

8-17-70

DEPARTMENT OF STATE
THE LEGAL ADVISER

August 14, 1970

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recd. 8/18/70

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TO: ARA - Mr. Robert Hurwitch
FROM: L/ARA - Mark B. Feldman
SUBJECT: Cuba - De la Torriente's Invasion Plans
REF: San Jose 1990 (August 6, 1970)

Jose Elias de la Torriente and his associates have been taking a number of initiatives in the United States and Latin America apparently to organize Cuban exiles for military action against Cuba. Most recently he and Guillermo Martinez Marquez made statements to the press following a call upon the President of Costa Rica promising that their movement would undertake an invasion of Cuba "without the assistance of the United States before the end of this year" (reftel). President Figueres made some general remarks endorsing a crusade against terrorism he attributed to Cuba, including action within Cuba itself.

In addition to repeated statements by de la Torriente looking towards an invasion of Cuba, he has begun to take a census of the Cuban exile population in the United States and abroad. The census form requests the recipient to provide information regarding military experience and skills, but it does not go so far as to expressly solicit recruits for a military expedition. However, there are intelligence reports that training classes in demolition and infantry tactics are being held at offices of Brigade 2506 and the Guantanamo Civic Association in Miami. Torriente has received funds from various sources including \$45,000 from the Cuban Medical Association, and the census form requests recipients to contribute 25 cents to cover the administrative costs of the census.

Vertical handwritten note:
POL 30-2 Cuba
POL 27-1 Cuba

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Handwritten signature: L/ARA - Mark B. Feldman

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By [Signature] Date 11/21/03

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On July 4 de la Torriente called upon the State Department office in Miami and presented Matthew Smith with a copy of the census. Smith reports that Torriente "tacitly admitted that this census is a preliminary census for military recruiting." At the same time, Torriente expressed his desire to work within U.S. law. This comment is consistent with a statement he made to the Miami News on April 15 that "It is not against the laws of the United States to register people to fight somewhere else." Mr. Smith has expressed his concern that de la Torriente "may well take our silence in the matter as some kind of acceptance or tacit clearance for his scheme," and he asks whether it would be desirable to draft a warning as to the possible conflict with our neutrality laws.

In our view Mr. Smith's concern is well placed. De la Torriente's activities, present or future, may violate U.S. penal legislation, and our silence in face of his increasing activities could be interpreted as condoning his projects not only by de la Torriente but by Castro and other governments in the hemisphere as well. U.S. statutes prohibit (1) actions within the U.S. to prepare a military expedition from the U.S. against the territory of a foreign state with whom the U.S. is at peace (18 U.S.C. 960) and (2) actions within the U.S. to enlist persons in the military service of a foreign state or people (18 U.S.C. 159). Other provisions of law prohibit the arming of vessels to commit hostilities against states with which we are at peace 18 U.S.C. 961-62. Enforcement of these statutes is necessary to comply with U.S. obligations under international law not to allow our territory to be used as a base for military activity against other states.

The Department of Justice is now looking into the question of whether de la Torriente's actions to date violate any U.S. statute. It may be difficult to show a violation or a conspiracy to violate the law on the basis of the census and public statements alone. However, if evidence can be marshalled of recruiting and training activities in the U.S., there may be a basis for an indictment without waiting for more. In any event, however, we believe the present facts warrant a firm warning to de la Torriente that (a)

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8/31/70 | recruiting in the U.S. for an invasion of Cuba (may) constitute a violation of U.S. criminal laws and (2) that any violation of U.S. laws will be prosecuted.

In addition to issuing a warning along the lines suggested above, we believe it would be prudent to take steps to ensure that (a) no individual associated with or receiving funds from the CIA contribute financial support to or otherwise become involved in this project (b) to advise other governments in the hemisphere that the U.S. is not supporting de la Torriente and that if he violates U.S. laws he will be prosecuted.

Another step that we should take to discourage de la Torriente and to signal our position to him on his activity is to move ahead with prosecution of the ALPHA 66 participants.

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