

Originally Processed With FOIA(s):
2025-0373-S

FOIA Number:
2025-0373-S

FOIA MARKER

**This is not a textual record. This is used as an
administrative marker by the George Bush Presidential
Library Staff.**

Record Group/Collection: George H.W. Bush Presidential Records
Collection/Office of Origin: Chief of Staff, White House Office of
Series: Card, Andrew, Files
Subseries:

OA/ID Number: 02718
Folder ID Number: 02718-004

Folder Title:
Bosch, Orlando

Stack:	Row:	Section:	Shelf:	Position:
G	15	21	6	

FACSIMILE TRANSMISSION SHEET

OFFICE OF THE DEPUTY ATTORNEY GENERAL
U.S. DEPARTMENT OF JUSTICE
WASHINGTON, D.C.

TO: Andrew H. Card, Jr.
Assistant to the President
The White House

Fax #: () 456 - 2397 Voice #: () 456 - 2533

FROM: William P. Barr
Office of the Deputy Attorney General Room # 4109
U.S. Department of Justice, Main Justice Building
Washington, D.C. 20530

Fax #: () 514 - 0467 Voice #: () 514 - 2101

THIS TRANSMISSION CONTAINS 2 SHEETS INCLUDING THIS SHEET

Special
Note (s):

We are transmitting to you on a Panafax UF-250. If any page (s) are missing, please call sender at the above voice number for re-transmission

###

Status Report on Bosch Parole

As a result of a series of discussions between Dr. Bosch's lawyers and the Office of the Deputy Attorney General, an understanding has been reached over the terms of his parole.

Dr. Bosch has agreed:

1. to issue a statement unequivocally renouncing terrorism as a means of political action;
2. to acknowledge the authority of the Department of Justice to establish the terms of his conditional release, and to abide by whatever conditions are established by the Department in this regard; and
3. to sign a document agreeing to incorporate the terms of his immigration parole into the conditions of his felony parole established by the Parole Commission.

If all goes as planned, we expect that Dr. Bosch will be released from Miami MCC by early this afternoon.

The Department has stated that it will entertain a request from Dr. Bosch's attorneys to narrow the bar on his contacts with members of Brigade 2506, and we will be working in good faith with them in this regard.

The Department has also expressed a willingness to work with Dr. Bosch's attorneys to establish a mechanism of compliance with the condition that he keep a visitor's log, with respect to which Bosch has publicly expressed concern. A proposal by Dr. Bosch's attorneys that they keep the log, which was acceptable to us, turned out to be unacceptable to Dr. Bosch. He has now stated that he will have no visitors, so as to obviate the requirement that he keep a log. This condition remains as originally stated in the July 9 letter.



Bill Barr
514 2101

U.S. Department of Justice

Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

JUL 6 1990

MEMORANDUM

TO: Andrew H. Card, Jr.
Deputy to Chief of Staff
The White House

SUBJECT: Status of Bosch Matter

This memorandum summarizes the present status of the Bosch case, and communicates several recent decisions by this Department respecting his status.

Litigation Status

Orlando Bosch did not appeal the district court decision upholding his exclusion from the United States, but he remains under a stay of deportation imposed by the court pending appeal. At a status hearing on June 7, 1990, the court was informed that the United States had been unable to find a country willing to take Dr. Bosch, and that consideration was now being given to the question of paroling him, probably on a conditional basis. The court was advised that a decision was expected within 30 days. The court continued the previously issued stay of deportation, and set a new status conference date for July 10, 1990.

Our legal authority to detain Bosch for any prolonged period, while Cuba is willing to take him, is uncertain. The Eleventh Circuit has upheld long term detention of excludable aliens who cannot be sent anywhere. E.g. Fernandez-Rogue v. Smith, 734 F.2d 576 (11th Cir. 1984). There is precedent to the contrary in the 10th Circuit, to which Judge Hoeveler alluded at the hearing on July 7. See Rodriguez-Fernandez v. Wilkins, 654 F. 2d 1382 (10th Cir. 1981). Moreover, Bosch's situation could be distinguished from that of the Mariel Cubans whose status was at issue in the two cited cases: unlike the Mariels, there is a country (Cuba) to which we could deport Dr. Bosch. Consequently, the court might well conclude that our detention power over him extends no further than the six month period of detention, following the end of litigation, allowable for aliens being expelled (rather than excluded) from the United States. See 8

- 2 -

U.S.C. 1252(c). Bosch's lawyers have indicated that they will attack continued detention, although it appears that Bosch has not yet authorized the filing of a such a challenge.

Decision to Place Dr. Bosch on Conditional Immigration Parole Status

Given the State Department's inability to find a third country to take Dr. Bosch, and the uncertain legal status of our continuing to hold him, we have been required to consider the option of placing him on immigration parole. This is the option that appears most consistent with the current practical realities of the situation. It stems from our inability to find a suitable third country, and may be required by the courts during or after litigation attacking our detention authority, even if we do not release Bosch voluntarily.

If released on parole, Dr. Bosch would remain under an order of exclusion which could be executed at any time. He would be required as a condition of parole to present himself for deportation at the direction of the District Director.

The Attorney General has authority to place "such conditions" on a parolee's release "as he may prescribe for emergent reasons or for reasons deemed strictly in the public interest." See 8 U.S.C. 1182(d)(5)(A). While there are few judicial precedents construing this provision, the existing case law suggests that the Attorney General's authority under this provision is very broad, limited only by the Constitution itself or some other overriding federal statute. See, e.g., Arens v. Rojas, 292 F. 2d 406 (5th Cir. 1961), in which the court of appeals sustained the revocation of parole for an anti-Castro Cuban expatriate who had "rejected restrictions on his parole which would have excluded him from the State of Florida or any other area within 150 miles of the Gulf of Mexico." 292 F. 2d at 408. The court found no abuse of discretion in the revocation of parole and the return of the alien to federal custody.

We are aware of no other litigated case in which conditions of parole were at issue. There are, however, other precedents for imposing restrictions on parolees' movements (Imelda Marcos confined to Oahu) and restrictions on parolees' activities (Mariel Cubans required to live in halfway houses). We believe that the statute authorizes a form of "house arrest," if the "public interest" so requires.

Conditions of Parole

We have considered what conditions might be placed on his parole that would best minimize the risk, noted as the principal justification for the Acting Associate Attorney General's decision to exclude him, that, if released, Bosch would once again engage, or inspire others to engage, in violent terrorist acts. We have concluded that the public welfare and Dr. Bosch's

- 3 -

own safety require the imposition of severe restrictions upon his ability to move freely in the community, and on his ability to associate with persons known to be connected to certain anti-Castro and other radical dissident groups. These restrictions, set forth in the proposed draft letter to Dr. Bosch appended to this memorandum, would require him to remain in his residence except for a three-hour period each day. This requirement would be policed by the U.S. Probation Office through an electronic monitoring system.

We have also determined, after careful consideration, that Dr. Bosch should not be required to relocate his residence away from the Miami area. Initially, the FBI recommended that Dr. Bosch be paroled only on condition that he agree to relocate as far as possible from geographical areas significantly populated by radical dissident elements, either pro-Castro or anti-Castro, for his own and others' safety. This would have meant that Bosch would have to leave Miami, where his family resides. Dr. Bosch and his supporters would almost certainly object strongly to his being required to leave Miami, possibly giving rise to additional litigation and/or a situation in which we would be required to test our ability to keep him confined indefinitely. Moreover, we could anticipate that the residents of any other community to which Dr. Bosch might relocate would object strenuously to the presence of a convicted terrorist in their midst, and would hold the Justice Department to account in this regard.

After much discussion, we have concluded that it is not necessary to the national security, or to Bosch's own safety, to impose a condition on his release that would require him to leave Miami. We believe that with stringent conditions on his activities and associations we can responsibly allow him to remain in Miami, probably the only community in the United States that will accept him without serious protest. The FBI has reviewed the proposed conditions for his release in Miami, and has agreed that these conditions will enable the government to responsibly limit and account for Dr. Bosch's activities while on parole.

Implementation of Parole Decision

The INS District Director in Miami is the official who would normally make a parole decision in the case of an excludable alien awaiting deportation. While the procedural history of this case makes it somewhat unique,¹ we know of no reason why the

¹ The decision to exclude on the basis of the confidential record was made in May of 1989 by the Acting Associate Attorney General at the direction of the Attorney General. The Acting Associate Attorney General's decision overruled a decision of the INS Regional Director, which had been affirmed by the Commissioner, to remand the exclusion proceedings to the District
(continued...)

- 4 -

District Director should not now make the decision to parole, as would occur in the ordinary course where deportation cannot be accomplished.

On Monday, July 9, the District Director will notify Dr. Bosch, through a letter to his attorneys, of his decision to place him on immigration parole, and of the conditions on his parole. The District Director will prepare the appropriate papers, which would require Bosch to acknowledge his receipt of and his commitment to abide by these conditions. The District Director will also make arrangements with the U.S. Probation Office and as necessary, the Federal Bureau of Investigation, to implement the conditions of parole. We will seek to have the court's July 10 status conference cancelled.

The "conditions" letter appended to this memorandum contains restrictions on Dr. Bosch's movement and activities that will doubtless be regarded by him as quite strict. For example, he will be confined to his residence and subject to electronic monitoring for all but three hours a day, except in case of a medical emergency or the District Director gives special permission. It is possible, though we believe it unlikely, that Dr. Bosch may challenge the conditions imposed on his parole - particularly the "house arrest" provision - through a new habeas corpus petition. However, as discussed previously, we are confident that the Attorney General's unqualified authority to impose conditions on immigration parole in the public interest is sufficient to sustain the conditions proposed here.

We also note that there is an additional possible source of authority to impose conditions on which we can rely in this case. Quite apart from his conditional status as an undocumented alien, Dr. Bosch will remain on probation in connection with his 1968 federal felony conviction until June of 1992. At the time of his release from federal custody in May of 1988, the Parole Commission imposed five special conditions on Bosch's parole. These include limitations on his activities and associations, and an obligation to disclose financial activities and transactions to the U.S. Probation Officer. These conditions will be enforced by the U.S. Probation Office in Miami, which has already been contacted by the INS to discuss this case. If necessary, in the event any doubt arises as to our authority under the immigration laws, additional conditions can be incorporated into the terms of his criminal parole by the Parole Commission. See 18 U.S.C. 4209.

¹(...continued)

Director for a hearing on the record. The Acting Associate Attorney General's authority to overrule the Regional Commissioner's decision in this matter was upheld by the court in November 1989.

- 5 -

The INS District Director will send a letter to Dr. Bosch on Monday morning, July 9, informing him of our decision to place him on immigration parole, and of the conditions attached. The Civil Division will contact Dr. Bosch's lawyers, as well as the district court, and seek to have the July 10 status conference cancelled. The INS District Director will arrange with the U.S. Probation Office and, as necessary, the FBI to implement the condition of Dr. Bosch's parole. At this point, we will not seek to have these conditions incorporated into the terms of his federal felony parole.

Attachment

*Note: As of this morning, we have been informed by Judge Hoeveler that for reasons dealing with a family emergency in his own family the hearing that was scheduled for July 10 has already been cancelled. We have not yet been informed as to whether Dr. Bosch has been served but we will contact you as soon as he has.

DRAFT PAROLE GRANT LETTER--ORLANDO BOSCH

Dr. Orlando Bosch Avila
A28 851 622
All 861 810

Pursuant to 8 U.S.C. § 1182(d)(5) and 8 C.F.R. § 212.5, it has been determined that you should be temporarily released from custody on immigration parole. Effective immediately, I therefore am granting such parole to you (the "Parolee") on the following conditions:

1. Parolee shall inform the District Director of his intended place of residence. He shall remain on the premises of such residence except between the hours of 11:00 A.M. and 2:00 P.M. To assure compliance with these restrictions, Parolee shall be subject to an electronic home monitoring system. He shall report to the District Director on the first working day of each month.
2. If special circumstances require additional time away from his residence, Parolee shall request permission from the District Director at least 72 hours in advance except in case of a medical emergency involving himself or a member of his immediate family. In such a case, notice shall be given the Director within 24 hours.
3. In the hours when Parolee is permitted to leave his residence, he shall remain within the limits of Dade County, Florida, unless the District Director of the Immigration and Naturalization Service of the United States Department of Justice who is based in Miami (hereinafter "District Director") has consented to Parolee's request for permission to travel outside the county. Requests to depart the county shall be submitted at least seventy-two hours before the planned departure, and shall be accompanied by a detailed itinerary and such other information as the District Director shall request.
4. Parolee shall not change his place of residence without the prior written approval of the District Director. Requests to change the Parolee's place of residence will be submitted at least 30 days prior to the intended move and shall be accompanied by such information as the District Director shall request.
5. In the event Parolee is employed, Parolee shall notify the District Director of the name of the employer, address of the

place of employment, and nature of the employment prior to entry on duty.

6. Parolee shall not participate in, directly or indirectly, any criminal activity, possess or control a firearm or other dangerous weapons, or otherwise take any action that threatens or harms others, or causes property damage or destruction.

7. Parolee shall not associate with, or have any contact with, anyone whom he knows, or reasonably should know, participates in or proposes any activity that threatens or harms others, or causes property damage or destruction.

8. Parolee shall initiate no contact or correspondence, directly or indirectly, with any convicted felons, or present or former members or associates of the Coordination of United Revolutionary Organizations (CORU), MIRR, Cuban Power, Cuban Action, Cuban National Liberation Front (FLNC), Cuban Nationalist Movement, Brigade 2506, 17th April Movement (M-17), Alpha 66, Omega 7, or any other group that advocates, proposes, or employs the use of violence to achieve its political goals. If Parolee is contacted in any way by any person who is, or has been, associated with any such group, he shall immediately notify the Special Agent-in-Charge of the Miami Office of the Federal Bureau of Investigation.

9. Parolee shall not purchase, possess, use or administer marijuana, narcotics, or other habit-forming or therapeutic dangerous drugs unless prescribed by another licensed physician and he shall not frequent places where such drugs are illegally sold, dispensed, used, or given away.

10. Parolee shall maintain a visitors' log, in which he shall record the name and address of every person who visits him, or whom he visits. In addition, Parolee shall consent to the monitoring of his telephone conversations and the use of a pen register on his telephone(s).

11. Upon the request of the District Director, Parolee shall respond to such requests for information, either in writing or in person, as the District Director shall direct. Parolee shall submit to polygraph examinations at the direction of the District Director.

12. At the direction of the District Director, Parolee shall submit to a consensual search of his person, residence, and other property.

13. If instructed by the District Director, Parolee shall present himself for deportation within 72 hours of notice to appear.

14. These conditions are subject to modifications by the District Director at any time(s) on notice to Parolee.

This grant of parole is subject to being revoked or terminated if you fail to comply with any of these conditions. Parole may be terminated and you may be returned to custody in accordance with 8 C.F.R. § 212.5.

District Director
Immigration & Naturalization
Service
Miami, Florida

cc: Henry N. Adorno, Esq.
ADORNO ZEDER ALLEN YOSS
BLOOMBERG SCHWARTZ & GOODKIND, P.A.
Bayview Executive Plaza
3225 Aviation Avenue, Suite 400
Miami, FL 33133

**THE WHITE HOUSE
WASHINGTON**

DATE: May 22, 1990

TO: David Q. Bates
C. Boyden Gray

FROM: **ANDY CARD**

FYI - We should talk.

Attachment

Bosch vows to begin hunger strike to protest continued imprisonment

By SANDRA DIBBLE
Herald Staff Writer

Frustrated at his continued imprisonment, jailed anti-Castro militant Orlando Bosch intends to launch a seven-day hunger strike aimed at pressuring the U.S. government into either releasing him from prison or deporting him to another country.

Family members said Bosch will begin his strike on Sunday, the 88th anniversary of Cuba's independence from Spain and six months after he gave up his battle to stay in the United States.

"If you're going to deport him, deport him, don't leave him in jail here," Myriam Bosch, his daughter, pleaded Thursday at a Little Havana press conference.

If nothing is done within 30 or 60 days of Sunday, "I will declare myself on a hunger strike for an indefinite period, until . . . death," Bosch said in a written statement released to reporters.

Bosch, 62, has been at the Metropolitan Correctional Center since Feb. 16, 1988, when he flew to Miami from Venezuela after spending 11 years in jail there. Bosch had been charged with, but never convicted of, masterminding the 1976 bombing of a Cuban jetliner that killed 73 people.

Last year, the U.S. Justice Department denied Bosch's request for political asylum and ruled that he should be excluded from the United States on the grounds that he presents a national security risk.

U.S. Department of Justice spokesman Dan Eramian said Thursday it was up to the State Department to find a country willing

to take Bosch. "We're waiting to hear," a State Department official who requested anonymity said. "We're still trying to find a country to take him in. Clearly, we're making every effort."

Supporting Bosch Thursday was his wife, Adriana, daughters Myriam and Lourdes, as well as leaders of the anti-Castro groups

Cuban Patriotic Council and the Cuban Municipalities in Exile.

"This situation is desperate," said Myriam Bosch, who said her father is in precarious health and risks his life in a hunger strike. "What else can he do? I think he'd rather die than be stuck in jail and play this little game they're playing with him, by keeping him in limbo here."