

## Comments on ICE Pre-decisional Policy for Resumed Removals to Haiti



Jesuit Refugee Service/USA

As a humanitarian organization working to promote recovery and reconstruction in Haiti, Jesuit Refugee Service writes to express our concern about the proposed "Policy for Resumed Removals to Haiti" and the decision to continue deportations to Haiti. In light of the continued humanitarian emergency and the weak capacity of the Haitian government to guarantee the protection of the human rights of those deported, and the security of the society as a whole, we respectfully ask that you reinstate the moratorium on Haitian deportations until such time as conditions materially improve in Haiti and the nation has reached a point of stability that will allow the humane and secure absorption of repatriated persons. **We would welcome the opportunity to voice our concerns, and ideas for a more measured and secure response to the current realities in an in-person meeting between our leadership and relevant actors at DHS, State, DOJ and the White House.**

- 1) *"Going forward, in coordination with the Government of Haiti and the U.S. Department of State, ICE is resuming limited removal of criminal aliens with a focus on serious offenders such as violent felons."*
  - The use of the phrase "such as" in this sentence appears to indicate that ICE intends to remove "violent felons" and as well as other groups. We ask that ICE clarify this wording, as the ambiguity of this statement risks spreading fear, mistrust and confusion among the Diaspora community. The agency should also publish a finite list of convictions that would make one eligible for deportation, rather than listing a catch-all category or a listing of certain crimes that range from drug infractions to homicide.
- 2) *"In most circumstances, ICE is legally required to remove detained aliens who are subject to final orders of removal or release them into U.S. communities if their repatriation or resettlement is not reasonably foreseeable."*
  - The Department has at its disposal a number of mechanisms it could use to delay the removal of Haitians to unsafe conditions without releasing Haitian nationals into the community. We are surprised by the absence of any mention of Alternatives to Detention in the Policy and we **recommend that DHS consider deploying the full spectrum of Alternatives to Detention and Deportation rather than removing Haitians to clearly unsafe conditions, at a time of uncertainty, insecurity, and continued instability in Haiti. We are willing to work with the Administration to implement such alternatives and we hope**

to discuss the possibility of alternatives to deportation at your earliest convenience.

3) *"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."*

- The Haitian Government is currently going through a period of transition and has displayed little success in addressing the failures of the justice system, human rights conditions in its penitentiary, or guaranteeing the most basic assistance needs of the Haitian people. In recent weeks Haitian government officials have stated that they are unable to absorb the population targeted for deportation by the US Government, and that they have no integration plan in place to ensure the safe, secure, and dignified assimilation of this population. We emphasize that prior to the January 20, 2011 deportation, DHS officials believed that they had received adequate assurances from the Haitian government and the US State Department that the human rights and safety of the deportees would be respected, and that proper integration mechanisms would be employed but the death of a detainee from cholera-related symptoms, the current conditions in which other deportees live have proven that this information was erroneous. **We ask that the Administration clarify the way in which security and safety needs of deportees and Haitian society at large are being addressed, and the manner in which deportees will be received. We further request that the Administration place sufficient safe-guards in place to ensure safe, dignified and secure integration before one more Haitian national is returned.**
- The January 20, 2011 deportation of twenty-seven Haitians ended in tragedy. Upon their arrival, the twenty-seven deportees were taken into custody by the Haitian government and detained in jails. The International Committee of the Red Cross (ICRC) has reported cholera epidemic has spread rapidly through Haiti's over-crowded prisons as a result of the untreated water provided to the incarcerated, combined with a lack of food and medical care. The unsanitary and, at times, inhumane conditions of Haitian prisons, compounded by the escalating cholera epidemic, have likely already resulted in the death of a recent deportee – Wildrick Guerrier, a 34-year-old long-time U.S. resident who had no family members left in Haiti, presented cholera-like symptoms soon after he was deported in January, and died within a week of his departure from U.S. shores. While held in a Haitian jail, following deportation, Mr. Guerrier cared for sick prisoners who displayed cholera symptoms, taking pity on ill persons who had to experience what US Courts have called the "slave-ship" horror of a Haitian jail. Mr. Guerrier soon became ill himself, but was denied food, water and medical care. Mr. Guerrier's death was tragic, and unnecessary. **We ask that all deportations be placed on hold until**

such time as Haiti has demonstrated it has the capacity and inclination to respect the rights and ensure the safety of those removed.

4) *"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."*

- Haiti remains a country in crisis. Approximately one-eighth of its population is without housing, gender-based violence is rampant, and a deadly cholera epidemic has already killed over 4,100 people. Continuing deportations at this time is inhumane and risks diverting attention and resources away from Haiti's recovery and reconstruction. We fear it may undermine our joint effort to provide for a strong future for Haiti. At the present time Haiti is ill-equipped to provide the necessary protection and care to the deportees it receives, and currently has no resources available to properly and humanely integrate them into the population.
- We fear that the U.S. decision to resume criminal deportations to Haiti has sent the wrong message to other nations in the region, including the Dominican Republic which lifted its moratorium on deportations less than a month after DHS announced a resumption of Haitian removals. In the last two months the Dominican Republic has deported over 2,000 persons in mass round-ups and expulsions, too often separating parents from their minor children, deporting at night, and failing to notify Haitian officials before forcing masses of people over the border. In the last month they have even deported Dominican citizens with "Haitian" phenotypes. The work done by the US mission in the Dominican Republic to discourage violations of migrant rights and the 1999 Bi-national protocol on Deportations between Haiti and the Dominican Republic has been admirable. We fear, however, that the moral authority of Ambassador Yzaguirre may be undermined by the unwise USG decision to continue unsafe returns of Haitian nationals from the United States. **We respectfully ask the U.S. government to immediately reinstate the moratorium on deportations until the emergency situation in Haiti substantially and materially improves.**

### **Addendum**

We attach an excerpt from a March 1, 2011 AP Article, Documenting the conditions of deportation and the ability of Haitians to integrate safely and in a dignified manner.

### **Deportees From US Struggle in quake-hit Haiti**

"Serge Michel Dorval is afraid he looks like a rich American to some of the desperate Haitians who live near him in a shantytown alongside a trash-clogged drainage ditch.

It's a fear that keeps him up at night.

But the 25-year-old is not an American, at least not to the U.S. government, which deported him and 26 others back to the country of their birth in January in the first wave of forced removals since an earthquake last year destroyed much of the Haitian capital. Twenty-six of the deportees were convicted of crimes and one was judged a national security threat.

Dorval speaks passable Creole, but he left Haiti as an infant and still is learning how to make his way in a devastated country where the vast majority of people have no job nor prospects of finding one. Living in a tent, he misses hot showers and air conditioning. He misses his young son back in Fort Myers, Florida. He worries that his status as a deported criminal, imprisoned two years for cocaine possession, will make him a target of the police. And he wonders how he will survive.

"I wouldn't wish Haiti on my worst enemy," Dorval said outside the tent he shares with two others in a Port-au-Prince camp populated by thousands left homeless by last year's cataclysmic earthquake. "I'm used to being treated like a human being, but a human life has absolutely zero value in Haiti."

Dorval's misery will soon have company. The U.S. government, which halted deportations to Haiti for a year following the earthquake, plans to deport another 700 people convicted of crimes back to the country this year, said Barbara Gonzalez, a spokeswoman for U.S. Immigration and Customs Enforcement. She declined to say when they would be deported, citing security rules.

Hundreds of thousands of people from Mexico, Colombia, El Salvador, Jamaica, and other nations have been deported to homelands they barely knew since 1996, when Congress mandated that every non-citizen sentenced to a year or more in prison be booted from the country upon release.

Immigration advocates have pleaded for a halt to the Haiti deportations, citing "inhumane conditions" in the country, where a cholera epidemic has killed more than 4,000 people since October.

Immigration officials say they have no choice under the law: They must release criminal aliens to their countries of origin unless that would be unreasonable. But since they believe Haiti has improved, deportations are now possible.

Even so, conditions are grim for the new arrivals.

One recent deportee has already died, possibly from cholera. All 27 so far have been detained on arrival by Haitian police. Most were held in dungeon-like cells for about 10 days.

"It was a nightmare, with just a bucket ... and no beds, just a dirty floor," said 24-year-old deportee Jean Daniel Maurice, who lived in Spring Valley, New York, and was convicted at 18 for second-degree burglary. "And if you don't have no family bringing food you're not going to eat."

Thirty-four-year-old deportee Wildrick Guerrier, became severely ill while detained at a Port-au-Prince police station with more than a dozen other deportees and various criminal suspects. Dorval, who was detained with him, said Guerrier displayed cholera-like symptoms of diarrhea, weakness and vomiting after tending to other sick and wounded detainees, including a brutally beaten suspect who had defecated on himself.

The detainees begged the police to seek medical care for the visibly ill Guerrier, who was nicknamed "Black Jesus" for his efforts to assist other struggling inmates, according to Dorval. No medical help came. Several deportees interviewed by The Associated Press said police told them: "This is what you came here for: to suffer."

Guerrier, who had participated in a hunger strike while detained in the U.S. to protest his imminent deportation to Haiti, was finally released to an aunt. But he died two days later, according to legal and immigrant rights groups.

"He was goodhearted and the cops let him die," Dorval said. Guerrier, who had earlier served probation for battery on a law enforcement officer, was convicted of being a felon in possession of a firearm while working as an armed security guard.

No official cause of death was ever announced and Haiti Police Chief Mario Andersol declined to respond to several phone calls seeking comment."