

Amendments to Smith-Diaz-Balart bill ("S-D") to protect Haitians.

1. Amend § 309(c)(5)(C)(i) [S-D p. 13, lines 2, 13] by deleting the word "or" at the end of subclause (IV), deleting the period in subclause (V), adding in its place "; or", and adding thereafter a new subclause (VI), to read as follows:

"(VI) is a Haitian national who filed for asylum before April 1, 1990, or was paroled into the United States prior to December 31, 1995, having been identified as having a credible fear of persecution."

2. Amend § 309(c)(5)(C) [S-D p. 13, line 14] by renumbering the present clause (ii) as clause (iii) and adding a new clause (ii) before it, to read as follows:

"(ii) SPECIAL ENTRY RULE.—Notwithstanding any other provision of law, an alien described in clause (i)(VI) who was paroled into the United States prior to December 1, 1995 shall be deemed to have entered the United States on April 1, 1990, and, for purposes of subsection (f)(1)(A)(2) or (f)(1)(B)(3), to have maintained continuous physical presence from April 1, 1990 until the date of the parole."

3. Amend § 309(g) [S-D p. 17, lines 7-8, 20] by striking "DEPORTATION OR REMOVAL" and adding a new sentence between the current first and second sentences, to read as follows:

"An alien described in subsection (c)(5)(C)(i)(VI) who is subject to a final order of exclusion may file one motion to reopen and terminate such proceedings, and the Attorney General may upon such termination initiate removal proceedings against the alien."

10/27/97

however, have serious doubts that we have a factual basis for temporarily suspending existing permits, and they worry that a loss on this issue could undermine our ability to defend any future action by Treasury to modify the test for non-sporting weapons. Senator Biden thinks that a loss on the temporary suspension issue would have detrimental political consequences, and that we should not take the action unless we believe a court could sustain it.

We are pressing Treasury, Justice, and White House Counsel lawyers to develop the strongest possible case for suspending existing permits; when we are satisfied that they have done so, we will together evaluate the strength of that case and determine whether to recommend temporary suspensions. We have met with staff for Sens. Feinstein and Biden and Reps. Schumer and McCarthy to brief them on our concerns about this issue. We are also trying to develop some kind of compromise option.

7. Crime -- Juvenile Crime Bill: The Senate clearly will not vote on juvenile crime legislation this year. A pending issue is whether the FY 98 Commerce, Justice, State Appropriations bill will include funding for new juvenile crime and prevention programs (including our prosecutors and afterschool programs) given that Congress has failed to enact authorizing legislation. We recently heard that the CJS appropriators probably will rebuff our efforts to get funding for these programs this year.

8. Immigration -- Central Americans: House Republicans are close to unveiling legislation to remedy certain problems the 1996 immigration law created for Central Americans. Although we have yet to see the language, we have heard that it will: (1) grant amnesty for Nicaraguans in the country before December 1995; (2) ensure that certain Guatemalans and Salvadorans will have their suspension of deportation claims decided under the older, more lenient standards; (3) retroactively apply the tougher standards of the new law to the suspension claims of all *non*-Central Americans; and (4) eliminate the unskilled workers category, but clear out the pipeline by grandfathering all individuals with approved visa petitions (about 70-75,000 individuals, representing seven years' worth of immigration by unskilled workers).

The Senate is also preparing a bill granting amnesty to Nicaraguans and protecting Guatemalans and Salvadorans from retroactive application of the new law's tough standards, but probably extending this protection to certain *non*-Central Americans (contra #3, above). This extension would comport with the Administration's proposal. Two other aspects of the legislation are uncertain. First, it is unclear what the Senate will do with respect to the unskilled workers category. Chairman Abraham opposes reducing legal immigration, especially as a tradeoff for protecting illegal immigrants. But he knows that Lamar Smith will support a deal only if it includes this provision, and he therefore may consider a "moratorium" on the category, attached to a broad grandfathering provision (perhaps even broader than we expect from the House). Second, the Senate may decide to provide protection for certain Haitians who are not protected under either the House bill or our own proposal. The CBC is pressing strongly for such protection.

Feb. 8th
Sunday
THE WHITE HOUSE
WASHINGTON

① President has said,
in signing statement
and press statement
that will revisit Haiti
Q in legislative. (not in
context
of DED)

② DAG ~~acted upon~~
made assurance to Braun
that something ~~the~~ would be
done.
His auth. was limited to
prosec. discretion. He didn't
have auth. to promise DED.
DOJ concluded that they
had enough to make that
assurance.

Both you and President Bush have permitted Haitians to lawfully enter this country because of the unrest in Haiti. Following the military coup in Haiti in September 1991, the Coast Guard transported Haitians interdicted at sea to the United States base at Guantanamo, Cuba, where the INS made a preliminary determination on the validity of their asylum claims. Based on this screening, the INS permitted about 10,000 of these Haitians to enter the United States before President Bush decided in May 1992 that all interdicted Haitians should be returned. In May 1994, you decided that the United States would resume its policy of not returning interdicted Haitians to Haiti, and since then about 4,000 Haitians have been allowed to enter this country so that the INS can make a final decision on their asylum applications.

We look forward to working with you on this very important human problem.

Sincerely,

Maryanne Waters

Carrie P. Meek

Malvin L. Watt

Nigel R. Quinn

Lorna M.C. Green

Danny H. Davis

Theresa H. Hoke

Shirley Jackson

James Millender M/S

Frank E. Clyburn

Dee Deets m/hr

John Lewis

Am. Jefferson

Carolyn A. Thipsett

Ermy 2. Rush

John Carson

John Boyer

John Dixon

Wm M. Clayton

James

Donald Wayne

Ronald V. Sullivan

Alvin L. Hastings

C. E. McHenry

Earl J. Hilliard

Covine Brown

Samuel W. Riser

Tom Allen

Albert R. Green

Alvin Fattal

Frank Ford

B. H. Ford

John McHenry

James L. Oberstar

Earl J. Hilliard

Eddie Bernice Johnson

John Morton: Spoken to DAG and AG
Aim to bring this to a close as
soon as possible

Recomm. to DAG & AG tomorrow
Decision by Friday.

~~Agreement?~~ Agreement? (on what to recommend)

OLC: Where we were last week
on DEB front. Reservations
In the end, they won't say it
can't be done.

* Foreign policy
rather make
as bootstrap
prosec. discretion

OK if significant, important
foreign policy, reason
for doing it.

Prosec. Discretion:

Waiting to
see what
Congress is
going to do.

AG does have [↑] to decide
not to devote Dpt's resources
to a class of aliens that
Congress is thinking ~~of~~ of
taking care of.

→ Seeking leg for 2 reasons

① unfair

② foreign policy concerns

Scott: OLC more comfortable w/prosec. discret.

November 24, 1997

The Honorable Janet Reno
Attorney General of the United States
Room 5111
Main Justice Building
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Attorney General Reno:

I appreciate very much the announcement on November 19 by the Immigration and Naturalization Service that no Haitians will be deported without approval by INS headquarters and that the "INS is committed to exploring administrative options for Haitians who might benefit from legislation in the next Congress."

I enclose a letter I sent today to President Clinton requesting that the Administration grant Deferred Enforced Departure ("DED") to Haitians who were in the country before December 31, 1995 until that legislation is enacted. As explained in that letter, President Bush used DED three times, and on July 10 you told Speaker Gingrich that the Administration would consider DED for immigrants from Nicaragua, El Salvador, and Guatemala if legislation were not enacted to help them.

Thank you for your prompt attention to this important human problem.

Sincerely,

CARRIE P. MEEK
Member of Congress

Enclosure

CPM/bc

CARRIE P. MEEK
17TH DISTRICT, FLORIDA

COMMITTEE ON
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SERVICE, AND GENERAL
GOVERNMENT

VA, HUD, AND
INDEPENDENT AGENCIES



Congress of the United States

House of Representatives

Washington, DC 20515-0917

November 24, 1997

Please Respond To:

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OFFICE BUILDING
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(202) 225-0777 FAX

25 WEST FLAGLER STREET
SUITE 1015
MIAMI, FL 33130
(305) 381-9541
(305) 381-8376 FAX

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

Dear Mr. President:

In your statement of November 19 (at the time you signed the District of Columbia fiscal year 1998 appropriations bill), you correctly pointed out that Haitian immigrants should get legislative relief similar to that provided this month to immigrants from Nicaragua and other countries. In order to show that your Administration is committed to ensuring that the legislation for Haitians is approved, I urge you to grant Deferred Enforced Departure ("DED") to Haitians who were in the United States before December 31, 1995 until that legislation is enacted.

There is precedent for such an action by the Administration. According to the Congressional Research Service of the Library of Congress, President Bush used DED three times. He invoked DED to protect 80,000 Chinese students, beginning in June 1989 and ending in January 1994, so that they could take advantage of the Chinese Student Protection Act (which was passed in 1992). By Executive Order 12711 ((April 11, 1990), he permitted Chinese students to remain in the United States, granted them permission to work and to travel, and stayed all deportation proceedings against them. President Bush also invoked DED between May 1992 and December 1994 to protect 200,000 immigrants from El Salvador. Finally, President Bush invoked DED to protect about 1,000 residents of Kuwait between December 1991 and the end of 1993.

I request that you do the same for Haitians in the United States. Such an action would be an affirmative demonstration of the importance you give to the need for Congress to enact legislation to give Haitians the same treatment given to Nicaraguans and Cubans. As you know, prior to passage of the legislation this month, Attorney General Reno informed Speaker Gingrich that the Administration would consider DED for immigrants from Nicaragua, El Salvador, and Guatemala if legislation were not enacted to help them.

Granting DED to Haitians would be a strong signal that you do not countenance the unequal and unjust treatment that Haitians have received and that you view equal treatment for Haitians as an important part of mending race relations in this country.

Thank you for your attention to this important human problem.

Sincerely,

CARRIE P. MEEK
Member of Congress

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ONE HUNDRED FIFTH CONGRESS

Congress of the United States

House of Representatives

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JULIAN SPETTER
 MINORITY STAFF DIRECTOR

November 17, 1997

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

NOV 18 10:53

Dear Mr. Hilley:

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

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

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

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

NOV 19 7:39

Mr. John Hilley

Page 2

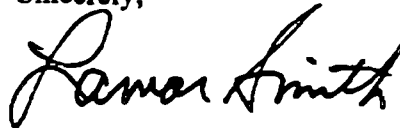
3. Haitians have historically received very generous treatment from the United States. During the last 11 years, over 200,000 legal immigrants from Haiti have been admitted. (This is a higher percentage of that country's population than almost any other country.) Clearly the United States does not discriminate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

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

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

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

Sincerely,

A handwritten signature in black ink, appearing to read "Lamar Smith", written in a cursive style.

Lamar Smith.

Chairman

Subcommittee on Immigration and Claims

C O V E R

FAX

S H E E T

To: Lee Otis, Stuart Anderson, Michael Myers, Melanie Nathanson, Caroline Berver,
Peter Jacoby, Scott Busby, Karen Robb, Jamie Brown & Julie Fernandez

Fax #:

Subject: Haitian Numbers

Date: January 20, 1998

Pages: 3, including this cover sheet.

COMMENTS:

Per Allen Erenbaum: "As discussed at our meeting."

From the desk of...

Ruth E. Tintary
Congressional Liaison Specialist
Immigration and Naturalization Service
425 "I" Street, Rm 7030
Washington, DC 20536

(202) 305-4801
Fax: (202) 514-1117

Subject: Re: Stats on Haiti

----- Message Contents -----

Over 90% of Haitian immigrants admitted in 1991-96 intended to reside in 5 States: Florida, New York, New Jersey, Massachusetts, and Connecticut. See the attached table for data for all states. More than 77% of the Haitian immigrants admitted in 1996 intended to reside in the following metropolitan areas:

Total	18,295
New York, NY	3,878
Miami, FL	3,111
Ft. Lauderdale, FL	1,648
West Palm Beach-Boca Raton, FL	1,606
Newark, NJ	1,349
Boston-Lawrence-Lowell-Brockton, MA	1,322
Orlando, FL	491
Bridgeport-Stamford-Norwalk-Danbury, CT	395
Philadelphia, PA-NJ	316

Haitian Immigrants*: 1991-96		
State	Frequency	Percent
FL	27,394	39.3%
NY	21,418	30.7%
NJ	7,214	10.3%
MA	5,387	7.7%
CT	1,805	2.6%
PA	909	1.3%
MD	869	1.2%
IL	633	0.9%
CA	393	0.6%
MO	349	0.5%
MI	336	0.5%
TX	292	0.4%
VA	278	0.4%
DE	265	0.4%
RI	222	0.3%
TN	217	0.3%
GA	216	0.3%
WA	147	0.2%
DC	146	0.2%
MN	119	0.2%
LA	112	0.2%
IN	102	0.1%
OR	79	0.1%
NC	79	0.1%
CO	72	0.1%
ID	68	0.1%
ND	58	0.1%
KY	56	0.1%
VI	53	0.1%
NH	50	0.1%

Haitian Immigrants*: 1991-96		
State	Frequency	Percent
PR	47	0.1%
NV	43	0.1%
SC	34	0.0%
MS	31	0.0%
OH	29	0.0%
IA	28	0.0%
AZ	27	0.0%
KS	18	0.0%
OK	17	0.0%
UT	16	0.0%
NM	13	0.0%
NE	12	0.0%
WI	11	0.0%
ME	11	0.0%
AL	10	0.0%
MT	9	0.0%
HI	7	0.0%
VT	6	0.0%
WV	6	0.0%
AR	6	0.0%
AK	6	0.0%
SD	3	0.0%
AE	1	0.0%
WY	1	0.0%
	69,730	
*Excludes those admitted under IRCA		