

OP-ED

# Exile on trial

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**I**N THE TRIAL OF Luis Posada Carriles, which began this week in El Paso, U.S. prosecutors will for the first time publicly present evidence of the anti-Castro militant's long career of political violence. But although the Immigration and Customs Enforcement agency has identified Posada as "a danger to both the community and national security," and his case is being handled by the Justice Department's counterterrorism division, he is not being prosecuted as a terrorist. Instead, Posada is charged only with immigration fraud as well as several counts of perjury relating to his role in a series of 1997 hotel bombings in Havana.

Still, this is a groundbreaking case. It is notable that the U.S. government, whose Central Intelligence Agency trained, paid and deployed Posada to conduct violent operations against Cuba in the 1960s, has finally decided to prosecute him. And the case is remarkable for the substantive cooperation it has produced between the Cuban and U.S. governments.

However tendentious the analogy, the government of Cuba has described Posada as its Osama bin Laden: a violent fanatic who committed unspeakable crimes and has yet to pay the price.

According to declassified CIA documents, Posada was recruited and trained by the agency in the use of explosives and in guerilla warfare during the early 1960s. In November 2000, he was caught in Panama City with a carload of dynamite and a plastic explosive as part of a plot to assassinate Fidel Castro at an Ibero-American summit. (He was convicted and sentenced to eight years in prison but was pardoned in August 2004 by then-Panamanian President Mirya Moscoso.)

Posada has also been linked to repeated terrorist attacks against Cuban targets. Declassified FBI and CIA intelligence reports point the finger at Posada as the mastermind of the worst pre-9/11 act of aviation terrorism in the Western Hemisphere: the midair bombing of a Cuban airliner in 1976 that killed all 73 people on board. In 1997 and 1998, by his own public admission, he orchestrated a series of seven bombings of tourist hotels

and restaurants in Havana, killing a 32-year-old Italian businessman and injuring 11 other people.

So, is he repentant? "I sleep like a baby," Posada declared in an interview with the New York Times in July 1998. "That Italian was sitting in the wrong place at the wrong time. It is sad that someone is dead, but we can't stop."

Such admissions, along with a dossier of U.S. government evidence, should have provided grounds for the George W. Bush administration to detain Posada under the USA Patriot Act when he showed up in Miami in March 2005. Instead, more than two months after he arrived, the government charged him only with immigration violations, perhaps because Posada had long been a celebrated figure in Florida, lauded by many

## The U.S. and Cuba make common cause against Luis Posada.

Cuban exiles as a hero in the cause of bringing down the Castro regime. The Obama Justice Department, in April 2009, added perjury charges relating to statements Posada made under oath about his role in the hotel bombings.

With such historical and political baggage surrounding Posada, the Obama administration should be commended for finally prosecuting him. Havana seems to agree, despite its disappointment that more serious charges against Posada weren't filed.

Since Posada's arrest in Miami, Cuba has given considerable assistance to U.S. law enforcers. Teams of Justice Department lawyers and investigators have traveled to Havana at least four times to interview witnesses and review evidence. Cuba was even ready to receive Posada's lawyers in January 2010 (although they ultimately declined to go). The Cuban government has turned over video of the crime scenes and more than 1,500 pages of investigative reports on the hotel bombings. Cuba has allowed the FBI to question and depose Posada accomplices arrested in Cuba. And it also agreed to allow two lead Cuban police investigators to travel next week to El Paso to testify about the forensic evi-

dence they found.

How much of the evidence provided by Cuba will be introduced by prosecutors remains unclear. What is clear from the pretrial record, however, is that Washington and Havana have engaged in an extensive, protracted diplomatic effort to foster this counterterrorism collaboration. Whether or not Posada is found guilty, the case represents a rare expression of common interest between Washington and Havana.

To build on this positive start, the United States should remove Cuba from its list of state sponsors of terrorism. Cuba landed on the list in the early 1980s for the support it provided to insurgencies in Central America. There is no longer evidence of support for political violence or terrorism that merits Cuba remaining on the list. In the State Department's own words last year, Cuba remains on the list primarily because it is "critical of the U.S. approach to combating international terrorism."

If disagreeing with American foreign policy is a criterion for inclusion, dozens of countries, including close allies of the U.S. in Latin America, would seem eligible. Taking Cuba off the list would restore some degree of seriousness to the exercise of explaining who's on and who's off the list each year, and pave the way for further counterterrorism cooperation between the two countries.

The Posada proceedings mark a turning point in the long, dark history of U.S.-Cuban relations. With this prosecution, Washington has repudiated its past use of Posada and his ilk to commit acts of terrorism against Cuba. And in cooperating in the legal case, Cuba has shown its willingness to put aside political differences to take a renowned terrorist off American streets. President Obama now has an opening to advance U.S. credibility in fighting terrorism and establish a positive, rational policy toward Cuba. He should take it.

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