Mr. MENENDEZ. And said to them we understand they are flying? How did you understand that?

Mr. RANNEBERGER. I think there had been some press reports. Possibly FAA had told me that they were flying. I do not recall. Somehow we had heard that they were flying.

Mr. MENENDEZ. Well, would you get that for us for the record? It is either the FAA calls you and tells you they are flying or suddenly you had an independent source to identify that there was a concern on this particular night on the day before there was a shutdown that in fact alerted you, if I recall your testimony correctly, and we could have it read back, is that you called the FAA. And the nature of that call was what?

Mr. RANNEBERGER. Congressman, again, what I did was the afternoon I think it was, I think there had been press reports. I will check that for you, but I told the FAA that in view of the allegations that had been made in the past about violations of Cuban air space, it was important for us to know whether in fact in case the Cubans made accusations again as a result of the Saturday flights, I wanted to be in a position to either refute those or—

Mr. MENENDEZ. So you did ask for the radar then.

Mr. RANNEBERGER. To FAA, not to DoD.

Mr. MENENDEZ. To FAA.

Mr. RANNEBERGER. And I do not know if FAA contacted other radar installations. That I do not know.

Mr. MENENDEZ. And what press reports, I mean, I do not think the Brothers announced that they are going to fly to the press nor does the press find it particularly interesting after thousands of missions to announce that Brothers to the Rescue are going to fly tomorrow once again to save lives. What press report could there have been that would have indicated a unique reason to call the FAA?

Mr. RANNEBERGER. It could have been that FAA had told me. I will check that. I just do not want to say. I do not know.

Mr. MENENDEZ. If you would get that to us for the record. Let me just ask one last thing and then I will wait for Mr. Basulto's testimony. Mr. Basulto's testimony is why I am particularly angry with the Department of Defense today. Because what he is going to say here will go unresponded to, uncontradicted. It will leave most Americans who will read it tomorrow wondering what their



government is all about. It will leave me as a Member of Congress wondering what our government is doing.

He says, after the incident, the U.S. Government authorities fabricated a favorable scenario that would cover up their inaction and share responsibility. Among the actions taken, this is on page three of his testimony, an attempt by a Customs's official to seize by force and deception a tape recording of the radio communication between Brothers to the Rescue and Havana tower during the mission, to disavow any knowledge, which is in essence what we have heard today, of MiGs in pursuit of the third Brothers to the Rescue aircraft north of the 24th parallel. He has in parentheses, the MiG pilot's communication is to their ground control as indicated otherwise which you would have in your tape recordings that you have of the incident through our intelligence.

He goes on to say, the State Department refused to appear for deposition although properly subpoenaed by the administrative law judge of the National Transportation Safety Board, and resisted the judge's petition to produce in court the recordings of the radio communications of the MiG pilots and their controllers, already heard by ICAO investigators and released to the United Nations.

When finally obtained, these recordings provided Brothers to the Rescue with evidence that the MiGs pursued the last remaining Brothers to the Rescue aircraft above the 24th parallel and to within 3 minutes of the United States. If that is true, then we have a major problem. So my final question is having heard that, having it in front of you, can you refute any of those things?

Mr. MCMAHAN. Sir, I have given you the information that I have available which is that they did not go above the 24th. I think answering it for the record will allow us to do another very thorough search. I apologize for not having that detailed information for the committee at this time, but we will come up with that information and get it back to you.

Mr. MENENDEZ. When you answer it, are you going to produce radar prints for us?

Mr. MCMAHAN. Sir, we will give you the best information we have available. I am not sure whether it is data that is available or whether it is a print.

Mr. MENENDEZ. Well, I would like to see—

Mr. MCMAHAN. We will get you the information.

Mr. MENENDEZ [continuing]. in addition to a verbal response or a written response actually which is what you are going to provide the committee, as part of the written response, Mr. Chairman, I would like to see the documentation that supports the written response to show that your statement that to your knowledge it is not above the 24th parallel can be supported by documentation that will do that.

Mr. MCMAHAN. We will do our best to get that for you as soon as possible, sir.

Mr. BURTON. One more thing in addition to what he just asked for, it was indicated from this transcript that Customs officials were trying to get the recording devices that the gentleman had away from him. We would like to know who those Customs officials were.

Mr. MCMAHAN. Sir, we will have to research that.

Mr. BURTON. Well, I would like to have it researched by the State Department, the Defense Department, and the Customs Service. I want to know who those people were and I want to have them before the subcommittee under oath to find out who asked him to go get that device and why?

Mr. MCMAHAN. Sir, I was unaware of this statement and so therefore I was not prepared to—

Mr. BURTON. We would like to have the names of the Customs officials from either State, Customs or Defense, who those individuals were who were ordered to go get that device so we can have them before the subcommittee.

Mr. RANNEBERGER. Mr. Chairman, could I just add one response to Congressman Menendez?

Mr. BURTON. Sure.

Mr. RANNEBERGER. I wanted to say that clearly in response to these statements of Mr. Basulto most of them concern other agencies, but I would speak in general and say there was absolutely no effort to fabricate a favorable scenario. In fact, I think the record shows that all of our information was to try to get all of the facts on the record. There was utter and complete cooperation with the ICAO teams, for example, including speaking to Mr. Houlihan and others. So I also wanted to add for the record that I was not asked to testify today. I was asked to come up and be a resource in responding to questions and I am delighted to do that.

Mr. BURTON. Before I yield to Ileana Ros-Lehtinen, let me ask if you are aware that there were Customs officials who tried to get this device?

Mr. RANNEBERGER. Congressman, no. This is something we will look into.

Mr. BURTON. OK. Thank you. Ms. Ros-Lehtinen.

Ms. ROS-LEHTINEN. Thank you so much, Mr. Chairman. As we all know, the title of this hearing, and this is a public document, it is clearly entitled The Shootdown of Brothers to the Rescue, What Happened. Yet, we have been sent individuals, as respectful as they are, who know absolutely nothing about the question, what happened? And we respect your testimony. We respect your service to our wonderful country.

But the title once again is the Shootdown of Brothers to the Rescue, What Happened? I think it might have seemed like a clever ploy at the time to send individuals to our subcommittee who are totally unable to answer the question what happened and more importantly why it happened.

But as you can see that ploy did not work out as well as you might have hoped and we certainly would like to have individuals come before our subcommittee who are able to answer the question what happened and why did it happen? And we would like your cooperation. As the Chairman indicated, there are other tools to use if the cooperation is not forthcoming.

I meant to enter also into the record and I neglected to do so, Mr. Chairman, a letter from Jose Basulto and Domonus Vestcati, dated September 13th to our subcommittee which is in response if I could ask unanimous consent to do that.

Mr. BURTON. Without objection.

Ms. ROS-LEHTINEN. Which is in response to the same letter that you and I got and I assume everyone got it, sort of a form letter full of, let us say, contradictory information, not to say untruths from General DeWolf in his form letter to you is more or less the same as my form letter.

It says I am responding to your letter of August 1st and mine says I am responding to your letter of July 6th. And in that month and a half not too much had changed in the form letter. And it is interesting that Mr. Basulto in his letter of September 13th contradicts some of that testimony when General DeWolf says Department of Defense radars do not routinely and systematically track civilian U.S. aircraft operating in international air space.

Mr. Basulto points out that while that may generally be accurate, in fact on February 24th no less than four government agencies were tracking and monitoring the three Brothers to the Rescue aircraft and that has been brought out not only in the Basulto testimony in the Federal courts but also in the ICAO report which I hope would be partly in the record as well.

And Mr. Basulto I hope will point out in his testimony about the difference between the Cuban ADIZ which is the Air Defense Identification Zone not being the same as our southern boundaries. So we hope to clear that up because I think that we are mixing up two different terms and I am sure that Mr. Basulto will point that out.

Of course, the question that concerns us all is about the standard operating procedures when Cuban aircraft is seen nearing the United States. And once it was proven the clear intention of the Cuban Government after shooting down the first plane, it is I would imagine to be quite reasonable to expect some kind of action from our U.S. military and why was nothing done? That is what we want to know.

And once the second plane was brought down, why was nothing done then? Why for over 30 minutes after the second plane was brought down was nothing done when it was clear that the Cuban MiGs were trying to bring down the third plane? And what does it take short of a nuclear attack for the United States to react, if I may ask?

Ms. FERNANDEZ. Mr. Chairman, if I may, I would like to address the concerns of the committee. I want to assure the full cooperation of the Department of Defense in any and all questions that have been presented today.

It is unfortunate that a lot of the questions could not be addressed by the Colonel or myself because we just do not have the personal knowledge about this. But now that we know the nature and scope of the questions that are going to be asked, I think it would be easier for us to identify—

Ms. ROS-LEHTINEN. Ms. Fernandez, what did you think that we were going to speak about today? The title of the hearing as you understood it to be in a public document, could you state the title and the scope of the hearing? What exactly did you think that you would be testifying on today in a hearing entitled the shooting of the Brothers to the Rescue, What Happened?

Ms. FERNANDEZ. In my discussion, I think it will be easier for me to answer the question this way. In my discussions with the Colo-

nel, we talked about the information that he would be able to provide to the committee today in terms of factual information.

The questions, however, that have been asked are questions that are not within the purview of his knowledge. But there are other questions pertaining to this fact-finding hearing that I am sure he can answer based on his position as well as—

Ms. ROS-LEHTINEN. Thank you, Ms. Fernandez. Would you say that it is quite abundantly clear to you, to your agencies, to every agency in the U.S. Government now what exactly we will be talking about? We are going to be discussing in our next hearing which you were not able to avoid. Because you did not come forth with the answers today, you will just have to go through this again. We actually want to discuss the same items that were discussed in our letters, to all of these different agencies, to Secretary Perry. The same questions remain. We would like to speak to any and all individuals who have any knowledge whatsoever working in the U.S. Government, related to the shutdown of the Brothers to the Rescue aircraft which occurred on February 24th of this year at approximately 3:15 if we could round it out. And those are the individuals that we want to speak to and those are the questions that we want to ask. What happened? Why it happened? Were proper procedures followed? I think that we are being very clear and I respect your service to our country. It is not intended to slap your face. I think it was a ploy on the Department of Defense's part to try and not answer the questions and I do not think it worked. So we are going to go for round two. And we would like your cooperation so that we do not have to go that extra step and subpoena anyone. And why Mr. Houlihan was not here to answer these questions openly is totally mystifying to us. Since we have his testimony, we have gone out of our way to enter it into the record. We are just totally baffled why we would want to go through this at a private hearing after this hearing.

Ms. FERNANDEZ. If I may, Mr. Houlihan is not an employee of the Department of Defense. I believe he is an employee of the Customs Department. Customs comes under the Department of Transportation. So I really do not know. Excuse me, Department of Treasury. I really do not know why he is not here. That was not—

Ms. ROS-LEHTINEN. Well, why are you here, if I may ask, Ms. Fernandez? I know that Mr. Menendez asked, but it is not quite clear. Always good to have women testify, especially Hispanic women. So we welcome you to our subcommittee, but what is your role here?

Ms. FERNANDEZ. It is certainly a pleasure for me to be here. I was here to respond to any particular policy questions that were addressed to me in terms of these particular—

Ms. ROS-LEHTINEN. You are not here as a token Cuban American.

Ms. FERNANDEZ. No, I am not.

Ms. ROS-LEHTINEN. To represent a good face for the Department.

Ms. FERNANDEZ. I assure you I am not.

Ms. ROS-LEHTINEN. Even though you have no information about the shutdown and you are not able to answer our questions.

Ms. FERNANDEZ. Based on the questions that have been asked, this was not within my purview.

Ms. ROS-LEHTINEN. Thank you. And about the standard operating procedures, we can just get to it at the second round or the second hearing, however you would like to do it, Mr. Chairman.

Mr. BURTON. Thank you. We will probably subpoena if necessary quite a few people because of the lack of cooperation from the State and Defense Department. The next hearing will be much bigger. I hope I have three or four panels. We are going to get the answer to these questions. My colleague from Florida.

Mr. DIAZ-BALART. Mr. Chairman, I want to thank you again. I am so glad the chairman of the full committee is here, Chairman Gilman. Mr. Chairman, I really think that the Administration went too far today. Now, they had reason to believe that their policy of pleading ignorance would once again work. But they went too far in their disrespect for you, Mr. Chairman, for the full committee chairman, and for Congress generally.

Now, one of the reasons why the Administration may have thought that they could have done so again this time because when you, Mr. Chairman, held a hearing recently about the evidence that exists with regard to the Cuban Government's participation in narco trafficking, for example. They came here and pled ignorance. And I recall that hearing.

Despite the fact we had the field people in South Florida, the Customs field people, saying on tape, giving evidence, of Castro's participation in drug trafficking. We had the head of DEA and the head of Customs say here before you, Mr. Chairman, in what constituted disrespect for you and this committee, ignorance.

So obviously, they thought that they could do it again. They went too far this time. And so I commend you for your commitment even if we have to do it after adjournment, to subpoena whoever is necessary and get the facts. Pleading ignorance will not work.

It is not going to work on the narco trafficking issue ultimately because we are going to get to the facts there too. But first and foremost, it is not going to work with regard to the murders of February 24th. And you all, I am not talking personally to you. You represent the executive branch. The executive branch is going to have to produce the facts. They are not going to be able to cover up the facts.

Now, you do not want to lie because you are under oath. So you plead ignorance. But it is not going to work. There was a practice, and this is, I think, the crux of the most serious allegation made by Mr. Basulto. There was a practice of communicating danger to Brothers to the Rescue. Whenever there were MiGs in the air, Brothers to the Rescue would be called and informed of the fact and Brothers to the Rescue would fly back home to avoid the danger.

And today we had Mr. Ranneberger admit that before February 24th based on however, Mr. Menendez asked how did you know. What was not denied is that the government knew that February 24th would be a day of much danger, despite that, the practice was abandoned.

And despite the fact that confirmation came of the danger and the MiGs were in the air, Brothers to the Rescue were not in-



formed. And then despite the fact that one airplane was shot down and two people murdered, there was no attempt to notify Brothers to the Rescue. And the second plane was shot down. There was no attempt. And then the third plane was pursued almost to the United States.

This is very serious. This is very serious. The media is going to become interested because of the seriousness of this issue and the American people are going to be aware, become aware of the fact of what our government did and failed to do February 24th.

I thank you, Mr. Chairman. We are going to get to the bottom of this.

Mr. BURTON. Well, I will thank the panel for being with us today. It has not been as productive as I would have liked. I hope that the answers you are going to submit in writing with the graphs and charts will be more helpful. But in any event, we appreciate your being here. The next panel consists of Mr. Jose Basulto, president of Brothers to the Rescue, and we are looking forward to hearing what he has to say. Mr. Basulto, I am sorry you had to wait so long, but hopefully this will prove to have been a worthwhile wait.

Mr. BASULTO. It was definitely worth it.

Mr. BURTON. OK. Now, you have heard what was said and what was not said. So what I would like to ask you to do is in your remarks, you have a prepared statement, is to maybe make some comments if you would about the cooperation we have had or lack thereof from the Department of Defense and State Department.

#### **STATEMENT OF JOSE BASULTO, PRESIDENT, BROTHERS TO THE RESCUE**

Mr. BASULTO. Yes, sir. If I may. I will read my statement so it will be part of the record. For the record, Brothers to the Rescue, Incorporated is a not for profit humanitarian organization founded in 1991 in response to the number of deaths of Cuban rafters trying to free the island in search of freedom. It is a volunteer pilot group from 17 different nationalities. Founded by voluntary private contributions, today Brothers to the Rescue has conducted 1,840 search and rescue missions over the straits of Florida resulting in over 4,000 lives saved before the refugee crisis of 1994.

On February 24th of this year, two U.S. unarmed civilian Brothers to the Rescue, BTTI aircraft, conducting a humanitarian search and rescue mission over international waters were shot down by Cuban MiGs. This terrorist-like attack resulted in the death of three U.S. citizens and a legal U.S. resident. The rescue aircraft which I was piloting, managed to escape although it was pursued by an additional pair of MiGs to within 3 minutes of the United States. Recent findings clearly show that this is designation and the threat posed by the MiGs to U.S. security interests could easily have been prevented by the United States.

Our testimony today before this congressional committee is based upon sources which include (1) sworn U.S. court testimony by U.S. officials, (2) access to the audio recordings of the conversations between the MiGs pilots under Cuban controllers, (3) the report by the International Civil Aviation Organization (ICAO), (4) expert witnesses that have confirmed that U.S. Government authorities at

a minimum wilfully chose not to act to protect the lives and planes on that faithful mission.

We are convinced that if you review all of the foregoing evidence, you will come to the same conclusions. (1) U.S. Government authorities were aware of the especially dangerous conditions which threatened our humanitarian mission on February the 24th and that MiGs were in the air that morning. Contrary to previous instances, this information was not shared with Brothers to the Rescue and this is backed by the ICAO report, pages 50 and 51.

Then (2) The U.S. Government authorities prepared an unusually elaborate plan to follow, monitor and document Brothers to the Rescue, February 24th flight, which included to our knowledge, (a) alerting several radar facilities from the U.S. Air Force and Customs, (b) listening to and recording the communications of all the aircraft involved, (c) FAA control towers report of the departure of our flight as well as radar tracking. Yet, the usual check inspection performed by FAA prior to the departure of Brothers to the Rescue flights was strangely omitted that day.

And (3) U.S. Government authorities proceeded passively then to watch and listen in silence for 53 minutes while Cuban MiGs hunted two Brothers to the Rescue planes, killed their four occupants and chased the third plane to within 3 minutes of the United States.

Next (4) The U.S. Air Force ignored the equivalent of a 911 call made to them by Major Jeffrey Houlihan from March Air Force base in an attempt to save the lives of the Brothers to the Rescue pilots. The U.S. Air Force abandoned its standard operating procedure to dispatch interceptors upon the MiGs crossing of the 12-mile territorial limit of the island of Cuba. Major Houlihan gave sworn testimony as to the existence of this standard operating procedure and trigger line.

Then (5) U.S. authorities, Air Force, Customs and FAA also abandoned their practice of communicating with Brothers to the Rescue planes in the air via radio or with Brothers to the Rescue operation base in Opa Locka Airport to issue a warning as it had done on multiple occasions on the past. Pilot's testimony is available to this effect. On every occasion when warned of MiGs in the air, Brothers to the Rescue has immediately returned to its base.

And (6) After the incident, U.S. Government authorities fabricated a favorable scenario that would cover up their inaction and share responsibility. Among the several actions taken we experienced (a) an attempt by a Customs official to seize by force and deception a tape recording of the radio communications between Brothers to the Rescue and Havana Tower during the mission. (b) They disavowed any knowledge of MiGs in pursuit of the Brothers to the Rescue aircraft north of the 24th parallel. The MiGs pilots communications to the ground controllers indicate otherwise. (c) The State Department refused to appear for the position although properly subpoenaed by the administrative law judge of the National Transportation and Safety Board (NTSB). (d) It resisted the Judge's petition to produce in court the recordings of the radio communications of the MiG pilots and their controllers already heard by ICAO investigators and partially released to the United Nations. When finally obtained, these recordings provided Brothers to

the Rescue with evidence that the MiGs pursued the last remaining Brothers to the Rescue aircraft above the 24th parallel and to within 3 minutes of the United States. (e) When we were finally allowed to hear the tapes, we were given access to only two of the four tracks of the tapes. The other two probably pertinent land line communications have not been released despite repeated requests by Brothers to the Rescue attorneys.

And (f) By allowing the MiGs to come within such close proximity to the United States, American security interests were put at risk. Brigadier General Howard G. DeWolf, Director of InterAmerican Region, U.S. Air Force, stated in this letter to Congressman Dan Burton that the Department of Defense does not regularly monitor the flights of civilian aircraft. Yet, on the 24th of February, the State Department specifically requested four U.S. radar tracking stations from Customs and the U.S. Air Force to monitor the actions of Brothers to the Rescue.

Brothers to the Rescue believes that when Pablo Roquez, a Cuban intelligence agent, doubling as an FBI informant and occasional Brothers to the Rescue pilot, was instrumental in the perception created in Cuba and the United States that our organization was planning a pro Democracy demonstration for that February 24th.

The result was a premeditated ambush to kill from Cuba and a complete U.S. intelligence operative which watched and documented the events as they unfolded, but made no attempt to prevent the loss of life.

Brothers to the Rescue therefore not only accuses and condemns Fidel Castro and the Cuban Air Force of murdering U.S. citizens, but also critically questions the rationale, purpose and intentions behind the U.S. Government's conduct and inaction on February the 24th.

Today we are providing this committee with the necessary evidence and testimonies to support our findings and respectfully request that a full investigation be carried out and that the responsible parties be held accountable. We also want to thank the committee for granting Brothers to the Rescue the opportunity to avail itself of this important mechanism of our free and democratic society which we trust will address the concerns we bring before you. Thank you, very much.

Mr. BURTON. Thank you, very much. I am glad you made it back. I am terribly sorry that your compatriots who were fighting for freedom were not as fortunate. How do you know for certain that you were above the 24th parallel when they made their last pass at you or when they came close to you?

Mr. BASULTO. Sir, if you correlate the information provided to us by the U.S. Government during the hearing at which I was seeking to recuperate my license as a pilot which was revoked by the FAA, you will find two pieces of information that once they are put together they tell you exactly where I was.

I am talking here about the transcripts of the communications of the MiGs pilots and their controllers which they state and we were able to ascertain that at the time when the mission was concluded, in other words when they were called off my back, it was 3:53 p.m. exactly, 3:53 p.m. and 14 seconds as a matter of fact.

Then that information came from our being able to listen to those tapes, watch the counter, the digital counter of the times when the conversations were taking place. Plus the fact that we double checked that using chronometers. Two independent chronometers were used that day to check that time. That was a very important time for us.

With that time in mind we went to the screen prints provided by the U.S. Air Force in the hearing for my license and I am calling to your attention U.S. Air Force screen print No. 3. If you allow me a moment, I am going to look for it.

I will have to come close to you now. In the bottom picture you see here, this is our radar screen print, shows the path of November 2506, the blue aircraft that I was piloting that is identified in the communications of the MiG pilots and their controllers.

Mr. BURTON. This one here?

Mr. BASULTO. This line here. This line by the way changes color because the aircraft is identified in blue when it is not responding to the radar. In other words, its transponder is inoperative or it has been shut off. I did shut off my transponder for a while to protect myself or not to give information of our location so that they were not able to follow us. However, the radars kept picking us up and this is what you see here is what is called a primary target. It is ourselves all the way through.

Now, when you reach the top of the screen, you see the last position they recorded of November 2506. It says here that at 2057 zulu, that is equivalent to 3:57 p.m., our aircraft, that is November 2506, was here. Now, that is 4 minutes plus the time the MiGs stopped. Our aircraft moves at a speed of two miles per minute.

So taking those 4 minutes, it was 8 miles south of that location. That is how we estimated our position. These rings you see here are 10-mile rings. So we would have been about here and we estimated that position to be the one we have shown in that chart over there.

Assuming that this was completely wrong, if we were 12 miles north of Cuba at the time the second aircraft was shut down, 25 minutes later which is the difference in time from the second shutdown and 3:53 p.m., we would have been 25 times two is 50 miles. And then the 12 miles would have been 62 miles. We would have still been at the same place. So it matches. So I believe we have almost unequivocally located our position on that place we have shown to you in the other chart which I will bring to you now.

Based on that reasoning this was prepared, this position estimated, and this is where we were, some 28 miles perhaps away from Key West and on our position southwest of Key West. The Martesis is here. So most likely this happened on U.S. waters, U.S. territory. I can ascertain that, but it is very likely that it was.

Here you see in rings what that MiG would move at 800 miles an hour which is not a fast speed for it. It was moving 500 at that time, but it has a perfect applicability of going 800.

In rings of 13 miles a minute, where it could have reached, it could have been in 10 minutes, 11 minutes, in Turnkey Point, the nuclear plants, and in Miami in 12 minutes, 12 to 13 minutes.

Mr. BURTON. Let me ask you one more question, then I will yield to my colleagues. Do you know who the Customs people were who were trying to get your recording device?

Mr. BASULTO. I am sorry, could you repeat the question?

Mr. BURTON. Do you know who the Customs people were who were trying to get your recording devices?

Mr. BASULTO. The recording device that I am talking about, if you are talking about the same thing, you are perhaps referring to the tapes, the recordings we made of the communications inflight during the mission.

Mr. BURTON. Right.

Mr. BASULTO. It was a Customs agent, the one that three times tried using force and deception to take the tape away from me. And I resisted to the point that he said he was going to have to force it from me. His name is Mike Molinary.

Mr. BURTON. Write that down. Mike Molinary.

Mr. BASULTO. Right. And he works at the Customs station there in Miami from what I understand. There were three other people there with me that witnessed the event, the way that he conducted himself. Every time that he made an attempt to take it away from me, he made a phone call somewhere. And somebody was apparently giving him instructions.

Mr. BURTON. Did he have any official documentation that would? Any kind of a court order or anything demanding that?

Mr. BASULTO. No, and I said you have to produce something, some real document to do this, and we are calling our attorneys right now and this you are doing is illegal. And I am going to refuse it. You are going to have to force it away from me. So what I did was just held to them and he tried, at a point twisted my arm, pushed me and used foul language. Again, there were three other witnesses. One of them is Mr. Arnaldo Iglasias who was there that day. He was one of the survivors. He is here today with me. He witnessed this event as he—

Mr. BURTON. You do not know who instructed him to try to get that?

Mr. BASULTO. No, sir.

Mr. BURTON. Where were you when this took place?

Mr. BASULTO. Well, this was as we were being debriefed that day when we returned. There were many other agencies and officials and people behaved quite correctly and properly. The only person that misbehaved was Mr. Molinary from Customs. Again, as I repeat, by force and deception tried to obtain that tape. That tape apparently was very important for some reason.

Mr. BURTON. All right. We will contact Mr. Molinary and have him testify at some point in the future. Mr. Menendez, do you have any questions?

Mr. MENENDEZ. Thank you, Mr. Chairman. Unfortunately, I had to step out, but I have read all of your testimony. I assume that you stuck to the written testimony that has been produced for the committee?

Mr. BASULTO. Sure, of course. If you need more copies, I will be more than happy to.

Mr. MENENDEZ. No, no, no. I just wanted to make sure that I did not miss anything in the context I had already read your written



testimony and, of course, had opportunities to discuss. I want to welcome you to the committee.

Mr. BASULTO. Thank you, sir.

Mr. MENENDEZ. And thank you for your testimony. As you are a witness, I tried to get a sense of responses to your questions so that we can flush out the truth in the context of some of these issues. And my question may be for us to ask when we have the second hearing. We will be better prepared to ask about some of the points that you have made. You may have already responded to this, because when I came in you were producing the chart for the committee.

What you are saying is that the information that was provided to the Brothers through the hearing, that the findings obtained are from the recordings provided Brothers to the Rescue with evidence that the MiGs pursued the last remaining aircraft which I believe was the one you were piloting, is that correct?

Mr. BASULTO. Yes.

Mr. MENENDEZ. Above the 24th parallel and within 3 minutes of the United States, how is it that you are able to determine that? Have you described that?

Mr. BASULTO. Yes, I just did. It is simple math here. I correlated two documents. One, the MiGs and controller communications and the time that the mission was canceled together with the position and tracking that the U.S. Air Force provided. Both documents are U.S. source. They both came through the hearings and to recuperate my license in court under sworn testimony and so forth. So they are U.S. documents to that effect.

Mr. MENENDEZ. So it is the tracking of the tapes and the time-frame and what they say in the context of their positions between the controllers.

Mr. BASULTO. The controllers and the MiG pilots. I can read it for you if you want here.

Mr. MENENDEZ. No, I think I have a sense of what it is. I just wanted to get the methodology that you used to make that statement. Now, based upon that, the only way then that that would be in error would be if the pilots or the control tower were making statements that were erroneous.

Mr. BASULTO. That is correct. That is if the pilots were just dreaming up seeing a blue aircraft just like mine, a Cessna 337, which is a very unusual aircraft, and seeing it more than one time. Actually, they made like three sightings of it and they lose me every time. Until the mission is canceled and according to what they say because they are very high. And for a MiG, 5,000 feet is not being very high. They are talking about latitude.

Mr. MENENDEZ. Now, you say you were allowed to hear two of the four tracks through your discovery efforts at your hearing.

Mr. BASULTO. Yes, sir.

Mr. MENENDEZ. There are two others you say.

Mr. BASULTO. Apparently, yes. And I am not an expert on recordings, but it is a four-track and there is additional information there that we were not allowed to hear. I would like to add something, sir. While we were listening to the tape, we noticed many irregularities in the digital counter.

Mr. MENENDEZ. Would you explain that for me?

Mr. BASULTO. Sometimes the time jumped forward or backwards. Or sometimes it did not have a time.

Mr. MENENDEZ. Which would indicate what?

Mr. BASULTO. Possible tampering.

Mr. MENENDEZ. What are the reasons, in your testimony, you said that the other two, referring to the tracks that you are not allowed to hear and I assume, were you given a reason why the other two tracks—

Mr. BASULTO. No, the only thing they said, they did not say there was additional information. They said that they were only instructed to bring the tapes, let us listen to them and go away with them. They did not identify themselves by name, by agency, by source, by anything.

Mr. MENENDEZ. Now, with reference to the testimony of Mr. Ranneberger, which I elicited in my question from him, in which he states that they were concerned about the claims that Brothers was violating Cuban air space and wanted to pursue proof that you are not so that they could refute those claims. Were you aware as the president of Brothers to the rescue through the State Department that in fact they were doing that?

Mr. BASULTO. Negative. No, sir. We were not aware that they were monitoring us whatsoever.

Mr. MENENDEZ. Did the State Department give you any warnings in general first or specifically on this date meaning February 24th?

Mr. BASULTO. No, sir.

Mr. MENENDEZ. They did not give you any warnings about risk in terms of any flights of Brothers to the Rescue in or about the 24th parallel?

Mr. BASULTO. No, direct warnings, we never receive them. What they have done is issue pressure releases at times when flotillas or things like that have taken place. We do not consider that a direct notification to Brothers to the Rescue.

Mr. MENENDEZ. So the State Department has never engaged you, Mr. Ranneberger, or the Cuba desk, or anybody from the State Department. They have never called you up and said Mr. Basulto, we have information that we are concerned about that we would be concerned for your safety or that of your pilots.

Mr. BASULTO. Not that I recall, sir. Our communications with the State Department are minimal.

Mr. MENENDEZ. With reference to any other agency of the Federal Government did any other agency of the Federal Government communicate with you that there was a risk on this particular date, on February 24th, to fly?

Mr. BASULTO. No, sir. Absolutely not.

Mr. MENENDEZ. Has any agency of the Federal Government prior to February 24th communicated with you as the president of Brothers to the Rescue that your flights are a risk in the context of flying anywhere near the 24th parallel? Not necessarily February 24th, at any other time.

Mr. BASULTO. Perhaps in conversation with the FAA at the times that the flotillas took place, I would have been given such type of conversation, but not the State Department. Actually, and when the flotillas took place, we informed them of our participation in

them. So it was our initiation of the communications which took place.

Mr. MENENDEZ. Now, when you make a statement that government authorities prepared an unusually elaborate plan to follow, monitor and document the Brothers February 24th flight including alerting several radar facilities from the U.S. Air Force and Customs listening to and recording the communications of the aircraft involved, how are you aware of that?

Mr. BASULTO. I was not until I read the ICAO report, pages 50 and 51. That gives you a full description of all the preparations made by the U.S. Government to monitor, follow, track, document and just watch what happened that day.

Mr. MENENDEZ. So your statements on page two, No. 2, derive from pages 50 and 51 of ICAO.

Mr. BASULTO. That is correct, sir. It is in the handout I passed to you.

Mr. MENENDEZ. Last, you have made the statement that it is standard operating procedure for the U.S. Air Force to scramble, and take off, when they view Cuban MiGs take off from Cuba and fly in Cuban air space or international.

Mr. BASULTO. No, actually that statement was made by Jeffrey Houlihan who as an expert witness testified at my hearings under oath that such is the process from his experience. That once a Cuban MiG crosses a line that goes pretty close to the AQ180s and they are almost coincidental in location. And it is on the radar screen of the radar operators. Once a MiG crosses that line northerly, U.S. MiGs should be or would be scrambled. I am not privy of that standard operating procedure. However, that also came from the hearing for my license.

I want to mention also at this time that in 1991 at the very beginning of Brothers to the Rescue, and I have written testimony, actual written documentation of this. The first time that we ever saw a MiG, the U.S. Air Force responded positively by sending, I believe at the time it was Phantoms, F-4s, and the Cuban MiGs left.

Mr. MENENDEZ. My last question, have in the many flights that the Brothers have taken, have they been pursued or in any way engaged by Cuban MiGs before and if so what has been the response of the U.S. Government at those times?

Mr. BASULTO. As I said, the first time that this took place was in 1991 at the very beginning of Brothers to the Rescue. We had no procedures. It was the very beginning of our operation. It was a young Argentinean pilot flying the mission that day and another Cuban American pilot on another aircraft.

A MiG showed up and the first I knew of it I got a phone call at home from the FAA telling me that there were MiGs around the mission of Brothers to the Rescue that were at that time engaging on the recovery of a raft. They were on top of a raft waiting for the U.S. Coast Guard to show up. And they communicated with us. They communicated with the airplanes. I have the records of that. I can produce them the next time. And the U.S. Air Force sent an interceptor or two interceptors, I am not sure, and the Cuban MiG left.

Mr. MENENDEZ. So you received that phone call from the FAA you say?

Mr. BASULTO. Yes, my conversation was with the FAA, but there were other communications involved. That triggered a whole procedure by which the following 2 days was elaborated. I had a meeting with several agencies of the U.S. Government at the flight service station at the Miami Airport and there I was told and I remember the name of the lady that was the head of the group there, Marianne Warzinski I think. I have her card too. She has retired since.

That a procedure she said had been elaborated so that Brothers to the Rescue could continue its mission safely. And that would involve our always using our transponder with a discrete transponder code, namely we would be in each of our missions, each of our aircraft, assigned a discrete code to respond to the radar of Cuba and the U.S. our position, our unique position, at all times. So that we could not be confused with anything else other than what we were.

So every time that we go out in a Brothers to the Rescue flight, we carry this red light, if you may, on top of us which is read by the radars and they know exactly where we are at all times. We were also asked to communicate upon crossing parallel 24 to the south with the Cuban authorities and advise them that we were coming in, in our mission and let them know what our purpose area and time in the area was going to be.

This procedure was observed on the 24th of February. It is included in the communications of the tape that was almost taken away from me by Customs that day. That communications included my call to Havana advising them that I was north of the city and I said to them politely that the city looked very nice and that we wished them a good day from Brothers to the Rescue. After that they started shooting at us.

Mr. MENENDEZ. After 1991, that first incident that you related and before February 24th of this year, were there any other incidents with Cuban MiGs?

Mr. BASULTO. We have seen Cuban MiGs. I personally have seen Cuban MiGs. I think I have seen them three times myself. I think in the history of Brothers to the Rescue, there have been like maybe five to six times where such incidents have taken place in 5, almost 6 years of Brothers to the Rescue.

Mr. MENENDEZ. And what has been the U.S. response each time?

Mr. BASULTO. The other times have not been in any way threatening. We just saw them. They came by and left. One time they were threatening, but it was actually to intimidate. Again, it was another of the young Argentineans flying, a brother of the first one that I mentioned before, Alberto Aras is his name, together with another Argentinean who was flying for Brothers to the Rescue whose name is Ivan Lowanowitz. They both saw a MiG that came within 50 of their airplane circle about the airplane and then stayed next to their plane. They said that the pilot laughed. I do not know how they could, you know, but that is what they said.

Mr. MENENDEZ. My concern, why I asked you this line of questioning, if there have been other occasions and if there was also no response on those other occasions, why has the concern not been

raised before? I mean, obviously this time produced deadly action. But before when Cuban MiGs scrambled and were clearly within your view, why have we not had concerns raised before?

Mr. BASULTO. We raised the concerns and it was also widely publicized. Each one of those incidents was taken by the press. So I believe that the United States was taken proper action to it. Somehow it was always our belief that the United States kept telephone communications with Cuba for situations like this where they could at a moment's time realize what was going on.

Mr. MENENDEZ. But on those occasions, Cuban MiGs scrambled. They were in your view. But the U.S. Air Force did not take off.

Mr. BASULTO. Only the first time I know for sure that they took off. The other times I presume that it was handled via communications.

Mr. MENENDEZ. Thank you, very much.

Mr. BASULTO. Thank you, sir.

Mr. BURTON. Ms. Ros-Lehtinen.

Ms. ROS-LEHTINEN. Thank you so much, Mr. Chairman. I am going to cover more of the same ground, but just to have it very clearly established in the record so I will go over a lot of the similar questions.

You had been notified in the past, Mr. Basulto, by U.S. officials of problem days, MiGs in the area, potential hazards, is that true?

Mr. BASULTO. Yes.

Ms. ROS-LEHTINEN. How many occasions and by whom were you notified and what procedures did they use?

Mr. BASULTO. OK. An exact number I cannot tell you. But I can find out for you. I am going to call a reunion, a meeting of our pilots and gather all that information for you.

Ms. ROS-LEHTINEN. Did you say one?

Mr. BASULTO. I personally have been notified once of such occurrence. That was that first flight when things happened. Oh, no. Wait. A second time. I remember now the day that Orestes Lorenzo flew into Cuba, we were called. And I am not trying to tie one thing with the other. That is how I remember the time it was. It was about 3 years ago. We were called on the air. We had five aircraft in the air. I was flying that day and we received a call to land. And we, of course, did land. We went back. We landed in Key West and found out there that the U.S. radar had seen MiGs flying overhead, the Brothers to the Rescue, and then we had been called to return to base.

Ms. ROS-LEHTINEN. So you said that you were flying. Who was the one who gave you that signal? It was a radio call?

Mr. BASULTO. A radio call, yes.

Ms. ROS-LEHTINEN. By a U.S. official.

Mr. BASULTO. I think so. I do not recall exactly. I think it was one of the other planes. I was not the radio operator that day. But I can find out for you who received the call.

Ms. ROS-LEHTINEN. And other pilots in your organization might have received similar types of notifications at other times.

Mr. BASULTO. Correct. I remember that time because I was flying that day when that happened.

Ms. ROS-LEHTINEN. And you might get back to our subcommittee to give us the details as far as they can remember the dates and



the circumstances by which they were notified and which officials they were. And upon getting that notification and the incidence that you just brought up, your response was to continue with your flight or come back?

Mr. BASULTO. No, we returned. We returned.

Ms. ROS-LEHTINEN. So those were notifications that you took seriously.

Mr. BASULTO. Correct.

Ms. ROS-LEHTINEN. And you acted——

Mr. BASULTO. Upon them.

Ms. ROS-LEHTINEN [continuing]. in order to save human life by coming back to the United States.

Mr. BASULTO. Correct.

Ms. ROS-LEHTINEN. Should you have been notified by these various U.S. officials who were monitoring and tracking your flights on February 24th of the presence of the MiGs?

Mr. BASULTO. I believe we should have been notified. I believe if they had the idea and this is something which I believe happened, that Brothers to the Rescue was going to participate in some sort of, call it political statement, pro Democracy demonstration, which is what we do. This is the offense we do to the Castro Government. If they had the idea that we were going to do something to that respect and they knew that the Cuban Government knew about it, I believe that it would have been honest for them to let us know that we were under an unusual danger.

Ms. ROS-LEHTINEN. And if you had been notified on February 24th, what do you think your response might have been?

Mr. BASULTO. My response would have been very simple. Let us take the day off.

Ms. ROS-LEHTINEN. Do you think that those four deaths could have been prevented?

Mr. BASULTO. I believe so.

Ms. ROS-LEHTINEN. By what action on the U.S. part?

Mr. BASULTO. A simple telephone call.

Ms. ROS-LEHTINEN. From whom to whom?

Mr. BASULTO. Anybody. Anybody that knew about it. the FBI was involved. The FBI was dealing with an agent from Cuba. That agent from Cuba was feeding information both to the FBI and Cuba. Perhaps the agent got too much credibility from both sides and a certain scenario came out of it that both sides decided to act against us. I do not know. That is what I am here for.

Ms. ROS-LEHTINEN. The issue of the coverup, Mr. Basulto, and that you were given access to two of the four tracks of the tape, what do you think is on those two tracks?

Mr. BASULTO. Possibly communications through land lines, perhaps even communications with Cuba. Who knows? Anything can be there that is definitely related to what was happening.

Ms. ROS-LEHTINEN. And you have tried to get those tapes.

Mr. BASULTO. Yes, but we have given up on that already. It took us a judge to get the capability to get them and the alternative was that the judge was going to drop the charges on my revocation of license. And that revocation of license again turned out to be something very important for the Administration. They wanted my license revoked. There are political reasons behind that. I question

what they are. I do not know either. But it was important enough that they were willing to let us listen to those tapes even though they told them that they were of the highest top security and so forth, just not to lose sight of the legal process and have my license revoked.

Ms. ROS-LEHTINEN. We have Mr. Houlihan who is here already and after this hearing as you know we will be speaking to him. It has been requested to be a closed hearing. It is not the subcommittee's request, but rather the official's request. Why do you think that that is being done, Mr. Basulto? Why do you think Mr. Houlihan even though he has already testified under oath in a Federal court as to what he knew and when he knew it, why do you think that—

Mr. BASULTO. Very simple.

Ms. ROS-LEHTINEN [continuing]. whatever official is involved has requested this to be—

Mr. BASULTO. We were limited in the scope of questions we were able to ask Mr. Houlihan and the others from the government—

Ms. ROS-LEHTINEN. If you were to not have that limitation, and I am just rushing you because we are short of time, if you were not to have that limitation and you were us, what would you suggest that we ask Mr. Houlihan?

Mr. BASULTO. I would ask him several things and I am sure a great deal of them he does not know the answer.

Ms. ROS-LEHTINEN. Can you give me some of the questions?

Mr. BASULTO. Yes.

Ms. ROS-LEHTINEN. I am sure that he is listening. Or his superiors are.

Mr. BASULTO. The one that he might know the answer if he stayed there after the shutdown of the second airplane to watch, I would like to know what did those MiGs do at 3:55 p.m. at the time that we were stating that they were behind me, according to what we have just shown you.

If he saw them there in the radar, if it is possible that somehow his radar or the information he was receiving could have been blocked out because there was somebody perhaps controlling that information in Key West.

The information came out from a balloon that was raised specifically for the purpose of monitoring Brothers to the Rescue flight that day. The balloon that is called Fat Albert in Kudjo Key.

So it is very easy to have somebody manipulate that information from there. I would like to ask him if it is possible that those MiGs were there and he will know it. And I would like to ask him also if he saw the MiGs. And the other questions that I have are I believe have to go a lot higher than that.

Ms. ROS-LEHTINEN. If you were to put forth the agenda for the hearing and you would like individuals to answer questions, who would you invite from the U.S. Government agencies to answer?

Mr. BASULTO. I would be calling people from the White House. I would be calling from the National Security Council. I would be calling people from the State Department because I believe what happened there was a political decision.

Ms. ROS-LEHTINEN. Thank you, Mr. Basulto.

Mr. BASULTO. Thank you.

Mr. BURTON. Mr. Diaz-Balart.

Mr. DIAZ-BALART. Ms. Ros-Lehtinen, you were onto something right there at the end with regard to something that you had asked Mr. Houlihan. It had to do, I think, something with how would he not be able to know? If he says he does not know—

Mr. BASULTO. He does not know who made the decision not to send the F-16s. He does not know who made the decision to stop or bypass the standard operating procedure. He just takes orders.

Mr. DIAZ-BALART. Sure.

Mr. BASULTO. He is a peon.

Mr. DIAZ-BALART. To your knowledge then what he was doing, he was watching the MiGs until what time does he say that he saw the MiGs?

Mr. BASULTO. I believe he said to me that he had been watching up until the second MiG shutdown, I am sorry, the second Brothers to the Rescue aircraft was shot down and he got involved in that and he did not pay—you better ask him this because my memory goes a little bit blurry on that, that he did not follow the progress of November 2506 all the way back to its base.

Remember that two other MiGs took off from another location in pursuit of November 2506. These were not the first two MiGs. Had the first two gone in pursuit of November 2506, I would probably have been shot down.

Mr. DIAZ-BALART. And did he say that he had seen two other MiGs take off?

Mr. BASULTO. I do not recall. I know that we have the information that two other MiGs took off and there is kind of a, and I will call it for its name, a coverup in statement made and it is in the ICAO report. And with our conversations with the ICAO investigators recently, we asked about the explanation that is in the ICAO report on the persecution that took place of an airplane that never existed. And they answered to us that, yes, that was a loose end on the ICAO report, but since that plane was never shot down, they just had to leave it there. They just had to act upon information that was given to them by both the Cuban Government and the U.S. Government.

Mr. DIAZ-BALART. OK. Nothing else that comes to mind that you would ask Mr. Houlihan?

Mr. BASULTO. No, but I would certainly thank him for being an honest man, for having said the truth as he saw it. Perhaps thanks to him we are able to have this hearing today because he has given a great deal of information we needed to find the truth and perhaps seek justice.

Mr. DIAZ-BALART. Well, I will and we thank you as well. Thank you.

Mr. BURTON. Let me ask one final question. Mr. Houlihan was obviously watching radar and he could see when those MiGs took off. Could he tell, from his vantage point, using the radar at his disposal, how far north those MiGs came?

Mr. BASULTO. Well, first of all, I believe Mr. Houlihan is the supervisor of the station and he was controlling several stations. He was called by one of his operators.

Mr. DIAZ-BALART. OK. Well, let me put it to you this way. Would the operator that gave him the information have been able to pinpoint how far north those aircraft came?

Mr. BASULTO. Probably, yes.

Mr. DIAZ-BALART. OK. I just want to note to ask him that question. I want to thank you very much for being so patient. The only reason we have to rush is we have to go in and talk to him. But we appreciate your patience and your testimony and we promise you we will pursue this.

Mr. BASULTO. And we thank you very much, sir. Thank you. You have done a wonderful job.

Mr. BURTON. Thank you. The official hearing is hereby adjourned and we will go to the anteroom for the closed door testimony.

[Whereupon, at 4:58 p.m., the subcommittee was adjourned to reconvene at the call of the Chair.]





# APPENDIX

**Testimony of Jose Basulto, President of Brothers to the Rescue  
before the Subcommittee on the Western Hemisphere  
September 18, 1996**

Brothers to the Rescue, Inc. is a not-for profit, humanitarian organization, founded in 1991 in response to the number of deaths of Cuban rafters trying to flee the island in search of freedom. It is a volunteer pilots group from 17 different nationalities, funded by voluntary private contributions. To date, Brothers to the Rescue has conducted 1,840 search and rescue missions over the Straits of Florida, resulting in over 4,000 lives saved before the refugee crisis of 1994.

On February 24th of this year, two U.S., unarmed, civilian Brothers to the Rescue (*BTTR*) aircraft, conducting a humanitarian search and rescue mission over international waters, were shot down by Cuban MiGs. This terrorist-like attack resulted in the death of three U.S. citizens and a legal U.S. resident. A third *BTTR* aircraft which I was piloting, managed to escape although it was pursued by an additional pair of MiGs to within three minutes of the United States. Recent findings clearly show that this assassination and the threat posed by the MiGs to U.S. security interests could easily have been prevented by the United States.

Our testimony today before this Congressional Committee, is based upon sources which include:

- 1) Sworn U.S. court testimony by U.S. officials.
- 2) Access to the audio recordings of the conversations between the MiGs pilots and their Cuban controllers.
- 3) The report by the International Civil Aviation Organization (ICAO).
- 4) Expert witnesses that have confirmed that U.S. government authorities at a minimum, willfully chose not to act to protect the lives and planes on that fateful mission.

We are convinced that if you review all of the foregoing evidence, you will come to the same conclusions:

- 1) U.S. government authorities were aware of the especially dangerous conditions which threatened our humanitarian mission on February 24 and that MiGs were in the air that morning. Contrary to previous instances, this information was not shared with BTTR. (ICAO report pages 50 & 51).
- 2) U.S. government authorities prepared an unusually elaborate plan to follow, monitor and document BTTR's February 24 flight, which included, to our knowledge:
  - a) Alerting several radar facilities from the U.S. Air Force and Customs.
  - b) Listening to and recording the communications of all the aircraft involved.
  - c) FAA Control Tower's report of the departure of our flight as well as radar tracking. Yet, the usual "ramp check" inspection performed by FAA prior to the departure of BTTR flights was strangely omitted that day.
- 3) U.S. government authorities proceeded passively then, to watch and listen, in silence, for fifty-three minutes, while Cuban MiGs hunted two BTTR planes, killed their four occupants, and chased the third plane to within three minutes of the United States.
- 4) The U.S. Air Force ignored the equivalent of a 911 call made to them by Major Jeffrey Houlihan, from March Air Force Base, in an attempt to save the lives of the BTTR pilots. The U.S. Air Force abandoned its standard operating procedure, to dispatch interceptors, upon the MiGs crossing the twelve mile territorial limit of the island of Cuba. Major Houlihan gave sworn testimony as to the existence of this standard operating procedure and trigger line.
- 5) U.S. authorities (Air Force, Customs and FAA) also abandoned their practice of communicating with BTTR planes in the air via radio, or with BTTR operations base in Opa Locka airport, to issue a warning as it had done on multiple occasions in the past. (Pilots testimony is available). On every occasion, when warned of MiGs in the air, BTTR has immediately returned to base.

- 6) After the incident, U.S. government authorities fabricated a favorable scenario that would cover up their inaction and share of responsibility. Among the several actions taken, we experienced:
- a) An attempt by a Customs official to seize by force and deception a tape recording of the radio communications between BTTR and Havana Tower during the mission.
  - b) Disavow any knowledge of MiGs in pursuit of the third BTTR aircraft north of the 24th parallel. (The MiG pilots communications to their ground controllers indicate otherwise).
  - c) The State Department refused to appear for deposition although properly subpoenaed by the Administrative Law Judge of the National Transportation Safety Board (NTSB).
  - d) Resist the Judge's petition to produce in court the recordings of the radio communications of the MiG pilots and their controllers, already heard by ICAO investigators, and partially released to the United Nations. When finally obtained, these recordings provided BTTR with evidence that the MiGs pursued the last remaining BTTR aircraft above the 24th parallel and to within three minutes of the U.S.
  - e) When we were finally allowed to hear the tapes, we were given access to only two of the four tracks of the tapes. The other two, probably pertinent land-line communications, have not yet been released despite repeated requests by BTTR attorneys.
  - f) By allowing the MiGs to come within such close proximity to the U.S., American security interests were put at risk.

Brigadier General Howard G. DeWolf, Director of Inter-American Region, USAF, stated in his letter to Congressman Dan Burton that the Department of Defense does not regularly monitor the flights of civilian aircraft. Yet, on the 24th of February, the State Department specifically requested four U.S. radar tracking stations from Customs and the USAF to monitor the actions of BTTR.

*BTTR* believes that Juan Pablo Roque, a Cuban intelligence agent doubling as an FBI informant and occasional *BTTR* pilot, was instrumental in the perception created in Cuba and the U.S. that our organization was planning a pro-democracy demonstration for that February 24th. The result was a premeditated ambush to kill from Cuba, and a complete U.S. intelligence operative which watched and documented the events as they unfolded, but made no attempt to prevent the loss of life. *BTTR* therefore, not only accuses and condemns Fidel Castro and the Cuban air force of murdering U.S. citizens, but also critically questions the rationale, purpose, and intentions behind the U.S. government's conduct and inaction on February 24th.

Today we are providing this Committee with the necessary evidence and testimonies to support our findings, and respectfully request that a full investigation be carried out and that the responsible parties be held accountable.

We also want to thank the Committee for granting Brothers to the Rescue the opportunity to avail itself of this important mechanism of our free and democratic society which we trust will address the concerns we bring before you.



## OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE

2400 DEFENSE PENTAGON  
WASHINGTON, D.C. 20301-2400

September 5, 1996

Honorable Dan Burton  
House of Representatives  
2240 Rayburn Building  
Washington, D.C. 20515-0918

Dear Congressman Burton:

I am responding to your letter of August 1, 1996 to Secretary Perry. We have thoroughly looked into the recent allegations made by Mr. Basulto concerning events that transpired on February 24, 1996 related to the shootdown of two Brothers to the Rescue (BTTR) planes by Cuban MiGs. Our review of events has concluded that at no time was the sovereignty of the United States threatened and our personnel acted properly at all times.

Department of Defense radars do not routinely and systematically track civilian U.S. aircraft operating in international airspace. Our air defense personnel were informed by a Customs radar operator of the MiGs closing on slower aircraft and replied that they also had the aircraft on their radars. However, neither party knew that the two slow-moving aircraft were the BTTR aircraft nor were they aware of the Cuban Government's intentions. The aircraft were operating in a well defined Cuban Air Defense Identification Zone (ADIZ). Under those circumstances, it would not have been improper for the Cuban MiGs to carry out a legitimate aircraft identification mission. However, our personnel were not in a position to have anticipated the unwarranted shooting down of the BTTR aircraft.

The northern boundary of the Cuban ADIZ is the southern boundary of our ADIZ. This boundary has been honored by both the United States and Cuba for many years. Records are not kept on information which would directly answer your question about the reactions of airborne Cuban MiGs operating within their ADIZ to the launch of U.S. military aircraft.





The United States had two aircraft on a heightened state of alert to respond to the Cuban MiGs should they have crossed the 24th Parallel, which they did not. In fact, our radars indicated that no Cuban MiGs approached the 24th parallel (the southern boundary of our ADIZ), or United States airspace. As you may be aware from the ICAO report, our radar data show that the last pair of MiGs came no closer than 40 nautical miles from the remaining BTTR aircraft.

While there is no excuse for Cuba's actions in the downing of civilian aircraft, it is also important to state that Mr. Basulto had been warned on several occasions by the United States Government as to the dangers inherent in flying in Cuban airspace or in their ADIZ. I trust the above addresses your concerns.

Sincerely,



Howard G. DeWolf  
Brigadier General, USAF  
Director, Inter-American Region

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INSERT FOR THE RECORD

HOUSE INTERNATIONAL RELATIONS COMMITTEE  
WESTERN HEMISPHERE SUBCOMMITTEE  
18 SEPTEMBER 1996

1. Why did the Air Force dismiss the call from the Customs official in California of the presence of Cuban MIGs?

The Southeast Air Defense Sector (SEADS) did not dismiss the call from the Customs official. SEADS personnel were already totally focused on the situation and closely monitoring the flight of the MIG to ensure it did not become a threat to North American sovereignty. On several occasions prior to 24 Feb 96 the SEADS personnel had witnessed Cuban MIGs intercepting BTTR aircraft in the Cuban internationally recognized ADIZ and perform legal non-hostile identification of aircraft flying towards their sovereign airspace. Neither the SEADS personnel nor anyone else in the NORAD organization had any knowledge of Cuban hostile intent on 24 Feb 96. A call between SEADS and DAICC (Customs) was not unusual since coordination occurs many times each day to ensure proper identification and tracking of targets of interest to the counterdrug traffic mission of Customs and the air sovereignty mission of NORAD. SEADS had been monitoring this MIG radar track much earlier than customs through intelligence cueing. There was nothing in this telephone call that would cause SEADS to change its standard response to MIG activity.

2. Why did the Air Force not inform the Brothers to the Rescue (BTTR) of the presence of Cuban MIGs even after they knew that the Brothers flight plan would take them close to them?

NORAD/SEADS had no knowledge of Cuban hostile intent on 24 Feb 96. Cuba has established a precedent for flying north of the island without incident, and had previously intercepted BTTR aircraft in accordance with ICAO guidelines. NORAD/SEADS has never provided warning of MIGs airborne north of Cuba on any prior occasion when BTTR aircraft were in the same vicinity of the MIGs.

3. Why was no action taken to intercept Cuban MIGs pursuing the BTTR aircraft before two of the planes were shot down?

The BTTR aircraft were operating inside the Cuban Air Defense Identification Zone (ADIZ) which extends to the 24th parallel. In fact, at the time of the intercept, some BTTR aircraft were within 10 nm of Cuban Sovereign airspace. As such, BTTR aircraft were subject to intercept for identification, escort, or monitoring in accordance with accepted international procedures. NORAD/SEADS uses these same ADIZ procedures north of the 24th latitude to identify unknown/nonflight plan aircraft entering the US ADIZ. Again, at no time prior to the first shoot down was there any indication of hostile intent.

4. Why was there no interception of the MIGs which pursued Mr. Basulto's aircraft within three minutes of the US shores?

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MIGs did not pursue Mr. Basulto "within three minutes of the US shores." After the shoot down of the two BTTR aircraft the only two MIGs airborne immediately turned south and flew directly back to Cuba. As Mr. Basulto was headed north, another flight of two MIGs took off from the same Cuban airfield and orbited between 15 and 23 nm north of Cuba. This second pair of MIGs came no closer than 48.1 nm to Mr. Basulto. They also came no closer than 60.9 nm to Key West and were never a threat to the air sovereignty of the US nor were they a threat to the fleeing BTTR aircraft. Radar plots provide unequivocal proof. By using the radio conversation which includes times, specific ground reference and controller directions, we have plotted the position of the MIGs. The accuracy of the radar plots was confirmed. Mr. Basulto was never threatened post shoot-down, nor was US sovereign airspace.

5. Why were no US aircraft sent to protect the planes on February 24th?

Neither NORAD or USACOM have an assigned daily mission to protect US civil aircraft in international airspace. Therefore, there are no forces in place to accomplish this mission. Under CJCS Standing Rules of Engagement (ROE) commanders may intercede when excessive or disproportionate force is applied only on witnessing a hostile act or hostile intent. On February 24th, the evidence of a hostile act or hostile intent through intelligence sources did not occur until just prior to the second BTTR aircraft being shot down. Due to the distance to the point where B 1 TR aircraft were attacked and the short time preceding the second shoot down, no US military resources were in a position to respond. There was not a threat to the surviving BTTR aircraft after the SEADS received knowledge of the two shoot downs.

6. Could the murders have been prevented?

If the lead BTTR aircraft had heeded the warning call from Havana, which he acknowledged, the shoot down would not have occurred. Without prior knowledge of hostile intent and without an assigned civilian force protection mission the military could not have prevented the shoot down of BTTR aircraft.

7. What is US policy with respect to Cuban MIGs approaching US airspace? Also, question 30: What is the standard operating procedure for Cuban MIGs approaching US airspace? Please be specific.

Cuban MIGs flying north of Cuba conducting routine operations do not necessarily trigger scramble of US fighter aircraft. A specific set of criteria and procedures are in place to execute the air sovereignty mission should this criteria be met.

8. Did anyone in the US military seek authorization at any time on February 24th to launch planes to defend the BTTR?

No one asked for authorization to launch planes to defend BTTR because there was no requirement for special authorization. SEADS has full authority to launch fighters to intercept unknown targets that threaten US sovereign airspace. SEADS was in contact with NORAD during the ongoing incident in international airspace to keep the headquarters informed. At the point that SEADS determined a hostile act had occurred, the remaining BTTR aircraft had separated from danger, the MIGs had established an orbit near the Cuban coast, and any requirement for an immediate scramble was over.

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9. Did anyone in the Air Force seek authorization to take off and defend the American citizens and intercept the Cuban planes?

No. NORAD/SEADS had the best picture of the events on February 24th (see question 8). Again, by the time it was determined that a threat existed, the opportunity to intervene on behalf of the BTTR aircraft had passed.

10. What is our policy with respect to Cuban planes approaching our airspace in the future?

Our policy for protecting US airspace remains unchanged. Any unknown/nonflight plan aircraft entering the ADIZ will be intercepted, identified, and escorted or monitored as appropriate.

11. Does DoD have a plan to respond to threats from Cuban Aircraft approaching our airspace?

Yes. NORAD has the peacetime responsibility for the air sovereignty of North American airspace. Unknown/nonflight plan aircraft entering the ADIZ will be intercepted for identified, and escorted or monitored as appropriate. That plan was executed properly on 24 February, and no Cuban aircraft threatened our airspace.

12. Who was contacted by the Customs people at Tyndall? Also, (13), who is the Senior Director Technician at the air defense facility at Tyndall?

A review of the Customs telephone transcript indicates the call was taken by the Senior Director Technician, who routinely handles assignment of target symbology, FAA coordination, or other telephone coordination; coordination with Customs is a routine function. We do not know which SD Technician took the call. Transcript review indicates the conversation was a routine coordination of radar track activity to ensure SEADS was tracking the specific target. SEADS knew that BTTR was flying; further, they were actively responding in accordance with established procedures to the MIG activity.

13. Was the US Government aware of especially dangerous conditions which threatened the safety of the BTTR mission February 24th?

No. The Cubans had stated in open press that they would protect their sovereign airspace, but those warnings had followed other BTTR violations of Cuban airspace. There was no forewarning of Cuban intent to shoot down BTTR aircraft on February 24. Cuban MIGs were known to fly in their Air Defense Identification Zone (ADIZ) which extends north to the 24th parallel. In addition, Cuban MIGs often have intercepted BTTR aircraft in the past and employed internationally accepted interception procedures; they had established a well known precedent of intercepting BTTR aircraft without incident.

14. Were you aware the MIGs were in the air that morning and that this information was not shared with BTTR?

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Yes to both questions. NORAD/SEADS was aware that Cuban MIGs had flown in the morning. The flight was north of the island, slightly west of Havana. Other agencies such as CARIBROC, Customs and FAA that feed off of the same radar sensor may also have known that the MIGs flew that morning. NORAD/SEADS has never shared information with BTTR aircraft concerning routine MIG flying activities on any prior occasion. NORAD/SEADS did not have any knowledge of Cuban hostile intent which would warrant notification to the BTTR.

15. Is it customary to provide information that might be considered unusual with the BTTR concerning their Flight?

No. The BTTR flights are conducted under the purview of the FAA and ICAO agreements. NORAD/SEADS would normally have no dialogue with BTTR.

16. Would the Air Force normally share such information with the BTTR?

If the Air Force had clear information that US lives were at risk, we would certainly make every effort to warn and protect our citizens. On the day of the shoot down, there was no "unusual information" (i.e., an indication that US lives were in jeopardy) until the time of the first shoot down. There was no unusual information to share.

17. On February 24, was there an elaborate plan implemented by the Air Force or other US government agencies to follow or track by radar the BTTR planes?

There was no "elaborate plan" known to NORAD/SEADS. The NORAD/SEADS tracking of the BTTR aircraft on February 24 used standard procedures which would be used for any flights of special interest. The FAA alerted Customs (DAICC), 1st Air Force (SEADS) and CARIBROC that the BTTR would be flying in the Florida Straits. They specifically requested support from Customs in recording scope data on the BTTR aircraft on 24 Feb 96 based upon the need to gather supporting information on BTTR violations. In response to this expressed interest, SEADS also took steps to record their data.

18. Did US government authorities passively watch and listen in silence for 53 minutes while Cuban MIGs hunted the BTTR planes, killed their occupants and chased me third plane to within 3 minutes of the United States?

No. NORAD/SEADS was actively involved in monitoring the events of 24 February using standard operating procedures as outlined for questions 7 and 30. The BTTR aircraft were operating within the confines of the Cuban ADIZ, and Cuban forces had a legitimate right to intercept them in accordance with established international rules. The Cubans had demonstrated no hostile intent in the process of intercepting unknown tracks in the past, so there was no hostile intent evident until 1521L, the time of the first shoot down. By the time SEADS obtained unambiguous confirmation that a shoot down had actually taken place (1525L) and accomplished coordination with NORAD headquarters, the second shoot down had already taken place (1528L) and the MIGs had disengaged to the south (1530L). The radar data does not support the claim that one MIG chased the remaining BTTR aircraft to "within three minutes of the United States." On the contrary, the data shows no MIG came close to the 24th parallel, much less to US sovereign airspace. A plot of the ground track of the last flight of MIGs based on the radio transmission between the pilots, ground control and SAR helicopter verifies the radar data.



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19. Did the Cuban MIGs ever penetrate the 24th parallel on February 24th?

No. The closest MIG approach to the 24th parallel during the shoot down was 25.1 nautical miles (NM) south of that latitude. Following the shoot down, a final set of MIGs approached no closer than 23.5 nm to the 24th parallel.

20. Customs official Major Houlihan testifies at a court hearing that on February 24, the Cuban MIGs came out of the ADIZ, were flying in international airspace toward the US and that one of the MIGs was flying directly over the BTTR mission. True?

The MIGs did fly out of their 12 mile territorial limit, but not outside their internationally recognized ADIZ (which extends north to the 24th parallel) and fly toward the BTTR aircraft. This is accepted air defense procedures if attempting to intercept, identify, and escort or monitor unknown aircraft entering a nation's ADIZ. NORAD/SEADS had no knowledge of Cuban intentions to shoot down BTTR aircraft on February 24th.

21. According to this transcript, Major Houlihan asked the Senior Defense Official at Tyndall whether he could see the BTTR planes and that the official at the base responded affirmatively and that it was being handled. True?

Transcripts from Customs indicate that the call took place. The official that received the call was not the senior defense official at SEADS. The Senior Director Technician could not remember the phone call; from a SEADS perspective the phone call was no more than normal communication between SEADS and any other organization in the process of monitoring radar tracks. Customs and SEADS share the same radar feeds and often are involved in operational coordination.

22. The above statements made by Major Houlihan appear to contradict DoD's letter signed by General DeWolf which states that neither our air defense personnel or Customs "...knew that the two slow-moving aircraft were BTTR aircraft or were aware of the Cuban Government intention." Can you reconcile these contradictory statements.?

The first part of the quoted statement was inaccurate and led to misunderstandings. Clearly, both Customs and the air defense system knew the position and the identity of the BTTR aircraft. The second part of the sentence is correct... neither Customs nor SEADS had any prior notification or knowledge of Cuban intent. A more thorough review of the incident should have occurred to provide an unambiguous response however, it was not intended to be misleading or untruthful.

23. Had US government authorities contacted the BTTR on other occasions to warn them about the risks of flying into Cuban airspace?

**OTHER AGENCY RESPONSE REQUIRED.**

Was an attempt made to warn them prior to the February 24th incident?

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The only NORAD/SEADS contact with BTTR in the last three years was to obtain flight plan information. Since BTTR operates under the rules and regulations of the FAA and ICAO, NORAD would have had no part in warning them about the risks of flying in Cuban airspace. The governing body for civil flying resides within the FAA. At no time did NORAD/SEADS provide a warning.

24. After Cuban officials complained to me State Department of alleged violations of Cuban airspace by BTTR aircraft, were there any changes in the US government response to BTTR aircraft or any of their endeavors as it relates to policy or from a military standpoint?

OTHER AGENCY RESPONSE REQUIRED.

25. Can you provide the details of conversations, and the times and places when Cuban authorities discussed their allegations that the BTTR violated Cuban airspace with US authorities?

OTHER AGENCY RESPONSE REQUIRED.

26. Mr. Basulto contends that the USAF ignored the equivalent of a "911" call from Customs official Houlihan to save the life of the BTTR pilots. Do you agree?

No. That telephone call contained no information which would change SEADS' interpretation of the developing air picture. The decision process by SEADS centered around first identifying the threat of the MIGs to US sovereign airspace and then scrambling if the criteria were met. Since the MIGs did not meet that criteria, there was no scramble. Further, since NORAD/SEADS had no specific knowledge of Cuban hostile intent until the first shoot down, there was no reason to scramble based on a threat to BTTR. At the time Mr. Houlihan called, the air picture was assessed by SEADS to be very similar to other times when the Cuban MIGs have intercepted the BTTR aircraft. SEADS did not perceive a "911" situation, so they did not interpret the call in those terms.

27. Did the USAF abandon its standard operating procedures to dispatch interceptors upon the MIGs crossing the 12-mile territorial limit of Cuba? Was our standard operating procedure changed for February 24th and was it changed after our discussions with Cuban officials?

No. NORAD/SEADS followed standard procedures on 24 February. As discussed, NORAD does not routinely scramble aircraft in response to MIGs operating north of Cuba. These procedures were not changed on 24 February for any reasons.

28. Did we ever send signals to Cuban authorities that the US would not intervene in the event of an attack on BTTR aircraft?

OTHER AGENCY RESPONSE REQUIRED.

29. In the secret March 2nd meeting with Cuban authorities did we seek to establish mutually agreed upon positions as to the events of February 24th?

OTHER AGENCY RESPONSE REQUIRED.

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30. Retired Admiral Carrol of the Center for Defense Information contends that he relayed a message for Cuban authorities to US officials that they would shoot down aircraft violating their airspace. After the meeting with Admiral Carroll, did we warn the Cubans not to take such action?

OTHER AGENCY RESPONSE REQUIRED.

31. What is the standard operation procedure for Cuban MIGs approaching US airspace. Please be specific.

See Question #7.

32. Is it unusual to see Cuban MIGs operating north, outside the 12 mile territorial limit of Cuba? and do we scramble planes when they do so?

No, it is not unusual to see Cuban MIGs operating north of the island, outside the territorial limit, but inside the Cuban ADIZ.

33. On February 24th, what was the status of the F-15s at Homestead? Were they ready to launch? Were they told to stand down?

At no time based upon NORAD scramble criteria did the position of the Cuban MIGs dictate a scramble. The F-15s at Homestead remained in a position to launch within five minutes throughout the entire sequence of the BTTR shoot down. Owing to communication mix-up between Cheyenne Mountain and SEADS, Homestead was told to stand down from battle stations for 15 minutes, between 1520L and 1535L, the period that included both shoot downs. CINCINORAD directed to Cheyenne Mountain that our alert aircraft should understand the Rules of Engagement and that we were not to be provocative. This direction occurred before the CINC was briefed that the MIGs were airborne. That direction was interpreted by a NORAD duty officer that the fighters at Homestead should come off battle station, which was neither the direction or intent. By the time the SEADS commander clarified the situation and placed the fighters back on battle stations, the engagement had already been terminated. This command and control breakdown resulted in alert fighters on 5-minute airborne response time instead of 2-3 minute response time and did not impact the outcome to the day's events.

34. In previous cases, how did Cuban planes respond to US aircraft being scrambled? Did they retreat? If they did, is it logical to assume that they would have retreated on February 24th had we scrambled US fighters?

In general, when US fighters have been scrambled, Cuban fighters have avoided confrontation with US fighters by moving away from the 24th parallel and closer to Cuba. Since the Cuban fighters were not near the 24th parallel (they were never more than two minutes from their own territorial airspace), it is difficult to speculate what their reaction would have been had we scrambled our fighters as soon as the MIGs approached the BTTR aircraft. Conservatively, it would have taken our fighters 20-25 minutes to reach the site of the first shoot down once the two entities came together on the radar scope. Since that occurred at 1514, the earliest our F-15s could have been in visual range of the MIGs would be 15341539, or at least six minutes after the second shoot down. All this is speculation, however, because our historical

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reference for MIG reaction is a knowledge that the Cubans were attempting to avoid confrontation; in the case of the BTTR shoot down, it became clear for the first time after 1521 that they had hostile intent. It is not logical to assume that they would have retreated.

35. Did the FAA inform me State Department that the BTTR was flying just before or on the day of February 24th? What was the exchange of information with the FAA?

**OTHER AGENCY RESPONSE REQUIRED**

36. After the incident, did Customs attempt to seize, by force or deception, a tape recording of the radio communication of the BTTR and Havana during the mission? Who were the Customs officials who attempted to do so?

**OTHER AGENCY RESPONSE REQUIRED**

37. Please provide copies of the radar prints which show that the Cuban MIGs did not fly above the 24th parallel.

Radar prints provided as supporting documentation to the report.

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QUESTIONS FROM THE WESTERN HEMISPHERE SUBCOMMITTEE HEARINGDEPARTMENT OF STATEQuestion:

Was the U.S. government aware of especially dangerous conditions which threatened the safety of the BTTR mission on February 24th? Were you aware that MIGs were in the air that morning and that this information was not shared with BTTR?

Answer:

Prior to February 24, 1996, the State Department had issued a number of warnings regarding the risks involved with unauthorized entry into Cuban territorial seas or airspace. These were normally made in connection with planned flotillas of privately-owned vessels and aircraft proceeding from Florida towards Cuba. The Department is attaching a summary of many of the actions taken in this regard. A more exhaustive chronology of State Department actions, including classified diplomatic exchanges with the Cuban government, can be made available to read here at the Department.

The Department was unaware of any specific threat to the safety of the BTTR mission on February 24. We knew that the Cuban Government was engaged in an island-wide crackdown on the "Concilio Cubano," a newly-formed umbrella human rights organization. Over 100 members had been arrested or detained by February 24, the date the group had wanted to hold its first public meeting (the GOC denied the request).

The Department was aware of public expressions of support for the Concilio Cubano by the BTTR including the filing of an application with the Department of the Treasury for a license to send financial assistance to the group. On February 23, Miami sources advised the Office of Cuban Affairs of rumors that some Miami-based groups might engage in acts of solidarity in support of the Concilio Cubano on February 24. The State Department had no specific information indicating that the BTTR would fly. Given the above circumstances, however, the State Department (Office of Cuban Affairs-ARA/CCA) contacted the FAA's Office of International Aviation on February 23 to be alert to possible flights which conceivably could be arranged to demonstrate solidarity with the Concilio Cubano. ARA/CCA asked that all appropriate radar assets be in place to track any such flights. CCA explained that this was requested in order to either disprove Cuban allegations of violations of their airspace, or to assist in appropriate law enforcement investigations should any U.S.-registered aircraft violate Cuban airspace.



On the morning of February 24, the Office of Cuban Affairs followed up with FAA to request that the State Department be alerted should any Brothers to the Rescue pilots file flight plans or fly. FAA advised during the morning that six BTTR aircraft had filed flight plans for flights during the morning in international airspace. The Department was alerted by FAA at approximately 13:10 that Cuban military aircraft had reacted to possible unidentified aircraft in or near their airspace. The Cuban aircraft, after patrolling, returned to base without incident. The Department's next involvement on flight issues was when we were alerted in the late afternoon of February 24 that the Cubans had shot down two BTTR aircraft in international airspace. We had no information that BTTR aircraft would fly in the afternoon.

Question:

Had U.S. government authorities contacted the BTR on other occasions to warn them about the risks of flying into Cuban airspace? Was an attempt made to warn them prior to the February 24th incident?

Answer:

The Department of State issued public statements regarding the risks involved of unauthorized entry into Cuban territorial seas or airspace on July 7, 1995, August 8, 1995, August 29, 1995, and October 18, 1995. These announcements coincided with planned flotillas to Cuba but the contents remained valid after the date of issuance. Because the flotillas always left from south Florida, copies of the public announcements were sent to the Miami media to ensure widespread coverage. Starting in August 1995, the announcement specifically drew attention to the public statement issued by the Cuban government on July 14, 1995, that it would take actions necessary to prevent unauthorized incursions into its territorial waters and airspace, including the warning that "any boat from abroad can be sunk and any airplane downed." In addition, the State Department consular information sheet for Cuba, distributed on a worldwide basis, contained warnings against violations of Cuban territorial seas and airspace.

In addition to the above public announcements, senior officials in the State Department's Inter-American Bureau met with flotilla organizers on August 28, 1995. BTR President Jose Basulto attended this meeting where participants were informed of the potentially serious consequences of unauthorized penetrations of Cuban airspace. State Department officials subsequently had additional conversations by phone or in person with Mr. Basulto on August 31, 1995, January 24, 1996, and January 26, 1996, and February 26. There were other contacts after February 24, including a letter to flotilla organizers signed by a senior-level ARA official, again warning "that persons who enter Cuban territory, territorial seas or airspace without authorization from the Cuban Government may be in violation of U.S. and international law and place themselves and others in serious danger".

Question:

Can you provide the details of conversations, and the times and places when Cuban authorities discussed their allegations that the BTTR violated Cuban airspace with U.S. authorities?

Answer:

The Government of Cuba submitted numerous diplomatic notes during the period 1994 - 1996 alleging violations of its airspace by aircraft from the U.S. Some of these notes mention the BTTR by name.

On November 21, 1994, the Cubans submitted a note to the United States Interests Section in Havana alleging that two BTTR planes violated Cuban airspace following departure from the U.S. Naval Base at Guantanamo on November 10. The note provided tail numbers for the planes and further alleged that leaflets had been dropped over Cuban territory. This note refers to two previous diplomatic notes dated July 21 and July 22, 1994, alleging other violations by the BTTR. The U.S. government investigated the matter but did not provide the GOC with a written response.

In response to an earlier question, the Department attached a summary of actions taken in connection with the various flotillas. A more exhaustive classified chronology outlining conversations with Cuban government officials can also be made available to Subcommittee Members to read.

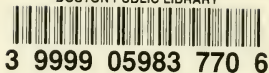
In August 1995, an exchange of diplomatic notes with the GOC began regarding an alleged air incursion by the BTTR on July 13, 1995. Following receipt of a GOC diplomatic note dated August 21, the Department of State requested additional information required by the FAA to conduct an investigation. The Cuban government subsequently provided this information. In January 1996, the GOC submitted a diplomatic note advising of alleged air incursions on January 9 and January 13. The Department of State again requested additional information needed by the FAA to conduct an investigation. The GOC provided this information in late January 1996. The GOC submitted diplomatic notes in March 1996 alleging that air incursions had occurred on March 23. The Department of State responded that USG agencies were unable to confirm these violations.

Question:

Did we ever send signals to Cuban authorities that the U.S. would not intervene in the event of an attack on BTTR aircraft?

Answer:

At no time during the State Department's conversations with Cuban authorities was there ever such a suggestion. In fact, the State Department urged the Cubans at every opportunity to exercise, in accordance with international legal principles concerning the use of force and the law of the sea, the utmost discretion and restraint in responding to any incursions of Cuban territorial seas or airspace. Any threats by the GOC to use force were met with strong warnings by State Department officials. There could be no doubt on the part of Cuban authorities that the USG took a strong interest in protecting the lives and property of flotilla participants, both vessels and aircraft, and others involved in peaceful protest against Cuba.



Question:

In the secret March 2nd meeting with Cuban authorities did we seek to establish mutually agreed upon positions as to the events of February 24th?

Answer:

U.S. and Cuban officials met in New York on March 2 to discuss the shutdown. The purpose of the meeting was to make clear to the Cubans that the U.S. Government had definitive information that the aircraft were shot down in international airspace, that no purpose would be served by any Cuban attempts to distort the facts, and that the Cuban Government should accept responsibility for the unlawful shutdown of the civilian aircraft. The purpose of the meeting was not to develop or mutually agree on positions which each side would take with respect to the shutdown.



Question:

Retired Admiral Carroll of the Center for Defense Information contends that he relayed a message from Cuban authorities to U.S. officials that they would shoot down aircraft violating their airspace. After the meeting with Admiral Carroll, did we warn the Cubans not to take such action?

Answer:

The Department began issuing public warnings about the risks involved in violating Cuban territorial seas and airspace even before the Cubans first threatened to "shoot down planes and sink boats" (following the July 13, 1995 flotilla). We have presented a detailed chronology of all such warnings.

On February 21, a group from the Center for International Policy, including retired Admiral Carroll, met with officers from the Office of Cuban Affairs at that office's request to debrief on their recent fact-finding visit to Cuba. In the course of conversations lasting over an hour, Admiral Carroll mentioned that the Cuban military indicated that they were very concerned about alleged violations of their airspace and that they might react forcefully if there were more such violations. CCA replied that we were aware of such generalized concerns and threats as conveyed through GOC public statements and diplomatic notes. Admiral Carroll did not indicate that he was passing any message from the Cubans to us. The issue took up approximately three minutes of the total discussion.



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