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Immigration - Haitians

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001. memo	Press Release from Congressman Lamar Smith. Phone No. [partial] (1 page)	12/22/1997	P6/b(6)

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2009-1006-F

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- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
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Immig - Haitians

BOB GRAHAM
FLORIDA

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United States Senate

WASHINGTON, DC 20510-0903

October 9, 1998

**TO: Erskine Bowles
Chief of Staff to the President**

FROM: Senator Bob Graham

RE: OMNIBUS APPROPRIATIONS BILL FOR FY-99

Elena
~~*Prince*~~
Cew / Matthews
Spertling
Echaveste

Attached, as an addendum to the documents which I sent you earlier today, are clips which I have compiled regarding the Haitian Immigration issue. I believe that you will find these articles of interest as they show the widespread support that exists for fair treatment of Haitian immigrants.

Again, I hope that the President will support us in the effort to secure the legislation which we seek. Please don't hesitate to call me if I can be of assistance in any way.

✓

So close, so far

HAITIAN REFUGEES To rob them now of fair immigration legislation is an un-American injustice.

House anti-immigrants triumphed this week. They trashed legislation that would extend legal status to some 40,000 Haitians living among us.

House Republican leaders on Wednesday cruelly axed fair Haitian immigration provisions from an appropriations bill. That's incomprehensible because the measure has garnered broad bipartisan support — including vigorous endorsement by Florida GOP faithful, among them Jeb Bush, Sen. Connie Mack, and Reps. Lincoln Diaz-Balart and Heana Ros-Lehtinen.

But reason and justice appear lost when it comes to Haitians. For decades Haitians fleeing a troubled homeland have run smack into unfair U.S. immigration policy. Last year, even, Congress excluded Haitians from a bill that granted green cards to some 150,000 Nicaraguans, and other benefits to Guatemalans, Salvadorans, and Eastern

Europeans. It was well argued then that mass deportations to Central America would weaken fledgling democracies and deprive poor economies of needed remittances.

The same applies to Haiti, a weak democracy paralyzed by politics and just pounded by Hurricane Georges.

Without relief, some 40,000 Haitians, including many who fled persecution, could be deported after December. They would be torn from family and jobs to face economic and political chaos.

Commendably, Florida Sens. Mack and Democrat Bob Graham, down to the wire, continue to push mightily for fair relief for Haitians. There's also a chance that Haitian provisions may land in the omnibus spending bill, and the White House could ensure passage. Call the White House at 202-456-1111 and ask for support. Anything less for Haitians would be un-American, the triumph of mean spirits over justice.

Paper Miami Herald

OCT 09 1998

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BG

01

Sun-Sentinel

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EDITORIALS

Congress should treat refugees from Haiti the same as Cubans

The cruel game of bait-and-switch that Congress is playing with the lives of Haitian refugees took another turn toward insensitivity and injustice Wednesday. Scrambling to resolve spending disputes and avoid a government shutdown this weekend, Congress stripped four supposedly controversial issues from the bill to finance operations of the Treasury Department and Postal Service.

One of the four was a provision to grant permanent-resident status to about 40,000 Haitians, many of them longtime residents of South Florida, who have been in legal limbo and subject to deportation for nearly three years.

Even though the Haitian provision was supported by the entire Florida congressional delegation, most Democrats and many Republicans, it was deemed a potential roadblock to a spending compromise by the Republican leadership and summarily yanked from the bill.

Last year, Congress granted legal status to similar refugees from Central America and Cuba, but not Haiti, even though most of the Haitians in question had fled their country during a period of political violence under a repressive military government that was ousted by the American-led military intervention in 1994.

The bipartisan agreement reached earlier this year was intended to provide equal treatment for all Caribbean Basin immigrants and dispel a lingering perception that Haitians were being discriminated against

Despite widespread support, the Haitian provision was deemed a potential roadblock to a spending compromise.

because of their skin color and the assumption they had fled their country for economic, not political, reasons.

At the eleventh hour, however, the Haitian provision was challenged by Rep. Lamar Smith, R-Texas, chairman of the House Immigration Subcommittee, who made the preposterous charge that Haitians actually have been treated better than most other immigrant groups.

That statement will come as a distinct surprise to members of the Haitian-American community, who historically have been made to feel much less welcome in the U.S. than their fellow refugees from Fidel Castro's Cuba.

At present, both Haitians and Cubans who are intercepted trying to reach Florida by sea are being returned to their homelands.

But Cubans who manage to reach shore are much more likely to become legal residents than Haitians.

Simple justice demands that Congress should restore the Haitian amnesty provision and remove the cloud of uncertainty that now hangs over thousands of people who have become productive and responsible members of American society.

Paper Sun Sentinel

OCT 09 1998

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Immig

2A THE HERALD, SATURDAY, OCTOBER 3, 1998

The Miami Herald

JOHN S. KNIGHT (1924-1981)

JAMES L. KNIGHT (1902-1981)

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The final push

The proposed language is an underhanded House Republican attack on Lawrence Noble, the Federal Election Commission's counsel. After all, Mr.

Noble has had the audacity to investigate campaign fund raising and soft-money abuses affecting both parties. So GOP leaders tacked on a rider to the Treasury-Postal spending bill that proved to be the bill's undoing this week: It was defeated before it could even go to the House floor for a vote.

That's a double shame. Because provisions to grant legal status to some 40,000 deserving Haitian refugees, also attached to this bill, are now endangered — even though these Senate-approved provisions are so just that they have overwhelming bipartisan support. That's why, whether differences in the Treasury-Postal bill are resolved in committee or its provisions get kicked into an omnibus spending bill, Haitian immigration relief must be saved.

FOR HAITIAN REFUGEES Don't let mean-spirited politics doom Haitian immigrants' relief.

Supporters admirably have worked hard to get even this far. Kudos goes to Florida Sens. Connie Mack and Bob Graham, who attached the provisions to the spending bill in the first place. Credit, too, Florida representatives, from Democrat Carrie Meek to Republicans Lincoln Diaz-Balart, Bill McCollum, and Heana Ros-Lehtinen; also Sens. Spencer Abraham, R-Mich., and Edward Kennedy, D-Mass., the Congressional Black Caucus, and key Florida Republicans Jeb Bush, Al Cardenas, and Ana Navarro.

But now a mighty, final effort will be needed to win fair treatment for Haitian refugees. Florida Republicans, especially, must carry the message to Republican leaders Newt Gingrich and Trent Lott, and Democrats must rally serious support from their leadership and the White House. Tell them that fair play must defeat mean-spirited politicking that could deny 40,000 Haitians a status already given other immigrants.

Paper Miami Herald

OCT - 3 1998

Page 1 or 15

BG (8)

Immig- Haitians



Kate P. Donovan
09/18/98 09:10:19 AM

Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Treasury/Postal Letter language on Haitians

You may have seen this already, but just in case:

----- Forwarded by Kate P. Donovan/OMB/EOP on 09/18/98 09:07 AM -----



Charles E. Kieffer

09/17/98 09:16:40 PM

Record Type: Record

To: Kate P. Donovan/OMB/EOP@EOP
cc:
Subject: Treasury/Postal Letter language on Haitians

Put this under language issues at the end. Insert "Senate" in front of bill language.

----- Forwarded by Charles E. Kieffer/OMB/EOP on 09/17/98 09:16 PM -----

Steven M. Mertens

09/17/98 04:53:14 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Treasury/Postal Letter language on Haitians

At the WH Immigration meeting today, Maria Eschevesta and Peter Jacoby suggested the Treasury/Postal letter signal Administration support for relief for Haitians contained in an amendment attached to T/P by Senator Graham. BRD informed me that the letter is in final clearance and changes can only come from the 2nd floor. Here is proposed language for inclusion in the T/P letter:

"The Administration supports efforts by Congress to provide legislative relief from deportation to Haitians. We believe the Haitians deserve the same treatment Congress provided to other Central American last year. Like Central Americans, Haitians for many years were forced to seek the protection of the United States because of oppression, human rights abuses and civil strife at home. This bill language supports our policy of treating similarly situated people the same and we urge its adoption."

Here is further background the issue from an e-mail in July from Ingrid. If you need anything further, please let me know. Thanks.

From: Ingrid M. Schroeder on 07/09/98 10:49:24 AM

Record Type: Record

To: See the distribution list at the bottom of this message

cc: James J. Jukes/OMB/EOP@EOP

Subject: Justice call to the Director re: Relief from Deportation for Haitians

Heads Up -

Justice advises that Deputy Attorney General Holder will be calling the Director this afternoon to urge Administration support for a potential Sen. Graham (D-FL) amendment to the Treasury Postal Appropriations Bill which would provide relief from deportation for certain Haitians in the United States.

Background

P.L. 105-100, District of Columbia Appropriations for FY 1998, contains a provision, the "Nicaraguan Adjustment and Central American Relief Act," which provides relief from deportation for certain Central Americans. The President's signing statement for P.L. 105-100 stated that "similar relief should be made available to Haitians and [I] will seek a legislative solution for this group."

In November 1997, Sen. Graham (D-FL) introduced S. 1504 and Rep. Conyers (D-MI) introduced H.R. 3049. These bills would provide relief from deportation for certain Haitians.

On February 24, 1998, the President sent a letter to Sen. Graham stating that "it is critical that Congress provide the most appropriate relief for Haitian nationals as quickly as possible" and that the Administration would work with Congress to achieve this goal.

According to the Department of Justice, Senator Graham intends to offer an amendment to the Treasury Postal Appropriations bill which would provide relief from deportation for certain Haitians and is almost identical to S. 1504.

Although the Administration has not taken an official position on S. 1504, Justice (Furst), NSC (Busby), and DPC (Fernandes) advise that they do not object to the bill.

Message Sent To: _____

▶ **Julie A. Fernandes**
01/20/98 11:49:15 AM
.....

Record Type: Record

To: Maria Echaveste/WHO/EOP
cc: Elena Kagan/OPD/EOP, Laura Emmett/WHO/EOP, Miriam H. Vogel/WHO/EOP
Subject: Central Americans and Haitians

Maria,

I spoke with John Morton last Friday re: the procedure for implementation of the Central American legislation. I also asked generally about what procedure was in place to deal with Haitians who are in deportation proceedings (pursuant to Scott's conversation with Counsel's office, I kept the conversation about Haitians very general, and not at all tied to any specific enforcement action). According to Morton, the memo authorizing the alternative procedure for Central Americans (through use of adjudication officers rather than EOIR judges), will be signed by the AG today. The next steps will be for INS to work out the particulars of this with the advocates, etc. Morton did not foresee our involvement in this "working out" process, but I'm sure he would be open to updating us on progress, concerns, etc.

With regard to Haitians, Morton said that the INS intends to identify all those who are in proceedings and are eligible for DED (through the EOIR data base) and inform them by mail that unless INS hears otherwise, they are going to administratively close their case (which will hold the proceedings in abeyance, pending a legislative change or the end of the DED period). Also, the ALJs have been informed that Haitians covered by the DED order are eligible for administrative closure (and should be informed of such if they appear before them) and INS trial attorneys have been instructed to agree to an administrative closure in any case where the alien is eligible and consents to it.

I hope this is helpful.

Julie

~~DOF Hait~~

Immigration - Haitians

▶ **Julie A. Fernandes**
01/08/98 01:02:38 PM
.....

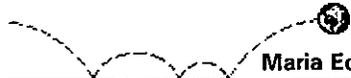
Record Type: Record

To: Elena Kagan/OPD/EOP
cc: Laura Emmett/WHO/EOP
Subject: Haitians in Miami

Elena,

Maria just called to alert us to a growing situation in Miami. Apparently (though I need to follow up with more fact finding with INS and DOJ) the immigration judges in Miami are denying stays or continuances in deportation proceedings involving Haitians because they understand the DED to only stop the actual deportation (once the person has a final order), and not to affect the proceedings themselves. Though this is likely a correct interpretation of what the DED means, it has angered some of the local advocates (who would like stays or continuances pending a possible leg. fix). Maria hears that Carrie Meeks is writing us a letter about how this is a waste of resources, particularly in light of the possibility of permanent legislative relief for these Haitians. I am callings INS and DOJ for more facts, etc., but I wanted to alert you to what is coming down the pike.

julie

 Maria Echaveste

01/13/98 12:00:19 PM

Record Type: Record

To: Miriam H. Vogel/WHO/EOP, Julie A. Fernandes/OPD/EOP
cc: Peter G. Jacoby/WHO/EOP, Elena Kagan/OPD/EOP
Subject: Haitian Group Meeting

Miriam--I think Peter's idea is a good one--meeting with the immigrant advocacy groups on Haitian legis before the Congress comes back--the Week of 1/19 (remember--1/19 is a holiday)--please get our list from last meetings and I'll review with you--also Julie can tell you whether and who from INS/DOJ should come. Julie--could you also check on whether we need to circle back on the implementation of the central am legis and if in fact we handled the haitian ded --I am hearing that INS is about to insist that foks file motions to administratively close the cases, contrary to prior situations where INS did it on its own without requiring motion papers--why the change--Thanks.

----- Forwarded by Maria Echaveste/WHO/EOP on 01/13/98 11:40 AM -----

PETER G. JACOBY

01/13/98 11:38:35 AM

Record Type: Record

To: Maria Echaveste/WHO/EOP
cc:
Subject: Haitian Group Meeting

Would it be possible to set up a meeting with the immigration groups that will work on the Haitian legislation? I think it would be good to hear from them. Please give me a call when you get a chance. Peter

Immigration - Haitians

Dear Mr. Chairman:

In November, during the final days of the first session of the 105th Congress, I urged Congress to provide Haitian immigrants treatment similar to that which was ultimately provided Central Americans in the Nicaraguan Adjustment and Central American Relief Act. Although I was disappointed when Congress failed to include the Haitians in that measure, but I was greatly encouraged when separate bipartisan legislation providing relief for Haitian immigrants was introduced in both the House and the Senate prior to the Congressional recess. Those three bills, authored by Senator Graham, Congressman Conyers and Congresswoman Meek, recognize that Haitians have made important contributions to our communities and that a resolution of their status is critical to helping Haiti establish a strong and lasting democracy.

Perhaps even more important than the introduction of those bills is quick Congressional enactment of legislation addressing this issue. The hearing you held this week, well before Congress is scheduled to reconvene, exemplifies a strong commitment to providing timely consideration of the Haitian relief bills and your desire to provide the most appropriate and prompt relief for Haitian immigrants. Your leadership is critical as we develop a bipartisan legislative remedy that will provide the Haitians fair and equitable treatment under our immigration laws. I look forward to working with you and your Congressional colleagues to achieve this goal.

Sincerely,

The Honorable Spencer Abraham
Chairman
Immigration Subcommittee
Committee on Judiciary
United States Senate
Washington, D.C. 20510

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November 17, 1997

Mr. John Hilley
Assistant to the President and Director for Legislative Affairs
Second Floor, West Wing
The White House
Washington, D.C. 20502

NOV 19 PM 3:59

Dear Mr. Hilley:

The Nicaraguan Adjustment and Central American Relief Act closes the debate over treatment of Central Americans who fled to the United States at a time when their home countries were engulfed in civil wars against Communism.

Despite the generosity of this measure—which could permit several hundred thousand illegal migrants to remain permanently in the United States—a divisive opposition has emerged. This opposition demands that other groups, in particular Haitians, be given the same special consideration that is provided to Nicaraguans, Salvadorans, and Guatemalans. For the reasons outlined below, these situations differ substantially from those of the Haitians.

1. During the 1980s many individuals fleeing Nicaragua, El Salvador, and Guatemala were treated unfairly by the Federal Government because they were not given a real opportunity to make their case for asylum. Those from El Salvador and Guatemala filed suit and won the right to special consideration of their asylum claims in the future. Nicaraguans also received special administrative review of their claims. Republican and Democratic administrations allowed the Central Americans to remain in the United States pending a determination of their status.

2. Haitians have no similar claims against the government for unfair treatment. In fact, they have been treated better than individuals from most other countries. Haitians fleeing their country in the early 1990s—"the Guantanamo Haitians"—were paroled into the United States, where they received work authorization, were not subject to deportation, and were given the ability to pursue asylum claims. No other nationality group has received similar treatment. In fact, other aliens interdicted at sea during the same period were typically returned home with a less generous process for screening their asylum claims.

Mr. John Hilley
Page 2

3. Haitians have historically received very generous treatment from the United States. During the last 11 years, over 200,000 legal immigrants from Haiti have been admitted. (This is a higher percentage of that country's population than almost any other country.) Clearly the United States does not discriminate against Haitians in its immigration policy. In fact, as described above, the U.S. has recently discriminated *in favor* of Haitians by having brought the Guantanamo Haitians into the U.S. to pursue their asylum claims.

4. President Clinton has urged the Congress "to provide to Haitians treatment similar to that provided to Central Americans." There is no rational or logical basis to do this given long-time immigration policy and the court ruling that determined the treatment of Central Americans to be unfair. The real question is whether Haitians are being treated like those from other countries, or better, and the answer to that is yes.

5. This situation offers an opportunity for all, including advocates for the Haitian community, to emphasize healing rather than dividing. The legislation regarding Central Americans brings to a close a period of great controversy over issues of foreign policy and immigration policy. The historical context and the present factual situation provide ample reason for providing special treatment to these classes of aliens. Sound immigration policy requires that we carefully limit such special consideration and treat other groups in accordance with the permanent provisions of our immigration laws.

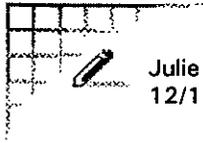
I believe that our consideration of the situation of Guantanamo Haitians should proceed from the merits of those cases, and should not be guided by comparisons to nationalities and situations that are not genuinely comparable. I look forward to our continued discussions on this and other issues.

Sincerely,



Lamar Smith
Chairman
Subcommittee on Immigration and Claims

Immigration -
Haitians



Julie A. Fernandes
12/16/97 08:13:39 PM

Record Type: Record

To: Elena Kagan/OPD/EOP
cc: Laura Emmett/WHO/EOP
Subject: Haitians

According to Peter Jacoby, he spoke with you this afternoon about tomorrow's NYT article re: Haitians and DED. I also was made aware of this late this afternoon. My understanding of the sequence of events is: Peter, John Morton (DOJ) and Scott spoke yesterday re: whether Holder would be attending the hearing in Miami. Morton said that Holder would not attend. Peter then suggested that Holder write a letter to Abraham, discussing the Department's recommendation re: DED. Abraham's office then indicated that they did not want a letter (b/c they did not want to get in on the internal debate within the Administration). Either late yesterday or this morning, DOJ decided that the AG should write a letter to the President recommending how he should do DED if he decided to do it. They thought of this as a vehicle for notifying people of the DOJ recommendation + where the Administration was leaning. I'm not sure when in all this it was decided that the Admin. was leaning toward DED (though maybe you and Peter discussed this earlier). Somehow, the NYT got a hold of the information about the AG's recommendation to do DED and decided to write a front page story that would include a discussion of the internal (both WH and DOJ) debate about which way to go.

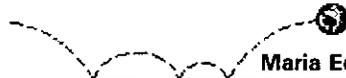
Scott faxed me a revised copy of the letter from the AG to the President this afternoon around 5pm. The cover sheet referenced a conference call at 5:30. After not receiving a call, I called Scott at about 5:40, and heard all that had been going on.

The upshot of all of this is that the NYT is running an article in the morning stating that the President is considering (maybe even leaning towards) DED for the Guantanamo + long-time asylum seeking Haitians. According to Scott (who listened to the first five paragraphs over the phone), there is some discussion of internal stuff, but that it all sounded deliberative, not negative. Also, the DOJ is finalizing this "recommendation" letter from the AG to the President that speaks more generally of DED for long term asylum seekers and "parolees." This group would include both Guantanamo and a previously undisclosed 7000 "parolees" who came to this country illegally, were in proceedings, and then were taken out of proceedings and given an opportunity to apply for relief. The total number of Haitians in the class is about 41,000 (29,000 asylum seekers + 22,000 parolees - 10,000 overlap), though it is unclear how many would have actually been eligible for deportation within the next year (thus how many would be effected by a DED). Also, NSC is drafting a memo to the President recommending DED + is drafting some q & as.

I will be in Fairfax tomorrow until about 5pm at the Advisory Board meeting. I told Scott I would call mid-day to try to keep on top of this, and that he could page me if something comes up.

julie

Immigrant -
haitians

 Maria Echaveste

12/17/97 03:16:32 PM

Record Type: Record

To: Emily Bromberg/WHO/EOP
cc: Elena Kagan/OPD/EOP, Peter G. Jacoby/WHO/EOP
bcc:
Subject: Re: haitians 

Emily--the problem is there has not been a "Decision" and we learned that the nytimes was writing the story on a 5:30 phone call where folks were desperately trying to figure out a way out of a front page story, which obviously didn't work. I'd been in touch with the groups over the last week trying to assess support or lack thereof for various options which then got fed into the leg/policy process. Clearly, we need to find a better way to coordinate rollout.
Emily Bromberg

   12:23:57 PM

Record Type: Record

To: Elena Kagan/OPD/EOP, Maria Echaveste/WHO/EOP
cc:
Subject: haitians

I would really liked to have known about the deportation exemption for Haitians before reading it in the NY Times. As you know, this is a Florida issue, and the Governor deserved a heads-up on this. His Chief of Staff was not very happy with me this morning. And I am a little concerned that he will find out that the groups knew and he did not. Chiles supports the action (he is on the record for the Meeks bill), but wants more info. I assume we would all agree that his public support of our action is helpful. Is there something I can send him? If not, Elena, can you call me and talk me through the policy? Thanks.

Immigration - ~~Report~~
Haitians

DRAFT

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

December 23, 1997

STATEMENT BY THE PRESIDENT

Today, I have directed the Attorney General and the Immigration and Naturalization Service to defer for one year the deportation of Haitians who were paroled into the United States or applied for asylum prior to December 31, 1995. This action makes good on the commitment I made to address the situation of Haitians when I signed immigration legislation last month offering relief to Central Americans and others. It will shield these Haitians from deportation while we work with Congress to provide them long-term legislative relief.

Haitians deserve the same treatment we sought for Central Americans. Like Central Americans, Haitians for many years were forced to seek the protection of the United States because of oppression, human rights abuses and civil strife at home. Many of them have established strong ties and made significant contributions to our communities. And, while we have been encouraged by Haiti's progress following the restoration of democratic government in 1994, the situation there remains fragile. Staying the deportation of these Haitians and obtaining for them permanent legislative relief will help support a stable and democratic Haiti - which, in turn, is the best safeguard against a renewed flow of Haitian migrants to the United States.

###

LAMAR SMITH HAMMERS CLINTON FOR DEPORTATION DEFERMENT

Rep. Lamar Smith (R-TX), chairman of the House Judiciary subcommittee on immigration and claims, lashed out at President Bill Clinton for granting thousands of Haitians a stay from deportation from the U.S. for at least a year.

Smith sent a letter Wednesday (Dec. 17) to Clinton stating that the president was "pandering to political pressure." Smith says the Haitians do not belong to the class of aliens described in the Nicaraguan Adjustment and Central American Relief Act, which was passed before Congress adjourned in November. *The complete text of Smith's letter appears below.*

Using his executive authority, Clinton this week granted deferred enforced departures, which could exempt upwards of 20,000 Haitians a year from deportation. In granting the deferment, Clinton said that deporting the Haitians could destabilize a weak government made weaker still by the departure of United Nations peacekeepers.

Smith challenges Clinton's rationale for granting the exemption. "To say that the return of Haitians to their homeland and culture is going to destabilize Haiti is an insult to the Haitians themselves," Smith said in a statement yesterday (Dec. 18).

The following is the complete text of Smith's letter to the president.

Text of Smith's Letter to Clinton on Haitians

December 17, 1997

Dear Mr. President:

The impending decision to grant Deferred Enforcement Departure to as many as 100,000 illegal aliens from Haiti circumvents immigration reform legislation that you signed into law, threatens the integrity of the asylum process, and smacks of pandering to political pressure not grounded in fact.

Your statements have given Haitians the incorrect impression that they somehow belong to the classes of aliens defined by the Nicaraguan Adjustment and Central American Relief Act ("NACARA"), as well as the unrealistic expectation that regardless of their status or the merits of their claims for asylum, they will be permitted to remain permanently in this country.

Haitians decidedly do not belong to the NACARA classes. The so-called "Guantanamo Haitians" were paroled into this country specifically to apply for asylum and for the most part delayed for years the filing of their applications. There has been no allegation, much less a court finding, that these asylum claims have been adjudicated in an improper manner. In contrast, the Central Americans for the most part filed their asylum applications shortly after their illegal entries into the United States. A Federal court subsequently found that many of them had been denied a legitimate procedure for adjudicating their claims. The difference between the two situations could not be more stark.

In addition, Haitians have been treated generously by our immigration system. Approximately one million persons of direct Haitian descent currently reside in the United States, and 200,000 new legal immigrants have been admitted in the last decade alone. Even during the period after June 1992 when Haitians were interdicted at sea and returned to Haiti, there was an in-country refugee program that protected thousands of Haitians from persecution by resettling them in the United States.

Granting Deferred Enforced Departure would under-

mine many of the gains recently made in our asylum system. DED will stop the streamlined process of placing failed asylum applicants directly into removal proceedings, and even give such aliens work authorization. This directly contradicts two central precepts of the asylum reforms in place since January 1995. We will thus depart from a reformed system that ensures a fair, case-by-case adjudication of claims of persecution and return to the dark days when what mattered most was one's country of origin, not the merits of one's individual claim.

As you well know, Haitians face no threat of immediate mass deportation. Due to their own delays in filing asylum applications, the cases of the Guantanamo Haitians are at an early stage. A total of 206 Haitians were deported to Haiti in FY 1996, of whom 168 were criminal aliens (INS Statistical Yearbook, Table 69). Considering the INS estimate of 105,000 Haitians residing illegally in the United States, the deportation of 38 non-criminal aliens shows that our current policy is one of virtual non-enforcement. Adding the protection of Deferred Enforced Departure will simply encourage more illegal immigration, not only from Haiti, but from any nation which feels it may be able to lobby for similar treatment in the future.

You and I have both witnessed, in the wake of NACARA, the phenomenon of groups with no claims to similar treatment, but motivated by envy, seeking the same relief provided to Central Americans. You, fortunately, have chosen to exploit this envy for political purposes, even at the risk of undermining fundamental principles of immigration enforcement and asylum reform. I find this abhorrent, and will work to see that any debate on treatment of Haitians is grounded on the facts.

Sincerely,

Lamar Smith
Chairman
Subcommittee on Immigration and Claims

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	Press Release from Congressman Lamar Smith. Phone No. [partial] (1 page)	12/22/1997	P6/b(6)

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Elena Kagan
OA/Box Number: 14364

FOLDER TITLE:

Immigration - Haitians

2009-1006-F

vz92

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

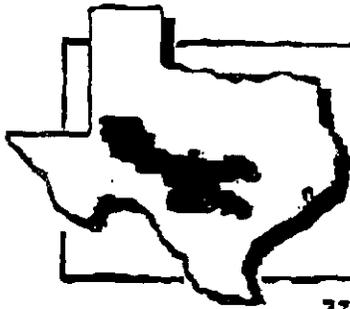
C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]



NEWS from 21st District Texas

**Congressman
Lamar Smith**

2231 Rayburn House Office Building • Washington, D.C. • 202-225-4236

FOR IMMEDIATE RELEASE

December 18, 1997

WASHINGTON, D.C. – Chairman Lamar Smith of the House Immigration Subcommittee continued Thursday to question the Clinton administration's proposed policy for Haitian asylum seekers. On Wednesday, Chairman Smith sent a letter to President Clinton. In the letter, Smith referred to a proposal to grant Deferred Enforced Departure, an executive action, to Haitians for one year as "pandering to political pressure."

Today's statement is a follow-up:

"The Clinton administration tries to make a foreign policy argument that deportations of Haitians who are in the U.S. illegally will destabilize Haiti.

"Only a few hundred Haitians are likely to be deported per year. It is ridiculous to assert that such a small percentage of the Haitian population returning would destabilize Haiti. Haiti's population is 6.7 million. For a few deportations per year the administration is undermining long-standing immigration law.

"To say that the return of Haitians to their homeland and culture is going to destabilize Haiti is an insult to the Haitians themselves."

CONTACT: Allen Kay
202-225-4236 (O)

P6/(b)(6)

[001]

'97 DEC 21 PM 12:06

THE WHITE HOUSE
WASHINGTON

December 20, 1997

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: SAMUEL BERGER 

SUBJECT: Deferred Enforced Departure (DED) for Certain
Haitians in the United States

Purpose

Provide a stay of deportation to certain Haitians.

Background

During the consideration of immigration legislation for Central Americans this fall, we urged relief for similarly situated Haitians. Those efforts were unsuccessful. You subsequently stated that you would seek legislative relief for these Haitians and, in the meantime, that we would take appropriate administrative action for these individuals.

Interim Administrative Action: Deferred Enforced Departure: We recommend that you direct the Attorney General to grant deferred enforced departure (DED) to this group - comprised primarily of those who fled Haiti after the 1991 coup. Justice concurs in this recommendation, which requires that you find that DED is in the foreign policy interest of the United States.

There are powerful foreign policy reasons for granting DED to this group. The situation in Haiti remains fragile, and the repatriation of these Haitians could increase the economic and social problems that Haiti faces. In addition to the reintegration challenge, the return of these individuals would deprive Haiti of valuable remittances - an important source of foreign exchange given the country's current depressed economic state. Furthermore, we have a strong interest in communicating to the Haitian government and the international community that the United States will treat foreign nationals fairly and equitably.

Alternative to DED: John Hilley and Bruce Reed previously informed you that the Attorney General would exercise her

cc: Vice President
Chief of Staff

prosecutorial discretion to stay the deportation of these Haitians based on the reasonable likelihood that legislation benefiting them would soon be adopted. After further discussions with the Department of Justice and the Congress, however, John, Bruce and I do not recommend such an approach, given the uncertain prospects for the legislation and our belief that such action by the Attorney General would be subject to greater congressional scrutiny than DED.

Size of the Group: We recommend directing a grant of DED for one year to Haitians - approximately 40,000 individuals in total -- who were paroled into the United States prior to December 31, 1995. This group includes the so-called "Guantanamo Haitians" who were brought in by the Bush Administration after Aristide's ouster and certain others who were apprehended at the border and later granted parole. It also includes Haitians who applied for asylum prior to that same date. Excluded would be certain criminals and others who we have an interest in removing. The group of beneficiaries is very similar to that included in legislation introduced by Sen. Bob Graham and Rep. John Conyers that would provide permanent relief to this group.

Some, including Rep. Carrie Meek and several Haitian advocacy groups, have argued that all Haitians who were in the United States prior to December 31, 1995 (possibly as many as 100,000 people) should be granted DED. We believe granting DED to such a potentially large group, without regard for the reasons they came here, conflicts with our immigration enforcement efforts and would meet with significant opposition on the Hill. These individuals should not be a problem for Haiti since the vast majority of them are not known to INS and thus are not currently at risk of deportation. Moreover, the few within this group who may be subject to deportation will be processed on a case-by-case basis and will not impose a significant burden on Haiti.

A one-year grant of DED will give us the entire next session of Congress to pursue a legislative solution. If that effort fails, we can then make a decision about appropriate next steps.

RECOMMENDATION

That you sign the attached memorandum directing the Attorney General to grant DED for one year to the group of Haitians described therein.

Attachments

Tab A Memorandum to the Attorney General

THE WHITE HOUSE
WASHINGTON

MEMORANDUM FOR THE HONORABLE JANET RENO
The Attorney General

SUBJECT: Measures Regarding Certain Haitians in the
United States

Over the past several decades, many Haitians have been forced to flee their country because of human rights abuses and civil strife and have sought the protection of the United States. A significant number of these Haitians were brought into the United States from Guantanamo Bay Naval Base by President Bush following the overthrow of President Aristide in 1991. Others arrived here and were paroled or applied for asylum. Many of these Haitians continue to be without legal status in the United States.

Pursuant to my constitutional authority to conduct foreign relations of the United States, I have determined that it is in the foreign policy interest of the United States to defer for one year the deportation of any Haitian national who was paroled into the United States before December 31, 1995 or who filed for asylum before December 31, 1995 and who has been continuously present in the United States since that date.

Accordingly, I now direct you to take any steps necessary to provide to these Haitians:

1. deferral of enforced departure from the United States until [one year from date of signature]; and
2. authorization for employment until [one year from date of signature].

This directive shall not apply to any Haitian national; (1) who has been convicted of an aggravated felony; (2) who is found to be a persecutor of others within the meaning of 8 U.S.C. 1101(a)(42); (3) who the Attorney General has reason to believe constitutes a threat to the community of the United States or presents a danger to national security; (4) whose presence or activities in the United States the Secretary of State has

reasonable ground to believe would have potentially serious adverse foreign policy consequences for the United States;
(5) who voluntarily returned or returns to Haiti or his or her country of last habitual residence outside the United States; or
(6) who was deported, excluded, or removed prior to the date of this order.

These measures should be taken today, [date of signature].



THE WHITE HOUSE

Domestic Policy Council

DATE: 12/18

FACSIMILE FOR: Elena Kagan

PHONE: () -

FAX: () 16-2873

FACSIMILE FROM: Julie Fernandes

PHONE: () 16-6558

FAX: () -

NUMBER OF PAGES (INCLUDING COVER): _____

FOR YOUR REVIEW

PER MY E-MAIL OR VOICE-MAIL MESSAGE TO YOU

PER YOUR REQUEST

COMMENTS: _____

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: SAMUEL BERGER
BRUCE REED

SUBJECT: Deferred Enforced Departure (DED) for Certain
Haitians in the United States

Purpose

To provide a stay of deportation to certain Haitians.

Background

During the consideration of immigration legislation for Central Americans this fall, we urged relief to similarly situated Haitians, but those efforts were unsuccessful. You subsequently stated that you would seek legislative relief for ~~the~~ Haitians and, in the meantime, that we would take appropriate administrative action for these individuals. Certain

Interim Action: Deferred Enforced Departure: We recommend that you now direct the Attorney General and the Immigration and Naturalization Service to grant deferred enforced departure (DED) to this group - comprised primarily of those who fled Haiti after the 1991 coup. Justice concurs in this recommendation, which requires that you find that it is in the foreign policy interest of the United States to do so.

There are powerful foreign policy reasons for granting DED to this group. The situation in Haiti remains fragile, and the repatriation of these Haitians could contribute to the economic and social problems that Haiti now faces. It would also deprive Haiti of valuable remittances - one of its primary sources of foreign exchange. Furthermore, President Preval has urged you to support equal treatment for Haitians and we have a strong interest in responding favorably to his request -- not only to foster ongoing cordial relations, but also to communicate to him and the international community that the United States will treat foreign nationals fairly and equitably.

cc: Vice President
Chief of Staff

Alternative to DED: In lieu of DED, we did consider recommending that the Attorney General exercise her prosecutorial discretion to stay the deportation of these Haitians based on the reasonable likelihood that legislation benefiting them would soon be adopted. However, we do not recommend such an approach, given the uncertain prospects for the legislation and our belief that such action by the Attorney General would be subject to greater congressional scrutiny and opposition than DED.

Size of the Group: We recommend directing a grant of DED for one year to Haitians who were paroled into the United States prior to December 31, 1995 - this includes the so-called "Guantanamo Haitians" who were brought in by the Bush Administration in the wake of Aristide's ouster and certain others who were apprehended at the border and later granted parole - and Haitians who applied for asylum prior to that same date (approximately 40,000 individuals). Excluded would be certain criminals as well as persons who pose a danger to the United States. This group is identical to that included in legislation introduced by Sen. Bob Graham and Rep. John Conyers.

If, during the one-year grant of DED, our effort to seek legislative relief is unsuccessful, we can then make a decision about appropriate next steps.

RECOMMENDATION

That you sign the attached memorandum directing the Attorney General to grant DED for one year to the group of Haitians described therein.

Attachments

Tab I Memorandum to the Attorney General

DRAFT

MEMORANDUM FOR THE ATTORNEY GENERAL

SUBJECT: Measures Regarding Certain Haitians in the United States

Over the past several decades, many Haitians have been forced to flee their country because of persecution and civil strife and have sought the protection of the United States. A significant number of these Haitians were brought into the United States from Guantanamo Bay Naval Base by President Bush following the overthrow of President Aristide in 1991. Others arrived here and were paroled or applied for asylum. Many of these Haitians continue to be without legal status in the United States. I have determined that it is in the foreign policy interest of the United States to defer for one year the deportation of these persons.

Accordingly, I now direct you to take any steps necessary to provide to these Haitians:

1. deferral of enforced departure from the United States until [one year from date of signature]; and
2. authorization for employment until [one year from date of signature].

This directive shall apply to any Haitian national who was paroled into the United States before December 31, 1995 or who filed for asylum before December 31, 1995.

The directive shall not apply to (1) any Haitian national who has been convicted of an aggravated felony; (2) any Haitian national whom the Attorney General has reason to believe constitutes a threat to the community of the United States or presents a danger to national security; or (3) any Haitian national who voluntarily returns to Haiti or his or her country of last habitual residence outside the United States.

These measures should be taken today, [date of signature].

DRAFTACTION

MEMORANDUM FOR THE PRESIDENT

FROM: SAMUEL BERGER
BRUCE REEDSUBJECT: Deferred Enforced Departure (DED) for Certain
Haitians in the United StatesPurpose

To provide a stay of deportation to certain Haitians.

Background

During the consideration of immigration legislation for Central Americans this fall, we urged relief to similarly situated Haitians, but those efforts were unsuccessful. You subsequently stated that you would seek legislative relief for these Haitians and, in the meantime, that we would take appropriate administrative action for these individuals.

Interim Action: Deferred Enforced Departure: We recommend that you now direct the Attorney General and the Immigration and Naturalization Service to grant deferred enforced departure (DED) to this group - comprised primarily of those who fled Haiti after the 1991 coup. Justice concurs in this recommendation, which requires that you find that it is in the foreign policy interest of the United States to do so.

In addition to fairness and equity, there are powerful foreign policy reasons for granting DED to this group. The situation in Haiti remains fragile, and the repatriation of these Haitians could increase the economic and social problems that Haiti now faces. It would also deprive Haiti of valuable remittances - an important source of foreign exchange given the country's current depressed economic state. Furthermore, we have a strong interest in communicating to the Haitian government and the international community that the United States will treat foreign nationals fairly and equitably.

cc: Vice President
Chief of Staff

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Alternative to DED: In lieu of DED, we did consider whether the Attorney General might exercise her prosecutorial discretion to stay the deportation of these Haitians based on the reasonable likelihood that legislation benefiting them would soon be adopted. However, we do not recommend such an approach, given the uncertain prospects for the legislation and our belief that such action by the Attorney General would be subject to greater congressional scrutiny and opposition than DED.

Size of the Group: We recommend directing a grant of DED for one year to Haitians who were paroled into the United States prior to December 31, 1995 - this includes the so-called "Guantanamo Haitians" who were brought in by the Bush Administration in the wake of Aristide's ouster and certain others who were apprehended at the border and later granted parole - and Haitians who applied for asylum prior to that same date (approximately 40,000 individuals). Excluded would be certain criminals, persons who pose a danger to the United States, Haitians who have returned or will return to Haiti, and Haitians who have previously been deported. This group is very similar to that included in legislation introduced by Sen. Bob Graham and Rep. John Conyers that would provide permanent relief to these individuals.

A one-year grant of DED will give us the entire next session of Congress to pursue a legislative solution. If that effort is unsuccessful, we can then make a decision about appropriate next steps.

RECOMMENDATION

That you sign the attached memorandum directing the Attorney General to grant DED for one year to the group of Haitians described therein.

Attachments

Tab I Memorandum to the Attorney General

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Mack group, but appropriate
compromise

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MEMORANDUM FOR THE HONORABLE JANET RENO
The Attorney General

SUBJECT: Measures Regarding Certain Haitians in the
United States

Over the past several decades, many Haitians have been forced to flee their country because of persecution and civil strife and have sought the protection of the United States. A significant number of these Haitians were brought into the United States from Guantanamo Bay Naval Base by President Bush following the overthrow of President Aristide in 1991. Others arrived here and were paroled or applied for asylum. Many of these Haitians continue to be without legal status in the United States.

Pursuant to my constitutional authority to conduct foreign relations of the United States, I have determined that it is in the foreign policy interest of the United States to defer for at least one year the deportation of any Haitian national who was paroled into the United States before December 31, 1995 or who filed for asylum before December 31, 1995 and who has been continuously present in the United States since that date.

Accordingly, I now direct you to take any steps necessary to provide to these Haitians:

1. deferral of enforced departure from the United States until [one year from date of signature]; and
2. authorization for employment until [one year from date of signature].

This directive shall not apply to (1) any Haitian national who has been convicted of an aggravated felony; (2) any Haitian national who the Attorney General has reason to believe constitutes a threat to the community of the United States or presents a danger to national security; (3) any Haitian national who voluntarily returned or returns to Haiti or his or her country of last habitual residence outside the United States; or (4) any Haitian national who was deported, excluded, or removed prior to the date of this order.

These measures should be taken today, [date of signature].

DRAFT

Dear Mr. Chairman:

Thank you for your letter regarding the immigration situation of Haitians in the United States.

As you note, the President believes that certain Haitians -- primarily the so-called "Guantanamo Haitians" and others who sought asylum in the United States prior to the restoration of democracy in Haiti -- should be offered legislative relief similar to that provided to Central Americans and others by the Nicaraguan Adjustment and Central American Relief Act. This belief is premised on several fundamental similarities between these two groups. First, this group of Haitians was also forced to seek the protection of our country because of persecution and civil strife. We know this because the vast majority of them were deemed to have a "credible fear of persecution" before they were brought here. In addition, these individuals have developed substantial ties to the United States during the time they have enjoyed protection here.

Furthermore, Haiti's political and economic situation remains very fragile. We are working, along with the international community, to bolster Haitian stability and promote economic development, but this process is slow. Providing this group of Haitians with an opportunity to be considered for permanent status in the United States is one of several

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ways we can support our fundamental interest in a stable and democratic Haiti. A stable and democratic Haiti, in turn, is the best safeguard against a renewed flow of Haitian migrants to the United States.

Although the Guantanamo Haitians came to the United States under different circumstances than Central Americans, we do not believe that this difference warrants different treatment now. On the contrary, because of the similarities described above, we think there is a very powerful case for similar treatment.

We hope to have your support for a legislative solution for this group of Haitians and look forward to discussing the issue further with you.

Sincerely,

John Hilley
Senior Advisor to the President
and Assistant to the President
for Legislative Affairs

The Honorable Lamar Smith
Chairman
Subcommittee on Immigration and Claims
Committee on the Judiciary
House of Representatives
Washington, D.C. 20515