



## THE CASE OF TERRORIST LUIS POSADA CARRILES

June 15, 2010 marks the five-year anniversary of the day that Venezuela requested the extradition of Luis Posada Carriles, a known terrorist, from the U.S. To date, Posada not only remains free in South Florida, but he has yet to face justice for a vicious terrorist attack that left 73 innocent civilians dead.

### WHO IS LUIS POSADA CARRILES?

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Luis Posada Carriles is a dual Venezuelan-Cuban national implicated in terrorist attacks throughout Latin America that left many innocent civilians dead. He is known as the “Osama bin Laden of Latin America.”

Originally trained by the CIA to work as an anti-Castro agent, Posada lived and worked in Venezuela during the height of the Cold War, serving as a key operative in covert actions against left-leaning governments and activists throughout the region.

From Caracas, Posada masterminded and executed what was until the attacks of 9/11 the first and deadliest act of airline terrorism in the region’s history – the bombing of Cubana Air Flight 455 on October 6, 1976. The flight, which departed from Barbados en route to Cuba, exploded in mid-air, killing all 73 passengers aboard, including the 24 members of Cuba’s youth fencing team, a number of Guyanese medical students, a pregnant woman and a little nine-year old girl named Sabrina.

Posada and three co-conspirators were arrested shortly after the attack and put on trial in Caracas. But in the midst of the trial in 1985, Posada escaped from prison and fled Venezuela. He left 73 charges of first-degree murder unresolved. Only weeks later, he re-appeared in Central America, working with the CIA as part of the Iran-Contra operation against Nicaragua’s left-leaning government.

In 1997, Posada masterminded a campaign of bombings in Havana, Cuba that left 11 people injured and one Italian tourist dead. He bragged about it to the New York Times in an interview he gave to the newspaper in 1998. He was then captured in Panama in the year 2000 with 200 pounds of explosives that he planned to place in a crowded university auditorium where Cuban President Fidel Castro was slated to speak. A Panamanian Court

convicted him, but outgoing President Mireya Moscoso granted him a pardon that allowed him to leave Panama. The Supreme Court of Panama subsequently declared that the pardon had been unconstitutional and thus invalid. Posada is now a fugitive from Panamanian justice as well, since he left the country before completing his sentence.

In 2005, Posada illegally entered the U.S. with the help of friends from Miami on a vessel called the *Santrina* that docked in Florida to allow him to disembark. After several weeks of evading U.S. immigration authorities in Miami, he attended a bizarre press conference where he announced his intentions to flee the U.S. to avoid arrest. The press conference was carried live on CNN. Federal agents arrested and gingerly drove him in a golf cart to a waiting helicopter that transported him to prison. Rather than extraditing him to Venezuela for murder, the U.S. Attorney’s Office charged him with lying on an immigration form. After a shoddy prosecution by Bush Administration attorneys, a federal judge released him in 2007. He has lived freely in South Florida since then.

Peter Kornbluh, a Senior Analyst at George Washington University’s National Security Archive who has investigated Posada’s case through declassified CIA and FBI documents, called Posada “one of the most prolific purveyors of political violence in recent history.”<sup>i</sup> Additionally, he noted that CIA documents directly link Posada to the 1976 bombing.

### WHAT DOES VENEZUELA WANT WITH HIM?

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Since 1985, Posada has been a fugitive of Venezuela’s justice system. There are 73 charges of first-degree murder pending against him in Caracas, and there is an outstanding warrant for his arrest. Given the severity of his crime and Venezuela’s commitment with the fight against terrorism, Venezuela formally requested on June 15, 2005, that the U.S. extradite Posada so the pending judicial proceedings against him could be completed. The request was made based on the provisions of an extradition treaty between the U.S. and Venezuela dating back to 1923, as well as two other international instruments: the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, and the International Convention of Terrorist Bombings.



## Embassy of the Bolivarian Republic of Venezuela to the United States

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To this date, Venezuela has not received a response to its extradition request, nor has Posada faced any criminal prosecution for his crimes in the U.S.

### **HOW HAS VENEZUELA SOUGHT U.S. COOPERATION IN THIS CASE?**

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Since Venezuela learned of Posada's entry into the U.S. in 2005, it has taken all the necessary and legal steps to assure that he face justice for the 1976 bombing, as demonstrated by the following facts:

On May 13, 2005, Venezuela requested that the Department of Homeland Security detain Posada pending a formal extradition request. Venezuela followed the request for Posada's preventive detention with a formal request for his extradition on June 15, 2005. Attached to the extradition request to the U.S. State Department were over 2,000 pages of supporting evidence.

On November 9, 2005, the U.S. State Department informed the Venezuelan embassy in Washington, D.C. that it required clarification on a number of aspects of the extradition request, and a set of written questions would be forthcoming. On December 19, 2005, the embassy wrote the State Department to note that it had not received any questions regarding the extradition request. In fact, the State Department has never sent Venezuela any questions regarding its extradition request for Posada.

On April 10, 2007, Venezuela again requested Posada's detention when a judge in Texas ordered that he be released after a series of procedural mistakes by Bush administration attorneys made the immigration case against him fall apart.

On May 7, 2008, one year after Posada was freed from jail where he had been awaiting trial on minor immigration charges, Venezuela re-iterated its extradition request to the U.S. State Department. The State Department has failed to respond to our extradition request. It is still pending.

### **WHY IS POSADA FREE?**

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The law requires that the U.S. either extradite or

prosecute Posada for the murder of the 73 persons aboard the civilian passenger plane that he bombed in mid-air. Article 7 of the **Montreal Convention on Civil Aviation**, of which the U.S. is a signatory, says that the "contracting State in the territory of which the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State."<sup>ii</sup>

The U.S. government has no discretion in Posada's case. It is an either-or situation: extradite or prosecute. Deporting him to a third country is not an option and neither is allowing him to live freely within the U.S. Putting him on trial for perjury is a ruse to try and skirt the legal responsibilities weighing on Washington to extradite him to Caracas or try him for murder in the U.S.

Posada is free because the U.S. government lacks the political will to detain him, extradite him or put him on trial in the U.S. for murder. In a letter to *The Miami Herald* on April 30, 2007, Margarita Morales Fernandez, the daughter of one of those killed in the 1976 bombing, wrote the following: "To see the smiling face of this suspected hit man enjoying freedom brings to mind my mother's tears; she died without ever seeing my father's murderer held accountable for his crime."<sup>iii</sup>

### **WHAT CAN THE OBAMA ADMINISTRATION DO?**

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President Obama ought to comply with the U.S. government's international treaty obligations and either extradite Posada or try him for 73 counts of first-degree murder in the United States. It ought also detain him immediately under the authority granted the Executive under the provisions of the Patriot Act that was enacted to combat terrorism.

**For more information visit our website:**

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**Press and Communications Office**

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<sup>i</sup> <http://www.gwu.edu/~nsarchiv/news/20071115/index.htm>

<sup>ii</sup> <http://treaties.un.org/doc/db/Terrorism/Conv3-english.pdf>

<sup>iii</sup> "There are not good terrorists", *The Miami Herald*, April 30, 2007.