

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. letter	To President Clinton from President Rene Preval re: Haitian citizens in the United States (1 page)	11/06/1997	P1/b(1)

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Irene Bueno
OA/Box Number: 17173

FOLDER TITLE:

Haitians [1]

2017-1120-S

ry2236

RESTRICTION CODES

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

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

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.

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]
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b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

BOX 6:

Haitians

Haitians

Haitians

Haitians – DED

Central Americans (Older background)

TPS –Honduras/ Nic

Immigration Central Americas: Status Info

Central America

Haitians

Salvadoran General

Crime Bill

VAWA/ Battered Immigrants

Misc

Asylum

Immigration International Adoption

Andrews AFB/ Employee Sanctions

CNM 1

Chinese Refugees

Cubana

CHC

Diversity Lottery

Employer Sanctions

GUAM

Immigration Miscellaneous

EB5 Visa Program

Hmong Natz

Immigration Students

Immigration Courts

Iranians/ Waiver

Kosovar Refugee

Legal Immigration

Miscellaneous

Alien Smuggling

TPCR Extension

Late Amnesty HRG 10/21/99

Section 377

Section 377

Las Vegas

Immigration/ Mental Health

Mass Migration

S- Visa, Etc.

TPS

NATIONAL SECURITY COUNCIL

FAX COVER SHEET

**Office of Democracy, Human Rights
and Humanitarian Affairs****NATIONAL
SECURITY
COUNCIL**17th & Penn, N.W.
Washington, D.C.
20504Did you get a complete,
clear transmission? If
not, please call:

(202) 456-9141

From: SCOTT BUSBY**To:** JULIE FERNANDES**Agency:****Fax Number:** 6-5581**Date/Time:****No. of pages to follow:** 1**Message:**A "dear colleague" that
Lamar Smith is circulating.

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 presidents allowed the Central Americans to remain in the United States pending a determination of their status.

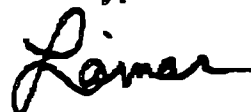
2. Haitians have no similar claims against the government for unfair treatment. In fact, they have been treated better than individuals from most other countries. Haitians fleeing their country in the early 1990s—"the Guantanamo Haitians"—were paroled into the United States, where they received work 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.

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.

Sincerely,



Lamar Smith

Withdrawal/Redaction Marker

Clinton Library

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Mtg. w/ Scott & Rob (11/17/97)

→ Contingent on DOJ getting

Holder committed to doing it.

~~DoJ is balking~~

staying deportation
of Haitians.

for Leg.
Haitians

Indefinite period of
time.

DoJ is balking.

Mtg. on Friday what best way to make
good on Prosee.

DoJ: in

NSC: vetted DED up their chain-

DED would be fine

OLC wants NSC to convince them

As between DED and Prosecution Discretion.

David
Marten

Gen
Counsel
INS

NSC thinks DED allows Pres. to be outfront
w/this.

Holder: ^{was} thinking along prosee discretion
lines

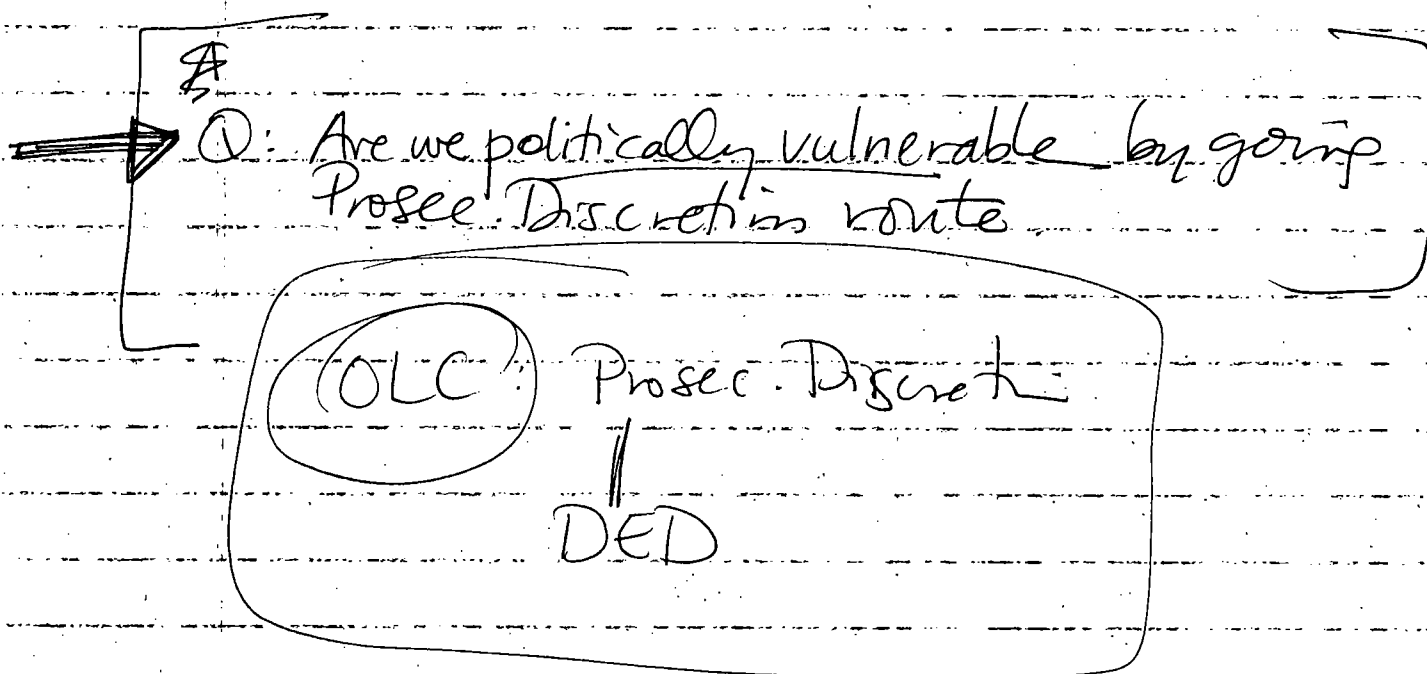
BUT/

Scott
Shares DOJ's discomfort w/prosec. discretion.

Thinks benefit to weighing DED / Prosec. discretion.

Give Pres. the political benefit.

DOJ feels vulnerable w/prosec. discretion
P should



Holder made commitment.

Didn't articulate clear legal basis.

→ ~~DE~~ Temporary Protected Status

Congress won't like it either way.

→ Is one cleaner than the other?

(Does the Pres. want credit for helping the Haitians.)

→ It's a political call.

Legal Opinion

Scott still thinks

politically makes more sense to do DED

BUT

open to OLC re: legality of both approaches

BENJAMIN A. GILMAN
20TH DISTRICT, NEW YORK

INTERNATIONAL RELATIONS
COMMITTEE
CHAIRMAN
SUBCOMMITTEE:
INTERNATIONAL OPERATIONS
AND HUMAN RIGHTS

Congress of the United States
House of Representatives
Washington, DC 20515-3220

GOVERNMENT REFORM
AND OVERSIGHT C

SUBCOMMITTEES:
POSTAL SERVICE
CIVIL SERVICE

November 9, 1997

NOV 12 PM 5:05

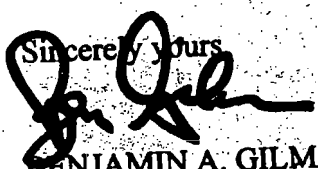
The Honorable William J. Clinton
The White House
Washington, D.C. 20500

Dear Mr. President:

I wish to assure you that I will actively support the effort to consider appropriate legislation in the House of Representatives to permit certain Haitians who fled unrest during the de facto military regime and presently live in the U.S. to apply for legal immigration status. I understand that legislation regarding Haitian nationals will be introduced in Congress before the end of session.

I further understand that while this legislation is under consideration, you will authorize the Attorney General to take appropriate administrative actions to allay the concerns of affected Haitians residing in the U.S. I look forward to working with you to fashion an equitable solution that responds to the legitimate concerns of the Haitian community in the United States.

Sincerely yours


BENJAMIN A. GILMAN
Member of Congress

BAG/ccm

PLEASE REPLY TO:

WASHINGTON OFFICE:
2449 RAYBURN BUILDING
WASHINGTON, DC 20515-3220
☒ TELEPHONE: (202) 225-3778

DISTRICT OFFICE:
407 EAST MAIN STREET
SUITE 2
P.O. Box 358
MIDDLETOWN, NY 10940-0358
☐ TELEPHONE: (914) 343-6666

DISTRICT OFFICE:
377 ROUTE 59
MONSEY, NY 10952-3498
☐ TELEPHONE: (914) 357-9000

DISTRICT OFFICE:
32 MAIN STREET
HASTINGS-ON-HUDSON,
NY 10706-1602
☐ TELEPHONE: (914) 478-5550

11/8/97

OLC has view on whether can use DED for Haitians.

Haitians

Sen. S. introducing bill to provide relief to:

- \$15-\$18K
- * Guantanamo
- * H's seek status (currently in pipeline)
- * Humanitarian cases

* CMB is holding up DC Approps up until we commit to something that stops deportations of Haitians until her bill comes up.

interim
Haitian
solution to
free DC approps

She wants WH commitment

pending
the passage
of this
legislation

amnesty

OLC

If DED is used, need to cover more Haitians
(DC need foreign policy destabilizing rationale)

Tomorrow
@ 10am

Rm 211

NSC — Foreign Policy (DED)
DoJ — Prosec. Dis. (Legal)
Views on the bill
(for Bob Graham)

~~##~~ We said we would use DED for Guat/Sal/Vicis.
But situation is diff. from Haitians.

AG & DAG were prepared to recommend use
of DED. (prior to concerns from OLC and idea of
using prosecutorial discretion).

Harder to use prosecutorial discretion when
leg. ~~is~~ would only come up next term.

~~B~~ CMB wants 4-6 mo. suspension ~~of~~ for all
Haitians (except criminals)

For Saturday

- ① NSC w/foreign policy views on use of DED
- ② DoJ w/legal views on use of prosecutorial
discretion or DED
- ③ All views on substance of bill
(for Bob Graham)
- ④ All views on signing statement

Bill is identical to Nicaraguan provision.

principals (Amnesty for filers before Dec. 31, 1995, or were paroled into U.S. before)
Physically present for 1 yr. prior to application (But can be absent for up to 180 days) (based on credible fear of prosecution and persecution)
derivatives
+ family members (nationals)
+ Spouse or minor child — just have to be Haitian

either would have to be otherwise admissible into the U.S.

(15-20k principals
? on derivatives)

~~Targeted to parolees or asylum applicants~~
+ their spouses and children

DoJ

AG needs significant assurances to exercise prosecutorial discretion. (real + bipartisan support)

Limited to those covered by the Bill

AG prepared to go along w/ DED unless OLC says that you can't.

NSC / Stay for those covered by leg would be OK
No need to declare DED right away
Will need to deal w/ prosec. dis. now,
Start w/ prosecutorial

State believes can make a strong foreign policy
case for not deporting Haitians.
my

Sal & Guat fall out if Admin. comes out strongly
in favor of The Haitian Bill

→ Need a strong coverage for Sal & Guat to create
parity.

(*) NSC wants to give relief to those that entered
prior to the intervention. (approx. Dec 31, 1995)

Adequate foreign policy basis for DED.

If w/do DED, it must be tied to foreign policy
rationale, and not to the legislation.

Haitians: Prosecutorial Discretion v. DED

1. What Haitians are we talking about?

- a. Draft legislation talks about Guantanamo + those that applied for asylum prior to Dec. 31, 1995.
- b. The INS only “moves” (deports) about 200 Haitians a year. Many of the estimated 105K Haitians in this country are not in proceedings at all.
- c. DAG is committed to doing something for the Haitians; AG is concerned about the use of prosecutorial discretion.
- d. Harder to shift from prosecutorial discretion to DED.

2. Prosecutorial Discretion

- a. The INS does not believe that the indications of Congressional support are particularly strong. But, do have the support of Sen. Abraham, the Senate subcommittee chair and oral representations that may have Gingrich.
- b. Our foreign policy concerns (re: Haitians) also support the AG’s use of prosecutorial discretion. Possible that the President’s commitment + indications that Congress is moving legislation + the foreign policy concerns give the AG enough room to exercise her discretion in not proceeding with deportation of these few Haitians.
- c. OLC: We have to be careful of the TPS statute. AG can only decline to proceed for a finite set of reasons? Otherwise, need some kind of certification?
- d. INS wants us to be able to commit to using prosecutorial discretion for at least a year. OLC: why not until further notice?
- e. INS stated that it would not be difficult for them to administer prosecutorial discretion.
- f. **OLC believes that it is appropriate for the executive branch to exercise its discretion in aid of the legislative process.**

3. DED (Deferred Enforced Departure)
- a. Would be used for asylum applicants (pre-December 1995) + Guantanamo Haitians.
 - b. If numbers are small, less of a rationale for DED -- lower risk of destabilizing the fragile economy of Haiti. BUT there is the pull out of multi-lateral forces at the end of November.
 - c. **Haitians that are left out of DED might wonder, if the country is so unstable, why are they being sent back (why a sub-group of Haitians??)**
 - d. Isn't it tough to do DED for a sub-group of Haitians? Defined by the circumstances under which they came here?
 - e. Bush did exercise his DED authority to not deport approximately 200 Kuwaitis. Had a different view of Presidential power.
 - f. OLC: If the foreign policy experts say that there is a foreign policy rationale for doing DED, then it is legal to go forward. Otherwise, we are on thin ice. NSC represented at the meeting that they (NSC and State) agree that DED is o.k.
 - g. OLC is concerned that the President should not base DED purely on a concern with the relationship with the country. Usurps Congressional power too much.
 - h. OLC's position is that DED is a close call in these circumstances as a matter of law.

LINCOLN DIAZ-BALART
21ST DISTRICT, FLORIDA

COMMITTEE ON
RULES

VICE CHAIRMAN,
SUBCOMMITTEE ON
RULES AND ORGANIZATION
OF THE HOUSE

COMMITTEE ON
INTERNATIONAL RELATIONS
(SENIORITY RETAINED)



Congress of the United States
House of Representatives
Washington, DC 20515-0921

November 8, 1997

PLEASE REPLY TO: 116

WASHINGTON OFFICE:

☐ 404 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-0921
(202) 225-4211

DISTRICT OFFICE:

☐ 8525 N.W. 53RD TERRACE
SUITE 102
MIAMI, FL 33166
(305) 470-8555

The Honorable William Jefferson Clinton
President of the United States of America
The White House
Washington, D.C. 20500

NOV 10 11:52:27

Dear Mr. President:

I write to extend my strong support for the effort to ensure that appropriate legislation be considered in the House that will permit Haitians, who fled civil unrest and who now live in the United States, to apply for legal immigration status.

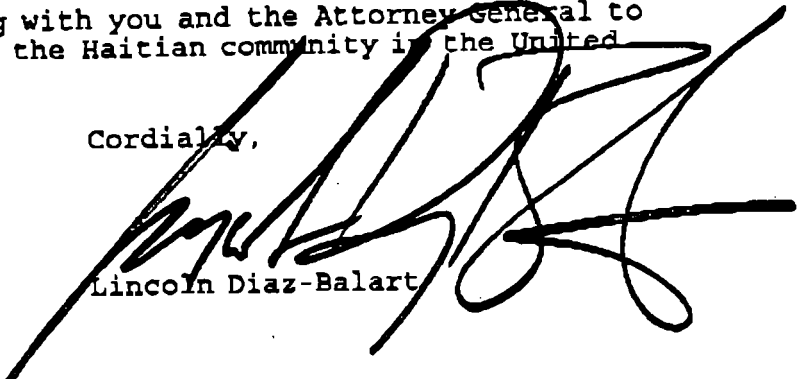
It is my understanding that legislation to remedy the concerns of the Haitian population in the United States will be introduced in the House and the Senate before the end of session this year.

As a cosponsor of H.R. 2442, introduced by my colleague Representative Meek, I will continue to work to ensure that the House considers appropriate legislation as soon as possible.

It is my understanding that, during the consideration of this legislation, you will be assisting Congressional efforts by using your Executive authority to allay the fears of deportation that now exist.

I look forward to working with you and the Attorney General to ensure an equitable result for the Haitian community in the United States.

Cordially,


Lincoln Diaz-Balart

LDB:tl

THE WHITE HOUSE
WASHINGTON

INFORMATION

MEMORANDUM FOR THE PRESIDENT

FROM: SAMUEL BERGER

SUBJECT: Haitians without Status in the United States

In recent weeks, there has been growing concern about Haitians without legal status in the United States. While the legislative package on Central Americans that we are negotiating with the Republicans may help some Haitians, it does not reach the vast majority of them (approximately 11,000) who were paroled into the United States by the Bush Administration from November 1991 to June 1992 following President Aristide's ouster.

Members of the Congressional Black Caucus and other advocates for the Haitians are pushing very hard to provide relief -- preferably an amnesty like that proposed by the Republicans for Nicaraguans -- to the so-called "Guantanamo Haitians" as part of any legislative package that would assist Central Americans and other immigrants. They argue that any bill that provides relief to Central Americans but does not provide similar benefits to Haitians is discriminatory.

There is consensus within the interagency that it is important to provide relief to these Haitians along the same lines that we have proposed for the Central Americans. We are working hard with the Congress to include Haitians in this way. However, if we are unsuccessful, we may need to explore the same administrative options (e.g., Deferred Enforced Departure) that we have vowed to consider for the Central Americans if the current legislation is unsuccessful. We are attaching talking points on this issue if it comes up during your trip to Florida.

Attachment

Tab A Talking Points on Haitians in the United States

cc: Vice President
Chief of Staff

Suspension of Deportation Legislation
October 31, 1997

Background: The immigration bill passed last year significantly tightened the requirements for a form of immigration relief called suspension of deportation. Following the President's trip to Central America in the spring, the Administration transmitted to the Congress a legislative proposal that would have permitted persons with pending immigration cases to benefit from the older, more generous rules relating to suspension of deportation. Our bill also sought to ensure that Central Americans who benefited from various forms of protection in the U.S. after fleeing persecution and war in their countries could be considered on a case-by-case basis for suspension relief. The Republicans have recently offered a counter-proposal that would: (1) grant amnesty to Nicaraguans who entered the country before December 1995; (2) permit Salvadorans and Guatemalans to be considered under the older, more generous suspension rules; and (3) apply the strict new suspension rules to everyone else with pending cases except persons who fled communism in the Soviet Bloc and arrived in the U.S. prior to 1990.

Q: What is the Administration's reaction to the current Republican counter-proposal to address the situation of Central Americans and others with pending claims to suspension of deportation?

A: The Administration welcomes all Congressional efforts to ameliorate the harsh impact of the new immigration law, particularly as it relates to persons who have developed substantial ties to this country after fleeing persecution or war in their home countries.

However, we are concerned about several aspects of the Republican proposal:

First, we are concerned that the Republican proposal fails to address the situation of Haitians who the Bush Administration brought to this country after the coup d'etat against President Aristide in 1991. Like persons from Central America, these persons were fleeing persecution and civil strife and have developed substantial ties to the U.S. They deserve the same case-by-case consideration for relief that we have sought for others, including the Central Americans.

Guantanamo
Haitians

Second, we object to the failure of the Republican§to address the situation of others with pending immigration cases. These persons would be subject to the new, strict suspension rules despite the fact that their cases were pending at the time the new law went into effect. We think persons with old cases should be considered under the old rules, not new ones.

Talking Points on Haitians in the United States

- Our original legislative proposal sought to provide greater fairness to all persons, including Haitians, who were eligible to apply for suspension of deportation prior to the enactment of the recent immigration law.
- We continue to fight for fairness and equal treatment in our negotiations with the Congress on this initiative. We are pushing hard for action on this issue before the end of this session of Congress.

- We understand that the proposals currently under consideration do not address the unique circumstances of the Haitians who the Bush Administration brought into the United States from Guantanamo Bay Naval Base in 1991 and 1992. We are pushing to find a legislative solution for this group. If that is not possible, we will explore administrative options as well.

Guantanamo
Haitians
(+)
Leg. solution
or
Admin. options
later

Caucuses Push Expansion of Amnesty Relief *Proposals May Spare Haitians, Europeans*

By William Branigin
Washington Post Staff Writer

As lawmakers wrangled over the fate of 300,000 Central Americans seeking to avoid deportation under a new immigration law, the Congressional Black Caucus yesterday demanded that Haitians be included in a proposed amnesty, and other members pushed for special treatment for Eastern Europeans, as well.

The efforts to spare certain nationalities from the effects of last year's law came as the Immigration and Naturalization Service announced it had deported a record 111,794 illegal aliens in fiscal 1997, a 62 percent increase from the previous year.

Of the total, 50,165 were deported because they had been convicted of crimes, Attorney General Janet Reno said at a news conference.

At a separate news conference and rally at the Capitol, members of the congressional black and Hispanic caucuses were joined by approximately 100 Haitians from Florida and the New York area in demanding amnesty for about 18,000 Haitians in the United States who have pending applications for political asylum.

Haitian leaders said that including others, who have not yet applied, as many as 40,000 Haitians in this country may seek relief from deportation.

Several proposals are still under negotiation, but congressional sources said a deal appeared to be taking shape that would extend some form of relief from deportation to Haitians and Eastern Europeans.

Until now, negotiations involving the administration and Congress have focused on more than 300,000 Central Americans who fled their countries in the 1980s and early 1990s, and either entered the United States illegally or overstayed their visas.

These Nicaraguans, Salvadorans and Guatemalans have been allowed to stay under temporary programs, and many have put down roots in the United States and raised families that include U.S.-born children.

Although the wars they fled are over, the poverty in their homelands remains much the same, and they do not want to go home.

Nor do their governments want them back, fearing that a large influx of deportees will strain the job-scarce economies in Central America.

To accommodate the immigrants, the administration proposed making them eligible for suspension of deportation on a case-by-case basis under guidelines set by the old immigration law. The new law would require them to meet a tougher standard and impose a 4,000-a-year cap on those who could win suspensions.

The administration estimated that as many as 400,000 Central Americans would be eligible to apply for this relief and that about 180,000 would probably receive it.

In a more complex proposal, House Republicans Lincoln Diaz-Balart of Florida and Lamar S. Smith of Texas have introduced legislation that would grant amnesty to the Nicaraguans, but not to Salvadorans and Guatemalans, although their cases would be considered under the old law.

That proposal drew sharp criticism from the Salvadoran and Guatemalan communities and from many Hispanics in Congress, who argued that all the Central Americans should get the same deal as the Nicaraguans.

The Congressional Black Caucus then weighed in on behalf of the Haitians, suggesting that they were being discriminated against on racial grounds.

In addition, the caucus insisted that they be included in the solution for Central Americans because they also had fled turmoil and faced "unjust deportation" under the new law.

Rep. Carrie P. Meek (D-Fla.) argued that the Haitians should be given amnesty like the Nicaraguans, as a matter of "justice and fairness."

Among the affected Haitians are nearly 12,000 who fled by boat after a 1991 coup, were taken to the U.S. naval base at Guantanamo, Cuba,

and were later allowed to pursue asylum claims in the United States.

In addition, Sen. Spencer Abraham (R-Mich.) proposed including in the group asylum-seekers from the former Soviet Union, Poland and other Eastern European countries who fled communist governments before the end of 1990.

The Washington Post

FRIDAY, OCTOBER 31, 1997

*This is about
large #s of
Haitians.*

DRAFT

November 19, 1997

INFORMATION

MEMORANDUM TO PHIL BARTZ

OFFICE OF THE DEPUTY ATTORNEY GENERAL

JOHN MORTON

OFFICE OF THE DEPUTY ATTORNEY GENERAL

RANDY MOSS

OFFICE OF LEGAL COUNSEL, DOJ

THROUGH: ERIC SCHWARTZ/JIM DOBBINS

FROM: SCOTT BUSBY/KARL HOFMANN

SUBJECT: Foreign Policy Rationale for Granting Deferred
Enforced Departure (DED) to Certain Haitians in
the United States

There are two related foreign policy reasons for deferring the return of certain Haitians to Haiti:

(1) The economic and political situation in Haiti is very fragile at this time, particularly with the withdrawal of multilateral forces on November 30. The return of a significant number of Haitians from the United States would only contribute to the problems that Haiti now faces.

(2) The United States has devoted substantial military, political, and economic resources to restoring democracy and stability to Haiti and continues to do so. The United States thus has a powerful interest in contributing in any way it can to these developments. Deferring the return of Haitians who fled political violence prior to the restoration of stability in Haiti represents one important way of doing this.

Current Situation in Haiti

Haiti's economy continues to struggle. Haiti remains by far the poorest country in the hemisphere. GDP growth in 1996 was less than 2% and growth this year is unlikely to increase significantly. Unemployment and underemployment are estimated to run as high as 80%. Parliamentary inaction and weak public administration impede efforts to deal effectively with these

DRAFT

problems. A perceived lack of security also continues to deter private investment.

Given these difficulties, Haiti's economy is simply unable to absorb large numbers of job-seeking returnees at this time. Such individuals would either join the ranks of unemployed or underemployed or displace currently employed Haitians, thereby disrupting the momentum of Haiti's efforts to modernize its economy. Moreover, IMF estimates that Haitians in the United States, including those who may be subject to deportation, send \$400-500 million in remittances to Haiti. These represent an important source of foreign exchange in an economy that has difficulty generating such revenues.

In addition, Haiti is presently at a significant political crossroads that makes repatriation of a significant number of Haitian nationals potentially destabilizing. The United Nations peacekeeping mission in Haiti concludes on November 30, and Canadian and Pakistani peacekeeping troops will depart then. For the first time since the multilateral intervention in 1994, Haiti will be without a foreign military security presence. While there is likely to be an extension of the UN's successful Civilian Police (CIVPOL) mentoring mission, which is responsible for helping to develop the Haitian National Police, this process is far from complete. Nonetheless, the HNP will soon assume primary responsibility for internal security and stability in Haiti. Against a backdrop of political difficulty, a barely functioning government and a prolonged electoral crisis, Haiti can ill afford the potential shock to its stability or security that the return of a significant number of Haitians would represent.

U.S. Foreign Policy Interests

Beginning with our intervention in October 1994, the United States has spent roughly \$2 billion to help bring about democracy, stability, and economic reform in Haiti. The United States continues to devote considerable resources to these efforts. Although the return of Haitians by itself may not determine the success of these efforts, it represents one important contributing factor that - significantly -- is within the control of the U.S. Government. We believe that deferring the return of Haitians will help to ensure the realization of U.S. foreign policy goals in Haiti.

Scope of Protected Class

We believe that the group Haitians who applied for asylum or were paroled into the United States pursuant to our refugee protection efforts is an appropriate class for which to defer deportation. Generally, these individuals fled the human rights abuses and civil strife that characterized Haiti prior to the intervention in 1994. We have offered temporary protection to a sizeable group of these individuals consistent with our international commitments to uphold refugee protection principles. Deferring their deportation would be a logical outgrowth of our decision to provide them with protection.

1 # ?

DRAFT

NATIONAL SECURITY COUNCIL

FAX COVER SHEET

***Office of Democracy, Human Rights
and Humanitarian Affairs*****NATIONAL
SECURITY
COUNCIL****17th & Penn, N.W.
Washington, D.C.
20504**Did you get a complete,
clear transmission? If
not, please call:

(202) 456-9141

From: SCOTT BUSBY
To: MARIA E. 6-2983
Agency: ROB W. 6-1647
Fax Number: PETER J. 6-2604
JULIE F.
Date/Time: 65581

No. of pages to follow: 1**Message:**

Revised Hashim letter.
Review for 5:30 conference
call.

⊗ Include NJB - screwed
Haitians
475

Dress up 4700 in
foreign policy concerns.

Equity

Thos

Lamar offer?

Haitians
applied for asylum
~~before 1980~~
more than 7 yrs. ago
(several hundred)

As of April 1st,
400+ Haitians
in deportation
proceedings

4,754 Haitians
in proceedings (caught
by NJB)

Alan: Haitians
impacted by NJB
475

As of Oct. 15th

475
filed suspension
application

Pres. under 309(a)(5)(A) (?)

Central Americans:

Sal/Bs w/DED: had to have 7 yrs.
had to have been in
some state

DRAFT

The Honorable William J. Clinton
President of the United States
The White House

Dear President Clinton:

I understand that you are currently considering, in consultation with the Secretary of State and the National Security Advisor, a presidential order providing Deferred Enforced Departure (DED) to certain Haitian nationals who sought refuge in the United States. I appreciate the sensitivity and importance of the democracy-building effort in Haiti, and would fully support such an order.

More specifically, I would recommend a carefully crafted order extending DED, for a period of one year, to Haitian nationals continuously present in the United States and not convicted of an aggravated felony who applied for asylum, or were paroled into the country ~~through the Guantanamo Bay Naval Base~~, before December 31, 1995. This would protect from removal these Haitians who sought the protection of the United States and who have developed strong ties to this country.

I have asked Commissioner Meissner to prepare to implement DED with the least possible delay in the event you choose that course of action. I look forward to working with you and your staff in pursuing this important interim measure.

Sincerely,

Janet Reno

difference
\$ 7,000

The order?

4700 in deportation proceedings
as of April

⊗ Those w/ 7 years

475

Haitians

- Legislature {
- Guantanamo
 - Asylum applicants
 - NTB folks
 - all other parolees
of which 3,000 w/ the asylum
- Down to remaining 7000 people.

DED ? — need a foreign policy rationale

Class of people whose deportation has
consequences for fragile democracy
& ties to this country.

→ Focus on particular injustices

Unless we tell him

12/16/97 TUE 10:23 FAX 202 456 9140
12/16/97 09:24 202 514 9077
DEC-15-1997 21:04

NSC DEMOCRACY
DOJ

202 514 8844 P.01/01 002

DRAFT

The Honorable William J. Clinton
President of the United States
The White House

Dear President Clinton:

I understand that you are presently considering, in consultation with the Secretary of State and the National Security Advisor, a presidential order extending Deferred Enforced Departure (DED) to certain Haitian nationals who sought refuge in the United States after the fall of the Aristide government in September 1991. I appreciate the sensitivity and importance of the democracy-building effort in Haiti, and would fully support such an order.

More particularly, I would recommend a carefully crafted order extending DED, for a period of one year, to Haitian nationals continuously present in the United States and not convicted of an aggravated felony who applied for asylum, or were paroled into the country based on a credible fear of persecution, before December 31, 1995. The coverage of the order would roughly track the provisions of S-1504, introduced on November 9, 1997 by Senators Graham, Abraham, Mack, and Moseley-Braun, and would protect from immediate removal those Haitian nationals who sought to immigrate through lawful asylum processes during the military dictatorship in Haiti.

I have asked Commissioner Meissner to prepare to implement DED with the least possible delay in the event you choose that course of action. I look forward to working with you and your staff in pursuing this important interior measure.

Sincerely,

Janet Reno
Attorney General

DRAFT

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 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

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

DRAFT

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].

Haitians and DED

- Q: Has the Attorney General recommended a course of action for the President in regard to the Haitians?
- A: It would be inappropriate for me to comment on communications between the Attorney General and the President.
- Q: Has the Department decided that DED is the best temporary solution for the Haitians who were overlooked by the recent immigration legislation?
- A: No. DED is based on the President's foreign policy powers and may be exercised by him alone. The Department of Justice cannot grant or decide to use DED. If the President were to grant DED, the Department and the INS would, of course, be responsible for implementing it.
- Q: The New York Times and the Washington Post reported that the Administration was poised to issue DED. Is this true? Where do we stand?
- A: The Administration is considering temporary administrative options, including DED, to delay the deportation of certain Haitians while Congress debates several legislative proposals to provide them permanent legal status. A final decision will be made shortly.
- Q: Are you concerned that press reports about an impending use of this presidential action will anger Republican lawmakers and hurt the chances of a legislative solution for the Haitians?
- A: We believe that there are several sound legal bases to provide temporary stays of deportation to Haitians who might benefit from the proposed legislation. We are optimistic that Congress will reach a legislative solution that provides equitable treatment for those Haitians who fled civil unrest in their country and have developed strong ties to the United States. The administration's goal is to ensure that similarly situated aliens receive similar treatment under the law and we believe that many in Congress share this desire.
- Q: Do you support amnesty for the Haitians?
- A: The Administration supports permanent legislative relief for Haitians similar to that extended to the Central Americans. At this point, I am not prepared to say that we favor one form of relief over another.

OFFICE OF THE DEPUTY ATTORNEY GENERAL
U.S. DEPARTMENT OF JUSTICE
WASHINGTON, D.C.

DATE _____

FACSIMILE TRANSMISSION SHEET

TO:

Julie FernandesScott Bushy

Fax #:

() 456-5581 Voice #: () _____

FROM:

John T. Morton, Counsel to the Deputy Attorney GeneralOffice of the Deputy Attorney General Room #4215U.S. Department of Justice, Main Justice BuildingWashington, D.C. 20530NOTE NEW FAX #: (202) 514-9077 Voice #: (202) 514 - 9343THIS TRANSMISSION CONTAINS 2 SHEETS INCLUDING THIS SHEET

Special

Note (s):

DEDPlease review. Any comments shouldgo to Carole Florman (616-0903).-JTM

We are transmitting to you on a Panafax UF-270M. If any page (s) are missing, please call sender at the above voice number for re-transmission.

###

TO : ~~PETER J. V. - 2604~~ JULIE F. 65581
FR : SCOT B.

THE WHITE HOUSE

DRAFT

Office of the Press Secretary

For Immediate Release

December 23, 1997

FACT SHEET ON DEFERRED ENFORCED DEPARTURE (DED) FOR HAITIANS

Today, the President 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 will protect these Haitians against deportation for one year while the Administration works with Congress to provide them long-term legislative relief.

The Immigration and Naturalization Service (INS) estimates that there are approximately 40,000 Haitians who may benefit from the President's action. This group includes Haitians who were paroled into the United States from Guantanamo Bay Naval Base after the overthrow of President Aristide in 1991, Haitians who arrived in the United State through other means and were later paroled, and Haitians who applied for asylum prior to December 31, 1995. Excluded from this relief would be Haitians who have committed serious crimes or whose removal the Attorney General or Secretary of State determines to be in the interest of the United States. This group is very similar to that covered by the legislation introduced by Senator Graham and Representative Conyers that would grant permanent relief to these Haitians.

The President has determined that it is in the foreign policy interest of the United States to grant DED to this group of Haitians. Specifically, he believes that this action will help contribute to Haiti's efforts to build a stable and lasting democracy. This, in turn, will help to safeguard the United States against future outflows of Haitian migrants. In light of the recent relief granted to Central Americans, he also believes it important that we communicate to the international community that we will treat similarly situated foreign nationals in the United States similarly.

The Bush Administration granted DED three times: first in 1990 to Chinese; then in 1991 to certain Kuwaiti residents

evacuated from the Persian Gulf; and finally in 1992 to Salvadorans who had previously registered for Temporary Protected Status (TPS). In 1993, President Clinton extended for 18 months the grant of DED to Salvadorans.

The Department of Justice and INS will decide how the President's directive will be implemented. Questions about implementation should be referred to them.

All

U.S. set to delay deporting Haitians

Clinton reportedly has stability fears

ASSOCIATED PRESS

President Clinton is expected to delay tough deportation rules affecting up to 20,000 Haitians.

White House officials said yesterday that a number of options were being considered but the underlying principle was that Mr. Clinton is committed to helping the Haitians, who fled a military regime in the early 1990s.

"They're still exploring different ways to address this issue," White House Press Secretary Michael McCurry said. "I think the concern of the administration is well known but there is not at this point any decision on how to proceed on the issue." He said ideas were being explored at the Justice Department.

A senior administration official said on Tuesday that Mr. Clinton will grant protection to the Haitians through a rarely used executive authority.

"This provides the legal basis for the temporary stay for these individuals," according to the official, who spoke on the condition of anonymity. It would allow the Haitians to remain in the United States for at least a year.

Mr. Clinton was expected to act within the next 10 days or so, the official said.

In a battle between the White House and the Republican Congress over immigration policy, the Haitians were not included in legislation exempting hundreds of thousands of refugees from civil wars in Nicaragua and El Salvador

from deportation rules under a stricter immigration law passed in 1996.

Most of the Haitians fled from the military regime that was forced from power in September 1994.

Attorney General Janet Reno could have authorized a temporary halt to the deportation proceedings against the Haitians, but the administration decided to raise the profile of the issue to the White House.

"It is based on [Mr. Clinton's] foreign-policy-making authority," the official said.

With U.N. peacekeeping forces withdrawing from Haiti, administration officials argued that sending thousands of Haitians home would destabilize an already fragile government.

Mr. Clinton's order would cover Haitians who filed for political asylum by Dec. 31, 1995, or who were processed into the United States from the refugee camp at Guantanamo Bay, Cuba, by that date.

The immigration law revisions Mr. Clinton signed last month grant amnesty to Nicaraguans and Cubans who have been in the United States since 1995, and allow them to apply for status as legal permanent residents.

Guatemalans and Salvadorans who applied for asylum on or before April 1, 1990, would be considered for a suspension of deportation under the less stringent rules that existed before the 1996 immigration law.

The presidential authority that Mr. Clinton is expected to exercise has been invoked only rarely.

President Bush granted protection to Salvadorans in 1992, to Chinese students after the 1989 Tiananmen Square massacre, and to Kuwaitis after the Persian Gulf War. In his only exercise of the power, Mr. Clinton extended the deportation waiver for Salvadorans.

92

Colombia's Senate Passes Bill Giving Jail Leave to Traffickers

By DIANA JEAN SCHEMO

BOGOTÁ, Colombia, Dec. 17 — The Colombian Senate passed a law late on Tuesday night that would allow the most notorious drug traffickers in the nation's prisons to go home on weekends and holidays, and to take 15-day annual vacations.

The law represented a compromise on a bill President Ernesto Samper's administration slipped through Congress two weeks ago that would have granted early pardons to all criminals, including the Cali drug chiefs who have been accused of involvement in a presidential campaign finance scandal, and the former Justice Minister and 14 lawmakers also implicated in the election scandal.

The law would allow drug traffickers to spend up to 60 days a year out of jail. A prisoner would only become eligible for the benefit after 80 percent of his sentence has been served.

The Senate version still remains to be reconciled with the more generous House version already passed. Critics of the President, who has been accused of accepting \$6 million from major drug traffickers to finance his election, said the law was part of an end-of-year settling of accounts to reward those who helped him stay in office.

President Samper signed a law restoring extradition to the United States. The law, however, is not retroactive and so does not affect those already incarcerated here.

The President also showered government favors on civic groups that had supported him, and gave himself the sole power to promote a general to the highest military rank. He rewarded his Vice President by naming him to the presidency for 15 days, making him eligible for the same

pension benefits as the President.

He presented the sentence reductions as a way to reduce overcrowding in the prisons. The legislation could mean early release for 14,000 of Colombia's 42,000 inmates.

The law almost assures early release for prisoners in work-study programs who have served 60 percent of their sentences.

After wide criticism, the administration reversed its initial stand, ruling out early pardons for inmates convicted of drug trafficking and related offenses as well as murder, rape and kidnapping.

In a statement today, the State Department in Washington said it was "concerned" about the idea of weekend passes but pleased that drug traffickers had been excluded from the early release package.

Congresswoman Ingrid Betancourt said the bill was pushed through in secrecy. It was never published in the Official Gazette, as required, and its text was never shown to members of Congress who voted on it, she said. The bill led to riots by inmates and occupations of prisons by their families in an attempt to influence the Senate vote. Further violence has been threatened.

"It's part of the favors that the President's been paying off," Ms.

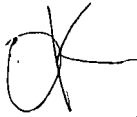
Betancourt said. "The last in Congress has been a series of Christmas gifts the President has given to all the drug dealers and the members of Congress who stayed loyal by keeping quiet" about the election financing scandal, she said.

As it is, drug dealers and others in prison for drug-related offenses can get steep sentence reductions. Under the existing rules, for example, Miguel Rodriguez, who is sentenced to 21 years, could leave prison in 15 years. Under the bill as initially proposed by the President, he could have left jail in eight years, legal experts said.

REMEMBER THE NEEDIEST!

TO: JULIE FERNADES

6-5581

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.

#

DRAFT

Statement by the President on Certain Haitians

Today, I have directed the Attorney General and the Immigration and Naturalization Service to defer for one year the deportation of certain Haitians who, prior to December 31, 1995, were paroled into the United States or applied for asylum. In so doing, I am following through on the commitment I made to address the situation of Haitians when I signed immigration legislation last month providing relief to Central Americans and others. This action will ensure that these Haitians are not deported while we work with the Congress to seek long-term legislative relief for them.

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 made significant contributions to our communities and have established strong ties here. And, while we have been encouraged by Haiti's progress following the restoration of democratic government in 1994, the situation remains fragile. Providing this group of Haitians with an opportunity to be considered for permanent status in the United States is one of several ways we can continue to 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.

does that
define long-term
asylum seekers?

yuck

12/19/97 20:03

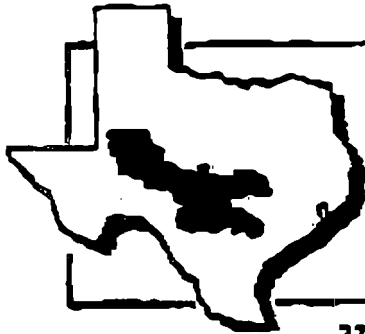
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DEC-19-97 04:13 FROM: INSIDE WASH PUB
DEC 18 1997 4:51 PM

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TO: 2022284506
NO. 0003

PAGE: 03



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)
301-990-3749 (H)

12/19/97 20:03 8

003

DEC-19-97 04:13 FROM: INSIDE WASH PUB

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TO: 2022284506

PAGE: 02

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 departure, 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

Leanne A. Shimabukuro	01/05/98 01:24:51 PM
-----------------------	----------------------

Record Type: Record

To: Julie A. Fernandes/OPD/EOP

cc:

Subject: FACT SHEET: Deferred Enforced Departure (DED) for Haitians

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----- Forwarded by Leanne A. Shimabukuro/OPD/EOP on 01/05/98 01:24 PM -----



Dag Vega

12/23/97 06:33:45 PM



Record Type: Record

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

cc:

Subject: FACT SHEET: Deferred Enforced Departure (DED) for Haitians

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

December 23, 1997

FACT SHEET

Deferred Enforced Departure (DED) for Haitians

Today, the President 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 will protect these Haitians against deportation for one year while the Administration works with Congress to provide them long-term legislative relief.

The Immigration and Naturalization Service (INS) estimates that there are approximately 40,000 Haitians who may benefit from the President's action. This group includes Haitians who were paroled into the United States from Guantanamo Bay Naval Base after the overthrow of President Aristide in 1991, Haitians who arrived in the United States

through other means and were later paroled, and Haitians who applied for asylum prior to December 31, 1995. Haitians who have committed serious crimes or whose removal the Secretary of State or the Attorney General determines to be in the interest of the United States would be ineligible for this relief.

The President has determined that it is in the foreign policy interest of the United States to grant DED to this group of Haitians. Specifically, he believes that this action will help contribute to Haiti's efforts to build a stable and lasting democracy. This, in turn, will help to prevent future outflows of undocumented Haitian migrants. He also strongly believes that Haitians should receive the same treatment we sought for Central Americans, in light of the similarity of their circumstances.

President Bush granted DED three times: first in 1990 to Chinese who were in the United States at the time of the events at Tiananmen Square; then in 1991 to certain Kuwaiti residents evacuated from the Persian Gulf during the Gulf War; and finally in 1992 to Salvadorans who had previously registered for Temporary Protected Status (TPS)- a form of relief provided to them because of the civil war in their country. In 1993, President Clinton extended for 18 months the grant of DED to Salvadorans.

The Department of Justice and INS will implement the President's directive. Questions about implementation should be referred to them.

When Congress returns, the Administration intends to work closely with interested Members on both sides of the aisle to provide permanent legislative relief for this group of Haitians.

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the District of Columbia Retirement Reform Act' and inserting 'Judicial Retirement and Survivors Annuity Fund under section 11-1570.'.

(6) Section 11253 of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 759) is amended by adding at the end the following new subsection:

"(d) REDEPOSITS TO FUND.—Section 11-1568.1(4)(A), District of Columbia Code, is amended by striking 'Judges Retirement Fund' and inserting 'Judicial Retirement and Survivors Annuity Fund'."

(f) EFFECTIVE DATE.—The amendments made by subsections (a)(2), (a)(4), and (a)(6) shall take effect October 1, 1998.

SEC. 805. EFFECTIVE DATE.

Except as otherwise specifically provided, this title and the amendments made by this title shall take effect as if included in the enactment of title XI of the Balanced Budget Act of 1997.

TITLE IX—HAITIAN REFUGEE
IMMIGRATION FAIRNESS ACT OF 1998

SEC. 901. SHORT TITLE. This title may be cited as the "Haitian Refugee Immigration Fairness Act of 1998".

SEC. 902. ADJUSTMENT OF STATUS OF CERTAIN HAITIAN NATIONALS. (a) ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—The status of any alien described in subsection (b) shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence, if the alien—

(A) applies for such adjustment before April 1, 2000; and

(B) is otherwise admissible to the United States for permanent residence, except that, in determining such admissibility, the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), (7)(A), and (9)(B) of section 212(a) of the Immigration and Nationality Act shall not apply.

(2) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—An alien present in the United States who has been ordered excluded, deported, removed, or ordered to depart voluntarily from the United States under any provision of the Immigration and Nationality Act may, notwithstanding such order, apply for adjustment of status under paragraph (1). Such an alien may not be required, as a condition on submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate such order. If the Attorney General grants the application, the Attorney General shall cancel the order. If the Attorney General makes a final decision to deny the application, the order shall be effective and enforceable to the same extent as if the application had not been made.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided by subsection (a) shall apply to any alien who is a national of Haiti who—

(1) was present in the United States on December 31, 1995, who—

(A) filed for asylum before December 31, 1995.

(B) was paroled into the United States prior to December 31, 1995, after having been identified as having a credible fear of persecution, or paroled for emergent reasons or reasons deemed strictly in the public interest, or

(C) was a child (as defined in the text above subparagraph (A) of section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1))) at the time of arrival in the United States and on December 31, 1995, and who—

(i) arrived in the United States without parents in the United States and has remained without parents in the United States since such arrival,

(ii) became orphaned subsequent to arrival in the United States, or

(iii) was abandoned by parents or guardians prior to April 1, 1998 and has remained abandoned since such abandonment; and

(2) has been physically present in the United States for a continuous period beginning not later than December 31, 1995, and ending not

earlier than the date the application for such adjustment is filed, except that an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any period or periods amounting in the aggregate to not more than 180 days.

(c) STAY OF REMOVAL.—

(1) IN GENERAL.—The Attorney General shall provide by regulation for an alien who is subject to a final order of deportation or removal or exclusion to seek a stay of such order based on the filing of an application under subsection (a).

(2) DURING CERTAIN PROCEEDINGS.—Notwithstanding any provision of the Immigration and Nationality Act, the Attorney General shall not order any alien to be removed from the United States, if the alien is in exclusion, deportation, or removal proceedings under any provision of such Act and has applied for adjustment of status under subsection (a), except where the Attorney General has made a final determination to deny the application.

(3) WORK AUTHORIZATION.—The Attorney General may authorize an alien who has applied for adjustment of status under subsection (a) to engage in employment in the United States during the pendency of such application and may provide the alien with an "employment authorized" endorsement or other appropriate document signifying authorization of employment, except that if such application is pending for a period exceeding 180 days, and has not been denied, the Attorney General shall authorize such employment.

(d) ADJUSTMENT OF STATUS FOR SPOUSES AND CHILDREN.—

(1) IN GENERAL.—The status of an alien shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence, if—

(A) the alien is a national of Haiti;

(B) the alien is the spouse, child, or unmarried son or daughter, of an alien whose status is adjusted to that of an alien lawfully admitted for permanent residence under subsection (a), except that, in the case of such an unmarried son or daughter, the son or daughter shall be required to establish that he or she has been physically present in the United States for a continuous period beginning not later than December 31, 1995, and ending not earlier than the date the application for such adjustment is filed;

(C) the alien applies for such adjustment and is physically present in the United States on the date the application is filed; and

(D) the alien is otherwise admissible to the United States for permanent residence, except that, in determining such admissibility, the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), (7)(A), and (9)(B) of section 212(a) of the Immigration and Nationality Act shall not apply.

(2) PROOF OF CONTINUOUS PRESENCE.—For purposes of establishing the period of continuous physical presence referred to in paragraph (1)(B), an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any period or periods amounting in the aggregate to not more than 180 days.

(e) AVAILABILITY OF ADMINISTRATIVE REVIEW.—The Attorney General shall provide to applicants for adjustment of status under subsection (a) the same right to, and procedures for, administrative review as are provided to—

(1) applicants for adjustment of status under section 245 of the Immigration and Nationality Act; or

(2) aliens subject to removal proceedings under section 240 of such Act.

(f) LIMITATION ON JUDICIAL REVIEW.—A determination by the Attorney General as to whether the status of any alien should be adjusted under this section is final and shall not be subject to review by any court.

(g) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of

having been lawfully admitted for permanent resident pursuant to this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under any provision of the Immigration and Nationality Act.

(h) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—Except as otherwise specifically provided in this title, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. Nothing contained in this title shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

(i) ADJUSTMENT OF STATUS HAS NO EFFECT ON ELIGIBILITY FOR WELFARE AND PUBLIC BENEFITS.—No alien whose status has been adjusted in accordance with this section and who was not a qualified alien on the date of enactment of this Act may, solely on the basis of such adjusted status, be considered to be a qualified alien under section 431(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(b)), as amended by section 5302 of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 598), for purposes of determining the alien's eligibility for supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) or medical assistance under title XIX of such Act (42 U.S.C. 1396 et seq.).

(j) PERIOD OF APPLICABILITY.—Subsection (i) shall not apply after October 1, 2003.

(k) Not later than 6 months after the date of the enactment of this Act, and every 6 months thereafter (until all applications for adjustment of status under this section have been finally adjudicated), the Comptroller General of the United States shall submit to the Committees on the Judiciary and the Committees on Appropriations of the United States House of Representatives and the United States Senate a report containing the following:

(1)(A) The number of aliens who applied for adjustment of status under subsection (a), including a breakdown specifying the number of such applicants who are described in subparagraph (A), (B), or (C) of subsection (b)(1), respectively.

(B) The number of aliens described in subparagraph (A) whose status was adjusted under this section, including a breakdown described in the subparagraph.

(2)(A) The number of aliens who applied for adjustment of status under subsection (d), including a breakdown specifying the number of such applicants who are sponsors, children, or unmarried sons or daughters described in such subsection, respectively.

(B) The number of aliens described in subparagraph (A) whose status was adjusted under this section, including a breakdown described in the subparagraph.

SEC. 903. COLLECTION OF DATA ON DETAINED ASYLUM SEEKERS. (a) IN GENERAL.—The Attorney General shall regularly collect data on a nation-wide basis with respect to asylum seekers in detention in the United States, including the following information:

(1) The number of detainees.

(2) An identification of the countries of origin of the detainees.

(3) The percentage of each gender within the total number of detainees.

(4) The number of detainees listed by each year of age of the detainees.

(5) The location of each detainee by detention facility.

(6) With respect to each facility where detainees are held, whether the facility is also used to

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detain criminals and whether any of the detainees are held in the same cells as criminals.

(7) The number and frequency of the transfers of detainees between detention facilities.

(8) The average length of detention and the number of detainees by category of the length of detention.

(9) The rate of release from detention of detainees for each district of the Immigration and Naturalization Service.

(10) A description of the disposition of cases.

(b) **ANNUAL REPORTS.**—Beginning October 1, 1999, and not later than October 1 of each year thereafter, the Attorney General shall submit to the Committee on the Judiciary of each House of Congress a report setting forth the data collected under subsection (a) for the fiscal year ending September 30 of that year.

(c) **AVAILABILITY TO PUBLIC.**—Copies of the data collected under subsection (a) shall be made available to members of the public upon request pursuant to such regulations as the Attorney General shall prescribe.

SEC. 904. COLLECTION OF DATA ON OTHER DETAINED ALIENS. (a) **IN GENERAL.**—The Attorney General shall regularly collect data on a nationwide basis on aliens being detained in the United States by the Immigration and Naturalization Service other than the aliens described in section 903, including the following information:

(1) The number of detainees who are criminal aliens and the number of detainees who are noncriminal aliens who are not seeking asylum.

(2) An identification of the ages, gender, and countries of origin of detainees within each category described in paragraph (1).

(3) The types of facilities, whether facilities of the Immigration and Naturalization Service or other Federal, State, or local facilities, in which each of the categories of detainees described in paragraph (1) are held.

(b) **LENGTH OF DETENTION, TRANSFERS, AND DISPOSITIONS.**—With respect to detainees who are criminal aliens and detainees who are noncriminal aliens who are not seeking asylum, the Attorney General shall also collect data concerning—

(1) the number and frequency of transfers between detention facilities for each category of detainees;

(2) the average length of detention of each category of detainees;

(3) for each category of detainee, the number of detainees who have been detained for the same length of time, in 3-month increments;

(4) for each category of detainees, the rate of release from detention for each district of the Immigration and Naturalization Service; and

(5) for each category of detainees, the disposition of detention, including whether detention ended due to deportation, release on parole, or any other release.

(c) **CRIMINAL ALIENS.**—With respect to criminal aliens, the Attorney General shall also collect data concerning—

(1) the number of criminal aliens apprehended under the immigration laws and not detained by the Attorney General; and

(2) a list of crimes committed by criminal aliens after the decision was made not to detain them, to the extent this information can be derived by cross-checking the list of criminal aliens not detained with other databases accessible to the Attorney General.

(d) **ANNUAL REPORTS.**—Beginning on October 1, 1999, and not later than October 1 of each year thereafter, the Attorney General shall submit to the Committee on the Judiciary of each House of Congress a report setting forth the data collected under subsections (a), (b), and (c) for the fiscal year ending September 30 of that year.

(e) **AVAILABILITY TO PUBLIC.**—Copies of the data collected under subsections (a), (b), and (c) shall be made available to members of the public upon request pursuant to such regulations as the Attorney General shall prescribe.

This Act may be cited as the "Treasury and General Government Appropriations Act, 1999".

SEC. 102. For the purpose of carrying out the provisions of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. ch. 12A), including hire, maintenance, and operation of aircraft, and purchase and hire of passenger motor vehicles, \$50,000,000 is hereby appropriated: Provided, That use of the funds provided herein is limited to the purposes for which funds were provided under this heading in Public Law 105-62: Provided further, That of the amounts appropriated under this section, \$7,000,000 shall be available for operation, maintenance, surveillance, and improvement of Land Between the Lakes.

SEC. 103. REPURCHASE OF BONDS BY THE TENNESSEE VALLEY AUTHORITY. (a) **REPURCHASE.**—Notwithstanding any other provision of law or any term contained in any bond issued by the Tennessee Valley Authority to the Federal Financing Bank—

(1) subject to subsection (b), the Tennessee Valley Authority shall have the right to repurchase all such bonds by payment of the principal amount of the bonds plus interest to the date of repurchase;

(2) the Federal Financing Bank shall not require payment from the Tennessee Valley Authority of any additional amount in connection with the repurchase; and

(3) there is hereby appropriated to the Federal Financing Bank such amounts as may be necessary to pay the difference between (1) the amount that the Tennessee Valley Authority paid to the Federal Financing Bank to prepay its outstanding loans from the Federal Financing Bank under this section and (2) the amount that the Federal Financing Bank would have received otherwise.

(b) **NO FURTHER FINANCING.**—Notwithstanding any other law, after the date of repurchase of bonds under subsection (a), the Tennessee Valley Authority shall not be entitled or permitted to obtain financing from the Federal Financing Bank.

(c) **USE OF SAVINGS.**—

(1) **IN GENERAL.**—From non-appropriated funds, beginning on the date of repurchase of bonds and ending on the date on which the bonds would have matured but for this section, amounts that, as determined under paragraph (2), are equivalent to amounts that the Tennessee Valley Authority saves as a result of the repurchase of bonds shall be used to reduce debt of the Tennessee Valley Authority.

(2) **DETERMINATION OF AMOUNT OF SAVINGS.**—On each date on which a payment of interest would have been made on a repurchased bond if the bond had not been repurchased, the Tennessee Valley Authority shall be considered to realize a saving in the amount of the difference between—

(A) the amount of interest that would have been due at the rate of interest specified in the bond; and

(B) the amount of interest that would have been due if the rate of interest specified in the bond had been the yield to maturity of a marketable public obligation of the United States with a maturity of 10 years as of September 30, 1997.

SEC. 104. Section 312 of Public Law 105-245, the Energy and Water Development Appropriations Act, 1999, is repealed.

SEC. 105. An additional amount of \$35,000,000, to remain available until expended, for Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil, "Construction, General", is hereby appropriated for the Columbia River Fish Mitigation, Washington, Oregon, and Idaho, project.

SEC. 106. The Secretary of the Army, acting through the Chief of Engineers, is directed to use \$1,500,000 of the funds previously appropriated in "Construction, General", for the Lackawanna River, Scranton, Pennsylvania, project to initiate construction of the Delaware

River Mainstem and Channel Deepening, Delaware, New Jersey, and Pennsylvania, project. The Secretary of the Army, acting through the Chief of Engineers, is directed to use \$400,000 of the funds previously appropriated in "Construction, General", for the Lackawanna River, Scranton, Pennsylvania, project to initiate a comprehensive review of aquatic ecosystem restoration initiatives in the Upper Susquehanna-Lackawanna Watershed under the Aquatic Ecosystem Restoration (Section 206) program. Subject to enactment of authorizing legislation, the Secretary of the Army, acting through the Chief of Engineers, is directed to use \$340,000 of the available "Construction, General" funds to initiate construction of the Pierre, South Dakota, flood mitigation project. The Secretary of the Army, acting through the Chief of Engineers, is directed to use \$1,500,000 of the funds appropriated in "Construction, General", in Public Law 105-245 for the South Central Pennsylvania Environment Improvement Program only for water-related environmental infrastructure and resource protection and development projects in Allegheny County, Pennsylvania, in accordance with the purposes of subsection (a) and requirements of subsections (b) through (e) of section 313 of the Water Resources Development Act of 1992, as amended.

SEC. 107. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to use \$50,000 of available "Construction, General" funds for engineering and design, and repair of the Archusa Dam and appurtenant structures located in Quitman, Mississippi.

SEC. 108. An additional amount of \$60,000,000 for Department of Energy—Energy Programs, "Energy Supply", is hereby appropriated to remain available until September 30, 2000.

SEC. 109. An additional amount of \$15,000,000, to remain available until expended, for Department of Energy—Energy Programs, "Science", is hereby appropriated.

SEC. 110. LAKE POWELL. No funds appropriated by this Act or any other Act for fiscal year 1999 shall be used to study or implement any plan to drain Lake Powell or decommission the Glen Canyon Dam.

SEC. 111. Notwithstanding any other provision of law, for necessary expenses relating to construction of, and improvements to, surface transportation projects located in the Commonwealth of Massachusetts, \$100,000,000, to remain available until expended.

SEC. 112. Notwithstanding any other provision of law, for necessary expenses relating to construction of, and improvements to, Corridor X of the Appalachian development highway system located in the State of Alabama, \$100,000,000, to remain available until expended.

SEC. 113. Notwithstanding any other provision of law, for necessary expenses relating to construction of, and improvements to, the Appalachian development highway system in the State of West Virginia, \$32,000,000, to remain available until expended.

SEC. 114. Notwithstanding any other provision of law, for necessary expenses relating to construction of, and improvements to, highway projects in the corridor designated by section 1105(c)(18)(C)(ii) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032-2033), as amended by section 1217(i) of the Transportation Equity Act for the 21st Century, \$100,000,000, to remain available until expended.

SEC. 115. Notwithstanding any other provision of law, to enable the Secretary of Transportation to make grants to the Alaska Railroad, \$28,000,000, to remain available until expended, which shall be for capital improvements benefiting its passenger rail operations.

SEC. 116. Of the unobligated balances authorized in Public Law 102-240 under 49 U.S.C. 5338(b)(1), \$392,000,000 is rescinded.

SEC. 117. Notwithstanding any other provision of law, within the funding made available in the Department of Transportation and Related