Case Number: 2011-1039-F

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NSC/RMO PROFILE

RECORD ID: 9503628
RECEIVED: 10 MAY 95 16

TO: BERGER

FROM: SCHWARTZ
CLARKE

DOC DATE: 10 MAY 95
SOURCE REF:

KEYWORDS: HAITI IMMIGRATION

PERSONS:

SUBJECT: HAITI MIGRATION ENDGAME ISSUES

ACTION: OBE PER BERBER DUE DATE: 13 MAY 95 STATUS: C

STAFF OFFICER: SCHWARTZ LOGREF:

FILES: PA NSCP: CODES:

D O C U M E N T D I S T R I B U T I O N

FOR ACTION	FOR CONCURRENCE	FOR INFO
		CLARKE
		NSC CHRON
		SCHWARTZ

COMMENTS: _____

DISPATCHED BY _____ DATE _____ BY HAND W/ATTCH

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UNCLASSIFIED

ACTION DATA SUMMARY REPORT

DOC	ACTION OFFICER	CAO	ASSIGNED	ACTION REQUIRED
001	BERGER	Z	95051019	FOR DECISION
001		X	95052317	OBE PER BERBER

Rec'd 5/11 7:00am

National Security Council
The White House

Exec Sec Office has diskette _____ LOG # 3628 A/O _____

DOCLOG OPS SYSTEM: (PRS) NSC INT

	SEQUENCE TO	INITIAL /DATE	DISPOSITION
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Situation Room			N
West Wing Desk			
NSC/Rm			

A = Action I = Information D = Dispatch R = Retain N = No Further Action

cc:

COMMENTS:

Special Dispatch Instructions:

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

May 10, 1995

ACTION

MEMORANDUM FOR SAMUEL BERGER

THROUGH: RICHARD A. CLARKE

FROM: ERIC SCHWARTZ

SUBJECT: Haitian Migration Endgame Issues

The Issue

There are about 400 Haitians at GTMO. They can be divided into three groups.

Some 33 cases (65 individuals) have been held in safe haven after INS screening.

About 220 are unaccompanied minors.

The remaining 100 are medical hold cases, most of whom are being treated for TB.

1. 33 safe haven hold cases (65 individuals).

According to the INS, most of these cases involved people who experienced trauma so severe in Haiti that INS believed it inappropriate for them to return. In many cases, this would include witnessing the killing of one or more family members. It is a well-accepted humanitarian principle in refugee law and practice that, even with changed circumstances in the country of origin, those who experienced atrocious harm should not be expected to repatriate.

INS also concluded that a minority among the 35 had justified fears of serious harm about return, in some cases due to their being high-profile figures who had powerful political enemies.

Arguing in favor of parole for all members of this group, Justice notes that their entry could be accomplished quietly and is justified on humanitarian grounds. Moreover, sending this group of people back would be compared unfavorably to our policy of permitting all the GTMO Cubans to come into the United States.

2. The 220 unaccompanied minors.

We are continuing the "best interests of the child" determinations. The process is time-consuming, as it involves interviewing of children (who in many cases have not been forthcoming with information), tracing of families and home assessments. UNHCR continues to believe that the most appropriate disposition for most of the children will be return to their parents in Haiti. State acknowledges that the process is slow, but argues that it is working and is likely to be completed by June 30 (with the exception of a small number of difficult cases).

While the AG believes the procedure makes sense in principle, she also thinks it should now be abandoned and we should parole in all of the remaining children. She makes the following arguments:

- The process is far too time-consuming and any disposition is better than continued stay at Guantanamo.

- We are taking hits in the press and the pressure is likely to increase (e.g., we will soon see press reports of disturbances that took place on Wednesday in the camp for unaccompanied minors). While the press is wrong when it suggests we seek to prevent children from uniting with parents who are in the United States -- to the contrary, we seek to provide U.S. entry for such children -- the stories get far more play than do our rebuttals.

- This has become an issue of concern for members of the African American community in Florida.

- All of the children have sponsors or relatives of some sort in the United States. If it turns out they have parents in Haiti, they can return to Haiti from the United States to be reunited with their parents. But this should be sorted out in Miami, not Guantanamo.

In response, State/PRM argues that the process should be completed, for the following reasons:

- The "best interests" determination is the most appropriate way to deal with this issue.

- It is working. We are down to about 220 children and the process should be completed by the end of June. We may have a very small number of unresolved cases at that time, but that issue can be easily handled.

- If we let all the children in, we will set a poor precedent and encourage parents to send their children on dangerous boat voyages in the future.

- The UNHCR and Save the Children would likely oppose such a decision and could regard it as both a breach of faith and a vote of no-confidence.

State/PRM's preferred course of action would be to wait until the end of June and to see where we are at that point.

NSC staff views

Mort favors bringing all the children in now.

Alternatively, Mort would favor a public commitment that all cases would be resolved by June 30 and a redoubling of efforts to finish the process. Those still on Guantanamo on June 30 could be paroled into the United States. Dick favors this latter option, as does Eric.

State/PRM would oppose such a public announcement and argue that it would cause the Haitian children to end their cooperation with the child welfare officers at GTMO. While this may occur in some instances, we believe the public relations benefits outweigh the risks of a public commitment to resolve these cases by June 30.

3. Medical hold cases

There are about 100 persons in this category, 73 of whom are TB cases. Most of the TB treatments will be completed by summer's end, and all will be completed by December 31. We anticipate repatriation for all members of this population upon completion of their treatments, with the possible exception of a small number of cases that UNHCR has asked us to review on protection grounds. (If INS determined that any should be held, they would be treated as members of category 1, above.)

In addition to the 73 TB cases, there are about 20 individuals in need of serious medical treatment not currently available at GTMO and not available in Haiti. While their conditions are not imminently life-threatening (if they were, the individuals would be medevac'ed to the United States), members of this group will

eventually lose limbs, their eyesight or their lives if they are not treated. In some cases, we are attempting to bring appropriate medical personnel to Guantanamo (e.g., cataract surgery). In other cases, that is not possible.

For your information, *Cubans* in this category have all been paroled into the United States and have been able to receive medical treatment through special legislation providing refugee benefits to Cuban and Haitian entrants.

Justice believes we should bring the 20 Haitians into the U.S. (subject to suitable sponsorship arrangements), where they would be eligible for the same medical benefits as the Cubans. Depending upon the circumstances of the particular case, Justice might or might not seek to return members of this group after treatment.

RECOMMENDATIONS

Issue 1: That you agree to the Justice plan to permit entry of the safe haven hold cases.

Approve _____ Disapprove _____

Issue 2: That you choose an option on disposition of the unaccompanied minors. (If you agree with either the Middle Ground or the State/PRM option, you will need to discuss with the Attorney General.)

Support the AG's position, bring in all the unaccompanied minors now (Mort supports) _____

Middle Ground position: Let the process continue but publicly announce it will be completed by June 30 (Mort accepts, Eric and Dick support) _____

Support State/PRM position: Let the process continue without any public commitment to an end date _____

Issue 3: That you agree to the Justice plan for dealing with medical hold cases: return those who have been treated and permit treatment in the U.S. for those with serious conditions that cannot be treated at GTMO or in Haiti.

Approve _____ Disapprove _____

U.S. Department of Justice

Office of the Deputy Attorney General

Associate Deputy Attorney General

Washington, D.C. 20530

TO: SAMUEL R. BERGER
Deputy National Security Advisor

FROM: SETH P. WAXMAN SPW
Associate Deputy Attorney General

RE: Haitian Unaccompanied Minors at Guantanamo

DATE: May 4, 1995

The Attorney General asked that I send you the attached up-to-the-minute census of Haitian unaccompanied minors in the Guantanamo safe haven.

05/04/95 13:09 NO.359 P001

MEMORANDUM

U.S. DEPARTMENT OF JUSTICE
COMMUNITY RELATIONS SERVICE
GUANTANAMO BAY, CUBA

Subject	Date
Haitian migrants' numbers	4 May 1995

To Jeff Weiss
Ken Leutbecker
Jay LaRoche

From Marta Campos

These are the numbers we have gathered in the last hour on the Haitian migrants. For each category, I note the source of the information, and whether we have verified that source with a second one.

Number of Haitian UMs by sex and age 241 Total

The CRS Haitian UM team records reflect the following:

Total number of UMs	241	(includes 5 UMs MEDEVAC'd to U.S. for purposes of medical treatment only)
number of females	39	
number of males	202	

By age:

16-17 years old	151	
11-15 years old	85	
6-10 years old	4	
3-5 years old	1	Child of Female UM.
Total	241	

As a subcategory, I also enclose the number of aged-out Haitian UMs who are still living in Camp 9:

Total number of aged-out UMs	6	6 Total
number of females	2	
number of males	4	

05/04/95 13:09 NO.359 P002

Number of HMs on safe haven hold 65, plus 10 MEDEVACED to USA for purposes of medical treatment only

According to the INS files, there are 33 cases on safe haven hold, encompassing 65 HMs. In addition, there are other safe haven hold cases that have been MEDEVAC'd out of GTMO. That number is probably under 10.

I asked Kendra Shyne at INS to give us a breakdown of adults and children in safe haven hold. She will provide this information today or tomorrow.

Number of HMs on medical hold 148 Total

Maj McKee of the 6th ATH report the following:

93 HMs on TB hold
10 HMs needing medical treatment not available at GTMO but not requiring MEDEVAC

In addition, there are approximately 45 accompanying family members with the 103 individuals accounted for above.

Note there are not HMs on HIV or RPR hold. HMs do not get tested for HIV or RPR for repatriation to Haiti.

I hope this information is useful.

cc: Greg Smith

THE UNDER SECRETARY OF DEFENSE
2100 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-2100

POLICY

MAY 11 1995

MEMORANDUM FOR DEPUTY ASSISTANT TO THE PRESIDENT FOR NATIONAL SECURITY AFFAIRS

The Haiti Executive Committee (EXCOM) has prepared a Deputies Committee recommendation which would modify Haitian migrant policy to achieve rough parity with our newly-established rules for treatment of Cuban migrants. Given GOH opposition to involuntary repatriation, we can anticipate difficulty obtaining a new Alien Migrant Interdiction Operation (AMIO) agreement. This leaves us with the need to have a workable policy for managing interdicted Haitian migrants without a bilateral agreement on repatriation.

To be consistent with our policy for Cuban migrants, the EXCOM will recommend taking to GTMO, until their cases are fully processed, those Haitians who make credible claims of persecution on board USCG cutters. Others will be returned directly to Haiti. This is acceptable to OSD as long as the number of claimants remains low and INS and State provide processing resources at GTMO that will avoid a buildup of a migrant population there.

The assumption that numbers of migrants making claims of persecution will remain low is a significant concern for DoD. When Haitian migration has reached crisis proportions in the past, much of the burden of management shifted to DoD as the only USG agency capable of immediate large scale response. Examples during the Cuban and Haitian migrant crises of last year, in which agency responsibilities were not clear, include migrant medical care, emergency evacuation into the U.S., medical screening and the resulting tuberculin and HIV positive population, unaccompanied minors, interface with UNHCR, NGO and PVO, and legal community access. Using DoD resources for these out-of-mission activities would hurt readiness and present congressional problems.

Moreover, USG migrant policy changes in the past have prompted new and uncontrollable migration. Before the Deputies direct a change in Haitian migrant policy, I recommend that the EXCOM form a subgroup to determine how best to avoid those problems in a new crisis. The subgroup's main objective should be to identify a fallback policy and a threshold of claims for going to it. Specifically, the subgroup should identify and resolve outstanding issues in the four phases of the interdiction and repatriation or processing operation: at sea interdiction and first level screening, repatriation procedures at Haiti's ports, full migrant processing at GTMO, and resettlement.

Walter B. Slocombe