



Migration and Refugee Services
U.S. Conference of Catholic Bishops
Washington, DC 20017-1194

March 11, 2011

Honorable Janet Napolitano
Secretary of Homeland Security
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Madam Secretary:

On behalf of the U.S. Conference of Catholic Bishops (USCCB) and its subsidiary the Catholic Legal Immigration Network, Inc. (CLINIC), we write to respond to the Department of Homeland Security's (DHS) Policy for Resumed Removals to Haiti (hereinafter, "proposed policy") which DHS made available for public comment on Monday, March 7, 2011.

We provide our comments on this proposed policy following a series of communications with DHS in which USCCB together with its subsidiaries, CLINIC and Catholic Relief Services (CRS), have outlined our concerns about the December 9, 2010, announcement by Immigration and Customs Enforcement (ICE) that it had lifted the year-long stay on deportations of Haitians to that stricken nation and about ICE's subsequent removal of 27 Haitian detainees on January 20, 2011.

Indeed, since December 2010, USCCB has expressed its concerns about DHS's decision to resume deportations despite the dire situation in Haiti. As we have repeatedly reminded DHS, a cholera outbreak has killed over 4,500 Haitians and infected more than 200,000.

Reconstruction continues at a slow pace, with hundreds of thousands still living in tent cities. And, the ongoing dispute over the November 28, 2010 presidential elections has exacted a significant toll not only on the political apparatus of the country but also on the Haitian psyche, resulting in violent protests. To compound these issues, Haiti's jails, in which the Haitian government routinely holds deportees and which are notorious for the inhumane treatment of detainees, are rife with cholera.

USCCB has reiterated to you and others at DHS that we believe the deportation of any Haitian to Haiti under these circumstances would be morally inappropriate and would represent a knowing disregard for the life and dignity of the Haitians scheduled for deportation.

Despite this, on January 20, 2011, ICE deported 27 detainees. Within days, one of the deportees, Wildrick Guerrier, died of cholera-like symptoms he contracted in the jail in which he was detained by the Haitian government upon his deportation to Haiti. Even after this death, DHS reiterated its intention to proceed with deportations, citing public safety concerns and stating that those slated for deportation were offenders who had completed sentences for “serious criminal convictions.”

Yet, of the 27 Haitians already deported and another 300 Haitians who await deportation, there are a significant number with low-level, non-violent criminal convictions who had already been released and had been living in the community without incident for years – a population well-suited for supervised release in lieu of their deportation. Others have compelling humanitarian situations, including serious medical conditions, or potential claims for immigration relief. Most were rounded-up in their South Florida communities and transferred by ICE to detention facilities in Louisiana, far from their families and legal service providers.

Within this context, we address herein four overarching concerns we have identified with DHS’s March 7, 2011 proposed policy. These include: (1) the lack of transparency regarding the decision to resume deportations to Haiti; (2) the disparity between the stated composition of the population slated for deportation and those already deported and now detained and pending deportation; (3) the inaccuracy of the alleged requirement that DHS must commence removal of this population now and the lack of consideration of alternatives to detention; and (4) the inability of Haiti to absorb and reintegrate this population at this time, despite DHS’s insinuation to the contrary.

First, DHS’s decision to resume deportations has lacked transparency and consistency, creating confusion and fear among the Haitian immigrant population and frustration among legal and policy advocates working on their behalf. When DHS lifted the stay on deportations on December 9, 2010, it did so without issuing any written communication or policy decision for public consumption, consideration, or comment. Instead, it communicated the decision to a small group of advocates, without notifying the deportees or their families. ICE rounded up Haitians in their South Florida communities, where many had been living without incident for years with their U.S. citizen children and family members. When DHS finally did issue a written policy on the resumption of deportations on March 7, 2011, it did so providing only a five day period for public consideration and comment. And, significantly, DHS maintains that it has worked closely with the Department of State (DoS) and the Haitian government to ensure the safety of deportations, while both have made statements to the contrary.

Second, DHS’s description of the Haitians slated for deportation is not in keeping with the composition of those 27 Haitians already deported on January 20, 2011 or of those who have been rounded up in their communities in Florida and detained in Louisiana pending their deportation to Haiti. In the proposed policy, DHS states that “Going forward. . . ICE is resuming limited removal of criminal aliens with a focus on serious offenders such as violent felons.” This

population is “limited to aliens with a final order of removal who pose a threat to public safety given their previous serious criminal offense or history. Haitian nationals facing removal over the coming year will be individuals convicted of a range of serious crimes such as homicide, rape, sexual assault, robbery, sex offense against children, aggravated assault, assault, kidnapping, false imprisonment, sale of cocaine, smuggling cocaine, sale of marijuana, and larceny.” As we have stated before, and again above, this characterization of the population targeted for deportation is incongruous with those actually being deported – largely low-level, non-violent offenders. And, as a point of concern, the targeted population as characterized in the proposed policy remains overly-broad and arguably includes any Haitian not eligible for temporary protected status (TPS) – which certainly extends far beyond those DHS maintains present a threat to community safety.

Third, DHS’s statement that it is, in most cases, required to commence removal of Haitians, and its simultaneous failure to consider alternatives to detention and, thus, deportation, of this population is inaccurate and misguided. In the proposed policy, DHS states that ICE is “legally required to remove detained aliens who are subject to final orders of removal or release them into US communities if their repatriation or resettlement is not reasonably foreseeable.” However, even were deportations stayed for the near-term given the conditions in Haiti, many of those serious violent criminal offenders being held could so remain as their removal would arguably be reasonably foreseeable. Further, those who are not violent offenders who represent a risk to the safety of their communities are well-suited for ICE’s supervised release and electronic monitoring which it frequently uses for other criminal aliens pending deportation but who cannot be deported at this time, such as Cubans.

Fourth, and finally, despite DHS’s statements to the contrary, Haiti is unable to absorb and reintegrate this population at this time. In the proposed policy DHS states that “ICE is working in coordination with the Department of State and the Government of Haiti, to resume removals in as safe, humane, and minimally disruptive a manner as possible. . . . The resumption of removals to Haiti takes place in a measured manner with a limited number of eligible aliens removed to Haiti each month, addressing the security needs of both the U.S. and Haiti.” Agencies working on the ground in Haiti, including CRS, have made clear that Haiti is not able to safely reintegrate deportees at this time; it lacks the infrastructure necessary and the political cohesion to do so, given the upcoming transition of government in Haiti. And, there remain significant inconsistencies between what those within the Department of State, the present Haitian government, and DHS claim regarding the Haitian ability and willingness to safely reintegrate Haitian deportees.

Accordingly, we once again urge DHS to institute a temporary moratorium on all deportations to Haiti, coupled with the temporary halting of any further round-ups and detention of Haitians for deportation and the processing of those presently detained who are suitable for supervised release to be channeled into such a program.

Thank you for your consideration of our views.

Sincerely,



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Executive Director
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United States Conference of Catholic Bishops



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Catholic Legal Immigration Network, Inc.

Cc: Honorable Hillary Clinton, Secretary of State
Melody Barnes, Domestic Policy Council
Dennis McDonough, National Security Council
John Morton, Assistant Secretary for Immigration and Customs Enforcement
Alejandro Mayorkas, Assistant Secretary for Citizenship and Immigration Services