

# The status of restrictions on the right to travel from the u.s. to cuba

[Law](#), [Constitution](#)



The Status of Restrictions on the Right to Travel from the U. S. to Cuba Atty. Arthur Heitzer, 633 W. Wisconsin Ave., Suite 1410, Milwaukee, WI 53203 USA, (414) 273-1040 ext. 12, aheitzer@igc. org. Despite the multiple guarantees of individual rights contained in the U. S. constitution, the right of U. S. nationals to travel abroad to countries of their choosing, and to learn from and associate with people of other nations, has repeatedly been restricted. The longest such restrictions have attempted to prevent average people from the U. S. to visit Cuba, since the triumph of the 1959 Cuban Revolution. This paper will present an overview of this legal situation, beginning with the treatment of this right by the U. S. courts. Part Two will summarize the recent (and continuing) system of restrictions on such travel. Part Three will briefly review the organizing and struggle to assert these travel rights, and Part Four will discuss the prospects for change under the current administration.

I. The (lack of) constitutional protection for the right to international travel Although the United States constitution guarantees to its citizens and residents the rights to freedom of association and expression, a majority of the U. S. Supreme Court has not protected the right to travel internationally in order to exercise these rights, when faced with claims that U. S. national security requires them to be restricted. This is not limited to times of war or countries with which the United States is at war. E. g., two U. S. Courts of Appeals have recently upheld fines imposed against U. S. peace activists who visited Iraq in the months prior to the U. S.-led invasion in March 2003. (*Karpova v. Snow*, 497 F. 3d 262, 270-71 (2d Cir. 2007) and *Clancy v. OFAC* (No. 07-2254; 7th Cir., 3/11/2009.) The case of Cuba is rather unique. First of all, Cuba is not only 90 miles away from the United States,

but it was a frequent tourist destination prior to the triumph of the 1959 Cuban Revolution. Second, these restrictions have continued in force, with varying degrees of severity, for nearly 50 years. Despite the fact that the U. S. CIA organized and sponsored an unsuccessful invasion of Cuba in April 1961, combined with a plan to assassinate Cuba's top leadership then, and since, as well as a comprehensive plan of terrorism and irregular warfare (called Operation Mongoose), there has been no state of war between the U. S. and Cuba since the Spanish-Cuban-American War of 1898 (See *The Bay of Pigs*, by Howard Jones and Jane Franklin's *Cuba and the United States: A Chronological History*.) While the Cuban Missile Crisis of October 1962 brought the world to the brink of annihilation, as President John F. Kennedy demanded that Soviet missiles aimed at the United States be dismantled, and threatened a naval blockade of Cuba which was lifted before major hostilities erupted, President Kennedy earlier had recognized that a military blockade of Cuba was an act of war, which lacked any legal justification. Instead, he accepted his advisors' suggestion to impose an economic blockade, believing it would have almost the same effect without being an obvious act of war in violation of the United Nations charter. The severe restrictions on the right of U. S. nationals to travel to Cuba was part of such "economic warfare," but it was also done to prevent people in the U. S. from experiencing the Cuban Revolution firsthand, and from exchanging ideas with the Cuban people. Despite the rather obvious fact that restricting the rights of Americans to travel to other countries restricts their ability to gather information, and likewise severely restricts their ability to associate with people from other countries, a majority of the U. S. Supreme Court rejected

First Amendment protection in the case of *Zemel v. Rusk* (1965). Rather, the courts have held that there is only a conditional right or privilege to international travel, which can be restricted based on assertions of national security, based on applying the provision of the U. S. constitution which indicates that restrictions on "liberty" require some kind of "due process." As indicated in a recent Court of Appeals decision concerning a peace activist who visited Iraq prior to the U. S. invasion, the burden imposed on the administration for imposing travel sanctions is rather low. While the Supreme Court under Chief Justice Earl Warren had declared that it was unconstitutional to deny passports to someone based on their political affiliation, such as membership in the Communist Party, this has not prevented travel bans by the U. S. government based on the specific countries to be visited, such as Cuba. In recent years, the government's claim has been that it is directly banning financial transactions related to travel, rather than the travel itself. Although the Bush Administration issued regulations which appeared to make any transaction with a Cuban national illegal, including accepting a gift from someone in Cuba, it never tried to enforce such a broad prohibition. According to the U. S. Court of Appeals for the Seventh Circuit sitting in Chicago, in *Clancy v. OFAC* (3/11/2009, Slip Opinion, pp. 19-22): Right to Travel Clancy argues that the regulations are invalid because they restrict his right to international travel, which he maintains is a constitutionally protected right. The freedom to travel outside the United States, unlike the "right" to travel within the United States, is "no more than an aspect of liberty protected by the Due Process Clause." *Haig v. Agee*, 453 U. S. 280, 306 (1981). The Supreme Court affords great deference

to restrictions on international travel so long as they are justified by a rational foreign policy consideration. See *Regan*, 468 U. S. at 242 (regulations restricting travel to Cuba justified by foreign policy concerns); *Freedom to Travel Campaign v. Newcomb*, 82 F. 3d 1431, 1439 (9th Cir. 1996) (" Given the lesser importance of this freedom to travel abroad, the Government need only advance a rational, or at most an important, reason for imposing the ban."). Responding to challenges similar to those brought by *Clancy*, the Supreme Court held that the Fifth Amendment right to travel, standing alone, is insufficient to overcome the foreign policy considerations justifying restrictions on travel to Cuba. *Regan*, 468 U. S. at 242; see also *Zemel*, 381 U. S. at 14 (upholding refusal by Secretary of State to validate the passports of United States citizens for travel to Cuba). These regulations were issued pursuant to President Bush's declaration of a national emergency with respect to Iraq, and were imposed to ensure that no benefit from the United States flowed to the Government of Iraq. 55 Fed. Reg. 31, 803 (1990). We see no reason (and *Clancy* provides none) to find that these considerations are insufficient to justify the travel restriction imposed by the regulations. See also *Karpova*, 497 F. 3d at 272 (travel restriction imposed by the Iraq Sanctions regulations does not violate liberty interest under the Fifth Amendment).... *Clancy* responds that even if general travel restrictions are constitutional, this one is invalid because it is selectively enforced. It is true that government efforts to selectively restrict travel based on " the basis of political belief or affiliation" are not entitled to the same judicial deference as general bans on travel. See *Aptheker v. Sec'y of State*, 378 U. S. 500, 514 (1964) (rejecting Congress's attempt to deny passports on the basis of an

affiliation with the Communist Party); *Kent v. Dulles*, 357 U. S. 116, 130 (1958) (Secretary of State did not have authority to inquire about affiliation with Communist Party before issuing passports). But the Supreme Court has distinguished " general bans on travel" that are imposed because of foreign policy considerations affecting all citizens from selective travel restrictions. *Regan*, 468 U. S. at 241 (distinguishing *Kent* and *Aptheker* on the ground that the " Secretary of State . . . made no effort selectively to deny passports on the basis of political belief or affiliation, but simply imposed a general ban on travel to Cuba following the break in diplomatic and consular relations with that country in 1961."). The regulations here do not discriminate among people based on their political affiliation. Rather, they impose a " general ban" on travel to Iraq based on foreign policy considerations affecting all citizens. See *Regan*, 468 U. S. at 241.... First Amendment Rights Clancy's challenge to the regulations on First Amendment grounds faces the same hurdle as his Fifth Amendment right to travel claim. The Supreme Court has held that governmental restrictions on international travel inhibit action rather than speech. See *Haig*, 453 U. S. at 309 (" To the extent the revocation of [a] passport operates to inhibit Agee, `it is an inhibition of action,' rather than of speech.") (quoting *Zemel*, 381 U. S. at 16-17) (emphasis in original). Clancy attempts to distinguish *Zemel* on the basis of his motivation to travel. The plaintiff in *Zemel* wanted to travel to Cuba to learn more about the state of affairs in Cuba whereas Clancy maintains he traveled to Iraq to express his belief in peace and his protest against government action that would harm innocent Iraqi citizens. This distinction is one without meaning; the Court has " rejected the view that conduct can be

labeled 'speech' whenever the person engaging in the conduct intends thereby to express an idea." *Rumsfeld v. Forum for Academic and Institutional Rights, Inc.*, 547 U. S. 47, 65-66 (2006) (quoting *United States v. O'Brien*, 391 U. S. 367, 376 (1968) (internal quotation marks omitted)).

Clancy maintains that his travel was " manifestly symbolic" and therefore protected by the First Amendment, which extends to symbolic conduct. But the First Amendment protects only conduct that is " inherently expressive," *Forum for Academic and Institutional Rights, Inc.*, 547 U. S. at 65-66, and we do not agree that Clancy's travel to Iraq is " inherently expressive." A person observing Clancy's travels to Iraq would have no way of knowing what message he intended to express unless Clancy explained it using speech. Compare, e. g., *Texas v. Johnson*, 491 U. S. 397, 406 (1989) (burning the American flag is expressive conduct). This is strong evidence that international travel itself is not inherently expressive. See *Forum for Academic and Institutional Rights, Inc.*, 547 U. S. at 66 (" If combining speech and conduct were enough to create expressive conduct, a regulated party could always transform conduct into 'speech' simply by talking about it."). In short, the federal courts have given great deference to administration claims of " national security" even though this appears to restrict the rights of U. S. citizens to association, expression, and to gather information firsthand. II.

THE SYSTEM IMPOSED BY THE U. S. GOVERNMENT TO PREVENT U. S. TRAVEL TO CUBA

As stated above, the U. S. government has attempted to prevent free travel to Cuba, by banning unlicensed financial transactions related to such travel. However, the legislation which gave such authority reflected some conflicting interests within the congress. One example, referred to as

the Berman Amendment, protected the importation of items expressing ideas, despite severe and even criminal sanctions for any other trade or transactions with Cuban nationals. Thus, books, newspapers, music or video recordings, and even expensive works of art were exempted from these restrictions, and art dealers could get U. S. government licenses to travel to Cuba to engage in such importation. Second, the government's system to enforce the Cuba travel restrictions, provided for a right to a hearing if requested by the person or company charged with a violation. (This right to a hearing was denied to Iraq travelers Karpova and Clancy.) However, for most of the decades of the Cuba travel ban, no such administrative hearings were actually provided. Criminal sanctions always existed, and would naturally result in a trial, in which a jury would need to find "beyond a reasonable doubt" that the traveler violated the law. The U. S. government clearly did not trust presenting such issues to the American people as reflected in the U. S. jury system, so such charges were almost never brought. The rare exceptions were for organizing travel, and within the southern district of Florida, where a population that was either hostile to Cuba, or intimidated by such elements, might be counted on to help assist in obtaining a conviction. Even so, such prosecutions appeared to be election ploys, and some were dismissed in the courts, such as those against the organizers of a regatta between the U. S. and Cuba. Thus, lawyers advised U. S. persons accused of traveling to Cuba to ask for a hearing and for discovery related to a hearing, when administrative sanctions were raised. Until September 11, 2003, there was no provision for such hearings to be held, however, and the government also failed to respond to any discovery requests. Under the George W. Bush



administration, from September 2003 to 2006, the U. S. held special " trials for travel, " all of which were required to be held in the Washington, D. C. area. About one dozen such administrative trials took place, but none of those persons have had to pay any fines so far. The government's regulations which asserted a presumption that U. S. visitors to Cuba spent money there, was struck down, and then rescinded. In a cases where there was significant public organizing, such as the " Methodist 3" from Milwaukee, Wisconsin (a swing state in the presidential elections, in 2000 and 2004), the government agreed to dismiss its prosecutions, especially when faced with counterclaims based on racial profiling/selective prosecution, and undue interference with religious practices. Representation was provided in most cases by the Center for Constitutional Rights, based in New York City, and by a network of lawyers organized by the National Lawyers Guild's Cuba Subcommittee. Based on numerous procedural and other defenses that were raised, these individual cases often outlasted the assignments of the judges assigned to hear the cases, and the results varied, from a reduction of the proposed penalty of one-third, to a 90% reduction. It remains to be seen whether the Obama Administration will take any action to collect these fines, now that most of them have become administratively final. It should be noted that the enforcement of the Cuba travel restrictions by the U. S. Department of Treasury's Office of Foreign Assets Control (OFAC), seems clearly to have waxed or waned depending on election results in the U. S.. For example, coinciding with the 2000 decision that George W. Bush would become president, OFAC greatly increased its enforcement actions, sending hundreds of letters demanding information from persons accused of

traveling to Cuba, and proposing to assess fines against them, typically of \$7, 500 a piece. Likewise, following the November 2006 Congressional elections in which the Democrats made strong gains, there was almost no enforcement. No administrative hearings were commenced, and there were virtually no initial steps taken either, such as letters demanding information, proposing penalties or actually imposing penalties subject to a hearing request. According to OFAC's official enforcement reports since 2003, some 1, 000 individuals were fined \$1. 8 million for Cuba travel offenses (these were either based on compromised settlements, usually about \$1, 000 where the travelers feared worse consequences; or situations where they had failed to make timely requests for their right to a hearing). But even under the Bush administration, for the remaining two years after the November 2006 elections, OFAC reports collecting penalties from only five individuals in all of 2007 and 2008. The NLG and CCR are aware from their network of lawyers that OFAC enforcement actions had virtually ceased. There is no reason to believe that enforcement actions will be commenced at this point, whether or not a formal repeal is instituted.

### III. THE STRUGGLE TO DEFEND THE RIGHT TO TRAVEL TO CUBA

Despite its decades of existence, the ban on U. S. travel to Cuba has never had broad popular support. This can be seen by the failure or refusal of most administrations to enforce it, whether pursuant to the criminal sanctions which continue to exist in U. S. law or even administrative trials which the Bush Administration attempted to pursue from late 2003 until 2006, with very limited results. However, even though reliable reports from many sources, including both the U. S. and Cuban government, indicated that as many as 200, 000 persons from the U. S. had visited Cuba

on an annual basis, the majority of them Cuban-Americans, the deterrent effect of these restrictions has been very significant. This is especially true with the escalated enforcement actions under the last Bush Administration. In addition, there has been much direct action related to this issue, on both sides. The author is indebted to the Venceremos Brigade for the chronology which is appended hereto. This shows organized travel by various organizations in defiance of these restrictions, notably the Venceremos Brigade since the late 1960s, and Pastors for Peace, both of which have annual travel challenges as acts of open civil disobedience. According to an official U. S. government report from the General Accounting Office (GAO), OFAC's attempt to strictly enforce the travel restrictions against Pastors for Peace and the Venceremos Brigade had resulted in a " public relations and enforcement dilemma. " While initially some warning letters, followed by some prepenalty notices, and very few penalty notices were issued pursuant to the Bush crackdown, not a single hearing request from any of these travel challenges was ever honored or pursued. These challenges exposed the government's untenable position with its own populace: it asserted restrictions and threatened fines and prosecutions against its own people, but was afraid to actually put them on trial. At the same time, the Associated Press reported that OFAC had 22 agents assigned to enforce the Cuba travel ban, while only 4 were checking on the finances of Osama bin Laden. The GAO reported that there was more attention paid by customs agents at airports with travelers with rum or cigars from Cuba, than to actual security concerns. But it would be wrong to assume that those who fought to protect such travel rights did so without consequences. As set forth in the appendix,

the " legal" sanctions were not the only measures taken to eliminate travel to Cuba. By far the worst act of terrorism directed against travel to or from Cuba took place on October 6, 1976, when a civilian Cubana flight was bombed by CIA-trained operators Orlando Bosch and Luis Posada Carriles, both of whom reside in the U. S. currently. Posada is the subject of charges based on misrepresentation on his immigration papers, but Venezuela's extradition request for him to be tried for this mass murder has yet to be processed by the U. S. government. Numerous other bombings took place, repeatedly destroying the offices of travel agencies handling trips to Cuba. Several individuals, including Cuban-Americans who sought dialogue with Cuba and defended family travel, were killed, including Carlos Muniz, president of the Viajes Varadero travel agency in Puerto Rico who was assassinated in 1979, and Eulalio Negrin, who was assassinated in Union City, New Jersey that same year. The actions by President Jimmy Carter to grant general licenses for any Americans to travel to Cuba in 1977 reflected this popular sentiment, but by 1982 President Ronald Reagan re-imposed the travel restrictions.

#### IV. THE PROSPECTS FOR CHANGE AND WHAT OBAMA CAN DO

As of this writing, April 30, 2009, President Obama has fulfilled his campaign pledge to recognize the unrestricted right of Cuban-Americans to visit their close relatives in Cuba, and to send remittances to them. This is a significant change but still a small one. President Obama still has the authority to greatly liberalize travel within the 12 categories recognized by Congress for " licensed" travel. He can also indicate support for a full repeal of the travel ban, as set forth in pending legislation in both the U. S. Senate and House of Representatives. His Department of Justice can also indicate

that the will take no further efforts to either prosecute or to collect fines imposed against U. S. persons who previously traveled to Cuba -- or to other countries such as peace activists who traveled to Iraq shortly before the U. S. invasion. Regarding the 12 existing categories for " licensed" U. S. travel, President Obama can and should indicate that all of these are available pursuant to " general licenses, " which have existed for certain categories and which are not really " licenses" as the term is generally used. In reality, these are permissions pursuant to administrative regulation as long as certain conditions are met, but there is no application process, and no document is reviewed or issued prior to the travel. E. g., currently U. S. persons (almost always of Cuban origin) who wish to visit their family members in Cuba can again do so pursuant to a " general license, " which means that they can go and return without any need to apply for any special permission to do so. Theoretically, a traveler who did not meet the requirements of a " general license" might later on be pursued and possibly fined, but this is unlikely to actually occur as a practical matter. For example, currently, full-time regularly employed journalists who are on assignment, can travel to Cuba pursuant to a so-called " general license, " but freelance journalists must apply in advance for a specific license in order for their trip to be deemed legal for the U. S. government. Allowing all journalists to travel to Cuba pursuant to a general license would allow many writers, photojournalists, and others to travel there and report back on their observations -- not just full-time career journalists (who are a shrinking breed in the U. S.). Educational travel in the latter years of the Clinton Administration included person-to-person encounters which were not

restricted merely to those sponsored by accredited schools or universities. Groups such as ElderHostels and the National Geographic Society sponsored such tours, but under the subsequent Bush Administration regulations were issued which restricted educational travel so that the vast majority of even college and university study tours were no longer able to comply (such as a requirement that these be at least 10 weeks in duration, and barring cooperation or sharing of programs between more than one college or university). Similar expansion, in sharp contrast to the hyper-restrictive regulations left over from the last Bush Administration, could be done in most other areas, such as religious trips and professional research (which could again include attendance at professional conferences).

**CONCLUSION** In sum, the long and courageous struggle of people in the U. S. to exercise their right to travel to forbidden lands, most notably Cuba, but also in prior times other socialist countries, and to Iraq and others, has yet to be fulfilled. The continued restrictions on U. S. travel to Cuba are unique in both their duration and continued application, but they have very little popular support within the U. S. population. As Robert F. Kennedy wrote, shortly after his brother was assassinated, these restrictions embarrassed the U. S. and discredited its proclaimed example as a land of freedom. While these restrictions were partly successful in discouraging most Americans from traveling to Cuba, and in allowing many of them to accept highly distorted portrayals of Cuban life, there now appears to be a substantial possibility that those restrictions will finally be ended. Recently a member of Obama's administration stated (on the condition that he or she would not be identified) that there is now a " steamroller" pushing for an end to the U. S.

travel restrictions and economic blockade of Cuba. The Obama Administration seeks to “ get ahead” of this wave in order to steer it, but also it risks being overrun by it, if it remains too cautious. -Atty. Arthur Heitzer, aheitzer@igc. org Fact Sheet The Fight for the Right to Travel to Cuba Chronology The U. S. has had restrictions on travel to Cuba for most of the past 40 years. While the Constitutional right to travel was technically won in a 1958 Supreme Court decision, the U. S. government and others have tried to prevent us from traveling through a variety of legal, extra legal, and illegal means. Since the beginning, people have fought back vigorously and continuously for our right to travel to Cuba. In the 1950’s the U. S. government attempted to curtail our right to travel through passport controls (either by not issuing a passport to certain persons — Paul Robeson was the most famous) or — when that method failed to survive court challenges — by listing countries in the passport which were ‘ invalid’ for travel. When this method also failed in court, the government switched from ‘ travel controls’ to ‘ currency controls’. The current restrictions on travel to Cuba come under the Treasury Department — and not the State Department — because they have to do with the spending of money by U. S. citizens, residents, and corporations. Of course, these ‘ currency controls’ are just a back door method to restrict our right to travel. 1958 Kent v Dulles - Freedom to Travel established as a Fifth Amendment guarantee. Jan 1, 1959 U. S. backed dictator Batista flees. Victory of the Cuban Revolution Oct, 1959 American Society of Travel Agents Convention takes place at Hotel Nacional in Havana. Plane piloted by CIA agents and originating in Florida strafes Havana killing 2 and wounding 45. 1961 U. S. restricts travel to Cuba via passport controls.

African American journalist William Worthy challenges the passport controls and wins in 1964. 1963 U. S. restricts travel to Cuba via currency controls under the general U. S. economic blockade. Student groups travel to Cuba 1962, 1963 and 1964. Leaders indicted and case goes to Supreme Court in 1967. Attorney General Robert Kennedy secretly recommends ending the travel restrictions as ' inconsistent with traditional American liberties. " 1964 Supreme Court Justice William. O. Douglas: " Freedom of movement is the very essence of our free society...Once the right to travel is curtailed, all other rights suffer. From 1965: " The right to know, to converse with others, to consult with them, to observe social, physical, political, and other phenomena abroad as well as at home gives meaning and substance to freedom of expression and freedom of the press. " 1969 Student and civil rights activists initiate an educational solidarity project to defy the restrictions and cut sugar cane side by side with Cuban workers. More than 8, 000 people since then have traveled with the Venceremos Brigade in yearly contingents without ever requesting a license from the government. 1972 Center for Cuban Studies organized to bring academic and cultural groups to and from Cuba. Center is bombed in 1973. 1199 Hospital Workers union hall also bombed for exhibition called ExpoCuba and a worker is injured. 1975 Miami Airport bombed in response to U. S. policy change allowing third country subsidiaries of U. S. companies to do business with Cuba Oct 6, 1976 Bomb explodes on Cubana civilian flight taking off from Barbados killing all 73 passengers. CIA-trained bomber Orlando Bosch is now an honored member of the Miami community openly supported by the first President Bush and his sons. CIA-trained bomber Luis Posada escaped from



prison in Venezuela and later helped CIA efforts to supply Nicaraguan Contras in the 1980's. In the 1990's, Posada says he received funds from leaders of the Cuban American National Foundation to coordinate the bombing of hotels in Cuba. Sentenced in Panama for 'arms violations' related to a 2003 assassination plot against the Cuban President, currently in jail in El Paso, TX, for 'illegal immigration' violations. 1977 President Jimmy Carter lifts the restrictions on travel. Young Cuban Americans in the Brigada Antonio Maceo travel to Cuba as an act of friendship and reconciliation. 1978

- 600 young people from the U. S. attend the World Youth Festival in Havana
- Meeting in Havana, representatives of Cubans living abroad in the United States, Spain, Puerto Rico, and Mexico establish a Dialogue with the Cuban Government. Cuban American leaders establish the Committee of 75 and travel agencies are initiated to coordinate the travel of Cuban Americans to visit their relatives. 125, 000 do so in the next year and regular charter service is established between Miami and Havana. 1979 Carlos Muniz, president of Viajes Varadero travel agency in Puerto Rico, and member of the Committee of 75, is assassinated in San Juan. Eulalio Negrin, another member of the Committee of 75, is assassinated in Union City, NJ

1982 President Ronald Reagan re-imposes the travel restrictions. Law firm of Rabinowitz, Boudin, Standard, Krinsky and Lieberman — which had originally litigated the Kent v Dulles suit in 1958 — brings suit on behalf of Professor Ruth Wald, the Center for Cuban Studies, and other plaintiffs to end the restrictions, a case finally lost by a 5-4 Supreme Court decision in 1984. The majority rule that foreign policy concerns of the executive branch could override our Fifth Amendment right to travel. 1985 Subpoenas demanding

the names of all Marazul Tours clients who had traveled to Cuba is fought and won by the Center for Constitutional Rights, the National Lawyers Guild, and the National Conference of Black Lawyers. 1986 Marazul is bombed and would be bombed again in 1989 and 1996. Mackey International, Airline Brokers Company and other travel agencies in Miami are also bombed over these years. 1992 Cuba Democracy Bill (Torricelli Bill) passed by Congress to further restrict travel and increase effects of the economic blockade as Cuba's economy bottoms out in the wake of the collapse of her trading partners in the socialist world. â—◆ Pastors for Peace initiates the first of annual U. S.-Cuba Friendship Caravans demanding the right to travel to Cuba to deliver humanitarian supplies and refusing, on principal, to apply for 'permission' from the U. S. government. In 1993, Pastors for Peace mounts a 23 day hunger strike and world wide campaign which wins the release of a school bus and supplies. In 1996 participants risked their lives in a 94-day Fast for Life successfully demanding the release of 400 computers for the Cuban Ministry of Public Health.. â—◆ In a series of attacks coordinated by Luis Posada (see above) bombs explode at a number of Cuban hotels resulting in the death of an Italian tourist. 1993 Global Exchange and other organizations launch the Freedom to Travel challenge sending eight delegations without licenses for the next three years. The government responds by freezing Global Exchange's account. The former head of the U. S. Interests Section in Havana, Wayne Smith, initiates a similar campaign bringing unlicensed academics to Cuba beginning in 1994. 1996 Freedom to Travel Campaign v. Newcomb: 9th Circuit Court rules the court will not intervene in foreign policy decisions and maintains travel restrictions. 1996

Helms Burton Bill tightens and codifies travel restrictions giving only Congress the power to eliminate them. 1997 900 unlicensed young people defy the restrictions to attend the World Youth Festival in Havana, in the largest single travel challenge. No one is fined. 1998 — Pope John Paul II visits Cuba and calls for an end to the restrictions and U. S. economic blockade. — 5 Cuban agents who had been sent to the U. S. to monitor the activities of groups in Miami who were attacking Cuba — are convicted of being unregistered Cuban intelligence agents and conspiracy and one is also convicted of conspiracy to commit murder (re the shootdown of 2 ' Brothers to the Rescue' planes in 1996). Information passed on from the 5 to Cuba — and from Cuba to U. S. authorities — included imminent threats to the charter flights between Miami and Havana. 1999 President Clinton modifies restrictions allowing increased travel — but only under licenses. 1982-2003 Hundreds of universities, colleges and high schools, professional and cultural organizations, religious institutions and groups, and thousands upon thousands of individuals flood the Treasury Department with applications for travel — many enlisting the aid of their congressional representatives. Over 750 universities and colleges receive licenses. 2000 Nethercutt Amendment allows limited food and medicine sales to Cuba, but also further codifies travel restrictions. 2001 The House of Representatives votes to withhold funds for the enforcement of the travel restrictions. 2002 — OFAC (Office of Foreign Assets Control) fines more than 100 travelers \$1000 each. OFAC fines 74-year grandmother \$8500 for bicycling in Cuba. Hundreds of others have cases pending before OFAC. — 350 Cuban Americans meet in Florida to demand a new Cuba policy and an end to the restrictions. — Over 150

citizens and elected officials representing 37 cities and 17 states met with their counterparts in Cuba as part of the U. S.-Cuba Sister Cities Association Conference. In response, OFAC sends Requirements to Furnish Information (subpoenas) to members of the U. S.-Cuba Sister Cities Association alleging they organized an " illegal" conference in Cuba. â—◆ Nobel Peace Prize recipient and former President Carter travels to Havana for discussions with the aim of a new Cuba policy and calls for ending the travel restrictions as a first step. â—◆ National Summit on Cuba — sponsored by the American Farm Bureau, Americans for Humanitarian trade with Cuba, the World Policy Institute, USA-Engage, and other conservative, centrist and liberal organizations — meets in Washington and calls for ending the restrictions.

2003 â—◆ In 2003, approximately 210, 000 people from the U. S. traveled to Cuba, 180, 000 ' legally' under licenses (including 110, 000 visiting relatives and 35-40, 000 under now eliminated People to People Educational Exchange licenses) and around 30, 000 without permission (i. e. licenses) from the government. â—◆ March 24: OFAC announces elimination of People to People Educational Exchange licenses, the second largest category (after family visits) of Americans traveling to Cuba — and affecting some 40, 000 travelers annually. â—◆ Jul: 200 people travel to Cuba without a license in 1st Travel Challenge organized by Pastors for Peace Friendship Caravan and the Venceremos (We Shall Overcome) Brigade. â—◆ Aug: U. S. prevents Grammy-nominated Cuban musicians from traveling to the ceremonies. â—◆ Sep 9 + Oct 23: House votes 278 to 188 and Senate 59 to 36 to remove funding of the enforcement of travel restrictions. Congressional leadership eliminates these amendments from final bill sent to the President.

â—◆ UN votes 179 to 3 against the U. S. embargo of Cuba, the highest vote in the 12 years the resolution has been debated. â—◆ Oct 10: President Bush announces a further crack down on travel to Cuba: Between Nov 10 and Jan 10, over 500 agents of the Department of Homeland Security are specially trained to interrogate over 44, 000 legally licensed passengers on flights to Cuba; several religious licenses revoked, many are denied. â—◆ Dec 29: Head of Cuba Desk at U. S. State Department says legal travel to Cuba must now be ' focused and directed and aimed at U. S. policy goal to achieve a rapid transition" in Cuba. 2004 â—◆ Mar 3: OFAC declares ' research' cannot be conducted at Cuban conferences and requires special OFAC permission. â—◆ Apr 29: Associated Press story reveals OFAC has 2 agents assigned to track down money of Osama bin laden and 22 agents assigned to Cuban embargo violations. There were 93 enforcement investigations and \$9, 425 in fines for terrorism financing violations since 1994; compared with 10, 683 enforcement investigations and \$8 million in fines for Cuban embargo violations between 1990 and 2003. â—◆ May 6: " Commission for Assistance to a Free Cuba" 500 page report calls for peaceful overthrow of the Cuban government and economic system: <http://www.state.gov/p/wha/rt/cuba/commission/2004/c12237.htm> The recommendations regarding new travel restrictions welcomed by the President and go into effect June 30th. They included: â- Limit family visits to once every 3 years and by individual application for a specific license only 3 years after prior trip. There is no provision included for travel in case of severe illness or accident. â- Limit definition of family members to immediate family only and limit visit to 14 days. â- Eliminate almost all

college and university programs to Cuba

- â- Eliminate all high school programs
- â- Eliminate clinics and workshops provision
- â- Eliminate the 'concept' of 'fully hosted travel' (for persons who are fully hosted guests of Cuban institutions or organizations). This new provision directly eliminates the 'right to travel' by delinking the rationale of controlling the use of U. S. funds.

- â—◆ May 14: Largest march in Cuban history protests Commission report calling for Regime Change in Cuba
- â—◆ May 20: National Day of Protest against the new travel restrictions called by more than 20 national organizations. In Miami, 500 Cuban Americans attend a press conference to announce opposition to the new restrictions.
- â—◆ July 19: Two hundred U. S. citizens assert their Constitutional and democratic rights to travel to Cuba in Travel Challenges sponsored by the Venceremos Brigade, Pastors for Peace, and the African Awareness Association, crossing the border in McAllen, Texas and in Buffalo, New York). Unprecedented media coverage including articles in more than 300 newspapers, and dozens of TV and radio stations.
- â—◆ October: OFAC issues Requirement to Furnish Information demands to Venceremos Brigade and Pastors for Peace.
- 2005
- â—◆ Administrative Law Judges begin issuing financial penalties against unlicensed travelers to Cuba.
- â—◆ Conferences (March 5 NYC / April 26+27 DC / June 10+11 Mobile A) demand right to travel to Cuba.
- â—◆ July: Travel Challenges by Venceremos Brigade, Pastors for Peace, Cesar Chavez Labor Challenge + Seattle Women's Challenge. Challengers cross the border into the U. S. (Buffalo NY + Texas) on Aug 1. Donated computers are seized by Customs + 130 Caravanistas and 60 Brigadistas receive OFAC letters demanding information + threatening fines.
- â—◆ Sep: U. S. judge decides CIA-trained terrorist Luis

Posada (see above) will not be extradited to Venezuela to stand trial for the 1976 Cubana bombing. ♦ \$1.5 million in fines are collected by OFAC against unlicensed travelers to Cuba in 2005. 2006 ♦ Feb: OFAC issues Penalty Notices to 8 brigadistas saying travel challengers do "substantial harm to the sanctions program". U. S. denies visas for 55 Cuban scholars to attend LASA Congress in Puerto Rico. ♦ June: Secretary of State Rice releases second report from so-called Transition Commission. President agrees with all recommendations including formation of federal Task Force to investigate bringing criminal charges against those deemed to be organizers of travel challenges. ♦ June 17-July 17 Pastors for Peace 17th U. S.-Cuba Friendship Caravan Travel Challenge ♦ July 2-17 Venceremos Brigade 37th Contingent to Cuba Travel Challenge Within weeks all Brigadistas and Caravanistas receive letters from OFAC demanding information and threatening fines. In four years, more than 600 people have participated in these travel challenges and more than 325 have received OFAC letters. Each challenger has refused to provide any information to OFAC and has demanded a public hearing. ♦ Bush's policies are rejected at the polls and Democrats win control of House and Senate. Congressman Jose Serrano calls for change in national Cuba policy. Between 2003 and through 2006, 1,000 individuals were fined \$1.8 million for travel to Cuba offenses. Hearings before 3 Administrative Law Judges were held regularly in Washington for Cuba travel cases. 2007 ♦ Travel Challenges in July by Venceremos Brigade and IFCO Pastors for Peace No OFAC letters sent to brigadistas or caravanistas. ♦ The Justice Dept brought charges against 2 people who had obtained a religious license for a phony church and under

which more than 6, 500 Cuban Americans traveled from Miami under the ' watchful eye' of OFAC. No action has even been contemplated against the travelers. —◆ Nov: Government Accountability Office publishes report on effects of Bush travel restrictions OFAC reports that attempt to strictly enforce the travel restrictions against Pastors and the Venceremos Brigade had resulted in ' a public relations and enforcement dilemma.' 2008 —◆ Dec: Government Accountability Office publishes report on effects of Bush travel restrictions —◆ Travel Challenges in July by Venceremos Brigade and IFCO Pastors for Peace Again, no OFAC letters sent to brigadistas or caravansistas. Between 2003 and 2008, nearly 1, 000 people have participated in the challenges. Between 2003 and through 2006, more than 400 received Requirements to Furnish Information (RFI's) letters from OFAC. OFAC determined that the travel challengers " do substantial harm to the sanctions program. " Each challenger responded through an attorney that she/he would not answer any questions on the OFAC questionnaire and requested a hearing in DC. In all of 2007 and 2008 only 5 individuals were fined by OFAC for travel violations to Cuba. No hearings have been held since 2006. —◆ Nov: Barack Obama elected President. 2009 —◆ Congress passes Omnibus Spending Bill including amendment forbidding funds allocated for OFAC to be used for enforcement of Bush's restrictions on Cuban American travel to visit their —immediate' relatives only once every three years. President Obama's OFAC responds by immediately issuing General License for Cuban American travel once every 12 months to visit ' close' relatives. This is the first action to broaden travel to Cuba in 10 years. —◆ HR 874 and S 428 " Freedom to Travel to Cuba" bills introduced in the



House and the Senate to eliminate all restrictions on travel to Cuba. ♦

Justice Department indicts Luis Posada for lying to authorities about his role and knowledge of hotel bombings in Cuba — which killed an Italian tourist — in the 1990's. ♦

Members of the Congressional Black Caucus led by Congresswomen Barbara Lee visit Cuba and meet with President Raul Castro and former President Fidel Castro. Call for an end to the embargo and the travel ban and respect for Cuba's sovereignty. ♦

Federal Judge in Miami declares the Florida Travel Act unconstitutional. The state law sought to punish charter companies for arranging legal travel to Cuba. The court found that Florida had attempted to adopt its own foreign policy. ♦

Prior to meeting with Latin American heads of state — excluding Cuba — President Obama announces ' new beginning' of U. S.-Cuba relations and orders opening of unrestricted travel by Cuban Americans to visit their close relatives. ♦

April 17-19 Summit of the Americas meets in Trinidad. Every country of Latin America urges President Obama to end the embargo and travel ban to Cuba. ♦

July-August 40th Anniversary Contingent of the Venceremos Brigade and 20th Anniversary Pastors for Peace Caravan to Cuba scheduled to challenge the travel ban and demand the right for travel for all to Cuba. Venceremos Brigade P. O. Box 5202, Englewood NJ 07631

[www.venceremosbrigade.net](http://www.venceremosbrigade.net)